

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
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- A. Well technically yes, but I don't force it, you know, because obviously you're dealing with females, and that's why you know when you're dealing with females, for instance, you guys are aware you know going in the back of the dressing room is already a no no.
- BS. Right.
- A. You know you putting a hand on a dancer, just say how you doing, is already putting \_\_\_\_\_(unintelligible)... So some things you can say later. So if there's a possible problem then the floor supervisor will tell Ariel. Ariel, there's a problem with a dancer, she needs to go the back.
- BS. So you're a floor supervisor, is that what you are?
- A. No, no, no, I didn't say that.
- BS. Oh, okay.
- A. I said the floor supervisor.
- BS. The floor. Okay. Now Ariel, she's a manager?
- A. Yes.
- BS. Okay. Ah, who was the floor manager that night, on Thursday night?
- A. Floor supervisor.
- BS. Or supervisor.
- A. It was Jerry.
- BS. Jerry, you now Jerry's last name?

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A. Barone.

BS. Burrow?

A. Barone. B-A-R-O-N-E.

BS. Okay. Ah, other than the dancers, any other employees that work there?  
Bartenders, bouncers, what?

A. I can't, I don't remember who the cashier were. I could tell you if I had the paper.

BS. How about doormen?

A. I don't know them, 'cause we just got a couple new people so I don't know for sure if, ah, ah, who worked that night. All I know I was there til 5:00, like I said 5:00, 5:30, and I sat and spoke with Jerry for about 20, 30 minutes outside in the parking lot 'cause that girl was using his name, you know, and some bullshit.

BS. What do you mean she was using his name?

A. No, just, ah, you know 'cause she had a complaints. Ah, she started a big ruckus at the door. She was banging on the fucking door. I'm trying to close up. Juan, new guy \_\_\_\_\_(unintelligible). Some, the guy, the guy in the back that does the, the payouts. You know the tickets and all that stuff. You know the money.

BS. Okay.

A. And she's banging on the door, "\_\_\_\_\_ I gotta go." I said just wait a second. "I gotta go." I wait, wait a fucking. That's it. I got up and fucking hit the door and said what the fuck is your problem? I said I told you to fucking wait. And she apparently, she

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said, "Oh, I gotta go. \_\_\_\_\_(unintelligible). I gotta go to school." I said well that's not my problem, that's your fucking problem. I'm.

BS. What's her name?

A. I don't know her real name. She goes by Diamond.

BS. Diamond?

A. Yeah.

BS. And white girl, black girl?

A. Black girl.

BS. Um, let's shift gears here a little bit. Ah, this kid that got killed at work at your club, right? What was his name?

A. As far as I know TJ.

BS. TJ.

A. I guess.

BS. Okay.

A. That's what I called him.

BS. How, how long had he worked there?

A. I can't tell you that. I'm not, I don't have, I'm not sure. I didn't hire him.

BS. Was it like a month, two months? I mean how long you been there?

A. Couple years now.

BS. Couple years? Has he been there that long?

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A. No.

BS. Okay, so.

A. I don't \_\_\_\_\_ (unintelligible). Six months?

BS. Six months? About six months?

A. Seven months.

BS. Okay.

A. \_\_\_\_\_(both talking).

BS. Who hired him? You said you didn't hire him. Who hired him?

A. I, at the time I think it was Mim, I think. I'm not totally sure who hired him but Mim was at the club at the time.

BS. Mim's the other manager?

A. Yeah.

BS. What's her last name?

A. \_\_\_\_\_(unintelligible).

BS. \_\_\_\_\_(unintelligible)?

A. Some shit like that. I can tell you \_\_\_\_\_(both talking).

BS. Is she, is she Asian?

A. Yeah.

BS. Okay. I figured from Mim. All right. So she hires him. What was TJ hired to do?

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- A. Front door? I don't know. He did the, did the doorman. Then occasionally from time to time he would ask hey, ah, do you mind if I give out passes or mind if I do some type of advertising? I said sure, I guess. So I gave him a box of fliers, a box of passes.
- BS. Okay.
- A. All the fucking dancers, you know they do the same. They ask you. I mean if you ask for passes.
- BS. What, what is that? I don't understand. What, what kind of passes you talking about?
- A. You know like VIP passes. Then the bigger ones--
- BS. Do you sell those or?
- A. They're for locals, you know, 'cause every club in town lets the locals in for free so \_\_\_\_\_(unintelligible) you guys are going to help out, and I use to go out and put fliers \_\_\_\_\_(unintelligible).
- BS. You're in charge of the fliers and passes?
- A. Not directly but if somebody asks. Like if I know if I'm gonna give 'em to a dancer and she's just gonna give 'em to the wrong people all time, we're gonna have people coming in that's gonna cause trouble, then no. I would say I can't, not right now. But, ah, (coughs), excuse me.
- BS. You okay?

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- A. I'm fine. So I give everybody. The bartender, I gave her passes. I gave Ariel passes. Ariel's given this person passes. Mim's given everybody passes. So everybody in the club's got passes. Passes, fliers, the bigger ones, the middle \_\_\_\_\_(unintelligible), the big fucking construction paper ones. As far as advertising around town you know they'll go to the salon, you know here's four of our passes. Come and check us out, you know.
- BS. Um, how about some of your other doormen? Who else is employed there?
- A. Just cashiers. I mean we have, you know the other cashier went ahead and resigned. And we got, ah, a new girl starting right now actually. Ariel and I called her in, and Ariel spoke to her, said you know boom, boom, boom, boom, you know. Can you, you gonna be able to handle it? So I had to work there, you know training for a couple days and she said she could handle the position so.
- BS. Now I'm talking about other doormen. You had other doormen, right, because you had a problem with TJ, right?
- A. No, I never, I don't, I don't know why he was terminated, to be honest with you. I worked the door after he left for a couple weeks.
- BS. So when, when was he terminated? When did you start working the door?
- A. Fuck, I don't, I'm not sure. \_\_\_\_\_(both talking).
- BS. \_\_\_\_\_(both talking) month ago?
- A. Um, I don't know. Today's---

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- BS. Almost the end of May \_\_\_\_\_(both talking).
- A. Couple, couple weeks, three weeks.
- BS. So it's still May?
- A. That's, that's, that's an estimated. I'm not sure.
- BS. Okay.
- A. I mean like I said.
- BS. Two or three weeks ago.
- A. I, I fucking worked long so I'm fucking tired. I'm \_\_\_\_\_(unintelligible) already tired.
- BS. Yeah.
- A. I haven't even started the day yet.
- BS. I'm sorry. We'll, we'll get you \_\_\_\_\_(unintelligible).
- A. I don't understand what you guys are doing \_\_\_\_\_(unintelligible).
- BS. All right, um, so TJ use to work the door. And he had, did he ever have any other jobs, behind the bar or anything?
- A. No.
- BS. Was he taking money? I heard that he was skimming money.
- A. Ah, that I'm not, I'm not, I'm not sure.
- BS. Was that an accusation that may have led to his termination?

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- A. I, ah, like I said, I'm not sure if he was taking money or not, but I mean there's always an assumption, you know, that a bartender's stealing from you, the fucking bitches are stealing from you, the fucking floor guy's stealing from you. Your own son's stealing from you.
- BS. Your dad's saying that you're stealing from him?
- A. No, I'm just giving you an example. I mean in that type of business, I mean. I don't steal personally.
- BS. Yeah.
- A. That's not my character. You know I do that.
- BS. But somebody was saying that he was?
- A. That I don't know. I don't know why he got fired. I didn't fire him. If I fired him I would of told you right now, hey, this is why I fired him for. I \_\_\_\_\_  
(unintelligible), hey, I gotcha, you're fired.
- BS. All right. You have the power to do that though, to fire somebody?
- A. \_\_\_\_\_ (unintelligible) I never fired anybody. \_\_\_\_\_ (both talking).
- BS. But you, but you could 'cause \_\_\_\_\_ (both talking)?
- A. If I wanted to, if I really wanted to and I knew that, you know, this was happened, and I would present it to Ariel, Ariel 'cause she's, she's, you know, part of the office. I can't be \_\_\_\_\_ (both talking).
- BS. Make her the heavy?



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- A. Huh?
- BS. Make her the heavy?
- A. No, no, no, no, no. Well, Ariel, this is what I saw and what do you think, or if a person's late five, six, seven times and we give 'em a verbal warning that it's on paper, then from there it's possible, you know, suspension \_\_\_\_\_ (unintelligible). You know it's like when you get in trouble in high school \_\_\_\_\_ (unintelligible) tardiness, \_\_\_\_\_ (unintelligible).
- BS. Okay. But you're not the heavy is what you're saying? You, you refer it to the manager or \_\_\_\_\_ (both talking)?
- A. Well \_\_\_\_\_ (both talking) when Ariel and Mim were there we all just spoke together. It was like I was gonna go out in the blue and you're fired and this and that. No, it wasn't just me. It was more actually females, 'cause it's a female \_\_\_\_\_ (unintelligible), you know, business more or less. That's why we have female managers. So when it came down to dancers or basically employees, 'cause Mim's the one that handled the employees prior to her departure, it was Ariel and Mim. I just say hey Luis we don't, we don't have a DJ today, we need a DJ.
- BS. Okay.
- A. Luis, I need you to do this. So yeah, I could but I didn't express it.

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- BS. Okay. Now TJ was doing something else at the same time, right? He wasn't just working at the club.
- A. I, he had mentioned something once to me that he had something else going on outside. But \_\_\_\_\_ (unintelligible).
- BS. \_\_\_\_\_ (inaudible)?
- A. I don't know, \_\_\_\_\_ (inaudible). You think they're gonna talk to me?
- BS. Well why not? \_\_\_\_\_ (both talking).
- A. \_\_\_\_\_ (both talking) mother fuckers don't talk to me.
- BS. He talks to me.
- A. Oh no, no, no, no, no, no. They don't, they don't, like I said, they don't, they don't talk to me. The only thing they mentioned, he mentioned to me was he had something, you know, oh, you know I have to go do this other thing during the day. That was it. That's all. Um, okay. And that's, you know, when he asked for passes and stuff like that I gave it to him. If he asked for a flier I gave it to him.
- BS. Well I heard he was, ah, he had something to do with the cab companies. That he was hand, probably handing out something through them, right?
- A. Well I don't know. He asked me for passes so again, I would have to assume that that's what he was doing or that's what everybody was doing.
- BS. Well not everybody works for, with the cabs, cabbies, right?

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- A. Well I work with the cabs when I'm out there, when I use to pass out fliers, yeah. Here's a couple passes. \_\_\_\_\_ (unintelligible) barbeque Thursday, Friday and Saturday, you know, incentives to.
- BS. \_\_\_\_\_ (unintelligible).
- A. \_\_\_\_\_ (unintelligible).
- BS. It was pretty common knowledge though that he did something on the side and it was, it was, did something with cab companies, right?
- A. Cab companies? I don't know. Passing fliers, yes. I mean there's a possibility that I gave him passes. I gave him stuff like that. And you know, invitations when we had that party. Ah, as far as anything business with the cabs then I don't know.
- BS. Okay. How about, um, Anabel? What's her, what's her position?
- A. She does the books.
- BS. She does the books there at the, at the club?
- A. Well banks, to make sure the banks are insured. \_\_\_\_\_  
\_\_\_\_\_ (inaudible), front register bank, \_\_\_\_\_ (inaudible), stuff like that.
- BS. Okay.
- A. \_\_\_\_\_ (inaudible).
- BS. What's her relationship with your dad? You don't know?
- A. I don't know.

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BS. And what's her relationship with the club? I mean.

A. She helps out with the books. You're asking me questions that I don't know. If like I knew I'd tell you, just like I told you with TJ.

BS. She has no relationship to you whatsoever?

A. No.

BS. Okay, she's not a friend, she's not?

A. Oh yeah, she's a friend but I mean every once in a while, you know, well let's go to the mall. You know she'll buy something for her mom or something like that but \_\_\_\_\_ (both talking).

BS. She's been a friend of the family's for quite a while?

A. Yeah.

BS. How long? All your life? Is she like the gal, a gal that you'd call aunt, ah, Aunt Anabel or you know?

A. I'm gonna be honest with you. \_\_\_\_\_ (inaudible). I don't have myself a good relationship \_\_\_\_\_ (inaudible).

BS. With Anabel do you?

A. No, with Anabel or, or my dad. You know I don't get involved in their affairs. And like I say \_\_\_\_\_ (inaudible) only son. I'm virtually a loaner so I don't, I stay to myself.

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BS. Well you know quite frankly that's what I'm seeing here. You know what I mean?

"Cause Anabel, Anabel's got money coming out her ears. She's got all kinda of property out there. She's driving around in a Hummer. And what, what, what have you got? You're sitting in a damn, Simone's, in the little bed back there, right?

A. From time to time, yeah.

BS. So you're, so why, why is that? I mean why isn't your dad taking care of you?

A. He does.

BS. How? By giving a little?

A. \_\_\_\_\_ check.

BS. Yeah? How much you get a month?

A. Enough to cover my bills.

BS. Which is what? What kind of bills you got?

A. Um, a car payment, ah.

BS. What kind of car you got?

A. I'm sure you guys been by the shop. That black truck outside.

BS. Black truck. What kind, what kind of truck?

A. The SSR.

BS. Okay. What's your payments on that?

A. It's seven, seven something a month.

BS. Seven hundred?

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- A. \_\_\_\_\_ (unintelligible).
- BS. Your dad's got all this money, why didn't he just buy you a truck?
- A. 'Cause \_\_\_\_\_ (inaudible).
- BS. 'Cause what?
- A. You, you think that 'cause people own businesses that they got \_\_\_\_\_ (unintelligible) money coming out of their ass? Come on.
- BS. Luis, I know your dad's got money coming out his ass.
- A. He doesn't have money coming out of his ass.
- BS. \_\_\_\_\_ (both talking).
- A. Well then if you're asking me and I don't know, then ask him. What the fuck you asking me for? I don't know.
- BS. Okay. How about a guy by the name of Delgad, ah.
- MM. Deangelo.
- BS. Deangelo.
- A. What about Deangelo?
- BS. What do you know about him?
- A. Um, he's got a kid. Um, he's got a couple, you know he's got friends that help him when they promote and I don't know.
- BS. \_\_\_\_\_ promotes? He's a promoter?

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- A. Ah, promote. Ah, he was obviously a float as well. He helped out, you know, in various, you know DJ'ing when the other DJ didn't show up. You know just stuff like that. He never really DJ or he'd promote or?
- BS. What do you mean, hand out and shit like, like everybody else?
- A. Uh huh.
- BS. You pay him to do that?
- A. Yeah.
- BS. What is, what you pay him to do that?
- A. Huh?
- BS. How much to you pay him to do that?
- A. I don't know. I don't \_\_\_\_\_(both talking).
- BS. Well you hired him, right? If you.
- A. I didn't hire him. I told you guys. I just told you that ten minutes ago. I don't, I don't \_\_\_\_\_(both talking).
- BS. \_\_\_\_\_(both talking).
- A. Mim probably hired him. I didn't, like I said.
- BS. Okay, so she hired him as a DJ and a solicitor, someone \_\_\_\_\_(both talking)?
- A. I, I'm not, I think he, I think he got hired, I think he got hired as a, as a driver 'cause when we had like, you know, bachelor parties. Hey, hey, this is Jim, I'm coming into

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town.. I'm staying at the M, I'm staying at the MGM, come and get me. You know I'd work out a deal, okay, well you guys \_\_\_\_\_(inaudible) thirty dollar admission, bah, bah, bah, bah, bah. You know is there a bachelor in the house? Yes, there's a bachelor. Okay, well let him in for free, you know, or stuff like that, and he'd go get 'em.

BS. So, so he goes and gets 'em. How's he go get 'em?

A. He gets 'em in the shuttle bus or the van.

BS. Oh, you guys have shuttle buses? That's like that, those weren't just getting repaired out there at Simone's? Those are your shuttle buses that had the big girls on the side and stuff?

A. No, there's, there's one at the club. There's one that just says, you know, PC on it.

BS. And that's the one he would drive?

A. Yeah.

BS. The one that said PC? It's a small one or is it a big one that \_\_\_\_\_(both talking).

A. No, it's like a 12 passenger.

BS. 12 passenger?

A. I think. I think, I'm not sure.

BS. Is that the one that has like big, do they come up and over or is it just like a extended van? You know what I mean?

A. It's just like a passenger van.



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BS. Okay, like \_\_\_\_\_ (both talking). If I went to, ah, rent a Hertz rental and I wanted to a big van.

A. Like a BPSI van.

BS. Okay. How often would he use that van?

A. I don't know. I'd only give him, I personally gave him the keys a couple of times. He said he was gonna go wash it out.

BS. Okay.

A. You know go down the street I guess or go to a mobile detailing place \_\_\_\_\_ (inaudible).

BS. Okay, when, when's the last time you did that?

A. I don't remember \_\_\_\_\_ (unintelligible). It was a while since I had him do that. \_\_\_\_\_ (both talking).

BS. \_\_\_\_ (both talking) a week ago? Two weeks ago?

A. That had to of been, I know \_\_\_\_\_ (unintelligible), I think he took it like two weeks ago. It had to of been Ariel.

BS. Two weeks ago?

A. I don't know, I don't, 'cause the last time I did it, it was \_\_\_\_\_ (unintelligible) month ago. A month ago I asked him to clean out the fucking shuttles.

BS. Okay.

A. \_\_\_\_\_ (unintelligible).

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BS. And you haven't asked him since then?

A. No.

BS. Okay. Um, when's the last time you knew that he used that shuttle, shuttle bus?

A. I'm not sure.

BS. A week ago, a day ago, two days ago?

A. Well I, I, I don't, I'm not sure.

BS. If you were guessing?

A. If I was guessing, well actually he was suppose to use it the night I guess you guys came \_\_\_\_\_ (unintelligible), somebody came down to the club.

BS. On Thursday night?

A. \_\_\_\_\_ (both talking). No, he was suppose to use it.

BS. What do you mean he was suppose to use it?

A. He was gonna go get those people.

BS. What people?

A. We had people, ah, that needed to be picked up by PF Chang's on Paradise.

BS. Who, who were they?

A. A bachelor party for females. So instead.

BS. Do you got a name on them?

A. I have it, ah, not on me but I can, ah, and return what had happened was, ah.

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- Q. This is when we talked to him. When we were down there and picked up Deangelo to come here. \_\_\_\_\_(both talking).
- A. He gave me, he gave me back my, gave back \_\_\_\_\_(both talking).
- BS. Oh no, I'm talking the night of the homicide. The night TJ got killed. Was he using it that night?
- A. No, he hadn't used it. He was already \_\_\_\_ (unintelligible). I don't, fuck. The 19th was the night that you guys were \_\_\_\_ (both talking).
- Q. No, that was the 20th. That was the next day that we came in to talk to \_\_\_\_.
- A. Oh, I'm getting my days all fucked up then. I don't.
- BS. Okay.
- A. The only day that I know that he was suppose to take the shuttle bus was the night that you told him or somebody told him to give me back my phone. He had the, the guy, the guy's phone number, the girl's phone number from PF Chang's.
- Q. Right.
- A. Deangelo says look, here the numbers. So I said ah, shit. So instead I was gonna try to send somebody else to go get 'em. The fucking ladies decide forget it, we'll just drive down to the club. They drove down to the club and they went downstairs.
- Q. That was Friday?
- BS. Okay, so let's backup a day.
- A. That's the last time that . . . the day before?

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BS. Uh huh.

Q. Thursday.

BS. Who, who, who would of been using that, that van that day? Would you of been driving that van?

A. No.

BS. Do you ever drive that van?

A. That night I drove the SSR, and, ah, I use that van rarely.

BS. Okay. Understand, this is real important, I need to know who was using that van that night.

A. I don't, I don't know. That's what I'm trying to tell you. I was driving the SSR. You don't understand, I, when I got to the club \_\_\_\_\_(both talking).

BS. But, but look, but look. If somebody calls in, somebody comes in and they're asking you different things about, ah, ah, such and such needs picked up over at PF Chang's, such and such needs picked up at the Rio, right? You're sending people over to pick 'em up, right?

A. Okay, but the shuttle, I think we're getting confused here. The Palomino bus is a different bus, which is really not in service. The Palomino van didn't leave that club that night. That night it did not leave the club. I know that for a fact. Now, def, I'm getting my days all fucked up. That van didn't leave. To far as my knowledge it didn't leave the club. The one with the big old fucking PC on it.

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Q. No, we're talking, there's another van that you haven't talked about yet. It's a white Chevy Astro Star or Astro.

BS. You have other vans, right?

A. Well that's the only two that we use for the club or you know I occasionally that Astro van I'll drive it because my Camaro's in the shop, having the motor \_\_\_\_\_(both talking).

Q. That's the van \_\_\_\_\_(both talking).

BS. \_\_\_\_\_(both talking). Were you, were you driving that Astro van that night.

A. No, I just told you I was driving the SSR that night.

BS. Who was driving the Astro van?

A. I don't know.

BS. Where would it have been parked?

A. The shop.

BS. Simone's?

A. Yeah, or at the house. I mean at Anabel's house or somebody's house. I don't know.

BS. At whose house?

A. Anabel's or somebody else. I don't know.

BS. Anabel's?

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- A. It's not my van.
- BS. Okay. So if the person that, that killed TJ was driving that van, right? I'm telling you the person that killed TJ was driving that van. Then we need to go find out who got the van at Simone's, where you were living at, right?
- A. No, I, I stay there occasionally but that's not my main residence where I actually live.
- BS. Occasionally. Right. Or at Anabel's, right? So the new, the two people that if this van was taken away tonight, 'cause obviously it wasn't during the day, this was late at night.
- A. No, I, I, don't, I don't, I don't know 'cause Carlos sometimes borrows it to go get water.
- BS. Who's Carlos?
- A. He's the night guy that works at Simone's, and he gets water or he'll use it or, or Joel. He's asked me, he'll go quickly down the street or, um.
- BS. I mean we're talking at night time.
- A. I don't know, like I told you already I don't, I never, I never, I never . . .
- BS. \_\_\_\_ (both talking) but Joe's not gonna \_\_\_\_\_ (both talking) going down the street.
- A. Okay, I never saw, I, I never, I never saw that van that night. I took the SSR to the thing. I thought you guys were talking about the, the shuttle bus.
- BS. Where's that van at right now?

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- A. I have no idea where it is. It might be at the shop. I don't know. I mean you're asking me. I, I don't know. It's not my van.
- BS. But you just take it from the shop, right?
- A. Yeah, and I, ah, stayed the night there. I woke up. I took a shower, put cologne on, got in the God damn Hummer and I went to work. I asked my \_\_\_\_\_ move your car. I asked \_\_\_\_\_ (unintelligible)?
- BS. You asked who?
- A. My dad. Can I borrow your cars. Sure.
- BS. 'Cause he was there at Simone's?
- A. They had just briefly stopped by. So I borrowed his Hummer to go to work, and I was like if I get on the 15 north I'll get stuck there for an hour and I'll be late to work. So I took \_\_\_\_\_ (unintelligible) Sunset to make a left on Petticoats, make a right on Trop, get on the 95 and go all the way around the damn town, make a right past Cashman, go to work.
- BS. Okay. If, ah, somebody from the club wanted to use that van how would they get the keys?
- A. Which one we talking about?
- BS. The Astro van. The one that was used in the homicide.
- A. I guess you'd have to ask her. The owner of the car I guess would be Anabel or.
- BS. Or you, right, 'cause \_\_\_\_\_ (both talking)?

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- A. No, no, no, I rarely drive it.
- BS. But you don't have access to the keys?
- A. Yeah, if I had them I could, you know, give 'em off but I'm at work, and I usually drive my own cars. \_\_\_\_\_(both talking).
- BS. Okay, well I'm telling you right now somebody used that car. Who would, who would they go to that night? Anabel?
- A. Well if, if the car was at the shop then somebody could of asked just Carlos, get the keys. How would I know, I mean, I mean.
- BS. Okay, listen. Let's quit bullshitting right now.
- A. I'm not bullshitting. I'm telling you what I know, and you're, you're.
- BS. Okay, listen, listen to me, all right? Okay? Deangelo, right, he drove that van that night.
- A. That I don't know.
- BS. I know that. I'm telling you. Okay? Who drove that van that night?
- A. You're telling me it's Deangelo.
- BS. I'm telling you that 'cause I know for a fact that you know \_\_\_\_\_(both talking).
- A. But I don't know.
- BS. Okay. Then tell me this, tell me this, because in the last two days, one, we've arrested the shooter that killed TJ, okay? We've talked to him. Okay? Puts Deangelo as the driver. Okay? You follow me so far?



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A. Yeah, I'm actually following you.

BS. Okay. Now then, we talked to Deangelo, and guess what? Deangelo admits that he was the driver of this homicide. Okay?

A. Okay.

BS. Guess what next?

A. What is?

BS. We put a bug on Deangelo and we sent him to your place.

A. Okay.

BS. And listen, it went something like this. (Whispering) "You know what, if, ah, if you can't get those, those guys, get out of town. \_\_\_\_\_ (inaudible) in this bottle of Tangeray, pointing rat poison in the fucking bottle and killing these fuckers." Sound familiar?

A. No.

BS. It doesn't sound familiar to you? Or how about, (Whispering) "Hey, if, if the Tangeray doesn't work, we'll put the rat poison in, in a blunt cigarette and have him smoke it. Kill him that way. Kill, kill the two guys first, then go for KC last." How's that sound? You don't, you don't remember making that statement?

A. No, I . . . when, I only seen Deangelo once.

BS. You're saying you only seen Deangelo once in when, since when?

A. Huh?

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BS. You seen him today?

A. I seen him, no, I seen him once when he was at the, ah, when you guys were there at the, ah, at the club, and I saw when he came to the club.

BS. Okay. Your little cubicle there at Simone's, right. Yeah, you staying there?

A. Occasionally from time to time.

BS. Okay, well what number's on the door?

A. Six.

BS. Six. How did I know that?

A. I don't know.

BS. (Whispering). "Hey, hey, did Anabel send you back here?" Whispering doesn't cut it. Okay? We're the FBI, Metro Homicide. Whispering does not cut it. Okay? You understand where we're at here on this thing? We have you not only conspiracy to commit murder with TJ, we have you conspiracy to commit murder on these other two guys that witnessed this crime. Okay? Now, now.

A. I had nothing, I had nothing to do with any of this. That's what I'm trying.

BS. Okay. Sit down a minute.

A. I'm just taking my shirt off.

BS. Okay. Now this is the way this is gonna work. Okay? We're gonna through the bullshit here, and I don't know Deangelo, I haven't seen Deangelo in the last fucking week or whatever it is, we're gonna cut the shit out here, we're gonna start talking

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about what's going on here, and you're gonna help yourself out, or you're going to jail and you can sit and you can explain everything to, to the judge down the line. Okay? What we need to know is what actually was the instructions for Deangelo whenever he went out there? Now there's a big difference, there's a big difference whenever you tell somebody to go beat somebody up, and there's a big difference when you tell somebody to go fucking cap somebody. Right? And right now Deangelo's telling us that you and Anabel and your old man told him to go out there and take care of it, to put a cap in his ass. Okay? Because, because one \_\_\_\_\_(both talking).

A. Whoa, whoa, whoa, whoa, I never, never, that never came out of my mouth. I told you, I don't know why TJ got fired.

BS. Well what I'm, what I'm hearing is that he was skimming off the, skimming from the till, and he's out there saying, telling everybody that you're gay.

A. Okay, then that's fine because I haven't had sex in a long time.

BS. And your dad, and your dad's pissed off about that.

A. People talk shit all the time. People talk shit about me, they talk shit about everybody \_\_\_\_\_(unintelligible).

BS. \_\_\_\_\_(both talking)

A. That doesn't mean, that doesn't mean that you're gonna go out and do something like that.

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BS. Hey, hey, listen, calm down, calm down. What I'm telling you is I have you on tape talking about this homicide. Okay? I have you on tape telling him to fucking poison somebody else. Now were you just bullshitting with him, you know trying to get him out the door? What, why were you saying that? Why would you tell somebody that? Why would you tell somebody that? Just to fucking get him out of there? Was he just being a pain in the ass or what?

A. Could I have a glass of water, please?

BS. Sure.

Q. I'll get him a glass of water.

BS. Listen. You gotta, you gotta listen to me here, okay? 'Cause this is what, these are the answers we gotta know. Okay?

A. First let me, let me, let me say something.

BS. Okay.

A. Okay. I had no problems, I don't have problems. My problems with Deangelo 'cause he shows up late to work all the time.

BS. Okay.

A. Okay. I don't have problems with TJ. I never had a problem with TJ. Okay? I don't know why he left the club. Okay? I got along with him so for him to call fag, queer, whatever.

BS. That \_\_\_\_\_ (both talking).

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A. Just, just, just, just listen.

BS. All right.

A. Okay. That night I was at the club. Okay? I closed the club, I had a confrontation with some girl named Diamond, Jerry was in the parking lot. Okay. Deangelo was in and out of that club the whole night. Okay? I gave him fliers, I gave him passes, I gave the other fucking dancer passes, I gave everybody jobs, like everybody got passes and fliers.

BS. Did you throw in the keys to the van so he could go do \_\_\_\_\_(both talking)?

A. No, I didn't. I didn't throw him no keys. No keys I gave him. Okay? No keys. The only keys I ever gave him \_\_\_\_\_ (unintelligible) to my Camaro and that was days ago. And even at that, at that he fucked it up 'cause he said he wanted to take his wife out on a date or go out. That was it. I never gave anybody no keys to anything. I don't give anybody keys to anything.

BS. Okay.

A. It's not my car to give keys to.

BS. Okay. What I'm getting at though, and what I need answers to is why, what was the problem with TJ? What, why did, why did . . . and why is it that somebody actually wants him killed or why is it somebody wants him beat up? I mean there's a big difference. You, you understand the difference? 'Cause if right now what Deangelo's telling us, is you guys told him to go kill somebody. Okay? Now in the

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conversation, in the conversation that we had with you and with Anabel yesterday, right, the conversation, it came out in that, "What, what were you thinking? All we wanted him to do, all you wanted him to do was to beat him up."

A. Yeah but, but I had nothing to do with it.

BS. But, but why, you know what I'm saying?

A. I had, look, I never, look I never wanted him to beat up. Maybe you're asking the wrong person, maybe you need to pull somebody else.

BS. \_\_\_\_\_(both talking).

A. I never asked nobody for this, nobody for that, nobody.

BS. The problem is you're, you're in there. You're in there and you're saying, (whispering), "Hey, up here. Put some rat poison in \_\_\_\_\_(both talking)." Right?

A. Deangelo, Dean, Deangelo \_\_\_\_\_(both talking)?

BS. Why would you say that?

A. Deangelo's got a lot of enemies outside the club.

BS. \_\_\_\_\_(both talking).

A. Okay? No, I, I never had, I never done anything. I never \_\_\_\_\_(both talking).

BS. Do I need to play the recording for you? Are you denying that? Are you telling me I'm a liar?

A. I'm not saying you're a liar. I'm not saying anything.

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BS. Okay, but why would you say it? Why would you tell him? Okay, so you didn't, you didn't have anything to do with TJ, right? You're saying you didn't have anything to do with the conversation with Deangelo telling him to, to go out and beat him up or to take care of him or do anything?

A... No, no, no I never, I didn't even know \_\_\_\_\_ (unintelligible) about that.

BS. But now, but now you don't have that conversation but whenever he comes to meet with you guys to talk about it, where's Anabel tell him to go? Go to Room 6. (Knocks on table) "Hey, Luis, what's up? Am I suppose to be going to work or what?" "Hey, hey, Anabel tell you to come back here?"

A. No, no, no, no.

BS. Yeah, I, do I need to play a tape for you?

A. Huh uh. Huh uh. (no)

BS. Do I need to play a tape for you?

A. Huh uh.

BS. 'Cause I can play it for yah.

A. Play it. I'm telling you I had nothing to do, I had nothing to do with this but you're asking me questions I can't ask. I didn't give Deangelo no fucking keys to no shuttle bus \_\_\_\_\_ (both talking).

BS. You didn't give him the Tangeray bottle?

A. I'm.

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BS. You didn't give him the Tangeray bottle?

A. Nope.

BS. You didn't? You didn't tell him to put rat poison in it? Luis?

A. Yes.

BS. How, how am I gonna help you? How are you gonna help yourself out of this fucking mess whenever you're just gonna play a I don't know what the fuck game. I don't know this and I don't know that. I got you on tape, man. I have you on tape. Having him strip down and lay next to you on your fucking bed just didn't do it. Okay? We're a little bit more sophisticated than that.

Q. Let me ask something. Do you think, are you ready to take the fall for someone when you didn't even tell anyone to go do that? Are you ready to, to go to jail and say hey, I might of said something stupid on the tape just to get him out of here. That was me talking shit. That's what we need to know if that's what you meant.

A. Hey look, I don't know if Deangelo did anything or TJ or any. I don't know. I told you I don't know.

BS. We're not saying you were there.

A. Okay? I don't know. Okay? And these questions they you're asking me, I don't know.

BS. We're not saying you were there.

A. Okay.



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- BS. We're wanting you to explain the conversation.
- A. Have my dad, have, have my dad come down here. Have my dad come down.
- BS. Why?
- A. So then you can ask him the same questions too? Have him \_\_\_\_\_ (unintelligible).
- BS. So are you saying that's the person we need \_\_\_\_\_ (both talking)?
- A. No, I'm not saying that's the person, or have somebody else come down here.  
'Cause you're asking me.
- BS. And I'm asking you point blank to tell me about the conversations that took place  
in your room, your little cubicle, Room #6, when you got Mr. Deangelo Carroll  
standing there butt ass naked, standing in front of you. You taking off his little pager  
and putting it in the bathroom today. Guess what, you didn't do that yesterday, did  
you?
- A. (No response.)
- BS. Now either we're gonna start getting some straight answers or you're gonna go  
straight to jail for murder, conspiracy to commit murder. Can you, do you  
\_\_\_\_\_ (both talking).
- A. Can you have my dad come down here, please?
- BS. Your dad's gonna come down here. We gotta talk to your dad too.
- Q. Luis, you're a grown man, all right.
- BS. We're, we're gonna talk to your, we're gonna talk to.

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- A. Until my dad gets here then I'm, then, then I'll be \_\_\_\_\_(both talking);
- BS. I am gonna talk to your dad. We're gonna talk to Anabel. Okay?
- Q. We got search warrants for the Palomino and we got search warrants for Simone's.
- A. Okay.
- Q. Okay? We're going to all those places tonight. We're talking to everyone that we can. You're the first one that left today that we can talk to, so now you're here. Now as a grown man you need to decide what do you want to do.
- BS. 'Cause all this lying is doing is making you look more and more guilty. Okay? You denying, "Oh, well I wasn't in there. I didn't talk to him. I didn't see him for two days." That's bullshit.
- Q. \_\_\_\_\_ (unintelligible) of you.
- BS. And what's the jury gonna look at? What's a jury gonna at? They're gonna look at that and say you know this guy's a freakin' liar. Okay? Now if he's lying to us about this, guess what, he's lying to us about everything else too, isn't he? Maybe he was in that van. So you need to start telling us exactly what was going on.
- A. Just, just have my dad come down here.
- BS. Your dad's on his way down here. As long as, long as he's over there at Simone's he's gonna be on his way down here. That's where he was?
- A. Last time when I borrowed his car, yes.

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BS. Okay, so if he was there at 4:00 more than likely he's on his way down here. Okay? But what we need for you to do is to tell us what went on. Your dad wasn't in that room, was he? Anabel was, you were and Deangelo was. So how is it gonna help to have your dad down here holding your hand? It's not. You're gonna have to be a man, step up and take responsibility for what you said in a room. Whether it was bullshit or not you made the statement, right?

A. (No response.)

Q. No one knows what's in your mind unless you tell us. Okay? We're not looking at you as the bad person here. Okay, we, we know what he did.

BS. We know who shot TJ.

Q. Okay, we know who shot him. He's arrested. He's in jail. We know what Deangelo did. But the whole thing is he's making these accusations against you, and it looks to us like he's setting you up but you won't tell us why you said certain things.

A. Look, look, have my dad come down here, then we can sit down and chu, chu, chu, chu.

Q. Why? You're a grown man.

BS. Hey, listen, this \_\_\_\_\_ (both talking).

Q. We don't have that opportunity.

BS. This does not work that way. Okay? We don't have a group session. We're not gonna, we don't have those. Okay? We talk to you. You wanna lie to us, you

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wanna sit here and bullshit us throughout this whole thing, we'll sit there and the jury will hear your lies. And I don't care, you'll go to jail. Maybe for the rest of your life. I don't know. Okay? The point is you need to step up and say what, what happened, and what you know about this situation. We have a man that's laying dead on the ground out there and I wanna know why. Now was this just something that got out of hand? Were they just suppose to beat the kid up and send him a signal to stop fucking with the club and stop fucking with, with you? Was that what's suppose to of happened?

A. I don't know. That I don't, I don't, I don't know nothing about. I never heard TJ say anything bad about us or anybody, about the club. I wasn't, I didn't fire TJ. I never had a problem with TJ. You can ask everybody. I never had a problem with TJ, nor really Jerry nor anybody else at all. I never had problems.

BS. Okay. Well you know he got killed, right?

A. Yeah, \_\_\_\_\_ (both talking).

BS. And you know Deangelo had something to do with it, right, 'cause he'd coming down here asking for all kinds of money. He's getting a thousand dol . . . thousands . . . fourteen hundred dollars the first time, and, ah, eight hundred dollars again today, a bottle of Tangeray to kill somebody. Was that just bullshit? Why are you telling him that? Why would you tell somebody that? Is that you just being stupid, trying to play up like you are somebody?

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A. (No response.)

BS. Huh? Why did you tell him that? I'm looking at you, you are not that type of person.  
Okay? Why did you tell him that?

A. Look, look, look, let me, let me use the restroom, have my dad come down here.  
\_\_\_\_\_ (unintelligible) wait, just listen to what I have to say. Leave a note pad \_\_\_\_\_  
(unintelligible). Okay?

Q. Okay.

A. I just wanna see my dad say . . . just leave a note pad and let me be alone here for.  
Let me see my dad \_\_\_\_\_ (unintelligible).

BS. Well there's not gonna be a big conversation.

A. There will not be a conversation. Just \_\_\_\_\_ (unintelligible).

Q. What's your dad's number?

A. 604-4410. I need to use your restroom \_\_\_\_\_ (unintelligible).

BS. Okay.

A. And obviously I don't got shit on me.

BS. Okay, we'll take care of that. Just tell me before we go that far, this is all I wanna  
know, and I will do exactly what you said, we'll get your dad, dad down here. Why  
would you tell him about the Tangeray bottle? Why did you tell him that shit? Were  
you just fucking around?

A. Just, just, just let me, I'll write \_\_\_\_\_ (both talking).

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- BS. \_\_\_\_\_(both talking).
- A. I'll write everything that I know on the pad.
- BS. You're--
- A. I'll write everything I know on the pad. I'm gonna use the restroom. Let me have some time alone in here to.
- BS. You're asking me, you're asking me for a favor, I'm asking you for one.
- A. It's not a favor. I'll write everything down. I'm just saying, let, let, let me use the restroom, I gotta take a piss, \_\_\_\_\_(both talking).
- BS. All I'm saying is I'm gonna walk you out here and let you take a piss. I'm not gonna handcuff you up and what not. Are you a cold blooded killer, if you are, I'm gonna handcuff your ass \_\_\_\_\_(both talking).
- A. No, I'm not. Come on, no, I'm not.
- BS. All right, so were you just bullshitting whenever you told him that about that, the Tangeray? 'Cause that, that sounds pretty hard to me. Are you this hard ass or not?
- A. No.
- BS. So were you, why would you tell him that?
- A. (No response.)
- BS. Was it just to get him out of the room or were you puffin' your chest, trying to be bigger than you actually are?

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A. (No response.)

BS. You tell me you're not a killer, right? Why? Did you think that would kill him?

A. (No response.)

Q. Luis, you gotta talk to us, all right?

A. I told you, you would have everything down on the paper. Okay?

Q. All right, let's start writing it.

A. Just have my dad, I just wanna talk to my dad. You can be present.

BS. You're not gonna talk to your dad, Luis.

Q. We'll talk to your dad. Will you come out, take a piss, write it down, and we'll talk to your dad, and then if your dad wants to talk to you without \_\_\_\_\_.

BS. I, I told you.

A. \_\_\_\_\_(both talking).

BS. I'm asking you, I'm asking you plain and simple. You're asking me, I'm giving you the same respect. Okay? I don't let, I don't let killers walk around here.

A. I'm not a fucking killer. You guys fucking know that.

BS. \_\_\_\_\_(both talking).

A. \_\_\_\_\_(both talking). Okay, I gotta go. I don't wanna piss my pants. Then cuff me so I can go to the bathroom, please.

BS. Where is the bathroom?

Q. It's right around the corner.

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BS. All right, come here. Go. Straight. Hug that wall. This wall.

Q. Right here.

(All leave room.)

(All return to room)

BS. Pick up all those tissues for me, throw 'em away.

A. Just \_\_\_\_\_ (unintelligible).

Q. I'll get you more tissues.

A. I don't \_\_\_\_\_ (unintelligible).

BS. Just because they could be used as weapons or anything else.

A. (Laughs) Fuck, I don't know. Where's my dad at?

BS. He's gonna call him right now. Come on, keep your part of the bargain.

A. I wanna talk to my dad.

BS. That wasn't the deal. You're not gonna talk to anybody. You said you wanted to see your dad.

A. Well I wanna at least see my dad, hey what's going on? Why am I fucking here.

BS. We know why you're here. You know why you're here. And I'm telling you why you're here. I want you to sit down, if you wanna write it, you write it out and explain what went on the last two days at your shop. If you know what happened before that led up to those events, you need to start writing that as well. Come on, you



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keep telling me you're not this bad guy. You gotta, you gotta give me something that tells me that you're not.

A. (Coughs)

BS. You all right? You need some more water? Huh?

A. (No response.)

(END TAPE #1)

(START TAPE #2)

BS. Anabel's on her way down here and we're gonna talk to her next. She's got a lot more to lose than you, right? She's not the one living in the back, back room back there. I think she's just trying to help you out. She's scared about what, what you did and how, how we can cover it up. Is that right? Huh?

A. (No response.)

BS. You've been hiding things all your life, haven't you?

A. (No response.)

BS. This is one you're not gonna be able to hide from. It's all gonna come out. It'll all come out in a public forum in front of everybody. It's time to step up. Don't be ashamed of yourself. Ashamed of what you did as a result of it. Time to cleanse a little bit, son. You need to get that out of you or it's gonna eat you alive. Look at me, am I wrong? Look at me.

A. Yes officer.

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BS. Am I wrong? Tell me, do you have any remorse at all? Luis, tell me. Do you have any remorse at all?

A. (No response.)

BS. Hiding behind this cough is not gonna work all night long.

A. You see the mucus. It's not like I'm making it up.

BS. Hey, hey, either you tell me to go get fucked or you can tell me what's going on. You're a better person than this.

A. \_\_\_\_\_ (inaudible).

BS. You now what, I guess I'm wrong about yah.

(Leaves room)

---

THIS VOLUNTARY STATEMENT WAS COMPLETED AT LVMPD HOMICIDE OFFICE,  
6753 W. CHARLESTON, ON THE 24th DAY OF MAY, 2005 AT    HOURS.

BS:MM:sd  
05V0749

# EXHIBIT "C"

1 NISD  
2 DAVID ROGER  
3 Clark County District Attorney  
4 Nevada Bar #002781  
5 MARC DIGIACOMO  
6 Deputy District Attorney  
7 Nevada Bar #006955  
8 200 South Third Street  
9 Las Vegas, Nevada 89155-2211  
10 (702) 455-4711  
11 Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,  
9 Plaintiff,

CASE NO: C212667

10 -vs-

DEPT NO: XIV

11 LUIS ALONSO HIDALGO,  
12 #1849634

13 Defendant.

14 NOTICE OF INTENT TO SEEK DEATH PENALTY

15 COMES NOW, the State of Nevada, through DAVID ROGER, Clark County Dist  
16 Attorney, by and through MARC DIGIACOMO, Deputy District Attorney, pursuant to N  
17 175.552 and NRS 200.033 and declares its intention to seek the death penalty at a pena  
18 hearing. Furthermore, the State of Nevada discloses that it will present evidence of  
19 following aggravating circumstances:

20 1. The murder was committed by a person who, at any time before a penalty hear  
21 is conducted for the murder pursuant to NRS 175.552, is or has been convicted of a fel  
22 involving the use or threat of violence to the person of another and the provisions  
23 subsection 4 do not otherwise apply to that felony, to-wit: Solicitation to Commit Murder  
24 that on or about May 23, 2005, DEFENDANT LUIS ALONSO HIDALGO, III ;  
25 ANABEL ESPINDOLA, did then and there willfully, unlawfully, and feloniously coun  
26 hire, command or otherwise solicit DEANGELO CARROLL to commit the murder  
27 JAYSON TAOIPU by DEFENDANT LUIS HIDALGO, III, in the presence of ANAB  
28

1 ESPINDOLA, inquiring of DEANGELO CARROLL whether KENNETH COUNTS would  
2 be willing to kill JAYSON TAOIPU and/or by DEFENDANT LUIS HIDALGO, III, in  
3 presence of ANABEL ESPINDOLA, instructing DEANGELO CARROLL to put  
4 poisoning in a bottle of gin and have JAYSON TAOIPU drink it and/or by DEFENDANT  
5 LUIS HIDALGO, III, in the presence of ANABEL ESPINDOLA, instructing DEANGELO  
6 CARROLL to put rat poisoning in a marijuana cigarette and have JAYSON TAOIPU smoke  
7 it and/or soliciting any other manner to kill JAYSON TAOIPU and/or thereafter, ANABEL  
8 ESPINDOLA providing fourteen (\$1400) dollars to DEANGELO CARROLL, and/or  
9 DEFENDANT LUIS HIDALGO, III providing a bottle of gin at the meeting to facilitate  
10 killing. [See NRS 200.033(2)(b)]

11 It is anticipated that DEFENDANT LUIS HIDALGO, III will be convicted of co  
12 three (3) of the instant information by a jury at the same time he is convicted of the mur  
13 alleged in count II. The evidence upon which the State will rely is the testimony  
14 exhibits introduced during the guilt or penalty phase of the trial, as well as the verdicts fr  
15 the guilt phase. As such, the State will prove through the witnesses and evidence  
16 Defendant committed the crime of SOLICITATION TO COMMIT MURDER,  
17 Defendant being liable under one or more of the theories of criminal liability contained  
18 the information filed in the instant matter and incorporated by reference herein.

2. The murder was committed by a person who, at any time before a penalty hearing is conducted for the murder pursuant to NRS 175.552, is or has been convicted of a felony involving the use or threat of violence to the person of another and the provisions of subsection 4 do not otherwise apply to that felony, to-wit: Solicitation to Commit Murder, that on or about May 23, 2005, DEFENDANT LUIS ALONSO HIDALGO, III and ANABEL ESPINDOLA, did then and there willfully, unlawfully, and feloniously cause, hire, command or otherwise solicit DEANGELO CARROLL to commit the murder of RONTAE ZONE by DEFENDANT LUIS HIDALGO, III, in the presence of ANABEL ESPINDOLA, inquiring of DEANGELO CARROLL whether KENNETH COUNTS would be willing to kill RONTAE ZONE and/or by DEFENDANT LUIS HIDALGO, III, in

1 presence of ANABEL ESPINDOLA, instructing DEANGELO CARROLL to put  
2 poisoning in a bottle of gin and have RONTAE ZONE drink it and/or by DEFENDANT  
3 LUIS HIDALGO, III, in the presence of ANABEL ESPINDOLA, instructing DEANGELO  
4 CARROLL to put rat poisoning in a marijuana cigarette and have RONTAE ZONE smoke  
5 and/or soliciting any other manner to kill RONTAE ZONE and/or thereafter, ANABEL  
6 ESPINDOLA providing fourteen (\$1400) dollars to DEANGELO CARROLL, and/or  
7 DEFENDANT LUIS HIDALGO, III providing a bottle of gin at the meeting to facilitate  
8 killing. [See NRS 200.033(2)(b)]

9 It is anticipated that DEFENDANT LUIS HIDALGO, III will be convicted of count  
10 four (4) of the instant information by a jury at the same time he is convicted of the murder  
11 alleged in count II. The evidence upon which the State will rely is the testimony and  
12 exhibits introduced during the guilt or penalty phase of the trial, as well as the verdicts from  
13 the guilt phase. As such, the State will prove through the witnesses and evidence that  
14 Defendant committed the crime of SOLICITATION TO COMMIT MURDER,  
15 Defendant being liable under one or more of the theories of criminal liability contained  
16 in the information filed in the instant matter and incorporated by reference herein.

17 3. The murder was committed by a person, for himself or another, to receive money  
18 or any other thing of monetary value, to-wit by : by ANABEL ESPINDOLA (a manager of  
19 the PALOMINO CLUB) and/or DEFENDANT LUIS HIDALGO, III (a manager of the  
20 PALOMINO CLUB) and/or LUIS HIDALGO, JR. (the owner of the PALOMINO CLUB  
21 procuring DEANGELO CARROLL (an employee of the PALOMINO CLUB) to beat and  
22 kill TIMOTHY JAY HADLAND; and/or LUIS HIDALGO, JR. indicating that he would  
23 to have a person either beaten or killed; and/or by LUIS HIDALGO, JR. procuring the injury  
24 or death of TIMOTHY JAY HADLAND to further the business of the PALOMINO CLUB  
25 and/or DEFENDANT LUIS HIDALGO, III telling DEANGELO CARROLL to come to  
26 work with bats and garbage bags; thereafter, DEANGELO CARROLL procuring  
27 KENNETH COUNTS and/or JAYSON TAOIPU to kill TIMOTHY HADLAND; thereafter  
28 by KENNETH COUNTS shooting TIMOTHY JAY HADLAND; thereafter, LUIS

1 HIDALGO, JR. and/or ANABEL ESPINDOLA providing six thousand dollars (\$6,000) to  
2 DEANGELO CARROLL to pay KENNETH COUNTS, thereafter, KENNETH COUNTS  
3 receiving said money; and/or by ANABEL ESPINDOLA providing two hundred dollars  
4 (\$200) to DEANGELO CARROLL and/or by ANABEL ESPINDOLA and/or  
5 DEFENDANT LUIS HIDALGO, III providing fourteen hundred dollars (\$1400) and/or  
6 eight hundred dollars (\$800) to DEANGELO CARROLL and/or by ANABEL ESPINDOLA  
7 agreeing to continue paying DEANGELO CARROLL twenty-four (24) hours of work a  
8 week from the PALOMINO CLUB even though DEANGELO CARROLL had terminated  
9 his position with the club and/or by DEFENDANT LUIS HIDALGO, III offering to provide  
10 United States Savings Bonds to DEANGELO CARROLL and/or his family. [See NRS  
11 200.033(6)].

12 The basis for this aggravator is the aggravated nature of the crime itself. The  
13 evidence upon which the State will rely is the testimony and exhibits introduced during the  
14 guilt or penalty phase of the trial, as well as the verdicts from the guilt phase.


15 In filing this NOTICE, the State incorporates all pleadings, witness lists, notices and  
16 other discovery materials already provided to Defendant by the Office of the District  
17 Attorney as part of its open-file policy as well as any future discovery received and provided  
18 to Defendant.

19 DATED this 6<sup>th</sup> day of July, 2005.

20 Respectfully submitted,

21 DAVID ROGER  
22 Clark County District Attorney  
23 Nevada Bar #002781

24 BY

  
25 MARC DIGIACOMO  
26 Deputy District Attorney  
27 Nevada Bar #006955  
28

///

///

///

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that service of NOTICE OF INTENT TO SEEK DEATH PENALTY  
was made this 14th day of July, 2005, by facsimile transmission to:

ROBERT DRASKOVICH, ESQ  
FAX #474-1320

[Signature]  
Secretary for the District Attorney's Office



# EXHIBIT "D"

1 TRAN

FILED

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2  
3  
4  COPY

DISTRICT COURT  
CLARK COUNTY, NEVADA  
*[Signature]*  
CLERK OF THE COURT

5  
6 THE STATE OF NEVADA,

7 Plaintiff,

8 vs.

9 LUIS HIDALGO, JR. aka  
10 Luis Alonso Hidalgo, Jr.  
11 LUIS ALONSO HIDALGO, III,

12 Defendants.

)  
)  
) CASE NO. C241394  
) CASE NO. C212667  
)

) DEPT. XXI  
)  
)  
)

13  
14  
15 BEFORE THE HONORABLE VALERIE P. ADAIR, DISTRICT COURT JUDGE

16  
17 THURSDAY, APRIL 17, 2008

18  
19 RECORDER'S TRANSCRIPT OF

20 DEFT'S MOTION FOR COURT TO ALLOW PRESENTATION  
21 OF EVIDENCE TO THE JURY

22 DEFT'S MOTION TO PROHIBIT ARGUMENT ON DETERRENCE  
23 OR TO PERMIT EVIDENCE OF LACK OF DETERRENCE

24 MOTION TO PROHIBIT THE STATE OF NEVADA FROM INTRODUCING  
25 EVIDENCE AND ARGUMENT REGARDING MITIGATING CIRCUMSTANCES  
THAT ARE NOT APPLICABLE TO LUIS HIDALGO JR

1 DEFT'S MOTION TO DECLARE AS UNCONSTITUTIONAL THE UNBRIDLED  
2 DISCRETION OF PROSECUTION TO SEEK THE DEATH PENALTY

3 DEFT'S MOTION FOR DISCLOSURE OF THE EXISTENCE OF  
4 ELECTRONIC SURVEILLANCE

5 STATE'S NOTICE OF MOTION AND MOTION TO CONDUCT VIDEOTAPED  
6 TESTIMONY OF A COOPERATING WITNESS

7 DEFT'S MOTION FOR DISCLOSURE OF INTERCEPTED COMMUNICATIONS

8 DEFT'S MOTION TO STRIKE THE DEATH PENALTY AS UNCONSTITUTIONAL  
9 BASED ON ITS ALLOWANCE OF INHERENTLY UNRELIABLE EVIDENCE

10 DEFT'S MOTION TO STRIKE NOTICE OF INTENT TO SEEK DEATH PENALTY

11 DEFT'S MOTION TO STRIKE DEATH PENALTY BASED UPON  
12 UNCONSTITUTIONALITY

13 DEFT'S MOTION TO STRIKE NOTICE OF INTENT TO SEEK DEATH BASED  
14 UPON UNCONSTITUTIONAL WEIGHING EQUATION

15 DEFT'S MOTION TO DISMISS COUNT ONE OF THE INDICTMENT FOR  
16 DUPLICITY OR, IN THE ALTERNATIVE, FOR AN ELECTION

17 DEFT'S MOTION TO BIFURCATE PENALTY PHASE PROCEEDINGS

18 STATE'S MOTION TO CONDUCT VIDEOTAPED TESTIMONY  
19 OF A COOPERATING WITNESS

20 APPEARANCES:

21 For the State:

MARC DI GIACOMO, ESQ.  
GIANCARLO PESCI, ESQ.  
Deputy District Attorneys

23 For the Defendant:

DOMINIC P. GENTILE, ESQ.

24  
25 RECORDED BY: DEBRA WINN, Court Transcriber

1 THURSDAY, APRIL 17, 2008; 11:24 A.M.

2  
3 THE COURT: Mr. Gentile, we'll do your matter now.

4 MR. GENTILE: Thank you, Your Honor. Your Honor, I have two matters  
5 actually.

6 THE COURT: I have a headache.

7 MR. GENTILE: I know why.

8 THE COURT: Hidalgo and Hidalgo. We've got -- both are present.

9 MR. GENTILE: Your Honor, they're actually separate cases. They should  
10 be called separately.

11 THE COURT: Which one do you want me to call first?

12 MR. GENTILE: Well, one only has one motion involved in it and the other  
13 one has everything but that motion involved in it and, so, it doesn't matter to  
14 me.

15 MR. DI GIACOMO: The one with the --

16 THE COURT: Is the Anabel Espindola deposition is the one as to Mr. Luis  
17 Hidalgo Junior.

18 MR. GENTILE: No.

19 THE COURT: No.

20 MR. GENTILE: It's the -- that's the one as to Luis Hidalgo III.

21 THE COURT: It's the other way around.

22 MR. DI GIACOMO: The III, correct.

23 MR. GENTILE: All of the other ones have nothing to do with him.

24 THE COURT: Okay.

25 MR. GENTILE: So, maybe we should do that one first --

1 THE COURT: That's fine.

2 MR. GENTILE: -- then he can go back and we can do the remainder.

3 But, you also have another problem, with respect to that one I  
4 noticed that Deangelo Carroll was mentioned in the caption of the State's  
5 motion.

6 MR. DI GIACOMO: And he's not present.

7 MR. GENTILE: And he's not present. Now, I don't know what you  
8 want --

9 THE COURT: We can't do anything with Deangelo Carroll because his  
10 case is stayed.

11 MR. DI GIACOMO: Well, so was --

12 MR. GENTILE: That's true now that I think about it.

13 MR. DI GIACOMO: So is Mr. Hidalgo III. I would think that the trial in his  
14 case is stayed. I don't think --

15 THE COURT: A stay is a stay Mr. DiGiacomo.

16 MR. DI GIACOMO: I don't think that's the jurisdiction for all proceedings  
17 before the Court.

18 THE COURT: Well, except didn't we go round and round about this  
19 before and we read the decision as to whether the trial was stayed or as to  
20 whether it was stayed as to --

21 MR. GENTILE: It said all proceedings.

22 THE COURT: -- just that matter? It said all proceedings.

23 MR. DI GIACOMO: It said all proceedings but --

24 THE COURT: It said all proceedings.

25 MR. DI GIACOMO: -- but the language that we --

1 THE COURT: Be careful what you wish for Mr. DiGiacomo.

2 Here's the deal, I don't want to offend the Supreme Court and I  
3 don't want to violate a stay. And to me, you know, it says stay. Now when  
4 maybe there's like an emergency issue or someone sick at the detention center  
5 and this Court needs to act immediately because it, you know we can't get to  
6 the Supreme Court then I would be inclined to do that. But it says all  
7 proceedings.

8 MR. DI GIACOMO: Well, I mean to me it doesn't matter one way or the  
9 other because my motion as to Mr. H will be the same. They're in the custody  
10 of the State, his lawyer will be present, he'll be present 'cause we'll have him  
11 here and so, you know, we'll be able to argue later on that he certainly had an  
12 opportunity through his lawyer for any opportunity to cross-examine. As it  
13 relates to Deangelo Carroll, he's a separate co-defendant anyways. I don't plan  
14 on doing a deposition as to him. So, I'd be willing to withdraw it as it relates to  
15 Mr. Hidalgo III if that's going to be the position of the Court and we'll address it  
16 to Mr. Hidalgo --

17 MR. GENTILE: It hasn't been filed against him.

18 MR. DI GIACOMO: Yes; it has.

19 MR. GENTILE: It has not. Look at that document. It's noticed in --

20 THE COURT: I don't even need to look at the document. I believe that  
21 Mr. Gentile would notice that.

22 MR. DI GIACOMO: Judge, I had --

23 THE COURT: Do you guys want to hear something funny?

24 MR. DI GIACOMO: -- I had it filed in both cases, Judge.

25 THE COURT: You sure?

1 MR. DI GIACOMO: I requested it be filed in both cases. I didn't bring the  
2 file with me today.

3 THE COURT: Did you put both cases numbers on it?

4 MR. DI GIACOMO: Both cases numbers on it. We checked in Blackstone  
5 to see if it was --

6 THE COURT: Sure.

7 There was a guy at the end of the calendar on Tuesday, right, and  
8 he raises his hand and he says you didn't call my case. And I say: well, what's  
9 your name? And he says: Luis Hidalgo. And I said: You're not Luis Hidalgo.  
10 And he says: Yes, I am. And we are all like, no, you're not. And I think, like,  
11 it's some scam or something. He's like: yes, I'm Luis Hidalgo. We're like: no,  
12 you're not. And so he says: I have my driver's license; I'm Luis Hidalgo. And  
13 I'm like: no, you're not; what are you doing here? He had tickets and  
14 somebody in the clerk's office told him that it was this case. And I'm like it's a  
15 good thing I recognized the other Luis Hidalgos or I would have, you know, like  
16 put him in custody and stuff. In any event.

17 THE CLERK: So, they're asking me if the --

18 THE COURT: If it was filed in both cases.

19 THE CLERK: It was filed in 212667 on April 9<sup>th</sup> and I'll check on the  
20 other one.

21 THE COURT: The other one is the 241394.

22 MR. DI GIACOMO: 41394. If it wasn't filed, we'll be happy to refile it if  
23 that's a necessity for Mr. Gentile.

24 MR. GENTILE: It is.

25 [Court and clerk conferring]

1 THE COURT: It may have been a clerk's error.

2 THE CLERK: It's in there.

3 THE COURT: It is?

4 THE CLERK: State's motion to conduct videotaped testimony filed April  
5 9<sup>th</sup> in case 241 --

6 MR. GENTILE: We weren't served with it, Judge.

7 THE CERK: -- 394.

8 THE COURT: They have to serve you twice with it?

9 MR. GENTILE: We weren't served with it and had we been -- pardon me?

10 THE COURT: I don't know that there's a rule they have to serve you  
11 twice if it's --

12 MR. GENTILE: Well, it's two different cases and they're two different --

13 THE COURT: I know but if it's one motion --

14 MR. GENTILE: -- two different --

15 THE COURT: -- and you're the attorney on both, why can't they serve it  
16 once? I mean the issue is whether or not you received the motion and whether  
17 you knew it was as to both defendants.

18 MR. GENTILE: If I had known it was as to both defendants I would have  
19 filed my opposition as to both defendants because these records --

20 MR. PESCI: We'll accept the opposition you filed.

21 MR. GENTILE: -- these records are independent, number one. Assuming  
22 that it will reach an appellate court I would have couched my opposition  
23 differently than I did. I was very specific with respect to references to Luis  
24 Hidalgo III.

25 THE COURT: Well --



1 MR. DI GIACOMO: Really. Then I would have thought his opposition  
2 would have been this case is stayed, you can't conduct it; 'cause that wasn't  
3 his opposition. He actually made a substantive opposition which I implied that  
4 meant it was as to Mr. H. If his position is, is that you're stayed as to Little  
5 Lou, Judge, then you would have thought it would have been a different  
6 opposition.

7 MR. GENTILE: Your Honor, I didn't take -- it is stayed but I didn't raise  
8 that issue. The Court rightly raised the issue sua sponte.

9 THE COURT: Actually, I think you raised the issue verbally just --

10 MR. GENTILE: No.

11 MR. DI GIACOMO: Just now, yeah.

12 THE COURT: Yeah, I think you raised it.

13 MR. GENTILE: I spoke about it, but it was in response to what you said.  
14 You said it first. If you look at the record you'll see that.

15 THE COURT: Well, no, I said about Deangelo Carroll. That it was stayed  
16 as to --

17 MR. GENTILE: Right.

18 THE COURT: -- Deangelo Carroll and then said, well, then it's stayed as  
19 to this case and then I said; yes, you're right --

20 MR. GENTILE: You're right.

21 THE COURT: -- not appreciating --

22 MR. GENTILE: You're right.

23 THE COURT: -- that the opposition hadn't been filed as to both  
24 defendants.

25 MR. GENTILE: You know it doesn't -- it's not a big deal to me.

1 THE COURT: Well, here's the deal --

2 MR. GENTILE: If you want to rule on it, go ahead. But it is a big deal  
3 that I didn't get notice with respect to Junior because I have different  
4 arguments to make as to Junior.

5 THE COURT: Well, why don't we do this; you know, we can all say this  
6 and that, and you know whether you knew or didn't know or should have  
7 raised the issue of the stay or what have you, I mean I guess if everyone will --  
8 what we can do is give you additional time to file a supplemental or to file an  
9 opposition of Mr. Hidalgo Jr.'s case number.

10 MR. GENTILE: Can I have a copy of the document that was filed in the  
11 other case? Is that possible? Because I have nothing with that caption on it.  
12 And one of the things that I found interesting is that in the one that I do have it  
13 talks about Luis Hidalgo and it gives his prison number, his custody number or  
14 whatever you want to call it; his ID number --

15 THE COURT: Right.

16 MR. GENTILE: -- but it doesn't designate him as Junior or the III. It just  
17 says Luis Hidalgo with the number. The other one never came to my attention.  
18 That's the reason I treated it the way that I did, because it had his number on  
19 it.

20 THE COURT: Well, if you have more time to file an opposition as to the  
21 other Hidalgo then where's the problem?

22 MR. GENTILE: No, there isn't any. I just don't want to have to argue on  
23 the behalf of Luis Hidalgo Jr. without having had an opportunity to be at least  
24 served with that document so that I could be sure that it's identical and, then,  
25 respond to it.

1 MR. DI GIACOMO: I didn't bring a copy of it.

2 THE CLERK: It's printing.

3 MR. DI GIACOMO: I'm sure he was served but if he wasn't we'll be  
4 happy to serve him.

5 THE COURT: Where is it?

6 THE CLERK: On the printer.

7 THE LAW CLERK: I'll go get it.

8 THE COURT: Oh, our printer?

9 THE CLERK: Yeah.

10 THE COURT: Okay. My law clerk is going to get it for you.

11 MR. GENTILE: Thank you.

12 THE COURT: And then you can tell us how much time you need to file  
13 the opposition as to the other Mr. Hidalgo.

14 MR. GENTILE: Okay.

15 Are we going to argue them at the same time?

16 MR. DI GIACOMO: Well, I thought she just said that they were stayed as  
17 to everybody else. So, it's only Mr. H.

18 THE COURT: But, apparently, anyone is waiving any stay.

19 MR. GENTILE: I'm not waiving a stay; no, no. Let me make that clear. If  
20 there's a stay and there is --

21 THE COURT: Well, if both of you -- if two such intelligent attorneys as  
22 Mr. DiGiacomo and Mr. Gentile believe the stay does not apply to this then I  
23 would defer to that --

24 MR. GENTILE: But I do.

25 THE COURT: -- that the stay does not apply to this.

1 MR. GENTILE: Your Honor, the last that we were in court it was the  
2 State who said to the Court and I don't remember what I was seeking at the  
3 time but it was the State that said to the Court that there was a stay and that it  
4 basically dealt with all proceedings.

5 THE COURT: That's what I --

6 MR. GENTILE: And as I recall I was saying that it didn't and I was wrong.

7 THE COURT: Typically -- and we did read the order then, remember we  
8 did go around this. And typically my feeling is if it's stayed and the Supreme  
9 Court says all proceeding -- like I said, unless it's some emergency situation  
10 with custody or something like that I need to --

11 MR. DI GIACOMO: And I --

12 MR. GENTILE: The State is certain -- I'm sorry, I don't mean to speak  
13 over you.

14 THE COURT: -- I need to deal with, then I think it's stayed as to every-  
15 thing. It doesn't make sense to make a bunch of other interim rulings on that  
16 because, you know, otherwise they'll say this trial is stayed.

17 MR. GENTILE: And then, in addition to that, frankly, the State is certainly  
18 free to go to the Supreme Court and ask that that stay be modified or lifted to  
19 permit this motion to go forward.

20 THE COURT: That's right.

21 MR. GENTILE: And at that point in time I'd probably be able to have the  
22 Supreme Court make a determination as to whether or not the statute permits it  
23 at all.

24 MR. DI GIACOMO: Well, we can address all that but the fact of the  
25 matter is, is that -- and I apologize Mr. Gentile wasn't there. At a later

1 proceeding on another co-defendant we read that language to imply not as  
2 strictly as it implied. If you'll recall, the language that all proceedings in  
3 C212667 were stayed and, at a later proceeding in Kenneth Counts' case, we  
4 decided it couldn't possibly have related to Kenneth Counts --

5 THE COURT: Right.

6 MR. DI GIACOMO: -- but what they meant to do was stay the trial  
7 proceeding --

8 THE COURT: Right.

9 MR. DI GIACOMO: -- that would be my position, that they probably  
10 meant that but I'll defer to the Court.

11 THE COURT: Well, see, I think what they meant to do was stay every-  
12 thing as to Mr. Hidalgo III; but, clearly, it made no sense that they would stay  
13 everything as to Kenneth Counts, because there was no issue as to Kenneth  
14 Counts and he could begin serving his time and there was no reason to keep  
15 him in the detention center. So, I think it is different; and I think, typically, like  
16 I just said, they don't want a bunch of interim rulings if a stay is in place.

17 MR. GENTILE: Yeah, and I think you're right.

18 THE COURT: All right.

19 MR. GENTILE: But the fact of the matter is that the only person now that  
20 Anabel Espindola has withdrawn her petition in the Supreme Court, the only  
21 person that the Supreme Court stay applies to is who's in front of it and that's  
22 Mr. Hidalgo III. And, so, at this point in time it would seem to me that nothing  
23 can take place with respect to him.

24 THE COURT: That's what it seems to me, but. All right, then.

25 MR. DI GIACOMO: I think that's it. I don't have a problem with that

1 position.

2 THE COURT: How long Mr. Gentile do you need to file your opposition as  
3 it relates to --

4 MR. GENTILE: Probably a week.

5 THE COURT: That's fine.

6 MR. GENTILE: A week from tomorrow would be great. I have a couple  
7 of other matters that I have to work the weekend on.

8 THE COURT: And then we'll put it on the following Thursday, unless  
9 Tuesday works for you guys.

10 MR. GENTILE: So that would be two weeks from today?

11 MR. DI GIACOMO: What day is that Tuesday?

12 THE COURT: Oh, wait a minute.

13 MR. GENTILE: No, on Thursday she said. The following Thursday.

14 THE COURT: The following Tuesday or the following Thursday.

15 MR. GENTILE: Your Honor, I'll be in Chicago. I won't be back until  
16 Wednesday, so if we could do it on Thursday, two weeks from today.

17 MR. DI GIACOMO: And what is that date, I --

18 THE CLERK: May 1<sup>st</sup>.

19 MR. DI GIACOMO: Yeah, I'll be here, that's fine.

20 THE CLERK: Is that for everything?

21 THE COURT: No, it's just for the -- we can do everything else today.

22 MR. GENTILE: Okay.

23 THE CLERK: So, this is for 212667?

24 MR. DI GIACOMO: No, it's for 241396 [sic].

25 THE COURT: 394.

1 MR. DI GIACOMO: 394, sorry.

2 THE CLERK: And only the motion regarding the videotaped testimony.

3 MR. PESCI: And, Judge, just for the record we have a copy that's been  
4 provided by Your Honor's staff to Mr. Gentile of that motion he requested.

5 [Counsel reviewing pleading]

6 MR. GENTILE: What is that? I didn't read it, either. Is it just the first  
7 page?

8 MR. DI GIACOMO: It's the fax confirmation showing it went to your  
9 office.

10 MR. GENTILE: On which case?

11 MR. DI GIACOMO: On both.

12 MR. GENTILE: Well, then that's a screw up in my office.

13 MR. DI GIACOMO: Yeah; it's all right, you got time. You got time.

14 MR. PENSIC: So, apparently, there is a facsimile confirmation on those as  
15 well.

16 MR. GENTILE: Yeah; apparently, there is Judge but all I could tell you is  
17 that my file and my --

18 THE COURT: So, they did serve it twice?

19 MR. GENTILE: Looks like it.

20 MR. DI GIACOMO: We did, Judge.

21 MR. PESCI: But not on the pretty pink --

22 MR. GENTILE: Looks like it, but I -- this never made it through my file and  
23 I'm wondering if somebody --

24 MR. DI GIACOMO: In your office --

25 MR. GENTILE: -- you know there's been so much confusion about Luis

1 Hidalgo that I guess it's finally reached my office. We have not as many people  
2 as the DA's office but we have about 90 people working in that office. And I  
3 don't even know where the fax machine is, to be honest with you.

4 THE COURT: I believe that.

5 MR. GENTILE: And so, you know, it might be that they took a look at  
6 both of them and sent me one, that's all I could figure.

7 THE COURT: All righty.

8 MR. GENTILE: Because we also scan, we have a system where we scan  
9 and it's not scanned in either.

10 THE COURT: Mr. Gentile you get more time.

11 MR. GENTILE: Thank you.

12 THE COURT: What else can I do for you?

13 MR. GENTILE: Nothing.

14 THE COURT: All right. Let's move onto --

15 MR. GENTILE: So, Mr. Hidalgo III can be brought back. I think he's your  
16 last prisoner.

17 THE COURT: No.

18 MR. GENTILE: No. Okay. Okay.

19 THE COURT: All right. Let's move on. Defendant's motion to strike  
20 notice of intent based on unconstitutional weighing equation.

21 MR. GENTILE: Your Honor, a couple of things out of complete candor  
22 with the Court, there's two things. Number one, with the exception of a  
23 couple, almost all of these motions were prepared by Miss Armeni. Number  
24 two, I don't know whether you've seen them before but these motions are for  
25 the most part, many of them, not all of them but many of them are boilerplate.



1 They are motions that are filed --

2 THE COURT: Right.

3 MR. GENTILE: -- repeatedly in capital cases.

4 THE COURT: Right. I gleaned that.

5 MR. GENTILE: I am satisfied that with respect to most of them that they  
6 don't need to be supplemented by oral argument.

7 THE COURT: Right. I was just going to go through them quickly and,  
8 then --

9 MR. GENTILE: That'd be fine. To the extent that the Court has any  
10 questions, if we could take them in, you know, whatever order you want.

11 THE COURT: Okay. I'm just going to --

12 MR. GENTILE: There are a couple that I want to make some arguments  
13 on.

14 THE COURT: Okay. On the unconstitutional weighing equation I'm  
15 assuming that's the stock and that's denied.

16 On the general unconstitutionality -- Mr. Gentile, I just expect you  
17 to just pop up if there's something you want to add on these, otherwise I'm just  
18 going to go through them --

19 MR. GENTILE: That's fine. You know what, if you give me a chance to  
20 start checking.

21 THE COURT: -- that is denied.

22 On the motion to strike based on its allowance of inherently  
23 unreliable evidence, that is denied.

24 On the motion to bifurcate the penalty phase proceedings that is  
25 denied.

1           On the motion to strike the death penalty based on the lethal  
2 injection that is denied.

3           On the motion for disclosure of intercepted communications,  
4 they've already said there were no --

5           MR. GENTILE: That -- no, that I'd like to speak to.

6           THE COURT: Okay.

7           MR. GENTILE: Okay. It's real simple. Within a few days, maybe  
8 Sunday, this is going to become a very important issue in this community.

9           THE COURT: And I know what you're talking about.

10          MR. GENTILE: Okay. And I will tell you that it is not enough that Mr.  
11 Pesci and Mr. DiGiacomo come in here and say to you that they did not seek a  
12 wiretap order. They represent an institution. It is the institution that is the  
13 party, not Mr. DiGiacomo or Mr. Pesci; they are merely advocates for that  
14 party. And, so, it has to be an institutional response.

15          Now, the -- you are going to learn soon I believe as a result of a  
16 statement that Mr. Lalli made that will become public this week that --

17          THE COURT: Would that be in the Review Journal by chance?

18          MR. GENTILE: Perhaps. Yeah. It could be. That four out of five  
19 wiretaps for many years that have been obtained by the District Attorney's  
20 office have not resulted in those wiretap cases coming to conclusion as a  
21 prosecution. And that as a policy --

22          THE COURT: They don't disclose them.

23          MR. GENTILE: -- they don't disclose them. And, so, 80 percent of the  
24 affidavits for wiretaps which may contain perjury, which may contain -- I'm  
25 saying may, I'm not saying that they don but the point is that the whole -- all of

1 the work that the United States Congress did in 1967 and '68 and afterward  
2 that is binding because of federal law taking a preemptive position here on the  
3 states with respect to the methodology employed has basically been ignored by  
4 Nevada as a matter of practice, as a matter of practice.

5 What I'm saying to you is that as a matter of law, both federal and  
6 state law, Mr. Pesci and Mr. DiGiacomo's response is inadequate.

7 THE COURT: What are you asking? What are you suggesting or what  
8 are you asking for?

9 MR. GENTILE: I'll tell you what they must do, they must make a search  
10 and my problem here is that I don't believe -- I mean I'm speculating -- but I'm  
11 not sure that there even is a log kept at the District Attorney's office; and, if  
12 there isn't, then there's going to be a big can of worms that opens up; okay,  
13 but that's neither here nor there. They ought to at least make an effort to  
14 determine if there is a log. If there is a log --

15 THE COURT: I don't believe that there is a log. And my understanding  
16 from when I was in the District Attorney's office is those can only be approved  
17 by a few select people. And that would be the Assistant District Attorney, who  
18 at this time is Mr. Lalli and it -- it used to include the supervising attorney of the  
19 Grand Jury, I think, and possibly Mr. Owens. But it may just be the Assistant  
20 District Attorney. So, those would be the persons, whether there's a log or  
21 not; that would be the person who -- whatever the policy is, if it's just the one  
22 person, I believe Mr. Owens also had that ability. But that would be the uh,  
23 people.

24 MR. GENTILE: I understand that and while that may be all there is that  
25 doesn't mean that it's adequate. But the point is that at least that effort has to

1 be made, somebody who would have percipient knowledge. And here's the  
2 problem --

3 THE COURT: Well, why don't we -- let me just cut to the chase.

4 MR. GENTILE: Yeah.

5 THE COURT: Would you be satisfied if I were to order that Mr.  
6 DiGiacomo contact Mr. Lalli and Mr. Lalli prepare an affidavit as to who,  
7 according to policy, has the authority to approve a wiretap. And, then, if it's  
8 just him or if it's also Mr. Owens or Mr. Mitchell or whomever, that then -- Mr.  
9 Bloxham, whomever --

10 MR. GENTILE: Mr. Mitchell?

11 THE COURT: Huh?

12 MR. GENTILE: Mr. Mitchell?

13 THE COURT: Yeah; he's now over grand jury.

14 MR. GENTILE: All right.

15 THE COURT: That -- I don't think he does have that but used to.

16 MR. GENTILE: I just wondered which Mr. Mitchell you were talking about  
17 that's all.

18 THE COURT: Who's the other Mr. Mitchell?

19 MR. GENTILE: I thought maybe it was Tom Mitchell.

20 THE COURT: No, Scott Mitchell.

21 MR. GENTILE: Okay.

22 THE COURT: That they all do an affidavit saying that there was no  
23 wiretap on you.

24 MR. GENTILE: That's not -- no. See that doesn't --

25 THE COURT: Well, what else can we do?

1 MR. GENTILE: Here's what's real, you don't have to have a wiretap that  
2 authorizes the interception of Luis Hidalgo Jr. or Luis Hidalgo III or even this  
3 case for this motion to require a response.

4 What's really at issue here, what the real problem is, is that under  
5 federal law binding on the states, if you Judge were intercepted --

6 THE COURT: No, I understand they have to give notice but here's --

7 MR. GENTILE: Well, here's my point. If I may just finish?

8 THE COURT: Yeah, sure. I'm sorry. I was trying to make this quicker,  
9 but.

10 MR. GENTILE: I understand. What they need to do is they need to make  
11 a search to see if on any wiretap an interception of Luis Hidalgo Jr. or Luis  
12 Hidalgo III 'cause that's the only people I have standing for, have been  
13 intercepted.

14 MR. PESCI: He's stayed.

15 MR. DI GIACOMO: Yeah. He's stayed so I can't do that search.

16 MR. PESCI: Can't do that.

17 MR. GENTILE: What?

18 MR. DI GIACOMO: He's stayed. I can't do that search.

19 MR. GENTILE: Okay. Well, then, Luis Hidalgo Jr.

20 THE COURT: All right. Here's the -- I'm going to let the State respond  
21 and, then, um just briefly on that issue, because it seems -- well, just say what  
22 you're going to say.

23 MR. DI GIACOMO: Here's my response. My response is this is the case,  
24 the State of Nevada versus Luis Hidalgo involving the death of Timothy J.  
25 Hadland. There is absolutely no wiretap that was sought by a State agency,

1 which is the only one I can speak for at this time. And I am not aware of any  
2 wiretap that was sought by any federal agency in the case investigating --

3 THE COURT: Yeah. What Mr. Gentile is saying it doesn't matter if it was  
4 in this case, if it was in another case or some other person's wiretap if Mr.  
5 Hidalgo is caught talking on that. That's what you're saying, right, Mr. Gentile?

6 MR. GENTILE: That's correct. Yeah. That's --

7 MR. DI GIACOMO: That may be true.

8 THE COURT: Now, here's the deal, Mr. DiGiacomo and Mr. Lalli are  
9 going to have no way of knowing what all conversations transpired and that  
10 would be a complete fishing expedition, well --

11 MR. GENTILE: No, that's not the case. They should have a way of  
12 knowing because the statute requires it. I -- Judge, I know they don't but let  
13 them say they don't, okay. Let them say they don't. Let them say that they  
14 don't catalog the intercepts; we're entitled to that.

15 MR. DI GIACOMO: What I am telling the Court is, is that as a subject of  
16 discovery, which is the only basis that he has to make the request in this case,  
17 there is no discovery as it relates to this case that involves a wiretap. He  
18 wants to file a civil action and request some sort of discovery from Mr. Lalli and  
19 our civil division can go through that. I'm telling you there's no wiretap in this  
20 case 'cause if there was a wiretap where Mr. Hidalgo was speaking I'd have  
21 heard of it. I would have been told of it. It would have been -- I don't know  
22 what -- what wiretaps relate to Mr. Hidalgo's other criminal activity, should  
23 there be any. I don't have any idea what wiretaps there as to Mr. Gentile's  
24 criminal activity, should there be any.

25 THE COURT: Mr. DiGiacomo --

1 MR. DI GIACOMO: If there is any.

2 THE COURT: -- that is uncalled for.

3 MR. GENTILE: Yeah.

4 MR. DI GIACOMO: I'm just saying, Judge, I don't have that. That's the  
5 request he's making. I don't have that capacity to do that type of search. I'm  
6 telling you in this case there is none. That's it.

7 THE COURT: Okay. First of all, we're not going to get into personalities  
8 and making disparaging remarks like that. That was totally uncalled for. I'm  
9 not going to sanction you. So, Mr. Gentile don't waste your breath asking me  
10 to sanction him. But don't make a comment like that again suggesting some-  
11 time.

12 MR. GENTILE: That's the second time.

13 THE COURT: Mr. Gentile, I checked him. I mean that's all I can do. You  
14 know, don't say that kind of thing again because that's inappropriate, number  
15 one. Number two, you make a good argument, whether or not this is the  
16 correct forum for Mr. Gentile, meaning this case, this judge, whether that's the  
17 correct forum for this. I think that that's your better argument as to whether or  
18 not Mr. Gentile -- if something is not being used in this case and you have no  
19 knowledge of it, if Mr. Gentile has to take another avenue, a new venue to seek  
20 what he's seeking. But he does have a right to get it if, if in fact Mr. Hidalgo  
21 was intercepted on some other wiretap and that's, I think, what Mr. Gentile is  
22 saying. So, Mr. -- I know you're an expert on this stuff Mr. Gentile.

23 On the argument as to whether or not you can seek that in this  
24 forum, meaning in this criminal case, if it was obtained in connection with this  
25 matter; and, number two, if it hasn't been disclosed to these prosecutors. And,



1 number three, if in fact there was any communication, apparently it was  
2 unrelated to this and has no evidentiary value.

3 MR. GENTILE: All right. But the Court is going to order that Mr. Lalli  
4 respond by affidavit with respect to the other aspect?

5 THE COURT: I didn't say that because the forum issue, whether this is  
6 the correct forum or venue I think trumps what I was --

7 MR. GENTILE: No, Your Honor. The forum issue dealt with whether  
8 there was an interception made, okay, not whether --

9 THE COURT: Now -- well, I think what Mr. DiGiacomo was saying: well,  
10 you know, that basically if there's no evidence, no discovery in this case, you  
11 have to pursue the remedy in another case. So, that's the only thing I want  
12 you to address.

13 MR. GENTILE: Okay. The issue is two parts, the second part you've  
14 already said you don't want me to address; you're satisfied with.

15 But there is the first part and the first part deals with was there an  
16 intercept? And Mr. DiGiacomo and Mr. Pesci's response was: we didn't seek  
17 one and they named themselves. It's an institution that has to respond. As  
18 you said, the only person with knowledge would be Mr. Lalli and so that's who  
19 has to respond or Mr. Owens.

20 MR. DI GICAOMO: I'll make it cleaner for him. The State of Nevada, the  
21 Clark County District Attorney's office, nor the Las Vegas Metropolitan Police  
22 Department in this case sought one.

23 THE COURT: Here's what I'm going to do, here's what I'm going to do.  
24 I'm going to order that Mr. Lalli -- it's limited what I'm going to say -- he is to  
25 prepare an affidavit as to who has the authority to approve wiretaps in that



1 office and that he has no knowledge that a wiretap was obtained in connection  
2 with this case. Then, whoever else he names in his affidavit, whether that's  
3 Mr. Owens or other individuals, has to do affidavits that they did not approve a  
4 wiretap in connection with this case. Then, that addresses the issue with this  
5 case.

6 MR. GENTILE: That's right.

7 THE COURT: In terms of other wiretaps, then perhaps this is the wrong  
8 forum for that and Mr. Gentile needs to seek relief elsewhere. But, certainly, I  
9 can order that this case be addressed --

10 MR. DI GIACOMO: Sure.

11 THE COURT: -- and that will be -- you would not -- if things are still the  
12 same, you would not have the authority to approve a wiretap. Like I say, it  
13 used to be very limited as to who could do wiretaps. And --

14 MR. DI GIACOMO: But the policy in our office would require that the  
15 deputy who was handling the case be consulted before a wiretap was --

16 THE COURT: Well, Mr. Lalli can put that in his affidavit.

17 MR. DI GIACOMO: I don't have a problem with that, Judge. I mean I  
18 don't have a problem with all of the ruling of the Court.

19 THE COURT: All right. Well, that's the ruling and so that's how it's  
20 going to be. Are we good on that?

21 MR. GENTILE: Yes.

22 THE COURT: Okay.

23 MR. GENTILE: The Court's ruled.

24 THE COURT: What -- shall we have a status check on the affidavits as of  
25 next week?

1 MR. GENTILE: Well, why don't we do it --

2 MR. DI GIACOMO: When we going to do the motion? On May 1<sup>st</sup>?

3 MR. GENTILE: We're going to be here in two weeks. Why don't we do it  
4 in two weeks?

5 THE COURT: Let's do it in two weeks, that makes sense. I have --

6 MR. GENTILE: I mean if we're supplied the --

7 THE COURT: No, I had forgotten that we had something in two weeks  
8 anyway.

9 MR. GENTILE: If we're supplied next week, that's fine; but we could do  
10 the status in two weeks.

11 THE COURT: Right. All right. The next issue is the motion to -- actually,  
12 I wanted to address something and I don't know where I put it. It was the one  
13 about addressing the deterrence argument.

14 MR. GENTILE: Yes.

15 THE COURT: Okay. Here's what I was going to say about that.

16 MR. GENTILE: Let me get to -- let me pull it up.

17 THE COURT: I had read the *Hart* case and, basically, what that stands  
18 for is, you know, the State or the defense is not entitled to introduce evidence  
19 of religious beliefs and various, like the Roman Catholics and whatnot, being  
20 opposed to the death penalty. But there was no discussion of, well, what if the  
21 State argues, you know, this is what God want -- I mean that would be wrong  
22 on so many levels, but you know that --

23 MR. PESCI: We're told not to do that.

24 THE COURT: -- that, you know, most religious traditions favor this or  
25 something like that, whether or not that would open the door. And what Mr.

1 Gentile is saying is that, well, if you open the door and you argue that the death  
2 penalty should be imposed as a way of deterrence, then he should be entitled to  
3 present evidence that it's not a deterrence. And, so, I'm just going to cut to  
4 the chase here. Apparently, Mr. Gentile has received information that some  
5 attorneys argue that. I have never seen it done in a capital case. And I'm just  
6 going to ask you right now, because we can cut right to the point here. Mr.  
7 DiGiacomo, would it be your intention should this matter get to a penalty phase  
8 to argue for death as a deterrent to other murderers or business owners who  
9 want to hire people to kill, you know --

10 MR. DI GIACOMO: I've never made the argument before.

11 THE COURT: I've never seen it made.

12 MR. DI GIACOMO: I have at times seen defense attorneys during their  
13 closing or something that causes us to say something in rebuttal, I've seen  
14 some attorneys address the issue before but if there's no evidence before the  
15 Court --

16 THE COURT: Well, if no -- here's the deal, if nobody argues deterrence  
17 then there's no evidence of deterrence. And if we can all agree nobody is going  
18 to argue deterrence, we're going to focus on this -- these offenders or this  
19 offender, assuming we get there and whether or not he deserves the death  
20 penalty, then the issue is moot and the door is never opened. Is that --

21 MR. GENTILE: All right. I would ask the Court then to -- here's what --  
22 the way I see the process evolving. We go through the evidentiary aspect --

23 THE COURT: Right.

24 MR. GENTILE: -- of the penalty phase, no evidence of course of  
25 deterrence is going to be put in or any evidence opposing deterrence are

1 indicated, that it doesn't supply a deterrence. Now, argument commences --

2 THE COURT: Right. And then they say well --

3 MR. GENTILE: -- and the State says something about that. I would --

4 THE COURT: Right. Well, I'm ordering that they don't say it if they don't  
5 -- and say right now they're going to argue it, then they don't get to argue it.

6 MR. DI GIACOMO: Right.

7 MR. GENTILE: Should they --

8 MR. DI GIACOMO: And I'm sorry, Mr. Pesci responded to this, so maybe  
9 I shouldn't be talking for him.

10 MR. PESCI: I'll wait 'til Mr. Gentile is done and then I'll respond.

11 MR. GENTILE: But should an argument come the Court has two options,  
12 it would seem. One, would be to strike it, direct the jury to ignore it, and that  
13 would be one. The other would be, the only thing that I could think of that  
14 would be -- that would cure it and I think it would be -- the only thing that really  
15 could cure it, because it's like the elephant in the room, you know, don't pay  
16 attention to it -- would be to reopen, reopen the evidentiary stage.

17 And so, you know, I'm not saying what you -- that you have to rule  
18 on that now but I would at that point in time, if it was brought up, I would ask  
19 that it be reopened and that we put the evidence in.

20 MR. PESCI: And, Judge, all we're going to ask you to do is on the face  
21 of the motion deny it. Because the State is not going to introduce it --

22 THE COURT: No.

23 MR. PESCI: -- and in the alternative -- he wrote in the alternative, Judge.

24 THE COURT: No, no, no. No, no, no. I'm not going to deny the motion.  
25 I'm going to say it's denied --

1 MR. PESCI: Okay.

2 THE COURT: -- so long as the State does not intend to argue deterrence,  
3 which the State has indicated they do not.

4 MR. PESCI: Sure.

5 THE COURT: That's the order of the Court. Thank you.

6 MR. PESCI: And that ruling means that the defense is not going to do it.  
7 Right?

8 THE COURT: Right. I mean and nobody is going to argue it. They can't  
9 say it's not a deterrent and preclude you --

10 MR. PESCI: That's all we wanted --

11 THE COURT: -- from saying it is a deterrent but if no one is going to  
12 discuss deterrence --

13 MR. GENTILE: Yeah, I'm not going to discuss it.

14 MR. PESCI: Perfect; there we go. We've got it from both sides.

15 THE COURT: -- and there's no evidence of it then there's -- then that's  
16 the ruling. But I want the ruling to be not denied, but the ruling to be what I  
17 said the ruling was because that way everybody knows we're not opening the  
18 door to deterrence; and if they -- if we do, there is either a curative instruction  
19 or the possibility that evidence will be opened again. All right.

20 And last but not least the motion to dismiss count one of the  
21 indictment.

22 MR. GENTILE: Your Honor we are pretty far apart on that because as I  
23 read it --

24 MR. PESCI: I'm sorry, Mr. Gentile, if I can interrupt. I apologize. There  
25 is some more and I thought that some of the other ones were more in the

1 category that he spoke of in the beginning that are standard boilerplate.

2 THE COURT: I went through all of them. I don't have anything else.  
3 What did I miss? [Court and law clerk conferring]

4 MR. PESCI: Did you do disproportionality of arbitrariness and unfairness  
5 of the death sentence?

6 THE COURT: I think I -- I thought I did.

7 MR. GENTILE: I think you did.

8 MR. DI GIACOMO: There are a couple I didn't write down here but --

9 MR. GENTILE: Your Honor, if we find any that you didn't rule on --

10 THE COURT: It was the unbridled discretion of the prosecution to seek  
11 the death penalty --

12 MR. GENTILE: Right.

13 THE COURT: -- I didn't do.

14 MR. PESCI: And then also the mitigators that don't apply to Mr. Hidalgo,  
15 I'm not sure maybe that's one that Mr. Gentile wants to argue.

16 MR. GENTILE: That's critical.

17 MR. PESCI: Okay.

18 MR. GENTILE: Yeah, that's a critical --

19 MR. PESCI: Okay. And then -- okay, then I think we're down to just  
20 those two. I apologize, I wanted to clarify.

21 MR. GENTILE: Well, we have the other one too that you brought up.

22 THE COURT: Well -- okay, then let's start with the mitigators that don't  
23 apply Mr. Hidalgo. I've, again, never seen that done but apparently you have or  
24 have heard that they're going to say: well, he don't show you any evidence of  
25 this or he didn't show you any evidence of that. Was the State intending on

1 doing that?

2 MR. DI GIACOMO: No; in fact, almost every Court has --

3 THE COURT: Yeah.

4 MR. DI GIACOMO: -- routinely granted these, except Stu Bell for some  
5 reason says: no, we're just going to list out the mitigators in the statute but I  
6 mean that's Judge Bell's --

7 THE COURT: Now, I mean to me I think that would be inappropriate.  
8 I've never seen it done, so that's granted.

9 MR. GENTILE: Thank you.

10 MR. DI GIACOMO: The only thing that might be suggested by the motion  
11 that wouldn't be appropriate, 'cause certainly we have the right to argue, this  
12 isn't a young man who made a stupid mistake.

13 THE COURT: Of course.

14 MR. DI GIACOMO: But I mean we're not going to instruct them on what  
15 the mitigators are.

16 THE COURT: Right. Or, you know, he hasn't -- you know, let's just say  
17 he hasn't expressed remorse or, you know, I mean obviously anything that is  
18 part of the evidence you can talk about. But I think in more general terms you  
19 can't say: well, there's -- these are all mitigators and you only heard evidence  
20 that he's remorseful. Or, you only heard evidence that he was desperate or,  
21 you know, whatever.

22 MR. DI GIACOMO: We don't do that. We have no --

23 THE COURT: No; I've never seen it done, I'm just saying. And, then,  
24 finally the unbridled discretion of the prosecution. Did you want to add any-  
25 thing on that one?

1 MR. GENTILE: No, Your Honor.

2 THE COURT: Okay. That's denied.

3 MR. PESCI: Thank you, Judge.

4 [Off the record comments]

5 MR. GENTILE: In any case, that leaves one more. That leaves one more.

6 THE COURT: And, finally, is that the count one?

7 MR. GENTILE: Yes.

8 Your Honor, the count clearly has two conspiracies in it and they  
9 are clearly separated in terms of the way it references them. Okay. Now,  
10 counsel has come back and basically, if I read his opposition correctly, I  
11 shouldn't argue for him, let him argue, but the -- but, you know, the bottom line  
12 to it is I don't think you can cure it by saying: well, what we really meant was  
13 to say that we may be able to prove the murder conspiracy by showing that  
14 Anabel Espindola and Luis Hidalgo III five days after the murder had this  
15 discussion. I agree, you can, okay. But it isn't the conspiracy itself and that's  
16 why it has to be stricken.

17 THE COURT: Right. The conspiracy has to be to commit the murder --

18 MR. GENTILE: That's right.

19 THE COURT: -- and then whatever the proof is, the proof is.

20 MR. DI GIACOMO: If you were to look at this versus C212667 'cause  
21 this the -- he raised this issue before we even indicted this particular case. In  
22 that case the conspiracy language ran from 19<sup>th</sup> of May through the 24<sup>th</sup> of  
23 May, 2005. In this case in order to solve that problem so we don't have this  
24 issue with the jury, it says the conspiracy is formed on May 19<sup>th</sup> of 2005; the  
25 conspiracy is to kill Timothy Hadland.



1           You're going to instruct the jury if he hasn't been involved in the  
2 conspiracy prior to the death of Mr. Hadland, he can't be liable for the death of  
3 Mr. Hadland in any manner. Thereafter, it lists out the acts that count as the  
4 affirmative acts in furtherance of the crime, which would be the acts that are  
5 listed in the murder count itself, as well as the acts that occurred on May 23<sup>rd</sup>  
6 and 24<sup>th</sup>, which there is now evidence to establish that Mr. H was directly  
7 involved in those discussions that occurred on May 23<sup>rd</sup> and May 24<sup>th</sup>.

8           And we've just supplied the defense a little while ago a copy of a  
9 forensic report determining that that note that was found in there was written  
10 by Mr. Hidalgo; and that in addition to that, Miss Espindola testified that the  
11 she would leave the room and talk to Mr. Hidalgo during the course of these  
12 conversations, Judge.

13           So, the only thing we're doing is putting the defense on notice,  
14 putting the jury on notice of our theory of liability and that that's evidence of an  
15 ongoing conspiracy. You're going to properly instruct the jury the indictment  
16 itself is not any evidence nor is it any law, it is merely notice to the defendant  
17 of the charges against him.

18           MR. GENTILE: It's surplusage. The second aspect is absolutely going to  
19 confuse this jury. The only way that your instructions will be clear is if you  
20 take that second part out of the charge. I don't mean the charge to the jury, I  
21 mean out of the charging document, count one of the charging document. The  
22 count doesn't need to be dismissed and if I understand counsel he has made an  
23 election and the election is the first aspect of it.

24           THE COURT: Right.

25           MR. GENTILE: And, so, the second part has absolutely no bearing. It has

1 evidentiary value but the jury isn't going to understand that.

2 THE COURT: Why not just take it out but you can still, obviously, put the  
3 proof in that that's evidence of the conspiracy, their actions after the fact.  
4 Why does it need to be pled out in the conspiracy itself if it's pled -- if the  
5 conspiracy referenced the substantive murder count and it's pled out in that  
6 count, why then do you need to have it pled also in the conspiracy count if it's  
7 created this --

8 MR. DI GIACOMO: I don't know that there's a legal requirement so long  
9 as Mr. Gentile is under notice that that's -- and that's what I put him on the -- I  
10 don't know why he thinks the jury would be confused. I don't know why it  
11 would be, but if --

12 THE COURT: Well, why don't we take it out then? Mr. Gentile, you are  
13 on notice; correct?

14 MR. GENTILE: Yeah; absolutely.

15 THE COURT: Mr. Hidalgo, you've reviewed it and you understand what  
16 the State intends to prove?

17 DEFENDANT HIDALGO JR.: [No response]

18 MR. GENTILE: You know what you're charged with?

19 DEFENDANT HIDALGO JR.: Yeah.

20 MR. GENTILE: Yes.

21 MR. DI GIACOMO: I don't want some assertion that somehow the acts  
22 on May 23<sup>rd</sup> and 24<sup>th</sup> --

23 THE COURT: All right.

24 MR. DI GIACOMO: -- were some bad act or other act, that's the  
25 conspiracy.

1 THE COURT: All right. Take it out. I mean can we agree then they'll  
2 take it out. Everybody is on notice. They're going to admit that evidence.  
3 They're going -- or seek to admit it.

4 MR. GENTILE: Well --

5 THE COURT: And they're going to argue that that's evidence of the  
6 ongoing conspiracy. And Mr. --

7 MR. GENTILE: And I anticipate all of that, okay --

8 THE COURT: And that's fine then.

9 MR. GENTILE: -- but it can't be in the charge --

10 THE COURT: All right. Well, they said they'd take it out of the charge.

11 MR. GENTILE: -- and when you say can we agree. They need to file  
12 another one. I want to see what it looks like.

13 THE COURT: They're going to file an amended indictment.

14 MR. DI GIACOMO: Sure.

15 THE COURT: Very good. That will all be done by when we come back.

16 MR. DI GIACOMO: Sure.

17 MR. GENTILE: Okay. Now, Miss Armeni doesn't return to work till the  
18 25<sup>th</sup> of May and so, you know, we have a trial next week I guess but given that  
19 we have hearings two weeks from now I don't think it's going forth. I just  
20 wanted to call that to the Court's attention.

21 MR. PESCI: And that was already brought up last time. We already we --

22 MR. DI GIACOMO: I thought we already vacated that.

23 MR. PESCI: We already vacated it.

24 MR. GENTILE: Okay.

25 MR. DI GIACOMO: We don't have a current trial date set.

1 THE COURT: So, should we set a trial date in two weeks then when we  
2 see more about Miss Armeni?

3 MR. GENTILE: Yeah and by that time we might have a ruling back from  
4 the Supreme Court, I mean you know, we don't know what's going on over  
5 there.

6 THE COURT: Optimism.

7 THE CLERK: It's set for April 29<sup>th</sup>.

8 THE COURT: All right. We'll set the trial in two weeks.

9 MR. GENTILE: That's fine. So, we'll be back in two weeks.

10 THE COURT: All right. Thank you all.

11 MR. GENTILE: Thank you, Judge.

12 THE COURT: All right.

13 [Proceedings concluded]

14 \* \* \* \* \*

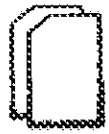
15  
16 ATTEST: I hereby certify that I have truly and correctly transcribed the audio/  
17 video proceedings in the above-entitled case to the best of my ability.

18   
19 DEBRA WINN, Court Transcriber

# EXHIBIT "E"

1 TRAN

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COPY

DISTRICT COURT  
CLARK COUNTY, NEVADA

May 22 3 07 PM '08

  
CLERK OF THE COURT

5 THE STATE OF NEVADA,

CASE NO. C241394

6 Plaintiff,

DEPT. XXI

7 vs.

8 LUIS HIDALGO, JR.,  
9 a/k/a Luis A. Hidalgo, Jr.,

10 Defendant.

11 BEFORE THE HONORABLE VALERIE P. ADAIR, DISTRICT COURT JUDGE

12  
13 THURSDAY, MAY 1, 2008

14  
15 RECORDER'S TRANSCRIPT RE:  
16 DEFENDANT'S MOTION FOR DISCLOSURE OF THE EXISTENCE OF  
17 ELECTRONIC SURVEILLANCE / INTERCEPTED COMMUNICATIONS / STATE'S  
18 MOTION TO CONDUCT VIDEOTAPED TESTIMONY OF A COOPERATING  
19 WITNESS / STATUS CHECK RE: AFFIDAVIT / TRIAL SETTING

20 APPEARANCES:

21 FOR THE PLAINTIFF:

MARC DIGIACOMO, ESQ.

22 FOR THE DEFENDANT:

DOMINIC P. GENTILE, ESQ.

23  
24  
25 RECORDED BY: JANIE OLSEN, COURT RECORDER

1 LAS VEGAS, NEVADA, THURSDAY, MAY 1, 2008, 10:00 A.M.

2 THE COURT: We've got Mr. Gentile, and Mr. DiGiacomo is here. Are  
3 we ready on that matter?

4 MR. DIGIACOMO: Yes, Judge.

5 MR. GENTILE: Yes, Your Honor.

6 THE COURT: All right. That is Luis Hidalgo.

7 MR. GENTILE: Actually, it's both of them. Your Honor, I have --

8 THE COURT: They only transported one. I don't see the other one.

9 MR. GENTILE: No, they're both here.

10 MR. DIGIACOMO: The other one's outside.

11 MR. GENTILE: Well, they don't need to transport one of them, Judge.  
12 He can come here himself, and he is here.

13 THE COURT: No, I mean, they didn't -- oh, here he is.

14 MR. DIGIACOMO: The son's here.

15 THE COURT: I didn't see him, and I meant we've only got one who  
16 wasn't transported.

17 MR. GENTILE: Yeah.

18 THE COURT: But I was confused because I didn't see him --

19 MR. GENTILE: Before we get started --

20 THE COURT: -- in the back row. So they're both here.

21 MR. GENTILE: Before we get started -- and I apologize to the Court for  
22 this -- I have prepared -- and I called Mr. DiGiacomo and Mr. Pesci last night -- I have  
23 prepared -- and there's no difference in this document other than to tailor it to the  
24 Hidalgo, Junior, file. Okay? I say that to the Court because in reality you don't need  
25 to read it. There's nothing in here that changed anything, other than taking what

1 was the III and converting it to Junior and eliminating some language that talked  
2 about the other case, because Junior is the other case. So I've asked leave to file  
3 this. I noticed -- Adelle, my secretary is on vacation this week, and the exhibits are  
4 not attached to this. I will submit a supplemental.

5 THE COURT: Right. Yeah, just have her --

6 MR. GENTILE: The exhibits are also identical.

7 THE COURT: Okay, that's fine.

8 MR. GENTILE: So if I may have leave to file --

9 THE COURT: You may file that in open court at this time.

10 MR. GENTILE: Thank you.

11 MR. DIGIACOMO: I received a faxed copy last night, too.

12 THE COURT: All right. Thank you. And I'm assuming, Mr. DiGiacomo,  
13 you've had a chance to review that.

14 MR. DIGIACOMO: I have, Judge.

15 THE COURT: And is it essentially the same as the one you'd  
16 previously reviewed in reference to Mr. Hidalgo, III?

17 MR. DIGIACOMO: It appears to be.

18 THE COURT: All right. Thank you.

19 MR. GENTILE: It's his motion.

20 THE COURT: All right. Anything to add?

21 MR. DIGIACOMO: Judge, the only thing I would do is respond to the  
22 claim that Mr. Gentile raised a statute. And it's actually a claim that's been raised on  
23 a number of occasions. What he does is he references a statute that's inapplicable  
24 to this situation, and if I can explain to the Court why.

25 The statute deals with depositions. And if you go two statutes later --



1 because there's a whole section of those statutes -- that two sections later says, the  
2 manner in which the deposition shall be taken will be the same as if it were a civil  
3 deposition. We've never requested under that statute to conduct a civil deposition of  
4 Ms. Espindola. We've never requested to do a civil deposition whatsoever.

5 I agree with Mr. Gentile that that was added to the Omnibus Crime Act  
6 in 1967, and not only has no court ever interpreted it, no -- there's no legislative  
7 history as to subsection 3, though I might suggest to the Court that his interpretation  
8 of subsection 3 doesn't really have the meaning he ascribes to it, which would be if  
9 it's a civil deposition there's a reason then that the prosecutor or an accomplice  
10 would have been excluded from it because they can't be compelled to answer  
11 certain questions in a civil deposition, like a civil deposition format, Judge.

12 It has been the practice of the courts to do this. And this has nothing to  
13 do with the admissibility of the statement. We certainly can litigate the admissibility  
14 of a videotaped testimony in this courtroom at a later point as to whether or not it's  
15 admissible or not. My request to the Court is out of an abundance of caution to do  
16 so, Judge. And I'll submit it to the Court.

17 THE COURT: I'll just -- before you respond -- I'll just tell you, I think he  
18 makes some good arguments. And I think, basically, you know, the issue is, well,  
19 number one, she hasn't been threatened. You know, maybe there's an inference  
20 that, yes, her life could be in danger, or something like that, but there certainly isn't  
21 any evidence of that, number one. Number two, she's housed with the women in  
22 the detention center right now, so neither one of these people have access to her.  
23 And, number three, I really think the most compelling argument is this: you know,  
24 how is this different than any other time a former -- the -- you know, somebody that  
25 was an accomplice, or whatever, is going to give testimony?

1 I mean, are we really not just saying then that every time some  
2 accomplice is going to be giving testimony that we have to videotape it because by  
3 any sort of definition or inference there's going to be some risk to them of their  
4 failure to cooperate down the road, or risk to their safety, or something like that? I  
5 think that's sort of the best argument against doing it.

6 I may have already said this and if I did I apologize for repeating myself,  
7 but typically my sort of procedure is to, out of an abundance of caution, allow the  
8 videotaped testimony. It's done in Court, it's done with me, it's done with everybody  
9 present just like in a trial.

10 The difference is, obviously, if you use it the jury isn't able to evaluate  
11 the demeanor and everything like that of the witness the same way the jury would if  
12 the person was brought in live, particularly, you know, if they're still in custody and  
13 they're brought in in their, you know, jail clothes and all that stuff. So that's --  
14 obviously, the Court recognizes that's a big difference even though there's cross-  
15 examination and contemporaneous rulings on objections and things like that, so.

16 That doesn't mean I've made up my mind. That's --

17 MR. GENTILE: All right. Well, I think we commence with the  
18 proposition that depositions --

19 THE COURT: Well, and it's not a deposition. It's videotaped in-court  
20 testimony to be distinguished from a deposition where there's no presiding judicial  
21 officer and --

22 MR. GENTILE: Your Honor, with all due respect to the Court, it is a  
23 deposition to preserve testimony. That's what it is. The fact that it takes place in a  
24 court, the fact that there's a judicial officer present means that the evidentiary  
25 objections could be made at that time --

1 THE COURT: Right.

2 MR. GENTILE: – and ruled upon, but it is a deposition to preserve  
3 testimony. The statute absolutely applies. There is no general empowerment of the  
4 District Court to order, at its whim or upon the request of any party at any time, a  
5 deposition to a prisoner's testimony.

6 The legislature – following Rule 15, but adding to it something that only  
7 Nevada has and has had since 1911, which is consistent with Nevada's approach to  
8 accomplice testimony, because Nevada is one of the only states that requires  
9 corroboration of an accomplice for a conviction – has an exception in the statute.  
10 And so, first you have to comply with the statute.

11 In this case – and it is a – it is not just Mr. DiGiacomo. There seems to  
12 be an appetite on the part of the District Attorney of Clark County to never support a  
13 factual assertion with an affidavit although the rules require it.

14 THE COURT: Well, I was just going to throw one other thing out.  
15 That's one of those strategic decisions, also, that can be made by the State in  
16 determining whether or not to put the testimony on at a preliminary hearing, or to go  
17 forward in the grand jury.

18 And as you know, Mr. DiGiacomo, sometimes if you have an elderly  
19 victim or something like that, you tactically make the decision to go forward at the  
20 preliminary hearing, knowing that you may lose that witness, or victim, or whatever,  
21 for whatever reason, and you need to preserve their testimony. So there is a vehicle  
22 – an avenue to do this if really there is a risk to somebody – a witness, you know,  
23 leaving the jurisdiction where you can't get them again, or being hurt or, you know,  
24 threatened, whatever.

25 MR. GENTILE: And when Mr. Hidalgo, Junior, was arrested and

1 charged by way of a complaint, we appeared in front of Justice of the Peace Silver  
2 and demanded a preliminary hearing within fifteen days. It was going to take place  
3 in Boulder City. And as you know, because it occurred in this courtroom, when we  
4 were picking a date for a hearing I advised the Court that we had a prelim on that  
5 date in Boulder City, and Mr. DiGiacomo said to the Court that they intended to  
6 indict. Okay. So there was that option here.

7 And so when you realize that the inherent power does not exist, that the  
8 legislature has developed certain guidelines – very strict ones – for when a  
9 deposition to preserve testimony in a criminal case can take place, and they have  
10 exempted from that accomplices, and that she clearly is an accomplice, and there  
11 are no factual assertions by way of affidavit supporting anything – but even if there  
12 were she's still an accomplice – it would seem to me that in this particular case,  
13 where a prosecutor had an opportunity to comply with the rules of evidence later on  
14 by going forward with the preliminary hearing and letting a witness be confronted  
15 and cross-examined at that time by counsel, and he deliberately took the other step,  
16 then when you reduce this to the bottom line the only reason they want to depose  
17 this witness is so that they can keep their promise to let her out. And that's not good  
18 enough.

19 There's nothing to distinguish this case from any other time that a  
20 prosecutor might come in – or how about a defense lawyer? I mean, if you have the  
21 inherent power and you want to say that, you're going to get a lot of requests. So it  
22 would seem to me that this Court has a duty and a motivation to see to it that the  
23 statute is complied with.

24 THE COURT: Mr. DiGiacomo, any response to what Mr. Gentile has  
25 just said or do you want to submit it on what's been argued already?

1 MR. DIGIACOMO: Just that it would be the State's position you have  
2 the inherent power to take testimony in any case, Judge. And I'll submit it.

3 THE COURT: All right. I think, you know, this isn't the situation where  
4 something has developed after the preliminary hearing. I think that the situation --  
5 the risk was the same before the preliminary hearing date -- I know it wasn't a  
6 preliminary hearing -- as it is today. So I think the State had the option to preserve  
7 her testimony. They chose, for whatever reason, not to do that.

8 I don't see any extraordinary thing in this case. Like I said, this is  
9 different than some of the other cases where there has been a change that's  
10 occurred from the time of the information -- or the indictment that then, you know,  
11 months later you need to visit this issue. This -- like I said -- is exactly the same  
12 situation as the State knew about prior to the preliminary hearing. The State could  
13 have chosen to go forward in Boulder City with a preliminary hearing. Again, they  
14 elected not to do so. So that motion is denied. Now --

15 MR. GENTILE: As to both cases?

16 THE COURT: Yes, for the same reason.

17 MR. GENTILE: Right.

18 THE COURT: Well, actually as to --

19 MR. DIGIACOMO: Well, it can't be denied as to the other --

20 THE COURT: No, no, no. That's as to -- as to, obviously, Mr. Hidalgo,  
21 II, it is because they had the opportunity. Now, this is a totally new situation since  
22 the time Mr. Hidalgo, III, was indicted because there was a complete change. So  
23 the reasoning there doesn't really apply to Mr. Hidalgo, II. But, you know, again, I  
24 think for the other reasons that have already been discussed -- what I have said  
25 previously, what Mr. Gentile has argued, it's denied as to Mr. Hidalgo, III.

1 Now, we still have on the electronic – oh, I'm sorry. I never got  
2 anything more.

3 MR. GENTILE: I never got anything either.

4 MR. DIGIACOMO: Judge, what I have here is – and I brought copies  
5 for Mr. Gentile. I have a copy here of an affidavit from Mr. Lalli indicating that the  
6 statute requires David Roger, and David Roger only –

7 THE COURT: Oh, okay.

8 MR. DIGIACOMO: – to sign a wiretap, that his deputies are not allowed  
9 to sign a wiretap.

10 THE COURT: Where is David Roger's affidavit?

11 MR. DIGIACOMO: Judge, Mr. Lalli, being the person who coordinates  
12 the wires in our office, has personal knowledge in order to make this affidavit,  
13 Judge, and as such, executed the affidavit on the request of the court.

14 MR. GENTILE: I haven't had a chance to look at it, Your Honor, or to  
15 think about it, which is probably more important.

16 MR. DIGIACOMO: The only other thing I was going to add to this  
17 particular record is there had been discussions prior to the granting of the motion in  
18 which Mr. Gentile had made representations about this is going to become a big  
19 deal in our community and yada, yada, yada. And this Sunday there was an article  
20 and apparently the only case which was part of that article was a case called Pete  
21 Delleskiew.

22 Because I had some knowledge of that I went back and looked at the  
23 briefs, and the issue in that case had to do with the necessity requirement of the  
24 warrant. It didn't have anything to do with notification as far as I could figure out.  
25 But, be that as it may, with this particular case I believe we've conformed with the



1 Court's order and we will submit it.

2 MR. GENTILE: Your Honor, I don't know if they have and I'd like to  
3 have an opportunity to look at it.

4 THE COURT: That's fine. I mean, actually, one thing I would point out  
5 is, you know, you're -- and I believe that to be true that Mr. Lalli does coordinate this.  
6 There's nothing that I'm looking at that says that he would have knowledge of this  
7 because he coordinates all of these. So I think there's sort of a gap here. He's  
8 saying, well, based on his knowledge, David Roger has never approved a wiretap,  
9 not that he would definitely have knowledge, because the procedure in the office  
10 would be to coordinate all of that through Mr. Lalli and therefore Mr. Lalli would know  
11 about it. So --

12 MR. GENTILE: Your Honor, I think the State still --

13 THE COURT: -- it's sort of lacking in that regard.

14 MR. GENTILE: -- the State still misperceives the motion, But rather  
15 than argue it now without having had an opportunity to look at this, what I would like  
16 to do is either pass it a couple of weeks for status or, you know --

17 THE COURT: That's fine.

18 MR. GENTILE: -- that would be probably the best thing to do.

19 THE COURT: Okay. We can pass it a couple of weeks. Does that --  
20 that's fine. We can --

21 MR. GENTILE: I start --

22 MR. DIGIACOMO: I would ask that we set a trial date immediately.

23 THE COURT: We're going to get to that in a minute.

24 MR. DIGIACOMO: Well, yeah -- I mean, we originally were going to  
25 have the 27<sup>th</sup>, but I'm assuming Mr. Gentile won't be ready because of Ms. Armeni's

1 condition.

2 MR. GENTILE: She won't be back 'til the 25<sup>th</sup> full time.

3 THE COURT: Right. And he had previously represented at the last  
4 hearing we had that --

5 MR. GENTILE: Right.

6 MR. DIGIACOMO: Right.

7 THE COURT: -- we wouldn't be going forward on the 27<sup>th</sup>, and that is  
8 why my JEA has been patiently sitting here for almost an hour to set the trial date.  
9 So, your status check date will be Tuesday, June 3<sup>rd</sup> at 9:30, unless you want --

10 MR. GENTILE: No, that's fine.

11 THE COURT: -- to do it May 8<sup>th</sup>.

12 MR. GENTILE: No, June 3<sup>rd</sup> is fine. That's on this issue. And I'll  
13 submit a supplemental --

14 THE COURT: Okay.

15 MR. GENTILE: -- written documents if I deem it necessary.

16 THE COURT: And then for the trial setting --

17 MR. GENTILE: Your Honor, because Paula isn't coming back -- or for  
18 the record, Ms. Armeni isn't coming back until the 25<sup>th</sup> of May, I'd ask for a July  
19 setting -- July or August. Plus, we still have a stay from the Supreme Court on Mr.  
20 Hidalgo, III.

21 THE COURT: Right, but we can set it as to Mr. Hidalgo, II. And if the  
22 stay is lifted it's --

23 MR. GENTILE: Junior.

24 THE COURT: -- there's sort of -- I'm sorry -- there's the understanding  
25 that we will be trying both together, assuming the stay is lifted -- or we would try to



1 do that assuming the stay against Mr. Hidalgo, III, is lifted, prior to the time of —

2 MR. GENTILE: Well —

3 THE COURT: — Mr. Hidalgo, Junior's, trial.

4 MR. GENTILE: — we would only be doing them together if the stay is  
5 lifted and the Supreme Court changes its mind about its original ruling.

6 THE COURT: Right.

7 MR. GENTILE: As it stands right now we still have one charged in a  
8 capital case and one — I suppose also charged in a capital case, given the  
9 withdrawal of the original writ, but, you know we can't be sure that it'll stay that way.

10 THE COURT: Right. And if it's one capital and one not, we won't try  
11 them together. All right —

12 MR. GENTILE: In any case, the first one I'd like to have it set for July  
13 or August, either one.

14 MR. DIGIACOMO: First week of July, Judge, not the July 4<sup>th</sup>, but the  
15 8<sup>th</sup>.

16 THE COURT: Well, the first week of July is actually our civil stack, so it  
17 can't go there.

18 THE CLERK: Trial will be August 18<sup>th</sup> at 10:00 a.m., with your calendar  
19 call on August 14<sup>th</sup> at 9:30.

20 MR. GENTILE: Thank you.

21 THE CLERK: And that is for Hidalgo the — Junior.

22 MR. GENTILE: Thank you, Your Honor.

23 THE COURT: Thank you.

24 MR. DIGIACOMO: Judge, there's one last issue.

25 THE COURT: Sure.

1 MR. DIGIACOMO: Mr. Gentile's motion in which he requested certain  
2 language be brought out of the indictment. I had that typed up. And if I may file the  
3 amended complaint?

4 THE COURT: All right. Thank you.

5 All right. I guess that's it for the Hidalgo matters.

6 MR. DIGIACOMO: And for the record, Mr. -- III, his trial date has been  
7 vacated for the 27<sup>th</sup> as well?

8 THE COURT: Right.

9 MR. DIGIACOMO: Because there is a trial date in Blackstone.

10 MR. GENTILE: Right.

11 THE COURT: Right.

12 MR. DIGIACOMO: But it's now vacated?

13 THE CLERK: I'll make sure it's vacated.

14 MR. DIGIACOMO: Okay.

15 MR. GENTILE: Thank you.

16 MR. DIGIACOMO: That's fine, Judge.

17 THE COURT: All right. Thank you.

18 PROCEEDING CONCLUDED AT 10:18 A.M.

19 \* \* \* \* \*

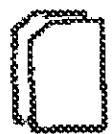
20  
21  
22 ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual  
23 recording in the above-entitled case to the best of my ability.

24   
25 LARA CORCORAN  
Court Recorder/Transcriber

# EXHIBIT "F"

1 TRAN

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COPY

DISTRICT COURT JUL 3 1 55 PM '08

CLARK COUNTY, NEVADA

CLERK OF THE COURT

6 THE STATE OF NEVADA,

7 Plaintiff,

8 vs.

9 LUIS ALONSO HIDALGO, aka LUIS  
10 ALONSO HIDALGO, III, LUIS HIDALGO  
11 JR., aka LUIS A. HIDALGO,

Defendants.

) CASE NO. C212667

) CASE NO. C241394

) DEPT. XXI

12  
13 BEFORE THE HONORABLE VALERIE ADAIR, DISTRICT COURT JUDGE

14 TUESDAY, JUNE 17, 2008

15 RECORDER'S TRANSCRIPT OF HEARING RE:  
16 STATUS CHECK: TRIAL SETTING/AFFIDAVIT  
17 DEFENDANT'S MOTION FOR DISCLOSURE OF EXISTENCE OF  
18 ELECTRONIC SURVEILLANCE  
19 DEFENDANT'S MOTION FOR DISCLOSURE OF INTERCEPTED  
20 COMMUNICATIONS

21 APPEARANCES:

22 FOR THE STATE:

MARC DIGIACOMO, ESQ.  
Deputy District Attorney

23 FOR THE DEFENDANTS:

DOMINIC P. GENTILE, ESQ.  
PAOLA M. ARMENI, ESQ.

24  
25 RECORDED BY: JANIE L. OLSEN, COURT RECORDER/TRANSCRIBER

1 LAS VEGAS, CLARK COUNTY, NV., TUES., JUNE 17, 2008

2  
3 THE COURT: State versus Luis Hidalgo, Junior and Luis Hidalgo, III.

4 MR. GENTILE: There are two different case numbers so the record ought to  
5 reflect that.

6 THE COURT: All right. Status check trial setting.

7 MR. GENTILE: The Court's probably aware that -- well, I'm going to let Mr.  
8 DiGiacomo address the Court.

9 MR. DIGIACOMO: Judge, and we talked a little bit out in the hall. The  
10 opinion came down, I think it's now 19 days ago, which means the 18 days ran  
11 yesterday so the remittitur should have issued yesterday. As such, the State  
12 intends to file an amended to conform to that ruling today. My secretary's out  
13 otherwise I'd have it done already as well as an amended notice to conform to the  
14 ruling for anything related to Mr. H.

15 After that it was my understanding that the Court's position was is that  
16 had the Supreme Court come back with the -- the opinion that they did that we  
17 intended to try these cases together.

18 I've discussed that with Mr. Gentile. His position is is that we need to  
19 file a formal motion. We agreed to just submit it to the Court and allow you to rule  
20 whether or not you wanted me to file a formal motion and which will allow him to file  
21 a written objection to it. If so --

22 THE COURT: I think to protect the record because they are two separate  
23 cases the reason I said what I did is normally I'll separate a noncapital from a  
24 capital. If they're both capital, then in my view there's obviously less reason to  
25 separate it, but I think you still need to file a formal written motion to protect the

1 record.

2 And Mr. Gentile may argue persuasively that they shouldn't be  
3 consolidated. So I'm going to keep an open mind as to any other reason not to have  
4 them together, but I think that's what we need to do.

5 MR. DIGIACOMO: That raises an issue also with Mr. Gentile in that he --

6 MR. GENTILE: I'll address that.

7 MR. DIGIACOMO: Oh, you want to address that.

8 There's an issue as to if they are consolidated as to our trial date.

9 MR. GENTILE: Let's take it sort of linearly. The Supreme Court's ruling was  
10 very narrow in terms of what it's going to permit the State to do. I have reason to  
11 believe that the State is going to seek an opportunity to include information in the  
12 notice that it did not have at the original notice, specifically the information from  
13 Anabel Espindola.

14 The way I read the Supreme Court ruling it doesn't permit that. And so  
15 if it comes back that way, we certainly will challenge the new notice of intent. That  
16 of course is going to require some briefing. It's going to require the State to answer  
17 it. It's going to require the Court to rule on it really before you would decide a formal  
18 motion to consolidate.

19 Now, should, and this is hypothetical, but I'm kind of doing this for  
20 calendar more than anything else, should the Court say, you know, you can't file this  
21 notice, then you won't consolidate because it won't be a capital case. Should the  
22 Court permit the filing of the notice and grant the motion to consolidate -- and I don't  
23 know that I have any other objections to consolidation I'll tell you that now; I haven't  
24 thought about it, okay -- but should you then consolidate, then at that point in time  
25 beyond any doubt because of trial strategy problems that would be different

1 representing Luis, Jr., as compared to Luis, III, then one of them will have to get  
2 another lawyer because at that point in time the conflict that has been asserted but  
3 hasn't been real will now become real, and that one they haven't waived because  
4 they weren't consolidated at that time.

5 And so I will tell you that Luis, III, is speaking with other lawyers should  
6 that condition come to pass. He wants me to be his lawyer in a separate trial, but in  
7 a consolidated trial I've explained to both of them that there are certain objections  
8 that you might want to make as to one, not as to the other. There are certain cross-  
9 examinations that you might want to do with a witness as to one but that you  
10 wouldn't want to do as to the other.

11 And so the reason I'm bringing this up, Your Honor, is because I really  
12 think with the August 18<sup>th</sup> trial date isn't going to hold because if -- I shouldn't say  
13 that. If you consolidate it won't hold.

14 THE COURT: And if I don't then that trial date is fine.

15 MR. GENTILE: If you don't, then fine, we can go forward with one of them. I  
16 just wanted to address this. This is status today.

17 THE COURT: Right. Well, I think then what we should do is keep the trial  
18 date sort of there, not vacate it.

19 Mr. DiGiacomo would have filed the notice today had his secretary  
20 been here so he's probably going to do that in the next couple of days. And then  
21 you can make your objection to the amended notice if in fact the State does what  
22 you anticipate they're going to do.

23 In the meantime, Mr. DiGiacomo can prepare his motion to consolidate.  
24 The Court will recognize, of course, that that may depend on its prior ruling on the  
25 other thing, but we may be able to rule on everything at once. So that's really all

1 we'll do.

2 And, Mr. DiGiacomo, when can you get that amended notice filed?

3 MR. DIGIACOMO: Well, Judge, (unintelligible) it. I hope she'll be back  
4 tomorrow. I forwarded it to her yesterday afternoon. So it should be filed if not  
5 today by another secretary then by my secretary tomorrow.

6 THE COURT: Okay.

7 MR. DIGIACOMO: And then there's -- they also sent me a letter I just wanted  
8 to address a couple of things in the letter that they've sent me just so that we have a  
9 clean record as to that.

10 They've requested a number of things one of which is an evidence  
11 view. I've informed them that they don't need to go through me to view the district  
12 court evidence, that if they call the district court clerk up they can go down to the  
13 vault at any time at their convenience to look at that.

14 I've invited them over to Metro to view their file, and then we will set up  
15 a time to look at the evidence that remains in the evidence vault.

16 There's also an issue as it relates to the hard drives. When this case  
17 first started, we mirrored some hard drives for the defense in order for them to  
18 continue running Simone's. There's a question as to whether or not those are still  
19 available as pristine evidence for them. We'll have a discussion as to whether or not  
20 there needs to be additional mirrors made of those particular items or if we can even  
21 release them since the analysis on those items was completed, and there's no  
22 evidence of inculpatory nature that we could find on them.

23 The other issue is that they wanted the records related to the  
24 handwriting exemplar. We'll get those provided to them.

25 They also wanted the Silverton records. I don't have a copy of them



1 yet, but I'll give them to them.

2 And then they also requested any audio recordings or video recordings  
3 of Ms. Espindola between January 1<sup>st</sup> and today that have -- that have occurred at  
4 the jail. I'm not aware of any. There shouldn't have been any that have been  
5 generated. I'll check to make sure there isn't, but there is none to turn over. And  
6 they wanted the additional visitor logs which I don't object to. I'll get a copy of those  
7 to them.

8 MR. GENTILE: Thank you.

9 THE COURT: All right. So I think we should just keep the calendar call date  
10 of August 14<sup>th</sup>, and depending on what motions are filed we may have an earlier  
11 hearing; we may have a later hearing, whatever.

12 MR. GENTILE: Thank you, Judge.

13 THE COURT: All right.

14 MR. DIGIACOMO: August 14<sup>th</sup> as to both? Certainly no trial date set as to  
15 212667 --

16 THE COURT: Right, Hidalgo, III.

17 MR. DIGIACOMO: If you want to set them both we could always -- we could  
18 always vacate Hidalgo, III, but we should at least have some sort of trial date I would  
19 think --

20 MR. GENTILE: August 14<sup>th</sup> probably makes sense in terms of -- well, it  
21 should probably be a status -- I don't know.

22 THE COURT: You're right. We don't have a pending date on Hidalgo, III. So  
23 we either have to set a status check date or set a trial date because there needs to  
24 be some pending -- Mr. DiGiacomo's correct -- there needs to be some sort of  
25 pending thing to trigger --

1           Should we just set it down for a trial date August 14<sup>th</sup> and August 18<sup>th</sup>  
2 for trial? August 14<sup>th</sup> for calendar call, recognizing that the Court hasn't ruled on  
3 consolidation or any of these other issues, and if they're separate? Or do you want  
4 to set it out further or what?

5           MR. GENTILE: If they're set on -- you know, just for prep -- just to keep the  
6 thing alive in the system I'd say August 14<sup>th</sup>.

7           THE COURT: All right, let's just do that.

8           MR. GENTILE: But if they're not consolidated clearly they can't go. If they  
9 are consolidated they're not going to be able to go because of the new lawyer  
10 coming in.

11          THE COURT: Right. Let's just do it for August 14<sup>th</sup> because one of them can  
12 go if they're not consolidated. One of them can go on August 14<sup>th</sup>.

13          MR. DIGIACOMO: That's correct.

14          THE COURT: And if they're separate, depending on Mr. Gentile's schedule,  
15 they can even go back to back if you have the energy to do it.

16          MR. GENTILE: Let me put it this way. If they're separate, I could be  
17 prepared to go to trial for Mr. Hidalgo, Junior on the 18<sup>th</sup>.

18          THE COURT: But not Mr. Hidalgo, III.

19          MR. GENTILE: If they're not -- I've not been preparing for trial for Mr.  
20 Hidalgo, III because there hasn't been a trial date.

21          THE COURT: All right. Well, do you want an October setting then for Mr.  
22 Hidalgo, III?

23          MR. GENTILE: That probably makes the most sense, but if they are  
24 consolidated it will be postponed. They'll both go in October.

25          MR. DIGIACOMO: I can't do October, Judge, my schedule won't possibly

1 allow me to do it before the end of the year, before the beginning of the next year, if  
2 that's what we're talking about.

3 MR. GENTILE: It is what it is.

4 THE COURT: January is our next criminal stack then.

5 MR. DIGIACOMO: Can I suggest to the Court that I will have a motion to  
6 consolidate filed this week, and then I'll address the issues so that will get set out in  
7 15 days. So we'll have this addressed in July.

8 THE COURT: Yeah, but it doesn't matter --

9 MR. GENTILE: But it's still not going to hold an August trial date.

10 THE COURT: Because what Mr. Gentile is saying is I'm assuming he would  
11 remain Hidalgo, II --

12 MR. GENTILE: Junior.

13 THE COURT: Right, Junior. Hidalgo, III would need to get a new attorney.  
14 Obviously he can't be ready on a capital case in, you know, 40 days, 30 days, or  
15 whatever so it's going to need to get bumped anyway.

16 MR. DIGIACOMO: Correct, but we won't be able to pick a trial date for  
17 anybody until we know who his other lawyer is and what his schedule is. I didn't  
18 bring mine with me, but I can tell you I can't possibly put a trial date before the first  
19 of the year. So if I file the motion maybe in a couple of weeks --

20 THE COURT: Well except if they're not consolidated -- if they're consolidated  
21 Mr. Gentile will remain as attorney for both of them. He'll try one in October -- I'm  
22 sorry. He'll try one in August. He'll try the second in January.

23 MR. GENTILE: It would seem to me that the one calendar that we have to be  
24 sensitive to -- there are two, yours and Mr. DiGiacomo's -- and so it would seem to  
25 me that if Mr. DiGiacomo knowing that August either will be Luis, Junior or nobody

1 we should look to Mr. DiGiacomo's calendar now to see when either the  
2 consolidated or the Luis, III trial should take place.

3 THE COURT: Right.

4 MR. GENTILE: And so if he's got that let's set it.

5 THE COURT: I agree. January, are you free in January?

6 MR. DIGIACOMO: I just set a trial January 5<sup>th</sup>. So if it's towards the end of  
7 January, yes.

8 THE COURT: All right, Ms. Wisner, give him a date.

9 MS. WISNER: We'll give you January 26<sup>th</sup>, which is the last week of our  
10 criminal stack.

11 MR. DIGIACOMO: Should be done by then.

12 MS. WISNER: January 26<sup>th</sup> at 10 a.m., with a calendar call on January 22<sup>nd</sup>  
13 at 9:30.

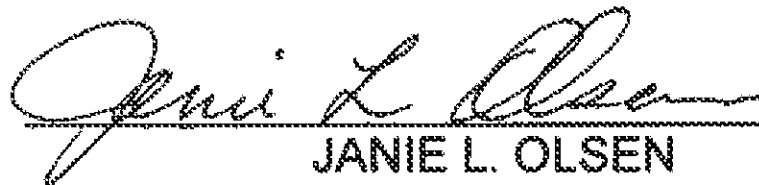
14 MR. DIGIACOMO: Thank you.

15 MR. GENTILE: Thank you, Judge.

16 THE COURT: Thank you.

17 -oOo-

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

20   
21 JANIE L. OLSEN

22 Recorder/Transcriber  
23  
24  
25



# EXHIBIT "G"

DISTRICT COURT

CLARK COUNTY, NEVADA

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FILED IN OPEN COURT

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20

CHARLES J. SHORT  
CLERK OF THE COURT

BY DENISE HUSTED

DEPUTY

THE STATE OF NEVADA,

Plaintiff,

vs.

KENNETH COUNTS, aka KENNETH

JAY COUNTS II, LUIS ALONSO

HIDALGO, aka LUIS ALONSO

HIDALGO III, ANABEL ESPINDOLA

DEANGELO RESHAWN CARROLL,

JAYSON TAOIPU,

Defendants.

BEFORE THE HONORABLE VALERIE ADAIR, DISTRICT COURT JUDGE

Monday, February 4, 2008

RECORDER'S TRANSCRIPT OF HEARING RE:  
Espindola Plea

APPEARANCES:

FOR THE STATE:

MARK DIGIACOMO, ESQ.

Deputy District Attorney

GIANCARLO PESCI, ESQ.

Deputy District Attorney

FOR DEFENDANT ESPINDOLA: CHRISTOPHER ORAM, ESQ.

RECORDED BY: JANIE OLSEN, COURT RECORDER

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LAS VEGAS, NEVADA, MONDAY, FEBRUARY 4, 2008, 9:02 A.M.

P R O C E E D I N G S

THE COURT: All right. The record will reflect the presence of the Defendant Anabel Espindola, along with her attorney, Mr. Oram; the presence of Mr. Pesci and Mr. DiGiacomo on behalf of the State.

And my understanding is that this matter has been resolved; is that correct?

MR. ORAM: Yes, Your Honor.

THE COURT: And the Court is in possession of a written guilty plea and the third amended information. And was that filed this morning in open court?

MR. DIGIACOMO: It was, Judge.

THE COURT: All right. Very good.

All right. Ms. Espindola, the Court, as I have stated, is in possession of a written plea of guilty which was signed by you. Before I may accept your plea of guilty, I must be satisfied that your plea is freely and voluntarily given.

Are you making this plea freely and voluntarily?

THE DEFENDANT: Yes, Your Honor.

THE COURT: All right. Other than what's contained in the written plea of guilty and the exhibits affixed thereto, have any

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1 promises or threats been made to induce you to enter your plea?

2 THE DEFENDANT: No, Your Honor.

3 THE COURT: All right. Before you sign the written plea of  
4 guilty, did you read it?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: Did you understand everything contained in the  
7 written plea of guilty and the attachments thereto?

8 THE DEFENDANT: Yes.

9 THE COURT: All right. Did you have a full opportunity to  
10 discuss your plea of guilty with your attorney Mr. Oram?

11 THE DEFENDANT: Yes.

12 THE COURT: Before the Court accepts your plea of guilty,  
13 is there anything you would like to ask me about your plea or the  
14 charge of voluntary manslaughter with use of a deadly weapon to which  
15 you are pleading guilty?

16 THE DEFENDANT: No, Your Honor.

17 THE COURT: All right. We'll go through this then. Tell  
18 me in your own words what you did on or about May 19, 2005 within  
19 Clark County, Nevada that causes you to plead guilty to the reduced  
20 charge of voluntary manslaughter with use of a deadly weapon.

21 MR. ORAM: Your Honor, this --

22 THE COURT: And this is a fictional plea.

23 MR. ORAM: It is a fictional plea.

24 THE COURT: All right. I'm going to have her plea -- and  
25 the reason you're pleading fictionally is this is obviously a lesser

1 charge than the original charges which the State would be proceeding  
2 against you on; is that correct?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: And after discussing this with your attorney,  
5 Mr. Oram, you have concluded that it's in your best interest to enter  
6 this fictional plea; is that right?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: All right. The way we're going to do this is  
9 I'm going to have you tell me what you did and that will be the basis  
10 for the plea to be reduced charge of voluntary manslaughter with use  
11 of a deadly weapon.

12 THE DEFENDANT: I assisted all the co-conspirators.

13 THE COURT: Okay. So you conspired and aided and abetted  
14 the following individuals: Kenneth Counts, Luis Hidalgo, Jayson  
15 Taoipu, and Deangelo Carroll; is that correct?

16 THE DEFENDANT: Yes, ma'am.

17 MR. DIGIACOMO: Judge, both Luis Hildalgos.

18 THE COURT: Oh, all right.

19 MR. DIGIACOMO: You can ask her as to both Luis Hildalgos.

20 THE COURT: All right. All right.

21 MR. DIGIACOMO: The third and Junior.

22 THE COURT: The third and Luis Hidalgo, Sr.; is that  
23 correct?

24 THE DEFENDANT: Junior.

25 MR. DIGIACOMO: Junior.

1 THE COURT: I'm sorry. Junior and the third.

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: All right. And together you counseled,  
4 encouraged, hired, commanded, or induced one or all of these  
5 individuals to be and/or kill Timothy J. Hadland; is that correct?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: And Deangelo Carroll actually procured Kenneth  
8 Counts and/or Jayson Taoipu to actually shoot Timothy Hadland; is  
9 that correct?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: All right. And as a result of this conspiracy  
12 and Mr. Deangelo Carroll procuring Mr. Counts and/or Jayson Taoipu,  
13 Timothy Hadland was actually fatally shot in the head; is that  
14 correct?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Is that acceptable with the State?

17 MR. DIGIACOMO: Yes, Judge.

18 THE COURT: All right. Ms. Espindola, the Court finds that  
19 your plea of guilty has been freely and voluntarily given and hereby  
20 accepts your plea of guilty.

21 Do we want a sentencing date in 60 days or what are we  
22 doing?

23 MR. DIGIACOMO: Why don't you give us a status check in 60  
24 days, Judge.

25 THE COURT: All right. So we won't refer it to P&P right

1 now?

2 MR. DIGIACOMO: That's correct, Judge.

3 THE COURT: Okay.

4 MR. DIGIACOMO: We won't refer it over to P&P. And what  
5 I'd ask is that the guilty plea agreement be filed under seal with  
6 the exception that I'm allowed to provide it to the defense attorneys  
7 that are associated with the various people elicited in the amended  
8 information with the understanding that they're not supposed to pass  
9 it on. They certainly can discuss the contents, but they're not  
10 supposed to pass it on to their clients or any other witnesses in the  
11 case, Judge.

12 THE COURT: I'll see counsel at the bench.

13 MR. ORAM: Judge, also for the record, we waive any defect  
14 in any of the pleadings.

15 THE COURT: Oh, thank you. I thought I'd already said  
16 that, but I must have forgotten.

17 MR. ORAM: I'm sorry.

18 THE COURT: No, you're probably right.

19 (Off-record bench conference)

20 THE COURT: What we're going to do is we are going to file  
21 the guilty plea agreement and the third amended information. Those  
22 will be public records. The attachments will be temporarily sealed  
23 until further order of the Court in the interest of justice and the  
24 ongoing matters relating to the totality of the case.

25 MR. DIGIACOMO: Thank you, Judge.

1 THE COURT: All right. Thank you. We're going to set this  
2 out for a status check.

3 THE CLERK: April 8th at 9:30.

4 MR. ORAM: Thank you, Your Honor.

5 MR. DIGIACOMO: Thank you, Judge.

6 MR. ORAM: Your Honor, could we go any day before or after  
7 that?

8 THE COURT: Of course. We're flexible.

9 THE CLERK: April 15th --

10 MR. ORAM: Thank you very much.

11 THE CLERK: -- or the 31st. Which one?

12 THE COURT: Tax day or April Fool's day.

13 MR. ORAM: Tax day is fine. Tax day is fine.

14 THE COURT: Which is it, Mr. Oram?

15 MR. ORAM: Tax day, Your Honor.

16 THE CLERK: April 15th at 9:30.

17 MR. ORAM: Thank you, Your Honor.

18 THE COURT: All right. Is there anything else relating to  
19 Ms. Espindola's matter we need to do at this time?

20 MR. ORAM: No, Your Honor.

21 THE COURT: All right. Thank you.

22 (Proceedings concluded at 9:09 a.m.)

\*\*\*\*\*

ATTEST: I HEREBY CERTIFY THAT I HAVE TRULY AND CORRECTLY  
TRANSCRIBED THE AUDIO/VIDEO PROCEEDINGS IN THE  
ABOVE-ENTITLED CASE TO THE BEST OF MY ABILITY.

  
KIMBERLY LAWSON, TRANSCRIBER

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