

CITY OF HENDERSON,)

Petitioner,)

VS.)

THE EIGHTH JUDICIAL)

DISTRICT COURT OF THE)

STATE OF NEVADA, IN AND)

FOR THE COUNTY OF CLARK,)

AND THE HONORABLE)

KATHLEEN DELANEY,)

DISTRICT COURT JUDGE,)

Respondent,)

and

GIANO AMADO,)

aka BRANDON WELCH,)

Real Party in Interest.)

Case No.:

D.C. No.: C-16-312757-W

Dept. No.: XXV

H.M.C. No.: 14CR011381,
15CR000859

Dept. No.: 1

Electronically Filed
Jun 07 2016 09:06 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

PETITIONER'S APPENDIX VOLUME I of I

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CITY OF HENDERSON,
Petitioner,
vs.
THE EIGHTH JUDICIAL
DISTRICT COURT OF THE
STATE OF NEVADA, IN AND
FOR THE COUNTY OF CLARK,
AND THE HONORABLE
KATHLEEN DELANEY,
DISTRICT COURT JUDGE ,
Respondent,
and
GIANO AMADO,
aka BRANDON WELCH,
Real Party in Interest.

I hereby certify that service of the, PETITIONER'S APPENDIX VOLUME
I OF I, was made on, June 1, 2016, via United States mail, facsimile and electronic
mail transmission to:

William B. Terry, ESQ.
530 South Seventh Street
Las Vegas, Nevada 89101
Fax: (702) 385-9788
info@WilliamTerryLaw.com
Attorney for Real Party in Interest, Giano Amada aka Brandon Welch.

/s/ Bernadette Almeida
City of Henderson Employee

MUNICIPAL COURT OF THE CITY OF HENDERSON
IN THE COUNTY OF CLARK, STATE OF NEVADA

FILED

2014 OCT -6 P 12:38

CITY OF HENDERSON, NEVADA,

Plaintiff,

vs.

GIANO AMADO,

Defendant.

MUNICIPAL COURT
CITY OF HENDERSON

CRIMINAL COMPLAINT _____ CLERK

CASE NO.: 14CR011381

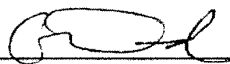
Josh M. Reid, City Attorney

The defendant has committed the crime of **BATTERY** which constitutes **DOMESTIC VIOLENCE** as defined by NRS 33.018 (Henderson City Charter, Section 2.140, and NRS 200.481, 200.485) within the City of Henderson, in the County of Clark, State of Nevada, a misdemeanor, in the manner following, to wit:

That the said defendant, on or about August 4, 2014, did willfully and unlawfully use force or violence against the person of another, to-wit: Did push Irene Fleming to the ground, who is a person to whom he is related by blood or marriage, all of which occurred at 67 Wyoming Avenue,

all of which is contrary to the form, force and effect of statutes in such cases made and provided and against the peace and dignity of the City of Henderson, State of Nevada.

Said Complainant makes this declaration on information and belief subject to the penalty of perjury.


George W. Ward, Complainant
Assistant City Attorney

Dated: September 22, 2014
DAMION#: 14-08-086164
PCN#:

2

001

 COPY

MUNICIPAL COURT OF THE CITY OF HENDERSON **FILED**

IN THE COUNTY OF CLARK, STATE OF NEVADA

2015 JAN 15 P 4:32

MUNICIPAL COURT
CITY OF HENDERSON

CITY OF HENDERSON, NEVADA,

Plaintiff,

vs.

GIANO AMADO,

Defendant.

CRIMINAL COMPLAINT

CASE NO.: 14CR

15CR859

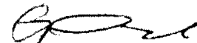
Josh M. Reid, City Attorney

The defendant has committed the crime of **BATTERY** which constitutes **DOMESTIC VIOLENCE** as defined by NRS 33.018 (Henderson City Charter, Section 2.140, and NRS 200.481, 200.485) within the City of Henderson, in the County of Clark, State of Nevada, a misdemeanor, in the manner following, to wit:

That the said defendant, on or about August 4, 2014, did willfully and unlawfully use force or violence against the person of another, to-wit: Did grab, and/or punch, and/or throw to the ground, Dominic Ochoa, who is a person to whom he is related by blood or marriage, all of which occurred in the area of 67 Wyoming Avenue,

all of which is contrary to the form, force and effect of statutes in such cases made and provided and against the peace and dignity of the City of Henderson, State of Nevada.

Said Complainant makes this declaration on information and belief subject to the penalty of perjury.


George W. Ward, Complainant
Assistant City Attorney

Dated: January 13, 2015
DAMION#: 14-08-086164
PCN#:

COPY

FILED
MUNICIPAL COURT OF THE CITY OF HENDERSON
 2015 JUL 30 AM 11:40
IN THE COUNTY OF CLARK, STATE OF NEVADA
 MUNICIPAL COURT
 CITY OF HENDERSON
San CLERK

CITY OF HENDERSON, NEVADA,

Plaintiff,

vs.

BRANDON GENE WELCH,
 AKA: BRANDON LEE WELCH
 AKA: BRENNON WELCH
 AKA: GIANO AMADO

Defendant.

AMENDED
CRIMINAL COMPLAINT

CASE NO.: 14CR11381

Josh M. Reid, City Attorney

The defendant has committed the crime of **BATTERY** which constitutes **DOMESTIC VIOLENCE** as defined by NRS 33.018 (Henderson City Charter, Section 2.140, and NRS 200.481, 200.485) within the City of Henderson, in the County of Clark, State of Nevada, a misdemeanor, in the manner following, to wit:

That the said defendant, on or about August 4, 2014, did willfully and unlawfully use force or violence against the person of another, to-wit: Did push Irene Fleming to the ground, who is a person to whom he is related by blood or marriage, all of which occurred at 67 Wyoming Avenue,

all of which is contrary to the form, force and effect of statutes in such cases made and provided and against the peace and dignity of the City of Henderson, State of Nevada.

Said Complainant makes this declaration on information and belief subject to the penalty of perjury.

Elaine F. Mather
 Elaine F. Mather, Complainant
 Assistant City Attorney

Dated: July 30, 2015
 DAMION#: 14-08-086164
 PCN#:

COPY**MUNICIPAL COURT OF THE CITY OF HENDERSON****IN THE COUNTY OF CLARK, STATE OF NEVADA**

MUNICIPAL COURT

CITY OF HENDERSON

CLERK

AMENDED**CRIMINAL COMPLAINT**

CITY OF HENDERSON, NEVADA,

Plaintiff,

vs.

CASE NO.: 15CR859

BRANDON GENE WELCH,
AKA: BRANDON LEE WELCH
AKA: BRENNON WELCH
AKA: GIANO AMADO

Defendant.

Josh M. Reid, City Attorney

The defendant has committed the crime of **BATTERY** which constitutes **DOMESTIC VIOLENCE** as defined by NRS 33.018 (Henderson City Charter, Section 2.140, and NRS 200.481, 200.485) within the City of Henderson, in the County of Clark, State of Nevada, a misdemeanor, in the manner following, to wit:

That the said defendant, on or about August 4, 2014, did willfully and unlawfully use force or violence against the person of another, to-wit: Did grab, and/or punch, and/or throw to the ground, Dominic Ochoa, who is a person to whom he is related by blood or marriage, all of which occurred in the area of 67 Wyoming Avenue,

all of which is contrary to the form, force and effect of statutes in such cases made and provided and against the peace and dignity of the City of Henderson, State of Nevada.

Said Complainant makes this declaration on information and belief subject to the penalty of perjury.



Elaine F. Mather, Complainant
Assistant City Attorney

Dated: July 30, 2015
DAMION#: 14-08-086164
PCN#:

Judge: STEVENS, MARK J

Case No. 14CR011381
Ticket No.
CTN:

CITY OF HENDERSON VS

By:

AMADO, GIANO DFNDT -vs-
PO BOX 778356
HENDERSON, NV 89077
Dob: 08/31/1980 Sex: M
Lic: Sid: 7000064780

By: TERRY, WILLIAM B
530 S SEVENTH ST
LAS VEGAS, NV 89101

Plate#:
Make:
Year: Accident: No
Type:
Venue:
Location: H

Bond: Set:
Type: Posted:

Charges:

Ct.1 NRS 200.485.1DOMESTIC BATTERY, 1ST DISMISSED WITH PREJUDICE
(BEFORE TRIAL)
Offense Dt: 08/04/2014 Cvr:
Arrest Dt:
Comments:

Sentencing:
Ct.1 Sentence Suspended Credit
Jail (Days)
Fines
Costs
Restitution
Probation(Mo) Expires:
Comm Svc (Hr)
REMARKS:

No.	Filed	Action	Operator	Fine/Cost	Due
1	10/06/14	WARRANT OF ARREST ISSUED WARRANT #14M05978 BAIL: \$3140	AJK3	0.00	0.00
2	10/06/14	ACTIVE WARRANT NOTICE MAILED ACTIVE WARRANT LETTER Sent on: 10/06/2014 11:47:02.23	AJK3	0.00	0.00
3	10/15/14	RETURNED MAIL Charge #1: DOMESTIC BATTERY, 1ST	JDB1		0.00
4	10/15/14	WARRANT SERVED BY ARREST RE 14M05978 WARRANT OF ARREST served on: 10/10/2014 For: AMADO, GIANO	DCT2		0.00
5	10/15/14	Time spent in custody: 14.30 HOURS Arrest Date/Time: 10/10/14 1924 Release Date/Time: 10/11/14 0953	DCT2		0.00
6	10/15/14	SURETY BOND POSTED BY: BAD GIRL BAIL BONDS BOND AMOUNT: \$ 3140 BOND NUMBER: FCS10-1388702 VIA: JAIL BAILS BOND FILING FEE PAID Charge #1: DOMESTIC BATTERY, 1ST Receipt: 589232 Date: 10/15/2014	DCT2	50.00	0.00
7	10/15/14	COURT DATE SET: Event: CRIMINAL ARRAIGNMENT Date: 11/03/2014 Time: 9:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: NOT GUILTY PLEA / TRIAL SET	DCT2		0.00

No.	Filed	Action	Operator	Fine/Cost	Due
8	10/28/14	NOT GUILTY PLEA ENTERED VIA FAX ARRAIGNMENT TRIAL SET IN DUE COURSE Attorney: SMEDLEY, JAMES J (8668) Charge #1: DOMESTIC BATTERY, 1ST	CRG	0.00	0.00
9	11/03/14	COURT DATE SET: Event: TRIAL Date: 01/13/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: CONTINUED	CRG	0.00	0.00
10	01/13/15	CONTINUED FOR STATUS @ CAO'S REQUEST - 02/24/15 10AM D1 CAO TO FILE ADDITIONAL CHARGES & MOTION FOR ORDER TO SHOW CAUSE ON VICTIM TRIAL DATE NOT SET BOND: STANDS	KM	0.00	0.00
11	01/13/15	COUNTER: 10.39.50	KM	0.00	0.00
12	01/13/15	COURT DATE SET: Event: TRIAL Date: 02/24/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00
13	01/13/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: KJ - CLERK: Present RJR - CLERK: Present WARD, GEORGE - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present SMEDLEY, JAMES J - Attorney for DEFENDANT: Present	KM	0.00	0.00
14	02/24/15	CONDITIONS OF RELEASE: *STAND AS OF 4/29/15* NCWV: - IRENE FLEMING - DOMINIC OCHOA	KM	0.00	0.00
15	02/24/15	COUNTER: 10.44.50/10.50.00	KM	0.00	0.00
16	02/24/15	DEFENDANT MAINTAINED NOT GUILTY PLEA/ TRIAL RE-SET TO 04/29/15 WITNESSES ORDERED BACK @ RCD APPEARANCE REQUIRED BOND: STANDS Charge #1: DOMESTIC BATTERY, 1ST	KM	0.00	0.00
17	02/24/15	COURT DATE SET: Event: TRIAL Date: 04/29/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
18	02/24/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: CRG - CLERK: Present KJ - CLERK: Present WARD, GEORGE - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present SMEDLEY, JAMES J - Attorney for DEFENDANT: Present	KM	0.00	0.00
19	04/29/15	BUSTOS MOTION BY CAO - GRANTED TRIAL SET IN 90 DAYS - 07/29/15 10AM D1 BOND: STANDS SHOW CAUSE ON VICTIM ALSO GRANTED IN 4 WKS - 05/27/15 10AM D1	KM	0.00	0.00
20	04/29/15	COUNTER: 10.02.00/11.26.40	KM	0.00	0.00
21	04/29/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: CRG - CLERK: Present KJ - CLERK: Present MATHER, ELAINE - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present SMEDLEY, JAMES J - Attorney for DEFENDANT: Present	KM	0.00	0.00
22	04/29/15	COURT DATE SET: Event: TRIAL Date: 07/29/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: DISMISSED	KM	0.00	0.00
23	07/29/15	CONDITIONS OF RELEASE DISSOLVED	KM	0.00	0.00
24	07/29/15	"Notice Relating to Sealing Records" provided to defense in open court.	KM	0.00	0.00
25	07/29/15	COUNTER: 10.00.30/10.51.40	KM	0.00	0.00
26	07/29/15	ORAL MOTION BY CAO TO DISMISS WITHOUT PREJUDICE - GRANTED REASON: VICTIM NOT PRESENT Charge #1: DOMESTIC BATTERY, 1ST	KM	0.00	0.00
27	07/29/15	SURETY BOND EXONERATED Charge #1: DOMESTIC BATTERY, 1ST	KM	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
28	07/29/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: KJ - CLERK: Present MATHER, ELAINE - DEPUTY CITY ATTORNEY: Present SDS - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present IARUSSI, JOSEPH BRIAN - Attorney for DEFENDANT: Present	KM	0.00	0.00
29	07/29/15	CASE CLOSED	KM	0.00	0.00
30	07/30/15	NOTICE OF CASE STATUS RECEIVED FROM HENDERSON CITY ATTORNEY'S OFFICE-CRIMINAL DIVISION: - REOPEN CASE AFTER DISMISSAL WITHOUT PREJUDICE - AMENDED COMPLAINTS FILED (WITH AKA OF BRANDON WELCH, COURT WILL CONTINUE TO KEEP CASE OPEN UNDER GIANO AMADO) - REQUEST FOR SUMMONS	AMM2	0.00	0.00
31	08/18/15	Court Note: Restricted	MMB	0.00	0.00
32	08/19/15	COURT DATE SET: Event: CRIMINAL ARRAIGNMENT Date: 09/17/2015 Time: 9:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: NOT GUILTY PLEA / TRIAL SET	AVS	0.00	0.00
33	09/15/15	SUMMONS SERVED UPON DEFENDANT Charge #1: DOMESTIC BATTERY, 1ST	AVS	0.00	0.00
34	09/17/15	ATTORNEY KAJIOKA CONFIRMED. CONTINUED FOR TRIAL.	AVS	0.00	0.00
35	09/17/15	COUNTER: 9.38.10	AVS	0.00	0.00
36	09/17/15	NOT GUILTY PLEA ENTERED. TRIAL SET - SPEEDY TRIAL WAIVED O/R: STANDS APPEARANCE REQUIRED Charge #1: DOMESTIC BATTERY, 1ST	AVS	0.00	0.00
37	09/17/15	COURT DATE SET: Event: TRIAL Date: 12/07/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	AVS	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
38	09/17/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: AVS - CLERK: Present KJ - CLERK: Present MATHER, ELAINE - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: IARUSSI, JOSEPH BRIAN - Event Attorney for DEFENDANT: Not Present SMEDLEY, JAMES J - Event Attorney for DEFENDANT: Not Present AMADO, GIANO - DEFENDANT: Not Present KAJIOKA, DEAN Y. - Attorney for DEFENDANT: Present	AVS	0.00	0.00
39	12/07/15	BUSTOS MOTION BY CAO - GRANTED CTR 01/11/16 10AM D1 O/R RELEASE: STANDS APPEARANCE REQUIRED	KM	0.00	0.00
40	12/07/15	COUNTER: 10.07.00/11.12.30/11.26.40	KM	0.00	0.00
41	12/07/15	COURT DATE SET: Event: TRIAL Date: 01/11/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00
42	12/07/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: AVS - CLERK: Present ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present KAJIOKA, DEAN Y. - Attorney for DEFENDANT: Present	KM	0.00	0.00
43	01/05/16	NOTICE OF MOTION AND MOTION FOR TAKING DEPOSITION OF CITY'S WITNESS IRENE FLEMING FILED BY: LAURIE A. ISCAN, DEPUTY CITY ATTORNEY	BML6	0.00	0.00
44	01/06/16	COURT DATE SET: Event: TRIAL Date: 01/06/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: MOTION CONTINUED	KM	0.00	0.00
45	01/06/16	MOTION HEARING CONTINUED FOR DEF ATTY'S PRESENCE CTR 01/07/16 10AM D1 O/R RELEASE: STANDS	KM	0.00	0.00
46	01/06/16	COUNTER: 10.51.35	KM	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
47	01/06/16	COURT DATE SET: Event: TRIAL Date: 01/07/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00
48	01/06/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present RJR - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Not Present KAJIOKA, DEAN Y. - Attorney for DEFENDANT: Not Present	KM	0.00	0.00
49	01/06/16	MOTION TO CONTINUE TRIAL FILED: Attorney: TERRY, WILLIAM B (1028) MOTION HEARING WILL BE HELD 1/7/16 10AM D1	BML6	0.00	0.00
50	01/06/16	DOCUMENT FILED: SUBSTITUTION OF ATTORNEY FILED BY WILLIAM TERRY REPLACING DEAN KAJIOKA	BML6	0.00	0.00
51	01/06/16	COURT DATE SET: Event: TRIAL Date: 01/19/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: EVENT VACATED	BML6	0.00	0.00
52	01/07/16	ALL MOTIONS CONTINUED BY JUDGE - 1/11/16 APPEARANCE REQUIRED	KM	0.00	0.00
53	01/07/16	BAIL REVOCATION HEARING ALSO ORDERED BY JUDGE - 1/11/16 POSSIBLE CONDITIONS OF RELEASE TO BE ADDRESSED BAIL MAY ALSO BE ARGUED	KM	0.00	0.00
54	01/07/16	COUNTER: 10.36.15/10.43.35	KM	0.00	0.00
55	01/07/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present RJR - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Not Present THOMAS, K PRESENT FOR TERRY, WILLIAM B - Attorney for DEFENDANT: Not Present	KM	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
56	01/07/16	OPPOSITION TO MOTION FILED BY DEPUTY CITY ATTORNEY LAURIE A. ISCAN BAR #9716, SUBSTITUTION OF COUNSEL AND MOTION TO CONTINUE TRIAL	TAV	0.00	0.00
57	01/11/16	MOTION HEARING HELD. MOTION FOR TAKING DEPOSITION OF CITY'S WITNESS - DENIED	KM	0.00	0.00
58	01/11/16	MOTION HEARING HELD. MOTION TO CONTINUE TRIAL - GRANTED	KM	0.00	0.00
59	01/11/16	CONTINUED TO CTR 02/29/16 10AM D1 O/R RELEASE: STANDS	KM	0.00	0.00
60	01/11/16	CONDITIONS OF RELEASE: MODIFIED 02/11/16 / STAND AS OF 02/29/16 - NCWV: IRENE FLEMING & DOMINIC OCHOA - GPS - STAY 1000' AWAY FROM THE FOLLOWING INTERSECTIONS: (MODIFIED 02/11/16 TO: "STAY 500' AWAY") TEXAS / ATLANTIC CENTER ST / PALMETTO LAKE MEAD / NELLIS GIBSON / HORIZON PASEO VERDE / TRILOGY COVE WAL-MART @ 300 E LAKE MEAD DR ST PETERS CHURCH @ 204 S BOULDER HWY	KM	0.00	0.00
61	01/11/16	COUNTER: 11.23.30/3.08.55	KM	0.00	0.00
62	01/11/16	COURT DATE SET: Event: TRIAL Date: 02/29/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00
63	01/11/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present RJR - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present THOMAS, K PRESENT FOR TERRY, WILLIAM B - Attorney for DEFENDANT: Not Present	KM	0.00	0.00
64	02/04/16	MOTION FILED: TO DISMISS AMENDED COMPLAINTS Attorney: TERRY, WILLIAM B (1028)	CRG	0.00	0.00
65	02/04/16	COURT DATE SET: (MOTION) Event: TRIAL Date: 02/11/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: MOTION HEARING HELD	CRG	0.00	0.00
66	02/09/16	OPPOSITION TO MOTION FILED TO DISMISS AMENDED COMPLAINTS	DLK	0.00	0.00
67	02/11/16	MOTION HEARING HELD. MOTION TO DISMISS AMENDED COMPLAINTS - DENIED	KM	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
68	02/11/16	CONTINUE TO 2/29/16 AS STATUS CHECK ONLY DEFENSE TO FILE WRIT IN DISTRICT CT FUTURE TRIAL DATE TBD O/R RELEASE: STANDS APPEARANCE REQUIRED	KM	0.00	0.00
69	02/11/16	COUNTER: 10.29.45	KM	0.00	0.00
70	02/11/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: COOLEY, JEREMY - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present RJR - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present TERRY, WILLIAM B - Attorney for DEFENDANT: Present	KM	0.00	0.00
71	02/17/16	RENEWED MOTION FOR TAKING OF DEPOSITION OF CITY'S WITNESS IRENE FLEMING, AND NOTICE OF MOTION FILED BY Attorney: DCA LAURIE ISCAN (DCA)	DLK	0.00	0.00
72	02/17/16	COURT DATE SET: Event: TRIAL Date: 02/24/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: MOTION HEARING HELD	DLK	0.00	0.00
73	02/18/16	OPPOSITION TO MOTION FILED: FOR TAKING OF DEPOSITION OF CITY'S WITNESS IRENE FLEMING WILLIAM B TERRY (Attorney) on behalf of GIANO AMADO (DEFENDANT)	TAV	0.00	0.00
74	02/24/16	MOTION HEARING HELD. MOTION FOR TAKING DEPOSITION OF CITY'S WITNESS - DENIED	KM	0.00	0.00
75	02/24/16	CONTINUE AGAIN TO 2/29/16 AS STATUS CHECK ONLY DEFENSE TO FILE WRIT IN DISTRICT CT FUTURE TRIAL DATE TBD (PREFERRED DATE 4/25/16) O/R RELEASE: STANDS APPEARANCE REQUIRED	KM	0.00	0.00
76	02/24/16	COUNTER: 10.00.55	KM	0.00	0.00
77	02/24/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present RJR - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Not Present	KM	0.00	0.00

TERRY, WILLIAM B -
Attorney for DEFENDANT:
Present

No.	Filed	Action	Operator	Fine/Cost	Due
78	02/29/16	CONTINUED 1 WK FOR STATUS OF WRIT FILED IN DISTRICT CT - 3/7/16 FIRM TRIAL DATE ALSO RESET - 5/2/16 O/R RELEASE: STANDS	KM	0.00	0.00
79	02/29/16	COUNTER: 10.00.20/10.05.20/10.07.00/10. 11.00/10.15.55	KM	0.00	0.00
80	02/29/16	COURT DATE SET: Event: TRIAL Date: 03/07/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00
81	02/29/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: COOLEY, JEREMY - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present RJR - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present THOMAS, K PRESENT FOR TERRY, WILLIAM B - Attorney for DEFENDANT: Not Present	KM	0.00	0.00
82	02/29/16	COURT DATE SET: Event: TRIAL Date: 05/02/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: EVENT VACATED	KM	0.00	0.00
83	03/01/16	SUPPLEMENTAL COMPLIANCE REPORT SUBMITTED TO COURT BY ALTERNATIVE SENTENCING	RJS11	0.00	0.00
84	03/07/16	DISMISSED WITH PREJUDICE (PURSUANT TO WRIT FILED IN DISTRICT CT) Charge #1: DOMESTIC BATTERY, 1ST	KM	0.00	0.00
85	03/07/16	CONDITIONS OF RELEASE DISSOLVED	RJR3	0.00	0.00
86	03/07/16	COUNTER: 10.04.45	KM	0.00	0.00
87	03/07/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present RJR - CLERK: Present SCHNEIDER, LORA A - PRO TEM: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT:	KM	0.00	0.00

Present
THOMAS, K PRESENT FOR
TERRY, WILLIAM B - Attorney
for DEFENDANT; Not Present

No.	Filed	Action	Operator	Fine/Cost	Due
88	03/07/16	CASE CLOSED	KM	0.00	0.00
Total:				50.00	0.00

Totals By: COST	50.00	0.00
INFORMATION	0.00	0.00
*** End of Report ***		

Judge: STEVENS, MARK J

Case No. 15CR000859
Ticket No.
CTN:

CITY OF HENDERSON VS

By:

AMADO, GIANO DFNDT -vs-
2050 S MAGIC WAY, 257
HENDERSON, NV 89002
Dob: 08/31/1980 Sex: M
Lic: Sid: 7000064780

By: TERRY, WILLIAM B
530 S SEVENTH ST
LAS VEGAS, NV 89101

Plate#:

Make:

Year:

Accident: No

Type:

Venue:

Location: H

Bond:

Set:

Type:

Posted:

Charges:

Ct.1 NRS 200.485.1DOMESTIC BATTERY, 1ST DISMISSED WITH PREJUDICE
(BEFORE TRIAL)
Offense Dt: 08/04/2014 Cvr:
Arrest Dt:
Comments:

Sentencing:

Ct.1 Sentence Suspended Credit
Jail (Days)
Fines
Costs
Restitution
Probation(Mo) Expires:
Comm Svc (Hr)
REMARKS:

No.	Filed	Action	Operator	Fine/Cost	Due
1	01/22/15	NOTICE OF CASE STATUS RECEIVED FROM HENDERSON CITY ATTORNEY'S OFFICE-CRIMINAL DIVISION: CHARGE ADDED	KM		0.00
2	01/22/15	COURT DATE SET: Event: TRIAL Date: 02/24/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: NOT GUILTY PLEA / TRIAL SET	KM		0.00
3	02/24/15	CONDITIONS OF RELEASE: *STAND AS OF 04/29/15* NCWV: - IRENE FLEMING - DOMINIC OCHOA	KM	0.00	0.00
4	02/24/15	COUNTER: 10.44.50/10.50.00	KM	0.00	0.00
5	02/24/15	NOT GUILTY PLEA ENTERED. TRIAL SET - SPEEDY TRIAL WAIVED CTR 04/29/15 10AM D1 WITNESSES ORDERED BACK @ TRIAL APPEARANCE REQUIRED Charge #1: DOMESTIC BATTERY, 1ST	KM	0.00	0.00
6	02/24/15	COURT DATE SET: Event: TRIAL Date: 04/29/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
7	02/24/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: CRG - CLERK: Present KJ - CLERK: Present WARD, GEORGE - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present SMEDLEY, JAMES J - Attorney for DEFENDANT: Present	KM	0.00	0.00
8	04/29/15	BUSTOS MOTION BY CAO - GRANTED TRIAL SET IN 90 DAYS - 07/29/15 10AM D1 O/R RELEASE: STANDS SHOW CAUSE ON VICTIM ALSO GRANTED IN 4 WKS - 05/27/15 10AM D1	KM	0.00	0.00
9	04/29/15	COUNTER: 10.02.00/11.26.40	KM	0.00	0.00
10	04/29/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: CRG - CLERK: Present KJ - CLERK: Present MATHER, ELAINE - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present SMEDLEY, JAMES J - Attorney for DEFENDANT: Present	KM	0.00	0.00
11	04/29/15	COURT DATE SET: Event: TRIAL Date: 07/29/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: DISMISSED	KM	0.00	0.00
12	07/29/15	CONDITIONS OF RELEASE DISSOLVED	KM	0.00	0.00
13	07/29/15	"Notice Relating to Sealing Records" provided to defense in open court.	KM	0.00	0.00
14	07/29/15	COUNTER: 10.00.30/10.51.40	KM	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
15	07/29/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: KJ - CLERK: Present MATHER, ELAINE - DEPUTY CITY ATTORNEY: Present SDS - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present IARUSSI, JOSEPH BRIAN - Attorney for DEFENDANT: Present	KM	0.00	0.00
16	07/29/15	ORAL MOTION BY CAO TO DISMISS WITHOUT PREJUDICE - GRANTED REASON: VICTIM NOT PRESENT Charge #1: DOMESTIC BATTERY, 1ST	KM	0.00	0.00
17	07/29/15	CASE CLOSED	KM	0.00	0.00
18	07/30/15	NOTICE OF CASE STATUS RECEIVED FROM HENDERSON CITY ATTORNEY'S OFFICE-CRIMINAL DIVISION: - REOPEN CASE AFTER DISMISSAL WITHOUT PREJUDICE - AMENDED COMPLAINTS FILED (WITH AKA OF BRANDON WELCH, COURT WILL CONTINUE TO KEEP CASE OPEN UNDER GIANO AMADO) - REQUEST FOR SUMMONS	AMM2	0.00	0.00
19	08/18/15	Court Note: Restricted	MMB	0.00	0.00
20	08/19/15	COURT DATE SET: Event: CRIMINAL ARRAIGNMENT Date: 09/17/2015 Time: 9:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: NOT GUILTY PLEA / TRIAL SET	AVS	0.00	0.00
21	09/15/15	SUMMONS SERVED UPON DEFENDANT Charge #1: DOMESTIC BATTERY, 1ST	AVS	0.00	0.00
22	09/17/15	ATTORNEY CONFIRMED KAJIOKA. CONTINUED FOR TRIAL.	AVS	0.00	0.00
23	09/17/15	COUNTER: 9.38.10	AVS	0.00	0.00
24	09/17/15	COURT DATE SET: Event: TRIAL Date: 12/07/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	AVS	0.00	0.00
25	09/17/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: AVS - CLERK: Present KJ - CLERK: Present MATHER, ELAINE - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: SMEDLEY, JAMES J - Event	AVS	0.00	0.00

Attorney for DEFENDANT: Not
Present
IARUSSI, JOSEPH BRIAN -
Event Attorney for DEFENDANT:
Not Present
AMADO, GIANO - DEFENDANT:
Not Present
KAJIOKA, DEAN Y. -
Attorney for DEFENDANT:
Present

No.	Filed	Action	Operator	Fine/Cost	Due
26	09/17/15	NOT GUILTY PLEA ENTERED. TRIAL SET - SPEEDY TRIAL WAIVED O/R STANDS APPEARANCE REQUIRED Charge #1: DOMESTIC BATTERY, 1ST	AVS	0.00	0.00
27	12/07/15	BUSTOS MOTION BY CAO - GRANTED CTR 01/11/16 10AM D1 O/R RELEASE: STANDS APPEARANCE REQUIRED	KM	0.00	0.00
28	12/07/15	COUNTER: 10.07.00/11.12.30/11.26.40	KM	0.00	0.00
29	12/07/15	COURT DATE SET: Event: TRIAL Date: 01/11/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00
30	12/07/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: AVS - CLERK: Present ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present KAJIOKA, DEAN Y. - Attorney for DEFENDANT: Present	KM	0.00	0.00
31	01/05/16	NOTICE OF MOTION AND MOTION FOR TAKING DEPOSITION OF CITY'S WITNESS IRENE FLEMING FILED BY: LAURIE A. ISCAN, DEPUTY CITY ATTORNEY	BML6	0.00	0.00
32	01/06/16	COURT DATE SET: Event: TRIAL Date: 01/06/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: MOTION CONTINUED	KM	0.00	0.00
33	01/06/16	MOTION HEARING CONTINUED FOR DEF ATTY'S PRESENCE CTR 01/07/16 10AM D1 O/R RELEASE: STANDS	KM	0.00	0.00
34	01/06/16	COUNTER: 10.51.35	KM	0.00	0.00
35	01/06/16	COURT DATE SET: Event: TRIAL Date: 01/07/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
36	01/06/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present RJR - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Not Present KAJIOKA, DEAN Y. - Attorney for DEFENDANT: Not Present	KM	0.00	0.00
37	01/06/16	MOTION TO CONTINUE TRIAL FILED: Attorney: TERRY, WILLIAM B (1028) MOTION HEARING WILL BE HELD 1/7/16 10AM D1	BML6	0.00	0.00
38	01/06/16	COURT DATE SET: Event: TRIAL Date: 01/19/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: EVENT VACATED	BML6	0.00	0.00
39	01/06/16	DOCUMENT FILED: SUBSTITUTION OF ATTORNEY FILED BY WILLIAM TERRY REPLACING DEAN KAJIOKA	BML6	0.00	0.00
40	01/07/16	ALL MOTIONS CONTINUED BY JUDGE - 1/11/16 APPEARANCE REQUIRED	KM	0.00	0.00
41	01/07/16	BAIL REVOCATION HEARING ALSO ORDERED BY JUDGE - 1/11/16 POSSIBLE CONDITIONS OF RELEASE TO BE ADDRESSED BAIL MAY ALSO BE ARGUED	KM	0.00	0.00
42	01/07/16	COUNTER: 10.36.15/10.43.35	KM	0.00	0.00
43	01/07/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present RJR - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Not Present THOMAS, K PRESENT FOR TERRY, WILLIAM B - Attorney for DEFENDANT: Not Present	KM	0.00	0.00
44	01/07/16	OPPOSITION TO MOTION FILED BY DEPUTY CITY ATTORNEY LAURIE A. ISCAN BAR #9716, SUBSTITUTION OF COUNSEL AND MOTION TO CONTINUE TRIAL	TAV	0.00	0.00
45	01/11/16	MOTION HEARING HELD. MOTION FOR TAKING DEPOSITION OF CITY'S WITNESS - DENIED	KM	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
46	01/11/16	MOTION HEARING HELD. MOTION TO CONTINUE TRIAL - GRANTED	KM	0.00	0.00
47	01/11/16	CONTINUED TO CTR 02/29/16 10AM D1 O/R RELEASE: STANDS	KM	0.00	0.00
48	01/11/16	CONDITIONS OF RELEASE: MODIFIED 02/11/16 / STAND AS OF 02/29/16 - NCWV: IRENE FLEMING & DOMINIC OCHOA - GPS - STAY 1000' AWAY FROM THE FOLLOWING INTERSECTIONS: (MODIFIED 02/11/16 TO: "STAY 500' AWAY") TEXAS / ATLANTIC CENTER ST / PALMETTO LAKE MEAD / NELLIS GIBSON / HORIZON PASEO VERDE / TRILOGY COVE WAL-MART @ 300 E LAKE MEAD DR ST PETERS CHURCH @ 204 S BOULDER HWY	KM	0.00	0.00
49	01/11/16	COUNTER: 11.23.30/3.08.55	KM	0.00	0.00
50	01/11/16	COURT DATE SET: Event: TRIAL Date: 02/29/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00
51	01/11/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present RJR - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present THOMAS, K PRESENT FOR TERRY, WILLIAM B - Attorney for DEFENDANT: Not Present	KM	0.00	0.00
52	02/04/16	MOTION FILED: TO DISMISS AMENDED COMPLAINTS Attorney: TERRY, WILLIAM B (1028)	CRG	0.00	0.00
53	02/04/16	COURT DATE SET: (MOTION) Event: TRIAL Date: 02/11/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: MOTION HEARING HELD	CRG	0.00	0.00
54	02/09/16	OPPOSITION TO MOTION FILED TO DISMISS AMENDED COMPLAINTS	DLK	0.00	0.00
55	02/11/16	MOTION HEARING HELD. MOTION TO DISMISS AMENDED COMPLAINTS - DENIED	KM	0.00	0.00
56	02/11/16	CONTINUE TO 2/29/16 AS STATUS CHECK ONLY DEFENSE TO FILE WRIT IN DISTRICT CT FUTURE TRIAL DATE TBD O/R RELEASE: STANDS APPEARANCE REQUIRED	KM	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
57	02/11/16	COUNTER: 10.29.45	KM	0.00	0.00
58	02/11/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: COOLEY, JEREMY - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present RJR - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present TERRY, WILLIAM B - Attorney for DEFENDANT: Present	KM	0.00	0.00
59	02/17/16	RENEWED MOTION FOR TAKING OF DEPOSITION OF CITY'S WITNESS IRENE FLEMING, AND NOTICE OF MOTION FILED BY Attorney: DCA LAURIE ISCAN (DCA)	DLK	0.00	0.00
50	02/17/16	COURT DATE SET: Event: TRIAL Date: 02/24/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: MOTION HEARING HELD	DLK	0.00	0.00
61	02/18/16	OPPOSITION TO MOTION FILED: FOR TAKING OF DEPOSITION OF CITY'S WITNESS IRENE FLEMING WILLIAM B TERRY (Attorney) on behalf of GIANO AMADO (DEFENDANT)	TAV	0.00	0.00
62	02/24/16	MOTION HEARING HELD. MOTION FOR TAKING DEPOSITION OF CITY'S WITNESS -DENIED	KM	0.00	0.00
63	02/24/16	CONTINUE AGAIN TO 2/29/16 AS STATUS CHECK ONLY DEFENSE TO FILE WRIT IN DISTRICT CT FUTURE TRIAL DATE TBD (PREFERRED DATE 4/25/16) O/R RELEASE: STANDS APPEARANCE REQUIRED	KM	0.00	0.00
64	02/24/16	COUNTER: 10.00.55	KM	0.00	0.00
65	02/24/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present RJR - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Not Present TERRY, WILLIAM B - Attorney for DEFENDANT: Present	KM	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
66	02/29/16	CONTINUED 1 WK FOR STATUS OF WRIT FILED IN DISTRICT CT - 3/7/16 FIRM TRIAL DATE ALSO RESET - 5/2/16 O/R RELEASE: STANDS	KM	0.00	0.00
67	02/29/16	COUNTER: 10.00.20/10.05.20/10.07.00/10. 11.00/10.15.55	KM	0.00	0.00
68	02/29/16	COURT DATE SET: Event: TRIAL Date: 03/07/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00
69	02/29/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: COOLEY, JEREMY - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present RJR - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present THOMAS, K PRESENT FOR TERRY, WILLIAM B - Attorney for DEFENDANT: Not Present	KM	0.00	0.00
70	02/29/16	COURT DATE SET: Event: TRIAL Date: 05/02/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: EVENT VACATED	KM	0.00	0.00
71	03/07/16	CONDITIONS OF RELEASE DISSOLVED	RJR3	0.00	0.00
72	03/07/16	COUNTER: 10.04.45	KM	0.00	0.00
73	03/07/16	DISMISSED WITH PREJUDICE (PURSUANT TO WRIT FILED IN DISTRICT CT) Charge #1: DOMESTIC BATTERY, 1ST	KM	0.00	0.00
74	03/07/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present RJR - CLERK: Present SCHNEIDER, LORA A - PRO TEM: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present THOMAS, K PRESENT FOR TERRY, WILLIAM B - Attorney for DEFENDANT: Not Present	KM	0.00	0.00

Date: 04/27/2016 12:42:32.5
MIJR5925

Docket Sheet

Page: 9

15	03/07/16	CASE CLOSED	KM	0.00	0.00
Total:				0.00	0.00
Totals By: INFORMATION				0.00	0.00
*** End of Report ***					

Date: 05/31/2016 13:21:02.4
MIJks925

Docket Sheet

Page: 1

Judge: STEVENS, MARK J

Case No. 15CR005885
Ticket No. 14CR11381
CTN:

CITY OF HENDERSON VS

By:

FLEMING, IRENE REBECCA DFNDT
67 WYOMING AVE
HENDERSON, NV 89015

By: NELSON, ROY
200 S. THIRD ST.
LAS VEGAS, NV 89101

Dob: 04/21/1959 Sex: F
Lic: Sid: 0000884873

Plate#:

Make:

Year:

Accident: No

Type:

Venue:

Location: H

Bond:

Type:

Set:

Posted:

Charges:

Ct.1 NRS 22.100 CRIMINAL CONTEMPT DISMISSED WITH PREJUDICE
(BEFORE TRIAL)
Offense Dt: 04/29/2015 Cvr:
Arrest Dt:
Comments:

Sentencing:

Ct.1 Sentence Suspended Credit
Jail (Days)
Fines
Costs
Restitution
Probation(Mo) Expires:
Comm Svc (Hr)
REMARKS:

No.	Filed	Action	Operator	Fine/Cost	Due
1	05/14/15	MOTION FOR ORDER TO SHOW CAUSE FOR FAILURE TO COMPLY WITH SUBPOENA FILED BY ASST CITY ATTY ELAINE MATHER, ESQ REF: COH VS AMADO, GIANO	KM	0.00	0.00
2	05/14/15	COURT DATE SET: Event: TRIAL Date: 05/27/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: MOTION CONTINUED	KM	0.00	0.00
3	05/18/15	ORDER TO SHOW CAUSE SIGNED BY JUDGE, FILED, AND FORWARDED TO MARSHAL DIVISION FOR SERVICE Charge #1: SHOW CAUSE HEARING	KM	0.00	0.00
4	05/19/15	SHOW CAUSE ORDER SERVED UPON DEFENDANT BY MARSHAL'S OFFICE	KM	0.00	0.00
5	05/27/15	MOTION FOR ORDER TO SHOW CAUSE FOR FAILURE TO COMPLY WITH SUBPOENA CONTINUED ALONG W/ 14CR11381 CTR 07/29/15 10AM D1 O/R RELEASE: STANDS	KM	0.00	0.00
6	05/27/15	COUNTER: 10.11.20	KM	0.00	0.00
7	05/27/15	COURT DATE SET: Event: TRIAL Date: 07/29/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
8	05/27/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: CRG - CLERK: Present ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present Prosecutors: Parties: FLEMING, IRENE REBECCA - DEFENDANT: Present ZENTZ, ERIK H - Attorney for DEFENDANT: Present	KM	0.00	0.00
9	07/29/15	Defendant failed to appear for SHOW CAUSE HEARING FOR FAILURE TO COMPLY WITH SUBPOENA Judge ordered: Failure to Appear Warrant	KM	0.00	0.00
10	07/29/15	COUNTER: 10.58.05/11.01.10	KM	0.00	0.00
11	07/29/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: KJ - CLERK: Present MATHER, ELAINE - DEPUTY CITY ATTORNEY: Present SDS - CLERK: Present Prosecutors: Parties: FLEMING, IRENE REBECCA - DEFENDANT: Not Present ZENTZ, ERIK H - Attorney for DEFENDANT: Not Present	KM	0.00	0.00
12	09/14/15	FAILURE TO APPEAR WARRANT ISSUED #15M05715	DDM2	0.00	0.00
13	09/16/15	ACTIVE WARRANT NOTICE MAILED ACTIVE WARRANT LETTER Sent on: 09/16/2015 16:35:48.90	DDM2	0.00	0.00
14	09/16/15	MOTION FILED: TO QUASH BENCH WARRANT AND PLACE ON CALENDAR ROY NELSON (Attorney) on behalf of IRENE REBECCA FLEMING (DEFENDANT)	TAV	0.00	0.00
15	09/16/15	COURT DATE SET: Event: TRIAL Date: 09/28/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: EVENT VACATED	TAV	0.00	0.00
16	09/22/15	WARRANT SERVED NOT BOOKED VIA WINDOW RE 15M5715/15CR11024	DLK	0.00	0.00
17	09/22/15	THIS CHARGE CONTINUED WITH WARRANT CASE.	DLK	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
18	09/22/15	COURT DATE SET: Event: CRIMINAL ARRAIGNMENT Date: 11/03/2015 Time: 9:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: NOT GUILTY PLEA / TRIAL SET	DLK	0.00	0.00
19	11/03/15	COUNTER: 9.06.12/9.29.01	AVS	0.00	0.00
20	11/03/15	NOT GUILTY PLEA ENTERED. TRIAL SET - SPEEDY TRIAL WAIVED O/R: STANDS APPEARANCE REQUIRED Charge #1: CRIMINAL CONTEMPT	AVS	0.00	0.00
21	11/03/15	COURT DATE SET: Event: TRIAL Date: 12/07/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	AVS	0.00	0.00
22	11/03/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: AVS - CLERK: Present EFK - CLERK: Present MATHER, ELAINE - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: FLEMING, IRENE REBECCA - DEFENDANT: Not Present ZENTZ, ERIK H - Attorney for DEFENDANT: Not Present ATTY K. BROWER FOR NELSON, ROY - Attorney for DEFENDANT: Present	AVS	0.00	0.00
23	12/07/15	Defendant failed to appear. Judge ordered: Failure to Appear Warrant BAIL SET ON FTA: \$5140 CASH ONLY	KM	0.00	0.00
24	12/07/15	COUNTER: 11.16.05	KM	0.00	0.00
25	12/07/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: AVS - CLERK: Present ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present Prosecutors: Parties: FLEMING, IRENE REBECCA - DEFENDANT: Not Present NELSON, ROY - Attorney for DEFENDANT: Present	KM	0.00	0.00
26	12/29/15	FAILURE TO APPEAR WARRANT ISSUED #15M07993	DDM2	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
27	12/29/15	ACTIVE WARRANT NOTICE MAILED ACTIVE WARRANT LETTER Sent on: 12/29/2015 16:18:45.06	DDM2	0.00	0.00
28	12/30/15	WARRANT SERVED BY ARREST REF: 15CR015053 FAILURE TO APPEAR - CR/TTR served on: 12/30/2015 For: FLEMING, IRENE REBECCA	JCA	0.00	0.00
29	12/31/15	COURT DATE SET: Event: INCUSTODY ARRAIGNMENT Date: 01/04/2016 Time: 1:30 pm Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: COURT DATE ENTERED IN ERROR	JCA	0.00	0.00
30	12/31/15	COURT DATE SET: Event: INCUSTODY ARRAIGNMENT Date: 12/31/2015 Time: 3:00 pm Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: CONTINUED	JCA	0.00	0.00
31	12/31/15	DEFENDANT PRESENT IN CUSTODY	JCA	0.00	0.00
32	12/31/15	CONTINUED FOR ATTY	JCA	0.00	0.00
33	12/31/15	COUNTER: 2.17.28	JCA	0.00	0.00
34	12/31/15	COURT DATE SET: Event: INCUSTODY ARRAIGNMENT Date: 01/04/2016 Time: 1:30 pm Judge: STEVENS, MARK J Location: DEPARTMENT 1	JCA	0.00	0.00
35	12/31/15	EVENT PARTICIPANTS: Court Location: HEARD IN DEPT 3 FOR THIS EVENT ONLY (DEPT 1) Check In: Judge: STEVENS, MARK J Location: HEARD IN DEPT 3 FOR THIS EVENT ONLY (DEPT 1) Staff: HAMPTON, DIANA D - EVENT JUDGE: Present LMC - CLERK: Present ML - CLERK: Present SCHIPALACQUA, MARC - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: ZENTZ, ERIK H - Event Attorney for DEFENDANT: Not Present FLEMING, IRENE REBECCA - DEFENDANT: Present NELSON, ROY - Attorney for DEFENDANT: Not Present	JCA	0.00	0.00
36	01/04/16	DEFENDANT PRESENT IN CUSTODY	JCA	0.00	0.00
37	01/04/16	CONTINUED AT DEF ATTY REQUEST	JCA	0.00	0.00
38	01/04/16	COUNTER: 2.18.15	JCA	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
39	01/04/16	COURT DATE SET: Event: TRIAL Date: 01/06/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	JCA	0.00	0.00
40	01/04/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present JCA - CLERK: Present KJ - CLERK: Present Prosecutors: Parties: ZENTZ, ERIK H - Event Attorney for DEFENDANT: Not Present FLEMING, IRENE REBECCA - DEFENDANT: Present NELSON, ROY - Attorney for DEFENDANT: Present	JCA	0.00	0.00
41	01/04/16	RETURNED MAIL Charge #1: CRIMINAL CONTEMPT	BNH	0.00	0.00
42	01/06/16	IN-CUSTODY WORKSHEET PREPARED AND SUBMITTED TO HDC INCUSTODY WORKSHEET FOR HDC Sent on: 01/06/2016 11:00:51.88	RJR3	0.00	0.00
43	01/06/16	IN-CUSTODY WORKSHEET PREPARED AND SUBMITTED TO HDC INCUSTODY WORKSHEET FOR HDC Sent on: 01/06/2016 11:01:40.24	RJR3	0.00	0.00
44	01/06/16	IN-CUSTODY WORKSHEET PREPARED AND SUBMITTED TO HDC INCUSTODY WORKSHEET FOR HDC Sent on: 01/06/2016 11:02:27.70	RJR3	0.00	0.00
45	01/06/16	CONTINUED W/ 14CR11381, 15CR859 CTR 01/07/16 10AM D1 NO CHANGE IN BAIL	KM	0.00	0.00
46	01/06/16	DEFENDANT PRESENT IN CUSTODY	KM	0.00	0.00
47	01/06/16	COUNTER: 10.51.35	KM	0.00	0.00
48	01/06/16	COURT DATE SET: Event: TRIAL Date: 01/07/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00
49	01/06/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present RJR - CLERK: Present Prosecutors: Parties: FLEMING, IRENE REBECCA -	KM	0.00	0.00

DEFENDANT: Present
NELSON, ROY - Attorney
for DEFENDANT: Present

No.	Filed	Action	Operator	Fine/Cost	Due
50	01/07/16	CONTINUED AGAIN W/ 14CR11381 & 15CR859 - 1/11/16 DEF ATTY'S PRESENCE ALSO REQ'D (DETAINED IN OJ) NO CHANGE IN BAIL	KM	0.00	0.00
51	01/07/16	DEFENDANT PRESENT IN CUSTODY	KM	0.00	0.00
52	01/07/16	COUNTER: 10.43.35/10.49.15	KM	0.00	0.00
53	01/07/16	COURT DATE SET: Event: TRIAL Date: 01/11/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00
54	01/07/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present RJR - CLERK: Present Prosecutors: Parties: FLEMING, IRENE REBECCA - DEFENDANT: Present NELSON, ROY - Attorney for DEFENDANT: Not Present	KM	0.00	0.00
55	01/11/16	CONTINUED W/ 14CR11381 & 15CR859 (JUDGE ADMONISHED & ORDERED DEFENDANT BACK @ RCD) CTR 02/29/16 10AM D1 O/R RELEASE	KM	0.00	0.00
56	01/11/16	DEFENDANT PRESENT IN CUSTODY	KM	0.00	0.00
57	01/11/16	COUNTER: 2.44.35	KM	0.00	0.00
58	01/11/16	COURT DATE SET: Event: TRIAL Date: 02/29/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00
59	01/11/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present RJR - CLERK: Present Prosecutors: Parties: FLEMING, IRENE REBECCA - DEFENDANT: Present PURSER, A PRESENT AS FRIEND OF COURT FOR NELSON, ROY - Attorney for DEFENDANT: Not Present	KM	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
60	02/29/16	CONTINUED W/ 14CR11381 & 15CR859 STATUS OF WRIT FILED IN DISTRICT CT - 3/7/16 FIRM TRIAL RESET - 5/2/16 O/R RELEASE: STANDS APPEARANCE REQUIRED @ TRIAL	KM	0.00	0.00
61	02/29/16	COUNTER: 10.03.15	KM	0.00	0.00
62	02/29/16	COURT DATE SET: Event: TRIAL Date: 03/07/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00
63	02/29/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: COOLEY, JEREMY - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present RJR - CLERK: Present Prosecutors: Parties: FLEMING, IRENE REBECCA - DEFENDANT: Present	KM	0.00	0.00
64	02/29/16	COURT DATE SET: Event: TRIAL Date: 05/02/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: EVENT VACATED	KM	0.00	0.00
65	03/07/16	COUNTER: 10.07.20	KM	0.00	0.00
66	03/07/16	DISMISSED WITH PREJUDICE (PURSUANT TO WRIT FILED IN DISTRICT CT ON CASES 14CR11381 & 15CR859) Charge #1: CRIMINAL CONTEMPT	KM	0.00	0.00
67	03/07/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present RJR - CLERK: Present SCHNEIDER, LORA A - PRO TEM: Present Prosecutors: Parties: FLEMING, IRENE REBECCA - DEFENDANT: Not Present	KM	0.00	0.00
68	03/07/16	CASE CLOSED	KM	0.00	0.00
Total:				0.00	0.00
Totals By: INFORMATION *** End of Report ***				0.00	0.00

WILLIAM B. TERRY, CHARTERED
530 South Seventh Street
Las Vegas, Nevada 89101
(702) 385-0799

1 WILLIAM B. TERRY, ESQ.
Nevada Bar No. 001028
2 WILLIAM B. TERRY, CHARTERED
530 South Seventh Street
3 Las Vegas, Nevada 89101
(702) 385-0799
4 (702) 385-9788 (Fax)
Info@WilliamTerryLaw.com
5 Attorney for Petitioner

FILED

2016 JAN 13 A 10:32

[Signature]
CLERK OF THE COURT

6 EIGHTH JUDICIAL DISTRICT COURT

7 CLARK COUNTY, NEVADA

8 GIANO AMADO

9 Petitioner,

CASE NO. C-16-311953-W
DEPT. NO. II

10 vs.

11 CITY OF HENDERSON and THE
HONORABLE JUDGE MARK STEVENS,

HEARING DATE: 1-28-16
HEARING TIME: 9:00AM

12 Respondent.

13
14 **PETITION FOR WRIT OF MANDAMUS OR, IN THE ALTERNATIVE, WRIT OF**
15 **PROHIBITION, REQUEST FOR ORDER SHORTENING TIME & FOR STAY OF**
16 **HENDERSON MUNICIPAL COURT PROCEEDINGS**

17 COMES NOW the Petitioner, GIANO AMADO, by and through his counsel, WILLIAM B.
18 TERRY, ESQ., of the law offices of WILLIAM B. TERRY, CHARTERED and files the instant
19 Petition for Writ of Mandamus or, in the Alternative, Writ of Prohibition. Further, the Petitioner is
20 requesting an order to shorten time, to stay all proceedings in the Henderson Municipal Court until
21 such time as this Honorable Court has an adequate opportunity to review the Writ and the City of
22 Henderson has an adequate opportunity to respond thereto.

23 This Petition is made and based upon the attached analysis of facts and points and authorities
24 in support hereof, and any oral arguments as may be presented at the hearing in this matter.

25 WILLIAM B. TERRY, CHARTERED

26 *[Signature]*
WILLIAM B. TERRY, ESQ.
Nevada Bar No. 001028
WILLIAM B. TERRY, CHARTERED
530 South Seventh Street
Las Vegas, Nevada 89101
(702) 385-0799
Attorney for Petitioner

PROCEDURAL HISTORY

The Petitioner, GIANO AMADO, is currently a Defendant in that case entitled City of Henderson vs. Giano Amado. As will be shown herein, he has been charged on at least two occasions with the same offense. Attached hereto and incorporated by reference herein as Exhibit "A" is a copy of the Criminal Complaint in case number 14CR011381 filed October 6, 2014, against Mr. Amado alleging domestic violence against one Irene Fleming with an alleged date of offense of August 4, 2014. Further attached as Exhibit "B" is a copy of Criminal Complaint in case number 15CR000859 filed January 15, 2015, against Petitioner Amado again alleging a date of August 4, 2014 with the alleged victim being Dominic Ochoa. Attached hereto and incorporated by referenced herein as Exhibit "C" is a copy of the Amended Criminal Complaint in case number 14CR011381 filed July 30, 2015 again alleging a date of August 4, 2014 against one Irene Fleming. The Court's attention is drawn to the fact that this complaint is characterized as an amended criminal complaint but is identical to Exhibit "A" and bears the same case number. Yet this case was filed July 30, 2015. There are two cases numbers being identical to the one of which was filed September 22, 2014, the other of which was filed July 30, 2015, yet the second complaint is denoted as an Amended Criminal Complaint and it alleges the same acts in both complaints on the same date. See Exhibit "C". Further, attached hereto as Exhibit "D" is the complaint in case number 15CR000859 again entitled Amended Criminal Complaint filed July 30, 2015, with the said allegation being August 4, 2014 against Dominic Ochoa. The Amended Complaint is identical to Exhibit "B" but for reasons which will be explained herein, both were filed on a different court date. The Court therefore has four criminal complaints; two of which are designated as amended and filed on July 30, 2015 and two of which with identical case numbers are denoted as original complaints. By way of summary, what will be shown is that the Henderson Municipal Court dismissed the two original complaints because the City was unable to proceed. Attached hereto and incorporated by reference herein as Exhibit "E" are the minutes in case number 14CR011381 and 15CR000859. Again, by way of summary, what it shows is that a warrant was issued on October 6, 2014, and that the Petitioner was arrested October 15, 2014. On October 28, 2014, he entered a not guilty plea with a trial date being set for January 13, 2015. On January 13, 2015, however, the City Attorney's office requested a

1 continuance to “file additional charges” and for a motion for an order to show cause. On February
2 24, 2015, again the Defendant was present for purposes of trial and the witness did not appear. The
3 trial was against set for April 29, 2015, but on that date the City filed what is commonly referred to
4 as a *Bustos* motion and the trial was set again for July 29, 2015. The City, however, was not
5 prepared to proceed on that date and the original complaint was dismissed. In reference to case
6 number 15CR000859, basically the same thing occurred; in both cases trials were set for July 29,
7 2015, but again the City was not prepared to proceed and the cases were both dismissed. On July
8 30, 2015, the next day, the City filed it’s two “Amended Criminal Complaints” with the identical
9 case numbers alleging the identical facts. See Exhibit “C” and “D”. On the amended criminal
10 charges, a trial date was set but again the City was not prepared to proceed. A material witness
11 warrant was issued for Irene Fleming and she was ultimately arrested and a trial date at this point had
12 been set for January 11, 2016. The Defendant, however, hired new counsel who filed a Motion to
13 Continue the January 11th trial date and specifically to file the instant Petition for Writ of Mandamus
14 or, in the Alternative, Writ of Prohibition. In response to this, on January 5, 2016, the City filed a
15 “Notice of Motion and Motion for Taking of Deposition of City’s Witness, Irene Fleming” a copy
16 of which is attached hereto and incorporated by reference herein as Exhibit “F”. The Court’s
17 attention is drawn to the fact that the Motion was filed January 5, 2016 and set for hearing on
18 January 6, 2016, barely 24 hours after it was filed. The status of the case, therefore, is that the City
19 has requested the right to take Irene Fleming’s deposition; what they contend to be consistent with
20 NRS 174.175. She is, however, at the current time available for trial. If the Court reviews Exhibit
21 “F” the Court would note that the City’s position is not that she is ill nor that she is expected to die
22 nor that she will not be in the jurisdiction for any other trial settings. It is simply because she failed
23 to appear on prior occasions. By way of summary, therefore, what the Court should note is that the
24 original two complaints were dismissed yet the City files “amended” complaints not new complaints
25 as against the Defendant and they even utilize the same case numbers.

26 **PRAYER FOR RELIEF**

- 27 1. That the Court Stay Any and All Further Proceedings in the Henderson Municipal
28 Court on the “Amended” Criminal Complaints until the Instant Petition for Writ of

1 Mandamus Or, in the Alternative, Writ of Prohibition Is Decided;

2 2. That the Court Further Stay Any Deposition of Any Individual in the Instant Case;

3 3. That the Court Grant an Order Shortening Time and Enter an Order Prohibiting the
4 City of Henderson Either Through the City Attorney's Office or the Henderson
5 Municipal Court from Proceeding Further until the Instant Petition Is Decided; and

6 4. That the Court Direct the City of Henderson to Respond to the Instant Petition.

7 **ARGUMENT**

8 I. A PETITION FOR WRIT OF MANDAMUS OR, IN THE ALTERNATIVE, WRIT OF
9 PROHIBITION IS THE PROPER PROCEDURE TO RAISE THE INSTANT ISSUES
BEFORE THIS HONORABLE COURT.

10 Chapter 34 of the Nevada Revised Statutes deals with, amongst other things, a petition for
11 writ of mandamus and a petition for prohibition. These writs are meant to have a higher court, in
12 this case the District Court, direct a lower court to do or not do certain acts. Under NRS 34.170 a
13 writ of mandamus may issue when there is no plain, speedy and adequate remedy in law. If the writ
14 is not issued the City will attempt to proceed with the deposition and will attempt to proceed with
15 the prosecution of Mr. Amado. Under the arguments which will be raised herein, it is the position
16 of the Petitioner that the City is prohibited from proceeding against Mr. Amado. Under NRS 34.185
17 the court must issue an order within a 30 day period after the instant application is made. The
18 Petitioner, however, is requested an order to shorten time because of the actions which are expected
19 to continue in the Henderson Municipal Court and, again, there is no plain adequate remedy at law.
20 Under NRS 34.190 the writ may be either in the alternative or peremptory. It is for that reason that
21 both a writ of mandamus and a writ of prohibition has been applied for in the instant case. NRS
22 34.210 directs that the adverse party respond.

23 NRS 34.320 through 34.350 deals with a writ of prohibition and is almost identical to the
24 writ of mandamus. NRS 34.340 specifically provides that the writ may be done in the alternative
25 which is exactly what is being done herein. Again, there is no adequate remedy at law and certainly
26 no speedy remedy without the intervention of the District Court.

1 II. THE REQUEST FOR AN ORDER SHORTENING TIME SHOULD BE GRANTED
2 BECAUSE THERE IN FACT IS NO PLAIN, SPEEDY AND ADEQUATE REMEDY IN
LAW.

3 If the District Court does not intervene, the City of Henderson will be allowed to proceed
4 and, more specifically, the Henderson Municipal Court will be allowed to proceed. At a minimum,
5 the Court should enter an order staying all proceedings until the City of Henderson and the Real
6 Party in Interest have responded.

7 III. THE HENDERSON MUNICIPAL COURT COMMITTED ERROR IN ALLOWING THE
8 CITY TO PROCEED ON A "AMENDED" CRIMINAL COMPLAINT WHEN THE
ORIGINAL COMPLAINTS HAD BEEN DISMISSED.

9 It has already been demonstrated that because the City was unable to proceed the Court
10 ordered the original criminal complaints dismissed. At no time did the City file a motion to file an
11 amended criminal complaint. The District Court is asked how can one file an amended criminal
12 complaint when the underlying criminal complaint has been dismissed. It is further interesting to
13 note that the "amended" criminal complaints were filed some four days before the one year
14 prohibition would have run on the underlying second complaints. The City Attorney did not file a
15 new complaint. They in fact filed an amended criminal complaint in reference to both of the alleged
16 victims and these amended complaints were filed on the same date alleging the same acts as set forth
17 within the original complaints. The City may argue that this is a technical error on their part and that
18 the Court should simply consider the amended criminal complaints as new complaints. This,
19 however, should not occur particularly in light of the fact that the same case numbers were utilized
20 which means that the cases remained in front of the same City Judge as opposed to a random
21 selection. In effect, the City is picking and choosing it's judges.

22 IV. THE CITY SHOULD NOT HAVE BEEN ALLOWED TO FILE AN AMENDED
23 CRIMINAL COMPLAINT.

24 The instant argument is different than the argument above. The instant argument assumes
25 that what the City was intending to do was file a "new" criminal complaint alleging the same things
26 against Mr. Amado based on the statute that would theoretically have given them the permission or
27 authorization to file a second complaint based upon the same acts. The Court is reminded, however,
28 that the original complaints were dismissed because the City could not proceed. On at least one

1 occasion they filed the specific *Bustos* motion which means that they were aware that the witness
2 would not appear. On the other occasions, they moved orally for the continuances. It is submitted
3 that had they attempted to file a new complaint, a motion could have been made to strike the new
4 complaint because of the City's inability to proceed. It is acknowledged that no motion was filed
5 by the then defense attorney to prohibit the amended criminal complaint or to argue against the
6 amended criminal complaint but nevertheless the error still exists. Mr. Amado has now retained new
7 counsel and it is for that reason that the instant issue is being raised.

8 V. THE CITY HAS NOT SET FORTH THE PROPER BASIS TO TAKE THE DEPOSITION
9 OF ANY WITNESS.

10 The instant argument provides the Court with an additional basis to issue the Writ of
11 Prohibition or, in the alternative, Writ of Mandamus. To prevent the City and ultimately to prevent
12 the Court from granting the City's motion to allow the deposition to be taken. At this time, the
13 City's motion is pending and has neither been granted nor denied. That, however, may change on
14 January 11th when the Henderson Municipal Court is expected to hear further arguments on the
15 instant case. The Henderson Municipal Court in fact has ordered Mr. Amado to appear on January
16 11, 2016, on it's own motion to amend the conditions of release to, based upon information and
17 belief, potentially add a GPS to his conditions of release and, further, to enter a no contact order.
18 The Petitioner does not necessarily have an issue with the no contact order although there are no
19 restraining orders currently in existence and it appears "strange" to the Petitioner that they would
20 make this request 17 months after the alleged allegations arose. The City cites NRS 174.175 as
21 supposedly giving them authorization to attempt to take the deposition of the witness. The Court
22 should review Exhibit "F" which is the City's Motion filed January 5, 2016. It does not set forth a
23 date for the taking of the deposition and while it was set to be heard on January 6th it was passed until
24 January 11, 2016; the same date that the instant Petition is being filed.

25 Under NRS 174.175 the City has to allege that the perspective witness is (1) an older person;
26 which they do not; (2) a vulnerable person; which they do not; or (3) that they may be unable to
27 attend or prevented from attending a trial or hearing. The City has not alleged that the witness is
28 unable to attend nor has the City demonstrated that she is prevented from attending a trial. To the


1 contrary, it was the witness herself who missed all of the court appearances.

2 CONCLUSION

3 For the above-indicated reasons, it is respectfully requested that each of the four prayers for
4 relief be granted herein and most specifically, that the Court order a stay of any further proceedings
5 before the Henderson Municipal Court.

6 DATED this 11th day of January, 2016.

7 WILLIAM B. TERRY, CHARTERED

8 
9 WILLIAM B. TERRY, ESQ.
10 Nevada Bar No. 001028
11 WILLIAM B. TERRY, CHARTERED
12 530 South Seventh Street
13 Las Vegas, Nevada 89101
14 (702) 385-0799
15 Attorney for Petitioner
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WILLIAM B. TERRY, ESQ., being first duly sworn and states as follows:

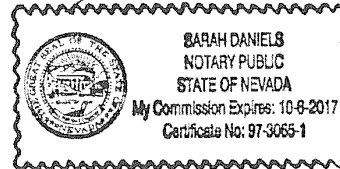
- FURTHER YOUR AFFLIANT SAYETH NAUGHT.

DATED this 11th day of January, 2016.

W.B.T.
WILLIAM B. TERRY, ESQ.

SUBSCRIBED AND SWORN to
before me this 11th day of January, 2016.

Sarah D. [Signature]
NOTARY PUBLIC in and for said
County and State.



1 VERIFICATION OF WILLIAM B. TERRY

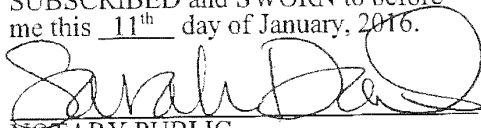
2 STATE OF NEVADA)
3 COUNTY OF CLARK) ss:

4 WILLIAM B. TERRY, being first duly sworn, according to law, upon oath deposes and says:

5 That he is the attorney for Petitioner, GIANO AMADO, in the above-captioned matter; that
6 he has read the foregoing Petition for Writ of Mandamus Or, in the Alternative, Writ of Prohibition
7 and knows the contents thereof, and that the same is true of her own knowledge, except as to those
8 matters therein stated on information and belief, and as to those matters she believes to be true.
9 Further, Petitioner has authorized WILLIAM B. TERRY, ESQ., to make the foregoing application
10 for relief.

11
12 
13 WILLIAM B. TERRY

14
15 SUBSCRIBED and SWORN to before
me this 11th day of January, 2016.

16 
17 NOTARY PUBLIC

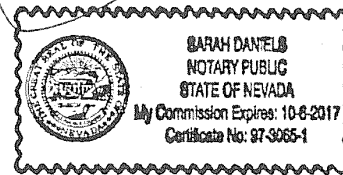


Exhibit “A”

MUNICIPAL COURT OF THE CITY OF HENDERSON
IN THE COUNTY OF CLARK, STATE OF NEVADA

FILED

2014 OCT -6 P 12:38

CITY OF HENDERSON, NEVADA,

Plaintiff,

vs.

GIANO AMADO,

Defendant.

MUNICIPAL COURT
CITY OF HENDERSON

CRIMINAL COMPLAINT

CLERK

CASE NO.: 14CR011381


Josh M. Reid, City Attorney

The defendant has committed the crime of **BATTERY** which constitutes **DOMESTIC VIOLENCE** as defined by NRS 33.018 (Henderson City Charter, Section 2.140, and NRS 200.481, 200.485) within the City of Henderson, in the County of Clark, State of Nevada, a misdemeanor, in the manner following, to wit:

That the said defendant, on or about August 4, 2014, did willfully and unlawfully use force or violence against the person of another, to-wit: Did push Irene Fleming to the ground, who is a person to whom he is related by blood or marriage, all of which occurred at 67 Wyoming Avenue,

all of which is contrary to the form, force and effect of statutes in such cases made and provided and against the peace and dignity of the City of Henderson, State of Nevada.

Said Complainant makes this declaration on information and belief subject to the penalty of perjury.


George W. Ward, Complainant
Assistant City Attorney

Dated: September 22, 2014
DAMION#: 14-08-086164
PCN#:

Exhibit “B”

 COPY

MUNICIPAL COURT OF THE CITY OF HENDERSON **FILED**

IN THE COUNTY OF CLARK, STATE OF NEVADA

2015 JAN 15 P 4:32

MUNICIPAL COURT
CITY OF HENDERSON

CITY OF HENDERSON, NEVADA,

Plaintiff,

vs.

GIANO AMADO,

Defendant.

CRIMINAL COMPLAINT

CASE NO.: 14CR

15CR-859


Josh M. Reid, City Attorney

The defendant has committed the crime of **BATTERY** which constitutes **DOMESTIC VIOLENCE** as defined by NRS 33.018 (Henderson City Charter, Section 2.140, and NRS 200.481, 200.485) within the City of Henderson, in the County of Clark, State of Nevada, a misdemeanor, in the manner following, to wit:

That the said defendant, on or about August 4, 2014, did willfully and unlawfully use force or violence against the person of another, to-wit: Did grab, and/or punch, and/or throw to the ground, Dominic Ochoa, who is a person to whom he is related by blood or marriage, all of which occurred in the area of 67 Wyoming Avenue,

all of which is contrary to the form, force and effect of statutes in such cases made and provided and against the peace and dignity of the City of Henderson, State of Nevada.

Said Complainant makes this declaration on information and belief subject to the penalty of perjury.


George W. Ward, Complainant
Assistant City Attorney

Dated: January 13, 2015
DAMION#: 14-08-086164
PCN#:

Exhibit “C”

COPY

FILED
 MUNICIPAL COURT OF THE CITY OF HENDERSON
 2015 JUL 30 AM 11:40
 IN THE COUNTY OF CLARK, STATE OF NEVADA
 MUNICIPAL COURT
 CITY OF HENDERSON

CITY OF HENDERSON, NEVADA,

Plaintiff,

vs.

BRANDON GENE WELCH,
 AKA: BRANDON LEE WELCH
 AKA: BRENNON WELCH
 AKA: GIANO AMADO

Defendant.

AMENDED
CRIMINAL COMPLAINT

CASE NO.: 14CR11381

Josh M. Reid, City Attorney

The defendant has committed the crime of **BATTERY** which constitutes **DOMESTIC VIOLENCE** as defined by NRS 33.018 (Henderson City Charter, Section 2.140, and NRS 200.481, 200.485) within the City of Henderson, in the County of Clark, State of Nevada, a misdemeanor, in the manner following, to wit:

That the said defendant, on or about August 4, 2014, did willfully and unlawfully use force or violence against the person of another, to-wit: Did push Irene Fleming to the ground, who is a person to whom he is related by blood or marriage, all of which occurred at 67 Wyoming Avenue,

all of which is contrary to the form, force and effect of statutes in such cases made and provided and against the peace and dignity of the City of Henderson, State of Nevada.

Said Complainant makes this declaration on information and belief subject to the penalty of perjury.

Elaine F. Mather
 Elaine F. Mather, Complainant
 Assistant City Attorney

Dated: July 30, 2015
 DAMION#: 14-08-086164
 PCN#:

Exhibit “D”

COPY**MUNICIPAL COURT OF THE CITY OF HENDERSON****IN THE COUNTY OF CLARK, STATE OF NEVADA**

2015 JUL 30 PM 1 32

MUNICIPAL COURT
CITY OF HENDERSON

CITY OF HENDERSON, NEVADA,

Plaintiff,

vs.

BRANDON GENE WELCH,
AKA: BRANDON LEE WELCH
AKA: BRENNON WELCH
AKA: GIANO AMADO

Defendant.

CLERK
~~AMENDED~~
CRIMINAL COMPLAINT

CASE NO.: 15CR859

Josh M. Reid, City Attorney

The defendant has committed the crime of **BATTERY** which constitutes **DOMESTIC VIOLENCE** as defined by NRS 33.018 (Henderson City Charter, Section 2.140, and NRS 200.481, 200.485) within the City of Henderson, in the County of Clark, State of Nevada, a misdemeanor, in the manner following, to wit:

That the said defendant, on or about August 4, 2014, did willfully and unlawfully use force or violence against the person of another, to-wit: Did grab, and/or punch, and/or throw to the ground, Dominic Ochoa, who is a person to whom he is related by blood or marriage, all of which occurred in the area of 67 Wyoming Avenue,

all of which is contrary to the form, force and effect of statutes in such cases made and provided and against the peace and dignity of the City of Henderson, State of Nevada.

Said Complainant makes this declaration on information and belief subject to the penalty of perjury.

Elaine F. Mather

Elaine F. Mather, Complainant
Assistant City Attorney

Dated: July 30, 2015
DAMION#: 14-08-086164
PCN#:

Exhibit “E”



HENDERSON MUNICIPAL COURT
DOCKET SHEET

AMADO, GIANO
14CR011381 DOB: 8/31/80

1 DOMESTIC BATTERY, 1ST [50235]

Offense Date: DR# 14-12176

OPEN
\$0.00

ATTY: SMEDLEY, JAMES J

Date / Time / Dept	Event	Event Result	Event Notes
7/29/15	10:00 am D1	CTR	
5/27/15	10:00 am D1	CTR	
4/29/15	10:00 am D1	CTR	TRIAL CONT: DCA REQUEST
2/24/15	10:00 am D1	CTR	MAINTAINED NOT GUILTY PLEA TRIAL RE-SET
1/13/15	10:00 am D1	CTR	CONTINUED
11/3/14	9:00 am D1	ARR	NOT GUILTY PLEA / TRIAL SET

D1 STEVENS

		ASSESSED	PAID	CREDIT	BALANCE
10/6/14	WARRANT OF ARREST ISSUED WARRANT #14M05978 BAIL: \$3140				
					AJK3
10/6/14	ACTIVE WARRANT NOTICE MAILED ACTIVE WARRANT LETTER Sent on: 10/06/2014 11:47:02.23				
					AJK3
10/15/14	RETURNED MAIL Charge #1: DOMESTIC BATTERY, 1ST				
					JDB1
10/15/14	WARRANT SERVED BY ARREST RE 14M05978 WARRANT OF ARREST served on: 10/10/2014 For: AMADO, GIANO				
					DCT2
10/15/14	Time spent in custody: 14.30 HOURS Arrest Date/Time: 10/10/14 1924 Release Date/Time: 10/11/14 0953				
					DCT2
10/15/14	SURETY BOND POSTED BY: BAD GIRL BAIL BONDS BOND AMOUNT: \$ 3140 BOND NUMBER: FCS10-1388702 VIA: JAIL BAILS BOND FILING FEE PAID Charge #1: DOMESTIC BATTERY, 1ST Receipt: 589232 Date: 10/15/2014			50.00	50.00
					DCT2
10/15/14	COURT DATE SET: Event: CRIMINAL ARRAIGNMENT Date: 11/03/2014 Time: 9:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: NOT GUILTY PLEA / TRIAL SET				
					DCT2
10/28/14	NOT GUILTY PLEA ENTERED VIA FAX ARRAIGNMENT TRIAL SET IN DUE COURSE Attorney: SMEDLEY, JAMES J (8668) Charge #1: DOMESTIC BATTERY, 1ST				
					CRG
11/3/14	COURT DATE SET: Event: TRIAL Date: 01/13/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: CONTINUED				
					CRG

Date Printed: 5/11/15 12:00 pm

Page 1 of 3

042



HENDERSON MUNICIPAL COURT
DOCKET SHEET

AMADO, GIANO
14CR011381 DOB: 8/31/80

1/13/15 CONTINUED FOR STATUS @ CAO'S REQUEST - 02/24/15 10AM D1 KM
CAO TO FILE ADDITIONAL CHARGES & MOTION FOR ORDER TO SHOW CAL
ON VICTIM
TRIAL DATE NOT SET
BOND: STANDS

1/13/15 COUNTER: 10.39.50 KM

1/13/15 COURT DATE SET: KM
Event: TRIAL
Date: 02/24/2015 Time: 10:00 am
Judge: STEVENS, MARK J Location: DEPARTMENT 1

1/13/15 EVENT PARTICIPANTS: KM
Court Location: DEPARTMENT 1
Check In:
Judge: STEVENS, MARK J
Location: DEPARTMENT 1
Staff:
KJ - CLERK: Present
RJR - CLERK: Present
WARD, GEORGE - DEPUTY CITY ATTORNEY: Present
Prosecutors:
Parties:
AMADO, GIANO - DEFENDANT: Present
SMEDLEY, JAMES J - Attorney for DEFENDANT: Present

2/24/15 DEFENDANT MAINTAINED NOT GUILTY PLEA/ TRIAL RE-SET TO 04/29/15 KM
WITNESSES ORDERED BACK @ RCD
APPEARANCE REQUIRED
BOND: STANDS
Charge #1: DOMESTIC BATTERY, 1ST

2/24/15 CONDITIONS OF RELEASE: *STAND AS OF 4/29/15* KM
NCVV:
- IRENE FLEMING
- DOMINIC OCHOA

2/24/15 COUNTER: 10.44.50/10.50.00 KM

2/24/15 COURT DATE SET: KM
Event: TRIAL
Date: 04/29/2015 Time: 10:00 am
Judge: STEVENS, MARK J Location: DEPARTMENT 1

2/24/15 EVENT PARTICIPANTS: KM
Court Location: DEPARTMENT 1
Check In:
Judge: STEVENS, MARK J
Location: DEPARTMENT 1
Staff:
CRG - CLERK: Present
KJ - CLERK: Present
WARD, GEORGE - DEPUTY CITY ATTORNEY: Present
Prosecutors:
Parties:
AMADO, GIANO - DEFENDANT: Present
SMEDLEY, JAMES J - Attorney for DEFENDANT: Present



HENDERSON MUNICIPAL COURT
DOCKET SHEET

AMADO, GIANO

15CR000859

DOB: 8/31/80

1 DOMESTIC BATTERY, 1ST [50235]

Offense Date: DR# 14-12176

OPEN

\$0.00

ATTY: SMEDLEY, JAMES J

Date / Time	Dept	Event	Event Result	Event Notes
7/29/15	10:00 am	D1 CTR		
5/27/15	10:00 am	D1 CTR		
4/29/15	10:00 am	D1 CTR	TRIAL CONT: DCA REQUEST	
2/24/15	10:00 am	D1 CTR	NOT GUILTY PLEA / TRIAL SET	

D1 STEVENS

		ASSESSED	PAID	CREDIT	BALANCE
1/22/15	NOTICE OF CASE STATUS RECEIVED FROM HENDERSON CITY ATTORNEY: KM OFFICE-CRIMINAL DIVISION: CHARGE ADDED				
1/22/15	COURT DATE SET: KM Event: TRIAL Date: 02/24/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: NOT GUILTY PLEA / TRIAL SET				
2/24/15	NOT GUILTY PLEA ENTERED. TRIAL SET - SPEEDY TRIAL WAIVED KM CTR 04/29/15 10AM D1 WITNESSES ORDERED BACK @ TRIAL APPEARANCE REQUIRED Charge #1: DOMESTIC BATTERY, 1ST				
2/24/15	CONDITIONS OF RELEASE: *STAND AS OF 04/29/15* KM NCWV: - IRENE FLEMING - DOMINIC OCHOA				
2/24/15	COUNTER: 10.44,50/10.50.00 KM				
2/24/15	COURT DATE SET: KM Event: TRIAL Date: 04/29/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1				
2/24/15	EVENT PARTICIPANTS: KM Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: CRG - CLERK: Present KJ - CLERK: Present WARD, GEORGE - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present SMEDLEY, JAMES J - Attorney for DEFENDANT: Present				
4/29/15	BUSTOS MOTION BY CAO - GRANTED KM TRIAL SET IN 90 DAYS - 07/29/15 10AM D1 O/R RELEASE: STANDS SHOW CAUSE ON VICTIM ALSO GRANTED IN 4 WKS - 05/27/15 10AM D1				

Date Printed: 5/11/15 12:00 pm

Page 1 of 2

044



HENDERSON MUNICIPAL COURT
DOCKET SHEET

AMADO, GIANO
15CR000859 DOB: 8/31/80

4/29/15	COUNTER: 10.02.00/11.26.40	KM
4/29/15	COURT DATE SET FOR SHOW CAUSE HEARING: Event: TRIAL Date: 05/27/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM
4/29/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: CRG - CLERK: Present KJ - CLERK: Present MATHER, ELAINE - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present SMEDLEY, JAMES J - Attorney for DEFENDANT: Present	KM
4/29/15	COURT DATE SET: Event: TRIAL Date: 07/29/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM

0.00 0.00 0.00 0.00

Exhibit “F”

1 JOSH M. REID, ESQ.
City Attorney
2 LAURIE A. ISCAN, ESQ.
Assistant City Attorney
3 Nevada State Bar No. 9716
243 Water Street
4 P.O. Box 95050, MSC 711
Henderson, NV 89009-5050
5 Phone: (702) 267-1379
Facsimile: (702) 267-1371
6 Attorney for Plaintiff
City of Henderson, Nevada

COPY

FILED
2016 JAN 5 PM 10 35

CLERK
CITY OF HENDERSON

7
8 MUNICIPAL COURT OF THE CITY OF HENDERSON
IN THE COUNTY OF CLARK, STATE OF NEVADA

9 CITY OF HENDERSON, NEVADA) CASE NO. 14CR011381
Plaintiff,) 15CR000859
10 vs.)
11)
12 GIANO AMADO aka) HEARING DATE: Jan 6, 2016
BRANDON WELCH) HEARING TIME: 10:00 a.m.
13 Defendant.) DEPARTMENT 1

14 NOTICE OF MOTION AND MOTION FOR TAKING OF
15 DEPOSITION OF CITY'S WITNESS IRENE FLEMING

16 COMES NOW, the Plaintiff, CITY OF HENDERSON, by and through its Deputy City
17 Attorney, LAURIE A. ISCAN, ESQ., and files this NOTICE OF MOTION AND MOTION FOR
18 TAKING OF DEPOSITION OF CITY'S WITNESS IRENE FLEMING.

19 This Motion is made and based upon all the papers and pleadings on file herein, the
20 attached points and authorities in support hereof, and oral argument at the time of hearing, if
21 deemed necessary by this Honorable Court.

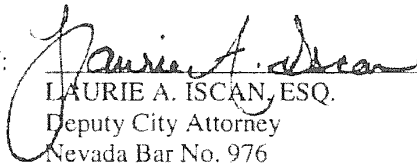
22 NOTICE OF HEARING

23 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned will
24 bring the foregoing motion on for setting before the above entitled Court, in Department 1 thereof,

1 on Wednesday, January 6, 2016 at the hour of 10:00 o'clock AM, or as soon thereafter as counsel
2 may be heard.

3 DATED this 5 day of January, 2016.

4 **JOSH M. REID, ESQ.**
5 City Attorney

6 BY: 
7 LAURIE A. ISCAN, ESQ.
8 Deputy City Attorney
9 Nevada Bar No. 976

10 **POINTS AND AUTHORITIES**

11 **I. FACTUAL BACKGROUND**

12 On August 4, 2014, Defendant battered his aunt, Irene Fleming, and his 13 year old
13 cousin, Domenic Ochoa. Domestic battery charges were filed and the Defendant has pleaded not
14 guilty to the charges. This matter has been set for trial five times. Irene Fleming has failed to
15 appear at all 4 (four) of the previous trial settings. At each of the prior settings when Irene
16 Fleming has failed to appear, the City has requested and filed a Motion for Order to Show Cause
17 for Irene Fleming. Irene Fleming was properly served with each of these motions, and has
18 appeared or has sent in an attorney to appear on her behalf for every show cause hearing. At each
19 show cause hearing, she asks the court to continue the show cause hearing to the next trial date,
20 and then she fails to appear for the next trial date.

21 The Court has issued two warrants for her arrest for failure to appear during the pendency
22 of this case. Irene Fleming was arrested on a material witness warrant on December 30, 2015.
23 The next trial setting is Monday, January 11, 2016.

24 Irene Fleming was initially arraigned for failure to appear on December 31, 2015. At her
counsel's request, that arraignment was continued to Monday, January 4, 2016. On January 4,

1 2016, Irene Fleming's counsel advised the Court that attorney William Terry will be substituting in
2 as counsel of record for the Defendant. Irene Fleming's counsel asked the Court to continue her
3 arraignment until Wednesday, January 6, 2016 so that Mr. Terry could be present. Irene Fleming's
4 counsel advised that he wished to continue the arraignment so that any issues could be discussed
5 prior to his client remaining in custody over the weekend pending the trial date set for January 11,
6 2016.

7 It appears that the Defendant is going to have alternate counsel substitute in. If
8 Defendant's new counsel is prepared to proceed to trial on Monday, January 11, 2016, then this
9 motion is moot and City would withdraw the motion.

10 If, however, the Defendant will be requesting a trial continuance, the City is opposed to
11 any continuance as the victim is in custody on a material witness hold and she has made it
12 abundantly clear that she will make any effort to avoid testifying. If the Court is inclined to grant a
13 defense continuance, the City would herein request that Irene Fleming's deposition be taken in
14 accordance with N.R.S. § 174.175 before she is released from custody.

15 For the Court's convenience, a brief summary of the procedural history of this case
16 follows:

17 ///

18 ///

19 ///

20 ///

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24 ///

1	Date	Event	Notes
2	1/13/2015	1st trial setting	Irene Fleming and her minor son – not present.
3			Defendant ordered to have no contact with Irene Fleming and Domenic Ochoa.
4			City requested a continuance. City requested show cause on Irene Fleming.
5			
6	2/24/2015	Show cause hearing	Irene Fleming and her son were present.
7			They were ordered to appear for trial on 4/29/2015.
8			Defendant ordered to have no contact with Irene Fleming and Domenic Ochoa.
9	4/29/2015	2nd trial setting	Irene Fleming and her minor son – not present.
10			City requested a continuance over objection pursuant to <u>Bustos</u> . City requested a show cause hearing on Irene Fleming. The Court granted City's request.
11			
12	5/27/2015	Show cause hearing	Irene Fleming present. The Show Cause hearing was continued to the trial date of 7/29/2015.
13			
14	7/29/2015	3rd trial setting	Irene Fleming and her minor son – not present.
15			City moved to dismiss without prejudice. The Court granted the request. Conditions of release - dissolved.
16			City requested a warrant for Irene Fleming's failure to appear. The court granted the request.
17			
18	11/3/2015	Show cause hearing	Irene Fleming appeared through attorney R. Nelson. Irene Fleming promised to appear at trial.
19	12/7/2015	1st trial setting after refile	Irene Fleming and her minor son – not present.
20			City requested a continuance over Defense objection pursuant to <u>Bustos</u> . The Court granted the request.
21			
22			City requested a material witness warrant for Irene Fleming's failure to appear.
23	12/30/2015	Irene Fleming arrested	
24			

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II. ARGUMENT

N.R.S. § 174.175 provides:

If it appears that a prospective witness... may be unable to attend or prevented from attending a trial..., that the witness's testimony is material and that it is necessary to take the witness's deposition in order to prevent a failure of justice, the court at any time after the filing of an indictment, information or complaint may, upon motion of a defendant or of the State and notice to the parties, order that the witness's testimony be taken by deposition and that any designated books, papers, documents or tangible objects, not privileged, be produced at the same time and place. If the deposition is taken upon motion of the State, the court shall order that it be taken under such conditions as will afford to each defendant the opportunity to confront the witnesses against him or her.

Irene Fleming's testimony is extremely material to the City's case, and preservation of her testimony is essential. In this case, Irene Fleming would testify that on August 4, 2014, she and her 13 year old son, Domenic Ochoa, were standing outside. Irene Fleming would testify that the Defendant drove up to their home and began yelling at her son. Irene Fleming would testify that Defendant jumped over their fence and began coming toward her son. Irene Fleming would testify that she stepped in front of her son in order to protect him from the Defendant. Irene Fleming would testify that the Defendant shoved her to the ground, grabbed her son, then began punching the 13 year old in the face. Irene Fleming would testify that the Defendant threw the child to the ground, and then told the child to get into his car so he could take the child away. Irene Fleming would testify that her child refused to get in the Defendant's car and she called 911. The Defendant finally fled to avoid the police.

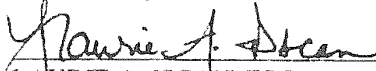
Given Irene Fleming's obvious efforts to avoid appearing in court to testify in this matter, "it is necessary to take [her] deposition in order to prevent a failure of justice." N.R.S. § 174.175. If the Defendant will be requesting a continuance of the trial date, the City respectfully asks this Court to order the taking of Irene Fleming's deposition as soon as possible "under such conditions as will afford [the] defendant the opportunity to confront" Irene Fleming, N.R.S. § 174.175, and

1 permit the City to use the deposition transcript at trial should any one of the conditions listed in
2 N.R.S. § 174.215(1) occur.

3 DATED this 5 day of January, 2016.

4 **JOSH M. REID, ESQ.**
5 **City Attorney**

6 Submitted by:

7 
8 **LAURIE A. ISCAN, ESQ.**
9 **Deputy City Attorney**
10 Nevada Bar No. 976
11 243 Water Street
12 Henderson, NV 89009-5050

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1 JOSH M. REID, ESQ.
City Attorney
2 LAURIE A. ISCAN, ESQ.
Assistant City Attorney
3 Nevada State Bar No. 9716
243 Water Street
4 P.O. Box 95050, MSC 711
Henderson, NV 89009-5050
5 Phone: (702) 267-1379
Facsimile: (702) 267-1371
6 **Attorney for Plaintiff**
City of Henderson, Nevada
7

8 **MUNICIPAL COURT OF THE CITY OF HENDERSON**
9 **IN THE COUNTY OF CLARK, STATE OF NEVADA**

10 **CITY OF HENDERSON, NEVADA**

) CASE NO. 14CR011381
) 15CR000859

11 Plaintiff,
12 vs.

13 **GIANO AMADO aka**
BRANDON WELCH

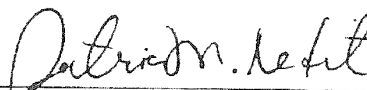
) HEARING DATE: Jan 6, 2016
) HEARING TIME: 10:00 a.m.
) DEPARTMENT 1
)

14 Defendant.

15 **CERTIFICATE OF SERVICE**

16 I hereby certify that service of the CITY'S MOTION FOR TAKING OF
17 DEPOSITION OF CITY'S WITNESS IRENE FLEMING was made this 5 day of January,
18 2016, via facsimile and electronic mail transmission to:

19 William B. Terry – Attorney for Defendant Giano Amada aka Brandon Welch.
20 Dean Kajioka – Attorney for Defendant Giano Amada aka Brandon Welch.
Roy Nelson – Attorney for Victim/Witness Irene Fleming.

21
22 
23 City of Henderson Employee
24

D1
1/28/16
9am

1 WILLIAM B. TERRY, ESQ.
Nevada Bar No. 001028
2 WILLIAM B. TERRY, CHARTERED
530 South Seventh Street
3 Las Vegas, Nevada 89101
(702) 385-0799
4 (702) 385-9788 (Fax)
Info@WilliamTerryLaw.com
5 Attorney for Petitioner

6 EIGHTH JUDICIAL DISTRICT COURT
7 CLARK COUNTY, NEVADA

8 GIANO AMADO
9 Petitioner,
10 vs.
11 CITY OF HENDERSON and THE
HONORABLE JUDGE MARK STEVENS,
12 Respondent.
13

CASE NO. C-16-311953-W
DEPT. NO. II
HEARING DATE: 1-28-16
HEARING TIME: 9:00 AM

14 RECEIPT OF COPY

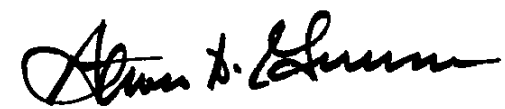
15 RECEIPT OF COPY of the foregoing PETITION FOR WRIT OF MANDAMUS OR, IN
16 THE ALTERNATIVE, WRIT OF PROHIBITION, REQUEST FOR ORDER SHORTENING
17 TIME & FOR STAY OF HENDERSON MUNICIPAL COURT PROCEEDINGS is hereby
18 acknowledged this 13th day of January, 2016.

19 HENDERSON CITY ATTORNEY
20 [Signature]
21
22

VA/
[Signature]

COPY

1 **RSPN**
2 JOSH M. REID
3 City Attorney
4 Nevada Bar #007497
5 LAURIE A. ISCAN
6 Assistant City Attorney
7 Nevada Bar #009716
243 Water Street
Henderson, Nevada 89009-5050
Tel: (702) 267-1379
Fax: (702) 267-1201
Laurie.Iscan@cityofhenderson.com
Attorney for Respondent



CLERK OF THE COURT

8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10 AMADO, GIANO aka BRANDON WELCH,)

11 Appellant,)

12 vs.)

13 CITY OF HENDERSON,)

14 Respondent.)

Case No.: C-16-311953-W

Dept. No.: II

Henderson Case: 14CR011381,
15CR000859

Henderson Dept: 1

16 **CITY OF HENDERSON'S OPPOSITION TO**
17 **PETITION FOR WRIT OF MANDAMUS OR WRIT OF PROHIBITION**

18 COMES NOW, the CITY OF HENDERSON ("the City"), by and through its attorney,
19 Laurie A. Iscan, Assistant City Attorney, and hereby submits its Opposition to Petition for Writ of
20 Mandamus or, in the Alternative, Writ of Prohibition. This Opposition is based upon the
21 pleadings, papers, and records on file in this case and any evidence or argument presented to this
22 Honorable Court.

23 DATED this 26th day of January, 2016.

24 JOSH M. REID, ESQ.
25 CITY ATTORNEY

26 By:



27 LAURIE A. ISCAN, ESQ.

Deputy City Attorney

Nevada State Bar No. 9716

243 Water Street

P.O Box 95050, MSC 711

Henderson, NV 89009-5050

Attorney for Respondent

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1 promised to appear at the next trial setting. She also promised to have her son, Domenic Ochoa,
2 present for the next trial setting.

3 Despite proper service and promising to appear at the show cause hearings, the victims of
4 both cases failed to appear at the next two trial settings. On July 29, 2015, City voluntarily
5 dismissed both cases without prejudice.

6 On July 30, 2015, City filed notice of reopening both domestic battery cases after
7 dismissal, City also filed amended complaints including Defendant's alias, and City filed a
8 request for summons. A summons was then properly executed and served upon Defendant
9 notifying him the cases were reopened on September 15, 2015. Arraignment was held on
10 September 17, 2015. Defendant again pleaded not guilty to both domestic battery charges. Trial
11 was set for December 7, 2015.

12 On December 7, 2015, Irene Fleming and her son Domenic Ochoa were again not present
13 for trial. City requested a continuance pursuant to Bustos over defense objection. City also
14 requested a material witness warrant for Irene Fleming for her failure to appear. The Court
15 granted City's requests. Trial was continued to Monday, January 11, 2016.

16 On December 30, 2015, Irene Fleming was arrested on the material witness warrant. She
17 was arraigned on the warrant on December 31, 2015. At her attorney's request, the arraignment
18 was continued to Monday, January 4, 2016. On Monday, January 4, 2016, Irene Fleming's
19 attorney again asked to continue the arraignment to Wednesday, January 6, 2016 as he heard that
20 Defendant was attempting to hire a new attorney and the victim's attorney wanted Defendant's
21 attorney to be present to handle any issues that might arise – namely if Defendant were to request
22 a trial continuance, victim did not want to continue to sit in custody on a material witness
23 warrant. Victim's material witness warrant arraignment was continued to Wednesday, January 6,
24 2016.

1 On January 5, 2016, City filed Notice of Motion and Motion for Taking Deposition of
2 City's Witness Irene Fleming. The Motion was scheduled to be heard on Wednesday, January 6,
3 2016.

4 On January 6, 2016, Defendant and his counsel were not present for the City's Motion or
5 for Victim's arraignment. The hearing was continued to Thursday, January 7, 2016. New
6 counsel did appear for Defendant on January 7, 2016. Defendant did in deed request a trial
7 continuance. All motions were then set to be heard at the same time as trial on January 11, 2016.
8

9 On January 11, 2016, Henderson Municipal Court **denied** City's request for a deposition,
10 granted Defendant's request for a trial continuance, and released the victim with an
11 admonishment and order to return for **trial which is currently set for February 29, 2016**

12 On January 13, 2016, Defendant filed the instant petition for writ of mandamus or
13 prohibition (hereinafter "Petition.")
14

15 **II. ARGUMENT**

16 **A. PETITIONER HAS MISSTATED THE PROCEDURAL POSTURE** 17 **OF THE UNDERLYING CASE.**

18 As a preliminary matter, City feels it is important to note that Petitioner erroneously
19 argues that the Municipal Court dismissed City's original complaints. Petitioner suggests that
20 those complaints were dismissed with prejudice. Petition p. 5, lines 7-8, and p. 2, lines 22-24.
21 Henderson Municipal Court did NOT dismiss City's original complaints. On July 29, 2015, City
22 voluntarily dismissed those complaints without prejudice pursuant to N.R.S. § 174.085(5). See
23 Docket, p. 3, line 26.
24

25 **B. PETITIONER HAS AN ADEQUATE, SPEEDY, PLAIN REMEDY** 26 **IN LAW BEFORE THE MUNICIPAL COURT.**

27 NRS 34.330 provides that

28 The writ may be issued only by the Supreme Court, the Court of Appeals or a district court to an inferior tribunal, or to a corporation, board or person, in all cases where there is not a plain,

1 speedy and adequate remedy in the ordinary course of law. It is
2 issued upon affidavit, on the application of the person beneficially
3 interested.

4 Petitioner has argued that a writ of prohibition or mandamus should issue because there
5 are deficiencies in the underlying criminal charging documents. Petition, p. 5. Petitioner is
6 raising these arguments for the first time before this Court on writ. Whether or not a complaint
7 is properly filed and sufficient to support the charge is an issue that would certainly be within the
8 jurisdiction of the Henderson Municipal Court to hear and decide. Petitioner can present this
9 issue to the Municipal Court by motion and be heard within a week in the ordinary course¹. Trial
10 has been reset in the Municipal Court for February 29, 2016 – more than four weeks away from
11 the date of this filing. There is more than adequate time for Petitioner to file a motion in the
12 Municipal Court to address any alleged deficiency in the pleading papers in this case. A motion
13 filed in the appropriate jurisdiction is a plain, speedy, and adequate remedy in the ordinary course
14 of law available to Petitioner in this case. An extraordinary writ is unnecessary.

15 Petitioner further argues that a writ is necessary to prevent the City from taking the
16 deposition of the victim, Irene Fleming. The Municipal Court denied City's request for
17 deposition on January 11, 2016. City has not challenged the ruling or sought another deposition.
18 The issue was already decided in Petitioner's favor. It is moot for review for writ, and any
19 further requests for review by Petitioner can be nothing more than a request for an advisory
20 opinion.

21 It is clear that the Petitioner has a plain, speedy, and more than adequate remedy in the
22 ordinary course of law at the Municipal Court level. All he has to do is file a motion. Petitioner
23 has made no effort to raise these issues at the Municipal Court despite there being more than
24

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28 ¹ Note – In Henderson Municipal Court, motions are calendared for hearing 1 week after they are
 filed in the ordinary course. They can be set on order shortening time within 2 business days
 of filing.

1 sufficient time to do so. Petitioner's request for writ of prohibition or mandamus should be
2 denied and Petitioner should be directed to raise these issues before the Municipal Court.

3 Should the District Court find that further review is appropriate, City offers the following
4 arguments opposing a writ of prohibition or mandamus.

5 **C. DESPITE PETITIONER'S CLAIM TO THE CONTRARY, CITY**
6 **OF HENDERSON VOLUNTARILY DISMISSED THE ORIGINAL**
7 **CRIMINAL COMPLAINTS WITHOUT PREJUDICE PURSUANT**
8 **TO N.R.S. § 174.085(5). THE MUNICIPAL COURT DID NOT**
9 **DISMISS THE TWO ORIGINAL COMPLAINTS.**

10 Petitioner erroneously argues that the Municipal Court dismissed City's original
11 complaints. Petitioner suggests that those complaints were dismissed with prejudice. Petition p.
12 5, lines 7-8, and p. 2, lines 22-24. Henderson Municipal Court did NOT dismiss City's original
13 complaints. On July 29, 2015, City voluntarily dismissed without prejudice pursuant to N.R.S. §
14 174.085(5). See Docket, p. 3, line 26.

15 **D. CITY HAS AN UNAMBIGUOUS RIGHT TO DISMISS IT'S CASE**
16 **WITHOUT PREJUDICE, THEN TO REFILE.**

17 In a misdemeanor case, the prosecuting attorney may voluntarily dismiss and refile that
18 case. N.R.S. § 174.085(5) provides:

19 5. The prosecuting attorney, in a case that the prosecuting attorney has
initiated, may voluntarily dismiss a complaint:

20 (a) Before a preliminary hearing if the crime with which the defendant is
21 charged is a felony or gross misdemeanor; or

22 (b) Before trial if the crime with which the defendant is charged is a
misdemeanor,

23 ➔ without prejudice to the right to file another complaint, unless the State of
24 Nevada has previously filed a complaint against the defendant which was
25 dismissed at the request of the prosecuting attorney. After the dismissal, the
court shall order the defendant released from custody or, if the defendant is
released on bail, exonerate the obligors and release any bail.

26 ///
27 ///
28 ///

1 **E. THE LAW REQUIRED THE REFILED CASE TO BE SET BACK**
2 **IN FRONT OF THE ORIGINAL JUDGE. CITY WAS NOT**
3 **ATTEMPTING TO MANIPULATE THE FORUM.**

4 Petitioner has argued that City refiled the cases under the same case number in an
5 attempt to make sure that the case remained in front of the same judge as opposed to random
6 selection, “In effect, the City is picking and choosing it’s judges.” Petition, p. 5, lines 18-21.
7 This is absurd. The law actually requires that if the prosecuting attorney dismisses and refiles a
8 case, that case MUST be reassigned to the same judge to whom the initial complaint was
9 assigned. N.R.S. §174.085(6) provides:

10 6. If a prosecuting attorney files a subsequent complaint after a
11 complaint concerning the same matter has been filed and dismissed
12 against the defendant:

13 (a) **The case must be assigned to the same judge to whom the**
14 **initial complaint was assigned;** and

15 (b) A court shall not issue a warrant for the arrest of a defendant
16 who was released from custody pursuant to subsection 5 or require
17 a defendant whose bail has been exonerated pursuant to subsection
18 5 to give bail unless the defendant does not appear in court in
19 response to a properly issued summons in connection with the
20 complaint.

21 [emphasis added.]

22 The City was merely complying with the law when the case was reset before the
23 same judge.

24 **F. THE CRIMINAL COMPLAINTS AGAINST THE DEFENDANT**
25 **WERE PROPERLY REFILED.**

26 Petitioner argues that it was error on the Municipal Court to permit City to proceed on
27 an amended criminal complaint instead of a new complaint. Petition, p. 5, lines 11-15. The
28 standard practice in Henderson Municipal Court when a case is refiled is that the City files a
Notice of Case Status advising the court the City is reopening a case after dismissal without

1 prejudice, then “amended” complaints are filed under the original case number. New case
2 numbers are never generated. The defendant is then given notice of the reopened file by
3 summons and service of the amended complaints.

4 In this case, City filed notice of reopening its criminal complaints on July 30, 2015. City
5 also filed amended complaints which now included Defendant’s known aliases. Additionally,
6 City submitted a request for summons so that Defendant would have proper notice of the
7 reopened cases.
8

9 Petitioner cites no law or statute that requires a new complaint or new case number to be
10 created when proceeding on a case when it is refiled after dismissal without prejudice.
11 Defendant was properly summonsed and appeared for the new arraignment on September 17,
12 2015.

13
14 **G. MUNICIPAL COURT DENIED CITY’S REQUEST TO TAKE THE**
15 **VICTIM’S DEPOSITION. PETITIONER’S REQUEST FOR THE**
DISTRICT COURT TO RULE ON THE MATTER IS MOOT.

16 Petitioner further claims that a writ is necessary to prohibit the City from taking the
17 deposition from any witness. At this time, City has only motioned for permission to take the
18 deposition of the victim of the case while she was in custody on the material witness warrant
19 pursuant to NRS § 174.175 as she repeatedly failed to appear for trial. On January 11, 2016, the
20 Municipal Court **denied** City’s request for deposition. Defendant’s request for a writ of
21 prohibition regarding the deposition is moot as the Municipal Court has already ruled in
22 Petitioner’s favor, and Petitioner’s request for any further ruling on the matter can only be
23 construed as a request for an advisory opinion.
24

25 **CONCLUSION**

26 Petitioner has requested an extraordinary writ to be issued regarding alleged deficiencies
27 in the charging documents. Petitioner, however, has never raised these issues before the
28

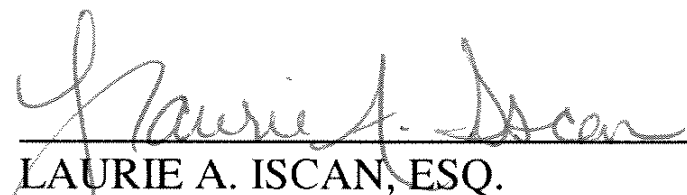
1 Municipal Court. Petitioner has made no argument as to why he could not raise these issues
2 before the Municipal Court. Petitioner should file a motion in Municipal Court to address these
3 issues. An extraordinary writ is unnecessary as Petitioner has a plain, speedy and adequate
4 remedy in the ordinary course of law.

5 In the alternative, in the event this Court believes further review is appropriate, City asks
6 this Honorable Court to deny Petitioner's request for a writ of prohibition and/or mandamus as
7 the underlying charging documents are properly before the Municipal Court. Further, Petitioner's
8 request for a writ of prohibition regarding the City's prior request to take a deposition is moot as
9 the Municipal Court has already ruled in Petitioner's favor and denied City's request.
10

11 DATED this 26th day of January, 2016

12 JOSH M. REID, ESQ.
13 CITY ATTORNEY
14

15
16 By:



LAURIE A. ISCAN, ESQ.
Deputy City Attorney
Nevada State Bar No. 9716
243 Water Street
P.O Box 95050, MSC 711
Henderson, NV 89009-5050
Attorney for Respondent

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Nevada Bar #007497
2 LAURIE A. ISCAN
Assistant City Attorney
3 Nevada Bar #009716
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4 Henderson, Nevada 89009-5050
Tel: (702) 267-1379
5 Fax: (702) 267-1201
Laurie.Iscan@cityofhenderson.com
6 Attorney for Respondent

7 **DISTRICT COURT**
8 **CLARK COUNTY, NEVADA**

8 AMADO, GIANO aka BRANDON WELCH,)
9 Appellant,) Case No.: C-16-311953-W
10 vs.) Dept. No.: II
11 CITY OF HENDERSON,) Henderson Case: 14CR011381,
12 Respondent.) 15CR000859
13) Henderson Dept: 1
14)

14 **CERTIFICATE OF SERVICE**

15 I hereby certify that service of the CITY OF HENDERSON'S OPPOSITION TO
16 PETITION FOR WRIT OF MANDAMUS OR WRIT OF PROHIBITION was made this 26th
17 day of January, 2016, via united states mail, facsimile and electronic mail transmission to:

18 William B. Terry
19 530 South Seventh Street
20 Las Vegas, Nevada 89101
21 Fax: (702) 385-9788
22 info@WilliamTerryLaw.com
23 Attorney for Defendant Giano Amada aka Brandon Welch.

24
25 /s/ Cheryl Boyd
26 City of Henderson Employee
27
28

EXHIBIT “1”

Judge: STEVENS, MARK J

Case No. 14CR011381
Ticket No.
CTN:

CITY OF HENDERSON VS

By:

-VS-

AMADO, GIANO
PO BOX 778356
HENDERSON, NV 89077
Dob: 08/31/1980
Lic:

DFNDT
Sex: M
Sid: 7000064780

By: TERRY, WILLIAM B
530 S SEVENTH ST
LAS VEGAS, NV 89101

Plate#:
Make:
Year:
Type:
Venue:
Location: H

Bond:
Type:
Set:
Posted:

Charges:

Ct.1 NRS 200.485.1DOMESTIC BATTERY, 1ST
Offense Dt: 08/04/2014 Cvr:
Arrest Dt:
Comments:
DISMISSED WITHOUT
PREJUDICE (BEFORE TRIAL)

Sentencing:
Ct.1 Sentence Suspended Credit
Jail (Days)
Fines
Costs
Restitution
Probation(Mo)
Comm Svc (Hr)
REMARKS:
Expires:

No.	Filed	Action	Operator	Fine/Cost	Due
1	10/06/14	WARRANT OF ARREST ISSUED WARRANT #14M05978 BAIL: \$3140	AJK3	0.00	0.00
2	10/06/14	ACTIVE WARRANT NOTICE MAILED ACTIVE WARRANT LETTER Sent on: 10/06/2014 11:47:02.23	AJK3	0.00	0.00
3	10/15/14	RETURNED MAIL Charge #1: DOMESTIC BATTERY, 1ST	JDB1		0.00
4	10/15/14	WARRANT SERVED BY ARREST RE 14M05978 WARRANT OF ARREST served on: 10/10/2014 For: AMADO, GIANO	DCT2		0.00
5	10/15/14	Time spent in custody: 14.30 HOURS Arrest Date/Time: 10/10/14 1924 Release Date/Time: 10/11/14 0953	DCT2		0.00
6	10/15/14	SURETY BOND POSTED BY: BAD GIRL BAIL BONDS BOND AMOUNT: \$ 3140 BOND NUMBER: FCS10-1388702 VIA: JAIL BAILS BOND FILING FEE PAID Charge #1: DOMESTIC BATTERY, 1ST Receipt: 589232 Date: 10/15/2014	DCT2	50.00	0.00
7	10/15/14	COURT DATE SET: Event: CRIMINAL ARRAIGNMENT Date: 11/03/2014 Time: 9:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: NOT GUILTY PLEA / TRIAL SET	DCT2		0.00

No.	Filed	Action	Operator	Fine/Cost	Due
8	10/28/14	NOT GUILTY PLEA ENTERED VIA FAX ARRAIGNMENT TRIAL SET IN DUE COURSE Attorney: SMEDLEY, JAMES J (8668) Charge #1: DOMESTIC BATTERY, 1ST	CRG	0.00	0.00
9	11/03/14	COURT DATE SET: Event: TRIAL Date: 01/13/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: CONTINUED	CRG	0.00	0.00
10	01/13/15	CONTINUED FOR STATUS @ CAO'S REQUEST - 02/24/15 10AM D1 CAO TO FILE ADDITIONAL CHARGES & MOTION FOR ORDER TO SHOW CAUSE ON VICTIM TRIAL DATE NOT SET BOND: STANDS	KM	0.00	0.00
11	01/13/15	COUNTER: 10.39.50	KM	0.00	0.00
12	01/13/15	COURT DATE SET: Event: TRIAL Date: 02/24/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00
13	01/13/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J -Location: DEPARTMENT 1 Staff: KJ - CLERK: Present RJR - CLERK: Present WARD, GEORGE - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present SMEDLEY, JAMES J - Attorney for DEFENDANT: Present	KM	0.00	0.00
14	02/24/15	CONDITIONS OF RELEASE: *STAND AS OF 4/29/15* NCWV: - IRENE FLEMING - DOMINIC OCHOA	KM	0.00	0.00
15	02/24/15	COUNTER: 10.44.50/10.50.00	KM	0.00	0.00
16	02/24/15	DEFENDANT MAINTAINED NOT GUILTY PLEA/ TRIAL RE-SET TO 04/29/15 WITNESSES ORDERED BACK @ RCD APPEARANCE REQUIRED BOND: STANDS Charge #1: DOMESTIC BATTERY, 1ST	KM	0.00	0.00
17	02/24/15	COURT DATE SET: Event: TRIAL Date: 04/29/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
18	02/24/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: CRG - CLERK: Present KJ - CLERK: Present WARD, GEORGE - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present SMEDLEY, JAMES J - Attorney for DEFENDANT: Present	KM	0.00	0.00
19	04/29/15	BUSTOS MOTION BY CAO - GRANTED TRIAL SET IN 90 DAYS - 07/29/15 10AM D1 BOND: STANDS SHOW CAUSE ON VICTIM ALSO GRANTED IN 4 WKS - 05/27/15 10AM D1	KM	0.00	0.00
20	04/29/15	COUNTER: 10.02.00/11.26.40	KM	0.00	0.00
21	04/29/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: CRG - CLERK: Present KJ - CLERK: Present MATHER, ELAINE - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present SMEDLEY, JAMES J - Attorney for DEFENDANT: Present	KM	0.00	0.00
22	04/29/15	COURT DATE SET: Event: TRIAL Date: 07/29/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: DISMISSED	KM	0.00	0.00
23	07/29/15	CONDITIONS OF RELEASE DISSOLVED	KM	0.00	0.00
24	07/29/15	"Notice Relating to Sealing Records" provided to defense in open court.	KM	0.00	0.00
25	07/29/15	COUNTER: 10.00.30/10.51.40	KM	0.00	0.00
26	07/29/15	ORAL MOTION BY CAO TO DISMISS WITHOUT PREJUDICE - GRANTED REASON: VICTIM NOT PRESENT Charge #1: DOMESTIC BATTERY, 1ST	KM	0.00	0.00
27	07/29/15	SURETY BOND EXONERATED Charge #1: DOMESTIC BATTERY, 1ST	KM	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
28	07/29/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: KJ - CLERK: Present MATHER, ELAINE - DEPUTY CITY ATTORNEY: Present SDS - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present IARUSSI, JOSEPH BRIAN - Attorney for DEFENDANT: Present	KM	0.00	0.00
29	07/29/15	CASE CLOSED	KM	0.00	0.00
30	07/30/15	NOTICE OF CASE STATUS RECEIVED FROM HENDERSON CITY ATTORNEY'S OFFICE-CRIMINAL DIVISION: - REOPEN CASE AFTER DISMISSAL WITHOUT PREJUDICE - AMENDED COMPLAINTS FILED (WITH AKA OF BRANDON WELCH, COURT WILL CONTINUE TO KEEP CASE OPEN UNDER GIANO AMADO) - REQUEST FOR SUMMONS	AMM2	0.00	0.00
31	08/18/15	Court Note: Restricted	MMB	0.00	0.00
32	08/19/15	COURT DATE SET: Event: CRIMINAL ARRAIGNMENT Date: 09/17/2015 Time: 9:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: NOT GUILTY PLEA / TRIAL SET	AVS	0.00	0.00
33	09/15/15	SUMMONS SERVED UPON DEFENDANT Charge #1: DOMESTIC BATTERY, 1ST	AVS	0.00	0.00
34	09/17/15	ATTORNEY KAJIOKA CONFIRMED. CONTINUED FOR TRIAL.	AVS	0.00	0.00
35	09/17/15	COUNTER: 9.38.10	AVS	0.00	0.00
36	09/17/15	NOT GUILTY PLEA ENTERED. TRIAL SET - SPEEDY TRIAL WAIVED O/R: STANDS APPEARANCE REQUIRED Charge #1: DOMESTIC BATTERY, 1ST	AVS	0.00	0.00
37	09/17/15	COURT DATE SET: Event: TRIAL Date: 12/07/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	AVS	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
38	09/17/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: AVS - CLERK: Present KJ - CLERK: Present MATHER, ELAINE - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: IARUSSI, JOSEPH BRIAN - Event Attorney for DEFENDANT: Not Present SMEDLEY, JAMES J - Event Attorney for DEFENDANT: Not Present AMADO, GIANO - DEFENDANT: Not Present KAJIOKA, DEAN Y. - Attorney for DEFENDANT: Present	AVS	0.00	0.00
39	12/07/15	BUSTOS MOTION BY CAO - GRANTED CTR 01/11/16 10AM D1 O/R RELEASE: STANDS APPEARANCE REQUIRED	KM	0.00	0.00
40	12/07/15	COUNTER: 10.07.00/11.12.30/11.26.40	KM	0.00	0.00
41	12/07/15	COURT DATE SET: Event: TRIAL Date: 01/11/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00
42	12/07/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: AVS - CLERK: Present ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present KAJIOKA, DEAN Y. - Attorney for DEFENDANT: Present	KM	0.00	0.00
43	01/05/16	NOTICE OF MOTION AND MOTION FOR TAKING DEPOSITION OF CITY'S WITNESS IRENE FLEMING FILED BY: LAURIE A. ISCAN, DEPUTY CITY ATTORNEY	BML6	0.00	0.00
44	01/06/16	COURT DATE SET: Event: TRIAL Date: 01/06/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: MOTION CONTINUED	KM	0.00	0.00
45	01/06/16	MOTION HEARING CONTINUED FOR DEF ATTY'S PRESENCE CTR 01/07/16 10AM D1 O/R RELEASE: STANDS	KM	0.00	0.00
46	01/06/16	COUNTER: 10.51.35	KM	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
47	01/06/16	COURT DATE SET: Event: TRIAL Date: 01/07/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00
48	01/06/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present RJR - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Not Present KAJIOKA, DEAN Y. - Attorney for DEFENDANT: Not Present	KM	0.00	0.00
49	01/06/16	MOTION TO CONTINUE TRIAL FILED: Attorney: TERRY, WILLIAM B (1028) MOTION HEARING WILL BE HELD 1/7/16 10AM D1	BML6	0.00	0.00
50	01/06/16	DOCUMENT FILED: SUBSTITUTION OF ATTORNEY FILED BY WILLIAM TERRY REPLACING DEAN KAJIOKA	BML6	0.00	0.00
51	01/06/16	COURT DATE SET: Event: TRIAL Date: 01/19/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: EVENT VACATED	BML6	0.00	0.00
52	01/07/16	ALL MOTIONS CONTINUED BY JUDGE - 1/11/16 APPEARANCE REQUIRED	KM	0.00	0.00
53	01/07/16	BAIL REVOCATION HEARING ALSO ORDERED BY JUDGE - 1/11/16 POSSIBLE CONDITIONS OF RELEASE TO BE ADDRESSED BAIL MAY ALSO BE ARGUED	KM	0.00	0.00
54	01/07/16	COUNTER: 10.36.15/10.43.35	KM	0.00	0.00
55	01/07/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present RJR - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Not Present THOMAS, K PRESENT FOR TERRY, WILLIAM B - Attorney for DEFENDANT: Not Present	KM	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
56	01/07/16	OPPOSITION TO MOTION FILED BY DEPUTY CITY ATTORNEY LAURIE A. ISCAN BAR #9716, SUBSTITUTION OF COUNSEL AND MOTION TO CONTINUE TRIAL	TAV	0.00	0.00
57	01/11/16	MOTION HEARING HELD. MOTION FOR TAKING DEPOSITION OF CITY'S WITNESS - DENIED	KM	0.00	0.00
58	01/11/16	MOTION HEARING HELD. MOTION TO CONTINUE TRIAL - GRANTED	KM	0.00	0.00
59	01/11/16	CONTINUED TO CTR 02/29/16 10AM D1 O/R RELEASE: STANDS	KM	0.00	0.00
60	01/11/16	CONDITIONS OF RELEASE: - NCWV: IRENE FLEMING & DOMINIC OCHOA - GPS - STAY 1000' AWAY FROM THE FOLLOWING INTERSECTIONS: TEXAS / ATLANTIC CENTER ST / PALMETTO LAKE MEAD / NELLIS GIBSON / HORIZON PASEO VERDE / TRILOGY COVE WAL-MART @ 300 E LAKE MEAD DR ST PETERS CHURCH @ 204 S BOULDER HWY	KM	0.00	0.00
61	01/11/16	COUNTER: 11.23.30/3.08.55	KM	0.00	0.00
62	01/11/16	COURT DATE SET: Event: TRIAL Date: 02/29/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00
63	01/11/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present RJR - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present THOMAS, K PRESENT FOR TERRY, WILLIAM B - Attorney for DEFENDANT: Not Present	KM	0.00	0.00
Total:				50.00	0.00
Totals By: COST				50.00	0.00
INFORMATION				0.00	0.00
*** End of Report ***					

EXHIBIT “2”

Judge: STEVENS, MARK J

Case No. 15CR000859
Ticket No.
CTN:

CITY OF HENDERSON VS

By:

-vs-

AMADO, GIANO DFNDT
2050 S MAGIC WAY, 257
HENDERSON, NV 89002
Dob: 08/31/1980 Sex: M
Lic: Sid: 7000064780

By: TERRY, WILLIAM B
530 S SEVENTH ST
LAS VEGAS, NV 89101

Plate#:
Make:
Year: Accident: No
Type:
Venue:
Location: H

Bond: Set:
Type: Posted:

Charges:

Ct.1 NRS 200.485.1DOMESTIC BATTERY, 1ST
Offense Dt: 08/04/2014 Cvr:
Arrest Dt:
Comments:

Sentencing:
Ct.1 Sentence Suspended Credit
Jail (Days)
Fines
Costs
Restitution
Probation(Mo) Expires:
Comm Svc (Hr)
REMARKS:

No.	Filed	Action	Operator	Fine/Cost	Due
1	01/22/15	NOTICE OF CASE STATUS RECEIVED FROM HENDERSON CITY ATTORNEY'S OFFICE-CRIMINAL DIVISION: CHARGE ADDED	KM		0.00
2	01/22/15	COURT DATE SET: Event: TRIAL Date: 02/24/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: NOT GUILTY PLEA / TRIAL SET	KM		0.00
3	02/24/15	CONDITIONS OF RELEASE: *STAND AS OF 04/29/15* NCWV: - IRENE FLEMING - DOMINIC OCHOA	KM	0.00	0.00
4	02/24/15	COUNTER: 10.44.50/10.50.00	KM	0.00	0.00
5	02/24/15	NOT GUILTY PLEA ENTERED. TRIAL SET - SPEEDY TRIAL WAIVED CTR 04/29/15 10AM D1 WITNESSES ORDERED BACK @ TRIAL APPEARANCE REQUIRED Charge #1: DOMESTIC BATTERY, 1ST	KM	0.00	0.00
6	02/24/15	COURT DATE SET: Event: TRIAL Date: 04/29/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
7	02/24/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: CRG - CLERK: Present KJ - CLERK: Present WARD, GEORGE - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present SMEDLEY, JAMES J - Attorney for DEFENDANT: Present	KM	0.00	0.00
8	04/29/15	BUSTOS MOTION BY CAO - GRANTED TRIAL SET IN 90 DAYS - 07/29/15 10AM D1 O/R RELEASE: STANDS SHOW CAUSE ON VICTIM ALSO GRANTED IN 4 WKS - 05/27/15 10AM D1	KM	0.00	0.00
9	04/29/15	COUNTER: 10.02.00/11.26.40	KM	0.00	0.00
10	04/29/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: CRG - CLERK: Present KJ - CLERK: Present MATHER, ELAINE - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present SMEDLEY, JAMES J - Attorney for DEFENDANT: Present	KM	0.00	0.00
11	04/29/15	COURT DATE SET: Event: TRIAL Date: 07/29/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: DISMISSED	KM	0.00	0.00
12	07/29/15	CONDITIONS OF RELEASE DISSOLVED	KM	0.00	0.00
13	07/29/15	"Notice Relating to Sealing Records" provided to defense in open court.	KM	0.00	0.00
14	07/29/15	COUNTER: 10.00.30/10.51.40	KM	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
15	07/29/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: KJ - CLERK: Present MATHER, ELAINE - DEPUTY CITY ATTORNEY: Present SDS - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present IARUSSI, JOSEPH BRIAN - Attorney for DEFENDANT: Present	KM	0.00	0.00
16	07/29/15	ORAL MOTION BY CAO TO DISMISS WITHOUT PREJUDICE - GRANTED REASON: VICTIM NOT PRESENT Charge #1: DOMESTIC BATTERY, 1ST	KM	0.00	0.00
17	07/29/15	CASE CLOSED	KM	0.00	0.00
18	07/30/15	NOTICE OF CASE STATUS RECEIVED FROM HENDERSON CITY ATTORNEY'S OFFICE-CRIMINAL DIVISION: - REOPEN CASE AFTER DISMISSAL WITHOUT PREJUDICE - AMENDED COMPLAINTS FILED (WITH AKA OF BRANDON WELCH, COURT WILL CONTINUE TO KEEP CASE OPEN UNDER GIANO AMADO) - REQUEST FOR SUMMONS	AMM2	0.00	0.00
19	08/18/15	Court Note: Restricted	MMB	0.00	0.00
20	08/19/15	COURT DATE SET: Event: CRIMINAL ARRAIGNMENT Date: 09/17/2015 Time: 9:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: NOT GUILTY PLEA / TRIAL SET	AVS	0.00	0.00
21	09/15/15	SUMMONS SERVED UPON DEFENDANT Charge #1: DOMESTIC BATTERY, 1ST	AVS	0.00	0.00
22	09/17/15	ATTORNEY CONFIRMED KAJIOKA. CONTINUED FOR TRIAL.	AVS	0.00	0.00
23	09/17/15	COUNTER: 9.38.10	AVS	0.00	0.00
24	09/17/15	COURT DATE SET: Event: TRIAL Date: 12/07/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	AVS	0.00	0.00
25	09/17/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: AVS - CLERK: Present KJ - CLERK: Present MATHER, ELAINE - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: SMEDLEY, JAMES T - Event	AVS	0.00	0.00

Attorney for DEFENDANT: Not Present
IARUSSI, JOSEPH BRIAN -
Event Attorney for DEFENDANT:
Not Present
AMADO, GIANO - DEFENDANT:
Not Present
KAJIOKA, DEAN Y. -
Attorney for DEFENDANT:
Present

No.	Filed	Action	Operator	Fine/Cost	Due
26	09/17/15	NOT GUILTY PLEA ENTERED. TRIAL SET - SPEEDY TRIAL WAIVED O/R STANDS APPEARANCE REQUIRED Charge #1: DOMESTIC BATTERY, 1ST	AVS	0.00	0.00
27	12/07/15	BUSTOS MOTION BY CAO - GRANTED CTR 01/11/16 10AM D1 O/R RELEASE: STANDS APPEARANCE REQUIRED	KM	0.00	0.00
28	12/07/15	COUNTER: 10.07.00/11.12.30/11.26.40	KM	0.00	0.00
29	12/07/15	COURT DATE SET: Event: TRIAL Date: 01/11/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00
30	12/07/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: AVS - CLERK: Present ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present KAJIOKA, DEAN Y. - Attorney for DEFENDANT: Present	KM	0.00	0.00
31	01/05/16	NOTICE OF MOTION AND MOTION FOR TAKING DEPOSITION OF CITY'S WITNESS IRENE FLEMING FILED BY: LAURIE A. ISCAN, DEPUTY CITY ATTORNEY	BML6	0.00	0.00
32	01/06/16	COURT DATE SET: Event: TRIAL Date: 01/06/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: MOTION CONTINUED	KM	0.00	0.00
33	01/06/16	MOTION HEARING CONTINUED FOR DEF ATTY'S PRESENCE CTR 01/07/16 10AM D1 O/R RELEASE: STANDS	KM	0.00	0.00
34	01/06/16	COUNTER: 10.51.35	KM	0.00	0.00
35	01/06/16	COURT DATE SET: Event: TRIAL Date: 01/07/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
36	01/06/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present RJR - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Not Present KAJIOKA, DEAN Y. - Attorney for DEFENDANT: Not Present	KM	0.00	0.00
37	01/06/16	MOTION TO CONTINUE TRIAL FILED: Attorney: TERRY, WILLIAM B (1028) MOTION HEARING WILL BE HELD 1/7/16 10AM D1	BML6	0.00	0.00
38	01/06/16	COURT DATE SET: Event: TRIAL Date: 01/19/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: EVENT VACATED	BML6	0.00	0.00
39	01/06/16	DOCUMENT FILED: SUBSTITUTION OF ATTORNEY FILED BY WILLIAM TERRY REPLACING DEAN KAJIOKA	BML6	0.00	0.00
40	01/07/16	ALL MOTIONS CONTINUED BY JUDGE - 1/11/16 APPEARANCE REQUIRED	KM	0.00	0.00
41	01/07/16	BAIL REVOCATION HEARING ALSO ORDERED BY JUDGE - 1/11/16 POSSIBLE CONDITIONS OF RELEASE TO BE ADDRESSED BAIL MAY ALSO BE ARGUED	KM	0.00	0.00
42	01/07/16	COUNTER: 10.36.15/10.43.35	KM	0.00	0.00
43	01/07/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present RJR - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Not Present THOMAS, K PRESENT FOR TERRY, WILLIAM B - Attorney for DEFENDANT: Not Present	KM	0.00	0.00
44	01/07/16	OPPOSITION TO MOTION FILED BY DEPUTY CITY ATTORNEY LAURIE A. ISCAN BAR #9716, SUBSTITUTION OF COUNSEL AND MOTION TO CONTINUE TRIAL	TAV	0.00	0.00
45	01/11/16	MOTION HEARING HELD. MOTION FOR TAKING DEPOSITION OF CITY'S WITNESS - DENIED	KM	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
46	01/11/16	MOTION HEARING HELD. MOTION TO CONTINUE TRIAL - GRANTED	KM	0.00	0.00
47	01/11/16	CONTINUED TO CTR 02/29/16 10AM D1 O/R RELEASE: STANDS	KM	0.00	0.00
48	01/11/16	CONDITIONS OF RELEASE: - NCWV: IRENE FLEMING & DOMINIC OCHOA - GPS - STAY 1000' AWAY FROM THE FOLLOWING INTERSECTIONS: TEXAS / ATLANTIC CENTER ST / PALMETTO LAKE MEAD / NELLIS GIBSON / HORIZON PASEO VERDE / TRILOGY COVE WAL-MART @ 300 E LAKE MEAD DR ST PETERS CHURCH @ 204 S BOULDER HWY	KM	0.00	0.00
49	01/11/16	COUNTER: 11.23.30/3.08.55	KM	0.00	0.00
50	01/11/16	COURT DATE SET: Event: TRIAL Date: 02/29/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00
51	01/11/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present RJR - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present THOMAS, K PRESENT FOR TERRY, WILLIAM B - Attorney for DEFENDANT: Not Present	KM	0.00	0.00
Total:				0.00	0.00
Totals By: INFORMATION				0.00	0.00
*** End of Report ***					

1 WILLIAM B. TERRY, ESQ.
 Nevada Bar No. 001028
 2 WILLIAM B. TERRY, CHARTERED
 530 South Seventh Street
 3 Las Vegas, Nevada 89101
 (702) 385-0799
 4 (702) 385-9788 (Fax)
Info@WilliamTerryLaw.com
 5 Attorney for Petitioner

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

8 GIANO AMADO

9 Petitioner,

CASE NO. C-16-311953-W
DEPT. NO. II

10 vs.

11 CITY OF HENDERSON and THE
12 HONORABLE JUDGE MARK STEVENS,HEARING DATE: 02/02/16
HEARING TIME: 8:30 AM


13 Respondent.

14 **RESPONSE TO CITY'S OF HENDERSON'S OPPOSITION TO THE PETITION FOR**
 15 **WRIT OF MANDAMUS OR, IN THE ALTERNATIVE, WRIT OF PROHIBITION**

16 COMES NOW the Petitioner, GIANO AMADO, by and through his counsel, WILLIAM B.
 17 TERRY, ESQ., of the law offices of WILLIAM B. TERRY, CHARTERED and files the instant
 18 Response to the City of Henderson's Opposition to the Petition for Writ of Mandamus or, in the
 19 Alternative, Writ of Prohibition.

20 This Response is made and based upon the attached analysis of facts and points and
 21 authorities in support hereof, and any oral arguments as may be presented at the hearing in this
 22 matter.

23 WILLIAM B. TERRY, CHARTERED

24 
 25 WILLIAM B. TERRY, ESQ.
 Nevada Bar No. 001028
 26 WILLIAM B. TERRY, CHARTERED
 530 South Seventh Street
 27 Las Vegas, Nevada 89101
 (702) 385-0799
 28 Attorney for Petitioner

WILLIAM B. TERRY, CHARTERED
 530 South Seventh Street
 Las Vegas, Nevada 89101
 (702) 385-0799

ANALYSIS OF FACTS

1
2 The facts dealing with the charges pending against the Petitioner are not necessarily relevant
3 to the instant petition. What is relevant is the procedural history of the case or more specifically of
4 the cases. What is relevant is that in reference to the original complaints the City was unable to
5 proceed with the prosecutions against the Petitioner after multiple hearing dates. Finally, on July
6 29, 2015, all cases were dismissed against the Petitioner. On July 30, 2015, instead of filing "new
7 complaints" against the Petitioner the City filed what they termed as being amended complaints. In
8 effect, they were amending complaints that had already been dismissed on July 29, 2015. A trial date
9 was set for December 7, 2015, but again the City was not prepared to proceed. The City at that point
10 filed a request to continue over defense objections. The factual analysis set forth at page 3 of the
11 City of Henderson's opposition do not specifically indicate whether or not service was effectuated
12 upon Irene Fleming and Dominic Ochoa.

13 On January 5, 2016, the City filed a Motion for the taking of depositions. New counsel was
14 thereafter retained and appeared on January 7, 2016 and January 11, 2016. The motion to take
15 depositions was denied.

ARGUMENT

16
17 I. PETITIONER HAS NOT MISSTATED THE PROCEDURAL HISTORY OF THE CASES.

18 The City cannot dispute that their own charging documents are entitled Complaint and
19 Amended Complaint. They also cannot dispute the fact that the original complaints were totally
20 dismissed on July 29, 2015. There was nothing to amend from that point on. The filing of a new
21 set of charges was a new action by the City. It was not a continuation of a prior action. The reason
22 that the City filed an amended complaint, it is suggested, is to keep the case in the same department.
23 Under the Eighth Judicial District Court rules and specifically Rule 1.64 which it is suggested is
24 applicable to the City of Henderson, the Rule deals with criminal cases being randomly assigned.
25 It makes no difference whether or not the procedure in Henderson is to keep the case in the same
26 department where the original complaint was or not. Once the City filed a new action which is really
27 what the amended complaint was, Rule 1.64 mandated that it be randomly assigned. As a result,
28 Petitioner has not misstated the procedural posture of the underlying case. It is interesting that the

1 City does not dispute the fact that the second set of charging documents were in fact categorized as
2 amended complaints. Whether the Henderson Municipal Court or the City Attorney's office
3 dismissed the original complaints is not particularly relevant. What is relevant is the fact that the
4 City proceeded on amended complaints. Again, you cannot amend a document that has already been
5 dismissed.

6 II. PETITIONER HAS NO ADEQUATE, SPEEDY, PLAIN REMEDY AT LAW.

7 The prayer for relief in the Petition is for dismissal of the "amended complaints". The only
8 remedy lies with the District Court since not only has a trial date been set for February 29, 2016 but
9 likewise the actions of the Henderson Municipal Court at the last proceeding including forcing the
10 Petitioner to have a GPS placed and forcing him not to be within a 1000 feet of certain areas. In
11 essence, Petitioner is restricted almost completely from in the majority of the City of Henderson.
12 The City argues that the issue of the amended complaint should properly be brought before the
13 Henderson Municipal Court. It was the Henderson Municipal Court that allowed the filing of the
14 amended complaint. The City suggests that Petitioner file a motion before the Henderson Municipal
15 Court. It is suggested this would be a wasted effort again because the Henderson Municipal Court
16 is the one that allowed the amended complaint to be filed.

17 III. NRS 174.085 DOES NOT AUTHORIZE AN "AMENDED COMPLAINT" TO BE FILED
18 AFTER DISMISSAL OF THE ORIGINAL COMPLAINT.

19 There is no doubt that the City Attorney's office used the same case number on both the
20 complaint that was dismissed and the amended complaint. It alleged the same facts as was in the
21 original complaint. There is, however, a distinction between a complaint and an amended complaint.
22 An amended complaint is typically one that is done prior to trial or even during a trial to change
23 certain language which may or may not be permitted by the court. When a complaint is dismissed,
24 however, it is a final act by that court. The court has no further jurisdiction over the matter and the
25 City has nothing pending before the court in reference to that individual defendant. What the City
26 did in the instant case, however, was to file a "amended complaint" when nothing was pending.
27 NRS 174.085 deals specifically with new complaints. Subsection 5 reads as follows:

28 The prosecuting attorney in a case that the prosecuting attorney has
initiated may voluntarily dismiss a complaint...

1 The Court in the instant case is asked to note that the terminology used under subsection 5
2 involves the dismissal of a complaint which is exactly what was done in the Henderson Municipal
3 Court level. Subsection (b) reads as follows:

4 Before trial if the crime with which the defendant is charged is a
5 misdemeanor, without prejudice to the right to file another complaint
6 unless the State of Nevada has previously filed a complaint against
7 the defendant which was dismissed at the request of the prosecuting
8 attorney. After the dismissal the court shall order the defendant
9 released from custody or if the defendant is released on bail exonerate
10 the obligors and release any bail.

11 Taking the language from this section the City Attorney would have only been authorized
12 to file a second complaint. Once the Court dismissed the original complaint the Court had to order
13 the defendant released from custody or as the statute says "...if the defendant is released on bail
14 exonerate the obligors and release any bail." This would have been a further action taken by the
15 Henderson Municipal Court Judge in compliance with the request to dismiss by the City.

16 Subsection 6 of NRS 174.085 reads as follows:

17 If a prosecuting attorney files a subsequent complaint after a
18 complaint concerning the same matter has been filed and dismissed
19 against the defendant
20 (a) the case must be assigned to the same judge to whom the initial
21 complaint was assigned...

22 Taking this provision into consideration it appears that the City was justified in filing a new
23 complaint and having it assigned to the same judge who had previously dismissed the original
24 complaint. Again the emphasis is added to the underlying words because it deals with the
25 terminology "complaint" not amended complaint.

26 Based upon the above, the City was not justified nor permitted under statute in filing an
27 amended complaint. The City in their responsive pleadings uses the term "refile". They do this in
28 an effort to disguise the fact that they erroneously filed a "amended complaint". The City cites no
cases dealing with amended complaints.

29 There are very few cases reported in Nevada that deal with this statute. One, however, is
30 *Washoe v. Marcus*, 116 Nev. 188, 995 P.2d 1016 (2000). There the defendant had been charged with
31 a misdemeanor DUI and filed a pretrial petition for writ of habeas corpus after the State filed a new
32 complaint. This Court is asked to note that the Supreme Court in *Marcus* at least impliedly

1 recognized that a petition for writ of habeas corpus or as has been filed in this case mandamus or
2 prohibition is a proper vehicle to raise the instant issue. The court went on in *Marcus* to utilize the
3 terms original complaint and a second complaint. It did not sanction the utilization of the term
4 amended complaint. In *Marcus* the court also discussed situations where the prosecuting attorney
5 makes a motion to continue and whether or not the district court can rule on the adequacy of that
6 motion to continue. They reviewed the cases dealing with motions to continue including *Bustos v.*
7 *Sheriff*, 87 Nev. 622, 491 P.2d 1279 (1971) which allowed "...in certain emergency situations the
8 prosecution could make an oral motion for continuance supported by an oral affidavit or could
9 supplement deficiencies in supporting affidavits with oral testimony..." This Court is asked to note
10 that the City had made a *Bustos* motion which the Petitioner contends was not well founded.
11 Independent of that, however, back to the holding *Marcus* ultimately in *Marcus* found that
12 independent of whether or not the prosecuting entity had shown good cause, the State was authorized
13 to file a new complaint, again the terminology was new complaint and not amended complaint.


14 IV. THE PETITIONER CONCURS THAT THE ISSUE PERTAINING TO THE DEPOSITION
15 IS MOOT.

16 CONCLUSION

17 For the above-indicated reasons, it is respectfully submitted that the City was not authorized
18 under the statute or in any other way to file a "amended complaint" utilizing the same case numbers
19 as in the original complaint and as such the Petition for Writ of Mandamus or, in the Alternative, for
20 Writ of Prohibition must be granted.

21 DATED this 29th day of January, 2016.

22 WILLIAM B. TERRY, CHARTERED

23 
24 WILLIAM B. TERRY, ESQ.

25 Nevada Bar No. 001028

26 WILLIAM B. TERRY, CHARTERED

27 530 South Seventh Street

28 Las Vegas, Nevada 89101

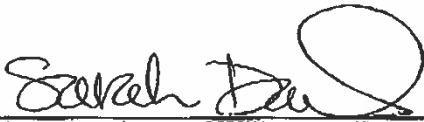
(702) 385-0799

Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of January, 2016, I, as an employee of WILLIAM B. TERRY, CHARTERED, caused to be served a copy of the **RESPONSE TO CITY OF HENDERSON'S OPPOSITION TO PETITION FOR WRIT OF MANDAMUS OR, IN THE ALTERNATIVE, WRIT OF PROHIBITION** via first class mail, facsimile and electronic mail transmission to the following:

Laurie Iscan, Esq.
Assistant City Attorney
243 Water Street
P.O. Box 95050, MSC 711
Henderson, NV 89009-5050
Fax: (702) 267-1201
Laurie.Iscan@cityofhenderson.com


As an employee of William B. Terry, Chtd.

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Location : District Court Civil/Criminal [Help](#)

REGISTER OF ACTIONS

CASE NO. C-16-311953-W

In the Matter of the Petition of Giano Amado

§
§
§
§
§
§

Case Type: **Criminal Writ**
 Date Filed: **01/13/2016**
 Location: **Department 2**
 Cross-Reference Case Number: **C311953**

PARTY INFORMATION

Petitioner Amado, Giano

Lead Attorneys
William B. Terry
Retained
 7023850799(W)

Respondent Henderson City of

Laurie A. Iscan
Retained
 702-386-1070 x1490(W)

Respondent Stevens, Mark

EVENTS & ORDERS OF THE COURT

01/28/2016 **Petition** (9:00 AM) (Judicial Officer Scotti, Richard F.)

01/28/2016, 02/02/2016

Petition for Writ of Mandamus or, in the Alternative, Writ of Prohibition, Request for Order Shortening Time and for Stay of Henderson Municipal Court Proceedings

Minutes

01/28/2016 9:00 AM

- Mr. Terry stated it recently received the response and requested a continuance to respond. Further, Mr. Terry advised he had requested transcripts, which he did not have at the time of the original petition. Lastly, Mr. Terry requested a stay of the Municipal Court trial set and for the GPS to be removed. Ms. Iscan opposed today's continuance, the stay of the trial and removal of the GPS stating the City scrambled to respond to the petition on an order of shortening time and stated this case has been going for well over a year. Additional arguments by counsel. Court stated it would not interfere with the jurisdiction of the Henderson Municipal Court judge and ORDERED, reply due 1/28/16, by close of business. FURTHER, matter CONTINUED. NIC CONTINUED TO: 2/02/16 9:00 AM

02/02/2016 9:00 AM

- Mr. Terry stated he would submit on the brief. Upon Court's inquiry, Mr. Terry stated the statute only authorizes the filing of a new complaint and stated his concern with what appears to be forum shopping. Mr. Terry argued you can't amend something that doesn't exist. Once the prior complaint was dismissed, there was nothing to amend. Whether it is a civil or criminal matter, you can't proceed on an amended complaint, when the original complaint was dismissed voluntarily by the prosecuting agency. Further arguments. Court noted an amended complaint is a complaint and an amended complaint that comes after the original complaint is subsequent in time. Additionally, if it is same counts against the same defendant, the statute requires it to go before the original judge to avoid forum shopping. Further arguments by Mr. Terry. Upon Court's inquiry as to whether the document should have been called an amended complaint, Ms. Iscan stated that would be form over substance. Ms. Iscan stated her office spoke with court administration about why it is calling it this way and was told the reason is for case management and procedural purposes,

it helps court administration keep the cases together. Further, the statute states the court administrator shall prescribe the form of the docket and any other records. With respect to the argument that it has to be a new complaint, Ms. Iscan stated Mr. Terry did not cite any rule or law that says that. Ms. Iscan argued the statute talks about a subsequent complaint, it doesn't say what it has to be called. Further, the complaint is properly pleaded the defendant was on notice and re-summoned and re-arraigned and a new trial date was set. Everything that is necessary to protect the defendant's rights has been done. Court stated its concern with interjecting itself as a court of review and overturning a judge's ruling that hasn't been made. Further arguments by Mr. Terry. Court stated Mr. Terry is arguing Henderson Municipal Court committed an error in allowing this case to proceed on an amended complaint. Court stated it has nothing before it to assess how the municipal court judge would rule on this if and when squarely presented with the issue. COURT ORDERED, petition and request for stay DENIE. Court stated it believes it would be improper for it to interfere with the progress of the municipal court proceedings as it has not yet had an opportunity to address this issue. Upon inquiry by Mr. Terry, Court stated it is denied under the law that applies and the Court did not want to reach the actual merits at this point in time.

[Parties Present](#)

[Return to Register of Actions](#)

1 **RTRAN**

2
3
4 DISTRICT COURT
5 CLARK COUNTY, NEVADA

6
7 GIANO AMADO,

8 Petitioner,

9 vs.

10 CITY OF HENDERSON and THE
11 HONORABLE JUDGE MARK STEVENS,

12 Respondent.

)
) CASE NO. C311953

)
) DEPT. NO. II

13
14 BEFORE THE HONORABLE RICHARD F. SCOTTI, DISTRICT COURT JUDGE

15
16 TUESDAY, FEBRUARY 2, 2016

17
18 RECORDER'S TRANSCRIPT RE:
19 **PETITION FOR WRIT OF MANDAMUS OR, IN THE ALTERNATIVE,**
20 **WRIT OF PROHIBITION, REQUEST FOR ORDER SHORTENING TIME AND FOR**
21 **STAY OF HENDERSON MUNICIPAL COURT PROCEEDINGS**

22 APPEARANCES:

23 For the Plaintiff:

WILLIAM B. TERRY, ESQ.

24 For the Defendant:

LAURIE A. ISCAN, ESQ.
Assistant City Attorney

25 RECORDED BY: ELSA P. AMOROSO, COURT RECORDER

1 LAS VEGAS, NEVADA, TUESDAY, FEBRUARY 2, 2016, 10:10 A.M.

2 * * * * *

3 THE COURT: 21, In the Matter of the Petition of Giano Amado,
4 C311953. Appearances, please.

5 MS. ISCAN: Good morning, Your Honor. Laurie Iscan, Bar number 9716,
6 Assistant City Attorney for the City of Henderson.

7 MR. TERRY: And William Terry appearing with the petitioner, Your
8 Honor, 1028.

9 THE COURT: Very well.

10 And so I received the additional brief filed by Mr. Terry, his reply
11 brief. So I'll entertain argument. Mr. Terry, this is your motion. So let's go
12 ahead and hear –

13 MR. TERRY: Your Honor, I'm –

14 THE COURT: – what else you have to say.

15 MR. TERRY: – prepared to submit it on the briefs with one exception.
16 And I'm gonna draw an analogy for the Court.

17 THE COURT: Okay.

18 MR. TERRY: If Your Honor has a civil case and it is dismissed, you don't
19 file an amended complaint. You file a new complaint. The statute authorizes
20 the filing of a new complaint.

21 If you look at 174.085 and the *Marcus* case, which we cited in our
22 responsive –

23 THE COURT: Right.

24 MR. TERRY: – points and authorities, it does not talk in terms of an
25 amended complaint. It talks in terms of, at page 4 of my responsive brief,

1 another complaint – and note also it says the State of Nevada. We're not
2 raising that as an issue. Does it apply or doesn't it apply to the City of
3 Henderson? But it talks about another complaint.

4 If you look at NRS 174.085 again, on subsection 6, they talk about
5 a subsequent complaint. And that's why we have a concern over whether or
6 not it appeared that this was a "forum shopping" situation. We recognize this
7 statute authorizes the case – the second complaint, complaint number two, not
8 an amended complaint, to be filed in the same Court that had the original case.
9 We understood that. We accept that. But an amended complaint would be
10 different because the statute doesn't authorize an amended complaint. You
11 can't amend something that doesn't exist. Once they dismissed the prior
12 complaint, there is nothing to amend.

13 Now the Court may go: well, are we talking substance over form or
14 form over substance? What difference does it make? The difference is this.
15 The statute doesn't authorize an amended complaint. The statute only
16 authorizes the filing of a new complaint. And that's why we were concerned
17 that they were using the same case number, having it in front of the same
18 judge. It was almost like an assumption that it was gonna be that way; and we
19 did not concur with that. Now, there are other arguments but that's our main
20 argument, Judge. You can't proceed on an amended complaint, whether it's
21 civil or criminal, when the original complaint was dismissed voluntarily by the
22 prosecuting agency.

23 Again, analogy, I'm a plaintiff in a civil case. I come in and I move
24 to dismiss the civil lawsuit. I cannot then file an amended complaint. I might
25 be able to file a new complaint; not substance over form.

1 THE COURT: Thank you.

2 MR. TERRY: The Court indicated you might have some questions. I'm
3 happy to respond to any questions.

4 THE COURT: Well, an amended complaint is a complaint. And an
5 amended complaint that comes after the original complaint is subsequent in
6 time. So I'm having trouble understanding your argument that a document
7 denominated an amended complaint is not a subsequent complaint. So I don't
8 see that, –

9 MR. TERRY: Even –

10 THE COURT: – number one.

11 And number two, regardless of what you call the new complaint,
12 the separate subsequent complaint, regardless of what you call it if it is the
13 same counts against the same defendant, the statute seems to require that that
14 go before the original judge to avoid forum shopping. So it seems to me it has
15 to go before the original judge regardless of what you call it.

16 So I don't know that – I don't see what difference – to answer your
17 question, I don't see what difference it makes by putting the word amended on
18 the complaint. You just strike out the word amended. Whether you have the
19 word amended or not, the word amended, it still has to go in front of the same
20 judge. So I don't –

21 MR. TERRY: But –

22 THE COURT: – I do see that this as, at least initially, as elevating form
23 over substance and not prejudicing your client. And plus, I do see an amended
24 complaint is a subsequent other complaint. So I'm having trouble with your
25 argument to be honest with you.

1 MR. TERRY: *Marcus – Marcus*, the case that we cited, talks in terms of a
2 subsequent complaint. It doesn't talk about an amended complaint. It talks –

3 THE COURT: I saw that.

4 MR. TERRY: – about the fact that as the statute envisions, you file a
5 brand new charging document. Logic says you cannot amend something that
6 doesn't exist. If we agree on that point, then the amended complaint, which is
7 what we're dealing with now, cannot exist.

8 THE COURT: Well – or, alternatively, the document is something other
9 than what the City attorney's office has chosen to call it. It's not, in fact, an
10 amended complaint. It is a new subsequent complaint and they applied the
11 wrong name.

12 I agree with you that it can't be an amended complaint. It is a new
13 subsequent complaint. It shouldn't have been called amended complaint, but
14 that doesn't mean because they called it something wrong, that the substance
15 of the complaint, must be dismissed. I don't see any authority that requires me
16 to go that far.

17 MR. TERRY: Again, our position is you can't amend something that
18 doesn't exist.

19 THE COURT: I agree with that.

20 MR. TERRY: And I hear no explanation from the City.

21 THE COURT: Well, I haven't given her a chance to talk yet.

22 MR. TERRY: Understood. So with that I'll yield.

23 THE COURT: All right. Thank you, sir. I appreciate that.

24 MR. TERRY: No problem.

25 THE COURT: Let me hear from the City attorney's office.

1 MS. ISCAN: Thank you, Your Honor. We would –

2 THE COURT: Do you acknowledge that you shouldn't have called it an
3 amended complaint?

4 MS. ISCAN: Your Honor, I think that would be form over substance. And
5 I went – the City attorney's office has gone so far as to speak with court
6 administration about why we have this procedure.

7 The City's attorney office spoke with court administrator, Bill
8 Zihlmann, who is in charge of how the dockets proceed, how they're titled,
9 why we're calling it this way; and he indicated that the reason that they title it
10 this way, and they file it within the same case number, is for case management
11 and procedural purposes. It helps them maintain the dockets and keep the
12 cases together.

13 Your Honor, pursuant to NRS Chapter 5, which discusses municipal
14 courts, and 5.075, which talks about form of docket and records, it states that:
15 The Court Administrator shall prescribe the form of the docket and of any other
16 appropriate records to be kept by the municipal court, which form may vary from
17 court to court according to the number and kind of cases customarily heard.

18 Additionally, Your Honor, I believe that it has been long recognized that
19 the judiciary has inherent authority to administrate its own procedures and to
20 manage its own affairs. And that was recently held in Nevada Supreme Court case
21 *Halverson vs. Hardcastle* in 2007.

22 So the municipal court administrator has designed this system because
23 it helps them administer and maintain the cases. They're –

24 THE COURT: I understand. Mr. Terry is saying the system, as administered,
25 seems to be inconsistent with the statute.

1 MS. ISCAN: Well, there's – but when Mr. Terry says: You can't have, and it
2 has to be a new complaint, he doesn't cite any rule or law that says that. Well,
3 174.085, sub 6 says, it talks about a subsequent complaint. It doesn't say anything
4 about what the complaint has to be called or that it cannot be called an amended
5 complaint.

6 174.085, sub 5b, talks about filing another complaint. It doesn't say that
7 it has to have a particular title or what it has to be called. And even in the case that
8 Mr. Terry cites, *Marcus v. Washoe*, it – that case doesn't preclude refiling the way
9 that Henderson municipal court does. It uses vague terms. It talks about the
10 original and the second complaint. It doesn't say new complaint. It doesn't say it
11 has to be a new case number. It just says that the prosecutor has a right to dismiss
12 without prejudice, without good cause, and that you can refile.

13 The complaints that have been refiled, whatever they're called, are
14 appropriate and properly pleaded according to what information is necessary to be
15 included in a complaint. The Defendant was on notice of the charges against him.
16 He was resummons, he was rearraigned, and then a new trial date was set. So
17 everything that is necessary to protect the Defendant's rights, after refile, has been
18 done.

19 Additionally, Your Honor, pursuant to the case cited by defense,
20 *Washoe v. Marcus*, in footnote 3, –

21 THE COURT: Yes.

22 MS. ISCAN: – the Court notes that the legislation requires any subsequent
23 proceeding to be heard by the original judge in order to protect the Defendant from
24 forum shopping. So the legislature came to the exact opposite conclusion that we
25 have to maintain it with the same judge in order to protect the Defendant, not that it

1 should be randomly reassigned.

2 THE COURT: Thank you. I'm gonna let Mr. Terry have the last word.

3 A question for you, Mr. Terry. First of all, who's the municipal court
4 judge assigned to this matter now?

5 MR. TERRY: Stevens, Your Honor.

6 THE COURT: Okay. And then also, now that I understand the issue better,
7 the way you've all have framed it in your papers and your argument, has this issue
8 been squarely presented to Judge Stevens? Has someone asked Judge Stevens to
9 make a ruling on whether the so called amended complaint should be dismissed
10 based upon non-compliance with NRS 174.085?

11 MR. TERRY: No. And here's –

12 THE COURT: I'm concerned about interjecting myself as a court of review
13 and overturning a Stevens ruling that has not yet been made.

14 MR. TERRY: And here is our problem, Judge.

15 THE COURT: Okay.

16 MR. TERRY: The last rulings in reference to what Judge Stevens made was
17 to deny the motion for deposition. That's why we put in our supplement that that is
18 now a moot issue.

19 THE COURT: Yes, sir, that's moot. I saw that.

20 MR. TERRY: The GPS, etcetera. So at that point and time, we didn't think it
21 was appropriate; plus the resetting of a trial date in a relatively quick period of time.
22 So we felt that we had to come before a higher court on a writ rather than address it
23 at the Henderson municipal court level.

24 Now, if the Court wants us to do that, I'm happy to do it. But my
25 concern is we have a trial date. And then I'll go back to Henderson. I would ask this

1 Court to, at a minimum, stay the proceedings in Henderson. If this Court directs me
2 to file that motion in Henderson, I will do it.

3 You know, and my position is whatever Henderson does as far as an
4 administrative level, doesn't rise to the level of acceptance pursuant to the statutes
5 or pursuant to the case law. *Marcus* is very specific. They talk about a
6 subsequent complaint and an original complaint. It doesn't talk about an
7 amended complaint. And again, –

8 THE COURT: I understand.

9 MR. TERRY: – while there is no case law on it, –

10 THE COURT: Right.

11 MR. TERRY: – there's no case law on it because it's simply logic. You
12 can't amend that which doesn't exist. And that's this case. The original
13 complaint was dismissed.

14 THE COURT: So I'm ready to rule.

15 Mr. Terry, I'm not persuaded by the substance of your argument,
16 but I'm not going to reach the merits of your argument.

17 MR. TERRY: Very well.

18 THE COURT: I think since you are arguing that the Henderson municipal
19 court committed error in allowing this case to proceed on an amended
20 complaint, and you contend that that's a violation of NRS 174.085, –

21 MR. TERRY: Correct.

22 THE COURT: – I have nothing before me to assess how Judge Stevens
23 would rule on this if and when squarely presented with the issue. So I'm not
24 going to overturn a decision of the municipal court where it's not squarely
25 presented to me that he has considered the issue and decided the issue.

1 So I am denying the petition for writ of mandamus or, writ of
2 prohibition. I would encourage – I am not going stay the proceeding though,
3 Mr. Terry. Again, I believe that that would be improper for me to interfere with
4 the progress of the municipal court proceedings, and Judge – Justice Stevens'
5 effective management of the case. But I encourage you to promptly file the
6 motion to stay and the motion to dismiss with him. And, in the event that you
7 believe that he has not acted appropriately, you can bring it back to me on an
8 order shortening time, and I would certainly address that as quickly as possible
9 on an order shortening time.

10 MR. TERRY: So technically you're not granting or dismissing the petition?
11 You're leaving it in abeyance subject to the municipal court's ruling?

12 THE COURT: No. I am denying it, sir, because –

13 MR. TERRY: Then I can't come back before Your Honor. I have to file an
14 original petition for writ of mandamus again, or prohibition, and it's gonna be
15 randomly assigned. That's –

16 THE COURT: Uh –

17 MR. TERRY: – the way it will work.

18 THE COURT: – so it'll get randomly assigned again. So that's what
19 you're thinking.

20 MR. TERRY: That's right.

21 THE COURT: Well –

22 MR. TERRY: And see what I have to do, and I say this with great respect
23 to the Court –

24 THE COURT: You may.

25 MR. TERRY: Your Honor, I think has made a ruling that they're allowed

1 to file an amended complaint. Now, I have two ways to go. Do I file –

2 THE COURT: I didn't rule on that.

3 MR. TERRY: Okay.

4 THE COURT: I'm saying that – I'm saying that the municipal court judge,
5 who has jurisdiction over this matter, has not yet had an opportunity to address
6 this issue. You're coming before me to order that they've made an error in
7 allowing the case to proceed, but he's never been squarely presented with that
8 issue. If and when you present the issue to the judge below, he may decide:
9 Mr. Terry, you're absolutely right, this is wrong. And number one, you've been
10 prejudiced by delay associated with knowing if the complaint is properly
11 asserted. And number two, it needs to be refiled in the proper form. He may
12 agree with all that. And so, I feel uncomfortable finding that he did something
13 wrong without him having the opportunity to squarely address that issue.

14 MR. TERRY: My concern is the time element, Your Honor. And I have to
15 make a decision. I always listen to what the Court says.

16 THE COURT: Right.

17 MR. TERRY: As to whether or not to file it in front of him, or take it up.
18 If I take it up –

19 THE COURT: Understood.

20 MR. TERRY: – what the next court's gonna say is: what was the
21 specific ruling of the district court? And that's why if you go –

22 THE COURT: My specific ruling is I'm denying it. I am denying it. I
23 believe I have to deny it under the law that applies to petitions for writs of
24 mandamus or prohibition. What would happen then, I understand is, you would
25 take it before the judge; judge below. He is going to then rule. If you get an

1 adverse decision, then you would have to file a new petition, and that probably
2 won't come in front of me. And that's a probably a good thing for you given
3 that I haven't been persuaded by your argument yet.

4 MR. TERRY: One of 34 chances, Your Honor.

5 THE COURT: I understand. So that's my ruling.

6 MR. TERRY: Very well.

7 THE COURT: But I appreciate your argument. I understand it's
8 somewhat of an open issue. But, again, I don't want to reach the actual merit
9 at this point and time.

10 MR. TERRY: Very well, Your Honor.

11 THE COURT: Thank you, counsel.

12 MR. TERRY: Thank you.

13 MS. ISCAN: Thank you, Judge.

14 THE COURT: All right. Have a good day everybody.

15 MR. TERRY: And you.

16 [Proceeding concluded, 10:26 a.m.]

17 * * * * *

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

20
21 

22 _____
23 ELSA P. AMOROSO
24 Court Recorder/Transcriber
25


CLERK OF THE COURT

1 **ORDR**

2 **JOSH M REID**

3 City Attorney

4 Nevada Bar No. 7497

5 **LAURIE A. ISCAN**

6 Assistant City Attorney

7 Nevada Bar No. 9716

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9 Henderson NV 89009-5050

10 Tel: (702) 267-1370

11 Fax: (702) 267-1371

12 Laurie.Iscan@cityofhenderson.com

13 Attorney for Appellant

14 **CITY OF HENDERSON**

15 **DISTRICT COURT**

16 **CLARK COUNTY, NEVADA**

17 **AMADO, GIANO aka**
18 **BRANDON WELCH,**

19 Appellant,

20 vs.

21 **CITY OF HENDERSON,**

22 Respondent.

CASE NO: C-16-311953-W

DEPT NO: II

Henderson Case: 14CR011381 &
15CR000859

Henderson Dept.: I

Date of Hearing: 2/2/2016

Time of Hearing: 9:00 a.m.

23 **ORDER**

24 This matter having come before the Court on February 2, 2016; Appellant Giano Amando
25 appearing by and through William B. Terry, Esq.; Respondent City of Henderson appearing by and
26 through Laurie A. Iscan, Assistant City Attorney; having considered the papers submitted; and
27 bearing arguments by the parties; the Court noted that an amended complaint is a complaint and an
amended complaint that comes after the original complaint is subsequent in time. The Court added
that if it is same counts against the same defendant, the statute requires it to go before the original
judge to avoid forum shopping. After colloquy by the parties and the Court, the Court stated that it

APR 05 2016

CITY OF HENDERSON
CITY ATTORNEY'S OFFICE - CRIMINAL DIVISION
243 WATER STREET, MSC 711
HENDERSON NV 89015

1 has nothing before it to assess how the municipal court judge would rule on this if and when
2 squarely presented with the issue.

3 THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that
4 Appellant's petition and request for stay is DENIED.

5 DATED this 7th day of April, 2016.

6
7
8 DISTRICT COURT JUDGE
9 DEPARTMENT 2

10 SUBMITTED BY:

11 JOSH M. REID, ESQ.
12 City Attorney

13
14 Laurie A. Iscan
15 JOSH M REID
16 City Attorney
17 Nevada Bar No. 7497
18 LAURIE A. ISCAN
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8 Info@WilliamTerryLaw.com
9 Attorney for Defendant

HENDERSON MUNICIPAL COURT
CLARK COUNTY, STATE OF NEVADA

10 THE CITY OF HENDERSON,

11 Plaintiff,

12 vs.

13 GIANO AMADO,

14 Defendant.

CASE NO. 15CR0859; 14CR11381
DEPT. NO. 1

HEARING DATE: 2/11/14
HEARING TIME: 10 AM

MOTION TO DISMISS AMENDED COMPLAINTS

15 COMES NOW the Defendant, GIANO AMADO, by and through his counsel, WILLIAM
16 B. TERRY, ESQ., of the law offices of WILLIAM B. TERRY, CHARTERED, and moves the
17 Honorable Court dismiss the two above-captioned "amended" complaints.
18

19 This Motion is made and based upon the pleadings and papers on file herein, the attached
20 affidavit of William B. Terry, Esq. in support hereof, and any oral arguments as may be presented
21 at the hearing in this matter.

22 WILLIAM B. TERRY, CHARTERED

23 W.B. Terry
24 WILLIAM B. TERRY, ESQ.
25 Nevada Bar No. 001028
26 WILLIAM B. TERRY, CHARTERED
27 530 South Seventh Street
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Attorney for Defendant

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NOTICE OF MOTION

The above-referenced matter is to be placed on calendar on the 11th day of February, 2016,
at the hour of ~~9:00~~ ¹⁰ a.m. in Department 1.

CLERK OF THE COURT

Deputy

PROCEDURAL HISTORY

The Defendant, GIANO AMADO, is currently a Defendant in that case entitled City of Henderson vs. Giano Amado. As will be shown herein, he has been charged on at least two occasions with the same offense. Attached hereto and incorporated by reference herein as Exhibit "A" is a copy of the Criminal Complaint in case number 14CR011381 filed October 6, 2014, against Mr. Amado alleging domestic violence against one Irene Fleming with an alleged date of offense of August 4, 2014. Further attached as Exhibit "B" is a copy of Criminal Complaint in case number 15CR000859 filed January 15, 2015, against Petitioner Amado again alleging a date of August 4, 2014 with the alleged victim being Dominic Ochoa. Attached hereto and incorporated by referenced herein as Exhibit "C" is a copy of the Amended Criminal Complaint in case number 14CR011381 filed July 30, 2015 again alleging a date of August 4, 2014 against one Irene Fleming. The Court's attention is drawn to the fact that this complaint is characterized as an amended criminal complaint but is identical to Exhibit "A" and bears the same case number, yet this case was filed July 30, 2015. There are two cases numbers being identical to the one of which was filed September 22, 2014, the other of which was filed July 30, 2015, yet the second complaint is denoted as an Amended Criminal Complaint and it alleges the same acts in both complaints on the same date. See Exhibit "C". Further, attached hereto as Exhibit "D" is the complaint in case number 15CR000859 again entitled Amended Criminal Complaint filed July 30, 2015, with the said allegation being August 4, 2014 against Dominic Ochoa. The Amended Complaint is identical to Exhibit "B" but for reasons which will be explained herein, both were filed on a different court date. The Court therefore has four criminal complaints; two of which are designated as amended and filed on July 30, 2015 and two of which with identical case numbers are denoted as original complaints. By way of summary, what

1 will be shown is that the Henderson Municipal Court dismissed the two original complaints because
2 the City was unable to proceed. Attached hereto and incorporated by reference herein as Exhibit "E"
3 are the minutes in case number 14CR011381 and 15CR000859. Again, by way of summary, what
4 it shows is that a warrant was issued on October 6, 2014, and that the Petitioner was arrested October
5 15, 2014. On October 28, 2014, he entered a not guilty plea with a trial date being set for January
6 13, 2015. On January 13, 2015, however, the City Attorney's office requested a continuance to "file
7 additional charges" and for a motion for an order to show cause. On February 24, 2015, again the
8 Defendant was present for purposes of trial and the witness did not appear. The trial was against set
9 for April 29, 2015, but on that date the City filed what is commonly referred to as a *Bustos* motion
10 and the trial was set again for July 29, 2015. The City, however, was not prepared to proceed on that
11 date and the original complaint was dismissed. In reference to case number 15CR000859, basically
12 the same thing occurred; in both cases trials were set for July 29, 2015, but again the City was not
13 prepared to proceed and the cases were both dismissed. On July 30, 2015, the next day, the City
14 filed it's two "Amended Criminal Complaints" with the identical case numbers alleging the identical
15 facts. See Exhibit "C" and "D". On the amended criminal charges, a trial date was set but again the
16 City was not prepared to proceed. A material witness warrant was issued for Irene Fleming and she
17 was ultimately arrested and a trial date at this point had been set for January 11, 2016. The
18 Defendant, however, hired new counsel who filed a Motion to Continue the January 11th trial date
19 and the trial is currently set for February 29, 2016.

20 ARGUMENT

21 I. THE HENDERSON MUNICIPAL COURT COMMITTED ERROR IN ALLOWING THE
22 CITY TO PROCEED ON A "AMENDED" CRIMINAL COMPLAINT WHEN THE
ORIGINAL COMPLAINTS HAD BEEN DISMISSED.

23 It has already been demonstrated that because the City was unable to proceed the Court
24 ordered the original criminal complaints dismissed. At no time did the City file a motion to file an
25 amended criminal complaint. The Court is asked how can one file an amended criminal complaint
26 when the underlying criminal complaint has been dismissed. It is further interesting to note that the
27 "amended" criminal complaints were filed some four days before the one year prohibition would
28 have run on the underlying second complaints. The City Attorney did not file a new complaint.

1 They in fact filed an amended criminal complaint in reference to both of the alleged victims and
2 these amended complaints were filed on the same date alleging the same acts as set forth within the
3 original complaints. The City may argue that this is a technical error on their part and that the Court
4 should simply consider the amended criminal complaints as new complaints. This, however, should
5 not occur particularly in light of the fact that the same case numbers were utilized.

6 NRS 174.085 does not authorize an "Amended Complaint" to be filed after dismissal of the
7 original complaint. There is no doubt that the City Attorney's office used the same case number on
8 both the complaint that was dismissed and the amended complaint. It alleged the same facts as was
9 in the original complaint. There is, however, a distinction between a complaint and an amended
10 complaint. An amended complaint is typically one that is done prior to trial or even during a trial
11 to change certain language which may or may not be permitted by the court. When a complaint is
12 dismissed, however, it is a final act by that court. The court has no further jurisdiction over the
13 matter and the City has nothing pending before the court in reference to that individual defendant.
14 What the City did in the instant case, however, was to file a "amended complaint" when nothing was
15 pending. NRS 174.085 deals specifically with new complaints. Subsection 5 reads as follows:

16 The prosecuting attorney in a case that the prosecuting attorney has
17 initiated may voluntarily dismiss a complaint...

18 The Court in the instant case is asked to note that the terminology used under subsection 5
19 involves the dismissal of a complaint which is exactly what was done in the Henderson Municipal
20 Court level. Subsection (b) reads as follows:

21 Before trial if the crime with which the defendant is charged is a
22 misdemeanor, without prejudice to the right to file another complaint
23 unless the State of Nevada has previously filed a complaint against
24 the defendant which was dismissed at the request of the prosecuting
attorney. After the dismissal the court shall order the defendant
released from custody or if the defendant is released on bail exonerate
the obligors and release any bail.

25 Taking the language from this section the City Attorney would have only been authorized
26 to file a second complaint. Once the Court dismissed the original complaint the Court had to order
27 the defendant released from custody or as the statute says "...if the defendant is released on bail
28 exonerate the obligors and release any bail." This would have been a further action taken by the

1 Henderson Municipal Court Judge in compliance with the request to dismiss by the City.

2 Subsection 6 of NRS 174.085 reads as follows:

3 If a prosecuting attorney files a subsequent complaint after a
4 complaint concerning the same matter has been filed and dismissed
against the defendant

5 (a) the case must be assigned to the same judge to whom the initial
complaint was assigned...

6 Taking this provision into consideration it appears that the City was justified in filing a new
7 complaint and having it assigned to the same judge who had previously dismissed the original
8 complaint. Again the emphasis is added to the underlying words because it deals with the
9 terminology "complaint" not amended complaint.

10 Based upon the above, the City was not justified nor permitted under statute in filing an
11 amended complaint. The City in their responsive pleadings uses the term "refile". They do this in
12 an effort to disguise the fact that they erroneously filed a "amended complaint". The City cites no
13 cases dealing with amended complaints.

14 There are very few cases reported in Nevada that deal with this statute. One, however, is
15 *Washoe v. Marcus*, 116 Nev. 188, 995 P.2d 1016 (2000). There the defendant had been charged with
16 a misdemeanor DUI and filed a pretrial petition for writ of habeas corpus after the State filed a new
17 complaint. This Court is asked to note that the Supreme Court in *Marcus* at least impliedly
18 recognized that a petition for writ of habeas corpus or as has been filed in this case mandamus or
19 prohibition is a proper vehicle to raise the instant issue. The court went on in *Marcus* to utilize the
20 terms original complaint and a second complaint. It did not sanction the utilization of the term
21 amended complaint. In *Marcus* the court also discussed situations where the prosecuting attorney
22 makes a motion to continue and whether or not the district court can rule on the adequacy of that
23 motion to continue. They reviewed the cases dealing with motions to continue including *Bustos v.*
24 *Sheriff*, 87 Nev. 622, 491 P.2d 1279 (1971) which allowed "...in certain emergency situations the
25 prosecution could make an oral motion for continuance supported by an oral affidavit or could
26 supplement deficiencies in supporting affidavits with oral testimony..." This Court is asked to note
27 that the City had made a *Bustos* motion which the Petitioner contends was not well founded.
28 Independent of that, however, back to the holding *Marcus* ultimately in *Marcus* found that


1 independent of whether or not the prosecuting entity had shown good cause, the State was authorized
2 to file a new complaint, again the terminology was new complaint and not amended complaint.

3 **CONCLUSION**

4 For the above-indicated reasons, it is respectfully requested that the two "amended"
5 complaints be dismissed.

6 DATED this 4th day of February, 2016.

7 WILLIAM B. TERRY, CHARTERED

8
9 
10 WILLIAM B. TERRY, ESQ.
11 Nevada Bar No. 001028
12 WILLIAM B. TERRY, CHARTERED
13 530 South Seventh Street
14 Las Vegas, Nevada 89101
15 (702) 385-0799
16 Attorney for Petitioner
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RECEIPT OF COPY

RECEIPT OF COPY of the forgoing **MOTION TO DISMISS AMENDED COMPLAINTS** is hereby acknowledged this 4 day of February, 2016.

HENDERSON CITY ATTORNEY



Exhibit “A”

MUNICIPAL COURT OF THE CITY OF HENDERSON
IN THE COUNTY OF CLARK, STATE OF NEVADA

FILED

2014 OCT -6 P 12:38

CITY OF HENDERSON, NEVADA,

Plaintiff,

vs.

GIANO AMADO,

Defendant.

MUNICIPAL COURT
CITY OF HENDERSON

CRIMINAL COMPLAINT _____ CLERK

CASE NO.: 14CR011381

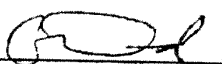
Josh M. Reid, City Attorney

The defendant has committed the crime of **BATTERY** which constitutes **DOMESTIC VIOLENCE** as defined by NRS 33.018 (Henderson City Charter, Section 2.140, and NRS 200.481, 200.485) within the City of Henderson, in the County of Clark, State of Nevada, a misdemeanor, in the manner following, to wit:

That the said defendant, on or about August 4, 2014, did willfully and unlawfully use force or violence against the person of another, to-wit: Did push Irene Fleming to the ground, who is a person to whom he is related by blood or marriage, all of which occurred at 67 Wyoming Avenue,

all of which is contrary to the form, force and effect of statutes in such cases made and provided and against the peace and dignity of the City of Henderson, State of Nevada.

Said Complainant makes this declaration on information and belief subject to the penalty of perjury.


George W. Ward, Complainant
Assistant City Attorney

Dated: September 22, 2014
DAMION#: 14-08-086164
PCN#:

Exhibit “B”

 COPY

MUNICIPAL COURT OF THE CITY OF HENDERSON **FILED**

IN THE COUNTY OF CLARK, STATE OF NEVADA

2015 JAN 15 P 4:32

MUNICIPAL COURT
CITY OF HENDERSON

CITY OF HENDERSON, NEVADA,

Plaintiff,

vs.

GIANO AMADO,

Defendant.

CRIMINAL COMPLAINT

CASE NO.: 14CR

15CR859

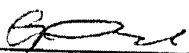
Josh M. Reid, City Attorney

The defendant has committed the crime of **BATTERY** which constitutes **DOMESTIC VIOLENCE** as defined by NRS 33.018 (Henderson City Charter, Section 2.140, and NRS 200.481, 200.485) within the City of Henderson, in the County of Clark, State of Nevada, a misdemeanor, in the manner following, to wit:

That the said defendant, on or about August 4, 2014, did willfully and unlawfully use force or violence against the person of another, to-wit: Did grab, and/or punch, and/or throw to the ground, Dominic Ochoa, who is a person to whom he is related by blood or marriage, all of which occurred in the area of 67 Wyoming Avenue,

all of which is contrary to the form, force and effect of statutes in such cases made and provided and against the peace and dignity of the City of Henderson, State of Nevada.

Said Complainant makes this declaration on information and belief subject to the penalty of perjury.


George W. Ward, Complainant
Assistant City Attorney

Dated: January 13, 2015
DAMION#: 14-08-086164
PCN#:

Exhibit “C”

COPY

FILED
MUNICIPAL COURT OF THE CITY OF HENDERSON
 2015 JUL 30 AM 11:40
IN THE COUNTY OF CLARK, STATE OF NEVADA
 MUNICIPAL COURT
 CITY OF HENDERSON
San Clerk

CITY OF HENDERSON, NEVADA,

Plaintiff,

vs.

BRANDON GENE WELCH,
 AKA: BRANDON LEE WELCH
 AKA: BRENNON WELCH
 AKA: GIANO AMADO

Defendant.

AMENDED
CRIMINAL COMPLAINT

CASE NO.: 14CR11381

Josh M. Reid, City Attorney

The defendant has committed the crime of **BATTERY** which constitutes **DOMESTIC VIOLENCE** as defined by NRS 33.018 (Henderson City Charter, Section 2.140, and NRS 200.481, 200.485) within the City of Henderson, in the County of Clark, State of Nevada, a misdemeanor, in the manner following, to wit:

That the said defendant, on or about August 4, 2014, did willfully and unlawfully use force or violence against the person of another, to-wit: Did push Irene Fleming to the ground, who is a person to whom he is related by blood or marriage, all of which occurred at 67 Wyoming Avenue,

all of which is contrary to the form, force and effect of statutes in such cases made and provided and against the peace and dignity of the City of Henderson, State of Nevada.

Said Complainant makes this declaration on information and belief subject to the penalty of perjury.

Elaine F. Mather
 Elaine F. Mather, Complainant
 Assistant City Attorney

Dated: July 30, 2015
 DAMION#: 14-08-088164
 PCN#:

Exhibit “D”

COPY

MUNICIPAL COURT OF THE CITY OF HENDERSON
IN THE COUNTY OF CLARK, STATE OF NEVADA

2015 JUL 30 PM 1 32

CITY OF HENDERSON, NEVADA,

Plaintiff,

vs.

BRANDON GENE WELCH,
 AKA: BRANDON LEE WELCH
 AKA: BRENNON WELCH
 AKA: GIANO AMADO

Defendant.

MUNICIPAL COURT
 CITY OF HENDERSON

~~1~~ **AMENDED** CLERK
CRIMINAL COMPLAINT

CASE NO.: 15CR859

Josh M. Reid, City Attorney

The defendant has committed the crime of **BATTERY** which constitutes **DOMESTIC VIOLENCE** as defined by NRS 33.018 (Henderson City Charter, Section 2.140, and NRS 200.481, 200.485) within the City of Henderson, in the County of Clark, State of Nevada, a misdemeanor, in the manner following, to wit:

That the said defendant, on or about August 4, 2014, did willfully and unlawfully use force or violence against the person of another, to-wit: Did grab, and/or punch, and/or throw to the ground, Dominic Ochoa, who is a person to whom he is related by blood or marriage, all of which occurred in the area of 67 Wyoming Avenue,

all of which is contrary to the form, force and effect of statutes in such cases made and provided and against the peace and dignity of the City of Henderson, State of Nevada.

Said Complainant makes this declaration on information and belief subject to the penalty of perjury.

Elaine F. Mather
 Elaine F. Mather, Complainant
 Assistant City Attorney

Dated: July 30, 2015
 DAMION#: 14-08-086164
 PCN#:

COPY

JOSH M. REID, ESQ.
City Attorney
LAURIE A. ISCAN, ESQ.
Assistant City Attorney
Nevada State Bar No. 9716
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P.O. Box 95050, MSC 711
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Facsimile: (702) 267-1371
Attorney for Plaintiff
City of Henderson, Nevada

**MUNICIPAL COURT OF THE CITY OF HENDERSON
IN THE COUNTY OF CLARK, STATE OF NEVADA**

CITY OF HENDERSON, NEVADA	)	CASE NO. 14CR011381
	)	15CR000859
Plaintiff,)	
vs.)	
)	
GIANO AMADO aka	)	HEARING DATE: Feb. 11, 2016
BRANDON WELCH	)	HEARING TIME: 10:00 a.m.
	)	DEPARTMENT 1
Defendant.)	

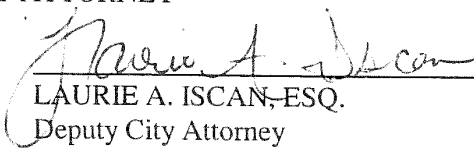
**CITY OF HENDERSON'S OPPOSITION TO
MOTION TO DISMISS AMENDED COMPLAINTS**

COMES NOW, the CITY OF HENDERSON ("the City"), by and through its attorney, Laurie A. Iscan, Assistant City Attorney, and hereby submits its Opposition to Motion to Dismiss. This Opposition is based upon the pleadings, papers, and records on file in this case and any evidence or argument presented to this Honorable Court.

DATED this 8th day of February, 2016.

JOSH M. REID, ESQ.
CITY ATTORNEY

By:


LAURIE A. ISCAN, ESQ.
Deputy City Attorney
Nevada State Bar No. 9716
243 Water Street
P.O. Box 95050, MSC 711
Henderson, NV 89009-5050
Attorney for Respondent

1 POINTS AND AUTHORITIES

2
3 I. STATEMENT OF FACTS AND PROCEDURAL HISTORY

4 Henderson Municipal Court procedure for refiling a case after a prosecutor voluntarily
5 dismisses a criminal misdemeanor case.

6 In Henderson, the procedure that is used by the Henderson Municipal Court when a
7 case is refiled is: 1) the City Attorney files a Notice of Case Status with the Court advising the
8 Court the City is refiling a case after voluntary dismissal without prejudice, 2) the City then
9 refiles the criminal complaint in the same case number as an "amended" complaint to denote
10 that a case has been refiled, 3) the City submits a request for summons to bring the defendant
11 back before the court, 4) a new arraignment hearing is conducted and the defendant is notified
12 that the case has been refiled, and 5) the defendant is then arraigned on the "amended"
13 complaint and a new trial date is set.
14

15 Procedural and factual history of the instant case.

16 On August 4, 2014, Giano Amado aka Brandon Welch, hereinafter "Defendant," battered
17 his aunt, Irene Fleming, and his 13 year old nephew, Domenic Ochoa. Irene Fleming called 911.
18 After she called for help, Defendant fled the scene. Henderson Police Department ("HPD")
19 responded to the call for help. They investigated the case and submitted a request for charges to
20 be filed against Defendant for domestic battery against Irene Fleming and Child Abuse against
21 Domenic Ochoa. Additionally, a request for an arrest warrant was submitted. On October 6,
22 2014, an arrest warrant was issued, and was served by arrest on October 15, 2014. Defendant
23 posted bond and was released from custody that same day. Defendant was arraigned on the
24 domestic battery charge regarding his aunt on November 3, 2014 under case number
25 14CR011381. He pleaded not guilty to the charge and the matter was set for trial on January 13,
26 2015.
27
28

1 At the first trial setting on January 13, 2015, victim Irene Fleming did not appear for trial.
2 City requested a continuance and an order to show cause on Irene Fleming. Additionally, City
3 advised that they would be filing a second charge of domestic battery against Defendant for his
4 battery of the minor child Domenic Ochoa and asked that arraignment on the new case be set at
5 the same time as the show cause hearing.

6 On February 24, 2015, Defendant was arraigned on the second domestic battery charge
7 filed under case number 15CR000859. Defendant pleaded not guilty. A copy of the complete
8 dockets for case number 14CR011381 and 15CR000859 have been attached for the Court's
9 convenience as Exhibits "1" and "2" respectively.
10

11 On February 24, 2015, victim Irene Fleming was present for the show cause hearing and
12 promised to appear at the next trial setting. She also promised to have her son, Domenic Ochoa,
13 present for the next trial setting.
14

15 Despite proper service and promising to appear at the show cause hearings, the victims of
16 both cases failed to appear at the next two trial settings. On July 29, 2015, City voluntarily
17 dismissed both cases without prejudice pursuant to N.R.S. § 174.085(5).

18 On July 30, 2015, City filed notice of refileing both domestic battery cases after dismissal.
19 City also filed amended complaints including Defendant's known alias, and a request for
20 summons. A summons was then properly executed and served upon Defendant notifying him the
21 cases were refiled on September 15, 2015. Arraignment was held on September 17, 2015 where
22 Defendant again pleaded not guilty to both charges. Trial was set for December 7, 2015.
23

24 On December 7, 2015, Irene Fleming and her son Domenic Ochoa failed to appear for
25 trial again. City requested a continuance pursuant to Bustos over defense objection. City also
26 requested a material witness warrant for Irene Fleming for her failure to appear. The Court
27 granted City's requests. Trial was continued to Monday, January 11, 2016.
28

1 On December 30, 2015, Irene Fleming was arrested on the material witness warrant. She
2 was arraigned on the warrant on December 31, 2015. At her attorney's request, the arraignment
3 was continued to Monday, January 4, 2016. On Monday, January 4, 2016, Irene Fleming's
4 attorney again asked to continue the arraignment to Wednesday, January 6, 2016 as he heard that
5 Defendant was attempting to hire a new attorney and the victim's attorney wanted Defendant's
6 attorney to be present to handle any issues that might arise – namely if Defendant were to request
7 a trial continuance, victim did not want to continue to sit in custody on a material witness
8 warrant. Victim's material witness warrant arraignment was continued to Wednesday, January 6,
9 2016.
10

11 On January 5, 2016, City filed Notice of Motion and Motion for Taking Deposition of
12 City's Witness Irene Fleming. The Motion was scheduled to be heard on Wednesday, January 6,
13 2016.
14

15 On January 6, 2016, Defendant and his counsel were not present for the City's Motion or
16 for Victim's arraignment. The hearing was continued to Thursday, January 7, 2016. New
17 counsel did appear for Defendant on January 7, 2016. Defendant did in deed request a trial
18 continuance. All motions were then set to be heard at the same time as trial on January 11, 2016.
19

20 On January 11, 2016, Henderson Municipal Court denied City's request for a deposition,
21 granted Defendant's request for a trial continuance, and released the victim with an
22 admonishment and order to return for **trial which is currently set for February 29, 2016**

23 On January 13, 2016, Defendant filed a petition for writ of mandamus or prohibition
24 which was denied by the District Court because the issues had never been presented to the
25 Municipal Court. Defendant then filed the instant Motion to Dismiss.
26

27 ///

28 ///

II. ARGUMENT

Defendant has argued in his Motion that it was an error by the Henderson Municipal Court to permit City to proceed on the refiled complaints because the second complaints are filed under the original case number and called “amended” complaints instead of “new” complaints with a new case number. There was no error by the Henderson Municipal Court. The Municipal Court has the power and authority create its own procedures to manage its docket and records. The city refiled the complaints pursuant to the process created by the Court. There is no law that requires a refiled case to be procedurally managed the way Defendant claims, and Defendant does not argue or claim any prejudice from the way the Henderson Municipal Court processes cases refiled after voluntary dismissal. For these reasons, Defendant’s motion to dismiss should be denied.

A. **DEFENDANT HAS MISSTATED THE PROCEDURAL POSTURE OF THE UNDERLYING CASE.**

As a preliminary matter, City feels it is important to note that Defendant erroneously argues that the Municipal Court dismissed City’s original complaints. Defendant’s Motion, p. 3, lines 1-2. The Henderson Municipal Court did NOT dismiss City’s original complaints. On July 29, 2015, City voluntarily dismissed those complaints without prejudice pursuant to N.R.S. § 174.085(5). See Docket, p. 3, line 26.

B. **CITY HAS AN UNAMBIGUOUS RIGHT TO DISMISS ITS CASE WITHOUT PREJUDICE, THEN TO REFILE.**

In a misdemeanor case, the prosecuting attorney may voluntarily dismiss and refile that case. N.R.S. § 174.085(5) provides:

5. The prosecuting attorney, in a case that the prosecuting attorney has initiated, may voluntarily dismiss a complaint:

(a) Before a preliminary hearing if the crime with which the defendant is charged is a felony or gross misdemeanor; or

1 (b) Before trial if the crime with which the defendant is charged is
2 a misdemeanor,

3 ⇒ without prejudice to the right to file another complaint,
4 unless the State of Nevada has previously filed a complaint against
5 the defendant which was dismissed at the request of the
6 prosecuting attorney. After the dismissal, the court shall order the
7 defendant released from custody or, if the defendant is released on
8 bail, exonerate the obligors and release any bail.

9 (emphasis added.)

10 City was not obligated to file a motion asking to proceed on the refiled case.

11 **C. THE CRIMINAL COMPLAINTS AGAINST THE DEFENDANT**
12 **WERE PROPERLY REFILED.**

13 Defendant argues that it was error on the Municipal Court to permit City to proceed on
14 “amended” criminal complaint instead of “new” complaints. Motion, p. 6, lines 1-2. Contrary
15 to Defendant’s assertion, the Henderson Municipal Court has the authority to determine its case
16 management procedures, there is now law that supports Defendant’s assertions, and Defendant
17 has not argued and cannot point to any prejudice from the Henderson Municipal Court’s case
18 management practice.

19 **1. The Henderson Municipal Court has the authority to**
20 **determine what procedures it uses to manage its cases.**

21 The municipal courts are given the authority to determine what form their dockets
22 and records take. N.R.S. § 5.075 provides:

23 **NRS 5.075 Form of docket and records. The Court**
24 **Administrator shall prescribe the form of the docket and of**
25 **any other appropriate records** to be kept by the municipal court,
26 **which form may vary from court to court** according to the
27 number and kind of cases customarily heard and whether the court
28 is designated as a court of record pursuant to N.R.S. § 5.010.

Further, the Nevada Supreme Court has long recognized that the judiciary has the
inherent authority to administrate its own procedures and to manage its own affairs; it
may make rules and carry out other incidental powers when reasonable and necessary for

1 the administration of justice. Halverson v. Hardcastle, 123 Nev. 245 (2007). Court
2 administration rules and the centralized power to implement them are reasonable, proper,
3 and necessary to the accomplishment of judicial functions. Id.

4 As noted above, the procedure that is used by the Henderson Municipal Court when a
5 case is refiled is: 1) the City Attorney files a Notice of Case Status with the Court advising the
6 Court the City is refiling a case after voluntary dismissal without prejudice, 2) the City then
7 refiles the criminal complaint in the same case number as an “amended” complaint to denote
8 that a case has been refiled, 3) the City submits a request for summons to bring the defendant
9 back before the court, 4) a new arraignment hearing is conducted and the defendant is notified
10 that the case has been refiled, and 5) the defendant is then arraigned on the “amended”
11 complaint and a new trial date is set.
12

13 The City Attorney’s office spoke with court administrator Bill Zihlman about this
14 process. He indicated that court administration uses this system because it allows court
15 administration to maintain track of cases that are refiled, and permits court administration
16 to ensure that a case is reset before the same judge as is required by N.R.S. § 174.085(5).
17 The Henderson Municipal Court is clearly using this system to manage its docket and
18 records.
19

20
21 **2. The law Defendant cited does not support his assertion that a
new case number must be generated when a case is refiled.**

22 Defendant has argued that it was error by the Municipal Court to permit City to
23 proceed on “amended” complaints in this case. Defendant claims that N.R.S. § 174.085
24 and Sheriff, Washoe County v. Marcus, 116 Nev. 188, 995 P.2d 1016 (2000) to support
25 his assertions. Defendant’s reliance on this statute and case are misplaced.
26

27 ///

28 ///

1 a. N.R.S. § 174.085 does not require a “new” case
2 number to be generated in order to proceed when
3 refiling a case after voluntary dismissal.

4 Defendant has argued that N.R.S. § 174.085(5) and (6) require City to file “new”
5 complaints with new case numbers in order to proceed on a refiled case after voluntary
6 dismissal. That is not what this statute says. N.R.S. § 174.085(5) states:

7 The prosecuting attorney, in a case that the prosecuting attorney
8 has initiated, may voluntarily dismiss a complaint:

9 ***

10 (b) Before trial if the crime with which the defendant is charged is
11 a misdemeanor, without prejudice to the right to file another
12 complaint, unless the State of Nevada has previously filed a
13 complaint against the defendant which was dismissed at the request
14 of the prosecuting attorney. After the dismissal, the court shall
15 order the defendant released from custody or, if the defendant is
16 released on bail, exonerate the obligors and release any bail.

17 N.R.S. § 174.085(6) provides:

18 If a prosecuting attorney files a subsequent complaint after a
19 complaint concerning the same matter has been filed and dismissed
20 against the defendant:

21 (a) The case must be assigned to the same judge to whom the
22 initial complaint was assigned; and

23 (b) A court shall not issue a warrant for the arrest of a defendant
24 who was released from custody pursuant to subsection 5 or require
25 a defendant whose bail has been exonerated pursuant to subsection
26 5 to give bail unless the defendant does not appear in court in
27 response to a properly issued summons in connection with the
28 complaint.

(emphasis added.)

29 NRS 174.085 refers to “another” complaint and a “subsequent” complaint.
30 Neither section says that there must be a “new” complaint, and neither section
31 dictates what form “another” or “subsequent” complaint must take when refiled
32 after voluntary dismissal.

b. Sheriff, Washoe County v. Marcus does not require a “new” case number to be generated when refiling a case after voluntary dismissal.

Defendant has argued that there is limited case law on the issue of what form a refiled complaint must take. Defendant argues that Sheriff, Washoe County v. Marcus, 995 P.2d 1016, 1017, 116 Nev. 188, 191 (Nev.,2000) is one such case, and that this case held that “independent of whether or not the prosecuting entity had shown good cause, the State was authorized to file a new complaint, again the terminology was new complaint and not amended complaint.” Defendant’s Motion, p. 6, lines 1-2.

We disagree. Sheriff, Washoe County v. Marcus did not address what a refiled complaint needed to be called at all. This case only stood for the proposition that a prosecutor has the right to dismiss and refile a misdemeanor criminal case without prejudice one time without having to show good cause. In fact, the Washoe v. Marcus court talked about the cases in vague terms, referring to the “original proceeding” and “subsequent complaint”. Id. at 1019, 193.

The statute and case that Defendant point to do not require a “new” case number to be generated when a case is refiled after voluntary dismissal by the prosecutor.

c. Defendant is merely arguing semantics and cites no prejudice.

It is clear that the City has the statutory right to voluntarily dismiss and refile a misdemeanor criminal case. Calling a refiled complaint an “amended” complaint and filing it under the same case number is simply the process used by the Henderson Municipal Court to administer its large and ever growing docket. Other than arguing semantics, Defendant has not argued or shown that there has been any prejudice to any of his constitutional rights by this case management process.

In this case, the refiled “amended” complaints met all of the notice requirements of N.R.S. § 173.075. Defendant was properly summonsed and arraigned on the refiled complaints

1 on September 17, 2015. There was no error by the Henderson Municipal Court when it
2 permitted City to proceed on the "amended" criminal complaints.

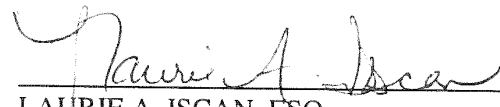
3 CONCLUSION

4 Defendant has asked the Court to dismiss the current criminal cases pending against
5 Defendant because the refiled complaints are called "amended" complaints and filed under the
6 same case number instead of a new case number being generated. Defendant cites no law that
7 requires this procedure. Further, Defendant cites no prejudice from this procedure. The
8 charging documents filed against Defendant are proper and Defendant was summonsed and
9 arraigned appropriately. He is clearly on notice of the criminal acts he is charged with
10 committing. There is no error in the method currently used by court administration in Henderson
11 Municipal Court. We ask the Court to deny Defendant's Motion to Dismiss.
12

13 DATED this 9th day of February, 2016
14

15 JOSH M. REID, ESQ.
16 CITY ATTORNEY

17 By:



18 LAURIE A. ISCAN, ESQ.
19 Deputy City Attorney
20 Nevada State Bar No. 9716
21 243 Water Street
22 P.O Box 95050, MSC 711
23 Henderson, NV 89009-5050
24 Attorney for Respondent
25
26
27
28

1 JOSH M. REID, ESQ.
City Attorney
2 LAURIE A. ISCAN, ESQ.
Assistant City Attorney
3 Nevada State Bar No. 9716
243 Water Street
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5 Phone: (702) 267-1379
6 Facsimile: (702) 267-1371
Attorney for Plaintiff
7 **City of Henderson, Nevada**

8 **MUNICIPAL COURT OF THE CITY OF HENDERSON**
9 **IN THE COUNTY OF CLARK, STATE OF NEVADA**

10 **CITY OF HENDERSON, NEVADA**) CASE NO. 14CR011381
11) 15CR000859
12 Plaintiff,)
13 vs.)
14 **GIANO AMADO aka**) HEARING DATE: Feb. 11, 2016
BRANDON WELCH) HEARING TIME: 10:00 a.m.
15 Defendant.) DEPARTMENT 1

16 **CERTIFICATE OF SERVICE**

17 I hereby certify that service of the CITY OF HENDERSON'S OPPOSITION TO
18 DEFENDANT'S MOTION TO DISMISS was made this 9th day of February, 2016, via united
19 states mail, facsimile and electronic mail transmission to:
20

21 William B. Terry
22 530 South Seventh Street
23 Las Vegas, Nevada 89101
24 Fax: (702) 385-9788
info@WilliamTerryLaw.com
Attorney for Defendant Giano Amada aka Brandon Welch.

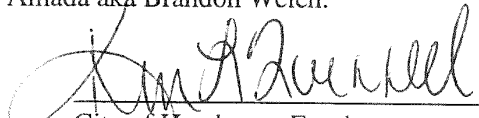
25 
26 City of Henderson Employee
27
28

EXHIBIT “1”

File: 11/04/2014 14:04:00 Page: 1 of 1
MUR5125

Judge: STEVENS, MARK J
Case No. 14CR011941
Ticket No.
CTN:

CITY OF HENDERSON VS

AMADO, GIANO DEFEND
PO BOX 77856
HENDERSON, NV 89077
DOB: 08/11/1980 Sex: M
Lic: Sid: 7000051745
By: TERRY, WILLIAM B
510 S SEVENTH ST
LAS VEGAS, NV 89101

Plate#:
Make:
Year:
Type:
Venue:
Location: H

Bond:
Type:
Set:
Posted:

Charges:

Ct.1 NRS 200.485.1DOMESTIC BATTERY, 1ST DISMISSED WITHOUT
PREJUDICE (BEFORE TRIAL)
Offense Dt: 08/04/2014 Cvr:
Arrest Dt:
Comments:

Sentencing:
Ct.1 Sentence Suspended Credit
Jail (Days)
Fines
Costs
Restitution
Probation(Mo) Expires:
Comm Svc (Hr)
REMARKS:

No.	Filed	Action	Operator	Fine/Cost	Due
1	10/06/14	WARRANT OF ARREST ISSUED WARRANT #14M05978 BAIL: \$3140	AJK3	0.00	0.00
2	10/06/14	ACTIVE WARRANT NOTICE MAILED ACTIVE WARRANT LETTER Sent on: 10/06/2014 11:47:02.23	AJK3	0.00	0.00
3	10/15/14	RETURNED MAIL Charge #1: DOMESTIC BATTERY, 1ST	JDB1		0.00
4	10/15/14	WARRANT SERVED BY ARREST RE 14M05978 WARRANT OF ARREST served on: 10/10/2014 For: AMADO, GIANO	DCT2		0.00
5	10/15/14	Time spent in custody: 14.30 HOURS Arrest Date/Time: 10/10/14 1924 Release Date/Time: 10/11/14 0953	DCT2		0.00
6	10/15/14	SURETY BOND POSTED BY: BAD GIRL BAIL BONDS BOND AMOUNT: \$ 1140 BOND NUMBER: FCS10-1398702 VIA: JAIL BAILS BOND FILING FEE PAID Charge #1: DOMESTIC BATTERY, 1ST Receipt: 589232 Date: 10/15/2014	DCT2	50.00	0.00
7	10/15/14	COURT DATE SET: Event: CRIMINAL ARRAIGNMENT Date: 11/03/2014 Time: 3:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: NOT GUILTY PLEA / TRIAL SET	DCT2		0.00

File: 01/26/2015 15:31:00
MURS995

Case: 01/26/2015

Page: 1

No.	Filed	Action	Operator	Fine/Cost	Due
8	10/28/14	NOT GUILTY PLEA ENTERED VIA FAX ARRAIGNMENT TRIAL SET IN DEER COURSE Attorney: SMEDLEY, JAMES J (66568) Charge #1: DOMESTIC BATTERY, 1ST	CRG	0.00	0.00
9	11/03/14	COURT DATE SET: Event: TRIAL Date: 01/13/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: CONTINUED	CRG	0.00	0.00
10	01/13/15	CONTINUED FOR STATUS & CAO'S REQUEST - 02/24/15 10AM D1 CAO TO FILE ADDITIONAL CHARGES & MOTION FOR ORDER TO SHOW CAUSE ON VICTIM TRIAL DATE NOT SET BOND: STANDS	KM	0.00	0.00
11	01/13/15	COUNTER: 10.39.50	KM	0.00	0.00
12	01/13/15	COURT DATE SET: Event: TRIAL Date: 02/24/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00
13	01/13/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: KJ - CLERK: Present RJR - CLERK: Present WARD, GEORGE - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present SMEDLEY, JAMES J - Attorney for DEFENDANT: Present	KM	0.00	0.00
14	02/24/15	CONDITIONS OF RELEASE: *STAND AS OF 4/29/15* NCWV: - IRENE FLEMING - DOMINIC OCHCA	KM	0.00	0.00
15	02/24/15	COUNTER: 10.44.50/10.50.00	KM	0.00	0.00
16	02/24/15	DEFENDANT MAINTAINED NOT GUILTY PLEA/ TRIAL RE-SET TO 04/24/15 WITNESSES ORDERED BACK & RCD APPEARANCE REQUIRED BOND: STANDS Charge #1: DOMESTIC BATTERY, 1ST	KM	0.00	0.00
17	02/24/15	COURT DATE SET: Event: TRIAL Date: 04/29/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00

Date: 01/26/2015 Location: Court Room 1000
 MICR5925

No.	Filed	Action	Operator	Fine/Cost	Fee
18	02/24/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: CRG - CLERK: Present KJ - CLERK: Present WARD, GEORGE - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present SMEDLEY, JAMES J - Attorney for DEFENDANT: Present	KM	0.00	0.00
19	04/29/15	BUSTOS MOTION BY CAO - GRANTED TRIAL SET IN 90 DAYS - 07/29/15 10AM D1 BOND: STANDS SHOW CAUSE ON VICTIM ALSO GRANTED IN 4 WKS - 05/27/15 10AM D1	KM	0.00	0.00
20	04/29/15	COUNTER: 10.02.00/11.26.40	KM	0.00	0.00
21	04/29/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: CRG - CLERK: Present KJ - CLERK: Present MATHER, ELAINE - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present SMEDLEY, JAMES J - Attorney for DEFENDANT: Present	KM	0.00	0.00
22	04/29/15	COURT DATE SET: Event: TRIAL Date: 07/29/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: DISMISSED	KM	0.00	0.00
23	07/29/15	CONDITIONS OF RELEASE DISSOLVED	KM	0.00	0.00
24	07/29/15	"Notice Relating to Sealing Records" provided to defense in open court.	KM	0.00	0.00
25	07/29/15	COUNTER: 10.00.30/10.51.40	KM	0.00	0.00
26	07/29/15	GRAL MOTION BY CAO TO DISMISS WITHOUT PREJUDICE - GRANTED REASON: VICTIM NOT PRESENT Charge #1: DOMESTIC BATTERY, 1ST	KM	0.00	0.00
27	07/29/15	SURETY BOND EXONERATED Charge #1: DOMESTIC BATTERY, 1ST	KM	0.00	0.00

Date: 11/26/2015 15:48:04
MIJR5935

Event Speed

Page: 1

No.	Filed	Action	Operator	Fine/Inst	Due
28	07/29/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: KJ - CLERK: Present MATHER, ELAINE - DEPUTY CITY ATTORNEY: Present SES - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present IARUSSI, JOSEPH BRIAN - Attorney for DEFENDANT: Present	KM	0.00	0.00
29	07/29/15	CASE CLOSED	KM	0.00	0.00
30	07/30/15	NOTICE OF CASE STATUS RECEIVED FROM HENDERSON CITY ATTORNEY'S OFFICE-CRIMINAL DIVISION: - REOPEN CASE AFTER DISMISSAL WITHOUT PREJUDICE - AMENDED COMPLAINTS FILED (WITH AKA OF BRANDON WELCH, COURT WILL CONTINUE TO KEEP CASE OPEN UNDER GIANO AMADO) - REQUEST FOR SUMMONS	AMM2	0.00	0.00
31	08/18/15	Court Note: Restricted	MMB	0.00	0.00
32	08/19/15	COURT DATE SET: Event: CRIMINAL ARRAIGNMENT Date: 09/17/2015 Time: 9:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: NOT GUILTY PLEA / TRIAL SET	AVS	0.00	0.00
33	09/15/15	SUMMONS SERVED UPON DEFENDANT Charge #1: DOMESTIC BATTERY, 1ST	AVS	0.00	0.00
34	09/17/15	ATTORNEY KAJIOKA CONFIRMED. CONTINUED FOR TRIAL.	AVS	0.00	0.00
35	09/17/15	COUNTER: 0.38.10	AVS	0.00	0.00
36	09/17/15	NOT GUILTY PLEA ENTERED. TRIAL SET - SPEEDY TRIAL WAIVED O/R: STANDS APPEARANCE REQUIRED Charge #1: DOMESTIC BATTERY, 1ST	AVS	0.00	0.00
37	09/17/15	COURT DATE SET: Event: TRIAL Date: 12/07/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	AVS	0.00	0.00

Filter: 12/20/2016 10:00:00 AM
MUR5533

Market Court

Page 1

No.	Filed	Action	Operator	Fine/Cost	Due
38	12/17/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: AVS - CLERK: Present PJ - CLERK: Present MATHER, ELAINE - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: TARUSST, JOSEPH BRIAN - Event Attorney for DEFENDANT: Not Present SMEDLEY, JAMES J - Event Attorney for DEFENDANT: Not Present AMADO, GIANO - DEFENDANT: Not Present KAJIOKA, DEAN Y. - Attorney for DEFENDANT: Present	AVS	0.00	0.00
39	12/07/15	BUSTOS MOTION BY CAO - GRANTED CTR 01/11/16 10AM D1 O/R RELEASE: STANDS APPEARANCE REQUIRED	KM	0.00	0.00
40	12/07/15	COUNTER: 10.07.00/11.12.30/11.26.40	KM	0.00	0.00
41	12/07/15	COURT DATE SET: Event: TRIAL Date: 01/11/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00
42	12/07/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: AVS - CLERK: Present ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present KAJIOKA, DEAN Y. - Attorney for DEFENDANT: Present	KM	0.00	0.00
43	01/05/16	NOTICE OF MOTION AND MOTION FOR TAKING DEPOSITION OF CITY'S WITNESS IRENE FLEMING FILED BY: LAURIE A. ISCAN, DEPUTY CITY ATTORNEY	AME6	0.00	0.00
44	01/06/16	COURT DATE SET: Event: TRIAL Date: 01/06/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: MOTION CONTINUED	KM	0.00	0.00
45	01/06/16	MOTION HEARING CONTINUED FOR DEF ATTY'S PRESENCE CTR 01/07/16 10AM D1 O/R RELEASE: STANDS	KM	0.00	0.00
46	01/06/16	COUNTER: 10.01.25	KM	0.00	0.00

Date: 01/06/2016 10:00:00
MUR5425

Docket sheet

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No.	Filed	Action	Operator	Fine/Cost	Due
47	01/06/16	COURT DATE SET: Event: TRIAL Date: 01/07/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00
48	01/06/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present RJR - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Not Present KAJIOKA, DEAN Y. - Attorney for DEFENDANT: Not Present	KM	0.00	0.00
49	01/06/16	MOTION TO CONTINUE TRIAL FILED: Attorney: TERRY, WILLIAM B (1028) MOTION HEARING WILL BE HELD 1/7/16 10AM D1	BML6	0.00	0.00
50	01/06/16	DOCUMENT FILED: SUBSTITUTION OF ATTORNEY FILED BY WILLIAM TERRY REPLACING DEAN KAJIOKA	BML6	0.00	0.00
51	01/06/16	COURT DATE SET: Event: TRIAL Date: 01/19/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: EVENT VACATED	BML6	0.00	0.00
52	01/07/16	ALL MOTIONS CONTINUED BY JUDGE - 1/11/16 APPEARANCE REQUIRED	KM	0.00	0.00
53	01/07/16	BAIL REVOCATION HEARING ALSO ORDERED BY JUDGE - 1/11/16 POSSIBLE CONDITIONS OF RELEASE TO BE ADDRESSED BAIL MAY ALSO BE ARGUED	KM	0.00	0.00
54	01/07/16	COUNTER: 10.36.15/10.43.35	KM	0.00	0.00
55	01/07/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present RJR - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Not Present THOMAS, K PRESENT FOR TERRY, WILLIAM B - Attorney for DEFENDANT: Not Present	KM	0.00	0.00

Date: 01/26/16 15:40:00
MIR5435

Worksheet

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No.	Filed	Action	Operator	Fine/Cost	Fee
56	01/27/16	OPPOSITION TO MOTION FILED BY DEPUTY CITY ATTORNEY LAURIE A. ISCAN BAR #9716, SUBSTITUTION OF COUNSEL AND MOTION TO CONTINUE TRIAL	JAV	0.00	0.00
57	01/11/16	MOTION HEARING HELD. MOTION FOR TAKING DEPOSITION OF CITY'S WITNESS - DENIED	KM	0.00	0.00
58	01/11/16	MOTION HEARING HELD. MOTION TO CONTINUE TRIAL - GRANTED	KM	0.00	0.00
59	01/11/16	CONTINUED TO CTR 02/29/16 10AM 01 O/R RELEASE: STANDS	KM	0.00	0.00
60	01/11/16	CONDITIONS OF RELEASE: HOWY: IRENE FLEMING & DOMINIC OCHOA - GPS - STAY 1000' AWAY FROM THE FOLLOWING INTERSECTIONS: TEXAS / ATLANTIC CENTER ST / BALMETTO LAKE MEAD / NELLIS GIBSON / HORIZON PASO VERDE / TRILOGY COVE WAL-MART # 300 E LAKE MEAD DR ST PETERS CHURCH # 204 S BOULDER HWY	KM	0.00	0.00
61	01/11/16	COUNTER: 11.23.30/3.08.55	KM	0.00	0.00
62	01/11/16	COURT DATE SET: Event: TRIAL Date: 02/29/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00
63	01/11/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present RJR - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present THOMAS, K PRESENT FOR TERRY, WILLIAM B - Attorney for DEFENDANT: Not Present	KM	0.00	0.00
Total:				57.00	0.00
Totals By: COST				50.00	0.00
INFORMATION				0.00	0.00
*** End of Report ***					

EXHIBIT “2”

Date: 01-22-15 Time: 11:11 AM Page: 1
 MJR5924

Judge: STEVENS, MARK J Case No. 15CR00389
 Ticket No.
 VIN:

CITY OF HENDERSON VS By:
 AMADO, GIANO DEFEND By: TERRY, WILLIAM B
 2550 S MAGIC WAY, 257 530 S SEVENTH ST
 HENDERSON, NV 89002 LAS VEGAS, NV 89101
 Dob: 08/11/1980 Sex: M
 Lic: 7000964780

Plate#: Bond: Set:
 Make: Type: Posted:
 Year: Accident: No
 Type:
 Venue:
 Location: H

Charges:

Ct.1 NRS 200.485.1DOMESTIC BATTERY, 1ST
 Offense Dt: 08/04/2014 Cvr:
 Arrest Dt:
 Comments:

Sentencing:
 Ct.1 Sentence Suspended Credit
 Jail (Days)
 Fines
 Costs
 Restitution
 Probation(Mo) Expires:
 Comm Svc (Hr)
 REMARKS:

No.	Filed	Action	Operator	Fine/Cost	Due
1	01/22/15	NOTICE OF CASE STATUS RECEIVED FROM HENDERSON CITY ATTORNEY'S OFFICE-CRIMINAL DIVISION: CHARGE ADDED	KM		0.00
2	01/22/15	COURT DATE SET: Event: TRIAL Date: 02/24/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: NOT GUILTY PLEA / TRIAL SET	KM		0.00
3	02/24/15	CONDITIONS OF RELEASE: *STAND AS OF 04/29/15* NCWV: - IRENE FLEMING - DOMINIC CCHCA	KM	0.00	0.00
4	02/24/15	COUNTER: 10.44.50/10.50.00	KM	0.00	0.00
5	02/24/15	NOT GUILTY PLEA ENTERED. TRIAL SET - SPEEDY TRIAL WAIVED CTR 04/29/15 10AM 01 WITNESSES ORDERED BACK & TRIAL APPEARANCE REQUIRED Charge #1: DOMESTIC BATTERY, 1ST	KM	0.00	0.00
6	02/24/15	COURT DATE SET: Event: TRIAL Date: 04/29/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00

No.	Filed	Action	Perfor	Fine/Cost	Due
7	02/24/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: ORG - CLERK: Present KJ - CLERK: Present WARD, GEORGE - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present SMEDLEY, JAMES J Attorney for DEFENDANT: Present	KM	0.00	0.00
8	04/29/15	BUGTOS MOTION BY CAO - GRANTED TRIAL SET IN 40 DAYS - 07/29/15 10AM D1 O/R RELEASE: STANDS SHOW CAUSE ON VICTIM ALSO GRANTED IN 4 WKS - 05/27/15 10AM D1	KM	0.00	0.00
9	04/29/15	COUNTER: 10.02.00/11.26.40	KM	0.00	0.00
10	04/29/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: ORG - CLERK: Present KJ - CLERK: Present MATHER, ELAINE - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: AMADO, GIANO DEFENDANT: Present SMEDLEY, JAMES J - Attorney for DEFENDANT: Present	KM	0.00	0.00
11	04/29/15	COURT DATE SET: Event: TRIAL Date: 07/29/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: DISMISSED	KM	0.00	0.00
12	07/29/15	CONDITIONS OF RELEASE DISSOLVED	KM	0.00	0.00
13	07/29/15	"Notice Relating to Sealing Records" provided to defense in open court.	KM	0.00	0.00
14	07/29/15	COUNTER: 10.00.30/10.51.40	KM	0.00	0.00

Date: 01/26/2016 15:44:00
 MIUR5925

Document Number

Page: 4

No.	Filed	Action	Operator	Fine/Cost	Due
15	07/29/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: KJ - CLERK: Present MATHER, ELAINE - DEPUTY CITY ATTORNEY: Present JDS - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present IARUSSI, JOSEPH BRIAN - Attorney for DEFENDANT: Present	KM	0.00	0.00
16	07/29/15	ORAL MOTION BY CAO TO DISMISS WITHOUT PREJUDICE - GRANTED REASON: VICTIM NOT PRESENT Charge #1: DOMESTIC BATTERY, 1ST	KM	0.00	0.00
17	07/29/15	CASE CLOSED	KM	0.00	0.00
18	07/30/15	NOTICE OF CASE STATUS RECEIVED FROM HENDERSON CITY ATTORNEY'S OFFICE-CRIMINAL DIVISION: - REOPEN CASE AFTER DISMISSAL WITHOUT PREJUDICE - AMENDED COMPLAINTS FILED (WITH AKA OF BRANDON WELCH, COURT WILL CONTINUE TO KEEP CASE OPEN UNDER GIANO AMADO) - REQUEST FOR SUMMONS	AMM2	0.00	0.00
19	08/19/15	Court Note: Restricted	MMB	0.00	0.00
20	08/19/15	COURT DATE SET: Event: CRIMINAL ARRAIGNMENT Date: 09/17/2015 Time: 9:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: NOT GUILTY PLEA / TRIAL SET	AVS	0.00	0.00
21	09/15/15	SUMMONS SERVED UPON DEFENDANT Charge #1: DOMESTIC BATTERY, 1ST	AVS	0.00	0.00
22	09/17/15	ATTORNEY CONFIRMED KAJIOKA. CONTINUED FOR TRIAL.	AVS	0.00	0.00
23	09/17/15	COUNTER: 9.38.10	AVS	0.00	0.00
24	09/17/15	COURT DATE SET: Event: TRIAL Date: 12/07/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	AVS	0.00	0.00
25	09/17/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: AVS - CLERK: Present KJ - CLERK: Present MATHER, ELAINE - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present IARUSSI, JOSEPH BRIAN - Attorney for DEFENDANT: Present	AVS	0.00	0.00

Attorney for DEFENDANT: Not
 Present
 IANNUSI, JOSEPH BRIAN -
 Oppose Attorney for DEFENDANT:
 Not Present
 AMADO, GIANO - DEFENDANT:
 Not Present
 KAJIOKA, DEAN Y. -
 Attorney for DEFENDANT:
 Present

No.	Filed	Action	Operator	Fine/Coat	Due
26	09/17/15	NOT GUILTY PLEA ENTERED. TRIAL SET - SPEEDY TRIAL WAIVED O/R STANDS APPEARANCE REQUIRED Charge #1: DOMESTIC BATTERY, 1ST	AVS	0.00	0.00
27	12/07/15	BUSTOS MOTION BY CAO - GRANTED CTR 01/11/16 10AM D1 O/R RELEASE: STANDS APPEARANCE REQUIRED	KM	0.00	0.00
28	12/07/15	COUNTER: 10.07.00/11.12.30/11.26.40	KM	0.00	0.00
29	12/07/15	COURT DATE SET: Event: TRIAL Date: 01/11/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00
30	12/07/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: AVS - CLERK: Present ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present KAJIOKA, DEAN Y. - Attorney for DEFENDANT: Present	KM	0.00	0.00
31	01/05/16	NOTICE OF MOTION AND MOTION FOR TAKING DEPOSITION OF CITY'S WITNESS IRENE FLEMING FILED BY: LAURIE A. ISCAN, DEPUTY CITY ATTORNEY	BML6	0.00	0.00
32	01/06/16	COURT DATE SET: Event: TRIAL Date: 01/06/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: MOTION CONTINUED	KM	0.00	0.00
33	01/06/16	MOTION HEARING CONTINUED FOR DEF ATTY'S PRESENCE CTR 01/07/16 10AM D1 O/R RELEASE: STANDS	KM	0.00	0.00
34	01/06/16	COUNTER: 10.51.35	KM	0.00	0.00
35	01/06/16	COURT DATE SET: Event: TRIAL Date: 01/07/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00

No.	Filed	Action	Operator	Fine/Post	Due
36	01/06/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present RJR - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Not Present KAJICKA, DEAN Y. - Attorney for DEFENDANT: Not Present	KM	0.00	0.00
37	01/06/16	MOTION TO CONTINUE TRIAL FILED: Attorney: TERRY, WILLIAM B (1028) MOTION HEARING WILL BE HELD 1/7/16 10AM D1	BML6	0.00	0.00
38	01/06/16	COURT DATE SET: Event: TRIAL Date: 01/19/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: EVENT VACATED	BML6	0.00	0.00
39	01/06/16	DOCUMENT FILED: SUBSTITUTION OF ATTORNEY FILED BY WILLIAM TERRY REPLACING DEAN KAJICKA	BML6	0.00	0.00
40	01/07/16	ALL MOTIONS CONTINUED BY JUDGE - 1/11/16 APPEARANCE REQUIRED	KM	0.00	0.00
41	01/07/16	BAIL REVOCATION HEARING ALSO ORDERED BY JUDGE - 1/11/16 POSSIBLE CONDITIONS OF RELEASE TO BE ADDRESSED BAIL MAY ALSO BE ARGUED	KM	0.00	0.00
42	01/07/16	COUNTER: 10.36.15/10.43.35	KM	0.00	0.00
43	01/07/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present RJR - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Not Present THOMAS, K PRESENT FOR TERRY, WILLIAM B - Attorney for DEFENDANT: Not Present	KM	0.00	0.00
44	01/07/16	OPPOSITION TO MOTION FILED BY DEPUTY CITY ATTORNEY LAURIE A. ISCAN BAR #9715, SUBSTITUTION OF COUNSEL AND MOTION TO CONTINUE TRIAL	TAV	0.00	0.00
45	01/11/16	MOTION HEARING HELD. MOTION FOR TAKING DEPOSITION OF CITY'S WITNESS - DENIED	KM	0.00	0.00

File: 01/6/2016 15:34:33
MIR5425

1 Page Sheet

Page 6

No.	Filed	Action	Operator	Fine/Inst	Due
46	01/11/16	MOTION HEARING HELD. MOTION TO CONTINUE TRIAL GRANTED	TM	0.00	0.00
47	01/11/16	CONTINUED TO CTR 02/29/16 10AM DT OVR RELEASE: STANDS	KM	0.00	0.00
48	01/11/16	CONDITIONS OF RELEASE: - BOWW: IRENE FLEMING & DOMINIC OCHOA - GPS - STAY 1000' AWAY FROM THE FOLLOWING INTERSECTIONS: TEXAS / ATLANTIC CENTER ST / PALMETTO LAKE MEAD / NELLIS GIBSON / HORIZON PASEO VERDE / TRILOGY COVE WAL-MART * 100 E LAKE MEAD DR ST PETERS CHURCH * 204 S BOULDER HWY	KM	0.00	0.00
49	01/11/16	COUNTER: 11.23.39/3.08.55	KM	0.00	0.00
50	01/11/16	COURT DATE SET: Event: TRIAL Date: 02/29/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00
51	01/11/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present RJR - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present THOMAS, K PRESENT FOR TERRY, WILLIAM B - Attorney for DEFENDANT: Not Present	KM	0.00	0.00
Total:				0.00	0.00
Totals By: INFORMATION				0.00	0.00
*** End of Report ***					

WILLIAM B. TERRY, CHARTERED
530 South Seventh Street
Las Vegas, Nevada 89101
(702) 385-0799

1 WILLIAM B. TERRY, ESQ.
Nevada Bar No. 001028
2 WILLIAM B. TERRY, CHARTERED
530 South Seventh Street
3 Las Vegas, Nevada 89101
(702) 385-0799
4 (702) 385-9788 (Fax)
Info@WilliamTerryLaw.com
5 Attorney for Petitioner

6 EIGHTH JUDICIAL DISTRICT COURT

7 CLARK COUNTY, NEVADA

8 GIANO AMADO

9 Petitioner,

10 vs.

11 CITY OF HENDERSON and THE
HONORABLE JUDGE MARK STEVENS,

12 Respondent.

CASE NO. C-16-312757-W
DEPT. NO. XXV


HEARING DATE: 2/29/16
HEARING TIME: 9:00 AM

14 **PETITION FOR WRIT OF MANDAMUS OR, IN THE ALTERNATIVE, WRIT OF**
15 **PROHIBITION, REQUEST FOR ORDER SHORTENING TIME & FOR STAY OF**
16 **HENDERSON MUNICIPAL COURT PROCEEDINGS**

17 COMES NOW the Petitioner, GIANO AMADO, by and through his counsel, WILLIAM B.
18 TERRY, ESQ., of the law offices of WILLIAM B. TERRY, CHARTERED and files the instant
19 Petition for Writ of Mandamus or, in the Alternative, Writ of Prohibition. Further, the Petitioner is
20 requesting an order to shorten time, to stay all proceedings in the Henderson Municipal Court until
21 such time as this Honorable Court has an adequate opportunity to review the Writ and the City of
22 Henderson has an adequate opportunity to respond thereto.

23 This Petition is made and based upon the attached analysis of facts and points and authorities
24 in support hereof, and any oral arguments as may be presented at the hearing in this matter.

25 WILLIAM B. TERRY, CHARTERED

26 
WILLIAM B. TERRY, ESQ.
Nevada Bar No. 001028
27 WILLIAM B. TERRY, CHARTERED
530 South Seventh Street
Las Vegas, Nevada 89101
28 (702) 385-0799
Attorney for Petitioner

COPY

PROCEDURAL HISTORY

The Petitioner, GIANO AMADO, is currently a Defendant in that case entitled City of Henderson vs. Giano Amado. As will be shown herein, he has been charged on at least two occasions with the same offense. Attached hereto and incorporated by reference herein as Exhibit "A" is a copy of the Criminal Complaint in case number 14CR011381 filed October 6, 2014, against Mr. Amado alleging domestic violence against one Irene Fleming with an alleged date of offense of August 4, 2014. Further attached as Exhibit "B" is a copy of Criminal Complaint in case number 15CR000859 filed January 15, 2015, against Petitioner Amado again alleging a date of August 4, 2014 with the alleged victim being Dominic Ochoa. Attached hereto and incorporated by referenced herein as Exhibit "C" is a copy of the Amended Criminal Complaint in case number 14CR011381 filed July 30, 2015 again alleging a date of August 4, 2014 against one Irene Fleming. The Court's attention is drawn to the fact that this complaint is characterized as an amended criminal complaint but is identical to Exhibit "A" and bears the same case number. Yet this case was filed July 30, 2015. There are two cases numbers being identical to the one of which was filed September 22, 2014, the other of which was filed July 30, 2015, yet the second complaint is denoted as an Amended Criminal Complaint and it alleges the same acts in both complaints on the same date. See Exhibit "C". Further, attached hereto as Exhibit "D" is the complaint in case number 15CR000859 again entitled Amended Criminal Complaint filed July 30, 2015, with the said allegation being August 4, 2014 against Dominic Ochoa. The Amended Complaint is identical to Exhibit "B" but for reasons which will be explained herein, both were filed on a different court date. The Court therefore has four criminal complaints; two of which are designated as amended and filed on July 30, 2015 and two of which with identical case numbers are denoted as original complaints. By way of summary, what will be shown is that the Henderson Municipal Court dismissed the two original complaints because the City was unable to proceed. Attached hereto and incorporated by reference herein as Exhibit "E" are the minutes in case number 14CR011381 and 15CR000859. Again, by way of summary, what it shows is that a warrant was issued on October 6, 2014, and that the Petitioner was arrested October 15, 2014. On October 28, 2014, he entered a not guilty plea with a trial date being set for January 13, 2015. On January 13, 2015, however, the City Attorney's office requested a

1 continuance to “file additional charges” and for a motion for an order to show cause. On February
2 24, 2015, again the Defendant was present for purposes of trial and the witness did not appear. The
3 trial was against set for April 29, 2015, but on that date the City filed what is commonly referred to
4 as a *Bustos* motion and the trial was set again for July 29, 2015. The City, however, was not
5 prepared to proceed on that date and the original complaint was dismissed. In reference to case
6 number 15CR000859, basically the same thing occurred; in both cases trials were set for July 29,
7 2015, but again the City was not prepared to proceed and the cases were both dismissed. On July
8 30, 2015, the next day, the City filed it’s two “Amended Criminal Complaints” with the identical
9 case numbers alleging the identical facts. See Exhibit “C” and “D”. On the amended criminal
10 charges, a trial date was set but again the City was not prepared to proceed. A material witness
11 warrant was issued for Irene Fleming and she was ultimately arrested and a trial date at this point had
12 been set for January 11, 2016. The Defendant, however, hired new counsel who filed a Motion to
13 Continue the January 11th trial date and specifically to file the instant Petition for Writ of Mandamus
14 or, in the Alternative, Writ of Prohibition. In response to this, on January 5, 2016, the City filed a
15 “Notice of Motion and Motion for Taking of Deposition of City’s Witness, Irene Fleming” a copy
16 of which is attached hereto and incorporated by reference herein as Exhibit “F”. The Court’s
17 attention is drawn to the fact that the Motion was filed January 5, 2016 and set for hearing on
18 January 6, 2016, barely 24 hours after it was filed. The status of the case, therefore, is that the City
19 has requested the right to take Irene Fleming’s deposition; what they contend to be consistent with
20 NRS 174.175. She is, however, at the current time available for trial. If the Court reviews Exhibit
21 “F” the Court would note that the City’s position is not that she is ill nor that she is expected to die
22 nor that she will not be in the jurisdiction for any other trial settings. It is simply because she failed
23 to appear on prior occasions. By way of summary, therefore, what the Court should note is that the
24 original two complaints were dismissed yet the City files “amended” complaints not new complaints
25 as against the Defendant and they even utilize the same case numbers.

26 On February 4, 2016, Petitioner filed a motion to dismiss the amended complaints in the
27 Henderson Municipal Court based on the arguments set forth herein. That motion was heard and
28 denied on February 11, 2016. At that point in time, the Honorable Judge Mark Stevens granted a

1 stay of proceedings and vacated the trial date currently set for February 29, 2016 but set that same
2 date for a status check with a recognition that the instant petition would be filed.

3 ARGUMENT

4 I. A PETITION FOR WRIT OF MANDAMUS OR, IN THE ALTERNATIVE, WRIT OF
5 PROHIBITION IS THE PROPER PROCEDURE TO RAISE THE INSTANT ISSUES
6 BEFORE THIS HONORABLE COURT.

7 Chapter 34 of the Nevada Revised Statutes deals with, amongst other things, a petition for
8 writ of mandamus and a petition for prohibition. These writs are meant to have a higher court, in
9 this case the District Court, direct a lower court to do or not do certain acts. Under NRS 34.170 a
10 writ of mandamus may issue when there is no plain, speedy and adequate remedy in law. If the writ
11 is not issued the City will attempt to proceed with the deposition and will attempt to proceed with
12 the prosecution of Mr. Amado. Under the arguments which will be raised herein, it is the position
13 of the Petitioner that the City is prohibited from proceeding against Mr. Amado. Under NRS 34.185
14 the court must issue an order within a 30 day period after the instant application is made. The
15 Petitioner, however, is requested an order to shorten time because of the actions which are expected
16 to continue in the Henderson Municipal Court and, again, there is no plain adequate remedy at law.
17 Under NRS 34.190 the writ may be either in the alternative or peremptory. It is for that reason that
18 both a writ of mandamus and a writ of prohibition has been applied for in the instant case. NRS
19 34.210 directs that the adverse party respond.

20 NRS 34.320 through 34.350 deals with a writ of prohibition and is almost identical to the
21 writ of mandamus. NRS 34.340 specifically provides that the writ may be done in the alternative
22 which is exactly what is being done herein. Again, there is no adequate remedy at law and certainly
23 no speedy remedy without the intervention of the District Court.

24 II. THE HENDERSON MUNICIPAL COURT COMMITTED ERROR IN ALLOWING THE
25 CITY TO PROCEED ON A "AMENDED" CRIMINAL COMPLAINT WHEN THE
26 ORIGINAL COMPLAINTS HAD BEEN DISMISSED.

27 It has already been demonstrated that because the City was unable to proceed the Court
28 ordered the original criminal complaints dismissed. At no time did the City file a motion to file an
29 amended criminal complaint. The Court is asked how can one file an amended criminal complaint
30 when the underlying criminal complaint has been dismissed. It is further interesting to note that the

1 “amended” criminal complaints were filed some four days before the one year prohibition would
2 have run on the underlying second complaints. The City Attorney did not file a new complaint.
3 They in fact filed an amended criminal complaint in reference to both of the alleged victims and
4 these amended complaints were filed on the same date alleging the same acts as set forth within the
5 original complaints. The City may argue that this is a technical error on their part and that the Court
6 should simply consider the amended criminal complaints as new complaints. This, however, should
7 not occur particularly in light of the fact that the same case numbers were utilized.

8 NRS 174.085 does not authorize an “Amended Complaint” to be filed after dismissal of the
9 original complaint. There is no doubt that the City Attorney’s office used the same case number on
10 both the complaint that was dismissed and the amended complaint. It alleged the same facts as was
11 in the original complaint. There is, however, a distinction between a complaint and an amended
12 complaint. An amended complaint is typically one that is done prior to trial or even during a trial
13 to change certain language which may or may not be permitted by the court. When a complaint is
14 dismissed, however, it is a final act by that court. The court has no further jurisdiction over the
15 matter and the City has nothing pending before the court in reference to that individual defendant.
16 What the City did in the instant case, however, was to file a “amended complaint” when nothing was
17 pending. NRS 174.085 deals specifically with new complaints. Subsection 5 reads as follows:

18 The prosecuting attorney in a case that the prosecuting attorney has
19 initiated may voluntarily dismiss a complaint...

20 The Court in the instant case is asked to note that the terminology used under subsection 5
21 involves the dismissal of a complaint which is exactly what was done in the Henderson Municipal
22 Court level. Subsection (b) reads as follows:

23 Before trial if the crime with which the defendant is charged is a
24 misdemeanor, without prejudice to the right to file another complaint
25 unless the State of Nevada has previously filed a complaint against
26 the defendant which was dismissed at the request of the prosecuting
attorney. After the dismissal the court shall order the defendant
released from custody or if the defendant is released on bail exonerate
the obligors and release any bail.

27 Taking the language from this section the City Attorney would have only been authorized
28 to file a second complaint. Once the Court dismissed the original complaint the Court had to order

1 the defendant released from custody or as the statute says "...if the defendant is released on bail
2 exonerate the obligors and release any bail." This would have been a further action taken by the
3 Henderson Municipal Court Judge in compliance with the request to dismiss by the City.

4 Subsection 6 of NRS 174.085 reads as follows:

5 If a prosecuting attorney files a subsequent complaint after a
6 complaint concerning the same matter has been filed and dismissed
7 against the defendant

(a) the case must be assigned to the same judge to whom the initial
complaint was assigned...

8 Taking this provision into consideration it appears that the City was justified in filing a new
9 complaint and having it assigned to the same judge who had previously dismissed the original
10 complaint. Again the emphasis is added to the underlying words because it deals with the
11 terminology "complaint" not amended complaint.

12 Based upon the above, the City was not justified nor permitted under statute in filing an
13 amended complaint. The City in their responsive pleadings uses the term "refile". They do this in
14 an effort to disguise the fact that they erroneously filed a "amended complaint". The City cites no
15 cases dealing with amended complaints.

16 There are very few cases reported in Nevada that deal with this statute. One, however, is
17 *Washoe v. Marcus*, 116 Nev. 188, 995 P.2d 1016 (2000). There the defendant had been charged with
18 a misdemeanor DUI and filed a pretrial petition for writ of habeas corpus after the State filed a new
19 complaint. This Court is asked to note that the Supreme Court in *Marcus* at least impliedly
20 recognized that a petition for writ of habeas corpus or as has been filed in this case mandamus or
21 prohibition is a proper vehicle to raise the instant issue. The court went on in *Marcus* to utilize the
22 terms original complaint and a second complaint. It did not sanction the utilization of the term
23 amended complaint. In *Marcus* the court also discussed situations where the prosecuting attorney
24 makes a motion to continue and whether or not the district court can rule on the adequacy of that
25 motion to continue. They reviewed the cases dealing with motions to continue including *Bustos v.*
26 *Sheriff*, 87 Nev. 622, 491 P.2d 1279 (1971) which allowed "...in certain emergency situations the
27 prosecution could make an oral motion for continuance supported by an oral affidavit or could
28 supplement deficiencies in supporting affidavits with oral testimony..." This Court is asked to note


1 that the City had made a *Bustos* motion which the Petitioner contends was not well founded.
2 Independent of that, however, back to the holding *Marcus* ultimately in *Marcus* found that
3 independent of whether or not the prosecuting entity had shown good cause, the State was authorized
4 to file a new complaint, again the terminology was new complaint and not amended complaint.

5 CONCLUSION

6 For the above-indicated reasons, it is respectfully requested that the Petition for Writ of
7 Mandamus, or in the Alternative, Petition for Writ of Prohibition be granted and that the "amended"
8 complaints be ordered dismissed.

9 DATED this 16th day of February, 2016.

10 WILLIAM B. TERRY, CHARTERED

11 
12 WILLIAM B. TERRY, ESQ.
13 Nevada Bar No. 001028
14 WILLIAM B. TERRY, CHARTERED
15 530 South Seventh Street
16 Las Vegas, Nevada 89101
17 (702) 385-0799
18 Attorney for Petitioner
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VERIFICATION OF WILLIAM B. TERRY

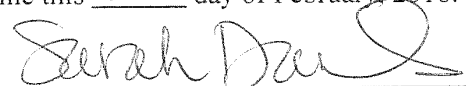
STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

WILLIAM B. TERRY, being first duly sworn, according to law, upon oath deposes and says:

That he is the attorney for Petitioner, GIANO AMADO, in the above-captioned matter; that he has read the foregoing Petition for Writ of Mandamus Or, in the Alternative, Writ of Prohibition and knows the contents thereof, and that the same is true of her own knowledge, except as to those matters therein stated on information and belief, and as to those matters she believes to be true. Further, Petitioner has authorized WILLIAM B. TERRY, ESQ., to make the foregoing application for relief.



WILLIAM B. TERRY

SUBSCRIBED and SWORN to before
me this 17th day of February, 2016.


NOTARY PUBLIC

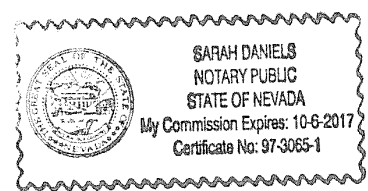


Exhibit “A”

MUNICIPAL COURT OF THE CITY OF HENDERSON
IN THE COUNTY OF CLARK, STATE OF NEVADA

FILED

2014 OCT -6 P 12:38

CITY OF HENDERSON, NEVADA,

Plaintiff,

vs.

GIANO AMADO,

Defendant.

MUNICIPAL COURT
CITY OF HENDERSON

CRIMINAL COMPLAINT

CLERK

CASE NO.: 14CR011381

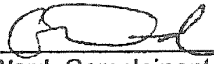
Josh M. Reid, City Attorney

The defendant has committed the crime of **BATTERY** which constitutes **DOMESTIC VIOLENCE** as defined by NRS 33.018 (Henderson City Charter, Section 2.140, and NRS 200.481, 200.485) within the City of Henderson, in the County of Clark, State of Nevada, a misdemeanor, in the manner following, to wit:

That the said defendant, on or about August 4, 2014, did willfully and unlawfully use force or violence against the person of another, to-wit: Did push Irene Fleming to the ground, who is a person to whom he is related by blood or marriage, all of which occurred at 67 Wyoming Avenue,

all of which is contrary to the form, force and effect of statutes in such cases made and provided and against the peace and dignity of the City of Henderson, State of Nevada.

Said Complainant makes this declaration on information and belief subject to the penalty of perjury.


George W. Ward, Complainant
Assistant City Attorney

Dated: September 22, 2014
DAMION#: 14-08-086164
PCN#:

Exhibit “B”

 COPY

MUNICIPAL COURT OF THE CITY OF HENDERSON **FILED**

IN THE COUNTY OF CLARK, STATE OF NEVADA

2015 JAN 15 P 4:32

MUNICIPAL COURT
CITY OF HENDERSON

CITY OF HENDERSON, NEVADA,

Plaintiff,

vs.

GIANO AMADO,

Defendant.

CRIMINAL COMPLAINT

CASE NO.: 14CR

15CR859


Josh M. Reid, City Attorney

The defendant has committed the crime of **BATTERY** which constitutes **DOMESTIC VIOLENCE** as defined by NRS 33.018 (Henderson City Charter, Section 2.140, and NRS 200.481, 200.485) within the City of Henderson, in the County of Clark, State of Nevada, a misdemeanor, in the manner following, to wit:

That the said defendant, on or about August 4, 2014, did willfully and unlawfully use force or violence against the person of another, to-wit: Did grab, and/or punch, and/or throw to the ground, Dominic Ochoa, who is a person to whom he is related by blood or marriage, all of which occurred in the area of 67 Wyoming Avenue,

all of which is contrary to the form, force and effect of statutes in such cases made and provided and against the peace and dignity of the City of Henderson, State of Nevada.

Said Complainant makes this declaration on information and belief subject to the penalty of perjury.


George W. Ward, Complainant
Assistant City Attorney

Dated: January 13, 2015
DAMION#: 14-08-086164
PCN#:

Exhibit “C”

COPY

FILED
MUNICIPAL COURT OF THE CITY OF HENDERSON
 2015 JUL 30 AM 11:40
IN THE COUNTY OF CLARK, STATE OF NEVADA
 MUNICIPAL COURT
 CITY OF HENDERSON

CITY OF HENDERSON, NEVADA,

Plaintiff,

vs.

BRANDON GENE WELCH,
 AKA: BRANDON LEE WELCH
 AKA: BRENNON WELCH
 AKA: GIANO AMADO

- Defendant.

AMENDED
CRIMINAL COMPLAINT

CASE NO.: 14CR11381

Josh M. Reid, City Attorney

The defendant has committed the crime of **BATTERY** which constitutes **DOMESTIC VIOLENCE** as defined by NRS 33.018 (Henderson City Charter, Section 2.140, and NRS 200.481, 200.485) within the City of Henderson, in the County of Clark, State of Nevada, a misdemeanor, in the manner following, to wit:

That the said defendant, on or about August 4, 2014, did willfully and unlawfully use force or violence against the person of another, to-wit: Did push Irene Fleming to the ground, who is a person to whom he is related by blood or marriage, all of which occurred at 67 Wyoming Avenue,

all of which is contrary to the form, force and effect of statutes in such cases made and provided and against the peace and dignity of the City of Henderson, State of Nevada.

Said Complainant makes this declaration on information and belief subject to the penalty of perjury.

Elaine F. Mather
 Elaine F. Mather, Complainant
 Assistant City Attorney

Dated: July 30, 2015
 DAMION#: 14-08-088164
 PCN#:

Exhibit “D”

COPY**MUNICIPAL COURT OF THE CITY OF HENDERSON****IN THE COUNTY OF CLARK, STATE OF NEVADA**

2015 JUL 30 PM 1 32

CITY OF HENDERSON, NEVADA,

Plaintiff,

vs.

BRANDON GENE WELCH,
AKA: BRANDON LEE WELCH
AKA: BRENNON WELCH
AKA: GIANO AMADO

Defendant.

MUNICIPAL COURT
CITY OF HENDERSON~~AMENDED~~ CLERK**CRIMINAL COMPLAINT**

CASE NO.: 15CR859

Josh M. Reid, City Attorney

The defendant has committed the crime of **BATTERY** which constitutes **DOMESTIC VIOLENCE** as defined by NRS 33.018 (Henderson City Charter, Section 2.140, and NRS 200.481, 200.485) within the City of Henderson, in the County of Clark, State of Nevada, a misdemeanor, in the manner following, to wit:

That the said defendant, on or about August 4, 2014, did willfully and unlawfully use force or violence against the person of another, to-wit: Did grab, and/or punch, and/or throw to the ground, Dominic Ochoa, who is a person to whom he is related by blood or marriage, all of which occurred in the area of 67 Wyoming Avenue,

all of which is contrary to the form, force and effect of statutes in such cases made and provided and against the peace and dignity of the City of Henderson, State of Nevada.

Said Complainant makes this declaration on information and belief subject to the penalty of perjury.



Elaine F. Mather, Complainant
Assistant City Attorney

Dated: July 30, 2015
DAMION#: 14-08-086164
PCN#:

Exhibit “E”



HENDERSON MUNICIPAL COURT
DOCKET SHEET

AMADO, GIANO
14CR011381 DOB: 8/31/80

1 DOMESTIC BATTERY, 1ST [50235]
Offense Date: DR# 14-12178

OPEN
\$0.00

ATTY: SMEDLEY, JAMES J

Date / Time / Dept	Event	Event Result	Event Notes
7/29/15 10:00 am D1	CTR		
5/27/15 10:00 am D1	CTR		
4/29/15 10:00 am D1	CTR	TRIAL CONT: DCA REQUEST	
2/24/15 10:00 am D1	CTR	MAINTAINED NOT GUILTY PLEA TRIAL RE-SET	
1/13/15 10:00 am D1	CTR	CONTINUED	
11/3/14 9:00 am D1	ARR	NOT GUILTY PLEA / TRIAL SET	

D1 STEVENS

		ASSESSED	PAID	CREDIT	BALANCE
10/6/14	WARRANT OF ARREST ISSUED WARRANT #14M05978 BAIL: \$3140	AJK3			
10/6/14	ACTIVE WARRANT NOTICE MAILED ACTIVE WARRANT LETTER Sent on: 10/06/2014 11:47:02.23	AJK3			
10/15/14	RETURNED MAIL Charge #1: DOMESTIC BATTERY, 1ST	JDB1			
10/15/14	WARRANT SERVED BY ARREST RE 14M05978 WARRANT OF ARREST served on: 10/10/2014 For: AMADO, GIANO	DCT2			
10/15/14	Time spent in custody: 14.30 HOURS Arrest Date/Time: 10/10/14 1924 Release Date/Time: 10/11/14 0953	DCT2			
10/15/14	SURETY BOND POSTED BY: BAD GIRL BAIL BONDS BOND AMOUNT: \$ 3140 BOND NUMBER: FCS10-1388702 VIA: JAIL BAILS BOND FILING FEE PAID Charge #1: DOMESTIC BATTERY, 1ST Receipt: 589232 Date: 10/15/2014	DCT2	50.00	50.00	
10/15/14	COURT DATE SET: Event: CRIMINAL ARRAIGNMENT Date: 11/03/2014 Time: 9:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: NOT GUILTY PLEA / TRIAL SET	DCT2			
10/28/14	NOT GUILTY PLEA ENTERED VIA FAX ARRAIGNMENT TRIAL SET IN DUE COURSE Attorney: SMEDLEY, JAMES J (8668) Charge #1: DOMESTIC BATTERY, 1ST	CRG			
11/3/14	COURT DATE SET: Event: TRIAL Date: 01/13/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: CONTINUED	CRG			



HENDERSON MUNICIPAL COURT
DOCKET SHEET

AMADO, GIANO
14CR011381 DOB: 8/31/80

1/13/15	CONTINUED FOR STATUS @ CAO'S REQUEST - 02/24/15 10AM D1 CAD TO FILE ADDITIONAL CHARGES & MOTION FOR ORDER TO SHOW CAL ON VICTIM TRIAL DATE NOT SET BOND: STANDS	KM
1/13/15	COUNTER: 10.39.50	KM
1/13/15	COURT DATE SET: Event: TRIAL Date: 02/24/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM
1/13/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: KJ - CLERK: Present RJR - CLERK: Present WARD, GEORGE - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present SMEDLEY, JAMES J - Attorney for DEFENDANT: Present	KM
2/24/15	DEFENDANT MAINTAINED NOT GUILTY PLEA/ TRIAL RE-SET TO 04/29/15 WITNESSES ORDERED BACK @ RCD APPEARANCE REQUIRED BOND: STANDS Charge #1: DOMESTIC BATTERY, 1ST	KM
2/24/15	CONDITIONS OF RELEASE: "STAND AS OF 4/29/15" NEW: - IRENE FLEMING - DOMINIC OCHOA	KM
2/24/15	COUNTER: 10.44.50/10.50.00	KM
2/24/15	COURT DATE SET: Event: TRIAL Date: 04/29/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM
2/24/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: CRG - CLERK: Present KJ - CLERK: Present WARD, GEORGE - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present SMEDLEY, JAMES J - Attorney for DEFENDANT: Present	KM



HENDERSON MUNICIPAL COURT
DOCKET SHEET

AMADO, GIANO

15CR000859

DOB: 8/31/80

1 DOMESTIC BATTERY, 1ST [50235]

Offense Date: DR# 14-12178

ATTY: SMEDLEY, JAMES J

OPEN

\$0.00

Date / Time / Dept	Event	Event Result	Event Notes
7/29/16 10:00 am D1	CTR		
5/27/15 10:00 am D1	CTR		
4/29/15 10:00 am D1	CTR	TRIAL CONT: DCA REQUEST	
2/24/15 10:00 am D1	CTR	NOT GUILTY PLEA / TRIAL SET	

D1 STEVENS

		ASSESSED	PAID	CREDIT	BALANCE
1/22/15	NOTICE OF CASE STATUS RECEIVED FROM HENDERSON CITY ATTORNEY: KM OFFICE-CRIMINAL DIVISION: CHARGE ADDED				
1/22/15	COURT DATE SET: Event: TRIAL Date: 02/24/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: NOT GUILTY PLEA / TRIAL SET				
2/24/15	NOT GUILTY PLEA ENTERED. TRIAL SET - SPEEDY TRIAL WAIVED KM CTR 04/29/15 10AM D1 WITNESSES ORDERED BACK @ TRIAL APPEARANCE REQUIRED Charge #1: DOMESTIC BATTERY, 1ST				
2/24/15	CONDITIONS OF RELEASE: *STAND AS OF 04/29/15* KM NCVV: - IRENE FLEMING - DOMINIC OCHOA				
2/24/15	COUNTER: 10.44.50/10.50.00 KM				
2/24/15	COURT DATE SET: Event: TRIAL Date: 04/29/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1				
2/24/15	EVENT PARTICIPANTS: KM Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: CRG - CLERK: Present KJ - CLERK: Present WARD, GEORGE - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present SMEDLEY, JAMES J - Attorney for DEFENDANT: Present				
4/29/15	BUSTOS MOTION BY CAO - GRANTED KM TRIAL SET IN 90 DAYS - 07/29/15 10AM D1 O/R RELEASE: STANDS SHOW CAUSE ON VICTIM ALSO GRANTED IN 4 WKS - 05/27/15 10AM D1				

Date Printed: 5/11/15 12:00 pm

Page 1 of 2



HENDERSON MUNICIPAL COURT
DOCKET SHEET

AMADO, GIANO
15CR000869 DOB: 8/31/80

4/29/15	COUNTER: 10.02.00/11.26.40	KM
4/29/15	COURT DATE SET FOR SHOW CAUSE HEARING: Event: TRIAL Date: 05/27/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM
4/29/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: CRG - CLERK: Present KJ - CLERK: Present MATHER, ELAINE - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present SMEDLEY, JAMES J - Attorney for DEFENDANT: Present	KM
4/29/15	COURT DATE SET: Event: TRIAL Date: 07/29/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM
		0.00 0.00 0.00 0.00

Exhibit “F”

1 JOSH M. REID, ESQ.
City Attorney
2 LAURIE A. ISCAN, ESQ.
Assistant City Attorney
3 Nevada State Bar No. 9716
243 Water Street
4 P.O. Box 95050, MSC 711
Henderson, NV 89009-5050
5 Phone: (702) 267-1379
Facsimile: (702) 267-1371
6 Attorney for Plaintiff
City of Henderson, Nevada

COPY

7016 JAN 5 AM 10 35

MUNICIPAL COURT
CITY OF HENDERSON
CLERK

7 MUNICIPAL COURT OF THE CITY OF HENDERSON
8 IN THE COUNTY OF CLARK, STATE OF NEVADA

9 CITY OF HENDERSON, NEVADA) CASE NO. 14CR011381
10 Plaintiff,) 15CR000859
vs.)
11)
12 GIANO AMADO aka) HEARING DATE: Jan 6, 2016
BRANDON WELCH) HEARING TIME: 10:00 a.m.
13 Defendant.) DEPARTMENT 1

14 NOTICE OF MOTION AND MOTION FOR TAKING OF
15 DEPOSITION OF CITY'S WITNESS IRENE FLEMING

16 COMES NOW, the Plaintiff, CITY OF HENDERSON, by and through its Deputy City
17 Attorney, LAURIE A. ISCAN, ESQ., and files this NOTICE OF MOTION AND MOTION FOR
18 TAKING OF DEPOSITION OF CITY'S WITNESS IRENE FLEMING.

19 This Motion is made and based upon all the papers and pleadings on file herein, the
20 attached points and authorities in support hereof, and oral argument at the time of hearing, if
21 deemed necessary by this Honorable Court.

22 NOTICE OF HEARING

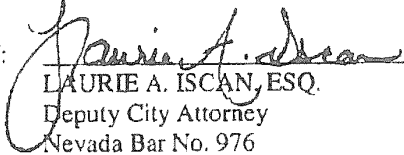
23 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned will
24 bring the foregoing motion on for setting before the above entitled Court, in Department I thereof,

1 on Wednesday, January 6, 2016 at the hour of 10:00 o'clock AM, or as soon thereafter as counsel
2 may be heard.

3 DATED this 5 day of January, 2016.

4 JOSH M. REID, ESQ.
City Attorney

5
6 BY:


LAURIE A. ISCAN, ESQ.
Deputy City Attorney
Nevada Bar No. 976

7
8
9 **POINTS AND AUTHORITIES**

10 **I. FACTUAL BACKGROUND**

11 On August 4, 2014, Defendant battered his aunt, Irene Fleming, and his 13 year old
12 cousin, Domenic Ochoa. Domestic battery charges were filed and the Defendant has pleaded not
13 guilty to the charges. This matter has been set for trial five times. Irene Fleming has failed to
14 appear at all 4 (four) of the previous trial settings. At each of the prior settings when Irene
15 Fleming has failed to appear, the City has requested and filed a Motion for Order to Show Cause
16 for Irene Fleming. Irene Fleming was properly served with each of these motions, and has
17 appeared or has sent in an attorney to appear on her behalf for every show cause hearing. At each
18 show cause hearing, she asks the court to continue the show cause hearing to the next trial date,
19 and then she fails to appear for the next trial date.

20 The Court has issued two warrants for her arrest for failure to appear during the pendency
21 of this case. Irene Fleming was arrested on a material witness warrant on December 30, 2015.
22 The next trial setting is Monday, January 11, 2016.

23 Irene Fleming was initially arraigned for failure to appear on December 31, 2015. At her
24 counsel's request, that arraignment was continued to Monday, January 4, 2016. On January 4,

1 2016, Irene Fleming's counsel advised the Court that attorney William Terry will be substituting in
2 as counsel of record for the Defendant. Irene Fleming's counsel asked the Court to continue her
3 arraignment until Wednesday, January 6, 2016 so that Mr. Terry could be present. Irene Fleming's
4 counsel advised that he wished to continue the arraignment so that any issues could be discussed
5 prior to his client remaining in custody over the weekend pending the trial date set for January 11,
6 2016.

7 It appears that the Defendant is going to have alternate counsel substitute in. If
8 Defendant's new counsel is prepared to proceed to trial on Monday, January 11, 2016, then this
9 motion is moot and City would withdraw the motion.

10 If, however, the Defendant will be requesting a trial continuance, the City is opposed to
11 any continuance as the victim is in custody on a material witness hold and she has made it
12 abundantly clear that she will make any effort to avoid testifying. If the Court is inclined to grant a
13 defense continuance, the City would herein request that Irene Fleming's deposition be taken in
14 accordance with N.R.S. § 174.175 before she is released from custody.

15 For the Court's convenience, a brief summary of the procedural history of this case
16 follows:

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

1	Date	Event	Notes
2	1/13/2015	1 st trial setting	Irene Fleming and her minor son – not present.
3			Defendant ordered to have no contact with Irene Fleming and Domenic Ochoa.
4			City requested a continuance. City requested show cause on Irene Fleming.
5			
6	2/24/2015	Show cause hearing	Irene Fleming and her son were present.
7			They were ordered to appear for trial on 4/29/2015.
8			Defendant ordered to have no contact with Irene Fleming and Domenic Ochoa.
9	4/29/2015	2 nd trial setting	Irene Fleming and her minor son – not present.
10			City requested a continuance over objection pursuant to <u>Bustos</u> . City requested a show cause hearing on Irene Fleming. The Court granted City's request.
11			
12	5/27/2015	Show cause hearing	Irene Fleming present. The Show Cause hearing was continued to the trial date of 7/29/2015.
13			
14	7/29/2015	3 rd trial setting	Irene Fleming and her minor son – not present.
15			City moved to dismiss without prejudice. The Court granted the request. Conditions of release - dissolved.
16			City requested a warrant for Irene Fleming's failure to appear. The court granted the request.
17			
18	11/3/2015	Show cause hearing	Irene Fleming appeared through attorney R. Nelson. Irene Fleming promised to appear at trial.
19	12/7/2015	1 st trial setting after refile	Irene Fleming and her minor son – not present.
20			City requested a continuance over Defense objection pursuant to <u>Bustos</u> . The Court granted the request.
21			
22			City requested a material witness warrant for Irene Fleming's failure to appear.
23	12/30/2015	Irene Fleming arrested	
24			

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II. ARGUMENT

N.R.S. § 174.175 provides:

If it appears that a prospective witness... may be unable to attend or prevented from attending a trial..., that the witness's testimony is material and that it is necessary to take the witness's deposition in order to prevent a failure of justice, the court at any time after the filing of an indictment, information or complaint may, upon motion of a defendant or of the State and notice to the parties, order that the witness's testimony be taken by deposition and that any designated books, papers, documents or tangible objects, not privileged, be produced at the same time and place. If the deposition is taken upon motion of the State, the court shall order that it be taken under such conditions as will afford to each defendant the opportunity to confront the witnesses against him or her.

Irene Fleming's testimony is extremely material to the City's case, and preservation of her testimony is essential. In this case, Irene Fleming would testify that on August 4, 2014, she and her 13 year old son, Domenic Ochoa, were standing outside. Irene Fleming would testify that the Defendant drove up to their home and began yelling at her son. Irene Fleming would testify that Defendant jumped over their fence and began coming toward her son. Irene Fleming would testify that she stepped in front of her son in order to protect him from the Defendant. Irene Fleming would testify that the Defendant shoved her to the ground, grabbed her son, then began punching the 13 year old in the face. Irene Fleming would testify that the Defendant threw the child to the ground, and then told the child to get into his car so he could take the child away. Irene Fleming would testify that her child refused to get in the Defendant's car and she called 911. The Defendant finally fled to avoid the police.

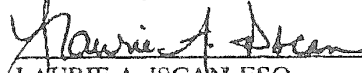
Given Irene Fleming's obvious efforts to avoid appearing in court to testify in this matter, "it is necessary to take [her] deposition in order to prevent a failure of justice." N.R.S. § 174.175. If the Defendant will be requesting a continuance of the trial date, the City respectfully asks this Court to order the taking of Irene Fleming's deposition as soon as possible "under such conditions as will afford [the] defendant the opportunity to confront" Irene Fleming, N.R.S. § 174.175, and

1 permit the City to use the deposition transcript at trial should any one of the conditions listed in
2 N.R.S. § 174.215(1) occur.

3 DATED this 5 day of January, 2016.

4 JOSH M. REID, ESQ.
City Attorney

5 Submitted by:

6 
7 LAURIE A. ISAAC, ESQ.
8 Deputy City Attorney
9 Nevada Bar No. 976
243 Water Street
Henderson, NV 89009-5050

1 JOSH M. REID, ESQ.
City Attorney
2 LAURIE A. ISCAN, ESQ.
Assistant City Attorney
3 Nevada State Bar No. 9716
243 Water Street
4 P.O. Box 95050, MSC 711
Henderson, NV 89009-5050
5 Phone: (702) 267-1379
Facsimile: (702) 267-1371
6 Attorney for Plaintiff
City of Henderson, Nevada
7

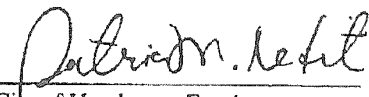
8 MUNICIPAL COURT OF THE CITY OF HENDERSON
IN THE COUNTY OF CLARK, STATE OF NEVADA
9

10 CITY OF HENDERSON, NEVADA) CASE NO. 14CR011381
Plaintiff,) 15CR000859
11 vs.)
12 GIANO AMADO aka) HEARING DATE: Jan 6, 2016
BRANDON WELCH) HEARING TIME: 10:00 a.m.
13) DEPARTMENT 1
14 Defendant.)

15 CERTIFICATE OF SERVICE

16 I hereby certify that service of the CITY'S MOTION FOR TAKING OF
17 DEPOSITION OF CITY'S WITNESS IRENE FLEMING was made this 5 day of January,
18 2016, via facsimile and electronic mail transmission to:

19 William B. Terry – Attorney for Defendant Giano Amada aka Brandon Welch.
20 Dean Kajioka – Attorney for Defendant Giano Amada aka Brandon Welch.
Roy Nelson – Attorney for Victim/Witness Irene Fleming.

21
22 
23 City of Henderson Employee
24



CLERK OF THE COURT

1 WILLIAM B. TERRY, ESQ.
Nevada Bar No. 001028
2 WILLIAM B. TERRY, CHARTERED
530 South Seventh Street
3 Las Vegas, Nevada 89101
(702) 385-0799
4 (702) 385-9788 (Fax)
Info@WilliamTerryLaw.com
5 Attorney for Petitioner

6 EIGHTH JUDICIAL DISTRICT COURT

7 CLARK COUNTY, NEVADA

8 GIANO AMADO

9 Petitioner,

CASE NO. C-16-312757-W
DEPT. NO. XXV

10 vs.

11 CITY OF HENDERSON and THE
HONORABLE JUDGE MARK STEVENS,

HEARING DATE: 2/29/16
HEARING TIME: 9:00 AM

12 Respondent.
13


14 NOTICE OF HEARING

15 TO: STATE OF NEVADA, Plaintiff; and

16 TO: STEVEN WOLFSON, ESQ., District Attorney

17 Please take notice that the undersigned will bring the Petition for Writ of Mandamus Or, in
18 the Alternative, Writ of Prohibition on for hearing before this Court in Department XXV on the ____
19 29 day of Feb., 2016 at the hour of 9:00 am o'clock or as soon thereafter
20 as counsel can be heard.

21 WILLIAM B. TERRY, CHARTERED

22 
23 WILLIAM B. TERRY, ESQ.
Nevada State Bar No. 001028
24 WILLIAM B. TERRY, CHARTERED
530 South Seventh Street
25 Las Vegas, Nevada 89101
(702) 385-0799
26 Attorney for Petitioner

27
28
COPY

WILLIAM B. TERRY, CHARTERED
530 South Seventh Street
Las Vegas, Nevada 89101
(702) 385-0799

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Nevada Bar No. 001028
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4 (702) 385-9788 (Fax)
Info@WilliamTerryLaw.com
5 Attorney for Petitioner

6 EIGHTH JUDICIAL DISTRICT COURT

7 CLARK COUNTY, NEVADA

8 GIANO AMADO)

9 Petitioner,)

CASE NO.
DEPT. NO.

10 vs.)

11 CITY OF HENDERSON and THE)
HONORABLE JUDGE MARK STEVENS,)

HEARING DATE: 2/29/16
HEARING TIME: 9:00 AM

12 Respondent.)
13 _____)

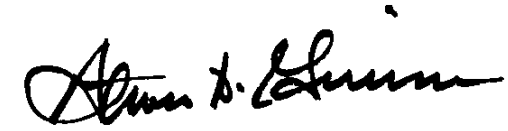
14 RECEIPT OF COPY

15 RECEIPT OF COPY of the foregoing **NOTICE OF HEARING and PETITION FOR**
16 **WRIT OF MANDAMUS OR, IN THE ALTERNATIVE, WRIT OF PROHIBITION** is hereby
17 acknowledged this 22 day of February, 2016.

18 HENDERSON CITY ATTORNEY

19
20  _____
21
22
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24
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28

COPY



CLERK OF THE COURT

OPP
JOSH M. REID
City Attorney
Nevada Bar #007497
LAURIE A. ISCAN
Assistant City Attorney
Nevada Bar #009716
243 Water Street
Henderson, Nevada 89009-5050
Tel: (702) 267-1379
Fax: (702) 267-1201

Laurie.Iscan@cityofhenderson.com
Attorney for Respondent

**DISTRICT COURT
CLARK COUNTY, NEVADA**

AMADO, GIANO aka BRANDON WELCH,)	
	)	Case No.: C-16-312757-W
Petitioner,	)	Dept. No.: XXV
)	
vs.	)	Henderson Case: 14CR011381,
	)	15CR000859
CITY OF HENDERSON,	)	Henderson Dept: 1
)	
Respondent.	)	Hearing Date: Feb. 29, 2016
	)	Hearing Time: 9:00 a.m.

**CITY OF HENDERSON'S OPPOSITION TO
PETITION FOR WRIT OF MANDAMUS OR WRIT OF PROHIBITION**

COMES NOW, the CITY OF HENDERSON ("the City"), by and through its attorney, Laurie A. Iscan, Assistant City Attorney, and hereby submits its Opposition to Petition for Writ of Mandamus or Writ of Prohibition. This Opposition is based upon the pleadings, papers, and records on file in this case and any evidence or argument presented to this Honorable Court.

DATED this 25th day of February, 2016.

JOSH M. REID, ESQ.
CITY ATTORNEY

By: /s/ Laurie A. Iscan
LAURIE A. ISCAN, ESQ.
Deputy City Attorney
Nevada State Bar No. 9716
243 Water Street
P.O Box 95050, MSC 711
Henderson, NV 89009-5050
Attorney for Respondent

1 **POINTS AND AUTHORITIES**

2 **I. STATEMENT OF FACTS AND PROCEDURAL HISTORY**

3 **Factual summary of the underlying criminal charge.**

4
5 On August 4, 2014, Giano Amado aka Brandon Welch, hereinafter "Petitioner," battered
6 his aunt, Irene Fleming, and her 13 year old son, Domenic Ochoa. Irene Fleming called 911.
7 After she called for help, Petitioner fled the scene. Henderson Police Department ("HPD")
8 responded to the call for help. They investigated the case and submitted a request for charges to
9 be filed against Petitioner for domestic battery against Irene Fleming and Child Abuse against
10 Domenic Ochoa. Additionally, a request for an arrest warrant was submitted. On October 6,
11 2014, an arrest warrant was issued, and was served by arrest on October 15, 2014. Petitioner
12 posted bond and was released from custody that same day. Petitioner was arraigned on the
13 domestic battery charge regarding his aunt on November 3, 2014 under case number
14 14CR011381. He pleaded not guilty to the charge and the matter was set for trial on January 13,
15 2015.
16

17 **Procedural history.**

18 At the first trial setting on January 13, 2015, victim Irene Fleming did not appear for trial.
19 City requested a continuance and an order to show cause on Irene Fleming. Additionally, City
20 advised that they would be filing a second charge of domestic battery against Petitioner for his
21 battery of the minor child Domenic Ochoa and asked that arraignment on the new case be set at
22 the same time as the show cause hearing.
23

24 On February 24, 2015, Petitioner was arraigned on the second domestic battery charge
25 filed under case number 15CR000859. Petitioner pleaded not guilty. A copy of the complete
26 dockets for case number 14CR011381 and 15CR000859 have been attached for the Court's
27 convenience as Exhibits "1" and "2" respectively.
28

1 On February 24, 2015, victim Irene Fleming was present for the show cause hearing and
2 promised to appear at the next trial setting. She also promised to have her son, Domenic Ochoa,
3 present for the next trial setting.

4 Despite proper service and promising to appear at the show cause hearings, the victims of
5 both cases failed to appear at the next two trial settings. On July 29, 2015, City voluntarily
6 dismissed both cases without prejudice pursuant to N.R.S. § 174.085(5).

7 On July 30, 2015, City filed notice of refileing both domestic battery cases after voluntary
8 dismissal. City also filed amended complaints including Petitioner's known aliases, and a
9 request for summons. A summons was then properly executed and served upon Petitioner
10 notifying him the cases were refiled on September 15, 2015. Arraignment was held on
11 September 17, 2015 where Petitioner again pleaded not guilty to both charges. Trial was set for
12 December 7, 2015.
13

14 On December 7, 2015, Irene Fleming and her son Domenic Ochoa failed to appear for
15 trial again. City requested a continuance pursuant to Bustos over defense objection. City also
16 requested a material witness warrant for Irene Fleming for her failure to appear. The Court
17 granted City's requests. Trial was continued to Monday, January 11, 2016.
18

19 On December 30, 2015, Irene Fleming was arrested on the material witness warrant. She
20 was arraigned on the warrant on December 31, 2015. At her attorney's request, the arraignment
21 was continued to Monday, January 4, 2016.

22 On Monday, January 4, 2016, Irene Fleming's attorney again asked to continue the
23 arraignment to Wednesday, January 6, 2016 as he heard that Petitioner was attempting to hire a
24 new attorney and the victim's attorney wanted Petitioner's attorney to be present to handle any
25 issues that might arise – namely if Petitioner were to request a trial continuance, victim did not
26 want to continue to sit in custody on a material witness warrant. Victim's material witness
27 warrant arraignment was continued to Wednesday, January 6, 2016.
28

1 Out of concern that a new defense attorney may request a trial continuance, City filed a
2 motion requesting to take Irene Fleming's deposition while she was in custody. The motion was
3 scheduled to be heard on Wednesday, January 6, 2016.

4 On January 6, 2016, Petitioner and his counsel were not present for the deposition motion
5 or for Victim's arraignment. The hearing was continued to Thursday, January 7, 2016. New
6 counsel did appear for Petitioner on January 7, 2016, and Petitioner did indeed request a trial
7 continuance. All motions were then set to be heard at the same time as trial on January 11, 2016.

8 On January 11, 2016, Henderson Municipal Court denied City's request for a deposition,
9 granted Petitioner's request for a trial continuance, and released the victim with an
10 admonishment and order to return for trial which was set for February 29, 2016.

11 On January 13, 2016, Petitioner filed his first petition for writ of mandamus or
12 prohibition with the District Court. Petitioner argued that it was error for the Municipal Court to
13 permit City to proceed on "amended" complaints filed under the same case number after the
14 original complaints had been dismissed. District Court Judge Richard Scotti advised that he was
15 not persuaded by Petitioner's arguments, but, would not rule on the merits of the argument.
16 Judge Scotti denied the petition for writ because the issues had never been presented to the
17 Municipal Court. See Exhibit "3," District Court Minutes from February 2, 2016.

18 On February 4, 2016, Petitioner filed a Motion to Dismiss Amended Complaints with the
19 Henderson Municipal Court raising the same arguments. The Municipal Court heard argument
20 on February 11, 2016 and denied Petitioner's motion to dismiss.

21 On February 19, 2016, Petitioner filed the instant petition for writ of mandamus or
22 prohibition raising the same issue again.

23
24
25
26 ///

1 **Henderson Municipal Court procedure for refileing after a prosecutor voluntarily dismisses**
2 **a criminal misdemeanor case.**

3 In Henderson, the procedure that is used by the Henderson Municipal Court and the
4 City Attorney's Office when a case is refiled after voluntary dismissal is: 1) the City Attorney
5 files a Notice of Case Status with the Court under the same case number advising the Court the
6 City is refileing a case, 2) the City then refiles the criminal complaint in the same case number
7 as an "amended" complaint to denote that a new complaint has been refiled, 3) the City
8 submits a request for summons to bring the defendant back before the court, 4) a new
9 arraignment hearing is conducted and the defendant is notified that the case has been refiled,
10 and 5) the defendant is then arraigned on the complaint and a new trial date is set.

11 **II. ARGUMENT**

12 Petitioner has argued in his Petition that it was error by the Henderson Municipal Court
13 to permit City to proceed on the refiled complaints because they are filed under the original case
14 number and called "amended" complaints instead of "new" complaints filed under a new case
15 number. There was no error by the Henderson Municipal Court. The Municipal Court has the
16 power and authority create its own procedures to manage its docket and records. The city refiled
17 the complaints pursuant to the process created by the Court. There is no law that requires a
18 refiled case to be procedurally managed the way Petitioner claims, and Petitioner does not argue
19 or claim any prejudice from the way the Henderson Municipal Court processes cases refiled after
20 voluntary dismissal. For these reasons, Petition for writ of prohibition/mandamus should be
21 denied.
22

23
24 **A. PETITIONER HAS MISSTATED THE PROCEDURAL POSTURE**
25 **OF THE UNDERLYING CASE.**

26 As a preliminary matter, City feels it is important to note that Petitioner erroneously
27 argues that the Municipal Court dismissed City's original complaints. Petition, p. 2, lines 22-24.
28 The Henderson Municipal Court did NOT dismiss City's original complaints. On July 29, 2015,

1 City voluntarily dismissed those complaints without prejudice pursuant to N.R.S. § 174.085(5).

2 *See* Exhibit 1, Docket, p. 3, line 26.

3 **B. CITY HAS AN UNAMBIGUOUS RIGHT TO DISMISS ITS CASE**
4 **WITHOUT PREJUDICE, THEN TO REFILE.**

5 Petitioner has argued that the Municipal Court should not have permitted City to proceed
6 on an “amended” complaint without first filing a motion asking the Court’s permission. In a
7 misdemeanor case, the prosecuting attorney may voluntarily dismiss and refile that case at its
8 own discretion. N.R.S. § 174.085(5) provides:

9 5. The prosecuting attorney, in a case that the prosecuting
10 attorney has initiated, may voluntarily dismiss a complaint:

11 (a) Before a preliminary hearing if the crime with which the
12 defendant is charged is a felony or gross misdemeanor; or

13 (b) Before trial if the crime with which the defendant is charged is
14 a misdemeanor,

15 ➔ without prejudice to the right to file another complaint,
16 unless the State of Nevada has previously filed a complaint against
17 the defendant which was dismissed at the request of the
18 prosecuting attorney. After the dismissal, the court shall order the
19 defendant released from custody or, if the defendant is released on
20 bail, exonerate the obligors and release any bail.

21 (Emphasis added.)

22 City was not obligated to file a motion with the court asking to proceed on the
23 refiled case.

24 **C. THE CRIMINAL COMPLAINTS AGAINST THE PETITIONER**
25 **WERE PROPERLY REFILED.**

26 Petitioner argues that it was error on the Municipal Court to permit City to proceed on
27 “amended” criminal complaint instead of “new” complaints. Petition, p.4-7. Contrary to
28 Petitioner’s assertion, the Henderson Municipal Court has the authority to determine its case
management procedures, there is now law that supports Petitioner’s assertions, and Petitioner

1 has not argued and cannot point to any prejudice from the Henderson Municipal Court's case
2 management practice.

3 **1. The Henderson Municipal Court has the authority to**
4 **determine what procedures it uses to manage its cases.**

5 The municipal courts are given the authority to determine what form their dockets
6 and records take. N.R.S. § 5.075 provides:

7 **NRS 5.075 Form of docket and records.** The **Court**
8 **Administrator shall prescribe the form of the docket and of**
9 **any other appropriate records** to be kept by the municipal court,
10 **which form may vary from court to court** according to the
number and kind of cases customarily heard and whether the court
is designated as a court of record pursuant to N.R.S. § 5.010.

11 Further, the Nevada Supreme Court has long recognized that the judiciary has the
12 inherent authority to administrate its own procedures and to manage its own affairs; it may
13 make rules and carry out other incidental powers when reasonable and necessary for the
14 administration of justice. Halverson v. Hardcastle, 123 Nev. 245 (2007). Court administration
15 rules and the centralized power to implement them are reasonable, proper, and necessary to the
16 accomplishment of judicial functions. Id.

17
18 As noted above, the procedure that is used by the Henderson Municipal Court when a
19 case is refiled is: 1) the City Attorney files a Notice of Case Status with the Court advising the
20 Court the City is refileing a case after voluntary dismissal without prejudice under the same case
21 number, 2) the City then refiles the criminal complaint in the same case number as an
22 "amended" complaint to denote that a new complaint has been refiled, 3) the City submits a
23 request for summons to bring the defendant back before the court, 4) a new arraignment
24 hearing is conducted and the defendant is notified that the case has been refiled, and 5) the
25 defendant is then arraigned on the complaint and a new trial date is set.

26
27 The City Attorney's office spoke with Henderson Municipal Court Administrator
28 Bill Zihlman about this process. He indicated that court administration uses this system

1 and refiles cases under the original case number because it allows court administration to
2 maintain track of cases that are refiled, and permits court administration to ensure that a
3 case is reset before the same judge as is required by N.R.S. § 174.085(5). The Henderson
4 Municipal Court is clearly using this system to manage its docket and records.

5 **2. The law Petitioner cited does not support his assertion that a**
6 **new case number must be generated when a case is refiled.**

7 Petitioner has argued that it was error by the Municipal Court to permit City to
8 proceed on “amended” complaints under the original case number. Petitioner claims that
9 N.R.S. § 174.085 and Sheriff, Washoe County v. Marcus, 116 Nev. 188, 995 P.2d 1016
10 (2000) support his assertions. Petitioner’s reliance on this statute and case are misplaced.

11 **a. N.R.S. § 174.085 does not require a “new” case**
12 **number to be generated in order to proceed when**
13 **refiling a case after voluntary dismissal.**

14 Petitioner has argued that N.R.S. § 174.085(5) and (6) require City to file “new”
15 complaints with new case numbers in order to proceed on a refiled case after voluntary
16 dismissal. That is not what this statute says. N.R.S. § 174.085(5) states:

17 The prosecuting attorney, in a case that the prosecuting attorney
18 has initiated, may voluntarily dismiss a complaint:

19 ***

20 (b) Before trial if the crime with which the defendant is charged is
21 a misdemeanor, without prejudice to the right to file **another**
22 **complaint**, unless the State of Nevada has previously filed a
23 complaint against the defendant which was dismissed at the
24 request of the prosecuting attorney. After the dismissal, the court
shall order the defendant released from custody or, if the defendant
is released on bail, exonerate the obligors and release any bail.

25 N.R.S. § 174.085(6) provides:

26 If a prosecuting attorney files a **subsequent complaint** after a
27 complaint concerning the same matter has been filed and dismissed
against the defendant:

28 (a) The case must be assigned to the same judge to whom the
initial complaint was assigned; and

1 (b) A court shall not issue a warrant for the arrest of a defendant
2 who was released from custody pursuant to subsection 5 or require
3 a defendant whose bail has been exonerated pursuant to subsection
4 5 to give bail unless the defendant does not appear in court in
5 response to a properly issued summons in connection with the
6 complaint.

7 (Emphasis added.)

8 NRS 174.085 refers to “another” complaint and a “subsequent” complaint. Neither
9 section says that there must be a “new” complaint, and neither section dictates what form
10 “another” or “subsequent” complaint must take when refiled after voluntary dismissal.

11 **b. Sheriff, Washoe County v. Marcus does not**
12 **require a “new” case number to be generated**
13 **when refiling a case after voluntary dismissal.**

14 Petitioner has argued that there is limited case law on the issue of what form a refiled
15 complaint must take. Petitioner argues that Sheriff, Washoe County v. Marcus, 995 P.2d 1016,
16 1017, 116 Nev. 188, 191 (Nev., 2000) is one such case, and that this case held that “independent
17 of whether or not the prosecuting entity had shown good case, the State was authorized to file a
18 new complaint, again the terminology was new complaint and not amended complaint.”
19 Petition, p. 6, lines 16-17.

20 We disagree. Sheriff, Washoe County v. Marcus did not address what a refiled complaint
21 needed to be called at all. This case only stood for the proposition that a prosecutor has the right
22 to dismiss and refile a misdemeanor criminal case without prejudice one time without having to
23 show good cause. In fact, the Washoe v. Marcus court talked about the cases in vague terms,
24 referring to the “original proceeding” and “subsequent complaint”. Id. at 1019, 193.

25 The statute and case that Petitioner points to do not require a “new” case number to be
26 generated when a case is refiled after voluntary dismissal by the prosecutor.

27 **c. Petitioner is merely arguing semantics and cites**
28 **no prejudice.**

It is clear that the City has the statutory right to voluntarily dismiss and refile a
misdemeanor criminal case. Calling a refiled complaint an “amended” complaint and filing it

1 under the same case number is simply the process used by the Henderson Municipal Court and
2 the City Attorney's Office to administer its large and ever growing docket. Other than arguing
3 semantics, Petitioner has not argued or shown that there has been any prejudice to any of his
4 constitutional rights by this case management process.

5 In this case, the refiled "amended" complaints met all of the notice requirements of
6 N.R.S. § 173.075. Petitioner was properly summonsed and arraigned on the refiled complaints
7 on September 17, 2015. There was no error by the Henderson Municipal Court when it
8 permitted City to proceed on the "amended" criminal complaints.

10 CONCLUSION

11 Petitioner has asked the Court to dismiss the current criminal cases pending against
12 Petitioner because the refiled complaints are called "amended" complaints and filed under the
13 same case number instead of a new case number being generated. Petitioner cites no law that
14 requires this procedure. Further, Petitioner cites no prejudice from this procedure. The charging
15 documents filed against Petitioner are proper and Petitioner was summonsed and arraigned
16 appropriately. He is clearly on notice of the criminal acts he is charged with committing. There
17 is no error in the method currently used by court administration in Henderson Municipal Court.
18 We ask the Court to deny Petition for Writ of Mandamus or Prohibition.
19

20 DATED this 25th day of February, 2016

21 JOSH M. REID, ESQ.
22 CITY ATTORNEY

23
24 By: /s/ Laurie A. Iscan
25 LAURIE A. ISCAN, ESQ.
26 Deputy City Attorney
27 Nevada State Bar No. 9716
28 243 Water Street
P.O Box 95050, MSC 711
Henderson, NV 89009-5050
Attorney for Respondent

COS

JOSH M. REID, ESQ.

City Attorney

LAURIE A. ISCAN, ESQ.

Assistant City Attorney

Nevada State Bar No. 9716

243 Water Street

P.O. Box 95050, MSC 711

Henderson, NV 89009-5050

Phone: (702) 267-1379

Facsimile: (702) 267-1371

Attorney for Respondent,

City of Henderson, Nevada

**DISTRICT COURT
CLARK COUNTY, NEVADA**

AMADO, GIANO aka BRANDON WELCH,

Petitioner,

vs.

CITY OF HENDERSON,

Respondent.

Case No.: C-16-312757-W

Dept. No.: XXV

Henderson Case: 14CR011381,
15CR000859

Henderson Dept: 1

Hearing Date: Feb. 29, 2016

Hearing Time: 9:00 a.m.

CERTIFICATE OF SERVICE

I hereby certify that service of the CITY OF HENDERSON'S OPPOSITION TO
PETITION FOR WRIT OF PROHIBITION OR MANDAMUS was made this 25th day of
February, 2016, through the court's electronic filing service and by placing a true and correct copy
in the U.S. mail, first- class postage affixed, and addressed as follows:

William B. Terry
530 South Seventh Street
Las Vegas, Nevada 89101

Attorney for Petitioner
Giano Amada aka Brandon Welch

/s/ Cheryl Boyd

An employee of the
Henderson City Attorney's Office

EXHIBIT “1”

Judge: STEVENS, MARK J

Case No. 14CR011381
Ticket No.
CTN:

CITY OF HENDERSON VS

By:

-vs-

AMADO, GIANO
PO BOX 778356
HENDERSON, NV 89077
Dob: 08/31/1980
Lic:

DFNDT
Sex: M
Sid: 7000064780

By: TERRY, WILLIAM B
530 S SEVENTH ST
LAS VEGAS, NV 89101

Plate#:
Make:
Year: Accident: No
Type:
Venue:
Location: H

Bond: Set:
Type: Posted:

Charges:

Ct.1 NRS 200.485.1DOMESTIC BATTERY, 1ST DISMISSED WITHOUT
PREJUDICE (BEFORE TRIAL)
Offense Dt: 08/04/2014 Cvr:
Arrest Dt:
Comments:

Sentencing:

Ct.1 Sentence Suspended Credit
Jail (Days)
Fines
Costs
Restitution
Probation(Mo) Expires:
Comm Svc (Hr)
REMARKS:

No.	Filed	Action	Operator	Fine/Cost	Due
1	10/06/14	WARRANT OF ARREST ISSUED WARRANT #14M05978 BAIL: \$3140	AJK3	0.00	0.00
2	10/06/14	ACTIVE WARRANT NOTICE MAILED ACTIVE WARRANT LETTER Sent on: 10/06/2014 11:47:02.23	AJK3	0.00	0.00
3	10/15/14	RETURNED MAIL Charge #1: DOMESTIC BATTERY, 1ST	JDB1		0.00
4	10/15/14	WARRANT SERVED BY ARREST RE 14M05978 WARRANT OF ARREST served on: 10/10/2014 For: AMADO, GIANO	DCT2		0.00
5	10/15/14	Time spent in custody: 14.30 HOURS Arrest Date/Time: 10/10/14 1924 Release Date/Time: 10/11/14 0953	DCT2		0.00
6	10/15/14	SURETY BOND POSTED BY: BAD GIRL BAIL BONDS BOND AMOUNT: \$ 3140 BOND NUMBER: FCS10-1388702 VIA: JAIL BAILS BOND FILING FEE PAID Charge #1: DOMESTIC BATTERY, 1ST Receipt: 589232 Date: 10/15/2014	DCT2	50.00	0.00
7	10/15/14	COURT DATE SET: Event: CRIMINAL ARRAIGNMENT Date: 11/03/2014 Time: 9:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: NOT GUILTY PLEA / TRIAL SET	DCT2		0.00

No.	Filed	Action	Operator	Fine/Cost	Due
8	10/28/14	NOT GUILTY PLEA ENTERED VIA FAX ARRAIGNMENT TRIAL SET IN DUE COURSE Attorney: SMEDLEY, JAMES J (8668) Charge #1: DOMESTIC BATTERY, 1ST	CRG	0.00	0.00
9	11/03/14	COURT DATE SET: Event: TRIAL Date: 01/13/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: CONTINUED	CRG	0.00	0.00
10	01/13/15	CONTINUED FOR STATUS @ CAO'S REQUEST - 02/24/15 10AM D1 CAO TO FILE ADDITIONAL CHARGES & MOTION FOR ORDER TO SHOW CAUSE ON VICTIM TRIAL DATE NOT SET BOND: STANDS	KM	0.00	0.00
11	01/13/15	COUNTER: 10.39.50	KM	0.00	0.00
12	01/13/15	COURT DATE SET: Event: TRIAL Date: 02/24/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00
13	01/13/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J -Location: DEPARTMENT 1 Staff: KJ - CLERK: Present RJR - CLERK: Present WARD, GEORGE - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present SMEDLEY, JAMES J - Attorney for DEFENDANT: Present	KM	0.00	0.00
14	02/24/15	CONDITIONS OF RELEASE: *STAND AS OF 4/29/15* NCWV: - IRENE FLEMING - DOMINIC OCHOA	KM	0.00	0.00
15	02/24/15	COUNTER: 10.44.50/10.50.00	KM	0.00	0.00
16	02/24/15	DEFENDANT MAINTAINED NOT GUILTY PLEA/ TRIAL RE-SET TO 04/29/15 WITNESSES ORDERED BACK @ RCD APPEARANCE REQUIRED BOND: STANDS Charge #1: DOMESTIC BATTERY, 1ST	KM	0.00	0.00
17	02/24/15	COURT DATE SET: Event: TRIAL Date: 04/29/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
18	02/24/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: CRG - CLERK: Present KJ - CLERK: Present WARD, GEORGE - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present SMEDLEY, JAMES J - Attorney for DEFENDANT: Present	KM	0.00	0.00
19	04/29/15	BUSTOS MOTION BY CAO - GRANTED TRIAL SET IN 90 DAYS - 07/29/15 10AM D1 BOND: STANDS SHOW CAUSE ON VICTIM ALSO GRANTED IN 4 WKS - 05/27/15 10AM D1	KM	0.00	0.00
20	04/29/15	COUNTER: 10.02.00/11.26.40	KM	0.00	0.00
21	04/29/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: CRG - CLERK: Present KJ - CLERK: Present MATHER, ELAINE - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present SMEDLEY, JAMES J - Attorney for DEFENDANT: Present	KM	0.00	0.00
22	04/29/15	COURT DATE SET: Event: TRIAL Date: 07/29/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: DISMISSED	KM	0.00	0.00
23	07/29/15	CONDITIONS OF RELEASE DISSOLVED	KM	0.00	0.00
24	07/29/15	"Notice Relating to Sealing Records" provided to defense in open court.	KM	0.00	0.00
25	07/29/15	COUNTER: 10.00.30/10.51.40	KM	0.00	0.00
26	07/29/15	ORAL MOTION BY CAO TO DISMISS WITHOUT PREJUDICE - GRANTED REASON: VICTIM NOT PRESENT Charge #1: DOMESTIC BATTERY, 1ST	KM	0.00	0.00
27	07/29/15	SURETY BOND EXONERATED Charge #1: DOMESTIC BATTERY, 1ST	KM	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
28	07/29/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: KJ - CLERK: Present MATHER, ELAINE - DEPUTY CITY ATTORNEY: Present SDS - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present IARUSSI, JOSEPH BRIAN - Attorney for DEFENDANT: Present	KM	0.00	0.00
29	07/29/15	CASE CLOSED	KM	0.00	0.00
30	07/30/15	NOTICE OF CASE STATUS RECEIVED FROM HENDERSON CITY ATTORNEY'S OFFICE-CRIMINAL DIVISION: - REOPEN CASE AFTER DISMISSAL WITHOUT PREJUDICE - AMENDED COMPLAINTS FILED (WITH AKA OF BRANDON WELCH, COURT WILL CONTINUE TO KEEP CASE OPEN UNDER GIANO AMADO) - REQUEST FOR SUMMONS	AMM2	0.00	0.00
31	08/18/15	Court Note: Restricted	MMB	0.00	0.00
32	08/19/15	COURT DATE SET: Event: CRIMINAL ARRAIGNMENT Date: 09/17/2015 Time: 9:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: NOT GUILTY PLEA / TRIAL SET	AVS	0.00	0.00
33	09/15/15	SUMMONS SERVED UPON DEFENDANT Charge #1: DOMESTIC BATTERY, 1ST	AVS	0.00	0.00
34	09/17/15	ATTORNEY KAJIOKA CONFIRMED. CONTINUED FOR TRIAL.	AVS	0.00	0.00
35	09/17/15	COUNTER: 9.38.10	AVS	0.00	0.00
36	09/17/15	NOT GUILTY PLEA ENTERED. TRIAL SET - SPEEDY TRIAL WAIVED O/R: STANDS APPEARANCE REQUIRED Charge #1: DOMESTIC BATTERY, 1ST	AVS	0.00	0.00
37	09/17/15	COURT DATE SET: Event: TRIAL Date: 12/07/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	AVS	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
38	09/17/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: AVS - CLERK: Present KJ - CLERK: Present MATHER, ELAINE - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: IARUSSI, JOSEPH BRIAN - Event Attorney for DEFENDANT: Not Present SMEDLEY, JAMES J - Event Attorney for DEFENDANT: Not Present AMADO, GIANO - DEFENDANT: Not Present KAJIOKA, DEAN Y. - Attorney for DEFENDANT: Present	AVS	0.00	0.00
39	12/07/15	BUSTOS MOTION BY CAO - GRANTED CTR 01/11/16 10AM D1 O/R RELEASE: STANDS APPEARANCE REQUIRED	KM	0.00	0.00
40	12/07/15	COUNTER: 10.07.00/11.12.30/11.26.40	KM	0.00	0.00
41	12/07/15	COURT DATE SET: Event: TRIAL Date: 01/11/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00
42	12/07/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: AVS - CLERK: Present ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present KAJIOKA, DEAN Y. - Attorney for DEFENDANT: Present	KM	0.00	0.00
43	01/05/16	NOTICE OF MOTION AND MOTION FOR TAKING DEPOSITION OF CITY'S WITNESS IRENE FLEMING FILED BY: LAURIE A. ISCAN, DEPUTY CITY ATTORNEY	BML6	0.00	0.00
44	01/06/16	COURT DATE SET: Event: TRIAL Date: 01/06/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: MOTION CONTINUED	KM	0.00	0.00
45	01/06/16	MOTION HEARING CONTINUED FOR DEF ATTY'S PRESENCE CTR 01/07/16 10AM D1 O/R RELEASE: STANDS	KM	0.00	0.00
46	01/06/16	COUNTER: 10.51.35	KM	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
47	01/06/16	COURT DATE SET: Event: TRIAL Date: 01/07/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00
48	01/06/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present RJR - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Not Present KAJIOKA, DEAN Y. - Attorney for DEFENDANT: Not Present	KM	0.00	0.00
49	01/06/16	MOTION TO CONTINUE TRIAL FILED: Attorney: TERRY, WILLIAM B (1028) MOTION HEARING WILL BE HELD 1/7/16 10AM D1	BML6	0.00	0.00
50	01/06/16	DOCUMENT FILED: SUBSTITUTION OF ATTORNEY FILED BY WILLIAM TERRY REPLACING DEAN KAJIOKA	BML6	0.00	0.00
51	01/06/16	COURT DATE SET: Event: TRIAL Date: 01/19/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: EVENT VACATED	BML6	0.00	0.00
52	01/07/16	ALL MOTIONS CONTINUED BY JUDGE - 1/11/16 APPEARANCE REQUIRED	KM	0.00	0.00
53	01/07/16	BAIL REVOCATION HEARING ALSO ORDERED BY JUDGE - 1/11/16 POSSIBLE CONDITIONS OF RELEASE TO BE ADDRESSED BAIL MAY ALSO BE ARGUED	KM	0.00	0.00
54	01/07/16	COUNTER: 10.36.15/10.43.35	KM	0.00	0.00
55	01/07/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present RJR - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Not Present THOMAS, K PRESENT FOR TERRY, WILLIAM B - Attorney for DEFENDANT: Not Present	KM	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
56	01/07/16	OPPOSITION TO MOTION FILED BY DEPUTY CITY ATTORNEY LAURIE A. ISCAN BAR #9716, SUBSTITUTION OF COUNSEL AND MOTION TO CONTINUE TRIAL	TAV	0.00	0.00
57	01/11/16	MOTION HEARING HELD. MOTION FOR TAKING DEPOSITION OF CITY'S WITNESS - DENIED	KM	0.00	0.00
58	01/11/16	MOTION HEARING HELD. MOTION TO CONTINUE TRIAL - GRANTED	KM	0.00	0.00
59	01/11/16	CONTINUED TO CTR 02/29/16 10AM D1 O/R RELEASE: STANDS	KM	0.00	0.00
60	01/11/16	CONDITIONS OF RELEASE: - NCWV: IRENE FLEMING & DOMINIC OCHOA - GPS - STAY 1000' AWAY FROM THE FOLLOWING INTERSECTIONS: TEXAS / ATLANTIC CENTER ST / PALMETTO LAKE MEAD / NELLIS GIBSON / HORIZON PASEO VERDE / TRILOGY COVE WAL-MART @ 300 E LAKE MEAD DR ST PETERS CHURCH @ 204 S BOULDER HWY	KM	0.00	0.00
61	01/11/16	COUNTER: 11.23.30/3.08.55	KM	0.00	0.00
62	01/11/16	COURT DATE SET: Event: TRIAL Date: 02/29/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00
63	01/11/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present RJR - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present THOMAS, K PRESENT FOR TERRY, WILLIAM B - Attorney for DEFENDANT: Not Present	KM	0.00	0.00
Total:				50.00	0.00
Totals By: COST				50.00	0.00
INFORMATION				0.00	0.00
*** End of Report ***					

EXHIBIT “2”

Judge: STEVENS, MARK J

Case No. 15CR000859
Ticket No.
CTN:

CITY OF HENDERSON VS

By:

-vs-

AMADO, GIANO DFNDT
2050 S MAGIC WAY, 257
HENDERSON, NV 89002
Dob: 08/31/1980 Sex: M
Lic: Sid: 7000064780

By: TERRY, WILLIAM B
530 S SEVENTH ST
LAS VEGAS, NV 89101

Plate#:
Make:
Year: Accident: No
Type:
Venue:
Location: H

Bond: Set:
Type: Posted:

Charges:

Ct.1 NRS 200.485.1DOMESTIC BATTERY, 1ST
Offense Dt: 08/04/2014 Cvr:
Arrest Dt:
Comments:

Sentencing:

Ct.1 Sentence Suspended Credit
Jail (Days)
Fines
Costs
Restitution
Probation(Mo) Expires:
Comm Svc (Hr)
REMARKS:

No.	Filed	Action	Operator	Fine/Cost	Due
1	01/22/15	NOTICE OF CASE STATUS RECEIVED FROM HENDERSON CITY ATTORNEY'S OFFICE-CRIMINAL DIVISION: CHARGE ADDED	KM		0.00
2	01/22/15	COURT DATE SET: Event: TRIAL Date: 02/24/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: NOT GUILTY PLEA / TRIAL SET	KM		0.00
3	02/24/15	CONDITIONS OF RELEASE: *STAND AS OF 04/29/15* NCWV: - IRENE FLEMING - DOMINIC OCHOA	KM	0.00	0.00
4	02/24/15	COUNTER: 10.44.50/10.50.00	KM	0.00	0.00
5	02/24/15	NOT GUILTY PLEA ENTERED. TRIAL SET - SPEEDY TRIAL WAIVED CTR 04/29/15 10AM D1 WITNESSES ORDERED BACK @ TRIAL APPEARANCE REQUIRED Charge #1: DOMESTIC BATTERY, 1ST	KM	0.00	0.00
6	02/24/15	COURT DATE SET: Event: TRIAL Date: 04/29/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
7	02/24/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: CRG - CLERK: Present KJ - CLERK: Present WARD, GEORGE - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present SMEDLEY, JAMES J - Attorney for DEFENDANT: Present	KM	0.00	0.00
8	04/29/15	BUSTOS MOTION BY CAO - GRANTED TRIAL SET IN 90 DAYS - 07/29/15 10AM D1 O/R RELEASE: STANDS SHOW CAUSE ON VICTIM ALSO GRANTED IN 4 WKS - 05/27/15 10AM D1	KM	0.00	0.00
9	04/29/15	COUNTER: 10.02.00/11.26.40	KM	0.00	0.00
10	04/29/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: CRG - CLERK: Present KJ - CLERK: Present MATHER, ELAINE - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present SMEDLEY, JAMES J - Attorney for DEFENDANT: Present	KM	0.00	0.00
11	04/29/15	COURT DATE SET: Event: TRIAL Date: 07/29/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: DISMISSED	KM	0.00	0.00
12	07/29/15	CONDITIONS OF RELEASE DISSOLVED	KM	0.00	0.00
13	07/29/15	"Notice Relating to Sealing Records" provided to defense in open court.	KM	0.00	0.00
14	07/29/15	COUNTER: 10.00.30/10.51.40	KM	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
15	07/29/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: KJ - CLERK: Present MATHER, ELAINE - DEPUTY CITY ATTORNEY: Present SDS - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present IARUSSI, JOSEPH BRIAN - Attorney for DEFENDANT: Present	KM	0.00	0.00
16	07/29/15	ORAL MOTION BY CAO TO DISMISS WITHOUT PREJUDICE - GRANTED REASON: VICTIM NOT PRESENT Charge #1: DOMESTIC BATTERY, 1ST	KM	0.00	0.00
17	07/29/15	CASE CLOSED	KM	0.00	0.00
18	07/30/15	NOTICE OF CASE STATUS RECEIVED FROM HENDERSON CITY ATTORNEY'S OFFICE-CRIMINAL DIVISION: - REOPEN CASE AFTER DISMISSAL WITHOUT PREJUDICE - AMENDED COMPLAINTS FILED (WITH AKA OF BRANDON WELCH, COURT WILL CONTINUE TO KEEP CASE OPEN UNDER GIANO AMADO) - REQUEST FOR SUMMONS	AMM2	0.00	0.00
19	08/18/15	Court Note: Restricted	MMB	0.00	0.00
20	08/19/15	COURT DATE SET: Event: CRIMINAL ARRAIGNMENT Date: 09/17/2015 Time: 9:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: NOT GUILTY PLEA / TRIAL SET	AVS	0.00	0.00
21	09/15/15	SUMMONS SERVED UPON DEFENDANT Charge #1: DOMESTIC BATTERY, 1ST	AVS	0.00	0.00
22	09/17/15	ATTORNEY CONFIRMED KAJIOKA. CONTINUED FOR TRIAL.	AVS	0.00	0.00
23	09/17/15	COUNTER: 9.38.10	AVS	0.00	0.00
24	09/17/15	COURT DATE SET: Event: TRIAL Date: 12/07/2015 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	AVS	0.00	0.00
25	09/17/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: AVS - CLERK: Present KJ - CLERK: Present MATHER, ELAINE - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: SMEDLEY, JAMES T. Present	AVS	0.00	0.00

Attorney for DEFENDANT: Not Present
IARUSSI, JOSEPH BRIAN -
Event Attorney for DEFENDANT:
Not Present
AMADO, GIANO - DEFENDANT:
Not Present
KAJIOKA, DEAN Y. -
Attorney for DEFENDANT:
Present

No.	Filed	Action	Operator	Fine/Cost	Due
26	09/17/15	NOT GUILTY PLEA ENTERED. TRIAL SET - SPEEDY TRIAL WAIVED O/R STANDS APPEARANCE REQUIRED Charge #1: DOMESTIC BATTERY, 1ST	AVS	0.00	0.00
27	12/07/15	BUSTOS MOTION BY CAO - GRANTED CTR 01/11/16 10AM D1 O/R RELEASE: STANDS APPEARANCE REQUIRED	KM	0.00	0.00
28	12/07/15	COUNTER: 10.07.00/11.12.30/11.26.40	KM	0.00	0.00
29	12/07/15	COURT DATE SET: Event: TRIAL Date: 01/11/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00
30	12/07/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: AVS - CLERK: Present ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present KAJIOKA, DEAN Y. - Attorney for DEFENDANT: Present	KM	0.00	0.00
31	01/05/16	NOTICE OF MOTION AND MOTION FOR TAKING DEPOSITION OF CITY'S WITNESS IRENE FLEMING FILED BY: LAURIE A. ISCAN, DEPUTY CITY ATTORNEY	BML6	0.00	0.00
32	01/06/16	COURT DATE SET: Event: TRIAL Date: 01/06/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: MOTION CONTINUED	KM	0.00	0.00
33	01/06/16	MOTION HEARING CONTINUED FOR DEF ATTY'S PRESENCE CTR 01/07/16 10AM D1 O/R RELEASE: STANDS	KM	0.00	0.00
34	01/06/16	COUNTER: 10.51.35	KM	0.00	0.00
35	01/06/16	COURT DATE SET: Event: TRIAL Date: 01/07/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
36	01/06/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present RJR - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Not Present KAJIOKA, DEAN Y. - Attorney for DEFENDANT: Not Present	KM	0.00	0.00
37	01/06/16	MOTION TO CONTINUE TRIAL FILED: Attorney: TERRY, WILLIAM B (1028) MOTION HEARING WILL BE HELD 1/7/16 10AM D1	BML6	0.00	0.00
38	01/06/16	COURT DATE SET: Event: TRIAL Date: 01/19/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: EVENT VACATED	BML6	0.00	0.00
39	01/06/16	DOCUMENT FILED: SUBSTITUTION OF ATTORNEY FILED BY WILLIAM TERRY REPLACING DEAN KAJIOKA	BML6	0.00	0.00
40	01/07/16	ALL MOTIONS CONTINUED BY JUDGE - 1/11/16 APPEARANCE REQUIRED	KM	0.00	0.00
41	01/07/16	BAIL REVOCATION HEARING ALSO ORDERED BY JUDGE - 1/11/16 POSSIBLE CONDITIONS OF RELEASE TO BE ADDRESSED BAIL MAY ALSO BE ARGUED	KM	0.00	0.00
42	01/07/16	COUNTER: 10.36.15/10.43.35	KM	0.00	0.00
43	01/07/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present RJR - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Not Present THOMAS, K PRESENT FOR TERRY, WILLIAM B - Attorney for DEFENDANT: Not Present	KM	0.00	0.00
44	01/07/16	OPPOSITION TO MOTION FILED BY DEPUTY CITY ATTORNEY LAURIE A. ISCAN BAR #9716, SUBSTITUTION OF COUNSEL AND MOTION TO CONTINUE TRIAL	TAV	0.00	0.00
45	01/11/16	MOTION HEARING HELD. MOTION FOR TAKING DEPOSITION OF CITY'S WITNESS - DENIED	KM	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
46	01/11/16	MOTION HEARING HELD. MOTION TO CONTINUE TRIAL - GRANTED	KM	0.00	0.00
47	01/11/16	CONTINUED TO CTR 02/29/16 10AM D1 O/R RELEASE: STANDS	KM	0.00	0.00
48	01/11/16	CONDITIONS OF RELEASE: - NCWV: IRENE FLEMING & DOMINIC OCHOA - GPS - STAY 1000' AWAY FROM THE FOLLOWING INTERSECTIONS: TEXAS / ATLANTIC CENTER ST / PALMETTO LAKE MEAD / NELLIS GIBSON / HORIZON PASEO VERDE / TRILOGY COVE WAL-MART @ 300 E LAKE MEAD DR ST PETERS CHURCH @ 204 S BOULDER HWY	KM	0.00	0.00
49	01/11/16	COUNTER: 11.23.30/3.08.55	KM	0.00	0.00
50	01/11/16	COURT DATE SET: Event: TRIAL Date: 02/29/2016 Time: 10:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1	KM	0.00	0.00
51	01/11/16	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present KJ - CLERK: Present RJR - CLERK: Present Prosecutors: Parties: AMADO, GIANO - DEFENDANT: Present THOMAS, K PRESENT FOR TERRY, WILLIAM B - Attorney for DEFENDANT: Not Present	KM	0.00	0.00
Total:				0.00	0.00
Totals By: INFORMATION				0.00	0.00
*** End of Report ***					

EXHIBIT “3”

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REGISTER OF ACTIONS

CASE NO. C-16-311953-W

In the Matter of the Petition of Giano Amado

§
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§

Case Type: **Criminal Writ**
Date Filed: **01/13/2016**
Location: **Department 2**
Cross-Reference Case Number: **C311953**

PARTY INFORMATION

Petitioner **Amado, Giano**

Lead Attorneys
William B. Terry
Retained
7023850799(W)

Respondent **Henderson City of**

Laurie A. Iscan
Retained
702-386-1070 x1490(W)

Respondent **Stevens, Mark**

EVENTS & ORDERS OF THE COURT

01/28/2016 **Petition** (9:00 AM) (Judicial Officer Scotti, Richard F.)

01/28/2016, 02/02/2016

Petition for Writ of Mandamus or, in the Alternative, Writ of Prohibition, Request for Order Shortening Time and for Stay of Henderson Municipal Court Proceedings

Minutes

01/28/2016 9:00 AM

- Mr. Terry stated it recently received the response and requested a continuance to respond. Further, Mr. Terry advised he had requested transcripts, which he did not have at the time of the original petition. Lastly, Mr. Terry requested a stay of the Municipal Court trial set and for the GPS to be removed. Ms. Iscan opposed today's continuance, the stay of the trial and removal of the GPS stating the City scrambled to respond to the petition on an order of shortening time and stated this case has been going for well over a year. Additional arguments by counsel. Court stated it would not interfere with the jurisdiction of the Henderson Municipal Court judge and ORDERED, reply due 1/28/16, by close of business. FURTHER, matter CONTINUED. NIC CONTINUED TO: 2/02/16 9:00 AM

02/02/2016 9:00 AM

- Mr. Terry stated he would submit on the brief. Upon Court's inquiry, Mr. Terry stated the statute only authorizes the filing of a new complaint and stated his concern with what appears to be forum shopping. Mr. Terry argued you can't amend something that doesn't exist. Once the prior complaint was dismissed, there was nothing to amend. Whether it is a civil or criminal matter, you can't proceed on an amended complaint, when the original complaint was dismissed voluntarily by the prosecuting agency. Further arguments. Court noted an amended complaint is a complaint and an amended complaint that comes after the original complaint is subsequent in time. Additionally, if it is same counts against the same defendant, the statute requires it to go before the original judge to avoid forum shopping. Further arguments by Mr. Terry. Upon Court's inquiry as to whether the document should have been called an amended complaint, Ms. Iscan stated that would be form over substance. Ms. Iscan stated her office spoke with court administration about why it is calling it this way and was told the reason is for case management and procedural purposes,

it helps court administration keep the cases together. Further, the statute states the court administrator shall prescribe the form of the docket and any other records. With respect to the argument that it has to be a new complaint, Ms. Iscan stated Mr. Terry did not cite any rule or law that says that. Ms. Iscan argued the statute talks about a subsequent complaint, it doesn't say what it has to be called. Further, the complaint is properly pleaded the defendant was on notice and re-summoned and re-arraigned and a new trial date was set. Everything that is necessary to protect the defendant's rights has been done. Court stated its concern with interjecting itself as a court of review and overturning a judge's ruling that hasn't been made. Further arguments by Mr. Terry. Court stated Mr. Terry is arguing Henderson Municipal Court committed an error in allowing this case to proceed on an amended complaint. Court stated it has nothing before it to assess how the municipal court judge would rule on this if and when squarely presented with the issue. COURT ORDERED, petition and request for stay DENIE. Court stated it believes it would be improper for it to interfere with the progress of the municipal court proceedings as it has not yet had an opportunity to address this issue. Upon inquiry by Mr. Terry, Court stated it is denied under the law that applies and the Court did not want to reach the actual merits at this point in time.

[Parties Present](#)

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REGISTER OF ACTIONS

CASE NO. C-16-312757-W

In the Matter of the Petition of Giano Amado

§
§
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§
§

Case Type: **Criminal Writ**
 Date Filed: **02/17/2016**
 Location: **Department 25**
 Cross-Reference Case Number: **C312757**

PARTY INFORMATION

Petitioner **Amado, Giano**

Lead Attorneys
William B. Terry
Retained
 7023850799(W)

Respondent **Henderson City of**

Josh M. Reid
Retained
 702-267-1231(W)

Respondent **Stevens, Mark**

EVENTS & ORDERS OF THE COURT

02/29/2016 | **Petition for Writ of Mandamus** (9:00 AM) (Judicial Officer Delaney, Kathleen E.)
Petitioner's Petition for Writ of Mandamus or, in the Alternative, Writ of Prohibition

Minutes

02/29/2016 9:00 AM

- Mr. Terry advised the Court that his client was present today; however, he had to leave, due to a 10:00 am hearing at the Henderson Municipal Court. Mr. Terry argued in support of the motion, stating that the City of Henderson moved to voluntarily dismiss the 2 complaints, then filed an amended complaint; which cannot be done with then city has already dismissed the underlying complaint. Mr. Terry further argued that the city can file a subsequent proceedings; however, nowhere in the statute does it indicate that the correct procedure is filing an amended charging document. Opposition by Ms. Iscan, arguing that it was particularly filed in this case because the city became knowledgeable of Defendant's aliases. Ms. Iscan cited NRS 173.105, and further argued that the City of Henderson used the same case number to maintain compliance with the statute; and there is no prejudice to Defendant's procedural rights. Further arguments by counsel. COURT NOTED, Henderson's procedures cannot trump what the statute requires, and it seems to contemplate a new complaint is required, which is not the situation here. COURT FURTHER NOTED, the city did not follow the statute; and therefore, ORDERED, petition GRANTED, as the city abused its discretion. Mr. Terry to prepare the order; counsel to approve as to form and content prior to submission. Ms. Iscan asked the Court if dismissal is an appropriate remedy; further, the city is more than willing to request a new case number. COURT NOTED, this matter is not in that posture, as this is a faulty amended complaint; and FURTHER ORDERED, dismissal is appropriate.

[Parties Present](#)
[Return to Register of Actions](#)

1 APPEARANCES:

2 For the State: WILLIAM TERRY, ESQ.

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4 For the Defendant: LAURIE ISCAN, ESQ.

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1 LAS VEGAS, NEVADA; MONDAY, FEBRUARY 29, 2016

2 P R O C E E D I N G S

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5 THE COURT: Page 9, in the matter of Giano
6 Amado.

7 MR. TERRY: I'm actually the petitioner, so I'll
8 move to the left.

9 THE COURT: This is the matter of the petition
10 of Giano Amado. This is a petition for writ of mandamus
11 or in the alternative writ of prohibition. Argument being
12 with regard to City of Henderson's dismissal of the
13 complaint filing.

14 MR. TERRY: Your Honor, this is our petition.
15 Mr. Amado was here, but he had to leave because we,
16 likewise, have a 10:00 o'clock proceeding in the Henderson
17 Municipal Court.

18 THE COURT: I don't want him to miss that.

19 MR. TERRY: There's another lawyer that's
20 covering that for me.

21 Your Honor, we filed a petition in this matter. I
22 know the Court is always prepared, so I know that you've
23 read the petition, but basically here's what it
24 involves.

25 My client was originally charged in two complaints in

1 the City of Henderson. At a point in time the City of
2 Henderson moved to dismiss voluntarily those complaints.
3 Some 3 to 4 days later they filed what they caption to be
4 an amended complaint.

5 Now, the Court may think that this is a minor issue,
6 but our position is you can't file an amended complaint
7 when the City has already dismissed the underlying
8 complaint. There's very little case law on this, but
9 there is a statute that deals with it. It gives the City
10 permission to file or the State of Nevada to file a
11 subsequent proceeding. But no where in the case law, no
12 where in the statute does it indicate that the correct
13 procedure is filing an amended charging document.

14 Now, interestingly enough, in this case, they utilize
15 the same case number, so for purposes of creating major
16 confusion, if you were to look at what the history of the
17 case was you would see that the history of the case was
18 ultimately a dismissal. But if you keep reading, it's
19 amended complaint filed.

20 THE COURT: Mr. Terry, I do want to speak to
21 this, because we can see the response from the City of
22 Henderson and we'll hear from counsel in a minute. But
23 they indicated that the reason that they titled it amended
24 complaint is for an internal procedure process to ensure
25 it went back to the same judge. And as you said yourself,

1 the case law and the statute don't preclude that from
2 happening. Do they.

3 MR. TERRY: No. But the statute says, if the
4 case is dismissed, it goes back to the same judge. So
5 that argument doesn't have any weight because the statute
6 says, if we, for example, if you were sitting as a
7 magistrate, if you were sitting as a justice of the peace,
8 or municipal court judge and the City moved to voluntarily
9 dismiss the case, then they refiled it as a new complaint,
10 the statute says we come back in front of you.

11 THE COURT: I know.

12 The point is that they're indicating -- and like I
13 said we'll hear that argument in a little more detail in a
14 moment. But they're indicating that to comply with the
15 statute this is the procedure they put in place to title
16 it that way because internally, their procedure, that's
17 the only way to be sure that it actually gets filed back
18 with the same judge.

19 MR. TERRY: I would disagree with that from a
20 practical matter.

21 There are 3 municipal court judges. If this was
22 filed in a separate department, let's say, it was filed in
23 the, quote, wrong department. All the City has to do is
24 say, judge, this a refileing. It was originally in front
25 of Judge "X." And the matter would be transferred. I have

1 no argument against that, because it's consistent with the
2 statute.

3 It's a mere excuse that the City is using, because
4 they realize that they filed an amended charging document.

5 Logically, if there's an indictment before your Honor
6 and the State comes in on a Monday a moves to dismiss that
7 indictment and we walk out of court and on Wednesday they
8 file an amended indictment, are you going to accept that.
9 It works the same way in the civil context. Once a civil
10 complaint is dismissed, unless there's other orders that
11 allow, you don't file an amended complaint.

12 And, again, maybe the best argument that the State --
13 that the City has is, so what. But that argument doesn't
14 have any merit because the statute doesn't authorize the
15 filing of an amended complaint. We deal with the law. We
16 have to comply with the law. It says they can file a
17 complaint. They didn't do that in this case.

18 If you want to get technical, the way that the City
19 of Henderson does it, we would have an argument that we
20 were better off if they didn't file an amended -- a
21 complaint, because under their theory my client would have
22 had to have been remanded in custody and do 12 hours in
23 custody. That's the mentality.

24 So to a certain degree we were better off. However,
25 we're waiving that issue, because, again, it's a technical

1 argument. But we're seeking the fact that the City didn't
2 follow the statute.

3 There is only one case that has come down on this,
4 and it authorizes the dismissal of the case voluntarily by
5 the prosecuting agency and the refiling. But even in that
6 case, they don't use the word amended complaint. They use
7 the word a subsequent complaint or an additional
8 complaint. They don't use amended. So for that reason
9 we've litigated this in the municipal court level. I
10 raised that only because in anticipation I didn't want the
11 City to go, this was never raised in the municipal court
12 level. We did that. So that's why the petition was filed
13 before your Honor.

14 THE COURT: Thank you, Mr. Terry.

15 MR. TERRY: That wasn't that brief, but that's
16 all.

17 THE COURT: I'll give you some rebuttal, if
18 wish.

19 Counsel.

20 MS. ISCAN: Thank you, your Honor.

21 I do need to make one clarification. There was one
22 error that I made in presenting this argument to the Court
23 and to Mr. Terry.

24 The procedure in Henderson is that the refiled case
25 is filed under the same case number, however, an amended

1 complaint isn't always filed. That was my error. It was
2 particularly filed in this case, because we became
3 knowledgeable of Defendant's aliases. So the difference
4 between the original complaint and the amended complaint
5 is that no aliases were included, which is required
6 pursuant to NRS 173.105.

7 So the reason that the amended complaint was filed in
8 this case is because we actually intended to amend the
9 complaint to add his known aliases.

10 So the procedure is that when a case is dismissed
11 voluntarily and refiled, the City sends notice to the
12 court that we're refiling. We request a summons. The
13 Defendant is brought back before the court, arraigned on
14 the complaint again, notified that the case is refiled,
15 and then a new trial date is set. The Defendant is able
16 to enter a plea and trial is set if necessary.

17 There was that one -- my misunderstanding about this
18 case.

19 THE COURT: I appreciate your clarification. Is
20 your argument and response to this writ request, so
21 what.

22 MS. ISCAN: No, your Honor.

23 In terms of -- the only thing that remains the same
24 then is that the court uses the same case number in order
25 to comply with the statute.

1 Normally there wouldn't be an amended complaint filed
2 particularly in this case because there was an amendment.
3 The City intended to file the amendment. But normally
4 it's filed under the same case number so that the court
5 can comply with the statute that requires that a refiled
6 case be reset in front of the same judge to prevent forum
7 shopping. So the City and the court have this procedure
8 in order to make sure that we remain in compliance with
9 the law.

10 THE COURT: As Mr. Terry pointed out though,
11 you've only got a few judges over there. Why can't you
12 have it filed properly, arguably, if it's not proper under
13 the statute under the circumstance, and then have the
14 folks catch up with the fact it's in the wrong department
15 if it needed to be before the same judge.

16 MS. ISCAN: Your Honor, I think that would lead
17 to a huge potential for error. There are 7, 8 different
18 city attorneys. There are 3 different judges. There are
19 thousands and thousands of cases, just as there are -- not
20 as many, obviously, as in district court, but there are
21 thousands and thousands of cases. Not the same city
22 attorney, who each is assigned to a different courtroom.
23 So if a case went to Courtroom No. 2, under a new case
24 number, that city attorney, it's quite possible would not
25 know and the judge would not know. So we would not have

1 that history. So the city court administer purposely
2 decided to use the same case number to prevent that from
3 happening, in order to maintain compliance with the
4 statute.

5 Additionally, as your Honor is pointing out, the case
6 law and the statute don't say that this procedure is
7 improper. It just says you can file another subsequent or
8 another complaint. Also, the law -- the statute and the
9 case law all firmly support that the courts have the
10 ability to administer their process and procedures to make
11 sure there's compliance with the law. I think it's very
12 this that this procedure has been selected in order to
13 maintain compliance with the law.

14 The last thing we would note, your Honor, is there is
15 no prejudice to the Defendant's procedural rights by using
16 this process. He's arraigned He's brought back in. He's
17 notified. The complaint is proper, as required by
18 statute. Every procedural due process requirement has
19 been met. There's no prejudice to this Defendant or any
20 defendant when we voluntarily dismiss and refile,
21 following this procedure.

22 THE COURT: Anything else, Counsel.

23 MS. ISCAN: No, your Honor.

24 THE COURT: Mr. Terry, indications are no
25 prejudice. I'm not sure I see that as far as guidance as

1 far as what the standard should be here today. But it
2 does beg the question. If procedures have technically
3 been followed in the way this was filed, where is the due
4 process.

5 MR. TERRY: Prejudice is not an issue under the
6 statute. It wasn't an issue in the only case that was
7 decided by the Nevada Supreme Court. So prejudice isn't
8 even a factor to be considered. I hope that that response
9 was adequate with the Court. If you have any other
10 questions, I would like to go on to the aliases.

11 THE COURT: I have very little guidance, as
12 you've already pointed out, as to how to handle this
13 matter. But I think any topic that is raised bears some
14 discussion in the record in terms of the prejudice.

15 Really what I think the argument was was there's been
16 no failure in the due process for your client. Maybe
17 prejudice is the wrong way to phrase it. But if there's
18 been no failure in the due process to your client, where
19 is the need for the court to exercise extraordinary relief
20 in the form of a writ.

21 MR. TERRY: There are those cases where
22 prejudice need not be shown. It's simply the fact that
23 the prosecuting agency didn't follow the requirements.
24 And this is one of those cases. They didn't follow the
25 requirements.

1 The argument on the aliases, I mean, is unsound --
2 diplomatically put. All they would have had to have done
3 is file a second complaint with the aliases in it. That
4 is not that difficult. So the amended complaint merely to
5 add alias names is not a sound argument, in my view, your
6 Honor.

7 THE COURT: Anything else Mr. Terry.

8 MR. TERRY: No, your Honor.

9 THE COURT: The way the dust settles on this for
10 me is not -- it's going to sound perhaps like form over
11 substance, but I don't think that's the case.

12 The City of Henderson's procedures cannot trump what
13 the statute requires. And the statute does seem to very
14 clearly require that there be no amended complaint filing
15 after the dismissal of an original complaint. It does
16 seem to contemplate, when you look at the plain language
17 and any fair reading of the statute, that it requires a
18 new complaint. We simply don't have that here. I
19 understand the the City, and I don't disagree with the
20 City, has the right to implement procedures that it sees
21 fit to make their process work and to ensure compliance
22 with the statute. But that doesn't give them the right to
23 create a procedure that is not in compliance with the
24 statute, ultimately, or at least flies in the face of what
25 the statute appears to require.

1 In this particular case, I do agree with the
2 petitioner that the City did not follow the statute. I do
3 believe this is more properly granted as a writ of
4 prohibition to prohibit the City from the refileing that it
5 undertook. And that the petition should be granted.

6 This is extraordinary relief. I understand that.
7 But in these circumstances it does appear that there was
8 an abuse of discretion and the circumstances are such that
9 even with little guidance from our case law and our
10 statute, I have to give the fair reading to the statute.
11 And that does appear that this procedure violates that.

12 I'mm going to grant the petition and as Mr. Terry tot
13 prepare the order. I want counsel to have an opportunity
14 to view it.

15 I appreciate that this ruling may well have
16 significant impact on how the City of Henderson proceeds
17 with these procedures, but I don't see any other way
18 around that, Counsel, under the circumstances.

19 MR. TERRY: Thank you very much, your Honor.
20 We'll prepare the order and send it over to the City.

21 MS. ISCAN: May I ask. I do understand the
22 Court's ruling today. Is dismissal the appropriate
23 remedy. It's an extreme remedy that's typically looked at
24 when it's willful or malicious acts on the behalf of the
25 prosecution against the defense. In this case the City

1 would be more than willing to request a new number, case
2 number to be issued to amend the complaint or filing a new
3 complaint as directed.

4 THE COURT: I don't think we're in the posture,
5 Counsel, in terms of looking at sort of a gradient of how
6 severe the punishment is -- how severe the remedy is
7 because the circumstances are that this is simply a faulty
8 amended complaint. I think in certain circumstances,
9 depending on use of discretion and what has occurred, then
10 you look at what is the appropriate remedy. We simply
11 have a procedural fault here. And in this procedural
12 fault dismissal is appropriate. What the consequences and
13 impacts are to Mr. Amado still, obviously, remain to be
14 seen.

15 I can't look at this from the actual procedural
16 posture of this matter and say, well, that's too harsh a
17 remedy. Let's do something less severe than that. This
18 is a procedural situation, not a substantive equitable
19 review. I do believe dismissal is appropriate.

20 MS. ISCAN: Thank you.

21 MR. TERRY: Thank you, your Honor.

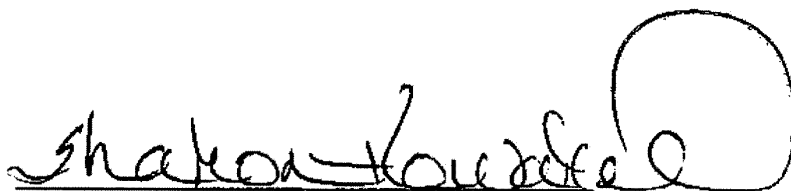
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CERTIFICATE
OF
CERTIFIED COURT REPORTER

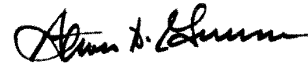
* * * * *

I, the undersigned certified court reporter in and for the
State of Nevada, do hereby certify:

That the foregoing proceedings were taken before me at the
time and place therein set forth; that the testimony and
all objections made at the time of the proceedings were
recorded stenographically by me and were thereafter
transcribed under my direction; that the foregoing is a
true record of the testimony and of all objections made at
the time of the proceedings.

A handwritten signature in cursive script, reading "Sharon Howard", is written over a horizontal line. The signature is fluid and includes a large loop at the end.

Sharon Howard
C.C.R. #745



CLERK OF THE COURT

1 WILLIAM B. TERRY, ESQ.
Nevada Bar No. 001028
2 WILLIAM B. TERRY, CHARTERED
530 South Seventh Street
3 Las Vegas, Nevada 89101
(702) 385-0799
4 (702) 385-9788 (Fax)
Info@WilliamTerryLaw.com
5 Attorney for Petitioner

ORIGINAL

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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9
10 GIANO AMADO

Petitioner,

CASE NO. C-16-312757-W
DEPT. NO. XXV

11
12 vs.

13 CITY OF HENDERSON and THE
HONORABLE JUDGE MARK STEVENS,

14 Respondent.
15

16 **ORDER GRANTING PETITION FOR WRIT OF PROHIBITION AND**
17 **FURTHER ORDER DISMISSING AMENDED COMPLAINT #14CRI1381**
AND AMENDED COMPLAINT #15CR859

18 This matter having come on for hearing before this Honorable Court based on Petitioner,
19 GIANO AMADO's Petition for Writ of Mandamus or, in the alternative, Writ of Prohibition;

20 The Petitioner being represented by counsel, WILLIAM B. TERRY, ESQ., of the law offices
21 of WILLIAM B. TERRY, CHARTERED; and

22 The City of Henderson being represented by LAURIE A. ISCAN, ESQ., of the Henderson
23 City Attorney's office; and

24 The Court having considered the Petition for Writ of Mandamus or, in the alternative, Writ
25 of Prohibition as well as the City's Opposition to said Petition for Writ of Mandamus or, in the
26 alternative, Writ of Prohibition and the Court having heard arguments and considered the points and
27 authorities filed by all parties;
28

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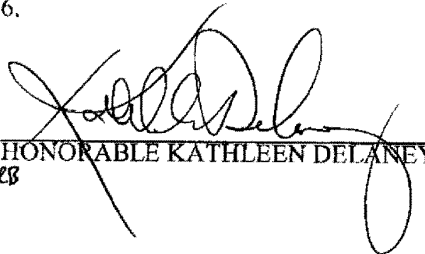
MAR 02 2016

1 IT IS HEREBY ORDERED that the Petition for Writ of Prohibition is granted and the
2 Henderson Municipal Court of the City of Henderson is ordered to dismiss Amended Criminal
3 Complaint #14CR11381 and Amended Criminal Complaint #15CR859 currently pending in the City
4 of Henderson against the Petitioner. The City cannot proceed on an "amended" complaint after
5 voluntarily dismissing and refiling a charge. Henderson's procedures cannot trump what the statute
6 requires, and it seems to contemplate a new complaint is required; and

7 IT IS FURTHER HEREBY ORDERED the Court having found factually that the original
8 complaint being #14CR11381 (not to be confused with the Amended Complaint) and the original
9 complaint designated as #15CR859 (not to be confused with the Amended Complaint) having been
10 dismissed on July 29, 2015 voluntarily by the City of Henderson and the Court having found that the
11 "Amended" Criminal Complaint #14CR11381 was filed on July 30, 2015 and that the "Amended"
12 Criminal Complaint #15CR859 was likewise filed on July 30, 2015; and
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1 IT IS FURTHER HEREBY ORDERED that the instant Writ of Mandamus or, in the
2 alternative, Writ of Prohibition is hereinafter designated as a Writ of Prohibition and is made
3 permanent with again the Henderson Municipal Court being directed to dismiss both above-
4 mentioned Amended Criminal Complaints.

5 DATED this 27 day of March, 2016.

6
7
8 
HONORABLE KATHLEEN DELANEY
LB

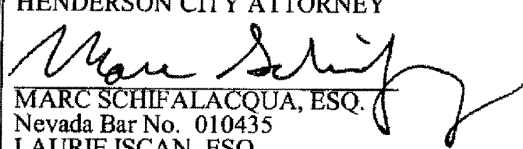
9 Submitted by:

10 WILLIAM B. TERRY, CHARTERED

11 
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15 Attorney for Petitioner

16 Approved as to Form and Content:

17 HENDERSON CITY ATTORNEY

18 
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