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JOANIE E. GRIME, RPR, CCR NO. 288  
702) 671.3464

*Ann L. Quinn*

CLERK OF THE COURT

0208  
PHILIP J. KOHN, PUBLIC DEFENDER  
NEVADA BAR NO. 0556  
309 South Third Street, Suite 226  
Las Vegas, Nevada 89155  
(702) 455-4685  
Attorney for Defendant

IN RE: JACOB A. J.  
NOTICE OF HEARING  
DATE 3/15/16 TIME 8:30 am  
JUDGE JUDGE

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

CASE NO. C-15-310000-1

DEPT. NO. XX

SAYEDBASHE SAYEDZADA,

Defendant.

DATE: March 15, 2016  
TIME: 8:30 a.m.

DEFENDANT'S MOTION TO INSTRUCT JURY ON LESSER-RELATED CHARGE

COMES NOW, the Defendant, SAYEDBASHE SAYEDZADA, by and through TYLER C. GASTON, Deputy Public Defender and hereby files this Motion in Limine to request the jury be instructed on the lesser-related charge of petit larceny.

This Motion is made and based upon all the papers and pleadings on file herein, the attached Declaration of Counsel, and oral argument at the time set for hearing this Motion.

DATED this 4th day of March, 2016.

PHILIP J. KOHN  
CLARK COUNTY PUBLIC DEFENDER

By: /s/ Tyler Gaston  
TYLER C. GASTON # 13488  
Deputy Public Defender



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DECLARATION

Tyler C. Gaston makes the following declaration:

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

I declare under penalty of perjury that the foregoing is true and correct to the best of my information and belief. (NRS 53.045).

EXECUTED this 4th day of March, 2016.

/s/ Tyler Gaston  
TYLER C. GASTON

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**STATEMENT OF FACTS**

On September 23, 2015, Mr. Sayedzada was stopped for trespassing, seized, and subsequently searched at an apartment complex known as Scottsdale Place. He had a purse under his shirt at the time of the stop and a search of the purse revealed a number of credit cards belonging to other individuals. Subsequently, Mr. Sayedzada was charged with thirteen counts of Possession of Credit or Debit Card Without Cardholder's Consent (Category D Felony – NRS 205.690).

**ARGUMENT**

Pursuant to Peck v. State, 116 Nev. 840 (2000), the Supreme Court of Nevada indicated that jury instructions for lesser-related offenses are not mandatory. The Peck opinion makes clear that the Court's chief concern in declaring lesser-related instructions to be merely discretionary is that to hold otherwise would be potentially unfair to litigants insofar as they would not have advanced notice of the proposed instruction(s) and therefore be disadvantaged and subject to surprise by not knowing which elements to prove or challenge at trial. The Court noted, "... by allowing convictions only on lesser-included offenses and not lesser-related offenses both the prosecution and the defense will know in advance what elements must be proven at trial, what jury instructions will be available and may prepare accordingly." Peck, 116 Nev. at 845.

The defendant hereby requests this Court permit the jury to be instructed on the lesser-related offense of petit larceny. In light of this advance notice to the State that the defendant is requesting a lesser-related petit larceny instruction, the Supreme Court of Nevada's concerns as expressed in Peck are not implicated. Mr. Sayedzada's trial is set for March 21, giving the prosecution almost three weeks notice. Accordingly, the defense believes this Court should grant its motion for a lesser-related instruction for the offense of petit larceny provided that at trial, "...there is some evidence, no matter how weak or incredible, to support it." Harris v. State, 106 Nev. 667, 670 (1990).

DATED this 4th day of March, 2016.

PHILIP J. KOHN  
CLARK COUNTY PUBLIC DEFENDER

By: /s/ Tyler Gaston  
TYLER C. GASTON # 13488  
Deputy Public Defender

1 NOTICE OF MOTION

2 TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff

3 YOU WILL PLEASE TAKE NOTICE that the Public Defender's Office will bring the  
4 above and foregoing Motion for Discovery on for hearing before the District Court, Department XX,  
5 on the 15th day of March, 2016, at 8:30 a.m.

6 DATED this 4th day of March, 2016.

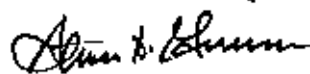
7 PHILIP J. KOHN  
8 CLARK COUNTY PUBLIC DEFENDER

9  
10 By: /s/ Tyler Gaston  
11 TYLER C. GASTON #13488  
12 Deputy Public Defender

13  
14 CERTIFICATE OF ELECTRONIC SERVICE

15 I hereby certify that service of the above and foregoing Defendant's Motion To Instruct Jury  
16 On Lesser-Related Charge was served via electronic e-filing to the Clark County District Attorney's  
17 Office at motions@clarkcountydak.com on this <sup>7<sup>th</sup></sup> day of March, 2016.

18  
19 By: /s/ Egda Ramirez  
20 Employee of the Public Defender's Office

  
CLERK OF THE COURT

1 **OPPS**  
2 **STEVEN B. WOLFSON**  
3 **Clark County District Attorney**  
4 **Nevada Bar #001565**  
5 **JOHN T. JONES, JR.**  
6 **Chief Deputy District Attorney**  
7 **Nevada Bar #009598**  
8 **200 Lewis Avenue**  
9 **Las Vegas, Nevada 89155-2212**  
10 **(702) 671-2500**  
11 **Attorney for Plaintiff**

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

10 **THE STATE OF NEVADA,**

11 **Plaintiff,**

12 **-vs-**

13 **SAYEDBASHE SAYEDZADA,**  
14 **#1690765**

15 **Defendant.**

**CASE NO: C-15-310000-1**

**DEPT NO: XX**

16 **STATE'S OPPOSITION TO DEFENDANT'S MOTION TO**  
17 **INSTRUCT JURY ON LESSER-RELATED CHARGE**

18 **DATE OF HEARING: MARCH 15, 2016**

19 **TIME OF HEARING: 8:30 AM**

20 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County  
21 District Attorney, through JOHN T. JONES, JR., Chief Deputy District Attorney, and hereby  
22 submits the attached Points and Authorities in Opposition to Defendant's Motion To Instruct  
23 Jury On Lesser-Related Charge.

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

27 **///**

28 **///**

## POINTS AND AUTHORITIES

### ARGUMENT

In Peck v. State, 116 Nev. 840 (2000), the Nevada Supreme Court specifically disavowed giving jury instructions on lesser-related offenses. The court held that "allowing instructions on...merely related offenses makes the fairness of the verdict questionable." Id. at 845. Thus, lesser-related instructions are not, as the defendant claims in his motion, "merely discretionary."

The Peck decision overturned Moore v. State, 105 Nev. 378 (1989). In Moore, the court adopted a three part test to determine when a jury should receive instructions on a lesser-related offense. Peck, 116 Nev. at 844. The Moore test required that: (1) the lesser offense is closely related to the offense charged; (2) defendant's theory of defense is consistent with a conviction for the related offense; and (3) evidence of the lesser offense exists. Id.

The foundation for the Moore test was taken from a California Supreme Court case, People v. Geiger, 35 Cal.3d 510 (1984). This foundational case, however, was overruled in 1998, and the Nevada Supreme Court adopted that reasoning to overrule Moore's three part test. Peck, 116 Nev. at 844. In overturning Moore, the Court noted that the three part test "contravenes the principle of mutual fairness by giving the defendant substantially greater rights to require...consideration of lesser nonincluded offenses." Id. at 845. Further, the Court justified discarding the three part test because "all arguable federal support [for the test] has been withdrawn...[and] unequivocally repudiated by the United States Supreme Court." Id.

The Court expressly overruled Moore because "allow[ing] a conviction on a crime that the State has not even attempted to prove is not a reliable result." Id. This is the "chief concern" of Peck. It is only after establishing this holding that the Court "additionally" noted this holding would also prevent surprise and disadvantage at trial because the parties would know in advance what elements to prove. Id. The Peck opinion makes clear that preventing surprise and disadvantage is not the court's chief concern, but is a collateral benefit of the ruling. Defendant portrays the "chief concern" of the Peck court as a desire to prevent "unfair[ness] to litigants" by not giving the parties advanced notice of which elements to prove

1 causing surprise and disadvantage at trial. The holding of Peck makes clear that giving lesser-  
2 related instructions in and of itself is unfair.

3 To allow here the instruction of the lesser related charge of petit larceny will give the  
4 defendant "substantially greater rights" *vis-à-vis* the discarded Moore test, will cause the jury  
5 to question the prosecution's discretion in what has been charged, and cast doubt on the  
6 "reliability" of the final verdict. Further, in Defendant's own statement of the facts, there is  
7 no evidence which would support a conviction of petty larceny. As such, the State requests  
8 that Defendant's motion to instruct jury on lesser-related charge be denied.

9 CONCLUSION

10 For the foregoing reasons, Defendant's Motion To Instruct Jury On Lesser-Related  
11 Charge should be denied.

12 DATED this 11<sup>th</sup> day of March, 2016.

13 Respectfully submitted,

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

17 BY

18 John T. Jones, Jr.  
19 Deputy District Attorney  
20 Nevada Bar #009598

21 CERTIFICATE OF FACSIMILE TRANSMISSION

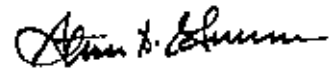
22 I hereby certify that service of State's Opposition to Defendant's Motion To Instruct  
23 Jury On Lesser-Related Charge, was made this 11<sup>th</sup> day of March, 2016, by facsimile  
24 transmission to:

25 TYLER GASTON, Deputy Public Defender  
26 (702)366-1177

27 BY:

28 M. Crawford  
Secretary of the District Attorney's Office

15F14345X/JJ/mc/L4



CLERK OF THE COURT

0208  
PHILIP J. KOHN, PUBLIC DEFENDER  
NEVADA BAR NO. 0556  
309 South Third Street, Suite 226  
Las Vegas, Nevada 89155  
(702) 455-4685  
Attorney for Defendant

DEPARTMENT 15  
SCHEDULE HEARING  
DATE 3/15/16 TIME 8:00 am  
JUDGE JUDGE J. J. J.

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

CASE NO. C-15-310000-1

DEPT. NO. XX

SAYEDBASHE SAYEDZADA,

Defendant.

DATE: March 15, 2016  
TIME: 8:30 a.m.

DEFENDANT'S MOTION FOR DISCOVERY

COMES NOW, the Defendant, SAYEDBASHE SAYEDZADA, by and through TYLER C. GASTON, Deputy Public Defender and hereby files this Motion for Discovery.

This Motion is made and based upon all the papers and pleadings on file herein, the attached Declaration of Counsel, and oral argument at the time set for hearing this Motion.

DATED this 4th day of March, 2016.

PHILIP J. KOHN  
CLARK COUNTY PUBLIC DEFENDER

By: /s/ Tyler Gaston  
TYLER C. GASTON # 13488  
Deputy Public Defender

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**DECLARATION**

Tyler C. Gaston makes the following declaration:

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

I declare under penalty of perjury that the foregoing is true and correct to the best of my information and belief. (NRS 53.045).

EXECUTED this 4th day of March, 2016.

/s/ Tyler Gaston  
TYLER C. GASTON



1 POINTS AND AUTHORITIES

2 ARGUMENT

3 I. **THE STATE IS REQUIRED TO PROVIDE THE DEFENDANT WITH DISCOVERY**  
4 **UNDER BOTH THE UNITED STATES AND NEVADA CONSTITUTIONS**

5 The United States and Nevada constitutions require the State to provide the defense with all  
6 favorable evidence in its actual or constructive possession prior to trial. Failure to do so results in a  
7 violation of the Due Process clauses of the Fifth and Fourteenth Amendments of the United States  
8 Constitution, and Article 1, Section 8 of the Nevada Constitution. This rule applies regardless of  
9 how the State has chosen to structure its overall discovery process. See Brady v. Maryland, 373 U.S.  
10 83 (1963); Kyles v. Whitley, 514 U.S. 419, (1995); Strickler v. Greene, 527 U.S. 263, (1999);  
11 Jimenez v. State, 112 Nev. 610, 618 (1996).

12 Under the law, the State must turn over all evidence that is (1) favorable to the accused, in  
13 that it is exculpatory or impeachment evidence, and (2) within the actual or constructive possession  
14 of anyone acting on behalf of the State. See Banks v. Dreike, 540 U.S. 668, 691 (2004).

15 II. **THE STATE MUST TURN OVER ALL INFORMATION THAT IS FAVORABLE TO**  
16 **THE ACCUSED, WHETHER OR NOT IT IS THE SUBJECT OF A SPECIFIC**  
17 **DISCOVERY REQUEST**

18 The State's constitutional obligation to produce material evidence exists whether or not the  
19 defendant has filed a discovery motion or made specific discovery requests. See, e.g., United States  
20 v. Bagley, 473 U.S. at 667, 682, 685 (1985); Pennsylvania v. Ritchie, 480 U.S. 39, 57 (1986); Kyles  
21 v. Whitley, 514 U.S. 419, 434-35 (1995); Roberts v. State, 110 Nev. 1121 (1994)(emphasis added);  
22 Jimenez v. State, *supra*, 112 Nev. 610; State v. Bennett, 119 Nev. 589 (2003). Given the important  
23 rights involved and the strong potential for reversal if those rights are violated, the U.S. Supreme  
24 Court has long counseled that "the prudent prosecutor will resolve doubtful questions in favor of  
disclosure." U.S. v. Agurs, 427 U.S. 97, 108 (1976).

25 A. Evidence "favorable to the accused" includes all information material to the issue of  
26 guilt or punishment, including impeachment evidence.

27 The Nevada Supreme Court has directly addressed what is considered "favorable to the  
28 accused." In Mazzan v. Warden, 116 Nev. 48, 67 (2000) the court stated:



1 Due process does not require simply the disclosure of "exculpatory" evidence.  
2 Evidence also must be disclosed if it provides grounds for the defense to attack the  
3 reliability, thoroughness, and good faith of the police investigation, to impeach the  
4 credibility of the state's witnesses, or to bolster the defense case against prosecutorial  
5 attacks. Furthermore, "discovery in a criminal case is not limited to investigative  
6 leads or reports that are admissible in evidence." Evidence "need not have been  
7 independently admissible to have been material." (citations omitted).

8 See also, Strickler, *supra*, 527 U.S. at 281-82 (1999) (A Brady violation occurs when (1)  
9 evidence is favorable to the accused because it is exculpatory or impeaching; (2) evidence was  
10 suppressed by the State, either willfully or inadvertently; and (3) prejudice ensued).

11 The following is a non-exclusive list of the type of evidence that must be turned over under the  
12 Mazzan standard:

- 13 1) Forensic testing which was ordered but not completed, or which was completed but did  
14 not inculcate the defendant (e.g., fingerprint analysis that returned as "inconclusive");
- 15 2) Criminal records or other evidence concerning State's witnesses which might show bias,  
16 motive to lie, or otherwise impeach credibility (e.g., civil litigation);
- 17 3) Evidence that the alleged victim in the instant case has claimed to be a victim in other  
18 cases;
- 19 4) Leads, evidence, or investigations that law enforcement discounted or failed to pursue;
- 20 5) Evidence that suggests an alternate suspect, or calls into question whether a crime  
21 actually occurred;
- 22 6) Anything that is inconsistent with prior or present statements of a State's witness,  
23 including the initial failure to make a statement which is later made or testified to.

24 Brady material applies not only to evidence regarding the defendant's innocence or guilt, but  
25 also to mitigation evidence. For example: the victim of a robbery identifies a defendant as one of  
26 two people who robbed her. The victim also tells police that this defendant actively prevented his  
27 co-defendant from hitting her during the robbery. Although the victim's statement would clearly go  
28 to establishing the defendant's guilt, it would *also* constitute Brady material because, if he is  
ultimately convicted, the defendant's effort to aid the victim might justify the mitigation of his  
sentence. Anything which could convince the court to impose less than a maximum sentence or  
rebut alleged aggravating circumstances is relevant to punishment and, therefore, must be produced  
by the State. See Jimenez, *supra*, 112 Nev. at 619.

1  
2 **B. The State's disclosure obligation is the same regardless of the specificity of the Defendant's requests.**

3 The State's constitutionally-mandated Brady obligation arises regardless of whether a  
4 Defendant specifically requests certain favorable evidence. See U.S. v. Bagley, 473 U.S. 667, 682  
5 (1985) (plurality) (prosecution's constitutional duty to disclose favorable evidence governed by  
6 materiality standard and not limited to situations where defendant requests favorable evidence); see  
7 also, Kyles v. Whitley, 514 U.S. 419, 433 (1995) ("[R]egardless of request, favorable evidence is  
8 material. . ."). The State must disclose all material evidence favorable to the defense, regardless of  
9 the nature of the instant request. Additionally, as more fully addressed below, the prosecutor must  
10 meet with detectives, crime scene analysts, investigators, and any other State actors and potential  
11 witnesses prior to trial to determine whether they possess evidence favorable to the accused. See,  
12 e.g., Strickler, *supra*, 527 U.S. at 281.

13 **IV. THE STATE IS RESPONSIBLE FOR ALL EVIDENCE IN ITS ACTUAL OR**  
14 **CONSTRUCTIVE POSSESSION, AND HAS AN AFFIRMATIVE DUTY TO OBTAIN**  
15 **SUCH EVIDENCE**

16 In Kyles, *supra*, the United States Supreme Court held that prosecutors have an affirmative  
17 obligation to obtain Brady material and provide it to the defense, even if the prosecutor is initially  
18 unaware of its existence. In so finding, the Supreme Court noted that "[t]he prosecution's  
19 affirmative duty to disclose evidence favorable to a defendant can trace its origins to early 20<sup>th</sup>  
20 century strictures against misrepresentation and is of course most prominently associated with this  
21 Court's decision in Brady v. Maryland, . ." *Id.* 514 U.S. at 432. The Kyles Court also made it clear  
22 that this obligation exists even where the defense does not make a request for such evidence. *Id.*

23 In finding that the State had breached its duty to Kyles, the Court discussed the prosecutor's  
24 "affirmative duty" in detail:

25 This in turn means that the individual prosecutor has a duty to learn of any  
26 favorable evidence known to the others acting on the government's behalf in the  
27 case, including the police.... Since then, the prosecutor has the means to discharge  
28 the government's Brady responsibility if he will, any argument for excusing a  
prosecutor from disclosing what he does not happen to know about boils down to a  
plea to substitute the police for the prosecutor, and even for the courts themselves, as  
the final arbiter's of the government's obligation to ensure fair trials.

1 Kyles, supra, 514 U.S. at 437,438 (citations and footnotes omitted)(emphasis added).

2  
3 This obligation has also been addressed by the Nevada Supreme Court. In State v. Jimenez,  
4 the court ruled that, "It is a violation of due process for the prosecutor to withhold exculpatory  
5 evidence, and his motive for doing so is immaterial." Jimenez, supra, 112 Nev. at 618 (emphasis  
6 added). Furthermore, "even if the detectives withheld their reports without the prosecutor's  
7 knowledge, 'the state attorney is charged with constructive knowledge and possession of evidence  
8 withheld by other state agents, such as law enforcement officers.'" Id. at 620.

9 This existence of an "affirmative duty" means that individual prosecutors cannot use  
10 ignorance as an excuse for failing to meet discovery obligations. A lack of subjective knowledge on  
11 the part of a particular prosecutor does not excuse or assuage a discovery violation because the  
12 individual prosecutor is legally *responsible* for contacting all State agents. Furthermore, this duty  
13 goes beyond just calling the local police department or chatting with the lead detective.

14 The constructive knowledge imputed to a prosecutor applies even if the evidence is being  
15 held by an out-of-jurisdiction agent that is cooperating with local law enforcement. In State v.  
16 Bennett, the Court ruled, "In this case, a Utah police detective was aware of the evidence. We  
17 conclude that it is appropriate to charge the State with constructive knowledge of the evidence  
18 because the Utah police assisted in the investigation of this crime. . . ." Bennett, supra, 119 Nev. at  
19 603. Thus, out-of-state police agencies, probation officers, welfare workers, employees of Child  
20 Protective Services, jail personnel, and the like are *all* potential State agents from whom the  
21 prosecution must affirmatively collect Brady material. "Exculpatory evidence cannot be kept out of  
22 the hands of the defense just because the prosecutor does not have it, where an investigative agency  
23 does." U.S. v. Zuno-Acre, 44 F.3d 1420, 1427 (9th Cir. 1995).

24 When prosecutors fail to uphold this affirmative obligation, they violate constitutional due  
25 process. See U.S. Const. amend. V, XIV; Nev. Const. Art. I, §8.

26 **V. THE STATE CANNOT RELY ON AN "OPEN FILE" POLICY TO SATISFY THE**  
27 **CONSTITUTIONAL DUTY TO OBTAIN AND TURN OVER DISCOVERY**

28 Prosecutors often respond to discovery motions by referencing their "open file policy" and  
stating that the requested material is not in their file. Some prosecutors believe that, if the



1 information is not in their file, then the inquiry is over and the discovery request has been adequately  
2 addressed. Nothing could be further from the truth.

3 In Strickler v. Greene, the United States Supreme Court explicitly held that a prosecutor's  
4 open file policy does **not** substitute for or diminish the State's affirmative obligation to seek out and  
5 produce Brady material. Strickler, supra, 527 U.S. at 283. Thus, despite its "open file policy," the  
6 prosecution must actively work to discover, obtain, and produce Brady material, whether it is in the  
7 actual possession of the prosecutor, the police department, or any other entity acting on behalf of the  
8 State.

9 **VI. THE STATE MUST PROVIDE THE DEFENSE WITH ALL INFORMATION**  
10 **REQUIRED UNDER NRS 174.235, INCLUDING THE DEFENDANT'S DIRECT**  
11 **AND VICARIOUS STATEMENTS.**

12 NRS 174.235 also requires the State to provide the Defendant with discovery and obligates  
13 the State to permit inspection of a defendant's written or recorded statements. NRS 174.235 should  
14 be read to obligate the State to disclose *any* statements allegedly made by the defendant, or for  
15 which the defendant can be held vicariously liable. Courts have recognized that there is a  
16 fundamental fairness involved in "granting the accused equal access to his own words, no matter  
17 how the Government came by them." U.S. v. Caldwell, 543 F.2d 1333, 1353 (D.D.C. 1974). This  
18 "fairness" should extend not only to oral statements, but statements for which the defendant is  
19 vicariously liable, as well. Under NRS 51.035(3)(a)(e), a defendant can be vicariously liable for a  
20 statement made by a third party. Thus, NRS 174.235 should be construed to include within the  
21 definition of a defendant's "statement," both the words actually uttered by the Defendant and any  
22 statements for which the defendant may be held vicariously liable.

23 **VII. DEFENDANT'S SPECIFIC REQUESTS FOR BRADY MATERIAL:**

24 The following specific requests are meant to help assist the State in its duty to find and turn  
25 over the required material. This request is not in any way intended to be a limit on, or a substitute  
26 for, the generalized duties described above. The State must produce:

- 27 1. Any and all notes and records of any physical examinations done in  
28 connection with this case including but not limited to any testing for  
fingerprints or DNA. This includes any photographs, videos, or audio  
recordings. It also includes all documents recording what physical evidence



1 was taken in the case, where it was stored, and any related chain of custody  
2 documents.<sup>1</sup>

3 2. Any and all records and notes regarding any benefits or assistance given to  
4 any witness related to the case. This includes any monetary benefits received,  
5 services or favors, or promises of favorable treatment. This also includes an  
6 estimate of future benefits to be received during or after the trial.<sup>2</sup>

7 3. Any and all notes of interviews of any witnesses and any potential witnesses  
8 in the case, including any and all audio and video recordings of such  
9 interviews and any notes of interviews that were not later recorded, such as  
10 notes of patrol officers, notes of phone calls made to potential witnesses, or  
11 attempts to contact such witnesses. The State must produce any police  
12 reports, notes, or other documents that contain information pertaining to this  
13 case or any witnesses in this case, no matter what the form or title of the  
14 report.

15 4. The State must disclose whether its attorneys, officers or any other witnesses  
16 have cooperated with or been interviewed by any media organizations, the  
17 extent of the cooperation, and whether the cooperation is ongoing or planned  
18 for the future. This includes, but is not limited to, newspapers and periodicals,  
19 radio programs, television shows, Internet and interactive media, or any other  
20 form of broadcast.<sup>3</sup> The defendant requests full disclosure of:

21 a) Any contract or agreement, official or unofficial, between the  
22 State and any reporters or media organizations;

23 b) Any materials, including but not limited to: police reports and  
24 other official discovery, video, audio, written contracts,  
25 scripts, and instructions or other communications that have  
26 passed between the State and any reporters or media  
27 organizations. For example:

28 1) If a police officer was interviewed by show  
like, "Dateline NBC," the State must reveal the

<sup>1</sup> This is required under NRS 171.1965 1(b) and NRS 174.235 1(b).

<sup>2</sup> This is relevant to issues regarding possible bias, credibility, motive to lie, and impeachment. See Davis v. Alaska, 415 U.S. 308 (1974) and footnote 7.

<sup>3</sup> The statements of potential state witnesses and investigators must be turned over under Brady, et al and Davis v. Alaska, supra, because they may contain prior inconsistent statements, evidence of bias or lack of credibility, or proof of payment or remuneration. The chance to appear on television or be featured in the newspaper is a "reward or benefit" in itself that *must* be disclosed, regardless of whether money has changed hands. The defendant is not aware whether any of this exists, but if the defendant is forced to "discover" it by *turning on the television*, then the State will have violated constitutional due process.



existence of that interview and produce the contents;

- 2) If the television show "COPS" takes video of a possible crime scene and provides the State with a copy of the raw recording, the State must turn it over to the defense;
- 3) If the TV show, "Another 48 Hours" has been provided special access to the investigation, the State must reveal this and turn over any fruits of this special access, such as, real-time video from the 911 call; recordings of the initial interviews with State witnesses (the ones that are *not* recorded by police), any video of the defendant's arrest, video from surveillance cameras, any "behind the scenes" footage of the police conducting their investigation, etc.;
- 4) If any reality television show has been given access to information about this case or filmed the district attorney involved in this case then the State must disclose this information and any footage or notes obtained by virtue of this special access.

5. Any information regarding the criminal history of any material witness in the case. This includes any juvenile record, misdemeanors, or any other information that would go to the issue of credibility, veracity and bias, whether or not the information is admissible by the rules of evidence.<sup>4</sup>
6. Any and all information that shows the defendant did not commit the crimes alleged, that presents the possibility of another perpetrator, or that would tend to support any affirmative defenses. This includes but is not limited to all anonymous tips received in this case regardless of whether the police acted on these tips as well as potential confidential informants that were consulted regardless of whether the police acted on any information received. This includes but is not limited to any information regarding the identity or details

<sup>4</sup> The State is usually under the mistaken impression that they must only disclose felony convictions from the last 10 years that can be used as impeachment under NRS 50.095. However, in Davis v. Alaska, *supra*, the US Supreme Court found that a witness can be attacked by "revealing possible biases, prejudices, or ulterior motives of the witnesses as they may relate directly to the issues or personalities on the case at hand. The partiality of a witness is...always relevant as discrediting the witness and affecting the weight of his testimony." *Id.* at 354 (emphasis added). The court found that the State's policy interest in protecting the confidentiality of a juvenile offender's record must yield to the defendant's right to cross examine as to bias. *Id.* at 356. See also, Lobato v. State, 120 Nev. 512 (2004), discussing the "nine basic modes of impeachment." Therefore, juvenile records, misdemeanors and older criminal records may yield information relevant to many forms of impeachment other than that outlined in NRS 50.095.

about the investigation of the identity of the uncharged alleged co-conspirators in this case.<sup>5</sup>

7. Any and all information, known to the State or that which can be known to the State through the exercise of due diligence, relating to an alleged prior history the Defendant may have had with the complainants or immediate family including, but not limited to, a potential prior dating relationship with the niece of the one of the complainants or a potential friendship with another individual going through a custody dispute with one of the complainants or their immediate family members.

8. All relevant reports of chain of custody. All reports of any destruction of evidence or failure to collect and/or preserve evidence in the case.<sup>6</sup>

9. Any inconsistent statements made by any material witnesses in the case. This includes any inconsistent statements made to any employee or representative of the District Attorney's office, the police department, the jail, or any other State actor.<sup>7</sup>

10. Any and all notes and reports of any experts in the case, to include mental health workers, medical professionals, and crime scene investigators. This includes any preliminary reports or notes that were omitted from the "final" report(s).<sup>8</sup>

11. All updated witness contact information, to include last known address and phone numbers.<sup>9</sup>

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<sup>5</sup> See Holmes v. South Carolina, 547 U.S. 319 (2006), which holds that preventing a defendant from presenting evidence of third party guilt deprives him of a meaningful right to present a complete defense under the 14<sup>th</sup> and 6<sup>th</sup> Amendment of the US Constitution.

<sup>6</sup> Destruction of evidence can result in dismissal of the case or a jury instruction stating such evidence is presumed favorable to the accused. Crockett v. State, 95 Nev. 859, 865 (1979); Sparks v. State, 104 Nev. 316, 319 (1988); Sanborn v. State, 107 Nev. 399, 409 (1991).

<sup>7</sup> See Brady, et al., in brief.

<sup>8</sup> NRS 174.245 2(a)(b)(c).

<sup>9</sup> NRS 174.234 4.



12. All information that could potentially question the reliability of any identifications made in this case whether in-court or out-of-court. This includes but is not limited to any statements made by a potential witness that could potentially impugn the reliability of the identification regardless of the admissibility of this evidence as well as any information about how the witness knows the Defendant.

DATED this 4th day of March, 2016.

PHILIP J. KOHN  
CLARK COUNTY PUBLIC DEFENDER

By: /s/ Tyler Gaston  
TYLER C. GASTON # 13488  
Deputy Public Defender

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NOTICE OF MOTION

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the Public Defender's Office will bring the above and foregoing Motion for Discovery on for hearing before the District Court, Department XX, on the 15th day of March, 2016, at 8:30 a.m.

DATED this 4th day of March, 2016.

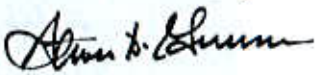
PHILIP J. KOHN  
CLARK COUNTY PUBLIC DEFENDER

By: /s/ Tyler Gaston  
TYLER C. GASTON #13488  
Deputy Public Defender

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that service of the above and foregoing Motion for Discovery was served via electronic e-filing to the Clark County District Attorney's Office at [motions@clarkcountydade.com](mailto:motions@clarkcountydade.com) on this 4<sup>th</sup> day of March, 2016.

By: /s/ Egda Ramirez  
Employee of the Public Defender's Office

  
CLERK OF THE COURT

1 **OPPS**  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 JOHN T. JONES, JR.  
6 Chief Deputy District Attorney  
7 Nevada Bar #009598  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,  
10 Plaintiff,

11 -vs-

12  
13 SAYEDBASHE SAYEDZADA,  
14 #1690765  
15 Defendant.

CASE NO: C-15-310000-1

DEPT NO: XX

16 **STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR DISCOVERY**

17 DATE OF HEARING: MARCH 15, 2016

18 TIME OF HEARING: 8:30 AM

19 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County  
20 District Attorney, through JOHN T. JONES, JR., Chief Deputy District Attorney, and hereby  
21 submits the attached Points and Authorities in Opposition to Defendant's Motion for  
22 Discovery.

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

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1 POINTS AND AUTHORITIES

2 ARGUMENT

3 I.

4 THE STATE IS AWARE OF ITS STATUTORY AND CONSTITUTIONAL DISCOVERY  
5 OBLIGATIONS

6 Defendant has made a number of general and specific discovery requests which are  
7 purportedly based upon case law within and without the State of Nevada. The State intends  
8 to comply with all the requests that are within the ambit of either the discovery statutes of  
9 Nevada and/or the constitutional requirements imposed by Brady and its progeny. The State  
10 does not intend to comply, and, furthermore, the State objects to all requests that fall outside  
11 of those legal requirements.

12 A.

13 DISCOVERY REQUIRED BY STATUTE.

14 The State has no objection to a strict compliance with the provisions and requirements  
15 outlined in the criminal discovery statutes. See, NRS 174.233, et seq.

16 B.

17 DISCLOSURE REQUIRED BY BRADY V. MARYLAND.

18 The State recognizes, and readily accepts, its continuing disclosure obligations as  
19 defined in Brady v. Maryland, 83 S. Ct. 1194 (1963), and its interpretive progeny. Pursuant  
20 to Brady, the State is required to disclose evidence that is favorable to the defense if it is  
21 material either to guilt or punishment. Lay v. State, 116 Nev. 1185, 1194, 14 P.3d 1256, 1262  
22 (2000). The State's failure to do so violates the Defendant's due process rights, regardless of  
23 the State's motive. Id. Following a specific discovery request, evidence is deemed material  
24 if there is a reasonable possibility that the evidence would have affected the outcome, i.e. it  
25 undermines the confidence of the outcome in the proceeding. Id.

26 "The character of a piece of evidence as favorable will often turn on the context of the  
27 existing or potential evidentiary record." Id. Furthermore, it is the prosecutor's responsibility  
28 to determine whether evidence is material and should be disclosed. Id. (citing Kyles v.  
Whitley, 514 U.S. 419, 439-440, 115 S.Ct. 1555 (1995)). As such, a prosecutor who is



1 "anxious about tacking too close to the wind will disclose a favorable piece of evidence." Id.  
2 And, this is as it should be because such disclosure serves to justify trust in the prosecutor as  
3 "the representative of a sovereignty...whose interest...in a criminal prosecution is not that it  
4 shall win a case, but that justice shall be done." Id. However, Brady does not impose upon  
5 the State an obligation "to disclose evidence which is available to the defendant from other  
6 sources, including diligent investigation by the defense." Steese v. State, 114 Nev. 479, 495,  
7 960 P.2d 321, 331 (1998).

8 In addition, the State acknowledges that its Brady obligations not only apply to  
9 materials in its possession, but also extends to materials in the hands of its agents.  
10 Nevertheless, the State maintains that rather than being accountable for all evidence in the  
11 hands of all State agencies, it is only accountable for that evidence in the hands of State  
12 agencies who are actually acting on its behalf in the investigation and prosecution of the case.  
13 See, Kyles v. Whitley, 514 U.S. 419, 437, 115 S.Ct. 1555, 1567 (1995)("This in turn means  
14 that the individual prosecutor has a duty to learn of any favorable evidence known to the others  
15 *acting on the government's behalf in the case, including the police.*"); Carriger v. Stewart, 132  
16 F.3d 463, 479 (9<sup>th</sup> Cir. 1997)("[T]he prosecution has a duty to learn of any exculpatory  
17 evidence known to others *acting on the government's behalf.*"). Moreover, "[w]hile the  
18 prosecution must disclose any information within the possession or control of law enforcement  
19 personnel,...it has no duty to volunteer information that it does not possess or of which it is  
20 unaware." United State v. Hsieh Hui Mei Chen, 754 F.2d 817, 824 (9<sup>th</sup> Cir. 1985).  
21 Additionally, the State has no "duty to compile information or pursue an investigative lead  
22 simply because it could conceivably develop evidence helpful to the defense..." Evans v.  
23 State, 117 Nev. 609, 627, 28 P.3d 498, 511 (2001).

24 Furthermore, while the State acknowledges its discovery obligations under Brady and  
25 the applicable rules of discovery, the State submits that its obligations under Brady and the  
26 rules of discovery are not without limitation. See, e.g., Weatherford v. Bursey, 429 U.S., 545,  
27 559, 97 S.Ct. 837, at 845-846 (1977)(There is no general constitutional right to discovery in a  
28 criminal case and Brady did not create one;...the Due Process Clause has little to say



1 regarding the amount of discovery which the parties must be afforded...'). In addition, courts  
2 are limited in their authority to order the disclosure of evidence beyond what is statutorily  
3 mandated. See, Franklin v. District Court, 85 Nev. 401, 402-403, 455 P.2d 919, 920-  
4 921(1969)("The new criminal code [deals] with criminal discovery...and those provisions  
5 represent the legislative intent with respect to the scope of allowable pre-trial discovery and  
6 are not lightly to be disregarded.").

7 More specifically, in the case of Riddle v. State, 96 Nev. 589, 613 P.2d 1031 (Nev.  
8 1980) the Nevada Supreme Court reaffirmed the strictures of the provisions of our discovery  
9 statutes by making the following statement:

10 The trial court is vested with the authority to order the discovery and inspection  
11 of materials in the possession of the State. The exercise of the court's discretion  
12 however is **predicated on a showing that the evidence sought is material to  
13 the presentation of the defense and the existence of the evidence is known  
14 or, by the exercise of due diligence may become known to the District  
15 Attorney.**

14 Id. at 390 (emphasis added).

15 In Mazzan v. Warden, 116 Nev. 48, 993 P.2d 25 (2000), the Nevada Supreme Court  
16 stated:

17 Brady and its progeny require a prosecutor to disclose evidence favorable to the  
18 defense when that evidence is **material** either to guilt or to punishment. See  
19 Jimenez v. State, 112 Nev. 610, 618-19, 918 P.2d 687, 692 (1996).  
20 In other words, evidence is material if there is a reasonable probability that the  
21 result would have been different if the evidence had been disclosed. Id.

20 Id. at 66, 36 (emphasis added).

21 In determining its materiality, the undisclosed evidence must be considered  
22 collectively, not item by item. Kyles v. Whitley, 514 U.S. at 436, 115 S.Ct. 1555.  
23 "[T]he character of a piece of evidence as favorable will often turn on the context  
24 of the existing or potential evidentiary record." Id. at 439, 1555.

24 Id. at 66-67, 36.

25 In sum, there are three components to a Brady violation: the evidence at issue is  
26 favorable to the accused; the evidence was withheld by the state, either  
27 intentionally or inadvertently; and prejudice ensued, i.e., the evidence was  
28 material. Strickler v. Greene, 527 U.S. 263, 119 S.Ct. 1936, 1948, (1999).

28 Id. at 67, 37 (emphasis added).

1 Based upon the foregoing, this Court is respectfully requested to continue to adhere to  
2 the clear legislative scheme regarding criminal discovery embodied in Nevada's statutes, the  
3 interpretation thereof by the Supreme Court of this State, and the opinions of the United States  
4 Supreme Court in this area.

5 II.

6 SPECIFIC RESPONSES TO THE DEFENDANT'S REQUESTS

7 *1. Any and all notes and records of any physical examinations done in connection with this*  
8 *case...*

9 The State objects to this request in as much as it exceeds the State's discovery  
10 obligations pursuant to statute, or Brady and its progeny. With respect to physical or mental  
11 examinations, scientific tests or scientific experiments, NRS 174.235 provides that Defendant  
12 is entitled to results or reports, not any and all documentation. This request covers items that  
13 are specifically exempted from disclosure pursuant to NRS 174.235(2) which states that a  
14 defendant is not entitled "to the discovery or inspection of: (a) An internal report, document  
15 or memorandum that is prepared by or on behalf of the prosecuting attorney in connection  
16 with the investigation or prosecution of the case." See also, Lisle v. State, 113 Nev. 679, 696,  
17 941 P.2d 459, 470 (1997). As such, the State objects to this request for disclosure. At this  
18 point, the State is unaware of any examination or testing in this case. However, the State will  
19 comply with what is required by law, and will turn over forensic reports and results if they  
20 become available.

21 *2. Any and all records and notes regarding any benefits or assistance given to any witness*  
22 *related to the case.*

23 The State objects to this request in as much as it exceeds the State's discovery  
24 obligations pursuant to statute, or Brady and its progeny. The State is not aware of any benefit,  
25 promises of leniency or other inducements to testify. Witnesses have been given a witness fee  
26 for testimony at the preliminary hearing pursuant to statute. The State anticipates that  
27 witnesses will be provided the same for trial.

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1 3. *Any and all notes of interviews of any witnesses and any potential witnesses in the case...*

2 The State objects to this request in as much as it exceeds the State's discovery  
3 obligations pursuant to statute, or Brady and its progeny.

4 Pursuant to NRS 174.235(a), Defendant is entitled to inspection or copying of:

5 Written or recorded statements or confessions made by the defendant, or any  
6 written or recorded statements made by a witness the prosecuting attorney  
7 intends to call during the case in chief of the State, or copies thereof, within the  
8 possession, custody or control of the State, the existence of which is known, or  
by the exercise of due diligence may become known, to the prosecuting attorney.

9 The State disagrees that the language of NRS 174.235 also requires the State to turn  
10 over any oral statement made by Defendant at any time. The statute clearly says Defendant is  
11 entitled to written or recorded statements/confessions. Furthermore, the Nevada Supreme  
12 Court has rejected Defendant's assertion that he is entitled to oral statements of Defendant:

13 "Pretrial discovery of the accused's statements is not constitutionally compelled  
14 by the Fourteenth Amendment." Mears v. State, 83 Nev. 3, 7, 422 P.2d 230, 232  
15 (1967). Further, voluntary disclosure is not contemplated by our statutory  
provisions concerning criminal discovery. See NRS 174.235(1).

16 Thompson v. State, 93 Nev. 342, 565 P.2d 1011 (1977). With respect to the request for  
17 notes, it is the State's position, and the law, that any discovery obligation is in accordance with  
18 Brady and its progeny, even items the defense would characterize as notes. The broad nature  
19 of the defense request seems more like a fishing expedition than a request for information that  
20 is material to the case or exculpatory. The defense has not made any specific request, but  
21 rather makes a blanket request for any notes. See e.g. Homick v. State, 112 Nev. 304, 314,  
22 913 P.2d 1280, 1287 (1996) (even when request was specific as to which notes, not a Brady  
23 violation when not given to defense because not exculpatory). Officers incorporate all notes  
24 into the law enforcement reports which will or have been previously disclosed to defense. If  
25 the State receives supplemental reports it will continue to disclose the same.

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1 4. *The State must disclose whether its attorneys, officers or any other witnesses have*  
2 *cooperated with or been interviewed by any media organizations...*

3 The State objects to this request in as much as it exceeds the State's discovery  
4 obligations pursuant to statute, or Brady and its progeny. The State has not participated in any  
5 media requests regarding this case. It is the State's understanding that no witnesses have  
6 participated in any media requests regarding this case.

7 5. *Any information regarding the criminal history or any material witness in the case.....*

8 The State objects to this request in as much as it exceeds the State's discovery  
9 obligations pursuant to statute, or Brady and its progeny. Defendant's request literally has no  
10 bounds and presumably includes out of state arrests and convictions; complete juvenile  
11 records; outstanding arrests warrants or bench warrants; cases which were dismissed or not  
12 pursued by the prosecuting agency; any bad acts. This request is overly broad, unduly  
13 burdensome, and applies to information not admissible in any forthcoming trial.

14 Under NRS 50.095, evidence that a witness has been convicted of a crime (if it is  
15 punishable by more than one year) is admissible to impeach the credibility of that witness.  
16 Evidence of the conviction is admissible if a period of ten years has not passed from the date  
17 of release of the witness from confinement or the expiration of the period of his parole,  
18 probation or sentence, whichever is the later date. See NRS 50.095(1)(2). This statute makes  
19 it clear that if a witness has been convicted of a felony within the past ten years such conviction  
20 is admissible because it may affect their credibility as a witness. The statute does not make  
21 admissible a witness' prior arrests that did not result in a conviction or an arrest and conviction  
22 of a crime that is merely a misdemeanor. Additionally, with regard to Defendant's request for  
23 juvenile records, pursuant to NRS 62H.030(2): "Except as otherwise provided in this section  
24 and NRS 217.110, records of any case brought before the juvenile court may be opened to  
25 inspection only by court order to persons who have a legitimate interest in the records." The  
26 State is not in control of evidence outside its own jurisdiction.

27 Nevada case law has also allowed questioning of a witness in relation to convictions  
28 for crimes not amounting to felonies which bear on the moral turpitude of a witness. However,

1 no statute or case law in the jurisdiction permits unlimited questioning of a witness in regard  
2 to his/her criminal background. The State will provide relevant information which it is legally  
3 required to disclose pertaining to the State's witnesses in this case. The State is not required  
4 to provide Defendant with evidence of bad character or bad acts of any witness.

5 Additionally, Defendant's motion lacks an assertion that his request for discovery is  
6 reasonable. In United State v. Ross, 511, F.2d 757, 763 (5th Cir. 1975), cert. denied, 423 U.S.  
7 936, 91 S.Ct. 62 (1976), the Fifth Circuit held:

8 "To be reasonable a request for documents must not be unduly burdensome to  
9 the government, and, equally important, must be framed in sufficiently  
10 specific terms to show the government what it must produce. General  
11 descriptions of the materials sought have been rejected repeatedly as  
12 insufficient under Rule 16(h).

13 Such a situation occurred in United States v. Flores, 546 F.2d 482 (9th Cir. 1976). In  
14 that case, defendants moved prior to trial to compel the government to disclose the criminal  
15 histories and the names and numbers of prior cases in which an informant-witness had testified  
16 on behalf of the government. The purpose of this evidence was to impeach the credibility of  
17 the informant. The Ninth Circuit affirmed the trial court's denial of that motion by holding  
18 that the defendant had made no showing of reasonableness. The Court stated, "[t]heir request  
19 was tantamount to asking the government to fish throughout public records and collate  
20 information which was equally available to the defense." *Id.* At 437.

21 In the present case, Defendant requests discovery of any and all criminal history. As  
22 in Flores, such a shotgun request is inherently unreasonable as the State cannot be expected to  
23 go on a fishing expedition for all the documents requested. Thus, the State opposes the  
24 Defendant's request as to the complete criminal history of all State witnesses as he has failed  
25 to provide that the requested information is material or that its dissemination is reasonable.  
26 As such, this request should be denied.

27 Further, it is the State's position that this Court does not have jurisdiction to compel the  
28 State of Nevada to search FBI records for a witness and that to so would violate that witness's  
29 privacy interests. The United States Supreme Court has recognized that the privacy interest

1 contained in criminal histories is substantial. "[The] privacy interest in a rap sheet is  
2 substantial. The substantial character of that interest is affected by the fact that in today's  
3 society the computer can accumulate and store information that would otherwise have surely  
4 been forgotten long before a person attains age 80, when the FBI's rap sheets are discarded."  
5 U.S. Dept. of Justice v. Reporters Committee For Freedom of Press, 109 S.Ct. 1468, 1480  
6 (1989). See also, U.S. v. Pedersen, 3 F.3d 1468, 1471 (11th Cir., 1993).

7 Defendant is not entitled to compel the State to run NCIC searches in furtherance of a  
8 fishing expedition into witness backgrounds. Certainly, the State recognizes its obligations  
9 under Brady v. Maryland, and related authorities, to disclose evidence "favorable" to the  
10 defense. In executing these obligations, it is the State that is the final arbiter of determining  
11 whether evidence is material and should be disclosed. See Mazzan v. Warden, Ely State  
12 Prison, 116 Nev. at 67.

13 6. *Any and all information that shows the defendant did not commit the crimes alleged...*

14 The State objects to this request in as much as it exceeds the State's discovery  
15 obligations pursuant to statute, or Brady and its progeny. The State is aware of its obligation  
16 to provide alternative suspects as required by Brady and its progeny and will comply with its  
17 obligation. Further, it is the State's understanding that no confidential informants were used  
18 in the instant investigation.

19 7. *Any and all information, known to the State or that which can be known to the State*  
20 *through the exercise of due diligence, relating to an alleged prior history the Defendant may*  
21 *have had with the complainants...*

22 The State objects to this request in as much as it exceeds the State's discovery  
23 obligations pursuant to statute, or Brady and its progeny. This request grossly exceeds the  
24 State's discovery obligation. The State should not be ordered to conduct investigation on  
25 behalf of Defendant. Further, Defendant is in the best position to know about any relationship  
26 Defendant may have had with any State witness.

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28 ///

1 *8. All relevant reports of chain of custody...*

2 The State objects to this request in as much as it exceeds the State's discovery  
3 obligations pursuant to statute, or Brady and its progeny. All reports have been or will be  
4 disclosed to defense. If the State receives supplemental reports it will continue to disclose the  
5 same.

6 *9. Any inconsistent statements made by any material witnesses in the case...*

7 The State objects to this request in as much as it exceeds the State's discovery  
8 obligations pursuant to statute, or Brady and its progeny. The State is aware of its obligation  
9 to provide any material inconsistent statements made by a witness as required by Brady and  
10 its progeny and will comply with its obligation if such statements should occur. However, the  
11 State rejects the proposition that it is required to turn over any inconsistent statement with no  
12 regard to the relevancy and materiality of the statement involved.

13 *10. Any and all notes and reports of any experts in the case...*

14 The State objects to this request in as much as it exceeds the State's discovery  
15 obligations pursuant to statute, or Brady and its progeny. With respect to physical or mental  
16 examinations, scientific tests or scientific experiments, NRS 174.235 provides that Defendant  
17 is entitled to results or reports, not any and all documentation. This request covers items that  
18 are specifically exempted from disclosure pursuant to NRS 174.235(2) which states that a  
19 defendant is not entitled "to the discovery or inspection of: (a) An internal report, document  
20 or memorandum that is prepared by or on behalf of the prosecuting attorney in connection  
21 with the investigation or prosecution of the case." See also, Lisle v. State, 113 Nev. 679, 696,  
22 941 P.2d 459, 470 (1997). As such, the State objects to this request for disclosure. At this  
23 point, the State is unaware of any examination or testing in this case. However, the State will  
24 comply with what is required by law, and will turn over forensic reports and results if they  
25 become available.

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1 *11. All updated witness contact information, to include last known address and phone*  
2 *numbers...*

3 The State objects to this request in as much as it exceeds the State's discovery  
4 obligations pursuant to statute, or Brady and its progeny. NRS 174.234 requires both parties  
5 to give notice of names and last known addresses of witnesses intended to be called in the  
6 filing party's case in chief. The statute does not require the additional information the defense  
7 requests. The State has and will continue to file Notices of Witnesses as necessary. The  
8 additional information sought is defense investigation and must not be transferred to the State  
9 for the State to report back to the defense. If Defendant is seeking information relating to an  
10 individual witness, the State requests Defendant specify the witness and information sought.

11 *12. All information that could potentially question the reliability of any identifications made*  
12 *in this case...*

13 The State objects to this request in as much as it exceeds the State's discovery  
14 obligations pursuant to statute, or Brady and its progeny. The State is aware of its obligation  
15 as required by Brady and its progeny and will comply with its obligation.

16 **PURSUANT TO NRS 174.245, THE STATE REQUESTS THAT DEFENSE**  
17 **PROVIDE THE FOLLOWING TO THE STATE PRIOR TO TRIAL:**

18 (a) Written or recorded statements made by a witness the defendant intends to call during  
19 the case in chief of the defendant, or copies thereof, within the possession, custody or control  
20 of the defendant, the existence of which is known, or by the exercise of due diligence may  
21 become known, to the defendant;

22 (b) Results or reports of physical or mental examinations, scientific tests or scientific  
23 experiments that the defendant intends to introduce in evidence during the case in chief of the  
24 defendant, or copies thereof, within the possession, custody or control of the defendant, the  
25 existence of which is known, or by the exercise of due diligence may become known, to the  
26 defendant; and

27 (c) Books, papers, documents or tangible objects that the defendant intends to introduce in  
28 evidence during the case in chief of the defendant, or copies thereof, within the possession,

1 custody or control of the defendant, the existence of which is known, or by the exercise of due  
2 diligence may become known, to the defendant.

3 **CONCLUSION**

4 To the extent that Defendant's requests comply with the mandates of the Constitution  
5 and applicable statutes, and to the extent that the State has access to such materials, the State  
6 intends to comply with such requests. However, as to those requests that exceed the scope of  
7 the discovery statutes, the State objects. Furthermore, the State respectfully submits that  
8 Brady and its interpretive progeny squarely place the burden of determining what evidence is  
9 exculpatory and subject to disclosure pursuant to Brady on the shoulders of the State. See,  
10 Lay v. State, 116 Nev. at 1194, 14 P.3d at 1262.

11 In light of the foregoing, the State requests that the Court DENY Defendant's Motion  
12 to the extent that the specific requests exceed the scope of the Nevada Revised Statutes  
13 Discovery Statutes and Brady, and further requests that the Court GRANT the State's request  
14 pursuant to NRS 174.245.

15 DATED this 11<sup>th</sup> day of March, 2016.

16 Respectfully submitted,

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

20 BY

21   
22 JOHN T. JONES, JR.  
23 Deputy District Attorney  
24 Nevada Bar #009598  
25

26 ///

27 ///

28 ///




CERTIFICATE OF FACSIMILE TRANSMISSION

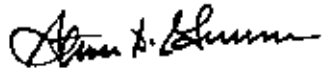
I hereby certify that service of State's Opposition to Defendant's Motion for Discovery,  
was made this 11<sup>th</sup> day of March, 2016, by facsimile transmission to:

TYLER GASTON, Deputy Public Defender  
(702)366-1177

BY:

  
M. CRAWFORD  
Secretary of the District Attorney's Office

15F14345X/JJ/mc/L4

  
CLERK OF THE COURT

NWEW  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
JOHN T. JONES  
Chief Deputy District Attorney  
Nevada Bar #009598  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CASE NO: C-15-310000-1

SAYEDBASHE SAYEDZADA,  
#1690765

DEPT NO: XX

Defendant.

NOTICE OF WITNESSES  
[NRS 174.234(1)(a)]

TO: SAYEDBASHE SAYEDZADA, Defendant; and

TO: TYLER GASTON, Deputy Public Defender, Counsel of Record:

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF  
NEVADA intends to call the following witnesses in its case in chief:

<u>NAME</u>	<u>ADDRESS</u>
ARNOLD, C.	LVMPD P# 3653
BLACK, CARI	8321 Black Brothers Court, Las Vegas, NV
BLACK, JAMIE	8321 Black Brothers Court, Las Vegas, NV
BLACK, LORI	8321 Black Brothers Court, Las Vegas, NV
BLACK, MICHAEL	8321 Black Brothers Court, Las Vegas, NV
CUSTODIAN OF RECORDS, or Designee	CCDC 330 S. Casino Center Blvd., Las Vegas, NV

///

1 CUSTODIAN OF RECORDS, or Designee CCDC Communications  
2 330 S. Casino Center Blvd., Las Vegas, NV  
3 CUSTODIAN OF RECORDS, or Designee LVMPD Communications  
4 400 E. Stewart Ave, Las Vegas, NV  
5 CUSTODIAN OF RECORDS, or Designee LVMPD Records  
6 400 E. Stewart Ave, Las Vegas, NV  
7 NEWTON, CORY 5309 French Lavender St, Las Vegas, NV  
8 REESE, J. LVMPD P# 13665  
9 SHAMIRZA, ALFRED, or Designee INVESTIGATOR  
10 C.C. DISTRICT ATTORNEY

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

14 STEVEN B. WOLFSON  
15 DISTRICT ATTORNEY  
16 Nevada Bar #001565

17 BY

18 JOHN T. JONES  
19 Chief Deputy District Attorney  
20 Nevada Bar #009598

21 CERTIFICATE OF FACSIMILE TRANSMISSION

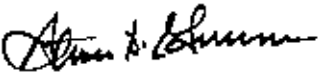
22 I hereby certify that service of the above and foregoing was made this 10<sup>th</sup> day of  
23 March, 2016, by facsimile transmission to:

24 TYLER GASTON, Deputy Public Defender  
25 (702) 366-1177

26 BY

27 M. CRAWFORD  
28 Secretary for the District Attorney's Office

15F14345X/mc/L4

  
CLERK OF THE COURT

NOTC  
PHILIP J. KOHN, PUBLIC DEFENDER  
NEVADA BAR NO. 0556  
TYLER C. GASTON, DEPUTY PUBLIC DEFENDER  
NEVADA BAR NO. 13488  
309 South Third Street, Suite #226  
Las Vegas, Nevada 89155  
(702) 455-4685  
Attorney for Defendant

«DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,	)	
	)	
Plaintiff,	)	CASE NO. C-15-310000-1
	)	
v.	)	DEPT. NO. XX
	)	
SAYEDBASHE SAYEDZADA,	)	
	)	
Defendant.	)	
_____	)	

DEFENDANT'S NOTICE OF WITNESSES, PURSUANT TO NRS 174.234

TO: CLARK COUNTY DISTRICT ATTORNEY:

You, and each of you, will please take notice that the Defendant, SAYEDBASHE SAYEDZADA, intends to call, in addition to each of the witnesses previously noticed by the State, the following witness in his case in chief:

I. Ana Nellis Investigator Clark County Public Defender Office

DATED this 15th day of March, 2016.

PHILIP J. KOHN  
CLARK COUNTY PUBLIC DEFENDER

By: /s/ Tyler C. Gaston  
TYLER C GASTON, #13488  
Deputy Public Defender

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CLARK COUNTY PUBLIC DEFENDER

By: /s/ Carolyn Gray  
Legal Assistant, Clark County Public Defender

27  
28

MAR 22 2016

BY Tia Everett  
TIA EVERETT, DEPUTY

JURL

ORIGINAL

DISTRICT COURT

CLARK COUNTY, NEVADA

The State of Nevada

CASE NO.: C310000-1

Vs

DEPARTMENT 19

Sayedbashe Sayedzada

JURY LIST

- |                    |                         |
|--------------------|-------------------------|
| 1. Diane Albanese  | 8. Nethania Bridgewater |
| 2. Brittany Stuck  | 9. Allen Abrazaldo      |
| 3. Pamela Aaron    | 10. Terry Ford          |
| 4. Diedra Terry    | 11. William Colucci     |
| 5. Cina Towne      | 12. Connie Quan         |
| 6. Weena Lachica   | 13. Simon Lac           |
| 7. Loretta Weidmer | 14. Phyllis Bagan       |

ALTERNATES

SECRET FROM ABOVE

C-15-31000-1  
JURL  
Jury List  
4633597





MAR 23 2016

BY Tia Everett  
TIA EVERETT, DEPUTY

JURL

DISTRICT COURT

CLARK COUNTY, NEVADA

The State of Nevada

CASE NO.: C310000-1

Vs

DEPARTMENT 19

Sayedbashe Sayedzada

JURY LIST

1. Diane Albanese

7. Loretta Weidmer

2. Brittany Stuck

8. Nethania Bridgewater

3. Pamela Aaron

9. Allen Abrazaldo

4. Diedra Terry

10. Terry Ford

5. Cina Towne

11. William Colucci

6. Weena Lachica

12. Connie Quan

ALTERNATES

13. Simon Lac

14. Phyllis Bagan

C-15-010000-1  
JURL  
Jury List  
4634071



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

MAR 23 2016

BY: Tia Everett  
TIA EVERETT, DEPUTY

DISTRICT COURT

CLARK COUNTY, NEVADA

The State of Nevada

Plaintiff(s),

-vs-

CASE NO. C310000-1  
DEPT. NO. 19

Sayedbashe Sayedzada

Defendant(s).

**STATE'S PROPOSED JURY INSTRUCTIONS NOT USED AT TRIAL**

Attached hereto are the proposed jury instructions which were offered to the Court, but not submitted to the jury in the above entitled action.

DATED: This 23<sup>rd</sup> day of March, 2016 .

Steven D. Grierson, Clerk of the Court

By: Tia Everett

Tia Everett, Deputy Clerk

C - 16 - 310000 - 1  
PINU  
Proposed Jury Instructions Not Used At Trial  
4534072



INSTRUCTION NO. 51

A person is in possession of an article or object if it is carried on his person or, if merely in his presence, he knows that it is present and he has custody, dominion, or control over it.

MAR 23 2016

BY Tia Everett  
TIA EVERETT, DEPUTY

DISTRICT COURT  
CLARK COUNTY, NEVADA

The State of Nevada

Plaintiff(s),

-vs-

CASE NO. C310000-1  
DEPT. NO. 19

Sayedbashe Sayedzada

Defendant(s).

DEFENDANT'S PROPOSED JURY INSTRUCTIONS NOT USED AT TRIAL

Attached hereto are the proposed jury instructions which were offered to the Court, but not submitted to the jury in the above entitled action.

DATED: This 23<sup>rd</sup> day of March, 2016 .

Steven D. Grierson, Clerk of the Court

By: Tia Everett  
Tia Everett, Deputy Clerk

C-16-310000-1  
PINU  
Proposed Jury Instructions Not Used At Trial:  
4534073



Every person charged with the commission of a crime shall be presumed innocent unless the contrary is proved beyond a reasonable doubt.

The burden is on the State to attempt to prove beyond a reasonable doubt that the Defendant committed the crime for which he is charged.

If, after considering the testimony and any other evidence in this case, you have a reasonable doubt as to whether the Defendant committed the crime for which he is charged, you must give the Defendant the benefit of that doubt and find him not guilty.

A reasonable doubt is one based on reason. It is not mere possible doubt but is such a doubt as would govern or control a person in the more weighty affairs of life. If the minds of the jurors, after the entire comparison and consideration of all the evidence, are in such a condition that they cannot say they feel an abiding conviction of the truth of the charge, there is a reasonable doubt. Doubt to be reasonable must be actual, not mere possibility or speculation.



A witness is a person who has knowledge related to this case. You will have to decide whether you believe each witness and how important each witness's testimony is to the case. You may believe all, part, or none of a witness's testimony.

In deciding whether to believe a witness's testimony, you may consider, among other factors, the following:

(a) How well did the witness see, hear, or otherwise sense what he or she described in court?

(b) How well did the witness remember and describe what happened?

(c) How did the witness look, act, and speak while testifying?

(d) Did the witness have any reason to say something that was not true? Did the witness show any bias or prejudice? Did the witness have a personal relationship with any of the parties involved in the case? Does the witness have a personal stake in how this case is decided?

(e) What was the witness's attitude toward this case or about giving testimony?

Sometimes a witness may say something that is not consistent with something else he or she said. Sometimes different witnesses will give different versions of what happened. People often forget things or make mistakes in what they remember. Also, two people may see the same event but remember it differently. You may consider these differences, but do not decide that testimony is untrue just because it differs from other testimony.

However, if you decide that a witness deliberately testified untruthfully about something important, you may choose not to believe anything that witness said. On the other hand, if you think the witness testified untruthfully about some things but told the truth about others, you may accept the part you think is true and ignore the rest.

Do not make any decision simply because there were more witnesses on one side than on the other. If you believe it is true, the testimony of a single witness is enough to prove a fact.

Unless the State proves beyond a reasonable doubt that a person possessed a credit or debit card without consent of the cardholder and with the intent to circulate, use, sell, or transfer the credit or debit card with intent to defraud then you must find the Defendant not guilty of POSSESSION OF CREDIT OR DEBIT CARD WITHOUT CARDHOLDER'S CONSENT.

INSTRUCTION NO. \_\_\_\_\_

You are not required to make any inference and the existence of any fact must, on all the evidence, be proved beyond a reasonable doubt.

Before you may rely on circumstantial evidence to conclude that a fact necessary to find the defendant guilty has been proved, you must be convinced that the State has proved each fact essential to that conclusion beyond a reasonable doubt.

Also, before you may rely on circumstantial evidence to find the defendant guilty, you must be convinced that the only reasonable conclusion supported by the circumstantial evidence is that the defendant is guilty. If you can draw two or more reasonable conclusions from the circumstantial evidence, and one of those reasonable conclusions points to not guilty and another to guilty, you must accept the one that points to not guilty. However, when considering circumstantial evidence, you must accept only reasonable conclusions and reject any that are unreasonable.

1 INST

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

MAR 23 2016

BY *Tia Everett*  
TIA EVERETT, DEPUTY

DISTRICT COURT  
CLARK COUNTY, NEVADA

7 THE STATE OF NEVADA,

8 Plaintiff,

9 -vs-

10 SAYEDBASHE SAYEDZADA,

11 Defendant.

CASE NO: C-15-310000-1

DEPT NO: XX

12  
13 INSTRUCTIONS TO THE JURY (INSTRUCTION NO. 1)

14 MEMBERS OF THE JURY:

15 It is now my duty as judge to instruct you in the law that applies to this case. It is  
16 your duty as jurors to follow these instructions and to apply the rules of law to the facts as  
17 you find them from the evidence.

18 You must not be concerned with the wisdom of any rule of law stated in these  
19 instructions. Regardless of any opinion you may have as to what the law ought to be, it  
20 would be a violation of your oath to base a verdict upon any other view of the law than that  
21 given in the instructions of the Court.

22  
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25 C-15-310000-1  
INST  
Instructions to the Jury  
4534075



If, in these instructions, any rule, direction or idea is repeated or stated in different ways, no emphasis thereon is intended by me and none may be inferred by you. For that reason, you are not to single out any certain sentence or any individual point or instruction and ignore the others, but you are to consider all the instructions as a whole and regard each in the light of all the others.

The order in which the instructions are given has no significance as to their relative importance.



An Information is but a formal method of accusing a person of a crime and is not of itself any evidence of his guilt.

In this case, it is charged in an Information that on or about the 23rd day of September, 2015, the Defendant committed the offense of POSSESSION OF CREDIT OR DEBIT CARD WITHOUT CARDHOLDER'S CONSENT (Category D Felony - NRS 205.690 - NOC 50790).

It is the duty of the jury to apply the rules of law contained in these instructions to the facts of the case and determine whether or not the Defendant is guilty of the offense charged.

COUNT 1

did willfully, unlawfully, and feloniously, have in his possession, without the consent of the cardholder, a credit or debit card, to-wit: a MasterCard, bearing credit card number ending in 9977, issued in the name of JAMIE BLACK, with intent to circulate, use, sell, or transfer said card, with intent to defraud the cardholder and/or the issuer of said credit or debit card.

COUNT 2

did willfully, unlawfully, and feloniously, have in his possession, without the consent of the cardholder, a credit or debit card, to-wit: a VISA card, bearing credit card number ending in 0849, issued in the name of JAMIE BLACK, with intent to circulate, use, sell, or transfer said card, with intent to defraud the cardholder and/or the issuer of said credit or debit card.

COUNT 3

did willfully, unlawfully, and feloniously, have in his possession, without the consent of the cardholder, a credit or debit card, to-wit: a VISA card, bearing credit card number ending in 2877, issued in the name of JAMIE BLACK, with intent to circulate, use, sell, or transfer said card, with intent to defraud the cardholder and/or the issuer of said credit or debit card.

///

1 COUNT 4

2 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
3 of the cardholder, a credit or debit card, to-wit: a VISA card, bearing credit card number  
4 ending in 9153, issued in the name of JAMIE BLACK, with intent to circulate, use, sell, or  
5 transfer said card, with intent to defraud the cardholder and/or the issuer of said credit or  
6 debit card.

7 COUNT 5

8 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
9 of the cardholder, a credit or debit card, to-wit: a VISA card, bearing credit card number  
10 ending in 4967, issued in the name of JAMIE BLACK and/or LORI BLACK, with intent to  
11 circulate, use, sell, or transfer said card, with intent to defraud the cardholder and/or the  
12 issuer of said credit or debit card.

13 COUNT 6

14 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
15 of the cardholder, a credit or debit card, to-wit: a VISA card, bearing credit card number  
16 ending in 0204, issued in the name of JAMIE BLACK and/or MICHAEL BLACK, with  
17 intent to circulate, use, sell, or transfer said card, with intent to defraud the cardholder and/or  
18 the issuer of said credit or debit card.

19 COUNT 7

20 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
21 of the cardholder, a credit or debit card, to-wit: a VISA card, bearing credit card number  
22 ending in 1117, issued in the name of JAMIE BLACK and/or LORI BLACK, with intent to  
23 circulate, use, sell, or transfer said card, with intent to defraud the cardholder and/or the  
24 issuer of said credit or debit card.

25 COUNT 8

26 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
27 of the cardholder, a credit or debit card, to-wit: a VISA card, bearing credit card number  
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1 ending in 6609, issued in the name of JAMIE BLACK, with intent to circulate, use, sell, or  
2 transfer said card, with intent to defraud the cardholder and/or the issuer of said credit or  
3 debit card.

4 COUNT 9

5 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
6 of the cardholder, a credit or debit card, to-wit: a VISA and/or an AMEX card, bearing  
7 credit card number ending in 1025, issued in the name of JAMIE BLACK, with intent to  
8 circulate, use, sell, or transfer said card, with intent to defraud the cardholder and/or the  
9 issuer of said credit or debit card.

10 COUNT 10

11 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
12 of the cardholder, a credit or debit card, to-wit: a VISA card, bearing credit card number  
13 ending in 1026, issued in the name of JAMIE BLACK, with intent to circulate, use, sell, or  
14 transfer said card, with intent to defraud the cardholder and/or the issuer of said credit or  
15 debit card.

16 COUNT 11

17 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
18 of the cardholder, a credit or debit card, to-wit: a Best Buy Credit Card and/or a MasterCard,  
19 bearing credit card number ending in 7849, issued in the name of JAMIE BLACK, with  
20 intent to circulate, use, sell, or transfer said card, with intent to defraud the cardholder and/or  
21 the issuer of said credit or debit card.

22 COUNT 12

23 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
24 of the cardholder, a credit or debit card, to-wit: a MasterCard, bearing credit card number  
25 ending in 1651, issued in the name of JAMIE BLACK, with intent to circulate, use, sell, or  
26 transfer said card, with intent to defraud the cardholder and/or the issuer of said credit or  
27 debit card.

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1 COUNT 13

2 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
3 of the cardholder, a credit or debit card, to-wit: an AMEX card, bearing credit card number  
4 ending in 2006, issued in the name of JAMIE BLACK and/or LORI BLACK, with intent to  
5 circulate, use, sell, or transfer said card, with intent to defraud the cardholder and/or the  
6 issuer of said credit or debit card.

To constitute the crime charged, there must exist a union or joint operation of an act forbidden by law and an intent to do the act.

The intent with which an act is done is shown by the facts and circumstances surrounding the case.

Do not confuse intent with motive. Motive is what prompts a person to act. Intent refers only to the state of mind with which the act is done.

Motive is not an element of the crime charged and the State is not required to prove a motive on the part of the Defendant in order to convict. However, you may consider evidence of motive or lack of motive as a circumstance in the case.

1  
2 The Defendant is presumed innocent until the contrary is proved. This presumption  
3 places upon the State the burden of proving beyond a reasonable doubt every element of the  
4 crime charged and that the Defendant is the person who committed the offense.

5 A reasonable doubt is one based on reason. It is not mere possible doubt but is such a  
6 doubt as would govern or control a person in the more weighty affairs of life. If the minds of  
7 the jurors, after the entire comparison and consideration of all the evidence, are in such a  
8 condition that they can say they feel an abiding conviction of the truth of the charge, there is  
9 not a reasonable doubt. Doubt to be reasonable must be actual, not mere possibility or  
10 speculation.

11 If you have a reasonable doubt as to the guilt of the Defendant, he is entitled to a  
12 verdict of not guilty.  
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2       You are here to determine whether the defendant is guilty or not guilty from the  
3 evidence in the case. You are not called upon to return a verdict as to whether any other  
4 person is guilty or not guilty. So, if the evidence in the case convinces you beyond a  
5 reasonable doubt of the guilt of the Defendant, you should so find, even though you may  
6 believe one or more persons are also guilty.  
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The evidence which you are to consider in this case consists of the testimony of the witnesses, the exhibits, and any facts admitted or agreed to by counsel.

There are two types of evidence; direct and circumstantial. Direct evidence is the testimony of a person who claims to have personal knowledge of the commission of the crime which has been charged, such as an eyewitness. Circumstantial evidence is the proof of a chain of facts and circumstances which tend to show whether the Defendant is guilty or not guilty. The law makes no distinction between the weight to be given either direct or circumstantial evidence. Therefore, all of the evidence in the case, including the circumstantial evidence, should be considered by you in arriving at your verdict.

Statements, arguments and opinions of counsel are not evidence in the case. However, if the attorneys stipulate to the existence of a fact, you must accept the stipulation as evidence and regard that fact as proved.

You must not speculate to be true any insinuations suggested by a question asked a witness. A question is not evidence and may be considered only as it supplies meaning to the answer.

You must disregard any evidence to which an objection was sustained by the court and any evidence ordered stricken by the court.

Anything you may have seen or heard outside the courtroom is not evidence and must also be disregarded.

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2 The credibility or believability of a witness should be determined by his manner upon  
3 the stand, his relationship to the parties, his fears, motives, interests or feelings, his  
4 opportunity to have observed the matter to which he testified, the reasonableness of his  
5 statements and the strength or weakness of his recollections.

6 If you believe that a witness has lied about any material fact in the case, you may  
7 disregard the entire testimony of that witness or any portion of his testimony which is not  
8 proved by other evidence.  
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Any person who possesses a credit card or debit card without consent of the cardholder and with the intent to circulate, use, sell, or transfer the credit card or debit card with intent to defraud is guilty of Possession of Credit Card or Debit Card Without Cardholder's Consent.

"Credit card" means any instrument or device, whether known as a credit card, credit plate, or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, property, goods, services or anything else of value on credit.

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2 A credit card includes the number or other identifying description of a credit card or  
3 credit account.  
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"Debit card" means any instrument or device, whether known as a debit card or by any other name, that is issued with or without a fee by an issuer for the use of the cardholder in obtaining money, property, goods, services or anything else of value, subject to the issuer removing money from the checking account or savings account of the cardholder.

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2 "Debit card" includes, without limitation, the number or other identifying physical or  
3 electronic description of a debit card.  
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"Cardholder" means the person or organization named on the face of a credit card or debit card to whom or for whose benefit the credit card or debit card is issued by an issuer.

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2 A person is in possession of an article or object if he knowingly exercised control,  
3 dominion, or custody over it.  
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1           The intent of a person or the knowledge that a person possesses at any given time may  
2 not ordinarily be proved directly because there is no way of directly scrutinizing the  
3 workings of the human mind. In determining the issue of what a person knew or what a  
4 person intended at a particular time, you may consider any statements made or acts done by  
5 that person and all other facts and circumstances received in evidence which may aid in your  
6 determination of that person's knowledge or intent.  
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2 In a criminal prosecution for Possession of a Credit Card Without Cardholder's  
3 Consent, you may infer, but are not required to do so, that any person who has in his  
4 possession or under his control two or more credit cards issued in the name of another  
5 person, obtained and possessed the credit cards with the knowledge that they have been  
6 stolen and with the intent to circulate, use, sell, or transfer them with the intent to defraud.

7 For you to draw this inference, its existence must, on all the evidence, be proved  
8 beyond a reasonable doubt.  
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2 The flight of a person immediately after the commission of a crime, or after he is  
3 accused of a crime, is not sufficient in itself to establish his guilt, but is a fact which, if  
4 proved, may be considered by you in light of all other proved facts in deciding the question  
5 of his guilt or innocent. Whether or not evidence of flight shows a consciousness of guilt  
6 and the significance to be attached to such a circumstance are matters for your deliberation.  
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2 It is a constitutional right of a defendant in a criminal trial that he may not be compelled to  
3 testify. Thus, the decision as to whether he should testify is left to the defendant on the advice and  
4 counsel of his attorney. You must not draw any inference of guilt from the fact that he does not  
5 testify, nor should this fact be discussed by you or enter into your deliberations in any way.  
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Although you are to consider only the evidence in the case in reaching a verdict, you must bring to the consideration of the evidence your everyday common sense and judgment as reasonable men and women. Thus, you are not limited solely to what you see and hear as the witnesses testify. You may draw reasonable inferences from the evidence which you feel are justified in the light of common experience, keeping in mind that such inferences should not be based on speculation or guess.

A verdict may never be influenced by sympathy, prejudice or public opinion. Your decision should be the product of sincere judgment and sound discretion in accordance with these rules of law.

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2 In your deliberation you may not discuss or consider the subject of punishment, as  
3 that is a matter which lies solely with the court. Your duty is confined to the determination  
4 of whether the defendant is guilty or not guilty.  
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1 When you retire to consider your verdict, you must select one of your member to act  
2 as foreperson who will preside over your deliberation and will be your spokesperson here in  
3 court.  
4

5 During your deliberation, you will have all the exhibits which were admitted into  
6 evidence, these written instructions and forms of verdict which have been prepared for your  
7 convenience.

8 Your verdict must be unanimous. As soon as you have agreed upon a verdict, have it  
9 signed and dated by your foreperson and then return with it to this room.

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2 If, during your deliberation, you should desire to be further informed on any point of  
3 law or hear again portions of the testimony, you must reduce your request to writing signed  
4 by the foreperson. The officer will then return you to court where the information sought  
5 will be given you in the presence of, and after notice to, the district attorney and the  
6 Defendant and his/her counsel.

7 Playbacks of testimony are time-consuming and are not encouraged unless you deem  
8 it a necessity. Should you require a playback, you must carefully describe the testimony to  
9 be played back so that the court recorder can arrange his/her notes. Remember, the court is  
10 not at liberty to supplement the evidence.

Now you will listen to the arguments of counsel who will endeavor to aid you to reach a proper verdict by refreshing in your minds the evidence and by showing the application thereof to the law; but, whatever counsel may say, you will bear in mind that it is your duty to be governed in your deliberation by the evidence as you understand it and remember it to be and by the law as given to you in these instructions, with the sole, fixed and steadfast purpose of doing equal and exact justice between the Defendant and the State of Nevada.

GIVEN: With Rights

DISTRICT JUDGE



@ 3:56 PM  
FILED IN OPEN COURT  
STEVEN D. GRIERSON  
CLERK OF THE COURT

MAR 23 2016

BY

TIA EVERETT, DEPUTY

1 VER

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6 DISTRICT COURT  
CLARK COUNTY, NEVADA

7 THE STATE OF NEVADA,

8 Plaintiff,

9 -VS-

10 SAYEDBASHE SAYEDZADA,

11 Defendant.

CASE NO: C-15-310000-1

DEPT NO: XX

12 VERDICT

13 We, the jury in the above entitled case, find the Defendant SAYEDBASHE  
14 SAYEDZADA, as follows:

15 COUNT 1 - POSSESSION OF CREDIT OR DEBIT CARD WITHOUT CARDHOLDER'S  
16 CONSENT

17 (Please check the appropriate box, select only one)



Guilty of Possession of Credit or Debit Card Without Cardholder's  
Consent



Not Guilty

20  
21 We, the jury in the above entitled case, find the Defendant SAYEDBASHE  
22 SAYEDZADA, as follows:

23 COUNT 2 - POSSESSION OF CREDIT OR DEBIT CARD WITHOUT CARDHOLDER'S  
24 CONSENT

25 (Please check the appropriate box, select only one)



Guilty of Possession of Credit or Debit Card Without Cardholder's  
Consent



Not Guilty

28 C-15-310000-1  
VER  
Verdict  
4534074



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1 We, the jury in the above entitled case, find the Defendant SAYEDBASHE  
2 SAYEDZADA, as follows:

3 **COUNT 3 - POSSESSION OF CREDIT OR DEBIT CARD WITHOUT CARDHOLDER'S**  
4 **CONSENT**

5 *(Please check the appropriate box, select only one)*

- 6 ☒ Guilty of Possession of Credit or Debit Card Without Cardholder's  
7 Consent  
8 ☐ Not Guilty

9 We, the jury in the above entitled case, find the Defendant SAYEDBASHE  
10 SAYEDZADA, as follows:

11 **COUNT 4 - POSSESSION OF CREDIT OR DEBIT CARD WITHOUT CARDHOLDER'S**  
12 **CONSENT**

13 *(Please check the appropriate box, select only one)*

- 14 ☒ Guilty of Possession of Credit or Debit Card Without Cardholder's  
15 Consent  
16 ☐ Not Guilty

17 We, the jury in the above entitled case, find the Defendant SAYEDBASHE  
18 SAYEDZADA, as follows:

19 **COUNT 5 - POSSESSION OF CREDIT OR DEBIT CARD WITHOUT CARDHOLDER'S**  
20 **CONSENT**

21 *(Please check the appropriate box, select only one)*

- 22 ☒ Guilty of Possession of Credit or Debit Card Without Cardholder's  
23 Consent  
24 ☐ Not Guilty

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1 We, the jury in the above entitled case, find the Defendant SAYEDBASHE  
2 SAYEDZADA, as follows:

3 **COUNT 6 - POSSESSION OF CREDIT OR DEBIT CARD WITHOUT CARDHOLDER'S**  
4 **CONSENT**

5 *(Please check the appropriate box, select only one)*

- 6 ☒ Guilty of Possession of Credit or Debit Card Without Cardholder's  
7 Consent  
8 ☐ Not Guilty

9 We, the jury in the above entitled case, find the Defendant SAYEDBASHE  
10 SAYEDZADA, as follows:

11 **COUNT 7 - POSSESSION OF CREDIT OR DEBIT CARD WITHOUT CARDHOLDER'S**  
12 **CONSENT**

13 *(Please check the appropriate box, select only one)*

- 14 ☒ Guilty of Possession of Credit or Debit Card Without Cardholder's  
15 Consent  
16 ☐ Not Guilty

17 We, the jury in the above entitled case, find the Defendant SAYEDBASHE  
18 SAYEDZADA, as follows:

19 **COUNT 8 - POSSESSION OF CREDIT OR DEBIT CARD WITHOUT CARDHOLDER'S**  
20 **CONSENT**

21 *(Please check the appropriate box, select only one)*

- 22 ☒ Guilty of Possession of Credit or Debit Card Without Cardholder's  
23 Consent  
24 ☐ Not Guilty

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1 We, the jury in the above entitled case, find the Defendant SAYEDBASHE  
2 SAYEDZADA, as follows:

3 COUNT 9 - POSSESSION OF CREDIT OR DEBIT CARD WITHOUT CARDHOLDER'S  
4 CONSENT

5 *(Please check the appropriate box, select only one)*

- 6 ☒ Guilty of Possession of Credit or Debit Card Without Cardholder's  
7 Consent  
8 ☐ Not Guilty

9 We, the jury in the above entitled case, find the Defendant SAYEDBASHE  
10 SAYEDZADA, as follows:

11 COUNT 10 - POSSESSION OF CREDIT OR DEBIT CARD WITHOUT  
12 CARDHOLDER'S CONSENT

13 *(Please check the appropriate box, select only one)*

- 14 ☒ Guilty of Possession of Credit or Debit Card Without Cardholder's  
15 Consent  
16 ☐ Not Guilty

17 We, the jury in the above entitled case, find the Defendant SAYEDBASHE  
18 SAYEDZADA, as follows:

19 COUNT 11 - POSSESSION OF CREDIT OR DEBIT CARD WITHOUT  
20 CARDHOLDER'S CONSENT

21 *(Please check the appropriate box, select only one)*

- 22 ☒ Guilty of Possession of Credit or Debit Card Without Cardholder's  
23 Consent  
24 ☐ Not Guilty

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1 We, the jury in the above entitled case, find the Defendant SAYEDBASHE  
2 SAYEDZADA, as follows:

3 COUNT 12 - POSSESSION OF CREDIT OR DEBIT CARD WITHOUT  
4 CARDHOLDER'S CONSENT

5 *(Please check the appropriate box, select only one)*



Guilty of Possession of Credit or Debit Card Without Cardholder's  
Consent



8 Not Guilty

9 We, the jury in the above entitled case, find the Defendant SAYEDBASHE  
10 SAYEDZADA, as follows:

11 COUNT 13 - POSSESSION OF CREDIT OR DEBIT CARD WITHOUT  
12 CARDHOLDER'S CONSENT

13 *(Please check the appropriate box, select only one)*



Guilty of Possession of Credit or Debit Card Without Cardholder's  
Consent



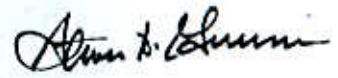
16 Not Guilty

17 We, the jury in the above entitled case, find the Defendant SAYEDBASHE  
18 SAYEDZADA, as follows:

19 DATED this 23 day of March, 2016

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CLERK OF THE COURT

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

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,	)	
	)	
Plaintiff,	)	CASE NO. C-15-310000-1
	)	
v.	)	DEPT. NO. XIX
	)	
SAYEDBASHE SAYEDZADA,	)	DATE: April 11, 2016
	)	TIME: 8:30 a.m.
Defendant.	)	

**MOTION FOR JUDGMENT OF ACQUITTAL NOTWITHSTANDING THE VERDICT  
OR, IN THE ALTERNATIVE, FOR A NEW TRIAL**

COMES NOW, the Defendant, SAYEDBASHE SAYEDZADA, by and through TYLER C GASTON, Deputy Public Defender and hereby requests the Court to set aside the verdict as to Counts 1, 2, 8, 9, 10, 11 and 12 and to enter judgment of acquittal pursuant to NRS 175.381(2).

This Motion is made and based upon all the papers and pleadings on file herein, the attached Declaration of Counsel, and oral argument at the time set for hearing this Motion.

DATED this 29<sup>th</sup> day of March, 2016.

PHILIP J. KOHN  
CLARK COUNTY PUBLIC DEFENDER

By: /s/ Tyler C. Gaston  
TYLER C GASTON, #13488  
Deputy Public Defender

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DECLARATION

TYLER C GASTON makes the following declaration:

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

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

EXECUTED this 29<sup>th</sup> day of March, 2016.

/s/ Tyler C. Gaston  
TYLER C GASTON



## MEMORANDUM OF POINTS AND AUTHORITIES

### FACTS

A preliminary hearing was held on October 12, 2015 in Justice Court Department 1 and Defendant Sayed Bashe Sayedzada was bound over to answer to the thirteen charges contained in the Criminal Complaint in Case 15F14345X. On October 14, 2015, Defendant entered a plea of not guilty to the thirteen charges contained in the Information and waived his right to a speedy trial. The trial commenced on March 21, 2016, and the jury returned a verdict of guilty on all counts on March 23, 2016.

The facts presented at trial were very simple. On September 23, 2015, Defendant was trespassing at an apartment complex. He encounters the security guard, Cory Newton. Mr. Newton did not recognize Defendant and was further suspicious because Defendant was hiding a bulky object under his sweatshirt. After trying to speak to Defendant, the Defendant swore at Mr. Newton and took off running. Mr. Newton caught up to Defendant near the back wall of the apartment complex where Defendant punched him twice in the face. Then, while Mr. Newton is standing on the right side of the dumpster, between two cars, Sayed is running to the other side of the dumpster. He is then tased by Mr. Newton and falls to the ground. He falls near a black car.

Mr. Newton renders immediate medical attention and eventually handcuffs the Defendant. The Defendant is sat up on the curb and remains there for about thirty minutes while waiting for police to arrive. He is only a few feet away from the black car. After a while, the owner of the black car ultimately moves his vehicle. Then, Mr. Newton notices six credit cards and two phones on the ground. Five of these six credit cards are valid and are able to be used. The sixth card had just expired in June of 2015. A subsequent search of the purse that Defendant was concealing under his shirt revealed two pairs of sunglasses and seven more credit cards. All seven cards in the purse were expired.

These were the entirety of the facts presented by the State in addition to the evidence from the owners of the cards that Defendant did not have permission to have any of the cards. The State argued, persuasively, in rebuttal that the Defendant had the intent to use those cards and must have known about all the credit cards because it is too large of a coincidence that only the cards that

1 were useful to the Defendant were found underneath the car. Thus, the Defendant must have  
2 previously gone through the purse and sorted which cards were useful and which were not. He  
3 then placed the useful ones in his pocket and left the others in the purse. While waiting for the  
4 police at the curb, the Defendant tried to conceal this evidence by throwing the cards underneath  
5 the car.

6 The Jury returned a verdict of guilty on all counts. However, there is only sufficient  
7 evidence to affirm six of the felony convictions. The guilty verdict as to the other seven counts  
8 should be set aside and a judgment of acquittal should be entered.

### 9 ARGUMENT

10 The district court may grant a motion for a new trial based on any grounds when the  
11 motion is filed within 7 days after the verdict. NRS 176.515.<sup>1</sup> Additionally, within the 7 day time  
12 period, the district court "may set aside the verdict and enter a judgment of acquittal if the  
13 evidence is insufficient to sustain a conviction. . ." NRS 175.381(2).<sup>2</sup>

14  
15 <sup>1</sup> NRS 176.515 states:

- 16 1. The court may grant a new trial to a defendant if required as a matter of law or on the ground of  
17 newly discovered evidence.  
18 2. If trial was by the court without a jury the court may vacate the judgment if entered, take  
19 additional testimony and direct the entry of a new judgment.  
20 3. Except as otherwise provided in NRS 176.0918, a motion for a new trial based on the ground of  
21 newly discovered evidence may be made only within 2 years after the verdict or finding of guilt.  
22 4. A motion for a new trial based on any other grounds must be made within 7 days after the verdict  
23 or finding of guilt or within such further time as the court may fix during the 7-day period.

24 NRS 176.515.

25 <sup>2</sup> NRS 175.381 states that:

- 26 1. If, at any time after the evidence on either side is closed, the court deems the evidence  
27 insufficient to warrant a conviction, it may advise the jury to acquit the defendant, but the jury is not  
28 bound by such advice.  
29 2. The court may, on a motion of a defendant or on its own motion, which is made after the jury  
30 returns a verdict of guilty or guilty but mentally ill, set aside the verdict and enter a judgment of  
31 acquittal if the evidence is insufficient to sustain a conviction. The motion for a judgment of  
32 acquittal must be made within 7 days after the jury is discharged or within such further time as the  
33 court may fix during that period.  
34 3. If a motion for a judgment of acquittal after a verdict of guilty or guilty but mentally ill pursuant  
35 to this section is granted, the court shall also determine whether any motion for a new trial should be  
36 granted if the judgment of acquittal is thereafter vacated or reversed. The court shall specify the  
37 grounds for that determination. If the motion for a new trial is granted conditionally, the order  
38 thereon does not affect the finality of the judgment. If the motion for a new trial is granted  
39 conditionally and the judgment is reversed on appeal, the new trial must proceed unless the appellate  
40 court has otherwise ordered. If the motion is denied conditionally, the defendant on appeal may



1 I. A JUDGMENT OF ACQUITTAL IS WARRANTED DUE TO  
2 INSUFFICIENCY OF THE EVIDENCE.

3 A. Standard, elements, and proof by competent evidence.

4 A criminal defendant's fundamental right to a fair trial includes the presumption of  
5 innocence. Hightower v. State, 123 Nev. Adv. Op. No. 7, 4, 154 P.3d 639 (2007); U.S. Const.  
6 Amend. V; Amend. XIV; Nev. Const. Art. 1 Sec. 8. The presumption of innocence, as codified  
7 within NRS 175.201, means that: "Every person charged with the commission of a crime shall be  
8 presumed innocent until the contrary is proved by competent evidence beyond a reasonable  
9 doubt..."

10 In view of this, at trial, the State is required to prove each and "every element of a crime,"  
11 as well as "every fact necessary to prove the crime" beyond a reasonable doubt through the  
12 presentation of competent evidence. Apprendi v. New Jersey, 530 U.S. 466, 476 (2000); In re  
13 Winship, 397 U.S. 358, 364 (1970); NRS 175.191; NRS 175.201. The requirement of proof  
14 beyond a reasonable doubt as to each element serves "to give 'concrete substance' to the  
15 presumption of innocence, to ensure against unjust convictions, and to reduce the risk of factual  
16 error in a criminal proceeding." Batin v. State, 118 Nev. 61, 65, 38 P.3d 880, 883 (2002), citing  
17 In re Winship 397 U.S. 358, 363 (1970). In reviewing the evidence, the court must disregard any  
18 evidence not found to be competent. See NRS 175.201.

19 B. The evidence presented was insufficient to support a verdict as to the cards found  
20 inside the purse.

21 NRS 175.381 (2) states in pertinent part that "the Court may, on a motion of a defendant or  
22 on its own motion, which is made after the jury returns a verdict of guilty, set aside the verdict and  
23 enter a judgment of acquittal if the evidence is insufficient to sustain a conviction." The Nevada  
24 Supreme Court held that "where there is truly insufficient evidence to convict, a defendant must be  
25 acquitted." State v. Purcell, 110 Nev. 1389, 887 P. 2d 276 (1994). The Court clarified that "in  
26 contrast to conflicting evidence, insufficiency of the evidence occurs where the prosecution has not  
27

28 assert error in that denial, and if the judgment is reversed on appeal, subsequent proceedings must be  
in accordance with the order of the appellate court.  
NRS 175.381.

1 produced minimum threshold of evidence upon which a conviction may be based, even if such  
2 evidence were believed by the jury." Id. at 1394. Simply because the jury found the Defendant  
3 guilty of all counts does not mean that the prosecution produced a minimum threshold of evidence.

4 The State simply did not present evidence that Defendant intended to use the credit cards  
5 that were in the purse to defraud. On the contrary, all of the evidence presented suggests that  
6 Defendant previously separated the cards that were useful to him and which cards were not. He  
7 then kept the cards that were useful and put it in his pocket or somewhere easily accessible. This is  
8 the crux of the State's argument in rebuttal and were the grounds for many of the jurors inferring  
9 that Defendant did intend to use the cards. However, this same inference and the same evidence,  
10 also clearly shows that Defendant knew about the expiration dates on the other cards. He knew  
11 they were practically useless to him and acted as such. Thus, it is clear that he did not intend to use  
12 the cards found inside the purse to defraud.

13 To be clear, the Defendant is not arguing that, as a matter of law, a conviction for this  
14 charge involving an expired credit card could never stand. Quite the opposite, the State could  
15 potentially have evidence to show that a Defendant did intend to use an expired card to defraud.  
16 The mistake of fact here, not noticing the expiration date so not realizing that the card could not be  
17 used, would not negate the intent to defraud because the person still intended to use the card. He  
18 just "lucked" out that the card happened to not be able to be used. That is very different than from  
19 the facts that were presented here. Instead, the State's very own argument in rebuttal made it  
20 exceptionally clear that the Defendant had already sorted the cards into expired and unexpired  
21 categories. He kept the useful ones on him and left the others in the purse. Thus, this is different  
22 than the hypothetical above because it is was very clear the Defendant noticed the expiration dates.  
23 He noticed that he could not use those cards. Thus, since he was aware that they could not, in fact,  
24 be used, there is no way the Defendant could have the intent to use them to defraud.

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DATED this 29<sup>th</sup> day of March, 2016.

By: /s/ Tyler C. Gaston  
 TYLER C GASTON, #13488  
 Deputy Public Defender

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CLERK OF THE COURT

**OPPS**  
**STEVEN B. WOLFSON**  
Clark County District Attorney  
Nevada Bar #001565  
**JOHN T. JONES, JR.**  
Chief Deputy District Attorney  
Nevada Bar #009598  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

-vs-

SAYEDBASHE SAYEDZADA,  
#1690765

Defendant.

CASE NO: C-15-310000-1

DEPT NO: XIX

**OPPOSITION TO DEFENDANT'S MOTION FOR JUDGMENT OF ACQUITTAL  
NOTWITHSTANDING THE VERDICT OR, IN THE ALTERNATIVE,  
FOR A NEW TRIAL**

DATE OF HEARING: APRIL 11, 2016

TIME OF HEARING: 8:30 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through JOHN T. JONES, JR., Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in Opposition to Defendant's Motion for Judgment of Acquittal Notwithstanding the Verdict, or, in the Alternative, for a New Trial.

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

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1 POINTS AND AUTHORITIES

2 ARGUMENT

3 Subsection 2 of NRS 175.381 states, in part:

4 The court may, on a motion of a defendant or on its own motion, which is made  
5 after the jury returns a verdict of guilty, set aside the verdict and enter a judgment  
6 of acquittal if the evidence is insufficient to sustain a conviction. . . .

7 The Defendant asserts that there is insufficient evidence to support the verdict, though,  
8 tellingly, defense did not seek an advisory verdict at the end of trial pursuant to subsection 1  
9 of NRS 175.381. The following is the standard for the review of the sufficiency of the  
10 evidence:

11 . . . This court has stated that in a criminal case where the jury has arrived at a  
12 guilty verdict, the relevant inquiry is "whether, after viewing the evidence in  
13 the light most favorable to the prosecution, any rational trier of fact could have  
found the essential elements of the crime beyond a reasonable doubt."

14 Milton v. State, 111 Nev. 1487, 1491, 908 P.2d 684 (1995), quoting Koza v. State, 100 Nev.  
15 245, 250, 681 P.2d 44, 47 (1984), which quotes Jakson v. Virginia, 443 U.S. 307, 319, 99 S.Ct.  
16 2781 (1979).

17 Even where a defendant contests the evidence and presents his own case, the jury is  
18 free to discount his own story:

19 . . . Although Cunningham contested the evidence and presented impeachment  
20 witnesses, '[s]uch conflicting testimony addresses the sound discretion of the  
21 jury . . . . The jury is at liberty to reject the defendant's version of events.' . . .

22 Cunningham v. State, 113 Nev. 897, 944 P.2d 261, 268 (1997) , quoting Porter v. State, 94  
23 Nev. 142, 146, 576 P.2d 275, 278 (1978). See also, Doyle v. State, 112 Nev. 879, 921 P.2d  
24 901, 910 (1996) ('it is the jury's function, not the reviewing court, to assess the weight of the  
25 evidence and determine the credibility of witnesses. Walker v. State, 91 Nev. 724, 726, 542  
26 P.2d 438, 438-39 (1975)').

27 In order to evaluate and weigh the testimony, the jury can rely upon circumstantial  
28 evidence:



1 [A] Jury may reasonably rely upon circumstantial evidence; to conclude  
2 otherwise would mean that a criminal would commit a secret murder, destroy  
3 the body of the victim, and escape punishment despite convincing circumstantial  
evidence against him or her . . . .

4 State v. Rhodig, 101 Nev. 608, 610, 707 P.2d 549, 550 (1985), quoting Wilkins v. State, 96  
5 Nev. 367, 374, 609 P.2d 309, 313 (1980).

6 The Nevada Supreme Court has emphasized the following:

7 . . . Moreover, it is exclusively within the province of the trier of fact to weigh  
8 evidence and pass on the credibility of witnesses and their testimony.

9 Lay v. State, 110 Nev. 1189, 1192, 886 P.2d 448, 450 (1994), citing Bolden v. State, 97 Nev.  
10 71, 73, 624 P.2d 20 (1981).

11 Defendant was charged with thirteen (13) counts of Possession of Credit Or Debit Card  
12 Without Cardholders Consent, a violation of NRS 205.690 (2). NRS 205.690 (2) states, in  
13 part:

14 A person who possesses a credit card or debit card without the consent of the  
15 cardholder and with the intent to circulate, use, sell or transfer the credit card  
16 or debit card with the intent to defraud is guilty of a category D felony...

17 The crux of Defendant's argument is because the cards were separated into an expired  
18 set (found in a purse around Defendant's neck) and an unexpired set (found underneath the  
19 car where Defendant had an altercation with the security officer), it must follow that Defendant  
20 did not have the requisite intent for the expired cards found in the purse. While the State did  
21 point out this separation of cards, it by no means meant that Defendant had no intent to  
22 circulate, use, sell or transfer the expired cards. Defendant separated the cards into the  
23 unexpired and expired sets, yet still retained all of the cards. The fact that Defendant held onto  
24 the expired cards is pertinent evidence that the jury could rely on in inferring intent, especially  
25 coupled with the fact that the unexpired cards were together in the purse hanging around  
26 Defendant's neck—a place of safekeeping. When confronted by a security officer, Defendant  
27 flees the scene and uses force in order to facilitate an escape. While the jury themselves cannot  
28 get into Defendant's mind, viewing all of the evidence as a whole, a rational trier of fact could

1 have found that Defendant possessed the requisite intent.

2 While the expired cards might not have been as readily usable, they still contained  
3 account information. The definition of a credit or debit card for purposes of NRS 205.690  
4 includes "without limitation, the number or other identifying physical or electronic description  
5 of a debit card." NRS 205.690 (5). When viewing the evidence, the expired cards still had  
6 visible numbers on them that one could use with an intent to defraud.

7 The jury also had the ability to presume intent in this case. NRS 205.690 (3) allows  
8 the jury to presume Defendant possessed the cards with the requisite intent when more than  
9 two cards are possessed.

10 A person who has in his or her possession or under his or her control two or  
11 more credit cards or debit cards issued in the name of another person is  
12 presumed to have obtained and to possess the credit cards or debit cards with  
13 the knowledge that they have been stolen and with the intent to circulate, use,  
sell or transfer them with the intent to defraud.

14 NRS 205.690(3). The jury had this avenue available to them when deciding the matter at  
15 hand. Either the jury found the sorting of all of the cards persuasive, they relied on the  
16 presumption, or a combination of the two different theories. The jury need not be unanimous  
17 on the means or the theory of criminal liability in arriving at their verdict. Walker v. State,  
18 944 P.2d 762 (1997); Evans v. State, 113 Nev. 885, 944 P.2d 253, 258-260 (1997).

19 Defense argued to the jury that Defendant could not have had any intent to use these  
20 cards because some of the cards were expired. This jury-rejected position cannot then be used  
21 to form the basis of Judgment of Acquittal.

22 Defendant has cited NRS 176.515 as a basis for the granting of a new trial; however,  
23 that statute is limited where a new trial is "required as a matter of law or on the ground of  
24 newly discovered evidence." Defendant has not alleged newly discovered evidence, nor any  
25 of the attenuating requirements for a new trial based upon such ground. Therefore, the  
26 granting of a motion for new trial cannot be had under NRS 176.515 on that basis.

27 ///

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1 CONCLUSION

2 For the foregoing reasons, Defendant's Motion for Judgment of Acquittal  
3 Notwithstanding the Verdict, or, in the Alternative, for a New Trial should be denied.

4 DATED this 7<sup>th</sup> day of April, 2016.

5 Respectfully submitted,

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

9 BY

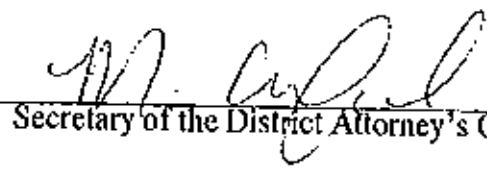
10   
11 JOANT T. JONES, JR.  
12 Deputy District Attorney  
13 Nevada Bar #009598

14 CERTIFICATE OF FACSIMILE TRANSMISSION

15 I hereby certify that service of State's Opposition to Defendant's Motion for Judgment  
16 of Acquittal Notwithstanding the Verdict, or, in the Alternative, for a New Trial, was made  
17 this 7<sup>th</sup> day of April, 2016, by facsimile/electronic transmission to:

18 TYLER GASTON, Deputy Public Defender  
19 (702)366-1177

20 BY:

21   
22 Secretary of the District Attorney's Office  
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DISTRICT COURT  
CLARK COUNTY, NEVADA

C-15-310000-1

MC  
PP  
DA  
AOR-  
PD

STATE OF NEVADA

Plaintiff,

vs.

Sayed B. Sayed Zada

Defendant

Case No.:

15F14345X

Dept. No.:

XIX-19

Docket No.:

07/18/2016

8:30 AM

Electronically Filed

06/23/2016 10:37:53 AM

*Ann L. Shuman*

CLERK OF THE COURT

- Motion to Dismiss Appointed Counsel -

And

- Motion to Dismiss Criminal Complaint -

And

Over turn Conviction

Comes now, The Defendant Sayed B Sayed Zada,  
moves This Honorable Court to Dismiss counsel  
TYLER Gaston and to Allow Defendants private Counsel  
and private Law firms to Defend Said Defendant  
adequately and Constitutionally and properly.  
This motion is Based upon all papers, Pleadings  
and all documents on file.

factual Statements are Set forth in The Points  
AND Authorities contained Therein.

Dated This 14th day of June, 2016  
Points And Authorities

RECEIVED

JUN 22 2016

CLERK OF THE COURT

CLERK OF THE COURT

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1 It is respectfully requested of this court to grant This  
2 motion to dismissal Appointed counsel to Dismiss Hole  
3 Criminal Complaint And Over turn Conviction for The  
4 reasons Listed Below:

5 I. PROCEDURAL Background And factual  
6 Summary.

7 Since TYLER GASTON was appointed as counsel  
8 on Sep 23<sup>rd</sup> 2015, The defendant Sayed B Sayedzadeh  
9 Has been prejudiced and Had His fifth, Sixth, Fourteenth,  
10 and Various other United States Constitution amendment  
11 Rights violated and suffered manifest injustice based on  
12 counsels refusal, Disregard and failure to:

13  
14 Some main facts How Various Amendments of mine  
15 were violated Due to Having ineffective Appointed counsel  
16 #1 Counsel was ineffective By failing to conduct a Thorough  
17 Pretrial investigation counsel never sent out a private investigator  
18 to contact, to investigate, and to interview The Area of Crime,  
19 Scene, The witness, and The Alleged victims nor did counsel Himself  
20 #2: Appointed counsel was ineffective for failing to pursue and  
21 investigate petitioner theory of defence  
22 #3 counsel was ineffective by failing to Adequately Prepare  
23 direct examination and cross examination of all witnesses  
24 in fact Appointed counsel never provided said Defendant  
25 with Prelim transcripts witch Prelim took place 10-12-15



- 1 Said defendant Received preim transcripts after main trial was over  
2 on the date of post conviction court date witch was 7 months  
3 after preim Right Befor sentencing date witch was 6-08-16  
4 #4. Appointed council was ineffective due to never giving said defendant  
5 Discovery of Hole Case what so ever even tell this date  
6 #5. Council was ineffective by failing to investigate and/or  
7 requesting/obtain/receiving copies of Corry newtons personal  
8 company Reports that he filed with The said company/  
9 Agenice that he is Employed by  
10 #6. Appointed council was ineffective by failing to move  
11 for mistrial based upon The jury Seeing The petitioner  
12 in Handcuffs.  
13 #7. Appointed trial council TYLER Gaston failed to Adequately  
14 investigate and prepare for trial in all Aspects discovery, transcripts,  
15 interviewing witness, investigating witness, and locating witness  
16 and Subpeonaing witness to court on my behalf.  
17 #8. trial council failed to adequately prepare to present  
18 a defence theory on Lesser included offenses  
19 #9. Appointed council failed to investigate a motive for false  
20 accusations by Alledged victim.  
21 #10 Trial council failed to move for dismissal of the Hole  
22 complaint on The basis of The double Jeopardy Clause  
23 of The fifth And fourteenth Amendenment of the  
24 united states constitution  
25 #11. Trial council failed to conduct any pretrial And

1 Trial investigation and pursue evidence and witnesses  
2 in support of Petitioner theory of defence  
3 #12 All allegations of ineffective assistance contained  
4 in this ground cannot reasonably be presumed to be the  
5 result of any tactical or strategic choice within the range  
6 of reasonable attorney competence. Rather the defects were  
7 the result of appointed counsels, lack of preparation,  
8 experience knowledge and skill. Cumulative and singularly,  
9 counsels failings resulted in prejudice to petitioner.  
10 Specifically, the errors alleged in this ground deprived  
11 petitioner of a fair trial complete with a adequately  
12 and constitutionally reliable outcome  
13 EXHIBIT #1. COPY OF VISITATION ACTIVITY REPORT  
14 EXHIBIT #2. CERTIFIED COPY OF FRONT PAGE OF TRANSCRIPT  
15 EXHIBIT #3. COPY OF DEFINITIONS OF CREDIT AND DEBIT CARDS  
16 AND SENTENCE STRUCTURE AND NRS FOR CHARGES  
17 EXHIBIT #4 THE DEFINITIONS OF DOUBLE JEOPARDY CLAUSE

## 18 II. ARGUMENT

19 Defendant Sayed B Sayedzada, asserts he is being  
20 denied his right to effective representation due to wholly  
21 inadequate actions of his court-appointed counsel. Further  
22 counsels actions constitutes a violation of the defendant's  
23 due process rights.

24 Defendant has an unqualified right legal assistance  
25 that expresses loyalty to said defendant. the right to



330 American Union  
Las Vegas NV 89101

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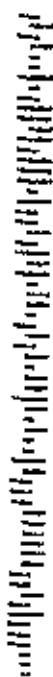
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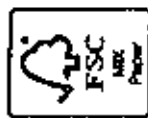
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ADD Lewis Ave  
Las Vegas NV 89101

63101-630000

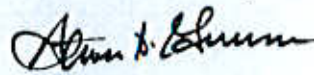


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SENT FROM CDC

  
CLERK OF THE COURT

1 **OPPM**  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 JOHN T. JONES, JR.  
6 Chief Deputy District Attorney  
7 Nevada Bar #9598  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 SAYEDBASHE SAYEDZADA,  
13 #1690765

14 Defendant.

CASE NO: C-15-310000-1

DEPT NO: XIX

15 **STATE'S OPPOSITION TO DEFENDANT'S MOTION TO DISMISS APPOINTED**  
16 **COUNSEL AND MOTION TO DISMISS CRIMINAL COMPLAINT AND**  
17 **OVERTURN CONVICTION**

18 DATE OF HEARING: JULY 18, 2016  
19 TIME OF HEARING: 8:30 AM

20 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County  
21 District Attorney, through JOHN T. JONES, JR., Chief Deputy District Attorney, and hereby  
22 submits the attached Points and Authorities in Opposition to Defendant's Motion to Dismiss  
23 Appointed Counsel and Motion to Dismiss Criminal Complaint and Overturn Conviction.

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

27 //

28 //



1 POINTS AND AUTHORITIES

2 STATEMENT OF THE CASE

3 On September 25, 2015, a Criminal Complaint was filed against Sayedbashe Sayedzada  
4 (hereinafter "Defendant") charging him with thirteen (13) counts of Possession of Credit or  
5 Debit Card Without Cardholder's Consent. On September 28, 2015, Defendant was arraigned  
6 on those charges and the Public Defender was appointed to represent Defendant. A  
7 preliminary hearing was held on October 12, 2015. At the conclusion of the preliminary  
8 hearing, Justice of the Peace Debra Lippis bound Defendant over on all thirteen counts.  
9 On March 22, 2016, a jury trial commenced. On March 23, 2016, the jury found the Defendant  
10 guilty on all counts. Rendition of Sentence was set on June 8, 2016.

11 Prior to Sentencing, Public Defender Tyler Gaston filed a Motion for Judgment of  
12 Acquittal notwithstanding the Verdict, Or, In the Alternative, For a New Trial. On April 11,  
13 2016, this Court denied the motion.

14 On June 23, 2016, Defendant, who is currently represented by counsel, Public Defender  
15 Tyler Gaston, filed the instant motion seeking to dismiss Mr. Gaston and requesting a new  
16 trial on the basis of Mr. Gaston's purported ineffective assistance. The State's opposition  
17 follows.

18 I. THE DEFENDANT'S MOTION IS A FUGITIVE DOCUMENT

19 Defendant was represented by counsel when he filed the instant motion, and thus, the  
20 motion is a fugitive document per EJD CR 7.40(a), which states:

21 When a party has appeared by counsel, the party cannot thereafter appear on the  
22 party's own behalf in the case without the consent of the court. Counsel who has  
23 appeared for any party must represent that party in the case and shall be  
24 recognized by the court and by all parties as having control of the case. The court  
in its discretion may hear a party in open court although the party is represented  
by counsel.

25 Defense counsel Tyler Gaston was appointed on September 28, 2015. Currently, Defendant is  
26 still represented by Mr. Gaston, notwithstanding Defendant's pending motion, when he filed  
27 the instant document, which should not have been filed but rather "marked with the date  
28



1 received and a copy forwarded to that attorney for such consideration as counsel deems  
2 appropriate." EJD CR 3.70.

3 Because this is a fugitive document, it should be dismissed.

4 **II. DEFENDANT'S MOTION FOR A NEW TRIAL MUST BE DISMISSED**  
5 **PURSUANT TO NRS 176.515**

6 In Defendant's motion, he requests a new trial on the grounds of effective assistance of  
7 counsel. However, Defendant is precluded from bringing such a motion.

8 NRS 176.515 states:

- 9 1. The court may grant a new trial to a defendant if required as a matter of law  
or on the ground of newly discovered evidence.
- 10 2. If trial was by the court without a jury the court may vacate the judgment if  
entered, take additional testimony and direct the entry of a new judgment.
- 11 3. A motion for a new trial based on the ground of newly discovered evidence  
may be made only within 2 years after the verdict or finding of guilt.
- 12 4. A motion for a new trial based on any other grounds must be made within 7  
days after verdict or finding of guilt or within such further time as the court may  
13 fix during the 7-day period.

14 Defendant is asking this court for a new trial on twelve separate allegations that trial  
15 counsel was ineffective during trial. These allegations do not meet the requirements for a new  
16 trial under NRS 176.515. If Defendant wishes to allege ineffective assistance of counsel and  
17 receive an evidentiary hearing to determine whether counsel was ineffective, he must do so in  
18 a petition for Writ of Habeas Corpus under NRS 34.720.

19 Defendant has already timely filed a Motion for a New Trial that was adjudicated by  
20 this court. As this motion does not allege newly discovered evidence, and was not filed within  
21 7 days after trial, it is barred by NRS 176.515.

22 Based on the forgoing, Defendant has failed to meet the requirements and time  
23 provisions of NRS 176.515, and this Court should dismiss any motion for a new trial by  
24 Defendant. See Snow v. State, 105 Nev. 521, 779 P.2d 96 (1989).

25 //

26 //

27 //

28 //

1 CONCLUSION

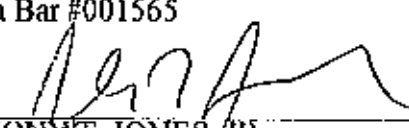
2 Wherefore, the State respectfully requests that Defendant's Motion to Dismiss  
3 Appointed Counsel and Motion to Dismiss Criminal Complaint and Overturn Conviction be  
4 DISMISSED.

5 DATED this 14 day of July, 2016.

6 Respectfully submitted,

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

10 BY

  
11 JOHN T. JONES, JR.  
12 Chief Deputy District Attorney  
13 Nevada Bar #9598

14 CERTIFICATE OF ELECTRONIC FILING

15 I hereby certify that service of State's Opposition to Defendant's Motion to Dismiss  
16 Appointed Counsel and Motion to Dismiss Criminal Complaint and Overturn Conviction, was  
17 made this 14th day of July, 2016, by Electronic Filing to:

18 TYLER GASTON, Deputy Public Defender  
19 Email: [Tyler.Gaston@clarkcountynv.gov](mailto:Tyler.Gaston@clarkcountynv.gov)

20   
21 Secretary for the District Attorney's Office

22  
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DISTRICT COURT  
CLARK COUNTY, NEVADA

STATE OF NEVADA

Plaintiff,

vs.

Sayed B Sayedzada

Defendant

C.310600  
Warrant  
Case No.: #3609485  
Dept. No.: Municipal Court  
Docket No.: \_\_\_\_\_

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CLERK OF THE COURT

HEARING: 09/14/2016  
TIME: 8:30 AM

- motion to Run Time Concurrent -

Comes now that the defendant Sayed B Sayedzada moves  
This Court to grant this Alfred/nolo plea to the charges  
of petty larceny warrant #3609485 and to grant this motion  
to Run Time Concurrent.

This motion is based upon all papers, pleadings,  
documents of file.  
factual statements are set forth in the points and authorities  
contained therein.

Dated This 13th day of August 2016

point and authorities

I. PROCEDURAL Background And factual Summary  
Since Sayed B Sayedzada has been in the custody of Clark  
County Detention he was unable to appear to answer to  
the charge of petty larceny which turned to a warrant

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CLERK OF THE COURT

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1 Warrant # 3609485 Date unknown.

2 II: ARGUMENT

3 Since defendant Sayed B Sayedzadeh has been in the custody  
4 of Clark County Detention Center since September 23  
5 2015 That said defendant had no knowledge of this case  
6 or this case turning into a warrant never the less the  
7 said defendant wishes to plead Alfred/nolo to one count  
8 of Petty Larceny and Requests this court to close this  
9 case and Run case concurrent with the 10 month sentence  
10 that the said defendant has served and is still in custody  
11 of Clark County Detention Center and still serving.

12  
13 where The undersigned prays that this  
14 Court grants this motion to Run Time concurrent with  
15 the County time and close this case out,

16 DATED THIS 13th day of August, 2016.

17 I, Sayed B SayedZadeh, do

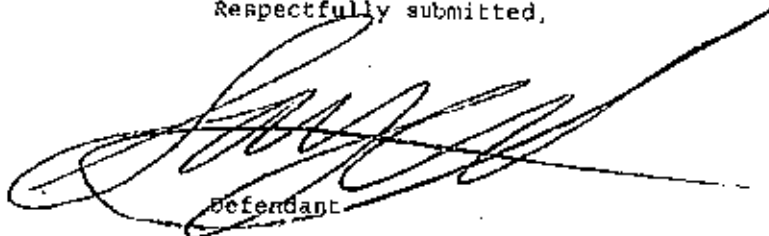
18 solemnly swear, under the penalty of perjury, that

19 the above motion is accurate,

20 correct, and true to the best of my knowledge.

21 NRS 171.102 and NRS 208.165.

22 Respectfully submitted,

23  
24  
25   
Defendant

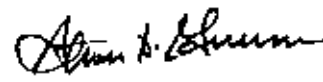
Sayed B Sayed Zada #11690165  
330 S Casino Center Blvd  
Las Vegas, NV 89101

94

Clerk of The Court  
200 Lewis Avenue, 3rd floor  
Las Vegas NV 89155



SENT FROM CCDC



CLERK OF THE COURT

MEMO  
JOHN GEORGE, ESQ.  
Nevada Bar No.: 12380  
Law Office of John George  
600 S. 8<sup>th</sup> Street  
Las Vegas, NV 89101  
Phone: (702) 382-1200  
Fax: (702) 446-1577  
Attorney for SAYEDBASHE SAYEDZADA

EIGHTH JUDICIAL DISTRICT COURT  
CLARK COUNTY, NEVADA

STATE OF NEVADA	)	
	)	
Plaintiff	)	CASE NO.: C-15-310000-1
	)	DEPT NO.: XIX
vs.	)	
	)	DATE OF HEARING: 9/10/2016
SAYEDBASHE SAYEDZADA	)	TIME OF HEARING: 8:30 A.M.
	)	
Defendant	)	

SENTENCING MEMORANDUM

COMES NOW, SAYEDBASHE SAYEDZADA Defendant herein, by and through his attorney,  
JOHN G. GEORGE, ESQ., of the Law Offices of John George and respectfully submits  
Defendant's Sentencing Memorandum for the Court's consideration in the sentencing of Mr.  
SAYEDZADA.

1. BACKGROUND

On September 23, 2014, SAYEDBASHE SAYEDZADA was arrested and charged with  
thirteen counts of Possession of Credit or Debit Card Without Cardholder's Consent. Mr.  
Sayedzada was appointed an attorney through the Clark County Public Defender's office and a

1 preliminary hearing was held wherein the number of credit cards and the corresponding number  
2 of charges was an issue. That issue remained throughout the disposition of this matter. Although  
3 Defendant Sayedzada has been convicted for possession of thirteen (13) credit cards, the actual  
4 number of the credit cards involved in this matter appears to remain somewhat ambiguous.

5 Defendant Sayedzada refused a plea in this matter because he is committed to his  
6 innocence. As a consequence of that refusal, his matter was taken to trial. A PSI was prepared  
7 by the Department of Public Safety Division of Parole and Probation on May 13, 2016 wherein a  
8 recommendation was made that all of his convictions be run concurrent with each other. The  
9 recommended sentence is 12 to 34 months. Defendant Sayedzada humbly requests that this  
10 recommendation be followed and that all convictions run concurrent.

#### 11 SAYEDBASHE SAYEDZADA'S BEHAVIOR

12 Defendant Sayedzada has responded to the processes involved in the trial of this matter  
13 with bewilderment and dismay. As a consequence of his reaction to his experiences throughout  
14 this matter, Defendant Sayedzada is furiously pursuing a background in the law so that he can  
15 gain a deeper understanding regarding the events that have transpired and that have manifested in  
16 his sentencing for these charges. It is this response that provides the most significant insight into  
17 Defendant Sayedzada as a person.

18 Instead of reacting to his convictions with resentment, anger, aggression, and/or negative  
19 behavioral manifestations, Defendant Sayedzada is spending all of his time educating himself  
20 about the law. He is taking perhaps the worst, and potentially most destructive experience of his  
21 life, and using it as an opportunity to better himself. Although he did not have the opportunity to  
22 finish high school (he was only able to complete the 11<sup>th</sup> grade), he is actively and voraciously  
23 pursuing a deep understanding of the law. In that pursuit, Defendant Sayedzada will not be able

1 to help by improve who he is as a human being.

2 Defendant Saydhashe spends all the time that he possibly can in the law library  
3 researching the law. This pursuit has provided the substantive content of his dialogue with  
4 present counsel. Defendant Sayedzada's passion for learning about the law is so fundamentally  
5 defining for him at this time that it has been difficult for present counsel to provoke Defendant  
6 Saydada's participation in the preparation of this memorandum. Demonstratively, he has  
7 requested of his current counsel that counsel provide him with copies of 54 separate cases, and  
8 the list continues to grow on a daily basis.

9  
10 Counsel's many interviews with Defendant Sayedzada reveal him to be a hyper-focused  
11 and motivated individual with a fierce sense of independence and a refusal to rely on other  
12 human beings. Although Defendant Sayedzada has family members available to him for support,  
13 he is unwilling to rely on them for that support because he is unwilling to be a burden to his  
14 loved ones. Consequently, counsel is unable to provide the traditional letters of support by loved  
15 ones. Although this trait is admirable, it renders Defendant Sayedzada the appearance of a lonely  
16 and solitary figure, although he denies this to be the case.


17  
18 Defendant Sayedzada is a creative and entrepreneurial person. His involvement with  
19 local businesses reflect and demand these qualities. For example, he had a partial ownership  
20 interest in a local nightclub. He was working on a number of trademarks and patents that he was  
21 developing by himself when he was arrested. He looks forward to completing his sentence for  
22 the crimes for which he is convicted, so that he can again participate in those activities.

## 23 CONCLUSION

24 Defendant Sayedzada has learned from this experience of going to trial and being  
25 convicted for his crimes. His life has been transformed in that he is vigilantly improving his

1 education, and plans to continue to do so in an effort to gain a deeper understanding of how his  
2 actions have resulted in his present situation. This is a responsible, healthy and contrite response  
3 to his convictions. Because Defendant Sayedzada has displayed such a productive and positive  
4 response to his circumstances, he has demonstrated to this court a reason for limiting his  
5 punishment to the minimum penalty: all of his convictions should run concurrent with each  
6 other.  
7

8 DATED this 7<sup>th</sup> day of October, 2016 More

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JOHN GEORGE, ESQ  
Nevada Bar No.: 12380  
Law Office of John George  
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Las Vegas, NV 89101  
Phone: (702) 382-1200  
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*Attorney for SAYEDBASHE SAYEDZADA*

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No. 71731

VS.

Respondent.

PHILIP J. KOHN  
Clark County Public Defender  
309 South Third Street  
Las Vegas, Nevada 89155-2610

STEVEN B. WOLFSON  
Clark County District Attorney  
200 Lewis Avenue, 3<sup>rd</sup> Floor  
Las Vegas, Nevada 89155

ADAM LAXALT  
Attorney General  
100 North Carson Street  
Carson City, Nevada 89701-4717  
(702) 687-3538

## CERTIFICATE OF SERVICE

ADAM LAXALT  
STEVEN S. OWENS

DEBORAH L. WESTBROOK  
HOWARD S. BROOKS

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

SAYEDBASHE SAYEDZADA  
NDOC # 79356  
c/o SO. DESERT CORR. CTR.  
PO Box 208  
Indian Springs, NV 89018

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

1                                    **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2  
3        SAYEDBASHE SAYEDZADA,                                    )        No. 71731

4                                    Appellant,                                    )

5                                    v.                                    )

6                                    )  
7        THE STATE OF NEVADA,                                    )

8                                    Respondent.                                    )  
9        \_\_\_\_\_ )

Electronically Filed  
May 24 2017 02:08 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

10                                    **APPELLANT'S APPENDIX – VOL I – PAGES 001-249**

11        PHILIP J. KOHN  
12        Clark County Public Defender  
13        309 South Third Street  
14        Las Vegas, Nevada 89155-2610

15        Attorney for Appellant

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Clark County District Attorney  
200 Lewis Avenue, 3<sup>rd</sup> Floor  
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(702) 687-3538

Counsel for Respondent

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**Case No. 71731**

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2	Sentencing (Continued)	
3	Date of Hrg: 09/19/16.....	690-692
4	Recorder's Transcript	
5	Sentencing	
6	Date of Hrg: 10/10/16.....	693-698
7	Recorder's Transcript	
8	Status Check: New Counsel/ Sentencing Date	
9	Date of Hrg: 07/25/16.....	676-682
10	Reporter's Transcript	
11	Defendant's Motion for Own Recognizance Release, or, in	
12	The Alternative, for Setting Of Reasonable Bail	
13	Date of Hrg: 11/10/15.....	279-288
14	Reporter's Transcript	
15	Preliminary Hearing	
16	Date of Hrg: 10/12/15.....	25-140
17	Reporter's Transcript	
18	Proceedings	
19	Date of Hrg: 03/15/16.....	289-309
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FILED  
JUSTICE COURT, LAS VEGAS TOWNSHIP  
CLARK COUNTY, NEVADA  
SEP 25 12 06 PM '15

THE STATE OF NEVADA  
Plaintiff,

-vs-

SAYEDBASHE SAYEDZADA  
#1690765,

Defendant.

CASE NO: 15F14345X

DEPT NO: 1

CRIMINAL COMPLAINT

The Defendant above named having committed the crime of POSSESSION OF CREDIT OR DEBIT CARD WITHOUT CARDHOLDER'S CONSENT (Category D Felony - NRS 205.690 - NOC 50790), in the manner following, to-wit: That the said Defendant, on or about the 23rd day of September, 2015, at and within the County of Clark, State of Nevada,

COUNT 1

did willfully, unlawfully, and feloniously, have in his possession, without the consent of the cardholder, a credit or debit card, to-wit: a MasterCard, bearing Credit Card No. ending in 9977, issued in the name of JAMIE BLACK, with intent to circulate, use, sell, or transfer said card, with intent to defraud the cardholder and/or the issuer of said credit or debit card.

COUNT 2

did willfully, unlawfully, and feloniously, have in his possession, without the consent of the cardholder, a credit or debit card, to-wit: a VISA, bearing Credit Card No. ending in 0849, issued in the name of JAMIE BLACK, with intent to circulate, use, sell, or transfer said card, with intent to defraud the cardholder and/or the issuer of said credit or debit card.

COUNT 3

did willfully, unlawfully, and feloniously, have in his possession, without the consent of the cardholder, a credit or debit card, to-wit: a VISA, bearing Credit Card No. ending in 2877, issued in the name of JAMIE BLACK, with intent to circulate, use, sell, or transfer said card, with intent to defraud the cardholder and/or the issuer of said credit or debit card.

/// 15F14345X  
CRM  
Criminal Complaint  
6572771



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1 COUNT 4

2 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
3 of the cardholder, a credit or debit card, to-wit: a VISA, bearing Credit Card No. ending in  
4 9153, issued in the name of JAMIE BLACK, with intent to circulate, use, sell, or transfer said  
5 card, with intent to defraud the cardholder and/or the issuer of said credit or debit card.

6 COUNT 5

7 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
8 of the cardholder, a credit or debit card, to-wit: a VISA, bearing Credit Card No. ending in  
9 4967, issued in the name of JAMIE BLACK, with intent to circulate, use, sell, or transfer said  
10 card, with intent to defraud the cardholder and/or the issuer of said credit or debit card.

11 COUNT 6

12 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
13 of the cardholder, a credit or debit card, to-wit: a VISA, bearing Credit Card No. ending in  
14 0204, issued in the name of JAMIE BLACK, with intent to circulate, use, sell, or transfer said  
15 card, with intent to defraud the cardholder and/or the issuer of said credit or debit card.

16 COUNT 7

17 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
18 of the cardholder, a credit or debit card, to-wit: a VISA, bearing Credit Card No. ending in  
19 1117, issued in the name of JAMIE BLACK, with intent to circulate, use, sell, or transfer said  
20 card, with intent to defraud the cardholder and/or the issuer of said credit or debit card.

21 COUNT 8

22 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
23 of the cardholder, a credit or debit card, to-wit: a VISA, bearing Credit Card No. ending in  
24 6609, issued in the name of JAMIE BLACK, with intent to circulate, use, sell, or transfer said  
25 card, with intent to defraud the cardholder and/or the issuer of said credit or debit card.

26 COUNT 9

27 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
28 of the cardholder, a credit or debit card, to-wit: a VISA, bearing Credit Card No. ending in

1 1025, issued in the name of JAMIE BLACK, with intent to circulate, use, sell, or transfer said  
2 card, with intent to defraud the cardholder and/or the issuer of said credit or debit card.

3 COUNT 10

4 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
5 of the cardholder, a credit or debit card, to-wit: a VISA, bearing Credit Card No. ending in  
6 1026, issued in the name of JAMIE BLACK, with intent to circulate, use, sell, or transfer said  
7 card, with intent to defraud the cardholder and/or the issuer of said credit or debit card.

8 COUNT 11

9 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
10 of the cardholder, a credit or debit card, to-wit: a Best Buy Credit Card, bearing Credit Card  
11 No. ending in 7849, issued in the name of JAMIE BLACK, with intent to circulate, use, sell,  
12 or transfer said card, with intent to defraud the cardholder and/or the issuer of said credit or  
13 debit card.

14 COUNT 12

15 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
16 of the cardholder, a credit or debit card, to-wit: an MasterCard, bearing Credit Card No. ending  
17 in 1651, issued in the name of JAMIE BLACK, with intent to circulate, use, sell, or transfer  
18 said card, with intent to defraud the cardholder and/or the issuer of said credit or debit card.

19 COUNT 13

20 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
21 of the cardholder, a credit or debit card, to-wit: an AMEX, bearing Credit Card No. ending in  
22 2006, issued in the name of JAMIE BLACK, with intent to circulate, use, sell, or transfer said  
23 card, with intent to defraud the cardholder and/or the issuer of said credit or debit card.

24 ///

25 ///

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

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FILED  
JUSTICE COURT, LAS VEGAS TOWNSHIP  
CLARK COUNTY, NEVADA

SEP 30 2 13 PM '15

THE STATE OF NEVADA,

Plaintiff,

-vs-

SAYEDBASHE SAYEDZADA,  
#1690765

Defendant.

CASE NO: 15F14345X

DEPT NO: 1

NOTICE TO PLACE ON CALENDAR

Upon the application of STEVEN B. WOLFSON, Clark County District Attorney, it is hereby requested that the above entitled matter be placed on the arraignment calendar on the 6TH day of OCTOBER, 2015, at 7:30 o'clock A.M. for the purpose of amending the criminal complaint.

DATED this \_\_\_\_ day of September, 2015.

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

BY

*Michael Dickerson*  
MICHAEL DICKERSON  
Deputy District Attorney

*[Signature]*  
CLERK OF THE COURT

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that service of Notice To Place On Calendar, was made this 30TH day of September, 2015, by facsimile transmission to:

PUBLIC DEFENDER  
702-366-1177

BY:

*Randi Tobman*  
RANDI TOBMAN  
DA Team Clerk for the District Attorney's  
Office

rt/L4

15F14345X  
NOTICE  
Notice To Place on Calendar  
6581613



DOCUMENT 2

ORIGINAL

FILED IN OPEN COURT  
DATE: 10-6-15  
CLERK: [Signature]

JUSTICE COURT, LAS VEGAS TOWNSHIP  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

SAYEDBASHE SAYEDZADA  
#1690765,

Defendant.

CASE NO: 15F14345X

DEPT NO: 1

AMENDED

CRIMINAL COMPLAINT

The Defendant above named having committed the crime of POSSESSION OF CREDIT OR DEBIT CARD WITHOUT CARDHOLDER'S CONSENT (Category D Felony - NRS 205.690 - NOC 50790), in the manner following, to-wit: That the said Defendant, on or about the 23rd day of September, 2015, at and within the County of Clark, State of Nevada,

COUNT 1

did willfully, unlawfully, and feloniously, have in his possession, without the consent of the cardholder, a credit or debit card, to-wit: a MasterCard, bearing credit card number ending in 9977, issued in the name of JAMIE BLACK, with intent to circulate, use, sell, or transfer said card, with intent to defraud the cardholder and/or the issuer of said credit or debit card.

COUNT 2

did willfully, unlawfully, and feloniously, have in his possession, without the consent of the cardholder, a credit or debit card, to-wit: a VISA card, bearing credit card number ending in 0849, issued in the name of JAMIE BLACK, with intent to circulate, use, sell, or transfer said card, with intent to defraud the cardholder and/or the issuer of said credit or debit card.

COUNT 3

did willfully, unlawfully, and feloniously, have in his possession, without the consent of the cardholder, a credit or debit card, to-wit: a VISA card, bearing credit card number ending in 2877, issued in the name of JAMIE BLACK, with intent to circulate, use, sell, or

15F14345X  
ACRM  
Amended Criminal Complaint  
6610310



1 transfer said card, with intent to defraud the cardholder and/or the issuer of said credit or debit  
2 card.

3 COUNT 4

4 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
5 of the cardholder, a credit or debit card, to-wit: a VISA card, bearing credit card number  
6 ending in 9153, issued in the name of JAMIE BLACK, with intent to circulate, use, sell, or  
7 transfer said card, with intent to defraud the cardholder and/or the issuer of said credit or debit  
8 card.

9 COUNT 5

10 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
11 of the cardholder, a credit or debit card, to-wit: a VISA card, bearing credit card number  
12 ending in 4967, issued in the name of JAMIE BLACK and/or LORI BLACK, with intent to  
13 circulate, use, sell, or transfer said card, with intent to defraud the cardholder and/or the issuer  
14 of said credit or debit card.

15 COUNT 6

16 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
17 of the cardholder, a credit or debit card, to-wit: a VISA card, bearing credit card number  
18 ending in 0204, issued in the name of JAMIE BLACK and/or MICHAEL BLACK, with intent  
19 to circulate, use, sell, or transfer said card, with intent to defraud the cardholder and/or the  
20 issuer of said credit or debit card.

21 COUNT 7

22 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
23 of the cardholder, a credit or debit card, to-wit: a VISA card, bearing credit card number  
24 ending in 1117, issued in the name of JAMIE BLACK, with intent to circulate, use, sell, or  
25 transfer said card, with intent to defraud the cardholder and/or the issuer of said credit or debit  
26 card.

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1 COUNT 8

2 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
3 of the cardholder, a credit or debit card, to-wit: a VISA card, bearing credit card number  
4 ending in 6609, issued in the name of JAMIE BLACK, with intent to circulate, use, sell, or  
5 transfer said card, with intent to defraud the cardholder and/or the issuer of said credit or debit  
6 card.

7 COUNT 9

8 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
9 of the cardholder, a credit or debit card, to-wit: a VISA and/or an AMEX card, bearing credit  
10 card number ending in 1025, issued in the name of JAMIE BLACK, with intent to circulate,  
11 use, sell, or transfer said card, with intent to defraud the cardholder and/or the issuer of said  
12 credit or debit card.

13 COUNT 10

14 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
15 of the cardholder, a credit or debit card, to-wit: a VISA card, bearing credit card number  
16 ending in 1026, issued in the name of JAMIE BLACK, with intent to circulate, use, sell, or  
17 transfer said card, with intent to defraud the cardholder and/or the issuer of said credit or debit  
18 card.

19 COUNT 11

20 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
21 of the cardholder, a credit or debit card, to-wit: a Best Buy Credit Card and/or a MasterCard,  
22 bearing credit card number ending in 7849, issued in the name of JAMIE BLACK, with intent  
23 to circulate, use, sell, or transfer said card, with intent to defraud the cardholder and/or the  
24 issuer of said credit or debit card.

25 COUNT 12

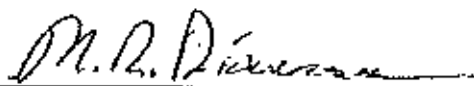
26 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
27 of the cardholder, a credit or debit card, to-wit: a MasterCard, bearing credit card number  
28 ending in 1651, issued in the name of JAMIE BLACK, with intent to circulate, use, sell, or

1 transfer said card, with intent to defraud the cardholder and/or the issuer of said credit or debit  
2 card.

3 COUNT 13

4 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
5 of the cardholder, a credit or debit card, to-wit: an AMEX card, bearing credit card number  
6 ending in 2006, issued in the name of JAMIE BLACK and/or LORI BLACK, with intent to  
7 circulate, use, sell, or transfer said card, with intent to defraud the cardholder and/or the issuer  
8 of said credit or debit card.

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

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28 LVMPD EV# 1509230862  
(TK1)



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

**Court Minutes**



**15F14345X State of Nevada vs. SAYEDZADA, SAYEDBASHE**

**9/25/2015 7:20:00 AM 48 Hour Probable Cause Review**

**Result: Signing Completed**

**PARTIES  
PRESENT:**

**Judge:** Lippl, Deborah J.

**PROCEEDINGS**

**Hearings:** 9/28/2015 7:30:00 AM: 72 Hour Hearing

**Added**

**Events:** Probable Cause Found

**Bail Stands**

**Counts: 001; 002; 003; 004; 005; 006; 007; 008; 009; 010; 011; 012; 013**

**Probable Cause Arrest Documents**

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

**Court Minutes**



**15F14345X State of Nevada vs. SAYEDZADA, SAYEDBASHE**

**Lead Atty: Public Defender**

**9/28/2015 7:30:00 AM Initial Appearance (In custody)**

**Result: Matter Heard**

<b>PARTIES PRESENT:</b>	State of Nevada	State of Nevada
	Attorney	Miles, Dedree S.
	Attorney	Public Defender
	Defendant	SAYEDZADA, SAYEDBASHE

**Judge:** Pro Tempore, Judge  
**Prosecutor:** Overly, Sarah  
**Court Reporter:** McIntosh, Shawna  
**Pro Tempore:** Jansen, William D.  
**Court Clerk:** Cossio, Janet

**PROCEEDINGS**

**Hearings:** 10/12/2015 9:00:00 AM: Preliminary Hearing Added

**Events:** **Initial Appearance Completed**  
*Advised of Charges on Criminal Complaint, Waives Reading of Criminal Complaint*  
**Public Defender Appointed**  
**Comment**  
*Defendant might be hiring private counsel (D. Kang, Esq.)*  
**Motion**  
*by Defendant for bail reduction - Denied*  
**Bail Stands**  
*Counts: 001; 002; 003; 004; 005; 006; 007; 008; 009; 010; 011; 012; 013 -*

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

**Court Minutes**



**15F14345X State of Nevada vs. SAYEDZADA, SAYEDBASHE**

**Lead Atty: Public Defender**

**10/6/2015 7:30:00 AM Motion (In Custody)**

**Result: Motion Granted**

<b>PARTIES</b>	Attorney	Miles, Dedree S.
<b>PRESENT:</b>	Defendant	SAYEDZADA, SAYEDBASHE
<b>Judge:</b>	Lippls, Deborah J.	
<b>Prosecutor:</b>	Moskal, Tommy	
<b>Court Reporter:</b>	Grime, Joni	
<b>Court Clerk:</b>	Orozco, Gladys	

**PROCEEDINGS**

**Events: Motion**

*Motion by State to file amended criminal complaint - Motion Granted*

**Amended Criminal Complaint**

**Oral Motion**

*Oral Motion By Defense Counsel for bail reduction - Defense to file the appropriate motion - Motion Denied*

**Bail Stands**

*Counts: 001; 002; 003; 004; 005; 006; 007; 008; 009; 010; 011; 012; 013 -*

**Future Court Date Stands**

10/12/15 9am

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

**Court Minutes**



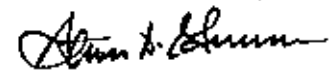
**15F14345X**      **State of Nevada vs. SAYEDZADA, SAYEDBASHE**      **Lead Atty: Public Defender**

**10/12/2015 9:00:00 AM Preliminary Hearing (In Custody)**      **Result: Bound Over**

**PARTIES**      Attorney      Gaston, Tyler  
**PRESENT:**      Defendant      SAYEDZADA, SAYEDBASHE  
  
**Judge:**      Lippis, Deborah J.  
**Prosecutor:**      Dickerson, Michael  
**Court Reporter:**      Grime, Joni  
**Court Clerk:**      Espinoza, Jose

**PROCEEDINGS**

<b>Attorneys:</b>	<b>Gaston, Tyler</b>	<b>SAYEDZADA, SAYEDBASHE</b>	<b>Added</b>
<b>Exhibits:</b>	<b>Document, Photograph, Etc. (ID: 001)</b>	<i>Credit Debit Card Photo</i>	<b>Admitted</b>
			<b>Offered</b>
	<b>Document, Photograph, Etc. (ID: 002)</b>	<i>Credit Debit Card Photo</i>	<b>Admitted</b>
			<b>Offered</b>
	<b>Document, Photograph, Etc. (ID: 003)</b>	<i>Credit Debit Card Photo</i>	<b>Admitted</b>
			<b>Offered</b>



CLERK OF THE COURT

1 INFM  
STEVEN B. WOLFSON  
2 Clark County District Attorney  
Nevada Bar #001565  
3 MICHAEL R. DICKERSON  
Deputy District Attorney  
4 Nevada Bar #013476  
200 Lewis Avenue  
5 Las Vegas, Nevada 89155-2212  
(702) 671-2500  
6 Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

7 I.A. 10/14/2015  
10:00 AM  
8 PD

9 THE STATE OF NEVADA,

10 Plaintiff,

CASE NO: C-15-310000-1

11 -vs-

DEPT NO: XX

12 SAYEDBASHE SAYEDZADA,  
#1690765

13 Defendant.  
14

INFORMATION

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

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

19 That SAYEDBASHE SAYEDZADA, the Defendant(s) above named, having  
20 committed the crime of POSSESSION OF CREDIT OR DEBIT CARD WITHOUT  
21 CARDHOLDER'S CONSENT (Category D Felony - NRS 205.690 - NOC 50790), on or  
22 about the 23rd day of September, 2015, within the County of Clark, State of Nevada, contrary  
23 to the form, force and effect of statutes in such cases made and provided, and against the peace  
24 and dignity of the State of Nevada,

25 COUNT 1

26 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
27 of the cardholder, a credit or debit card, to-wit: a MasterCard, bearing credit card number  
28 ending in 9977, issued in the name of JAMIE BLACK, with intent to circulate, use, sell, or

1 transfer said card, with intent to defraud the cardholder and/or the issuer of said credit or debit  
2 card.

3 COUNT 2

4 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
5 of the cardholder, a credit or debit card, to-wit: a VISA card, bearing credit card number  
6 ending in 0849, issued in the name of JAMIE BLACK, with intent to circulate, use, sell, or  
7 transfer said card, with intent to defraud the cardholder and/or the issuer of said credit or debit  
8 card.

9 COUNT 3

10 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
11 of the cardholder, a credit or debit card, to-wit: a VISA card, bearing credit card number  
12 ending in 2877, issued in the name of JAMIE BLACK, with intent to circulate, use, sell, or  
13 transfer said card, with intent to defraud the cardholder and/or the issuer of said credit or debit  
14 card.

15 COUNT 4

16 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
17 of the cardholder, a credit or debit card, to-wit: a VISA card, bearing credit card number  
18 ending in 9153, issued in the name of JAMIE BLACK, with intent to circulate, use, sell, or  
19 transfer said card, with intent to defraud the cardholder and/or the issuer of said credit or debit  
20 card.

21 COUNT 5

22 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
23 of the cardholder, a credit or debit card, to-wit: a VISA card, bearing credit card number  
24 ending in 4967, issued in the name of JAMIE BLACK and/or LORI BLACK, with intent to  
25 circulate, use, sell, or transfer said card, with intent to defraud the cardholder and/or the issuer  
26 of said credit or debit card.

27 ///

28 ///



1 COUNT 6

2 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
3 of the cardholder, a credit or debit card, to-wit: a VISA card, bearing credit card number  
4 ending in 0204, issued in the name of JAMIE BLACK and/or MICHAEL BLACK, with intent  
5 to circulate, use, sell, or transfer said card, with intent to defraud the cardholder and/or the  
6 issuer of said credit or debit card.

7 COUNT 7

8 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
9 of the cardholder, a credit or debit card, to-wit: a VISA card, bearing credit card number  
10 ending in 1117, issued in the name of JAMIE BLACK and/or LORI BLACK, with intent to  
11 circulate, use, sell, or transfer said card, with intent to defraud the cardholder and/or the issuer  
12 of said credit or debit card.

13 COUNT 8

14 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
15 of the cardholder, a credit or debit card, to-wit: a VISA card, bearing credit card number  
16 ending in 6609, issued in the name of JAMIE BLACK, with intent to circulate, use, sell, or  
17 transfer said card, with intent to defraud the cardholder and/or the issuer of said credit or debit  
18 card.

19 COUNT 9

20 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
21 of the cardholder, a credit or debit card, to-wit: a VISA and/or an AMEX card, bearing credit  
22 card number ending in 1025, issued in the name of JAMIE BLACK, with intent to circulate,  
23 use, sell, or transfer said card, with intent to defraud the cardholder and/or the issuer of said  
24 credit or debit card.

25 COUNT 10

26 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
27 of the cardholder, a credit or debit card, to-wit: a VISA card, bearing credit card number  
28 ending in 1026, issued in the name of JAMIE BLACK, with intent to circulate, use, sell, or

1 transfer said card, with intent to defraud the cardholder and/or the issuer of said credit or debit  
2 card.

3 COUNT 11

4 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
5 of the cardholder, a credit or debit card, to-wit: a Best Buy Credit Card and/or a MasterCard,  
6 bearing credit card number ending in 7849, issued in the name of JAMIE BLACK, with intent  
7 to circulate, use, sell, or transfer said card, with intent to defraud the cardholder and/or the  
8 issuer of said credit or debit card.

9 COUNT 12


10 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
11 of the cardholder, a credit or debit card, to-wit: a MasterCard, bearing credit card number  
12 ending in 1651, issued in the name of JAMIE BLACK, with intent to circulate, use, sell, or  
13 transfer said card, with intent to defraud the cardholder and/or the issuer of said credit or debit  
14 card.

15 COUNT 13

16 did willfully, unlawfully, and feloniously, have in his possession, without the consent  
17 of the cardholder, a credit or debit card, to-wit: an AMEX card, bearing credit card number  
18 ending in 2006, issued in the name of JAMIE BLACK and/or LORI BLACK, with intent to  
19 circulate, use, sell, or transfer said card, with intent to defraud the cardholder and/or the issuer  
20 of said credit or debit card.

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

24 BY

  
25 MICHAEL R. DICKERSON  
26 Deputy District Attorney  
27 Nevada Bar #013476

28 ///

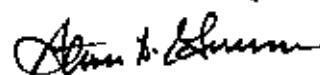
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Names of witnesses known to the District Attorney's Office at the time of filing this  
Information are as follows:

<u>NAME</u>	<u>ADDRESS</u>
BLACK, JAMIE	8321 Black Brothers Court, Las Vegas, NV
BLACK, LORI	8321 Black Brothers Court, Las Vegas, NV
BLACK, MICHAEL	8321 Black Brothers Court, Las Vegas, NV
CUSTODIAN OF RECORDS, or Designee	CCDC 330 S. Casino Center Blvd., Las Vegas, NV
CUSTODIAN OF RECORDS, or Designee	CCDC Communications 330 S. Casino Center Blvd., Las Vegas, NV
CUSTODIAN OF RECORDS, or Designee	LVMPD Communications 400 E. Stewart Ave, Las Vegas, NV
CUSTODIAN OF RECORDS, or Designee	LVMPD Records 400 E. Stewart Ave, Las Vegas, NV
NEWTON, CORY	5309 French Lavender St, Las Vegas, NV
REESE, JOEL	LVMPD P# 13665
TRAMMELL, MATT, or Designee	INVESTIGATOR C.C. DISTRICT ATTORNEY

15F14345X/mc/L4  
LVMPD EV#1509230862  
(TK1)

  
CLERK OF THE COURT

0205  
PHILIP J. KOHN, PUBLIC DEFENDER  
NEVADA BAR NO. 0556  
TYLER C. GASTON, DEPUTY PUBLIC DEFENDER  
NEVADA BAR NO. 13488  
309 South Third Street, Suite 226  
Las Vegas, Nevada 89155  
(702) 455-4685  
Attorney for Defendant

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,	)	
	)	
Plaintiff,	)	CASE NO. C-15-310000-1
	)	
v.	)	DEPT. NO. XX
	)	
SAYEDBASHE SAYEDZADA,	)	DATE: November 10, 2015
	)	
Defendant.	)	TIME: 8:30 a.m.
	)	

MOTION FOR OWN RECOGNIZANCE RELEASE, OR, IN THE ALTERNATIVE,  
FOR SETTING OF REASONABLE BAIL

COMES NOW, the Defendant, SAYEDBASHE SAYEDZADA, by and through his attorney, TYLER C GASTON, Deputy Public Defender, and moves this Honorable Court for an order releasing the Defendant from custody on his own recognizance or, in the alternative, for the setting of bail in a reasonable amount.

This Motion is based upon the attached Declaration of Counsel, any documents attached hereto, argument of Counsel and any information provided to the Court at the time set for hearing this motion.

DATED this 4th of November, 2015.

PHILIP J. KOHN  
CLARK COUNTY PUBLIC DEFENDER

By /s/ Tyler C. Gaston  
TYLER C GASTON, #13488  
Deputy Public Defender

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**DECLARATION**

TYLER C GASTON makes the following declaration:

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

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

EXECUTED this 4th day of November, 2015.

/s/ Tyler C. Gaston  
TYLER C GASTON

## ARGUMENT AND LAW

Nevada Revised Statute (NRS) 178.484 provides that any person arrested for an offense other than murder of the first degree must be admitted to bail. NRS 178.4851 provides that for an individual to be released without bail, if it appears to the court that he will appear at all times and places ordered by the court.

NRS 178.498 states that bail must be set at an amount which in the judgment of the Court will **reasonable ensure** the appearance of the defendant and the safety of other persons and the community, having regard to: (emphasis added)

1. The nature and circumstances of the offense charged
2. The financial ability of the defendant to give bail;
3. The character of the defendant; and
4. The factors listed in NRS 178.4853

NRS 178.4853 states the factors to be considered in deciding whether a person should be released without bail. Those factors are as follows:

1. The length of his residence in the community;
2. The status and history of his employment;
3. His relationships with his spouse and children, parents and other members of his family and with his close friends;
4. His reputation, character, and mental condition;
5. His prior criminal record, including any record of his appearing or failing to appear after release on bail or without bail;
6. The identity of responsible members of the community who would vouch for the defendant's reliability;



- 1 7. The nature of the offense with which he is charged, the apparent probability of conviction  
2 and the likely sentence, **insofar as these factors relate to the risk of his not appearing;**  
3 (emphasis added)
- 4 8. The nature and seriousness of the danger to any person or the community that would be  
5 posed by the person's release;
- 6 9. The likelihood of more criminal activity by the person after he is released; and
- 7 10. Any other factors concerning his ties to the community or bearing on the risk that he may  
8 willfully fail to appear.

9  
10 It has long been the general rule that a person arrested for a noncapital offense shall be  
11 admitted to bail. Stack v. Boyle, 342 U.S. 1, 4, 72 S.Ct. 1, 3 (1951). And only in rare circumstances  
12 should release be denied. Sellers v. United States, 89 S.Ct. 349, 351 (1955) (Black, J. in chambers).  
13 Additionally, any doubts regarding the propriety of release should be resolved in favor of the  
14 defendant. Herzog v. United States, 75 S.Ct. 349, 351 (1955) (Douglas, J. in chambers).

15  
16 The question remains, what is a suitable bail to assure this Court of the Defendant's  
17 appearance at future proceedings? The answer is that an own recognizance release is sufficient in  
18 this case. Considering the factors cited above, the issues before the Court are quite simply:

- 19 1. **CAN THE COURT FEEL ASSURED THAT THE DEFENDANT WILL MAKE**  
20 **FURTHER COURT APPEARANCES AND THE DEFENDANT IS NOT A**  
21 **DANGER TO THE COMMUNITY?**

22 The factors listed above, when deciding whether to release someone on his own  
23 recognizance, seem to focus on the nature of the offense, the character of the defendant (including  
24 residence history, employment history, prior criminal record, likelihood of additional criminal  
25 behavior, reputation and character in general), and financial ability.

26 Mr. Sayedzada is a favorable candidate under the factors listed in the statutes. He has lived in  
27 Las Vegas since 1989. He is 31 years old. His family, friends, and entire life are in Las Vegas.  
28

1 Pre-trial incarceration is not meant to be punitive. It is merely intended to ensure that the  
2 defendant will return to court and that he will not commit any other crimes if released. In this  
3 instance, bail is set at \$39,000. This reflects standard bail of \$3,000 for all thirteen counts. This is  
4 stacking the bail and does not adequately reflect what standard bail should be in this case. It is  
5 thirteen counts because there were thirteen credit cards in the purse, but this is all from the same  
6 incident of Mr. Sayedzada finding a purse. So, standard bail in this case should only be \$3,000  
7 dollars.  
8

9 Mr. Sayedzada does have 19 failures to appear. However, it seems like most of those are  
10 from traffic tickets and it is unclear how many of those came from his criminal cases. That being  
11 said, he is facing thirteen felony counts so he understands how important it is that he shows up to  
12 every court proceeding and stay in good contact. Nevertheless, to alleviate any concerns the Court  
13 may have that Mr. Sayedzada might not come back to court, the Court could impose house arrest.  
14 This would address the possibility that Mr. Sayedzada would fail to appear because he would have a  
15 strict curfew, be subject to house arrest supervision, and have an ankle monitoring bracelet.  
16

#### 17 CONCLUSION

18 The bottom line is that Mr. Sayedzada has ties to the Las Vegas area, bail is being stacked  
19 and does not adequately reflect what standard bail should be in this case, and that house arrest can  
20 address any concerns the Court may have as a result of his failures to appear.  
21

22 The Defense requests the Court release Mr. Sayedzada on his own recognizance but with the  
23 condition of house arrest. If the Court is not inclined to do that then, at a minimum, the Court should  
24 lower Mr. Sayedzada's bail to \$3,000.  
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**NOTICE OF MOTION**

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the foregoing Motion for Own Recognizance Release, Or, In the Alternative, For Setting of Reasonable Bail will be heard on the 10<sup>th</sup> day of November, 2015, at 8:30 a.m. in Department No. XX of the Eighth Judicial District Court.

DATED this 4th day of November, 2015.

PHILIP J. KOHN  
CLARK COUNTY PUBLIC DEFENDER

By: /s/ Tyler C. Gaston  
TYLER C GASTON, #13488  
Deputy Public Defender

**CERTIFICATE OF SERVICE**

I hereby certify that service of the above and foregoing Motion for Own Recognizance Release, Or, In the Alternative, For Setting of Reasonable Bail was made via e-filing to Motions@clarkcountyda.com on this 4th day of November, 2015.

CLARK COUNTY PUBLIC DEFENDER

By /s/ Carolyn Gray  
*Legal Assistant, Clark County Public Defender*

CASE NO: C310000

DEPARTMENT NO. 1

  
CLERK OF THE COURT

IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP  
COUNTY OF CLARK, STATE OF NEVADA

\* \* \*

THE STATE OF NEVADA,	)	
	)	
Plaintiff,	)	CASE NO.: 15F14345X
	)	
vs.	)	
	)	
SAYEDZADA SAYEDBASHE,	)	
	)	
Defendant.	)	
	)	

REPORTER'S TRANSCRIPT  
OF  
PRELIMINARY HEARING

BEFORE THE HONORABLE DEBORAH LIPPIS,  
JUSTICE OF THE PEACE  
Taken on Monday, October 12th, 2015

APPEARANCES:

FOR THE STATE: MICHAEL DICKERSON, ESQ.  
Deputy District Attorney

FOR THE DEFENDANT: TYLER GASTON, ESQ.  
Deputy Public Defender

REPORTED BY: JOANIE E. GRIME, RPR, CCR NO. 288

JOANIE E. GRIME, RPR, CCR NO. 288  
702) 671.3464

I N D E X

WITNESSES ON BEHALF OF THE STATE: PAGE

CORY NEWTON

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Redirect Examination by Mr. Dickerson 47

Recross Examination by Mr. Gaston 48

JOEL REESE

Direct Examination by Mr. Dickerson 52

Cross Examination by Mr. Gaston 59

JAMIE BLACK

Direct Examination by Mr. Dickerson 64

\* \* \*

E X H I B I T S

<u>STATE'S</u>	<u>DESCRIPTION</u>	<u>MARKED/ADMITTED</u>
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1 -	Photocopy of Credit Cards And/or Debit Cards	/58
-----	-------------------------------------------------	-----

2 -	Photocopy of Credit Cards And/or Debit Cards	/58
-----	-------------------------------------------------	-----

3 -	Photocopy of Credit Cards And/or Debit Cards	/58
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1 LAS VEGAS, CLARK COUNTY, NEVADA  
2 MONDAY, OCTOBER 12TH, 2015  
3 9:00 A.M.

4 \* \* \*

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

6 THE COURT: Sayedbashe Sayedzada.

7 Good morning, sir.

8 THE DEFENDANT: Good morning.

9 THE COURT: I'm sure I didn't do justice to  
10 your name. I tried.

11 Mr. Gaston, your client, Mr. Sayedzada.

12 MR. GASTON: Yes, Your Honor.

13 The defense is ready to proceed.

14 THE COURT: State.

15 MR. DICKERSON: State's ready to proceed,  
16 Your Honor.

17 THE COURT: How many witnesses do you need?

18 MR. DICKERSON: Four witnesses.

19 THE COURT: Okay. We'll get started in just a  
20 moment.

21 (Whereupon, there was a pause in the  
22 proceedings and other matters were heard.)

23  
24 THE COURT: Sayedbashe Sayedzada, 15F14345.

25 MR. GASTON: Thank you, Your Honor.



1 The defense is ready to proceed.  
2 THE COURT: State.  
3 MR. DICKERSON: State's ready to proceed,  
4 Your Honor.  
5 THE COURT: Who is your first witness?  
6 MR. DICKERSON: Cory Newton.  
7 THE COURT: Cory Newton, come on up with my  
8 marshal, sir.  
9 Mr. Sayedzada, you may have a seat next to your  
10 attorney.  
11 Ladies and gentlemen, any and all witnesses  
12 subpoenaed to testify in this case must wait out in the  
13 hallway. Please do not discuss your testimony until called  
14 by the Court.  
15 The officer, I think, is leaving. Correct,  
16 sir? Are you on this case?  
17 OFFICER REESE: Yeah, I am. I'll be outside.  
18 THE COURT: Wait outside for me, please.  
19 OFFICER REESE: Yes, ma'am.  
20 THE COURT: Is everybody else out? You said  
21 you had four witnesses.  
22 MR. DICKERSON: Yes. Yes.  
23 And, Your Honor, before we start with this  
24 witness, the State needs to move to amend by  
25 interlineation --

1 THE COURT: Have a seat for just a second, sir,  
2 and then I'll have you stand up again in a minute.

3 I'm sorry?

4 MR. DICKERSON: The State needs to move by  
5 interlineation -- to amend by interlineation Count 7 to  
6 change the name of Jamie Black to Lori Black.

7 THE COURT: How do you spell Lori?

8 MR. DICKERSON: L-o-r-i.

9 THE COURT: Any objection, Mr. Gaston?

10 MR. GASTON: No, Your Honor.

11 THE COURT: Amendment to Line 24 will be made.

12 Anything else?

13 MR. DICKERSON: That's it, Your Honor.

14 THE COURT: Now, if you stand for me please,  
15 sir, raise your right hand, we'll get you sworn in.

16  
17 CORY NEWTON

18 was called as a witness by the State, having  
19 been first duly sworn did testify as follows:

20  
21 THE WITNESS: I do.

22 COURT CLERK: Please be seated.

23 State your first and last name and spell it for  
24 the record.

25 THE WITNESS: Cory Newton, C-o-r-y, last name

1 N-e-w-t-o-n.

2 THE COURT: Thank you very much, sir, for  
3 waiting.

4 State, you may proceed.  
5

6 DIRECT EXAMINATION

7 BY MR. DICKERSON:

8 Q How are you employed, Mr. Newton?

9 A I'm employed with Unity One, a private security  
10 company, here in Las Vegas.

11 Q And what are your duties as far as working with  
12 that company?

13 A Our duties vary from keeping -- from keeping  
14 vagrants off property to dealing with, um, any type of  
15 incidence such as domestic disturbances, noise complaints.  
16 That sort of thing.

17 Q Are you assigned to work 1407 Santa Margarita?

18 A That was my patrol for that day, yes, sir.

19 Q And the day you're referring to, is that  
20 September 23rd, 2015?

21 A Yes, sir.

22 Q And on September 23rd, 2015, what exactly were  
23 you doing?

24 A I was conducting a foot patrol of the property,  
25 also known as Scottsdale Place.

1 Q Scottsdale Place, that's 1407 Santa Margarita?  
2 A Yes, sir.  
3 Q And that's in Clark County, Nevada?  
4 A Yes, sir.  
5 Q And as part of this foot patrol did you happen  
6 to come in contact with anybody in this courtroom today?  
7 A Yes, I did.  
8 Q If you could just please point to that  
9 individual and describe a piece of clothing that he or she is  
10 wearing?  
11 A I came in contact with that individual. He was  
12 wearing a black hat with a red flannel shirt.  
13 MR. DICKERSON: Would the record reflect he's  
14 identified the defendant, Your Honor?  
15 THE COURT: Actually I think you asked him what  
16 he was wearing today, and he answered what he was wearing the  
17 next day.  
18 What's he wearing today, sir?  
19 THE WITNESS: Right now he is wearing a blue --  
20 a blue jumpsuit.  
21 THE COURT: Record reflect identification of  
22 the defendant.  
23 BY MR. DICKERSON:  
24 Q And on that day what was he wearing?  
25 A He was wearing a black hat with a flannel

1 shirt.

2 Q Now, how did you come in contact with the  
3 defendant?

4 A Uh, I saw him on the back side of the property.  
5 He was -- he was passing through the property, and I made  
6 contact with him and asked him if he was -- if he was a  
7 resident of the property.

8 Q Did he look suspicious?

9 A He was -- it looked -- it appeared that he was  
10 concealing something underneath his shirt, and you could see  
11 the outline of something around his neck, but you couldn't  
12 really see exactly what it was, but there was definitely  
13 something under there.

14 Q So is that what drew your attention to him?

15 A That is what initially drew my attention to  
16 him, yes.

17 Q And upon making contact with him, what  
18 transpired?

19 A I -- after I asked him if he was a resident of  
20 the property, he told me no. So then I attempted to detain  
21 him for trespassing and questioned him about what was under  
22 his shirt when he told me to go fuck myself and took off  
23 running.

24 Q So you first asked whether he was a resident?

25 A That's correct.

1 Q And is that a pretty common question that you  
2 ask people that you're suspicious of in these properties?  
3 A Yes.  
4 Q And when you said that you attempted to detain  
5 him, how exactly did you try to do that?  
6 A I attempted to verbally have him come over and  
7 come talk to me at first until he decided to take off  
8 running.  
9 Q And he -- he said his choice words to you?  
10 A Were to fuck off.  
11 Q And then he did what?  
12 A He took off running towards the back wall.  
13 Q And so what did you do?  
14 A I attempted to place him in mechanical  
15 restraints when I met him at the back wall.  
16 Q And how did you attempt to do that?  
17 You grabbed him or --  
18 A I grabbed him with my right hand and my left  
19 hand and attempted to pull him down so I could place him in  
20 mechanical restraints.  
21 Q And --  
22 THE COURT: I'm assuming you chased him?  
23 THE WITNESS: Yes, ma'am.  
24 THE COURT: Okay.  
25 / / /



1 BY MR. DICKERSON:

2 Q And what, if anything, did he do?

3 A When he came off, he turned around, struck me  
4 twice in the face, and then took off running to the left  
5 again.

6 Q And what happened next?

7 A After that, I pulled out my Taser, and it  
8 appeared as he was getting ready to turn again, so for my  
9 safety I deployed the Taser.

10 Q And then what happened?

11 A And then he was very compliant afterwards. He  
12 was able to be placed in restraints without further incident,  
13 but I did walk around and leave -- not the whole area, but I  
14 did have to walk and calm down a little bit.

15 Q Okay. So you had him in handcuffs at this  
16 point in time?

17 A Yes, sir.

18 Q Where are you in this apartment complex?

19 What does this specific area that you're at  
20 look like?

21 A There's a dumpster in the middle of two cars.  
22 So when I first made contact to him, I was to the right side  
23 of the dumpster, and then when he went running to the left,  
24 he made it to the left side of the dumpster when I made  
25 contact with the Taser.

1                   He landed right in front of a car. When I was  
2   able to place him in mechanical restraints on him, I sat him  
3   up on the curb in front of the car.

4           Q       And did you move him from the area that you had  
5   initially put him in those mechanical restraints?

6           A       Just to sit him up.

7           Q       So he stayed in that general area the entire  
8   time?

9           A       He stayed in that general area until medical  
10   came and seen him.

11          Q       And how many cars is he next to?

12          A       There is -- the parking lot is pretty full, so  
13   I would say against that back wall, along there was probably  
14   20 cars.

15          Q       Is he specifically sitting next to a car?

16          A       He's sitting in front of a car, in front of  
17   a -- a black -- I don't remember the make and model, but it  
18   was a black car.

19          Q       And do you recall about what time this is?

20          A       I made contact with him initially around 6:55  
21   in the morning.

22          Q       And so what do you do at this point in time?  
23                    You have him in handcuffs. What's next?

24          A       The next thing I do is asked him if I could  
25   search him for weapons, which he did consent to, and then I

1 offered -- I called 311 to give him medical assistance, and  
2 then I searched the purse, because there was a purse  
3 underneath his shirt.

4 Q Please tell me, this purse, how did you find  
5 it?

6 A I asked him if it was okay if I opened up his  
7 shirt to see what he was concealing under there, he did say  
8 yes to that, and then it was hanging around his neck.

9 Q The strap for the purse?

10 A The handle for the purse, yes.

11 Q And the entire purse was under his shirt?

12 A It was under his shirt.

13 Q So did you remove that purse?

14 A I did remove it.

15 Q And in searching that purse -- how did you  
16 search the purse?

17 A I was checking through it for weapons when I  
18 saw a credit card with Jamie Blitz's name -- Black's name.

19 Q Now, did you continue searching after you found  
20 that card?

21 A I continued searching for weapons, but once I  
22 did not find any weapons, I did not search any further after  
23 that.

24 Q So you found one card?

25 A I only saw the one card, yes, sir.

1 Q And what did you do then?

2 A After that, I informed Metro of what I had

3 found, so that way they can take over the investigation.

4 Q And at some point in time did an officer from

5 the Las Vegas Metropolitan Police Department arrive?

6 A Yes, sir.

7 Q And at that point in time was the defendant

8 still in the same spot?

9 A He was in the same general area.

10 Q He's still sitting next to this car?

11 A He was sitting in front of the car for a little

12 while. After medical checked him out, I don't remember where

13 he was exactly. I think he was behind the dumpster for a

14 little bit, but he was in the general sense in the area.

15 Q And some time during this encounter did that

16 car that was in that spot that he was sitting in front of

17 move?

18 A Yes, it did.

19 Q What happened?

20 A After that car had moved, I had noticed

21 scattered underneath of it multiple more credit cards and two

22 iPhones.

23 Q And just to be clear, this is the car that he

24 was sitting next to?

25 A Yes, sir.

1 Q Okay. And these credit --  
2 THE COURT: I need you to tell me the  
3 circumstances of under which the car moved.  
4 THE WITNESS: The owner of the car left.  
5 THE COURT: Where was the defendant sitting  
6 when the owner of the car came?  
7 THE WITNESS: At this time Metro had him in  
8 custody in the back seat of their car.  
9 THE COURT: So Metro arrives?  
10 THE WITNESS: Yes, ma'am.  
11 THE COURT: The defendant is still sitting on  
12 the curb?  
13 THE WITNESS: Yes, ma'am.  
14 THE COURT: In front of that car?  
15 THE WITNESS: Yes, ma'am.  
16 THE COURT: They move him to where?  
17 THE WITNESS: They placed him in the back seat  
18 of the officer that arrives, the back seat of his car.  
19 THE COURT: And where did you stay?  
20 THE WITNESS: I -- my patrol car was parked in  
21 front and I stood right there in front of the car filling out  
22 my voluntary statement.  
23 THE COURT: In front of the car that was  
24 already moved?  
25 THE WITNESS: In front of the Metro's car.

1           The car that had moved -- I was in front of  
2 Metro's car sitting on the back of my car. He was in the  
3 back of Metro's car, and then the owner came out and left.

4           THE COURT: Did you see that?

5           THE WITNESS: Yes, ma'am.

6           THE COURT: I'll let you deal with that on  
7 cross.

8           Go ahead.

9 BY MR. DICKERSON:

10          Q       About how long was he sitting next to this car  
11 before the owner came out and moved it?

12          A       I would say anywhere between 5 to 10 minutes.

13          Q       And the names on these cards, did you happen to  
14 see the cards on the ground?

15          A       I saw the cards on the ground, but I did not  
16 see the names on the cards.

17          Q       Okay.

18                 MR. DICKERSON: State will pass the witness,  
19 Your Honor.

20                 THE COURT: Cross.

21

22                         CROSS EXAMINATION

23 BY MR. GASTON:

24          Q       How are you employed?

25          A       I'm employed with Unity One as a private



1 security officer.

2 Q And what's your job duties?

3 A My job duties range from patrolling the -- the  
4 private properties that we're contracted with to dealing with  
5 anything that -- dispatches that come out of those private  
6 contracts and alarm responses.

7 Q So what does that -- what does that mean?

8 A Which part?

9 Q The whole thing. It was a lot of big words.

10 A The patrol part, we search the property. We  
11 drive around the property, make sure there's no vagrants or  
12 any unwanted activity happening on the property.

13 The dispatches we deal with, um, could range  
14 from anywhere from a noise complaint from one of the  
15 residents of the property to domestic dispute, and the alarm  
16 responses for Nextgen and Brantley.

17 Q You carry a gun?

18 A Yes, sir.

19 Q Are -- is it loaded?

20 A Yes, sir.

21 Q Are you wearing a uniform?

22 A Yes, sir.

23 Q So a large portion of your duties, I would  
24 imagine, is dealing with vagrants you mentioned; right?

25 A Yes, sir.

1           Q       So homeless people or poor people come on the  
2 property maybe looking to spend the night?

3           A       Yes, sir.

4           Q       Okay. And what are you supposed to do when you  
5 come into contact with those people?

6           A       Well, we're supposed to make contact with them,  
7 we're supposed to let them know that they are trespassing on  
8 private property, and we're supposed to read them the  
9 trespass warning as defined by Nevada Revised Statute  
10 207.200.

11          Q       And then what happens?

12          A       And then if they're -- then we have them depart  
13 property.

14          Q       You pick them up and carry them off the  
15 property or what --

16          A       No. We escort them off property.

17          Q       Escort them.

18                   What if they don't want to go? What are you  
19 supposed to do?

20          A       Then we place them in mechanical restraints and  
21 contact Metro.

22          Q       Okay. How long have you been employed with,  
23 uh -- I'm sorry.

24                   THE COURT: Unity One.

25       / / /

1 BY MR. GASTON:

2 Q Unity One. How long have you been --

3 A I've been with them since August 5th, I do

4 believe.

5 Q August 5th?

6 A Yes, sir.

7 Q So as of September 23rd, you've been working

8 there about a month?

9 A Yes, sir.

10 Q And and-a-half-ish?

11 A -ish.

12 Q Okay. How much training did you receive?

13 A Two weeks of field training, another week of an

14 academy, plus the Taser, which was a day, and then we go

15 through multiple courses, such as report writing, juvenile

16 law, that sort of thing, on a yearly basis.

17 Q So you were hired on August 5th; correct?

18 A Yes, sir.

19 Q You've been -- you went -- underwent about four

20 weeks of training?

21 A Yes, sir, approximately.

22 Q And so you've been employed, out of training,

23 for about three weeks as of the time of this incident; is

24 that correct?

25 A Approximately, yes.

1 Q Were you with anyone else? Do you work in  
2 partners or teams?

3 A No. We do have other patrol officers that do  
4 patrol, but we have different sectors, such as the northwest,  
5 southwest, southeast. That sort of thing.

6 Q Do you get any classes on use of force?

7 A Yes, sir.

8 Q Okay. What do they tell you about use of  
9 force?

10 What -- what did -- what kind of things did  
11 they tell you about trying to figure out what force is  
12 appropriate and what's not appropriate?

13 A The most important --

14 MR. DICKERSON: Objection, Your Honor,  
15 relevance.

16 THE COURT: Overruled.

17 I'll give you a little bit of leeway, not much,  
18 but a little.

19 THE WITNESS: The most important thing that  
20 they teach us about it is always let the person -- the person  
21 that we're approaching escalate or deescalate.

22 Our job is never to escalate the use of force.  
23 It's always to try and attempt to deescalate it.

24 BY MR. GASTON:

25 Q You originally approached my client why?

1           A       I originally asked him -- because he had  
2 something concealed under his shirt that I could see was  
3 under his shirt.

4           Q       Let me back up a little bit.  
5                    When you first see him, where are you standing?

6           A       I'm standing in front of the dumpster on the  
7 back wall.

8           Q       Okay. Where's he standing?

9           A       He's coming around from -- at this time it's my  
10 right, because I'm facing the property. He's coming around  
11 from my right walking onto the -- walking around the  
12 building.

13          Q       About how far away would you say he is, and you  
14 could use the courtroom as an example?

15          A       I would say maybe 20 feet.

16          Q       So where in the courtroom would you point to?  
17 About how far away?

18          A       I would say probably to the pillar, maybe a  
19 little bit before the pillar.

20          Q       Pillar being?

21          A       Right about there, up a little bit more. Right  
22 about --

23          Q       About here?

24          A       Yes, sir.

25               MR. GASTON: Okay. May the record reflect that

1 the defendant identified -- or I'm sorry, the witness  
2 identified the defendant standing back to the second bench.

3 I don't know what that's marked off as  
4 distance-wise, but....

5 THE COURT: Okay. From the witness stand to  
6 the back door is 36 feet. From the witness stand to the  
7 front row railing is 23 feet.

8 I don't have a measurement to that front row.

9 MR. GASTON: Okay.

10 THE COURT: But I gave you an intermediate  
11 measurement.

12 MR. GASTON: Thank you.

13 BY MR. GASTON:

14 Q And at that time you immediately noticed he had  
15 something concealed under his shirt?

16 A Yes, sir.

17 Q Okay. This also happened at 7:30 p.m.,  
18 roughly?

19 A No. This happened at approximately 6:55 in the  
20 morning.

21 Q Oh, I sorry. A.m. Military time always gets  
22 me.

23 Okay. About 6:55 a.m. Was it still dark  
24 outside?

25 A No.



1 Q Okay. So it was pretty well lit area?  
2 A Yes, sir.  
3 Q And so after you see him, uh, carrying  
4 something under his shirt, uh -- he's also Hispanic; correct?  
5 A That was --  
6 MR. DICKERSON: Objection, Your Honor,  
7 relevance.  
8 THE COURT: What is the relevance of that?  
9 MR. GASTON: Well, relevance is that he  
10 indicates that one of the -- the three reasons he found the  
11 guy suspicious is because he's Hispanic, he's on the  
12 property, and he doesn't -- he's not a resident there,  
13 although I'm curious how he would know he's not a resident  
14 there until he's already approached him, trying to detain  
15 him, and he has something carrying under his shirt.  
16 It's not a crime --  
17 THE COURT: Slow down.  
18 MR. GASTON: I'm sorry.  
19 THE COURT: Slow down. Slow down.  
20 MR. GASTON: I'm sorry.  
21 It's not a crime to be Hispanic and carry  
22 something under your shirt.  
23 THE COURT: He did not testify to that.  
24 MR. GASTON: In the police report and in his  
25 statement it indicates --

1 THE COURT: He did not testify here to that.

2 MR. GASTON: I'm sorry.

3 THE COURT: He did not testify here to that.

4 Now, if you want to ask him if the gentleman is  
5 Hispanic, we're going to get an objection. If you can show  
6 me the relevance of that, perhaps I will overrule the  
7 objection.

8 But at this point this witness has not said he  
9 was suspicious of him, and I'm using the State's words,  
10 suspicious, because of his nationality.

11 MR. GASTON: Thank you.

12 BY MR. GASTON:

13 Q You approached him; correct?

14 A Yes, sir.

15 Q What was your reason for approaching him?

16 A My reason for approaching him was to see if he  
17 was a resident of the property or not, which we do with  
18 everybody that we see that we're not familiar with on the  
19 property.

20 Q Okay. Not familiar with, but you've also only  
21 been working there for two or three weeks; right?

22 A Yes, sir.

23 Q So have you stopped every resident that you've  
24 seen that you're not familiar with?

25 A I try to make contact with every resident that

1 I see, introduce the company, which is what we do, and make  
2 sure they have our contact information.

3 Q Okay. Is it a crime for them not to want to  
4 talk to you?

5 A No.

6 Q So if they tell you to fuck off, what do you  
7 do?

8 A If they're a resident of the property, we let  
9 them proceed on their way.

10 Q So you approach someone, you ask if they're a  
11 resident of the property, they tell you to fuck off, what  
12 would you do?

13 A If they approach me and asked me if I -- I  
14 haven't been in that situation yet, so I'm not exactly sure  
15 how I would handle it, but I would see if I could confirm if  
16 they're a resident or not.

17 Q Okay. And how is that different than what  
18 happened here?

19 A He told me he was not a resident.

20 Q Okay. So you approached him and you asked him  
21 if he was a resident?

22 A Yes, sir.

23 Q And he told you no?

24 A He told me no.

25 Q And he told you that he was just cutting across

1 the property as a shortcut?

2 A After he told me no, I had asked him to come  
3 over and come talk to me, and that's when he told me to go  
4 fuck off and took off running.

5 Q Okay. And then you chase him?

6 A Yes, sir.

7 Q Okay. So they talk to you about -- in training  
8 about deescalating and escalating a situation?

9 A Yes, sir.

10 Q Okay. Your goal with vagrants, you also  
11 testified --

12 MR. DICKERSON: Objection, Your Honor,  
13 relevance.

14 THE COURT: Overruled.

15 BY MR. GASTON:

16 Q You testified that your training with vagrants  
17 is to give them a trespass warning; correct?

18 A Yes, sir.

19 Q And to escort them off the property or ask them  
20 to leave?

21 A Yes, sir.

22 Q Okay. And it was pretty clear to you when he  
23 was running away that he was trying to leave; correct?

24 A It was clear that he was trying to escape from  
25 being detained, yes, sir.

1 Q I'm sorry?

2 A It was clear that he was trying to escape from

3 being detained, yes, sir.

4 Q Okay. You were going to detain him?

5 A Yes, sir. I was going to give him the trespass

6 warning.

7 Q Okay. Does that mean detain him?

8 A That means to keep him there until I could

9 figure out what's going on.

10 Q What does that mean?

11 A Such as see if he's a resident, see what his

12 business is being on that property, if he is just passing

13 through as a vagrant or if he's possibly going through the

14 dumpsters to look for stuff.

15 That's what we talk to him about.

16 Q Does that make a difference practically in what

17 you do?

18 A Um, it --

19 Q You do one thing for people going through

20 dumpsters and another thing for people sitting on a park

21 bench?

22 A No. We treat it all the same way.

23 Q Okay. So no matter what --

24 (Reporter interruption.)

25 / / /

1 THE COURT: It's true. You both have been  
2 talking very, very quickly. So let's --

3 MR. GASTON: I get yelled at about this every  
4 day.

5 THE COURT: Last time I'm going to ask, slow it  
6 down, both of you.

7 THE WITNESS: Yes, ma'am.

8 BY MR. GASTON:

9 Q So no matter whether he was sleeping on a park  
10 bench or, uh, going through a dumpster, you would have read  
11 him the trespass warning?

12 A Yes, sir.

13 Q In neither of those situations would you have  
14 taken him into custody?

15 A I would have detained him in order to do it.

16 MR. DICKERSON: Objection, Your Honor,  
17 relevance.

18 THE COURT: Overruled. I'm going to let him  
19 get passed this and then we'll move on.

20 BY MR. GASTON:

21 Q Okay. So he's running away?

22 A Yes, sir.

23 Q And you decided to chase him?

24 A Yes, sir.

25 Q Okay. In your training do they talk -- do they



1 talk to you about whether to chase someone, uh, when they're  
2 running away or not?

3 A They do. They tell us to make sure that once  
4 we make contact that we remain in control of the situation  
5 and not to let anyone take control of it, such as if we ask  
6 them to come over and they are not a vagrant and we need to  
7 trespass them, then we got to get them trespassed off the  
8 properly.

9 Q Okay. So if someone tells you to fuck off,  
10 that's not you being in control of the situation; right?

11 A No. If someone tells me to fuck off, then, you  
12 know, I take that as a hostile intent, a little --

13 Q That's how you took it here; right?

14 A I took him running as an action that he didn't  
15 want to be detained.

16 Q Okay. It's safe to say that this whole  
17 incident made you extremely angry; correct?

18 MR. DICKERSON: Objection, Your Honor.

19 THE COURT: Overruled.

20 THE WITNESS: I wouldn't say angry. It  
21 definitely got the adrenaline going, yes, sir.

22 BY MR. GASTON:

23 Q Okay. And that's why you needed to take a --  
24 you describe it as a walk around the premise until --

25 A I had to take a walk away from the situation to

1 let my nerves calm down, yes, sir.

2 Q Okay. So when you're chasing the guy, uh, you  
3 come into contact with Mr. Sayedzada close to wall?

4 A I came in original contact with him as he was  
5 walking towards the back side of the property.

6 Q I'm sorry. After -- after you were chasing  
7 him, you come into contact again in front of the wall;  
8 correct?

9 A Yes, sir.

10 Q And this is a wall that he's trying to jump  
11 over?

12 A Yes, sir.

13 Q Okay. And you stop him from jumping over the  
14 wall?

15 A Yes, sir.

16 Q Okay. By placing your hands on him?

17 A Yes, sir.

18 Q And that's how you describe deescalating the  
19 situation; right?

20 A That's how I wanted to place him in mechanical  
21 restraints, yes, sir.

22 Q You want to place him in -- just -- I'm sorry.  
23 I keep going back.

24 You want to place him in mechanical restraints  
25 to trespass him; right?

1           A       I want to place -- at this point it's for my  
2 own safety and his safety and everyone else's safety.

3           Q       So you place him into -- hold on.

4                   MR. GASTON: Court's indulgence, Your Honor.

5 BY MR. GASTON:

6           Q       You place him into custody as he's running away  
7 for your safety?

8           A       And everyone else's safety, yes, sir.

9           Q       Okay. Because it's dangerous for him to run  
10 off the property?

11          A       Well, it's dangerous if he's a vagrant that  
12 could have committed a crime, yes, sir, or with him hiding  
13 something under his shirt, not knowing what's under his shirt  
14 or anything.

15          Q       So the -- that's something I want to talk  
16 about.

17                   One of -- one of the reasons you came into  
18 contact with him is because you wanted to know what was under  
19 his shirt; right?

20          A       My original reason for coming into contact with  
21 him is because he said he was not a resident of the property.

22          Q       Well -- okay. I'm sorry. That's not the --  
23 that's not true. That's not the first reason you talked to  
24 him, because you approached him and then you asked him if he  
25 was a resident; right?

1           A        I saw him and then I asked him if he was a  
2   resident.  
3           Q        And then he says no?  
4           A        He said no.  
5           Q        Okay. And one of the reasons you mentioned  
6   that you wanted to detain him was to make sure he doesn't go  
7   off and commit any other crimes; right?  
8           A        Yes, sir.  
9           Q        Okay. Were there any other reasons, other than  
10   the fact that you didn't recognize him and he had something  
11   under his shirt, that you originally stopped him?  
12          A        No. I originally questioned him because I  
13   didn't recognize his face, I didn't recognize him on  
14   property, and it's a fairly small property, and so I asked  
15   him if he was a resident.  
16          Q        Okay. And when you chased after him, were  
17   there any other reasons you chased after -- after him, other  
18   than to give him a trespass warning or -- and to protect  
19   yourself?  
20          A        To -- at this point now I wanted to find out  
21   what was under his shirt too.  
22          Q        Okay. So that was the other reason you were  
23   chasing after him?  
24          A        After I found out he was not a resident on  
25   property, yes, sir.

1 Q Okay. So you were investigating?  
2 A That is safe to say, yes, sir.  
3 Q And you used a Taser; correct?  
4 A Yes, sir.  
5 Q So you try to stop him in front of the wall and  
6 it doesn't work?  
7 A Doesn't work.  
8 Q So then you taze him?  
9 A No. I don't taze him immediately after this.  
10 I don't taze him until he appears to be attempting to turn  
11 around again. That's when I -- that's when I tazed him.  
12 THE COURT: Turn around? What do you mean?  
13 THE WITNESS: He attempted -- it appeared that  
14 as if he was getting ready to turn back around after he was  
15 running, ma'am.  
16 THE COURT: Turn back around facing which  
17 direction?  
18 THE WITNESS: Back towards me.  
19 BY MR. GASTON:  
20 Q Let's break this down.  
21 You guys are near the wall. You put your hands  
22 on him; correct?  
23 A Yes, sir.  
24 Q He fights you?  
25 A Yes, sir.

1 Q He breaks away from you?  
2 A Yes, sir.  
3 Q He turns his back to you?  
4 A Yes, sir.  
5 Q What do you do?  
6 A He takes off running.  
7 Q No. What do you do?  
8 A At this point I pull out the Taser for my own  
9 safety.  
10 Q Okay. And you use it?  
11 A Not until after he tries to turn around again.  
12 Q Okay. And after you taze him, you describe him  
13 as being pretty cooperative; right?  
14 A He was extremely compliant, yes, sir.  
15 Q Extremely compliant. Okay.  
16 And then you place him in mechanical  
17 restraints?  
18 A Yes, sir.  
19 Q "Mechanical restraints" is?  
20 A Handcuffs.  
21 Q Handcuffs. Okay.  
22 And then you -- at this point do you take him  
23 back to the car area?  
24 A No. That's where he was tazed.  
25 Q Oh, that's where he was tazed.



1 Okay. So he's in handcuff's at this point?  
2 A He is in handcuffs.  
3 Q And then you ask him if you can search him?  
4 A For weapons, yes, sir.  
5 Q For weapons,  
6 And he tells you?  
7 A He tells me -- gave me verbal consent.  
8 Q So based on his consent, you searched him;  
9 correct?  
10 A Searched him for weapons, yes, sir.  
11 Q Okay. And then you found the purse?  
12 A Yes, sir.  
13 Q Under his shirt?  
14 A Yes, sir.  
15 Q And you remove the purse from him?  
16 A Yes, sir.  
17 Q Did you ask permission before you did that?  
18 A I asked permission if I could search the purse,  
19 yes, sir.  
20 Q And he told you yes?  
21 A Yes, sir.  
22 Q Okay. And did you ask -- when you searched  
23 this purse, how big is this purse?  
24 A Uh, it's a fairly large purse. I would say --  
25 I don't know how to put it. Probably about this big.

1 Q And after you had removed -- you searched the  
2 purse after removing it from his person; correct?  
3 A Yes, sir.  
4 Q Okay. And you -- you did this because you  
5 wanted to see if there were any weapons inside of it?  
6 A Yes, sir.  
7 Q Uh, why did you -- why did it matter to you if  
8 there were any weapons inside the purse?  
9 A At this point it was for my safety and for  
10 everyone else's safety.  
11 Q Okay. But he was in handcuffs already; right?  
12 A Handcuffs -- I've seen people break out of  
13 handcuffs before.  
14 Q You use plastic handcuffs?  
15 A No, sir. It could happened with --  
16 MR. DICKERSON: Objection, Your Honor,  
17 argumentative.  
18 THE COURT: Sustained.  
19 BY MR. GASTON:  
20 Q Okay. You didn't find any weapons in the  
21 purse; right?  
22 A No, sir.  
23 Q So then you took him to the area where the cars  
24 are?  
25 A He's still sitting there.

1 Q Okay. And then you call Metro?  
2 A I called medical, 311.  
3 Q Okay. And you did this because you had just  
4 tazed him?  
5 A Yes, sir.  
6 Q And you -- you understand the consequences of  
7 tazing someone, could lead to --  
8 A Yes, sir.  
9 Q -- them getting medical treatment?  
10 A Yes, sir.  
11 Q Okay. At what point do you call Metro?  
12 A Metro, while I was calling 311 for fire and  
13 rescue, Metro was also contacted at that point too.  
14 Q Okay. And why did you call Metro?  
15 A That was the card and the tazing incident.  
16 Q Okay. Do you call Metro every time you taze  
17 somebody?  
18 A Any time there's a use of force that involves  
19 maybe a Taser, maybe a pepper spray, yes, we call Metro.  
20 Q Okay. And you also called because of the  
21 credit card?  
22 A Yes, sir.  
23 Q And you saw when you were searching the purse  
24 that the credit card was in the name of Jeanie Black, you  
25 said?

1           A       Jamie Blake, Black, I don't remember the last  
2 name exactly.

3           Q       Okay. But you didn't think that was his name?

4           A       No.

5           Q       Did he have I.D. on him?

6           A       No, he didn't.

7           Q       Why do you think it wasn't his name?

8           A       I asked him.

9           Q       And what did he tell you?

10          A       He told me his name was Sayedza -- I don't know  
11 how to say that last name. Sayedzada.

12          Q       Okay.

13                   MR. GASTON: Court's indulgence for a moment.

14 BY MR. GASTON:

15          Q       Do you receive training on how to write, uh,  
16 statements?

17          A       Yes -- no. We receive training on how to write  
18 reports.

19          Q       Reports. Okay.

20          A       Yes, sir.

21          Q       Um, but you did fill out a voluntary statement  
22 for the Metropolitan Police Department; correct?

23          A       Yes, sir.

24          Q       Um, and you understand what that statement's  
25 going to be used for?

1                   It's important to be complete and accurate in  
2 that statement; correct?

3           A       Yes, sir.

4           Q       You know that police -- police officers are  
5 going to rely on what you're saying in that statement?

6           A       Yes, sir.

7           Q       Okay. And you understood that it could be used  
8 in later court proceedings as well?

9           A       Yes, sir.

10          Q       And so you're as thorough as possible in that  
11 statement; correct?

12          A       I'm sorry?

13          Q       You're as complete as possible in that  
14 statement; right?

15          A       As complete as I could have been, yes, sir.

16          Q       Okay. You understand that, with very few  
17 exceptions, you're not supposed to search people without, uh,  
18 having their permission first?

19          A       Yes.

20                   MR. DICKERSON: Objection, Your Honor.

21                   MR. GASTON: He answered. He said yes.

22                   THE COURT: The objection is sustained. The  
23 answer is stricken.

24                   You want to talk about issues regarding  
25 searches for private security companies versus law

1 enforcement, big difference.

2 MR. GASTON: May I approach the witness with  
3 his voluntary statement?

4 THE COURT: You may.

5 The objection, however, is sustained. The  
6 answer is stricken.

7 MR. GASTON: Okay.

8 BY MR. GASTON:

9 Q Is this a copy of your written statement that  
10 you filled out for the Metropolitan Police Department?

11 A That does appear to be a copy of it, yes.

12 Q Is that your name right there?

13 A Yes, sir, that is.

14 Q And is this your signature down here?

15 A Yes, sir, that is.

16 Q Okay. You say a brown purse was found hiding  
17 under his shirt; correct?

18 A Yes, sir.

19 Q A quick search for weapons I found a credit  
20 card with someone else's name on it; correct?

21 A Yes, sir.

22 Q At any point in this statement do you say, uh,  
23 you asked permission first before, uh, searching?

24 A No.

25 MR. DICKERSON: Objection, Your Honor.

1 THE COURT: Overruled.

2 THE WITNESS: In that statement I did not.

3 BY MR. GASTON:

4 Q In that statement. Did you fill out any other

5 statements?

6 A I filled out a report for my job.

7 Q Okay. And in all of these incidents you

8 filled -- I'm sorry. Let me restart, because I don't think I

9 actually spoke English.

10 Um --

11 THE COURT: Counsel, why don't you have a seat?

12 Thanks.

13 BY MR. GASTON:

14 Q Do you always fill out a report every time

15 there's a use of force for your company?

16 A Yes, sir.

17 Q Okay. And you provide this to the company?

18 A Yes, sir.

19 Q Do you have a copy of the report with you

20 today?

21 A I do not.

22 Q Okay. Have you provided a copy of that report

23 to the prosecutors?

24 A I have not.

25 Q Have you provided a copy of the report to the



1 police department?

2 A That's -- we have a -- a division that does  
3 that, ICC. It's our Integrated Command Control. They handle  
4 all that.

5 Q Can you describe Integrated Command Control to  
6 me?

7 What exactly is their function?

8 A Uh, their function ranges from anything from  
9 payroll to redacting stuff out of our reports, such as if we  
10 have a juvenile. That can't obviously go to the client.

11 Q When -- when a report is filed because of use  
12 of force is it always -- is it always forwarded over to  
13 Metro?

14 A I don't know that.

15 Q Okay. If he knows, I won't ask him.

16 But Metro is always called every time there's  
17 an incident -- a use of force; correct?

18 A I always call them. I will always call them.

19 Q Okay. Is that office policy? Is that part of  
20 the training?

21 A That is something --

22 Q Is it something personal?

23 A That is something I personally do.

24 Q Okay. Do you know if that -- do you know -- do  
25 they talk to you in training about whether to do that or not?

1           A       They vary on what -- what the circumstances of  
2 the incident. Obviously, a Taser, we're going to call them  
3 so they could investigate not just what happened, but  
4 investigate that we deployed the Taser correctly and not  
5 illegally.

6           Q       Okay. At a certain point you mentioned  
7 Mr. Sayed is handcuffed and near a vehicle; correct?

8           A       Yes, sir.

9           Q       Okay. Is he sitting on the curb?

10          A       Yes, sir.

11          Q       Okay. And he's in handcuffs?

12          A       Yes, sir.

13          Q       His hands are behind his back?

14          A       Yes, sir.

15          Q       Okay. Is he sitting?

16          A       Yes, sir.

17          Q       And you've already searched his person;  
18 correct?

19          A       I -- yes, sir, at this point I have.

20          Q       Okay. And there's a vehicle next to him for a  
21 certain point in time?

22          A       A vehicle in front of him.

23          Q       In front. At a certain point this vehicle  
24 moves?

25          A       Yes, sir.

1 Q And then, uh, later other items are found  
2 underneath this vehicle; correct?

3 A Yes, sir.

4 Q And were you present during this whole time?

5 A I was present. I was in front -- I was behind  
6 the vehicle at this point filling out my voluntary statement  
7 that you have in front of yourself.

8 Q So could you see Mr. Sayed at this time?

9 A He is in the back of the patrol car.  
10 When the vehicle moves, he was already in the  
11 back of the patrol car.

12 Q Okay. About how long was he near the vehicle?

13 A I would say probably about 30 minutes.

14 Q Okay. And could you see him during this entire  
15 time?

16 A I could see him, but I didn't see him the whole  
17 time.

18 Q Okay. And earlier when you spoke to  
19 Mr. Sayed, he told you his name wasn't Jamie Black; right?

20 A He told me his name was Sayedzada.

21 Q And he told you how he got that purse; right?

22 A He told me he found it.

23 Q He found it. Okay.

24 A Yes, sir.

25 Q And he also told you why he was on the

1 property; right?

2 A He told me he was going through the property,  
3 passing through.

4 Q He was going through the property to get -- as  
5 a shortcut; correct?

6 A Yes, sir.

7 Q Okay.

8 MR. GASTON: Court's indulgence for a minute.

9 THE COURT: Okay.

10 BY MR. GASTON:

11 Q Can you describe what Mr. Sayed was wearing  
12 again that night?

13 A He was wearing a black hat with a red flannel  
14 shirt, I don't remember his shoes, and he was wearing -- I do  
15 believe it was blue jeans.

16 Q Okay. Do you remember if he had on anything  
17 else?

18 A Other than the purse?

19 Q No, other than the flannel shirt.

20 A He didn't have an undershirt on or anything.

21 Q Did he have a hoody on or anything like that?

22 A No, sir.

23 Q Uh, and I could be totally mistaken, so if I'm  
24 wrong, just tell me.

25 Is there like a distance that a Taser's too

1 close to use?

2 A There is.

3 MR. DICKERSON: Relevance, Your Honor.

4 THE COURT: Overruled.

5 THE WITNESS: There is.

6 BY MR. GASTON:

7 Q Okay. About how close is that?

8 A Five inches. I would say two, three inches.

9 Q Okay. And other than that you could use the

10 Taser?

11 A Yeah. It is capable of deployment.

12 Q I'm not asking if you should or not, but it's

13 possible?

14 A It is possible, yes.

15 Q Okay. All right. Did you taze Mr. Sayed in

16 the front or the back?

17 A The two probes ended up in his back.

18 Q In his back. Okay.

19 And you said he punched you in the face twice?

20 A Yes, sir.

21 Q Correct?

22 Did he hit you in any other way?

23 A No.

24 Q Okay. About how hard were the blows? Would

25 you describe them?

1           A        I wouldn't describe them as hard, but there was  
2 enough force behind them to knock my sunglasses off about --  
3 probably about five feet behind me.

4           Q        Okay. So enough force was in hitting your face  
5 to knock the sunglasses off and send them about five feet  
6 off?

7           A        Yes, sir.

8           Q        Okay. When Metro responded did they take any  
9 photos of the scene, if you know?

10          A        I don't -- I don't believe so.

11          Q        Did they take any photos of you?

12          A        No, sir.

13          Q        Did you seek medical treatment at all?

14          A        No, sir.

15          Q        Did you have any bruising or swelling or  
16 anything like that?

17          A        I had a little bit of redness, but no bruising  
18 or swelling.

19          Q        But there were not photos taken of this  
20 redness; correct?

21          A        No, sir.

22          Q        That you know of?

23          A        Not that I know of.

24          Q        Okay.

25                MR. GASTON: I have no further questions,

1 Your Honor.

2 THE COURT: Anything further?

3 MR. DICKERSON: Just briefly, Your Honor.

4

5 REDIRECT EXAMINATION

6 BY MR. DICKERSON:

7 Q When you made contact with the defendant, did  
8 it become immediately apparent to you that, uh, he was in  
9 fact not just a vagrant?

10 A Yes, sir.

11 Q And how did that become apparent?

12 A There was a very large object concealed under  
13 his shirt. So when I attempted to detain him for the  
14 trespassing, after he told me to go fuck off, it was pretty  
15 apparent that he had more going on than just trespassing.

16 Q And when you say that you immediately tried to  
17 detain him, were you trying to do anything more than to talk  
18 with him or read him the trespass warning?

19 A I was just trying to get him to come over and  
20 come talk to me.

21 Q And before you ended up tazing him, he punched  
22 you?

23 MR. GASTON: Objection, leading.

24 THE WITNESS: Yes, sir.

25 THE COURT: Sustained.



1 BY MR. DICKERSON:

2 Q Did he punch you?

3 A Yes, sir.

4 Q When did he punch you?

5 A He punched me after I made contact with him on  
6 the back wall.

7 Q How many times did he punch you?

8 A Twice.

9 Q And then?

10 A And then he took off running to his left. Then  
11 I pulled out my Taser, and then it appeared as he was  
12 attempting to turn towards me again.

13 MR. DICKERSON: That's all from the State for  
14 this witness, Your Honor.

15 MR. GASTON: I do have a couple more questions,  
16 Your Honor.

17 THE COURT: I am not surprised.

18

19 RECROSS EXAMINATION

20 BY MR. GASTON:

21 Q When you tazed him, about how far away was he  
22 from you?

23 A I would say he was approximately five feet.

24 Q Five feet. Okay.

25 Um, and when you -- when there's a use of force

1 used on the job, is there a review process that goes on?  
2 A Yes, sir.  
3 MR. DICKERSON: Objection, Your Honor,  
4 relevance.  
5 THE COURT: You started all this by having to  
6 do some redirect. You didn't need it.  
7 MR. DICKERSON: I --  
8 THE COURT: You were trying to make a point, so  
9 the objection is overruled.  
10 Let's finish this up.  
11 BY MR. GASTON:  
12 Q So how does the review process go?  
13 A The review process is the whole circumstances  
14 of the case are reviewed by our detectives or our  
15 investigator agents, and they determine whether the use of  
16 force was justified, and then we go through it.  
17 We sit down and we talk about it, what could  
18 have been done differently, what could have been done -- what  
19 was the same, what they didn't like, what they did like.  
20 Q Has that review already happened in this case?  
21 A Yes, sir.  
22 MR. DICKERSON: I'm going to renew my  
23 objection, Your Honor.  
24 THE COURT: Overruled.  
25 / / /

1 BY MR. GASTON:

2 Q Let me ask you a hypothetical question, if you  
3 know the answer.

4 If you used -- if you tried to taze someone  
5 just to give them a trespass, would -- in the review process  
6 would that be held to be justifiable?

7 MR. DICKERSON: Objection, Your Honor,  
8 relevance.

9 THE COURT: Sustained. It's not relevant.  
10 It's speculative, even under the hypothetical.

11 MR. GASTON: Your Honor --

12 THE COURT: Objection, sustained.

13 MR. GASTON: -- may I respond briefly?

14 THE COURT: You won almost every objection.  
15 This one is sustained.

16 MR. GASTON: Fair enough.

17 BY MR. GASTON:

18 Q It's safe to say that -- okay. Let me ask you  
19 this way: Do you -- what are some of the possible  
20 consequences that could happen to you if in the review  
21 process it finds that the -- the force of use was  
22 unjustified?

23 A If the use of force --

24 MR. DICKERSON: Objection, Your Honor. It's  
25 speculative.

1 THE COURT: If you know. Overruled.  
2 If he knows, he can answer.  
3 THE WITNESS: If the use of force isn't  
4 justified, it could lead to anything from a suspension to  
5 being terminated from the company.  
6 BY MR. GASTON:  
7 Q Could it also -- could it also be referred to  
8 Metro for criminal charges?  
9 A It could.  
10 Q Okay.  
11 THE COURT: All done?  
12 MR. GASTON: Yes, Your Honor.  
13 THE COURT: Thank you, sir. You are excused.  
14 THE WITNESS: Thank you, Your Honor.  
15 THE COURT: State, call your next witness.  
16 MR. DICKERSON: The State's next witness is  
17 Officer Joel Reese.  
18 THE MARSHAL: Joel?  
19 MR. DICKERSON: Joel Reese.  
20 THE COURT: Are the Blacks here?  
21 MR. DICKERSON: They are.  
22 THE COURT: Why are we calling the detective  
23 first?  
24 MR. DICKERSON: Well, because he's the one who  
25 found the cards.

1 THE COURT: Okay.

2 Good morning, sir. Thank you again for  
3 waiting.

4 If you'd come right up to the witness stand,  
5 remain standing, and we'll get you sworn in.

6 Right here.

7  
8 JOEL REESE

9 was called as a witness by the State, having  
10 been first duly sworn did testify as follows:

11

12 THE WITNESS: Yes, I do.

13 COURT CLERK: Please be seated.

14 State your first and last name.

15 THE WITNESS: Joel Reese.

16 THE COURT: Spell it for me.

17 THE WITNESS: It's J-o-e-l, R-e-e-s-e.

18 THE COURT: Thank you so much, Officer.

19 State, you may proceed.

20

21 DIRECT EXAMINATION

22 BY MR. DICKERSON:

23 Q Officer Reese, how are you employed?

24 A With the Las Vegas Metropolitan Police  
25 Department.

1 Q And what's your assignment?  
2 A I'm patrol for Enterprise Area Command.  
3 Q And were you employed in that capacity on  
4 September 23rd, 2015?  
5 A Yes, I was.  
6 Q On that morning did you come in contact with  
7 anybody in this courtroom?  
8 A Yes, I did.  
9 Q If you could, please, point to that individual  
10 and identify a piece of clothing that he or she is wearing?  
11 A It is the defendant wearing the blue jail  
12 outfit.  
13 MR. DICKERSON: If the record could reflect he  
14 has identified the defendant, Your Honor.  
15 THE COURT: It will.  
16 BY MR. DICKERSON:  
17 Q Um, and how was it that you came in contact  
18 with the defendant?  
19 A We received a call at an apartment complex  
20 reference security for that apartment complex having a  
21 subject in custody who was trespassing and had credit cards  
22 that didn't belong to him in his possession.  
23 Q And upon your arrival did you search the  
24 defendant?  
25 A Um, I eventually did, yes.

1 Q And eventually how did you get to that point?

2 A Well, I talked to him. I got him in front of  
3 my patrol vehicle. Um, I asked him if he had anything  
4 illegal on him. He said no.

5 Um, I was then informed by security that he was  
6 in possession of a purse, um, and security informed me that  
7 he had already looked through the purse and there was credit  
8 cards with a female's name on them, and I took possession of  
9 that purse.

10 I eventually read Mr. Sayedzada Miranda, his  
11 Miranda rights, and I questioned him about the purse and his  
12 belongings. And he said that it wasn't his purse. He said  
13 he found it just over there, and he pointed down the street.

14 He could not specify where he found that purse,  
15 but he said it didn't belong to him and he didn't know what  
16 was inside of it.

17 Q And did you ask him about the cards?

18 A I did.

19 Q And what did he say about the cards?

20 A He said they weren't his cards. I proceeded to  
21 ask him if the name on the cards -- if he knew that person  
22 and he said no.

23 Q And did you then search this area and the  
24 defendant?

25 A I did search the defendant, yes, and the purse.



1           Q       And you found, in fact, cards that were not in  
2 his name?

3           A       Yes, several cards.

4           Q       Thirteen cards?

5           A       Yes.

6           Q       And --

7                   THE COURT: In the purse?

8                   THE WITNESS: There was -- there was some cards  
9 that were outside of the purse which security located and  
10 also handed over to me.

11                   Inside the purse, I would have to refer to my  
12 report on how many cards were inside the purse, but there  
13 were cards inside the purse and also cards which were located  
14 near the location that security took him into custody, and  
15 they were in the same name as the cards that I found in the  
16 purse, if that makes sense.

17 BY MR. DICKERSON:

18           Q       Yes. So you verified that? You compared the  
19 cards?

20           A       Yes.

21           Q       And how did you do that?

22           A       Um, looking at the front of the cards with the  
23 identification as far as the person's name on the card and  
24 also comparing that with the cards that I found in the purse.

25           Q       And do you recall the name?

1           A       The last name was Black, I believe. Lori is  
2 the first name.

3           Q       Did you make a photocopy of these cards?

4           A       Yes, I did.

5           Q       And, uh, all 13 of them?

6           A       Yes, sir.

7           MR. DICKERSON: Permission to approach,  
8 Your Honor?

9           THE COURT: Have they been shown to Mr. Gaston?

10          MR. DICKERSON: Yes, and I've provided him a  
11 copy.

12          THE COURT: Are they marked? Are we going to  
13 be using them?

14          MR. DICKERSON: They are marked, Your Honor.

15          THE COURT: Okay.

16 BY MR. DICKERSON:

17          Q       I'm showing you what's been premarked as  
18 State's Proposed Exhibit 1, 2 and 3. Both are two pages.  
19                If you could take a look at those and tell me  
20 first do you recognize what's depicted in State's Proposed  
21 Exhibit 1?

22          A       Yes, I do.

23          Q       And how did you recognize that?

24          A       Those are the cards that were found -- I can't  
25 specify exactly where each card was found, but they were the

1 cards that were found in possession of Mr. Sayedzada.  
2 Q And if you'll turn to the second page of  
3 State's Proposed Exhibit Number 1.  
4 Do you recognize that?  
5 A Yes. That's the back of the same cards that I  
6 just saw on the front.  
7 Q And if you'll look at State's Proposed Exhibit  
8 Number 2.  
9 Do you recognize what's depicted in that  
10 proposed exhibit?  
11 A Yes.  
12 Q And how do you recognize that?  
13 A Also credit cards which were in possession of  
14 the defendant.  
15 Q And if you'll turn to Page Number 2.  
16 Do you recognize that?  
17 A Yes. Those are the back of the same cards of  
18 each one.  
19 Q And the same for State's Proposed Exhibit  
20 Number 3.  
21 If you'd look at that and tell me if you  
22 recognize what's depicted.  
23 A Yes. These are also more credit cards.  
24 Q And the second page?  
25 A It's the back of the credit cards.

1 Q Do State's Proposed Exhibits 1, 2, and 3 all  
2 fairly and accurately depict the cards as you found them that  
3 day?

4 A Yes, they do.

5 MR. DICKERSON: State moves to admit State's  
6 Proposed Exhibit 1, 2 and 3.

7 THE COURT: Mr. Gaston.

8 MR. GASTON: Uh, no objection, Your Honor.

9 THE COURT: They are admitted for prelim  
10 purposes only.

11 (Whereupon, State's Exhibit Numbers 1, 2 and 3  
12 were admitted into evidence.)

13  
14 BY MR. DICKERSON:

15 Q And just to be clear, did the defendant  
16 acknowledge that he had these cards?

17 A He acknowledged that he had the purse.

18 Q And he -- when you asked him about the cards,  
19 what did he say?

20 A He said they weren't his.

21 THE COURT: Anything further of this witness?

22 MR. DICKERSON: Nothing.

23 THE COURT: Cross, Mr. Gaston.

24 MR. GASTON: Yes, Your Honor.

25 Court's indulgence for one moment, please.

CROSS EXAMINATION

BY MR. GASTON:

Q When you arrived on the scene the security officer told you -- not immediately after you arrived, but the security officer told you that he had found cards in the purse that didn't belong to the defendant?

A Yes, sir.

Q Multiple cards?

A Yes.

Q Okay. Do you have any idea -- I know you testified on direct that you don't remember.

Is there anything that would refresh your recollection, maybe looking at your report, as to how many cards were found lying on the street under the car or in the purse?

A Yes. I did specify in my report.

MR. GASTON: May I approach?

THE COURT: You may.

BY MR. GASTON:

Q Just let me know if you remember.

A Okay. In the purse I wrote that there were several credit cards, um, and then -- okay.

In the purse there was three pairs of sunglasses, Best Buy MasterCard, CitiBank debit card, two Wells Fargo ATM cards and a debit card, American Express

1 credit card, and a Visa credit card all in the name of Jamie  
2 Black.

3 Q Thank you. So --

4 A So the three other cards were found, um, near  
5 where security found Mr. Sayedzada.

6 Q Thank you.

7 If you're personally aware -- if you don't have  
8 personal knowledge, then that's fine -- is there a contract  
9 relationship between Metropolitan Police Department and  
10 security companies, these private security companies,  
11 operating security for apartment complexes?

12 MR. DICKERSON: That's outside the scope,  
13 Your Honor.

14 (Reporter interruption.)

15  
16 THE COURT: Why do you need this information?

17 MR. GASTON: Because when I find -- when I ask  
18 the Court to dismiss the case due to Fourth Amendment  
19 violations, one of the things I would like to establish is  
20 that there's actually an existing agency relationship between  
21 the private security company and Metropolitan Police  
22 Department; therefore, the security company was a State  
23 actor.

24 MR. DICKERSON: There's been no testimony to  
25 that at this point.

1 THE COURT: There hasn't, but he's going to  
2 make a motion, so objection's overruled.

3 MR. GASTON: Thank you.

4 BY MR. GASTON:

5 Q Are you aware as to whether or not there is an  
6 agency or contract relationship between the Metropolitan  
7 Police Department and these private security companies  
8 operating securities for apartment complexes?

9 A I'm not aware of that.

10 Q Okay. But when they -- but they do -- you are  
11 aware that they have the ability to take people into custody?

12 A Yes.

13 Q And detain them?

14 A Yes.

15 Q And then they usually call Metro on those  
16 cases?

17 A Yes, sir.

18 Q They always call Metro on those cases?

19 MR. DICKERSON: Objection, Your Honor,  
20 speculative and relevance.

21 THE COURT: Relevance is overruled.  
22 Speculative is sustained.

23 How do you know that they always do that?

24 MR. GASTON: Fair enough. Bad question.  
25 Sorry.



1 BY MR. GASTON:

2 Q Were you wearing a body camera during this  
3 incident?

4 A No.

5 Q Okay. Were you there alone or were there other  
6 officers present?

7 A My initial arrival was just me. There were  
8 other officers which came after the fact just to see --

9 Q Do you know whether -- I'm sorry.

10 A Just to see if I needed help with paperwork or  
11 anything.

12 Q Do you know whether any of them had body camera  
13 footage or not?

14 A No, they don't.

15 Q But they arrived after he was already placed  
16 into the patrol car?

17 A Yes.

18 Q And were there -- when you spoke to the  
19 security officer, he told you that Mr. Sayed had punched him?

20 A Yes.

21 Q Did he have any injuries to his face that you  
22 saw?

23 A No, not that I saw.

24 Q Okay. Was he -- did he have sunglasses?

25 A I don't recall.

1 Q Okay. You don't -- do you recall if there were  
2 any broken sunglasses?

3 A I don't.

4 Q Okay.

5 MR. GASTON: No more questions.

6 THE COURT: Thank you very much, sir. You are  
7 excused.

8 THE WITNESS: Thank you.

9 THE COURT: Call your next witness.

10 MR. DICKERSON: Jamie Black.

11 THE COURT: Good morning, ma'am. Thank you so  
12 much for waiting.

13 THE WITNESS: Hi. Good morning.

14 THE COURT: Come right up here to the witness  
15 stand if you will, please, and when you get up there, if you  
16 could remain standing for just a moment, raise your right  
17 hand.

18 THE WITNESS: Okay.

19 THE COURT: We're going to swear you in.

20

21 JAMIE BLACK

22 was called as a witness by the State, having  
23 been first duly sworn did testify as follows:

24

25 THE WITNESS: I do.

1 COURT CLERK: Please be seated.  
2 State your first and last name and spell it for  
3 the record.  
4 THE WITNESS: Jamie Black, J-a-m-i-e,  
5 B-l-a-c-k.  
6 THE COURT: Thank you very much.  
7 State.

8  
9 DIRECT EXAMINATION

10 BY MR. DICKERSON:

11 Q Miss Black, do you recognize the defendant?  
12 Have you given him permission to have any of  
13 your --

14 THE COURT: Wait a minute. That's too many  
15 questions.

16 First question is: Do you recognize the  
17 defendant?

18 BY MR. DICKERSON:

19 Q Do you recognize the defendant?

20 A I kind of do from video surveillance at home.

21 MR. GASTON: Objection, Your Honor. This is --  
22 this goes into -- a charge of bad acts. It goes into  
23 surveillance video --

24 THE COURT: Why are you starting out with that  
25 question?

1 MR. DICKERSON: To establish that she doesn't  
2 know him.

3 THE COURT: Well, she says she recognizes him.

4 MR. GASTON: It also goes to discovery of  
5 surveillance video which hasn't been disclosed to the  
6 defense.

7 MR. DICKERSON: I'll rephrase my question,  
8 Your Honor.

9 THE COURT: Okay.

10 BY MR. DICKERSON:

11 Q Do you know the defendant?

12 A I do not.

13 Q Have you ever given him permission to have any  
14 of your property?

15 A No.

16 Q So never gave him permission to have any of  
17 your debit or credit cards?

18 A No.

19 Q And at some point in time on September 22nd or  
20 early September 23rd was your purse stolen?

21 A It was.

22 MR. GASTON: Again, objection.

23 THE COURT: Hang on just a second.

24 Do you have an objection?

25 MR. GASTON: No. Withdrawn.

1 THE COURT: Okay.

2 BY MR. DICKERSON:

3 Q And where was your purse stolen from?

4 A From my car.

5 Q And where was your car?

6 A Uh, in front of my house.

7 Q Now, what was in that purse?

8 A Um, keys, credit cards, debit cards, um, my

9 daughter's necklace.

10 Q And if I were to show you pictures of the

11 credit and debit cards that you had in your car and in your

12 purse, would you recognize them?

13 A Yes.

14 MR. DICKERSON: Permission to approach,

15 Your Honor?

16 MR. GASTON: If the State wants, I could just

17 stipulate that -- the exhibit's already been admitted. I had

18 no objection to the exhibit being admitted. If the

19 State's --

20 THE COURT: But are you going to stipulate that

21 they're her cards and issued to her and they were in her

22 purse in her car and they were stolen sometime around this

23 alleged event?

24 MR. GASTON: Uh, for purposes of preliminary

25 hearing, yes, Your Honor.

1 THE COURT: Okay. Stipulation is noted.  
2 I would like to know if this witness lives in  
3 the vicinity of this apartment complex.  
4 BY MR. DICKERSON:  
5 Q Where exactly do you live?  
6 THE COURT: I don't want that address on the  
7 record.  
8 BY MR. DICKERSON:  
9 Q Cross streets, please?  
10 A Um, Oakley and Durango.  
11 THE COURT: That doesn't help me.  
12 Do you live in the area 1407 Santa Margarita?  
13 THE WITNESS: Uh --  
14 THE COURT: Do you even know where that is?  
15 THE WITNESS: I'm not sure where that is.  
16 THE COURT: Okay.  
17 Go ahead.  
18 MR. DICKERSON: Now, um, at this time we're  
19 also stipulating to the -- the cards, their names?  
20 THE COURT: Actually the stipulation was that  
21 the cards found on the defendant recovered by security and  
22 then ultimately by the police were hers that had been located  
23 in her purse or in her car at the time they were found on the  
24 defendant in her purse near the car -- under the car.  
25 MR. DICKERSON: Yes. So --

1 THE COURT: If that's enough for you. If it's  
2 not, do what you need to do.

3 MR. DICKERSON: Absolutely.

4 MR. GASTON: Actually, Your Honor, maybe I made  
5 a mistake.

6 I'm sorry. I am stipulating that the  
7 witness --

8 THE COURT: To what?

9 MR. GASTON: Maybe I made a mistake. Is her  
10 name Blake or Black?

11 THE COURT: Black, I thought she said.

12 THE WITNESS: Black, like the color.

13 MR. GASTON: Yeah. B-l-a-c-k?

14 THE WITNESS: B-l-a-c-k.

15 MR. GASTON: Okay. Thank you.

16 Then I'm stipulating that these cards are the  
17 same cards that were recovered at the scene, that they belong  
18 to her, and that she didn't give anybody permission to have  
19 them.

20 MR. DICKERSON: And that they're the same cards  
21 that are plead in our Complaint by number?

22 MR. GASTON: Sure. Sounds good, yes.

23 MR. DICKERSON: All right.

24 BY MR. DICKERSON:

25 Q Well, just for the record, I'm showing you



1 what's already been admitted into evidence as State's  
2 Exhibit 1, 2 and 3.

3 If you'll go ahead and take a look at those.

4 Can you tell me if you recognize those, those  
5 pictures or what's depicted in them?

6 A Yes. I recognize all of these.

7 Q Now, I'll first draw your attention to State's  
8 Exhibit 1.

9 THE COURT: I thought we had a stipulation for  
10 all of this?

11 MR. GASTON: Yeah. I'm not --

12 THE COURT: Are you scared to let the  
13 stipulation go?

14 MR. DICKERSON: I'm the one worried about it.

15 MR. GASTON: I'm sorry. I'm not trying to  
16 contest the fact that these -- I'm not trying to contest that  
17 these are hers.

18 THE COURT: That's not the issue. His issue --

19 MR. GASTON: I have a thousand million issues  
20 with the security guard. That's it.

21 MR. DICKERSON: All right. Well, then, I could  
22 go -- I could just lead right through this and take care of  
23 it real easily.

24 MR. GASTON: Go for it.

25 / / /

1 BY MR. DICKERSON:

2 Q Um, as far as --

3 MR. DICKERSON: Directing the Court's attention  
4 to Count 1.

5 BY MR. DICKERSON:

6 Q Did you have a MasterCard in your name that,  
7 uh, ended in the last three numbers 9977?

8 THE COURT: Why are we doing this? He already  
9 stipulated to that.

10 MR. DICKERSON: All right.

11 THE COURT: May I see those exhibits, please?

12 All right.

13 MR. DICKERSON: All right. Absolutely,

14 Your Honor.

15 So at this time -- yeah, absolutely.

16 And so if defense counsel is willing to  
17 stipulate as well to the rest of the cards with the name  
18 Michael Black and Lori Black, that would be Counts 6, 5, 7,  
19 and 13.

20 MR. GASTON: You got it, stipulated.

21 MR. DICKERSON: Same thing, that those are the  
22 cards that were found on the defendant and the defendant did  
23 not have permission to have those cards.

24 MR. GASTON: No. I'm not stipulating that they  
25 were the cards found on the defendant, that they were the

1 cards found on the scene between the cards on the ground, on  
2 the floor, and the purse.  
3 THE COURT: And the purse was on your client --  
4 MR. GASTON: Yes.  
5 THE COURT: -- according to the witness who  
6 testified.  
7 MR. GASTON: Yes.  
8 MR. DICKERSON: Okay.  
9 THE COURT: And we've got Lori Black covered in  
10 this as well; right?  
11 MR. GASTON: And Michael Black.  
12 THE COURT: Okay. And who?  
13 MR. GASTON: Michael Black.  
14 MR. DICKERSON: Michael Black. Count 6,  
15 Your Honor.  
16 THE COURT: Okay.  
17 MR. DICKERSON: All right. State will pass the  
18 witness.  
19 MR. GASTON: No questions.  
20 THE COURT: You are excused. Thank you.  
21 MR. DICKERSON: State will rest its case in  
22 chief.  
23 THE COURT: It is the Court's opinion, correct  
24 me if I wrong, Mr. Gaston, that State's Exhibits 1, 2, and 3  
25 all relate back to the Complaint, Counts 1 through 13, and

1 that all the account numbers referenced in 1 and 2 and 3  
2 accurately are reflected in those counts belonging to Jamie  
3 and/or Lori and/or Michael Black, those are the cards found  
4 at the scene, either in the purse or on the ground; correct?

5 MR. GASTON: For purposes of preliminary  
6 hearing only, that is the defense stipulation.

7 THE COURT: All right. State has rested.

8 MR. GASTON: Your Honor, I have spoken -- the  
9 defense has no witnesses.

10 I have spoken to Mr. Sayed about his right to  
11 testify today. Based on my advice he's going to decline to  
12 do so, but I -- and so the defense would rest.

13 THE COURT: Argument?

14 Reserve?

15 MR. DICKERSON: Reserve, Your Honor.

16 MR. GASTON: Your Honor, at this time I would  
17 move to dismiss the case for the numerous Fourth Amendment  
18 violations that have occurred. This sounds like a law school  
19 fact pattern where we have so many issues to spot.

20 I mean, there's actually some issues I'm having  
21 trouble figuring out where to begin and trying to remember to  
22 speak slowly.

23 THE COURT: And let me -- I know you have a  
24 trial starting in an hour. You could make this argument now  
25 if you want, and I'll give the State an opportunity to

1 respond. Um, hopefully we're all pretty familiar with the  
2 law that relates to private, um, people making arrests,  
3 security.

4 Um, I know you had a question whether there was  
5 a contract between Metro and the private security, and while  
6 the officer didn't know or didn't think so, I can't imagine  
7 over these 20, 30 some years that I've been, there's never  
8 been one, but....

9 So tell me what you want to do. We could order  
10 transcripts and you could brief it or you could make your  
11 argument.

12 MR. GASTON: Your Honor, yeah. I would prefer  
13 to just make this orally if I can today.

14 THE COURT: You may. Go ahead.

15 MR. GASTON: Okay.

16 THE COURT: Let's start.

17 MR. GASTON: Yes, Your Honor.

18 First dealing with the Fourth Amendment  
19 violation specifically, there are several that occurred.

20 The first Fourth Amendment violation that  
21 occurred today -- or that occurred is when the security  
22 officer, Mr. Newton, I believe, originally approached Sayed.  
23 That is a stop as defined in the Fourth Amendment, um, and it  
24 was unreasonable. There was no reason to stop Mr. Sayed.

25 Stopping someone to introduce yourself after

1 you've been working for two to three weeks, that's not a good  
2 enough reason to justify stopping and interrogating someone  
3 about are -- are you a resident here or not? What's this  
4 object under your shirt?

5 I mean, I know for a while there was this thing  
6 in Tennessee where police officers were stopping drivers and  
7 giving them a certificate of good driving and that was held  
8 to be unconstitutional. Even though it wasn't technically a  
9 stop for interrogative purposes, it was clearly pretextual, a  
10 stop -- the Court held that that wasn't okay, and this is  
11 kind of the same thing.

12 The guard -- the guard thought Mr. Sayed was  
13 being suspicious. He even uses the word suspicious. That's  
14 how he describes it in his statement, and so he stopped  
15 Mr. Sayed and asked Mr. Sayed questions.

16 That is an investigation, that is a seizure  
17 under the Fourth Amendment, and there has to be probable  
18 cause to justify that seizure. At the very least, if they  
19 want to try to argue that it was more of a Terry stop, which  
20 it probably was, because I don't think he was in full custody  
21 at that time, there still has to be articulate suspicion  
22 that Mr. Sayed has committed a crime.

23 THE COURT: For law enforcement, not for  
24 civilians.

25 MR. GASTON: And I'll talk about that. I can

1 address that now for the whole thing, but that's going to --  
2 the only way his Constitutional violations will stand is if  
3 the Court holds that the security guard was a State actor,  
4 and I absolutely think he was a State actor, and I can  
5 address that now before proceeding further.

6 THE COURT: What evidence? Just tell me what  
7 evidence you have that --

8 MR. GASTON: Well, so first -- first --

9 THE COURT: Let me finish my question.

10 MR. GASTON: I apologize.

11 THE COURT: Tell me what evidence was submitted  
12 at this preliminary hearing to show that the security officer  
13 was acting on behalf of the State or the police department  
14 for the County?

15 MR. GASTON: My position would be that in these  
16 cases this private security company and these private  
17 security companies operating on behalf of apartment complexes  
18 are State actors every time they try to investigate and  
19 detain someone.

20 The authority for that is argument and a  
21 statute. The statute cite is NRS 648.013, which defines a  
22 private patrol officer. A private patrol officer means a  
23 person engaged in the business of employing and providing for  
24 other persons watchmen, guards, patrol officers, uniformed  
25 officers to control traffic, body guards, or other persons

1 for the purpose of protecting persons or property, including  
2 armor transport to prevent the theft, loss, or concealment of  
3 property of any kind or to investigate the theft, loss, or  
4 concealment of property that private patrol officer has been  
5 hired to protect.

6 This is a statute. They are licensed as a  
7 State agent under the statute.

8 Additionally, they have authority given to them  
9 by statute to detain people, to take them into custody and to  
10 investigate. They work hand-in-hand. It's absolutely a myth  
11 for the State to say that they don't work hand-in-hand with  
12 Metro.

13 Um, they're intertwined, they're interchanged,  
14 they're defined by statute. They're a State actor.

15 Joe Shmo can't tazer a guy because he thinks he  
16 has something under his pocket, but a licensed State actor  
17 doing investigation trying to protect society and the  
18 community can.

19 THE COURT: I'm going to deny that argument.  
20 Certainly you've made your record. You could take it up in  
21 District Court.

22 MR. GASTON: And just for the record, I have  
23 other Fourth Amendment violations, but I'm sure they all  
24 become denied if you vote that they are not State actors.

25 THE COURT: You need to raise all these in



1 District Court, because I don't believe security -- and if  
2 the Court finds otherwise, please let me know, because I  
3 would be interested to know.

4 MR. GASTON: Thank you, Your Honor.

5 THE COURT: All right.

6 MR. GASTON: Oh, I'm sorry.

7 THE COURT: Go ahead.

8 Mr. Sayedzada, it appears to the Court from the  
9 Complaint on file that the crimes alleged have been committed  
10 and that you are the person who committed those crimes.

11 I'm going to hold you to answer, send you to  
12 District Court for a trial.

13 Here's your date.

14 COURT CLERK: October 14th, 10:00, lower level,  
15 District Court arraignment.

16 MR. GASTON: Thank you.

17 And, Your Honor, if I could address his custody  
18 status briefly.

19 THE COURT: You may.

20 MR. GASTON: Um, first of all, let me point out  
21 bail is set at \$39,000, which is based on 13 different felony  
22 counts, um, all the felony credit cards that were found. Um,  
23 it's also probably based on the fact that he has a record.

24 I mean, he has two felonies back to in 2003 and  
25 2004. He has seven misdemeanor convictions. He has 19

1 failures to appear.

2 By all accounts when you look at the factors  
3 under the statute, this is not a person who is deserving of  
4 an own recognizance release.

5 That being said, just because a person is not  
6 deserving of an own recognizance release doesn't mean that  
7 there are still less restrictive conditions of, uh,  
8 protecting the community and, uh, ensuring that he returns to  
9 court.

10 In this case, I would ask -- \$39,000 bail he  
11 cannot afford. This is evidenced by him being not only  
12 indigent being represented by the public defender's office,  
13 um, but also still being in custody today. He's been in  
14 custody then. He hasn't bailed out yet.

15 Um, what I would ask the Court to do is reduce  
16 bail to \$10,000. If Mr. Sayed is able to make that bail,  
17 then he must be placed on house arrest. House arrest -- this  
18 is becoming one of my favorite options.

19 House arrest is able to ensure that the  
20 defendant stays in custody. There's an ankle monitoring  
21 bracelet they'll have to wear. They're confined to this  
22 house.

23 That -- I think that completely takes care of  
24 the 19 failures to appear, which I would submit are probably  
25 largely on his misdemeanor cases. Just because a guy fails

1 to appear on a misdemeanor case or a traffic ticket doesn't  
2 mean he's not going to fail to -- doesn't mean he's going to  
3 fail to appear when he -- he knows the consequences of  
4 failing to appear, uh, when he's facing 13 felony counts.

5 And, yes, his record does indicate that, but  
6 the crime here, specifically, is he's found -- he found a  
7 purse. He knew -- according to the facts as the State  
8 alleged, um, he had possession of these credit cards, he knew  
9 he shouldn't have had them, he found the purse, and that  
10 is -- those are felony convictions. We'll deal with that up  
11 in District Court.

12 Um, that being said, it doesn't suggest that  
13 Mr. Sayedzada is the kind of guy who's going to go out and  
14 commit more crimes, especially when posting a \$10,000 bail  
15 and being confined to house arrest.

16 THE COURT: His record is all violence,  
17 coercion with force, reckless driving with death or injury,  
18 battery domestic violence, three of those.

19 And in this case while possession of credit  
20 cards in and of itself is not a violent offense, he still  
21 punched the security guard twice in the face. He is a  
22 violent person.

23 Um, the bail, in my opinion, could be higher.  
24 I'm not going make it higher, but I'm not reducing it.

25 Bail stands. The date in District Court

1 stands.

2 MR. GASTON: Thank you, Your Honor.

3 THE COURT: Your welcome.

4 Court's in recess.

5 MR. DICKERSON: And, Your Honor, the State's  
6 also serving Marcum on the defendant for other charges. I  
7 just want to put that on the record.

8 THE COURT: Okay. Other charges --

9 MR. DICKERSON: Other charges that may be filed  
10 including auto burglary and possible stalking.

11 MR. GASTON: And there's also a charge for  
12 possession of credit or debit card without cardholder's  
13 consent.

14 THE COURT: On the notice of intent to seek  
15 Grand Jury indictment?

16 MR. GASTON: If I could just for the record  
17 place the agency event number that the Marcum notice is  
18 listed under?

19 THE COURT: Sure.

20 MR. GASTON: 150923-0862, and it says any  
21 and/or other charges arising out of the incidents occurring  
22 on or about September 23rd, 2015.

23 THE COURT: That's the case we just heard.

24 MR. GASTON: Yes, Your Honor.

25 THE COURT: All right. Thank you, gentlemen.

1 MR. DICKERSON: Thank you, Your Honor,  
2  
3

4 (Proceedings concluded.)  
5

6 \* \* \*  
7

8 ATTEST: FULL, TRUE, ACCURATE AND CERTIFIED TRANSCRIPT OF  
9 PROCEEDINGS.

10 /s/ Joanie E. Grime

11 JOANIE E. GRIME, RPR, CCR NO. 288  
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JOANIE E. GRIME, RPR, CCR NO. 288  
702) 671.3464

1 IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP  
2 COUNTY OF CLARK, STATE OF NEVADA  
3

4 STATE OF NEVADA, )  
5 Plaintiff, )  
6 vs. )  
7 SAYEDBASHE SAYEDZADA, )  
8 Defendant. )

CASE NO: 15F14345X

ATTEST RE: NRS 239B.030

9  
10 STATE OF NEVADA }  
11 } SS  
12 COUNTY OF CLARK }

13 I, Joanie Grime, a Certified Shorthand Reporter  
14 within and for the County of Clark and the State of Nevada,  
15 do hereby certify:

16 That REPORTER'S TRANSCRIPT OF PROCEEDINGS was  
17 reported in open court pursuant to NRS 3.360 regarding the  
18 above proceedings in Las Vegas Justice Court, 200 Lewis  
19 Avenue, Las Vegas, Nevada.

20 That said TRANSCRIPT:

X

21 Does not contain the Social Security number of  
22 any person.

23 Contains the Social Security number of a  
24 person.

25 -cOo-

JOANIE E. GRIME, RPR, CCR NO. 288  
702) 671.3464

1 -oOo-

2  
3 ATTEST: I further certify that I am not  
4 interested in the events of this action.

5 /s/ Joanie E. Grime

6 JOANIE E. GRIME, RPR, CCR NO. 288

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JOANIE E. GRIME, RPR, CCR NO. 288  
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