

1 there, Exhibit number 1, and Officer Newton is showing you that all four of this cards
2 were found on the ground.

3 Now it's going to be very important for you to look at this exhibit closely.
4 You'll find that five out of the six cards that were found on the ground were
5 unexpired. The unexpired cards were found on the ground underneath the car.
6 When you look at the evidence you'll find that none of the cards inside the purse
7 were unexpired. They were all expired. None of the cards inside the purse were
8 expired -- excuse me -- they'd all expired.

9 So, here's Exhibit 3 which, again, you'll see two of these cards were
10 found on the ground. Look at the expiration dates. Now the one card that was
11 found on the ground that had expired had recently expired. So, you really believe --
12 you don't check your common sense at the door -- that all of the unexpired cards
13 happened to just fall out of this purse while the expired cards remain inside it.
14 There's a reason on the ground underneath the card all of the cards were either not
15 expired or had recently expired. Why? Those were the cards that were most useful
16 to Defendant.

17 Now Officer Newton said he did look around. He didn't see any of the
18 cards until after the car had moved. So, if it really did just spill out, how did it get
19 underneath the car? Now Officer Newton indicated that both straps were around
20 Defendant's neck, both straps of the purse were around Defendant's neck and the
21 purse was about right here, close to his upper stomach or chest area. The reason
22 all of the unexpired cards were underneath the car is, again, those were the cards
23 Defendant was intending to use.

24 You heard from Jamie Black. The unexpired cards when she last saw
25 them were in her wallet where the expired cards were in the console of her car.

1 Now both her purse containing the wallet and the entire console were removed and
2 somehow taken. So, we have now at a later point in time Defendant possessing the
3 expired cards inside the purse, the cards that were left useful to Defendant, the
4 cards that were still on Defendant's person, and the expired cards -- the expired
5 cards excuse me -- that were on the ground. I encourage you to take these exhibits
6 and look at them. Compare the expiration dates, compare the expiration dates with
7 the locations that Officer Newton indicated that he found these cards. There's a
8 correlation there that I just articulated and there's a reason for that correlation.

9 Now Defense said that you can presume -- I'm sorry-- Instruction
10 number 17. You may infer and conclude that a person who has more than two
11 cards had the requisite intent that you need to find to find Defendant guilty beyond a
12 reasonable doubt. You have this avenue available to you. You all know we can't
13 pry what was inside Defendant's mind when he possessed these cards. It's
14 impossible for us to do that, but we can look at the circumstances. We can rely on
15 this presumption to come up with our decision.

16 First of all, let's look at how Defendant reacted. As soon as he was
17 confronted by Officer Newton, he ran. In fact he said fuck off and ran. When Officer
18 Newton catches up he uses force to get away and takes off again and is finally
19 confronted right behind around the dumpster where Officer Newton ultimately takes
20 Defendant into custody.

21 So, again, there's no evidence that this purse had been around that
22 area before. Defendant himself said I found it down the street. He brought it with
23 him. These cards were all -- was in the purse and on the ground and were all in the
24 name of the Black family. Jamie's name is found both on the ground and in the
25 purse. Lori and Michael Black's are found on the ground. So, it's clear these cards

1 came from this purse. Jamie herself said these cards were all in my car when I last
2 saw them. Those cards were brought to that location on the ground by Defendant.

3 Again, all of the unexpired cards were on the ground. That's an
4 important fact for you to consider. It goes to Defendant's intent to use those cards
5 and it goes to the fact the Defendant placed them there. I can't imagine any
6 situation where something spilled out and the only thing that spilled out -- five out of
7 these 13 cards were unexpired and all five fell out. Use your common sense. You
8 were instructed to use your common sense.

9 Defendant is not charged with the keys, the cash, the toys. Set that
10 aside. That has no bearing in this case. Focus on the facts of this case. When you
11 take this evidence back to the jury room, look at it; look at the cards, look at the
12 expiration date, look at where they were found. Read the law that was given to you
13 by the Judge. You can come to only one conclusion and that conclusion is that we
14 have proven Defendant guilty of all 13 counts beyond a reasonable doubt. Thank
15 you.

16 THE COURT: Thank you, Mr. Jones.

17 At this time, Ladies and gentlemen, I'm going to ask my clerk to be --
18 swear in and the officers to take charge of the jurors and alternate jurors.

19 [The Court Clerk swore in the officers to take charge
20 of the jurors and alternate jurors]

21 THE COURT: Ladies and gentlemen, throughout this process two of you are
22 alternates. We don't let you know who the alternates are because my experience
23 has led me to believe that the alternates don't seem to take it as serious when they
24 don't believe that they're the ones to be involved in the actual deliberation. I've seen
25 'em actually -- they're late, they don't seem to be as attentive, and by doing it in a

1 manner in which I don't let know you know who the alternates are, I watch
2 everybody and I'll tell you the alternates are just as attentive sometimes even more
3 attentive where it appears the rest of the jury are. But in this case only 12 of you will
4 be deliberating. The alternates are very important, however, and when I tell you
5 who you are please don't be offended by the fact that you won't get to deliberate
6 because you may be called in to deliberate depending on how the jury proceeds in
7 their deliberation.

8 So, at this point in time all individuals are going to be leaving and 12 of
9 you will be going into the deliberation room. We'll be giving you the -- what's been
10 included here in the evidence -- a copy of your instructions. But I'm going to ask Mr.
11 Lac and Ms. Bagan to provide the information that you have where we can locate
12 you immediately when you leave. And when I mean locate you immediately not give
13 it to us immediately, but where we can contact you. So, don't give me a phone
14 number that we have to call 50 people to find you. Give me something I can get you
15 right away; okay. So, Mr. Lac and Ms. Bagan, you are my alternates you haven't
16 already figured that out, and I appreciate your attentiveness here.

17 So, all of you will leave the courtroom. My marshal will take you out
18 and we'll get the information from you and we'll let Mr. Lac and Ms. Bagan also
19 know in the event that there's a verdict. Okay.

20 MR. JONES: And, Your Honor, I apologize. Before the alternates leave, then
21 we do need to admonish them not to talk about this case as they might get called
22 into service.

23 THE COURT: You're right. The admonishment that I provide you in every
24 recess also is in effect here as well. You are not allowed -- you're not released.
25 You're still my jury. So, you're not allowed to discuss this with anyone else in this

1 matter until I inform you otherwise. All right. You understand? Okay. We'll be at
2 ease while the jury leaves the room.

3 [The jury retires to deliberate at 1:51 p.m.]

4 [Outside the presence of the jury]

5 THE COURT: Okay. We're outside the presence of the jury. I'd ask that you
6 leave your information for my clerk to reach you. Is there anything you need to put
7 on the record at this point. Mr. Gaston?

8 MR. GASTON: No.

9 THE COURT: Mr. Jones?

10 MR. JONES: No, Your Honor.

11 THE COURT: All right. Okay.

12 THE COURT RECORDER: Are we off the record?

13 THE COURT: Yeah, we're off the record.

14 [Proceedings resumed at 3:49 p.m.]

15 [Outside the presence of the jury]

16 MR. JONES: Their client just got here, Your Honor. I believe they went back
17 to confer.

18 THE COURT: Go on. Bring them in here.

19 Okay. We're back on the record in State of Nevada versus
20 Sayedbashe Sayedzada in C310000. I was told that we have a verdict. You want
21 to bring the jury in? Okay.

22 [Inside the presence of the jury]

23 THE COURT: Okay. This is continuance of the jury trial in C310000, State of
24 Nevada versus Sayedbashe Sayedzada. I'd like the record to reflect the presence
25 of the Defendant and his counsel as well as State and their counsel. Will the parties

1 stipulate to the presence of the jury?

2 MR. JONES: Yes, Your Honor.

3 MR. GASTON: Yes, Your Honor.

4 THE COURT: I was informed that you've reached a verdict. Has the jury
5 elected a foreperson? Okay. Can you put your name on the record, please?

6 THE JURY FOREPERSON: Yes. My name is Connie Quan.

7 THE COURT: Okay. Ms. Quan, as the foreperson, has the jury reached a
8 verdict then?

9 THE JURY FOREPERSON: Yeah.

10 THE COURT: Okay. Can you provide that to my marshal.

11 Okay. I'm going to ask the clerk now to read the verdict out loud.

12 Please rise.

13 THE COURT CLERK: District Court, Clark County, Nevada, the State of
14 Nevada, plaintiff versus Sayedbashe Sayedzada, Defendant; case number C-15-
15 310000-1, Department 19, Verdict.

16 We the jury in the above-entitled case find the Defendant, Sayedbashe
17 Sayedzada, as follows: Count 1, possession of credit card or credit or debit card
18 without cardholder's consent, guilty of possession of credit or debit card without
19 cardholder's consent; count 2, possession of credit or debit card without
20 cardholder's consent, guilty of possession of credit or debit card without cardholder's
21 consent; count 3, possession of credit or debit card without cardholder's consent,
22 guilty of possession of credit or debit card without cardholder's consent; count 4,
23 possession of credit or debit card without cardholder's consent, guilty of possession
24 of credit or debit card without cardholder's consent; count 5, possession of credit or
25 debit card without cardholder's consent, guilty of possession of credit or debit card

without cardholder's consent; count 6, possession of credit or debit card without cardholder's consent, guilty of possession of credit or debit card without cardholder's consent; count 7, possession of credit or debit card without cardholder's consent, guilty of possession of credit or debit card without cardholder's consent; count 8, possession of credit or debit card without cardholder's consent, guilty of possession of credit or debit card without cardholder's consent; count 9, possession of credit or debit card without cardholder's consent, guilty of possession of credit or debit card without cardholder's consent; count 10, possession of credit or debit card without cardholder's consent, guilty of possession of credit or debit card without cardholder's consent; count 11, possession of credit or debit card without cardholder's consent, guilty of possession of credit or debit card without cardholder's consent; count 12, possession of credit or debit card without cardholder's consent, guilty of possession of credit or debit card without cardholder's consent; count 13, possession of credit or debit card without cardholder's consent, guilty of possession of credit or debit card without cardholder's consent. Dated the 23rd day of March, 2016, signed Foreperson Connie Quan.

Ladies and gentlemen of the jury, are these your verdicts as read so say you one so say you all?

THE JURY PANEL: Yes.

THE COURT: Do either party wish to have the jury polled individually?

MR. JONES: No, Your Honor.

MR. GASTON: No, Your Honor.

THE COURT: Okay. Thank you. I'll ask the clerk now to record the verdict.

Go ahead and have a seat. Ladies and gentlemen, as you know, the right of jury trial is one of our basic and fundamental constitutional guarantees. I

1 talked about that earlier. I firmly believe in this right. I do believe that every person
2 accused of a crime needs to be judged by a fair and impartial jury. You must have
3 jurors that -- in those situations. Unfortunately many individuals try to shirk that
4 responsibility. I don't know how many of you here may have tried to get out of it in
5 the first place, but I'm telling you I'm very pleased that the 14 of you and the other
6 two that aren't here now of willing to give us your time. I saw that you were very
7 attentive to this endeavor. Fortunately for you all it was a two day trial. Sometimes
8 these cases take a little bit longer. Next week I have a medical malpractice case
9 that's probably going to take about three weeks. And so you can imagine the strain
10 that we have on our jurors. But I really appreciate that you gave us your time. I
11 believe you were very conscientious and attentive to the proceedings here, and I
12 want to tell you on behalf of counsel and the parties in the Eighth Judicial District
13 Court here I want to thank you for your careful deliberation in this matter.

14 The question may arise now whether or not you can discuss this case
15 with other individuals. You can. However, you do not have to do, and if you choose
16 not to you can let them know that you don't want to talk about it and if they persist,
17 please let me know and our marshal will take care of that.

18 The parties oftentimes will want to talk to you afterwards to discuss the
19 case with you and what you -- maybe they could have done better or maybe they
20 shouldn't have done, that type of thing, to help them understand the juries that we
21 have in today's society here in Las Vegas. I'm going to come back and talk to you
22 shortly before you leave. I have some remarks I want to make with you back in the
23 jury room. But I want to tell you I want to thank you very much for doing this and
24 giving us your time. So, we'll be at ease while the jury is excused.

25 [Outside the presence of the jury]

1 One of the factors to consider -- if we had done a custody motion before
2 trial which we did way back then, but this Court has now heard the evidence and
3 heard the trial. If we had done a custody issue, one of the factors to consider is the
4 client's ability to make that bail. Obviously he's indicate^{3d} he can't afford that bail.

5 Additionally, after hearing all of the evidence, yes, he was found guilty,
6 but I think it bears note a couple different things, bears note that might make this
7 Court reconsider its decision. I know it just indicated no bail but I would think the
8 Court might reconsider given the new circumstances. Not only did it hear all of the
9 evidence that came out but additionally Sayed's posture throughout this case,
10 specifically he has -- it was obvious chances at a resolution and negotiations, Sayed
11 has continually rejected negotiations in this case because he steadfastly maintained
12 his innocence. It wasn't that he was never willing to plead guilty, he was -- he
13 maintained his innocence with respect to the misdemeanor possession of stolen
14 property and the other crimes.

15 He never wanted to plead to the felony which he always maintained his
16 innocence. He believed in the system, he believed in the fact that there's a trial, and
17 he wanted to stand before that. He has stood before that. He respects the jury's
18 decision; he respects that based on the evidence they find him -- they found him
19 guilty of all these counts beyond a reasonable doubt and he accepts that verdict
20 obviously. But given his posture and his behavior in this case and the fact that the
21 Court has considered this evidence, I would think that the Court might reconsider
22 the no bail and at least leave the standard bail at 39,000 that's still there. But, in the
23 alternative, I would ask that it reconsider stacking the bail for each count because
24 really this is one incident of having a purse with multiple cards. So, I would ask that
25 the Court reduce the bail to \$3,000 pending sentencing.

1 MR. JONES: And, Your Honor, I would point out this was heard in District
2 Court in front of the Honorable Judge Johnson. An OR motion was made and he
3 did deny that motion. And some of the factors that we have with respect to this
4 Defendant are he's a two time prior felon. We have a 2003 coercion and a 2004
5 reckless driving resulting in substantial bodily harm.

6 Additionally, according to the Clark County Justice Court intake
7 services sheet, he had 19 failures to appear. Now, Your Honor, we have -- this
8 Defendant no longer cloaked in the presumption of innocence. He had 19 failure to
9 appear. Quite frankly, the likelihood of him coming back to sentencing is minimal
10 looking at his history. So, we are asking for a no bail hold at this time.

11 THE COURT: Okay. Yeah, no bail.

12 MR. JONES: Thank you, Your Honor.

13 THE COURT: We'll set the sentencing date. But I do want you to file that in
14 writing and give the State an opportunity. I want to see how they address that.

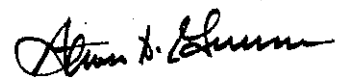
15 MR. GASTON: Yes, Your Honor.

16 THE COURT: Okay. All right.

17
18 [Jury Trial, Day 2, concluded at 4:01 p.m.]
19
20

21 ATTEST: Pursuant to Rule 3(c)(d) of the Nevada Rules of Appellate Procedure, I
22 acknowledge that this is a rough draft transcript, expeditiously prepared, not
proofread, corrected, or certified to be an accurate transcript.

23 
24 PATRICIA SLATTERY
25 Court Transcriber



CLERK OF THE COURT

1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 THE STATE OF NEVADA,)

7 Plaintiff,)

8 vs.)

9 SAYEDBASHE SAYEDZADA,)

10 Defendant.)

CASE NO. C310000-1

DEPT. NO. XIX

TRANSCRIPT OF PROCEEDINGS

11
12 BEFORE THE HONORABLE WILLIAM D. KEPHART, DISTRICT COURT
13 JUDGE

14 MONDAY, APRIL 11, 2016 AT 9:34 A.M.

15 **DEFENDANT'S MOTION FOR JUDGMENT OF ACQUITTAL**
16 **NOTWITHSTANDING THE VERDICT, OR, IN THE**
17 **ALTERNATIVE, FOR A NEW TRIAL**

18 APPEARANCES:

19 FOR THE STATE:

JOHN JONES, JR.
Chief Deputy District Attorney
MICHAEL DICKERSON
Deputy District Attorneys

22 FOR THE DEFENDANT:

TYLER GASTON
CHRISTOPHER HOWELL
Deputy Public Defenders

23
24
25 Recorded by: CHRISTINE ERICKSON, COURT RECORDER

1 LAS VEGAS, NEVADA, MONDAY, APRIL 11, 2016 at 9:34 A.M.

2
3 THE COURT: Bottom of page 2, State of Nevada versus Sayedbashe
4 Sayedzada. This is C310000.

5 This is Defendant's motion at this time for a judgment of acquittal
6 notwithstanding the verdict, or, in the alternative, for a new trial. My
7 understanding is that the judgment of acquittal is -- are you only -- you're only
8 dealing with certain counts, is that correct?

9 MR. GASTON: Yes, Your Honor.

10 THE COURT: Okay. And for the record, if I'm reading it right. They're
11 counts, 1, 2, 8, 9, 10, 11 and 12. Those counts all deal with the -- I guess it's the
12 credit cards that were in the purse that were expired; right?

13 MR. GASTON: Yes, Your Honor.

14 THE COURT: Okay. Do you want to add anything to your motion? I've
15 read your motion. I --

16 MR. GASTON: I have a couple brief -- just a couple brief comments.

17 THE COURT: Okay.

18 MR. GASTON: In order to grant our motion the Court doesn't have to
19 adopt some kind of broad rule that a person can never have the intent to use an
20 expired credit card. And if we think about it that kind of makes sense.

21 Because let's assume a defendant's at a store, he hands over a card
22 that isn't his and tries to pay for something only to find out later it's expired. Well
23 that guy clearly had a card. He clearly didn't know it was expired. And he clearly
24 intended to use it. So it doesn't make sense that that guy would catch a lucky
25 break basically because it happened to turn out to be expired.

1 But that's not what happened here. So, I think we can agree that a
2 person can have the intent to use an expired card. But the reason the State's
3 case was so strong is because there literally was only one conclusion. For those
4 cards being underneath the car -- I mean our big defense was he didn't look
5 inside the purse so he didn't know -- they had nothing to show that he knew the
6 cards were there. And even if they did he didn't have the intent to use it.

7 But the reason the State won this case and the reason it was strong
8 is because the only conclusion that could -- the jury could've drawn is he clearly
9 must have looked inside the purse and sorted the cards. Because otherwise how
10 on earth are only the unexpired cards beneath the car and the expired ones are
11 in the purse? It's clearly because he previously sorted through the ones he could
12 use and couldn't use, notice which were expired and which weren't, kept the
13 ones he could use on him, and ditched them later while he was waiting for the
14 police.

15 So he clearly noted as contracts with the example I gave. He clearly
16 had noticed which cards were expired and unexpired. You can't use an expired
17 card. He knew that. So, therefore, he couldn't have had the intent to use those
18 cards. So, in this case, given these facts, a reasonable trier of fact couldn't of
19 inferred from this evidence that he intended to use the expired cards because he
20 clearly noticed which were expired and which weren't. And on that I submit.

21 THE COURT: Okay.

22 MR. JONES: I don't have a lot to add to my opposition, Your Honor. I just
23 want to point out that what Defense failed to address though in their motion was
24 the fact that the jury may rely on a presumption in this case.

25 That if a -- more than two credit cards are found on Defendant's

1 or in the Defendant's actual or constructive possession that the jury, at that point,
2 may then infer intent with respect to those cards. Again, they don't have to but
3 they can.

4 And in this case I think because it was -- there was obviously beyond
5 a reasonable doubt evidence that he had intent with respect to the unexpired
6 cards that were found on the ground, that the jury could then rely on the
7 presumption with respect to the cards that were hanging around Defendant's
8 neck in the purse.

9 Now, I'm not saying the jury had to rely on the presumption in order
10 to find Defendant guilty with respect to those cards. I think Defense hit the nail
11 on the head when they indicated that the only conclusion that the jury can draw
12 was the fact that the Defendant himself sorted those cards. I think the fact that
13 the Defendant kept those cards even though they were expired around
14 Defendant's neck shows in and of itself some intent to use those cards.

15 Now granted it might have been fruitless at the end, but the intent is
16 the important thing to focus on. Additionally, we have all the other evidence,
17 Your Honor. Defendant ran. He engaged in an altercation in an attempt to get
18 away. I think that coupled with everything else shows that the jury really had two
19 paths with respect to this case.

20 The first path being he had the intent with respect to all cards. Or,
21 they had the presumption that they could rely on. And in either way, Your Honor,
22 it led to one conclusion and it's Defendant's guilt with respect to all counts.

23 THE COURT: Okay. Thank you.

24 MR. GASTON: I'll submit, Your Honor.

25 THE COURT: Mr. Gason, with respect to this case you've asked for two

1 different things. You've asked for a verdict with regards to those counts or, in the
2 alternative, a new trial.

3 For purposes of the new trial I'm denying your motion there. With
4 respect to the other counts my inclination initially was kind of going your way.
5 But when I went back and looked at the facts again -- and it seems like in your
6 motions you've forgot this. The one hanging fact with me was that the witness
7 who owned the cards, who owned the car, indicated that the cards were in a
8 center console separate from the cards that were in her purse that were the valid
9 cards in the purse and that -- and the expired cards were in the center console.

10 So considering that -- that there's some point in time that they were
11 separated and then they were re-separated. Now there wasn't any facts to
12 support that he actually was the one that stole anything from the car. But there's
13 a reasonable inference based on the time frame, where he was coming from, that
14 that was something that had to of occurred.

15 And so the fact that he had put those cards in the purse; if he did
16 that. Or the cards were in the purse and then the other ones were in his pocket
17 or on the ground. A reasonable belief that they were in his pocket and he was
18 discarding them when he was sitting over there by himself is that he had full
19 intent to -- and he doesn't necessarily have to use them.

20 The statute says to circulate, use, sell or transfer the credit card.
21 And so if he sees that there not, you know, if they're expired cards, the reality is
22 that there's still other information on that that he could -- he used from it, or he
23 could sell those cards, or transfer those cards. So there's other things that's
24 there as well. So, I'm denying your motion in its entirety at this time. For that
25 reason the sentencing will still stand and -- Okay?

1 MR. GASTON: Thank you, Your Honor. And at this time I know the State
2 -- the Court denied my motion for this earlier at the end of trial.

3 Currently Sayedzada is being held without bail. Given that we've
4 litigated these issues and we brought to light some more, I guess, issues with the
5 case the Court has now considered the evidence. We've been in front of you
6 several times. I would just renew at this time my motion for a standard bail in this
7 case pending sentencing.

8 THE COURT: State?

9 MR. JONES: And I'd renew my objection, Your Honor.

10 THE COURT: Okay. The bail will stand as I indicated previously.

11 MR. GASTON: Thank you.

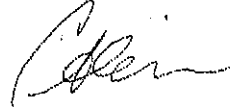
12 MR. JONES: Thank you, Your Honor.

13 THE COURT: Okay.

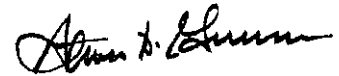
14 [PROCEEDINGS CONCLUDED at 9:41 A.M.]

15 * * * * *

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

18 

19 Christine Erickson,
20 Court Recorder
21
22
23
24
25



CLERK OF THE COURT

1 **RTRAN**

2
3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**
5

6 **THE STATE OF NEVADA,**)

7 **Plaintiff,**)

8 **vs.**)

9 **SAYEDBASHE SAYEDZADA,**)

10 **Defendant.**)

CASE NO. C310000-1

DEPT. NO. XIX

TRANSCRIPT OF PROCEEDINGS

11
12 **BEFORE THE HONORABLE WILLIAM D. KEPHART, DISTRICT COURT JUDGE**
13 **WEDNESDAY, JUNE 8, 2016 AT 9:06 A.M.**

14 **SENTENCING**

15 **APPEARANCES:**

16
17 **FOR THE STATE:**

MICHAEL DICKERSON
Deputy District Attorneys

18
19 **FOR THE DEFENDANT:**

CHRISTOPHER HOWELL
Deputy Public Defender

20
21
22
23
24
25 **Recorded by: CHRISTINE ERICKSON, COURT RECORDER**

1 LAS VEGAS, NEVADA, WEDNESDAY, JUNE 8, 2016 at 9:06 A.M.

2
3 THE COURT: Mr. Howell? This is State of Nevada versus Sayedzada
4 -- Sayedbashe Sayedzada. This is C310000. This is time set for sentencing.
5 Will the parties approach?

6 MR. DICKERSON: Yes, Your Honor.

7 [BENCH CONFERENCE - NOT RECORDED]

8 THE COURT: Okay. Mr. Sayedzada? Mr. Howell represented at the
9 bench that you had indicated that you don't want to proceed today because
10 you want to file a motion for ineffective assistance of counsel?

11 THE DEFENDANT: Correct.

12 THE COURT: Okay. Sir, at this point in time that's -- it's premature.
13 Because what -- time set for sentencing at this point -- I think your proper
14 time frame would be any post-conviction because you've been found guilty
15 already based on this verdict. Do you understand?

16 THE DEFENDANT: Yes, I understand; I'm sorry.

17 THE COURT: So, with that being said do you feel comfortable going
18 forward now?

19 THE DEFENDANT: I mean -- there's no way I could ask for a couple
20 weeks to stay it to file the motion [indiscernible] to see the exhibits and
21 everything to see what you're seeing?

22 THE COURT: Okay. I'm going to do that.

23 MR. DICKERSON: The State opposes it just for the record.

24 THE COURT: I understand. I do. I mean I heard the whole trial, Mr.
25 Dickerson.

1 MR. DICKERSON: Right.

2 THE COURT: I'll give Mr. Sayedzada any opportunity he wants. File

3 your motions. I'll review it. But I'm telling you my position probably won't

4 change 'cause it -- but I'll look at it. I will.

5 THE DEFENDANT: Okay. All right.

6 THE COURT: And I'll make a determination after I review it; okay?

7 THE DEFENDANT: All right. I appreciate it.

8 THE COURT: All right.

9 THE DEFENDANT: Thank you.

10 THE COURT CLERK: Do you want me to set it for the motion as well?

11 THE COURT: Yes.

12 THE COURT CLERK: Okay.

13 THE COURT: What I'm going to do is I'm going to set it in two weeks

14 for the motion as well. So you need to get these filed right away.

15 THE DEFENDANT: All right. I will.

16 THE COURT: And unless I need, you know, Mr. Dickerson?

17 MR. DICKERSON: Yes, Your Honor.

18 THE COURT: I'm not going to require you to respond to them.

19 MR. DICKERSON: Okay.

20 THE COURT: Unless after I review them that I think you'd probably

21 need to; okay?

22 MR. DICKERSON: Okay. Thank you, Your Honor.

23 THE COURT CLERK: June 20th at 8:30.

24 THE DEFENDANT: Thank you, Your Honor.

25 ///


1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: All right.

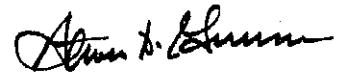
[PROCEEDINGS CONCLUDED at 9:10 A.M.]

* * * * *

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



Christine Erickson,
Court Recorder



CLERK OF THE COURT

1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA
5

6 THE STATE OF NEVADA,)

7 Plaintiff,)

8 vs.)

9 SAYEDBASHE SAYEDZADA,)

10 Defendant.)
11

CASE NO. C310000-1

DEPT. NO. XIX

TRANSCRIPT OF PROCEEDINGS

12 BEFORE THE HONORABLE WILLIAM D. KEPHART, DISTRICT COURT JUDGE
13 MONDAY, JUNE 20, 2016 AT 9:23 A.M.

14 **DEFENDANT'S PRO PER MOTION TO**
15 **WITHDRAW COUNSEL (TO BE FILED); SENTENCING**
16

17 **APPEARANCES:**

18
19 **FOR THE STATE:**

MICHAEL DICKERSON
Deputy District Attorneys

20
21 **FOR THE DEFENDANT:**

TYLER GASTON
CHRISTOPHER HOWELL
Deputy Public Defenders

22
23
24
25 Recorded by: CHRISTINE ERICKSON, COURT RECORDER

1 LAS VEGAS, NEVADA, MONDAY, JUNE 20, 2016 at 9:23 A.M.

2
3 THE COURT: State of Nevada versus Sayedbashe Sayedzada. This is
4 C310000. This is on for sentencing. Also, Defendant had indicated the last
5 time we were here that he was talking about filing a motion to relieve
6 counsel of any further obligation in this matter. I have not seen anything Mr.
7 Sayedbashe -- Sayedzada?

8 THE DEFENDANT: Judge -- yes -- I filed a motion on Thursday. I put it
9 in. It should be in. If -- I don't know if you've got it yet or not?

10 THE COURT: I don't have it. If I had it I would've said I had it but I
11 don't have it.

12 THE DEFENDANT: Yeah. I put it in on Thursday. I mean that's the
13 earliest I could put it in. I had not enough -- obviously, not enough time and
14 not enough resources to put everything together much sooner as I wanted
15 to. And I put it all in on Thursday. It should be in -- I thought it would be in
16 by now to you.

17 [COLLOQUY BETWEEN COURT AND COURT CLERK]

18 THE COURT: Sir, I don't have it. It's not even in our system. So, at
19 this point in time, like I told you, I think it's a little bit premature.

20 The concern I had is his claim and then now you'd be arguing at
21 sentencing. That's the -- and I actually don't know what his claim is.

22 MR. GASTON: Do you mind if we approach?

23 THE COURT: Sure.

24 [BENCH CONFERENCE - NOT RECORDED]

25 THE COURT: Sir, what I want to do is I'm going to continue it till I

1 have it. I want to read it to see what it's saying.

2 THE DEFENDANT: All right.

3 THE COURT: So before I go any further. So I -- I want to see what
4 you have to say about it. So I'm going to continue this till after I get back.

5 THE COURT CLERK: Yeah. It's going to be July 25th.

6 THE COURT: July 25th.

7 THE DEFENDANT: I appreciate it.

8 THE COURT CLERK: July 25th at 8:30.

9 THE DEFENDANT: All right. Thank you.

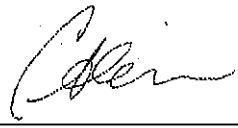
10 MR. GASTON: Thank you, Your Honor.

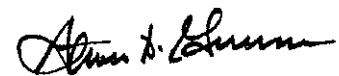
11 THE COURT: All right.

12 [PROCEEDINGS CONCLUDED at 9:27 A.M.]

13 * * * * *

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

16 
17 _____
18 Christine Erickson,
19 Court Recorder
20
21
22
23
24
25



CLERK OF THE COURT

1 **RTRAN**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA
5

6 THE STATE OF NEVADA,)
7) CASE NO. C310000-1
8 Plaintiff,)
9 vs.) DEPT. NO. XIX
10 SAYEDBASHE SAYEDZADA,)
11) **TRANSCRIPT OF PROCEEDINGS**
12)
13 Defendant.)

14 BEFORE THE HONORABLE WILLIAM D. KEPHART, DISTRICT COURT JUDGE
15 MONDAY, JULY 18, 2016 AT 9:44 A.M.

16 **DEFENDANT'S PRO PER MOTION TO DISMISS APPOINTED**
17 **COUNSEL AND MOTION TO DISMISS CRIMINAL COMPLAINT**
18 **AND OVERTURN CONVICTION**

19 **APPEARANCES:**

20 FOR THE STATE: JOHN JONES, JR.
21 Chief Deputy District Attorney

22 FOR THE DEFENDANT: TYLER GASTON
23 CHRISTOPHER HOWELL
24 Deputy Public Defenders

25 Recorded by: CHRISTINE ERICKSON, COURT RECORDER

1 LAS VEGAS, NEVADA, MONDAY, JULY 18, 2016 at 9:44 A.M.

2
3 THE COURT: Page 7, State of Nevada versus Sayedbashe Sayedzada.
4 This is C310000. This is Defendant's pro per motion to dismiss appointed
5 counsel and motion to dismiss criminal complaint and overturn conviction.

6 Mr. Sayedzada, I had an opportunity to review your motion.
7 You're asking me to dismiss counsel in this matter.

8 [COLLOQUY BETWEEN THE COURT AND THE COURT CLERK]

9 The arguments that you're making in this case deal with -- and I
10 think I kind of talked to you about this before is that at the time -- that what
11 you're saying is that your counsel is effective in this matter and so you're
12 challenging for ineffective assistance reasons. That's probably better
13 addressed in a post-conviction petition. I think I said that before because
14 you've already been convicted.

15 Your motion to overturn the conviction in an extent that you're
16 asking me to do so, I'm denying that. I've sat here and watched this -- sat
17 over this trial, saw what was presented. Quite frankly I thought your
18 attorneys did a pretty good job in light of the fact of what you were being
19 charged with so -- but, with that being said, I won't require you to go
20 through sentencing with these two attorneys. If you want, I mean,
21 obviously it's broke down there. He's complaining saying that you -- and I
22 don't want to exacerbate with something happening down the road because
23 he's been convicted already.

24 So, you know, I -- to the extent that he's asking you -- asking
25 you to be relieved and he's claiming that your ineffective, I'm going to grant

1 that. I'm not finding that he was -- that you were ineffective. I'm just doing
2 it because the timing in which he's asking for it, and what he's claiming in
3 the trial which he's going to be claiming later, I don't want to cause another
4 argument to be made that you did something at sentencing. Which I don't
5 know what you could possibly do to -- but that's where I'm looking at it that
6 way.

7 MR. JONES: So I just want to be clear, Your Honor, you're not finding
8 that counsel has in any way ineffective --

9 THE COURT: Nope.

10 MR. JONES: You're just saying because it appears that the
11 relationship has broken down to this extent --

12 THE COURT: Right.

13 MR. JONES: -- you're going to give him new counsel for sentencing?

14 THE COURT: I'm not making a finding of ineffectiveness --

15 MR. JONES: Okay.

16 THE COURT: -- either because I don't think it's appropriate at this
17 point.

18 I will say, based on what I observed, and I've already said this -- I
19 thought what you've done was a -- I thought you did -- with what you had
20 to work with, you both did a pretty good job. Matter of fact there was, I
21 think, I'm just going to put it on the record for the -- I mean I thought the
22 arguments that you were making -- I thought some were kind of ingenious. I
23 mean, you know, I was -- but, I mean, I think you tried to do what you
24 could.

25 So -- but I'm going to allow -- I'm going to grant his motion to

1 relieve you of counsel. And I'm going to ask you at this point in time -- Mr.
2 Sayedbashe, did you want me to appoint new counsel for your sentencing or
3 do you want to represent yourself at sentencing?

4 THE DEFENDANT: No, I can get counsel at sentencing, Judge. I don't
5 know if --

6 THE COURT: Oh, you can get counsel?

7 THE DEFENDANT: Yes. Well, I'm asking you.

8 THE COURT: Okay.

9 THE DEFENDANT: I don't know if you got the full twelve pages of the
10 motion? I've sent it in three different envelopes on the same date. Only
11 four I got a copy of.

12 THE COURT: I have one, two --

13 THE DEFENDANT: There were only about four pages. There --
14 everyone -- I don't know what happened to the other eight pages. I've sent
15 it all at the same time to the county clerk.

16 THE COURT: I have eleven.

17 THE DEFENDANT: You have all eleven? Do you have the --

18 THE COURT: I have the motion to dismiss appointment of counsel.
19 Motion to dismiss the criminal complaint.

20 THE DEFENDANT: And then the exhibits and the --

21 THE COURT: I have the exhibits which include the preliminary hearing
22 transcript. Well, actually, one page which includes four pages. And then
23 your credit cards and debit cards definitions, cardholder define, which is NRS
24 205.610 through 205.760. Is that what you're talking about?

25 THE DEFENDANT: Yes. All right.

1 THE COURT: Yeah. I have those.

2 THE DEFENDANT: Okay.

3 THE COURT: So you said you want to hire your own attorney?

4 THE DEFENDANT: Yes.

5 THE COURT: Okay. When do you want to have him here so we can
6 do sentencing?

7 THE DEFENDANT: I could --

8 THE COURT: Tell you what. I'll give you two weeks to get your
9 attorney in here; okay? Is that going to be enough time?

10 THE DEFENDANT: Yeah. I was going to ask you -- is there any way I
11 could get regular bail on this? I mean is there any way -- I mean --

12 THE COURT: To get bail?

13 THE DEFENDANT: Yeah.

14 THE COURT: You've been convicted of a multiple -- multiple counts
15 here. You're getting ready to be sentenced.

16 THE DEFENDANT: [Indiscernible]

17 THE COURT: So why should I -- I mean, no. I remanded you without
18 bail based on the conviction. You're not entitled to bail at this point. Okay?

19 So how long do you need to get an attorney? Is two weeks
20 going to be enough time?

21 THE DEFENDANT: Two weeks should be more than enough time.

22 THE COURT: All right. Two weeks for confirmation of counsel and
23 then we'll set a sentencing date at that time.

24 THE DEFENDANT: Okay. Thank you.

25 THE COURT CLERK: August 1st at 8:30. So I'll vacate the sentencing

1 date set for --

2 THE DEFENDANT: Judge, is there any way I could make it a week
3 from now? [Inaudible]

4 THE COURT: A week? Can we do a week?

5 MR. JONES: We're already on -- I have shown it's on for 7/25 for
6 sentencing.

7 THE COURT: The 25th for sentencing? We'll vacate the sentencing
8 date but we'll leave it on for confirmation of counsel; okay? So the 25th.

9 THE DEFENDANT: All right.

10 THE COURT: That'll be for your attorney. And I have -- so when you
11 talk to your attorney tell him I have everything to go ready for sentencing if
12 he wants to -- if he or she comes in and says we're ready to do sentencing
13 I'll do it on that date if you'd like.

14 THE DEFENDANT: All right. I will let them know.

15 THE COURT: Okay?

16 THE DEFENDANT: All right.

17 THE COURT: If not we'll just have the attorney confirm and I'm sure
18 your attorney will say Judge I need time to prepare for sentencing.

19 THE DEFENDANT: All right. I have other motions we'd probably be
20 able to do so --

21 THE COURT: You have other motions?

22 THE DEFENDANT: [Indiscernible] Yeah. I'll let -- my attorney will be
23 here by next week and I'll let him know what you said.

24 THE COURT: Okay. Well then I'm going to ask the State to file an
25 order consistent with my decision here denying his motion to dismiss the

1 criminal complaint and overturn the conviction. Okay?

2 MR. JONES: Will do, Your Honor.

3 MR. GASTON: Thank you, Your Honor.

4 MR. HOWELL: Thank you, Judge.

5 [PROCEEDINGS CONCLUDED at 9:51 A.M.]

6 * * * * *

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

9

10

11

12

13

14

15

16

17

18

19

20

21

22

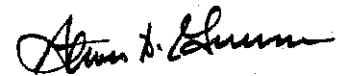
23

24

25



Christine Erickson,
Court Recorder



CLERK OF THE COURT

1 **RTRAN**

2
3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

5
6 **THE STATE OF NEVADA,**)
7 **Plaintiff,**) **CASE NO. C310000-1**
8 **vs.**) **DEPT. NO. XIX**
9 **SAYEDBASHE SAYEDZADA,**) **TRANSCRIPT OF PROCEEDINGS**
10 **Defendant.**)

11
12 **BEFORE THE HONORABLE WILLIAM D. KEPHART, DISTRICT COURT**
13 **JUDGE**

14 **MONDAY, JULY 25, 2016 AT 9:42 A.M.**

15 **STATUS CHECK: NEW COUNSEL/SENTENCING DATE**

16
17
18 **APPEARANCES:**

19
20 **FOR THE STATE:** **JOHN JONES, JR.**
Chief Deputy District Attorney

21
22
23 **FOR THE DEFENDANT:** **PROPER PERSON**

24
25 **Recorded by: CHRISTINE ERICKSON, COURT RECORDER**

1 LAS VEGAS, NEVADA, MONDAY, JULY 25, 2016 at 9:42 A.M.

2
3 THE COURT: Page 3. This is State of Nevada versus Sayedbashe
4 Sayedzada. This is C310000.

5 MR. JONES: Your Honor, I've been monitoring the check-in sheet. I
6 haven't seen any attorney check-in. I don't know if Defendant had the
7 opportunity in this last week to hire new counsel.

8 THE COURT: Well he told me he was going to have him here.

9 THE DEFENDANT: Judge, I didn't get -- I wasn't able to hire new counsel
10 yet. But I could go through -- forward with the sentencing if you want.

11 THE COURT: What's that?

12 THE DEFENDANT: I said I could go through with the sentencing if you'd
13 like. I didn't get an opportunity to bring in private counsel.

14 THE COURT: Do you want time for having the counsel here? You told me
15 you did. Now I'm starting to think you're playing.

16 THE DEFENDANT: No. I'm not -- I don't play. Yeah, I do want time.

17 THE COURT: All right. So how long do you need?

18 THE DEFENDANT: Can you give me another two weeks maximum?

19 THE COURT: Okay.

20 MR. JONES: Well here's the thing, Your Honor --

21 THE COURT: I'm not going to sentence him without counsel.

22 MR. JONES: And I understand that. What I would ask is you to appoint a
23 conflict counsel.

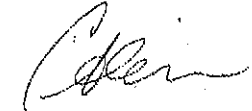
24 THE COURT: I will. I'm going to give him a chance first. And in two
25 weeks if we don't then I'm going to appoint new counsel.

1 MR. JONES: Thank you, Your Honor.
2 THE COURT: Okay? All right. The Public Defender's been relieved.
3 MR. COTTNER: Okay. Thank you.
4 THE COURT: All right.
5 THE COURT CLERK: August 8th at 8:30.

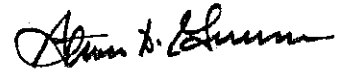
6 [PROCEEDINGS CONCLUDED at 9:43 A.M.]

7 * * * * *

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

10 

11 _____
12 Christine Erickson,
13 Court Recorder
14
15
16
17
18
19
20
21
22
23
24
25



CLERK OF THE COURT

1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA
5

6 THE STATE OF NEVADA,)

7 Plaintiff,)

8 vs.)

9 SAYEDBASHE SAYEDZADA,)

10 Defendant.)
11

CASE NO. C310000-1

DEPT. NO. XIX

TRANSCRIPT OF PROCEEDINGS

12 BEFORE THE HONORABLE WILLIAM D. KEPHART, DISTRICT COURT JUDGE
13 MONDAY, AUGUST 8, 2016 AT 9:20 A.M.

14 STATUS CHECK: NEW COUNSEL/SENTENCING DATE
15
16

17 APPEARANCES:
18

19 FOR THE STATE:

JOHN JONES, JR.
Chief Deputy District Attorney

22 FOR THE DEFENDANT:
23
24

PROPER PERSON

25 Recorded by: CHRISTINE ERICKSON, COURT RECORDER

1 LAS VEGAS, NEVADA, MONDAY, AUGUST 8, 2016 at 9:20 A.M.

2
3 THE COURT: This is C310000. Sir, where's your attorney? I keep
4 passing this over and you say you're going to hire somebody.

5 THE DEFENDANT: Your Honor, I couldn't get the proper
6 representation in. I couldn't hire one. If you can, can you give me a pro
7 bono or something for sentencing?

8 THE COURT: Okay. All right. Put this over to have Drew appoint
9 somebody for sentencing in this matter. And then he'll -- obviously the other
10 attorney will have to get caught up to speed.

11 So pass it two weeks for appointment of counsel and then we'll
12 set it for sentencing on that date.

13 THE COURT CLERK: All right.

14 MR. JONES: So two weeks for appointment?

15 THE COURT: And then I'll have to give him a chance; all right? You
16 know I appreciate you coming back but --

17 MR. JONES: And honestly, Judge, at this point Defendant has 321
18 days of credit on a CAT D so -- I mean --

19 THE COURT: I know.

20 MR. JONES: He's extending his own stay.

21 THE COURT: I know. Because he likes it in jail better than prison
22 probably. I don't know. That's -- I can kind of see where he's going with
23 this and -- but I'll oblige him. You know, we'll -- before we get an -- before
24 he gets sentenced I want to make sure he has an attorney.

25 MR. JONES: I understand, Your Honor.

1 THE COURT: Okay. Now we'll do it. Okay.
2 THE COURT CLERK: August 22nd.
3 THE COURT: But I appreciate though that you were trying to hire your
4 own attorney; I do. So -- but other than that --
5 THE COURT CLERK: August 22nd at 8:30.
6 THE COURT: Okay.
7 MR. JONES: And that's just for status check/appointment, correct?
8 THE COURT: Yeah. Because that attorney isn't going to be ready to
9 go forward on sentencing. He's going to want to look at everything before
10 we go forward.
11 MR. JONES: Thank you, Your honor.
12 THE COURT: Okay. All right.
13 THE DEFENDANT: Judge, who's the attorney?
14 THE COURT: What's that?
15 THE DEFENDANT: Who's the attorney?
16 THE COURT: We're setting it to two weeks. I have to get --
17 THE DEFENDANT: Okay.
18 THE COURT: -- somebody to appoint one; okay?
19 THE DEFENDANT: Oh, all right.
20 THE COURT: We used to just pull them out of the audience and say
21 hey, do you want to do this and -- but we don't do that anymore. We have
22 an actual program that sends somebody over that's on a list.
23 THE DEFENDANT: All right.
24 THE COURT: Okay?
25 THE DEFENDANT: All right.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: All right.

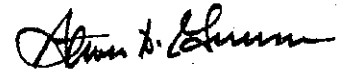
[PROCEEDINGS CONCLUDED at 9:22 A.M.]

* * * * *

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



Christine Erickson,
Court Recorder



CLERK OF THE COURT

1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA
5

6 THE STATE OF NEVADA,)

7 Plaintiff,)

8 vs.)

9 SAYEDBASHE SAYEDZADA,)

10 Defendant.)
11

CASE NO. C310000-1

DEPT. NO. XIX

TRANSCRIPT OF PROCEEDINGS

12 BEFORE THE HONORABLE WILLIAM D. KEPHART, DISTRICT COURT JUDGE
13 MONDAY, AUGUST 22, 2016 AT 8:48 A.M.

14 CONFIRMATION OF COUNSEL (DREW CHRISTENSEN'S OFFICE)
15

16 APPEARANCES:
17

18 FOR THE STATE:

JEFFREY ROGAN
Chief Deputy District Attorney

20
21 FOR THE DEFENDANT:

JOHN GEORGE, ESQ.

22
23
24
25 Recorded by: CHRISTINE ERICKSON, COURT RECORDER

1 LAS VEGAS, NEVADA, MONDAY, AUGUST 22, 2016 at 8:48 A.M.

2
3 THE COURT: This is C310000. This was on for appointment of
4 counsel. Not appointment of counsel -- for confirmation of counsel. And is
5 it Mr. George?

6 MR. GEORGE: That's correct.

7 THE COURT: Mr. George, are you going to be confirming as counsel at
8 this point?

9 MR. GEORGE: That's correct.

10 THE COURT: All right. So what I'm going to go ahead and do is set
11 this out for a sentencing. That's what we previously had set for sentencing
12 and -- how long do you think you need?

13 MR. GEORGE: At least 30 days.

14 THE COURT: All right. Set it out for sentencing in 30 days.

15 THE COURT CLERK: It's going to be September 19th at 8:30.

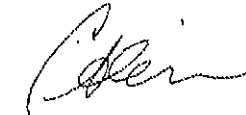
16 MR. GEORGE: Thank you.

17 THE COURT: All right. Thank you.

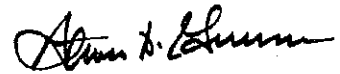
18 [PROCEEDINGS CONCLUDED at 8:49 A.M.]

19 * * * * *

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

22
23 

24 Christine Erickson,
25 Court Recorder



CLERK OF THE COURT

1 **RTRAN**

2
3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

5
6 **THE STATE OF NEVADA,**

7 **Plaintiff,**

8 **vs.**

9 **SAYEDBASHE SAYEDZADA,**

10 **Defendant.**

)
) **CASE NO. C310000-1**

)
) **DEPT. NO. XIX**

)
) **TRANSCRIPT OF PROCEEDINGS**

11
12 **BEFORE THE HONORABLE WILLIAM D. KEPHART, DISTRICT COURT JUDGE**

13 **WEDNESDAY, SEPTEMBER 14, 2016 AT 9:06 A.M.**

14 **DEFENDANT'S PRO PER MOTION TO RUN TIME CONCURRENT**

15
16 **APPEARANCES:**

17
18 **FOR THE STATE:**

RICHARD SCOW
Chief Deputy District Attorney

19
20
21 **FOR THE DEFENDANT:**

JOHN GEORGE, ESQ.

22
23
24
25 **Recorded by: CHRISTINE ERICKSON, COURT RECORDER**

1 LAS VEGAS, NEVADA, WEDNESDAY, SEPTEMBER 14, 2016 at 9:06 A.M.

2
3 THE COURT: State of Nevada versus Sayedbashe Sayedzada. This is
4 C310000. Mr. George?

5 MR. GEORGE: Good morning, Your Honor. I was appointed to
6 represent Mr. Sayedbashe on C-15-310000. So I'm just here out of an
7 abundance of caution.

8 It appears to me that this matter was a municipal court matter.
9 So I wasn't quite sure what was going to happen with it.

10 THE COURT: He's asking to run this case concurrent with a -- so what
11 he's filed here.

12 THE DEFENDANT: It's a -- something on the -- he said it was
13 [Indiscernible]. It was something I saw in the presentence investigation. It
14 should have been a misdemeanor or something. I don't know what it is.
15 That --

16 THE COURT: Well, sir, you're asking me to run something concurrent
17 --

18 THE DEFENDANT: Right.

19 THE COURT: -- with another case and you haven't even been
20 sentenced yet. That would be something you -- it would be argued I'd
21 imagine by your attorney or you when I ask you what you want to say about
22 -- and you can point out what you have otherwise. But you haven't even
23 been sentenced in the case that I have here so I can't --

24 THE DEFENDANT: Right. Right. Well I didn't know it was coming in
25 front of you. I was -- I thought it'd go in front of the other Court and I'd

1 ask the other Court for --

2 THE COURT: Well you can ask --

3 THE DEFENDANT: -- them to run it concurrent while me being in here
4 for the 10 or 11 -- or for me being in here for the year. Since I've been for
5 the year almost.

6 THE COURT: Okay.

7 THE DEFENDANT: That obviously -- I didn't know that this went into
8 warrant or that it even existed for the most part.

9 THE COURT: Okay.

10 THE DEFENDANT: So that's what I was basically trying to put the
11 motion in for and it came in front of you.

12 THE COURT: When you --

13 MR. SCOW: And Judge, I think -- Judge, I think what he did was he
14 grabbed the wrong paperwork. It's paperwork for District Court and he
15 wrote on there department Municipal Court. So I think he might just need to
16 grab different paperwork from the jail.

17 THE COURT: Well, what he needs to do is talk to his attorney about
18 it.

19 THE DEFENDANT: All right.

20 THE COURT: Have Mr. George talk to you. He can explain it to you.
21 He can explain to you how concurrent sentences could run.

22 THE DEFENDANT: Right.

23 THE COURT: I can't really very well give you concurrent time with
24 anything that you haven't been sentenced on yet.

25 THE DEFENDANT: Right.

1 THE COURT: And so the second the Judge usually going second or
2 third or whatever and all the way down the line is the one that would be
3 doing that.

4 THE DEFENDANT: Right.

5 THE COURT: And if you're talking about you're wanting credit for time
6 served for why you're in jail to run with it that that's -- that's different.
7 Credit for time served versus concurrent time would be different. Your
8 attorney can explain that to you.

9 THE DEFENDANT: Right. Right. Right. Well --

10 THE COURT: So the sentencing's on for the 19th. I'm just going to
11 leave it on for that.

12 MR. GEORGE: Right. Sure.

13 THE COURT: And we'll hear about it and then I'll have a better
14 understanding of how you want to treat that.

15 MR. GEORGE: Okay.

16 THE COURT: Okay.

17 MR. GEORGE: Is that within the scope of my appointment? Dealing
18 with that?

19 THE COURT: Yeah. Because you'd be sentencing him. I mean you'd
20 be here for purposes of sentencing. And you could make the arguments on
21 his behalf.

22 MR. GEORGE: Right.

23 THE COURT: And however it deals. Now, whether it's a case out of
24 muni court -- that's up to that Judge to appoint you there.

25 MR. GEORGE: Right.

1 THE COURT: But you could certainly make an argument here if that
2 case wouldn't be affected at all.

3 MR. GEORGE: Okay. Great.

4 THE COURT: Okay?

5 MR. GEORGE: Okay. Thank you.

6 THE COURT: Thank you, Mr. Sayedbashe -- or Sayedzada.

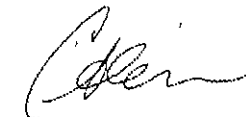
7 THE DEFENDANT: Thank you.

8 THE COURT: Okay. All right.

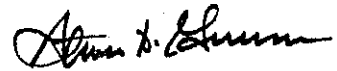
9 [PROCEEDINGS CONCLUDED at 9:09 A.M.]

10 * * * * *

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

13 

14 _____
15 Christine Erickson,
16 Court Recorder
17
18
19
20
21
22
23
24
25



CLERK OF THE COURT

1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA
5

6 THE STATE OF NEVADA,)
7)
8 Plaintiff,)
9 vs.)
10 SAYEDBASHE SAYEDZADA,)
11 Defendant.)

CASE NO. C310000-1

DEPT. NO. XIX

TRANSCRIPT OF PROCEEDINGS

12 BEFORE THE HONORABLE WILLIAM D. KEPHART, DISTRICT COURT JUDGE
13 MONDAY, SEPTEMBER 19, 2016 AT 8:51 A.M.

14 SENTENCING
15

16 APPEARANCES:
17

18 FOR THE STATE:

JEFFREY ROGAN
Chief Deputy District Attorney

20
21 FOR THE DEFENDANT:

JOHN GEORGE, ESQ.

22
23
24
25 Recorded by: CHRISTINE ERICKSON, COURT RECORDER

1 LAS VEGAS, NEVADA, MONDAY, SEPTEMBER 19, 2016 at 8:51 A.M.

2
3 THE COURT: This is case number C310000. On page 7, State of
4 Nevada versus Sayedbashe Sayedzada. This is time set for sentencing. Mr.
5 George is here on behalf of the Defendant. Defendant's present in custody.
6 Is there any legal reason why we can't go forward today?

7 MR. GEORGE: Could we continue the matter for one week, Your
8 Honor. I wanted to submit a sentencing memorandum and check with the --
9 check and see if I can get a global resolution with that Municipal Court
10 matter that we discussed last week.

11 MR. ROGAN: I'll submit it, Your Honor.

12 THE COURT: Okay. Tell you what -- I'll give you a couple weeks so
13 we don't back my calendar up here. So okay -- is that okay?

14 THE COURT CLERK: Yeah. That's fine. I'm going to give them till
15 October 10th at 8:30.

16 THE COURT: No. Hold on -- before we go -- Mr. Sayedzada, are you
17 okay with that?

18 THE DEFENDANT: A couple more weeks?

19 THE COURT: What's that?

20 THE DEFENDANT: What you say -- a couple weeks until sentencing?

21 THE COURT: He wants to prepare a memorandum for the Court.

22 THE DEFENDANT: Yeah.

23 THE COURT: He's trying to do something with your other case.

24 THE DEFENDANT: Yeah, that would.

25 THE COURT: You okay?

1 THE DEFENDANT: Yeah. That's fine I guess. Is there a sooner one?
2 A week from now?

3 THE COURT: No. I don't want to back my calendar up that's --
4 everyone wants to continue everything one week and then it just piles up.
5 Okay?

6 THE DEFENDANT: All right.

7 THE COURT: Okay.

8 THE DEFENDANT: All right. Thank you.

9 THE COURT: Okay. Mr. George, anything else?

10 MR. GEORGE: No. Thank you.

11 MR. ROGAN: What's the date?

12 THE COURT CLERK: October 10th 8:30.

13 MR. ROGAN: Thank you.

14 [PROCEEDINGS CONCLUDED at 8:52 A.M.]

15 * * * * *

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

18

19

20

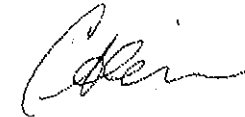
21

22

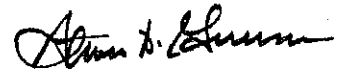
23

24

25



Christine Erickson,
Court Recorder



CLERK OF THE COURT

1 **RTRAN**

2
3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**
5

6 **THE STATE OF NEVADA,**

7 **Plaintiff,**

8 **vs.**

9 **SAYEDBASHE SAYEDZADA,**

10 **Defendant.**

)
) **CASE NO. C310000-1**
)

) **DEPT. NO. XIX**
)

) **TRANSCRIPT OF PROCEEDINGS**
)

11
12 **BEFORE THE HONORABLE WILLIAM D. KEPHART, DISTRICT COURT JUDGE**
13 **MONDAY, OCTOBER 10, 2016 AT 8:53 A.M.**
14

15 **SENTENCING**

16 **APPEARANCES:**
17

18 **FOR THE STATE:**

JOHN JONES

Chief Deputy District Attorney

19
20
21 **FOR THE DEFENDANT:**

JOHN GEORGE, ESQ.

22
23
24
25 **Recorded by: CHRISTINE ERICKSON, COURT RECORDER**

1 LAS VEGAS, NEVADA, MONDAY, OCTOBER 10, 2016 at 8:53 A.M.

2
3 THE COURT: State of Nevada versus Sayedbashe Sayedzada. This is
4 C310000. This is time set for sentencing. Defendant is present in custody.
5 He's represented by Mr. George. Mr. George has provided the Court with a
6 sentencing memorandum in this case. Is there any legal reason why we
7 can't go forward on this today then?

8 MR. GEORGE: There's not.

9 THE COURT: Mr. Sayedzada, I received a copy of a presentence
10 investigation report dated May 13, 2016. Did you receive this?

11 THE DEFENDANT: I did.

12 THE COURT: Did you read it?

13 THE DEFENDANT: I did.

14 THE COURT: Okay. And I've also received a copy of a sentencing
15 memorandum from your attorney, Mr. George. Have you seen that as well?

16 THE DEFENDANT: I did.

17 THE COURT: Okay. Is there anything in the investigation report that
18 you think -- the presentence investigation report you think's incorrect or I
19 need to correct at this time?

20 THE DEFENDANT: No. It's pretty much correct.

21 THE COURT: Okay. And is there anything about the sentencing
22 memorandum that you don't want me to consider?

23 THE DEFENDANT: Not -- that's pretty much -- everything looks fine.

24 THE COURT: Okay. Since this was as a result of a jury verdict in this
25 matter I'm going to on Count 1 adjudicate you guilty of possession of a

1 credit card or debit card without a cardholder's consent. Count 2, guilty of
2 possession of a credit card or debit card without owner's consent. Count 3,
3 possession of a credit card or debit card without owner's consent. Count 4,
4 possession of credit or debit card without owner's consent. Count 5,
5 possession of credit or debit card without owner's consent. Count 6,
6 possession of credit or debit card without owner's consent. Count 7,
7 possession of a credit or debit card without owner's consent. Count 8,
8 possession of a credit or debit card without owner's consent. Count 9,
9 possession of a credit or debit card without owner's consent. Count 10,
10 possession of a credit or debit card without owner's consent. Count 11,
11 possession of a credit or debit card without owner's consent. Count 12,
12 possession of a credit or debit card without owner's consent. And Count
13 13, possession of a credit or debit card without owner's consent.

14 I'm going to hear from the State and then I'll hear from you and
15 your attorney. Okay, Mr. Sayedzada?

16 THE DEFENDANT: All right.

17 MR. JONES: Thank you, Your Honor. John Jones on behalf of the
18 State.

19 You sat through this trial so I'm not going to sit here and
20 regurgitate the facts for you. But what I do want to point out is that
21 Defendant is a two time felon. He's got a 2003 conviction for coercion and
22 a 2004 conviction for reckless driving. According to the PSI he has 17
23 misdemeanor convictions including three battery domestic violence's in
24 2003, 2011, and 2012.

25 And I'll point out in this case, Your Honor, that as you heard, that,

1 you know, Defendant did immediately use violence when he was first
2 confronted by the security guard. He pushed him, punched him, and then
3 fled knowing that he had credit cards in his possession.

4 Based on the three different victims, Your Honor, the State is
5 going to ask you to impose a sentence of 19 to 48 on each Count. We're
6 asking for Counts 1, 2, 3, 4, 8, 9, 10, 11 and 12 to run concurrent to each
7 other but consecutive to Counts 5, 7 and 13. So we're going to have those
8 three Counts run concurrent to each other but consecutive to the prior
9 Counts that I had mentioned. And then finally Count 6 to run consecutive to
10 the two groupings of Counts that I mentioned earlier. So basically what
11 we're asking for is three consecutive sentences, Your Honor, of 19 to 48.

12 THE COURT: All right. Thank you.

13 MR. JONES: And just to make a record that is a consecutive sentence
14 for each of the victims who are named in this case.

15 THE COURT: Mr. George?

16 MR. GEORGE: Well, his last felony convictions were 2003, 2004. The
17 PSI recommends that all of these charges be run concurrent. I didn't have
18 the benefit of being at the trial. I know that there was some issue as to how
19 many credit cards actually were in his possession. But I would ask that all of
20 these -- that the Court follow the recommendation of the PSI and run all of
21 the sentences concurrent and sentence him as the PSI recommends between
22 12 to 34 months. He's already done 12 months plus a couple of weeks so I
23 would ask that he be given time served.

24 THE COURT: Mr. Sayedzada, did you want to say anything?

25 THE DEFENDANT: I would leave it -- I'm just going to leave it at what

1 my attorney put it at right there.

2 THE COURT: All right. In accordance with the jury verdict, as I've
3 indicated, you're being found guilty of 13 Counts.

4 In addition to a \$25 administrative assessment I am ordering that
5 you undergo genetic testing, pay \$150 fee for that as well as a \$3 DNA
6 administrative assessment fee.

7 On Count 1 I'm sentencing you to 19 months minimum, 48
8 months maximum in the Nevada Department of Corrections; Count 2, 19
9 months minimum, 48 months maximum in the Nevada Department of
10 Corrections; Count 3, 19 months minimum, 48 months maximum in the
11 Nevada Department of Corrections; Count 4, 19 months minimum, 48
12 months maximum in the Nevada Department of Corrections; Count 8, 19
13 months minimum, 48 months maximum in the Nevada Department of
14 Corrections; Count 9, 19 months minimum, 48 months maximum in the
15 Nevada Department of Corrections; Count 10, 19 to 48; Count 11, 19 to
16 48; Count 12, 19 to 48. Those will all run concurrent with one another.

17 Count 5, 19 months minimum, 48 months maximum in the
18 Nevada Department of Corrections. That will run -- also not -- I'm sorry 5.
19 Seven, 19 months minimum, 48 months maximum in the Nevada
20 Department of Corrections; and Count 13, 19 months minimum, 48 months
21 maximum. Those three will run concurrent with one another but consecutive
22 to Counts 1, 2, 3, 4, 8, 9, 10, 11 and 12.

23 And Count 6, 19 months minimum, 48 months maximum in the
24 Nevada Department of Corrections. That will run concurrent with the other
25 Counts. So it'll be an aggregate total of 38 minimum and -- what -- 96

1 maximum? Okay. And you'll receive credit for time served in this matter of
2 260 days.

3 MR. JONES: Actually, Your Honor --

4 THE COURT: Actually it'd be more.

5 MR. JONES: Yeah. It should be more. We've agreed on 365 days.

6 THE COURT: 365 days. Okay.

7 MR. JONES: Let me make sure that was right.

8 THE COURT: 365?

9 MR. JONES: It's -- sorry, Your Honor, it's 384.

10 THE COURT: 384. All right. 384 days credit for time served. Good
11 luck with that, sir.

12 THE DEFENDANT: [Inaudible] I can start my appeal any time?

13 THE COURT: As soon as the judgment of conviction is signed you
14 can; okay?

15 THE DEFENDANT: All right.

16 [PROCEEDINGS CONCLUDED at 9:01 A.M.]

17 * * * * *

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

20
21 
22 _____
23 Christine Erickson,
24 Court Recorder
25

CASE NUMBER: C310000

TRIAL DATE: 3/22/2016

THE STATE OF NEVADA
PLAINTIFF

VS SAYED BASHE SAYEDZADA
DEFENDANT

COUNSEL FOR PLAINTIFF: JON JONES & MICHAEL DICKERSON

COUNSEL FOR DEFENDANT: TYLER GASTON & CHRISTOPHER HOWELL

PEREMPTORY CHALLENGES:

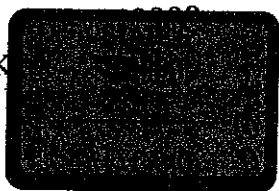
PLAINTIFF				DEFENDANT			
	NAME	SEAT NO.	BADGE NO.		NAME	SEAT NO.	BADGE NO.
1.	Douglas Storr	10	013	1.	Opal Stokes	03	034
2.	John Sloan	09	042	2.	Elaine Davy	11	015
3.	Eldon Garrett	13	018	3.	Karen Ridges	16	038
4.	Christian Robles	17	023	4.	Raymond Kuran	8	011

ALTERNATES

PLAINTIFF				DEFENDANT			
	NAME	SEAT NO.	BADGE NO.		NAME	SEAT NO.	BADGE NO.
1.	Jennifer Parker	23	032	1.	Lisa Rich	21	029



MARK

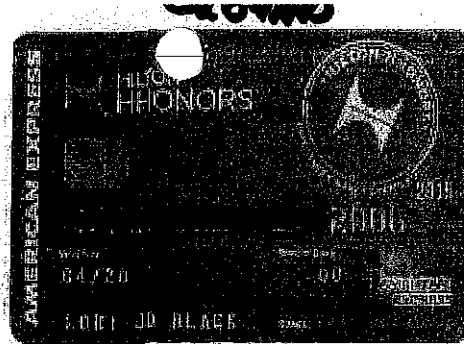
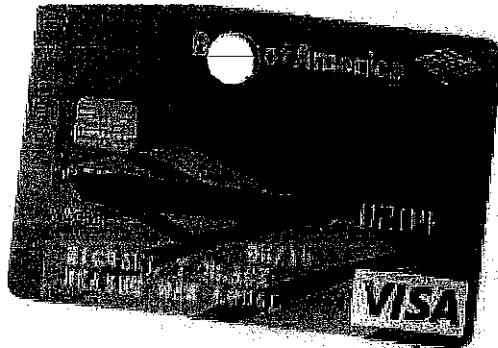


TION

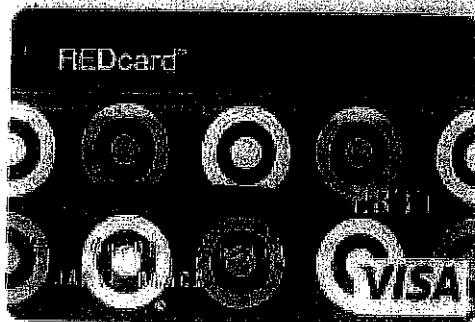
700



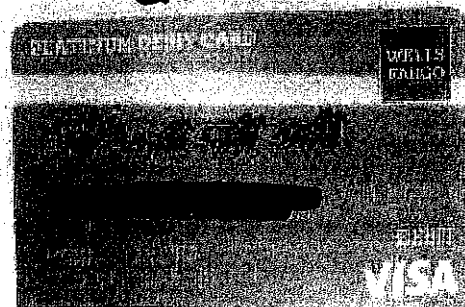
Ground-



Ground-



Ground-



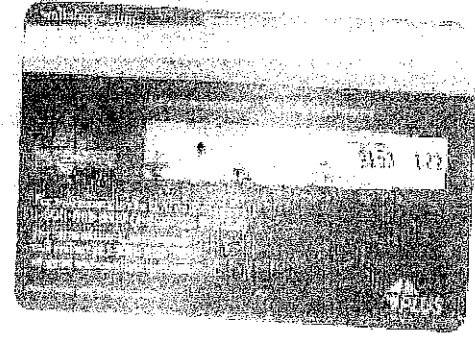
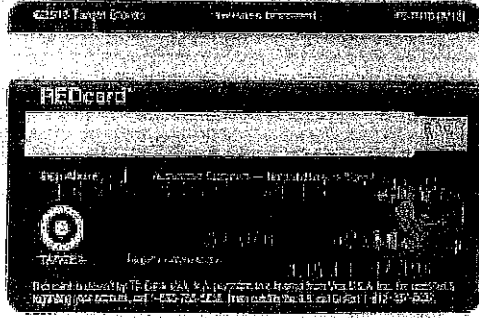
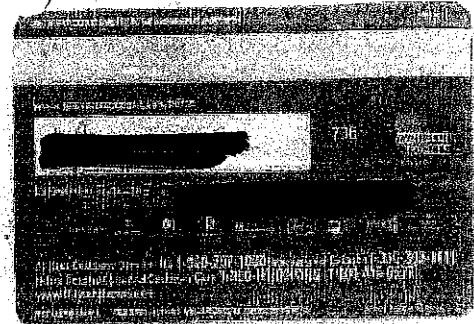
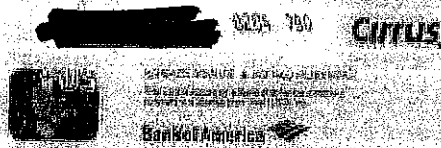
1500000000

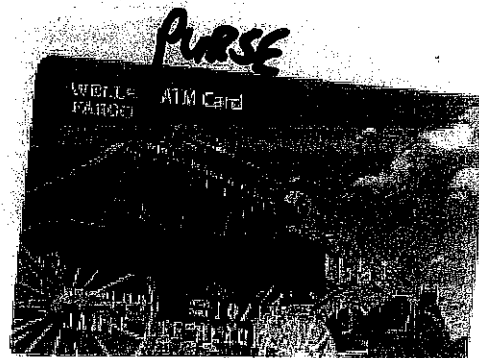
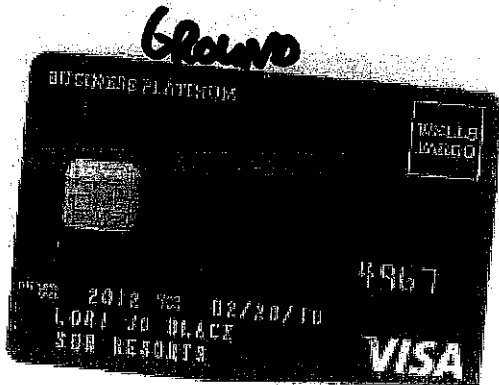
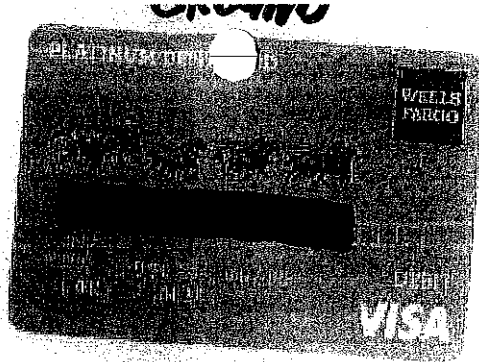
MARKET
PR

ON

702

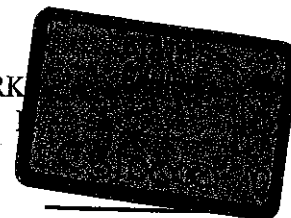
Travel/Credit Service 800.772.1044 Credit Cards for U.S. and Canada 800.772.1044



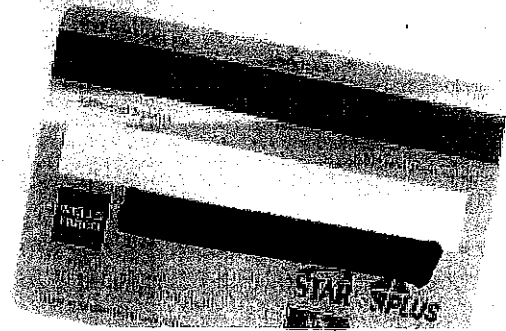
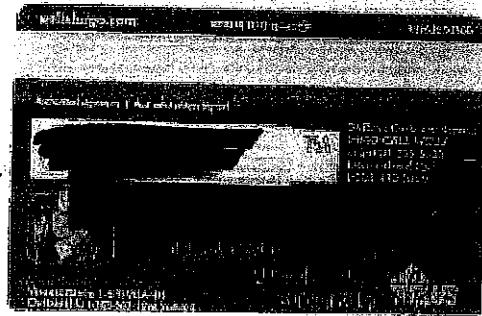
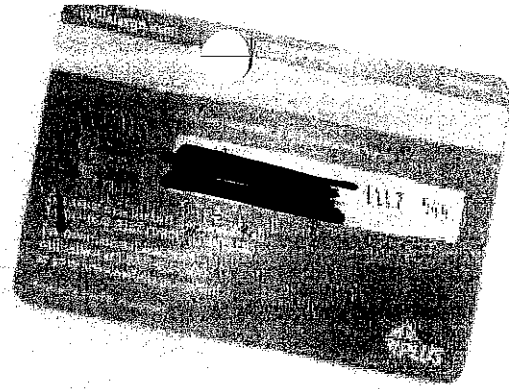


MARK

TION

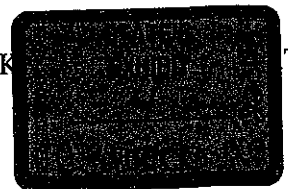


704



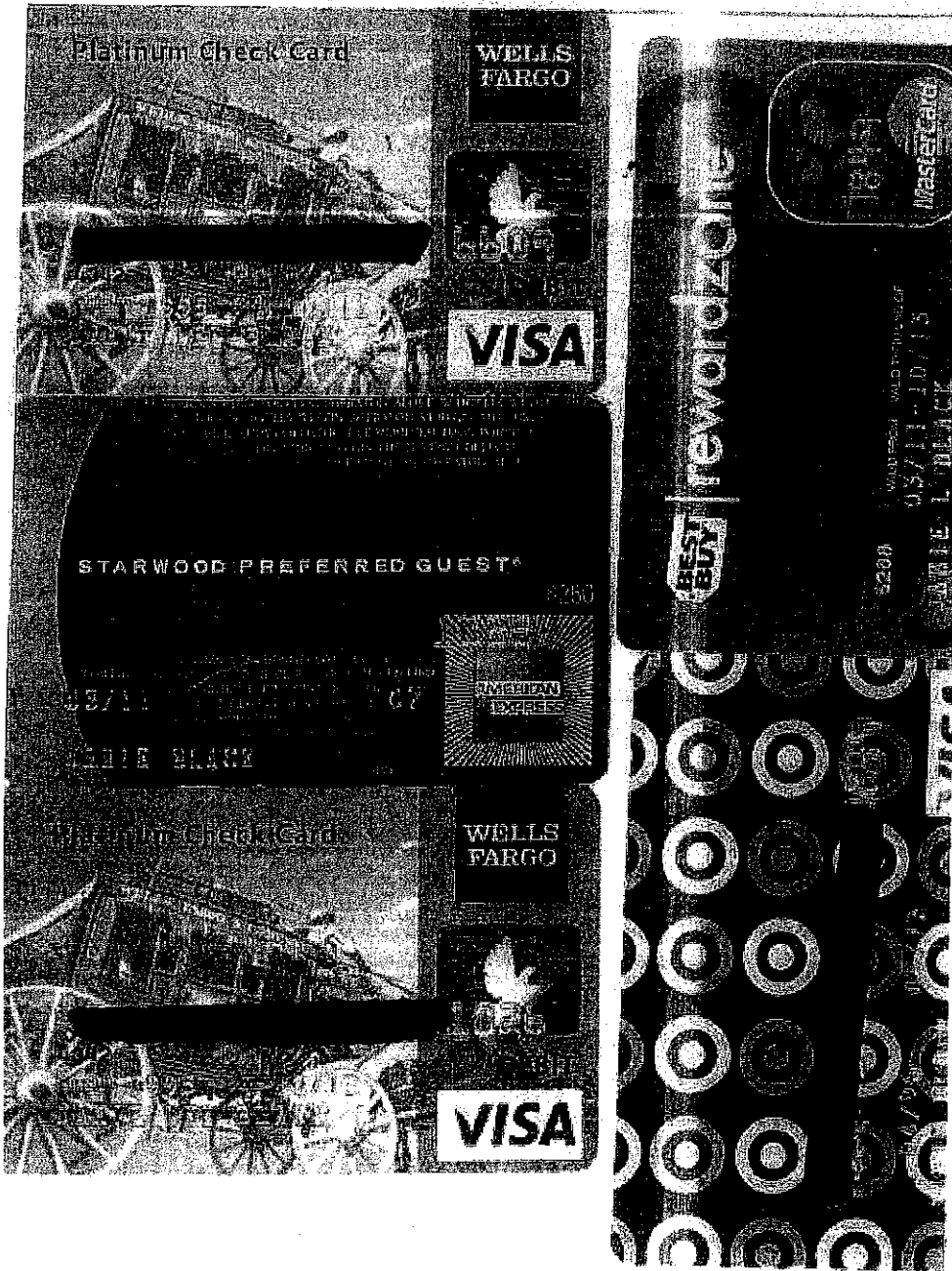
MARK

TION



705

PURSE



MAR 2011 INFORMATION



706

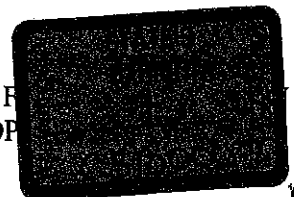


C310000
MARKED
PRO

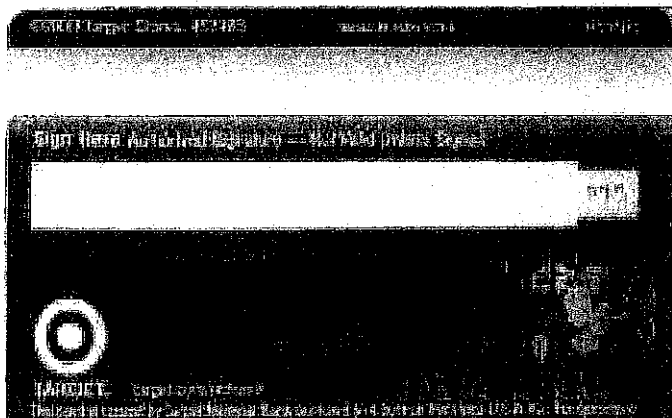
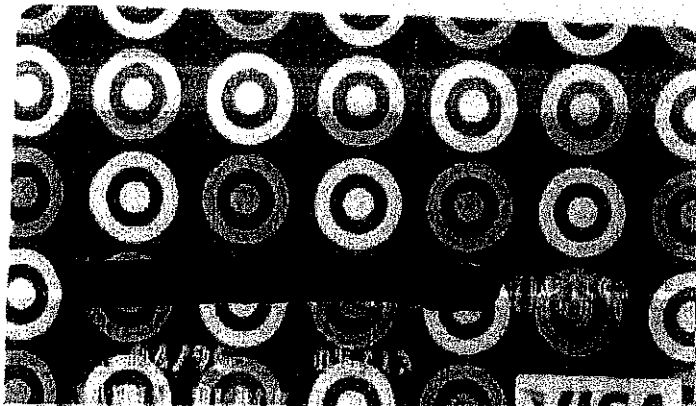
707



MARKED BY
PROP

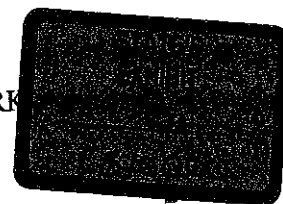


708

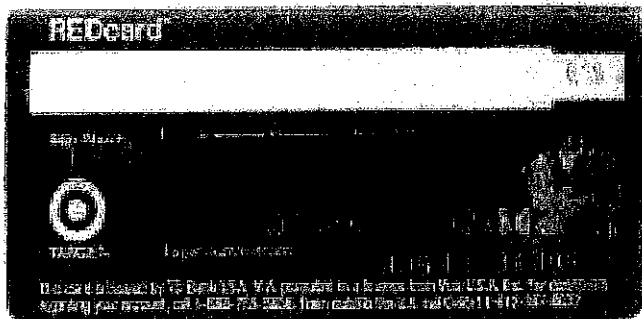
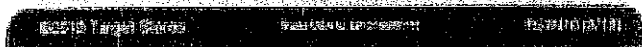
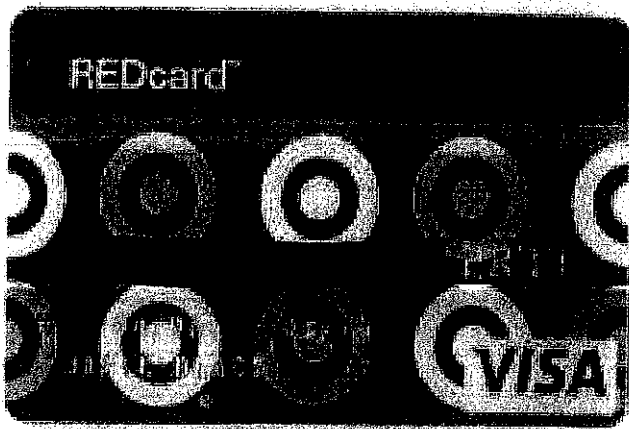


MARK

TION



709

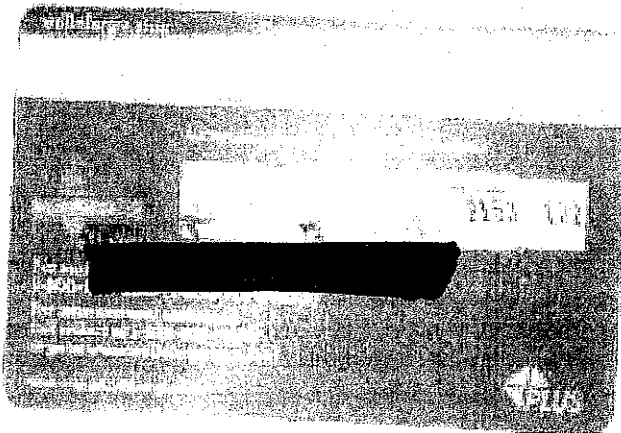
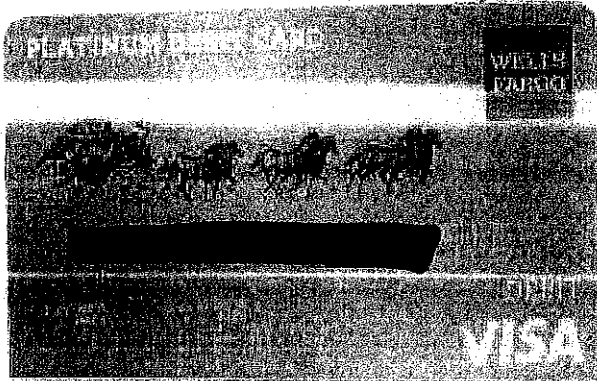


MARKET
PR

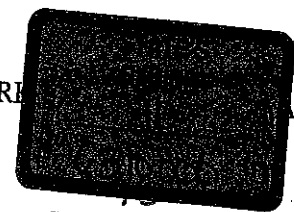
ON



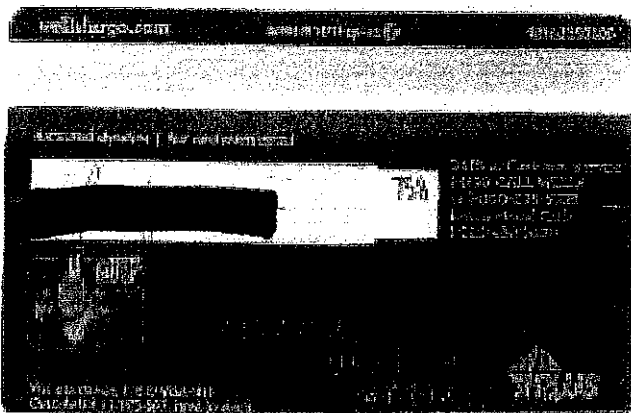
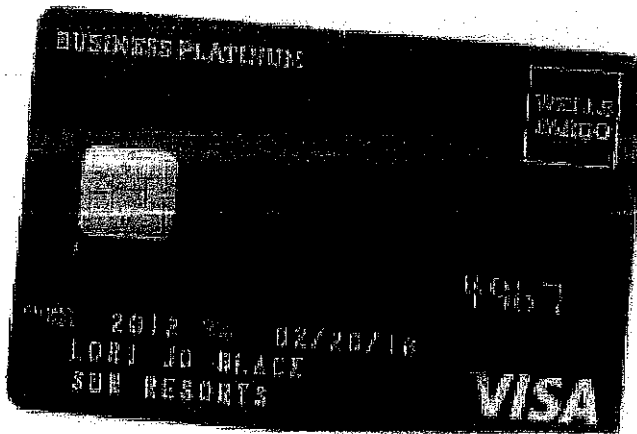
710



MAR 1965



711



M [REDACTED] ICAATION
[REDACTED] BIT

702



www.bankofamerica.com

800.872.1044

770.48

24-Hour Customer Service
800.872.1044

Local Branches for Tell and Deposit
877.224.2221



0204 750

CITRUS



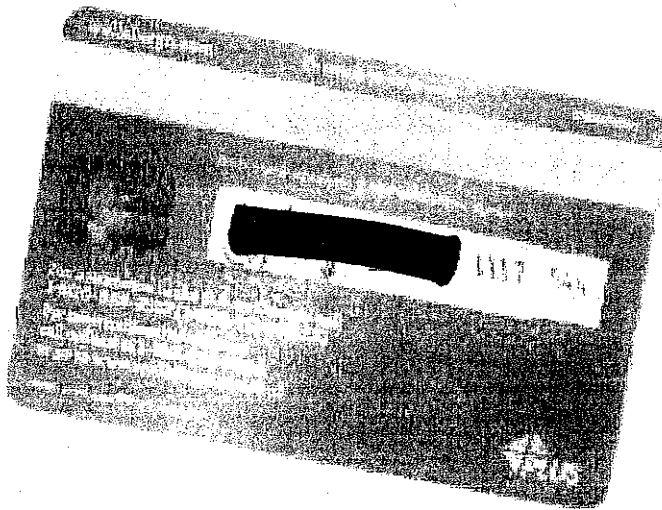
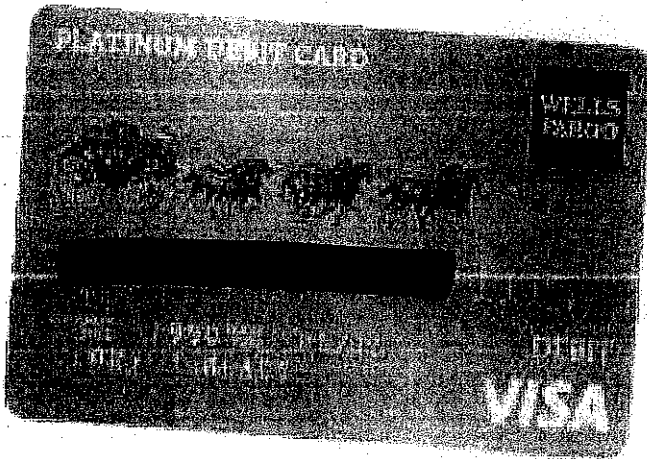
MEMBER FDIC
Member FDIC
Member FDIC

Bank of America

MA

CATION
IT

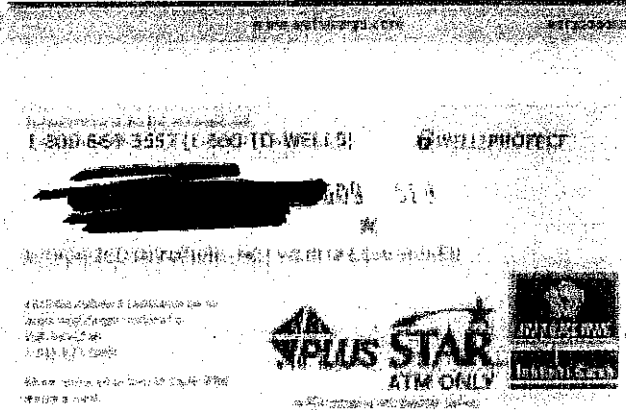
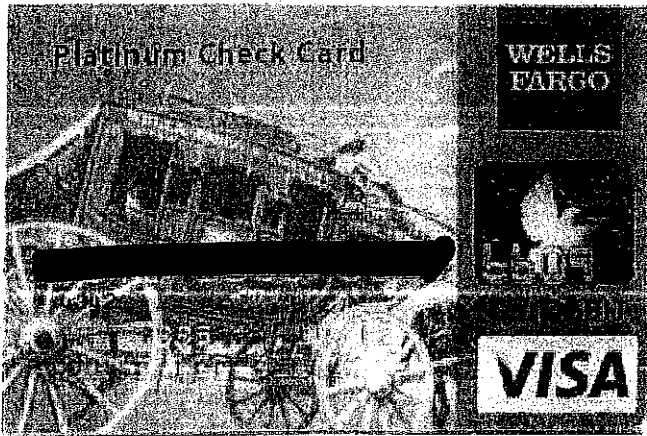
713



MARKE
PI

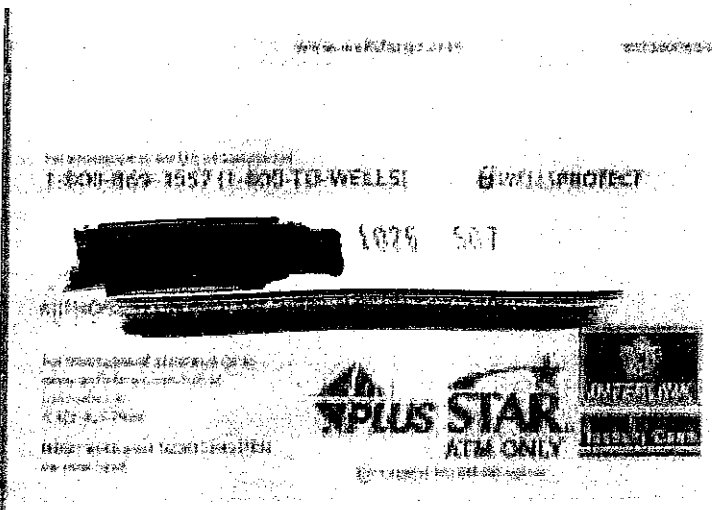
ION

714

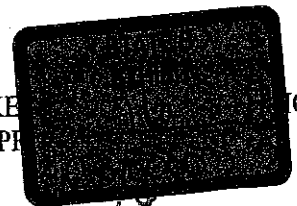


MAR [REDACTED] ATION

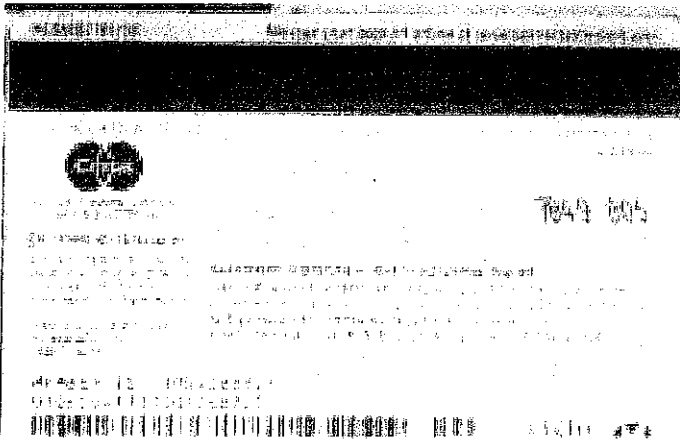
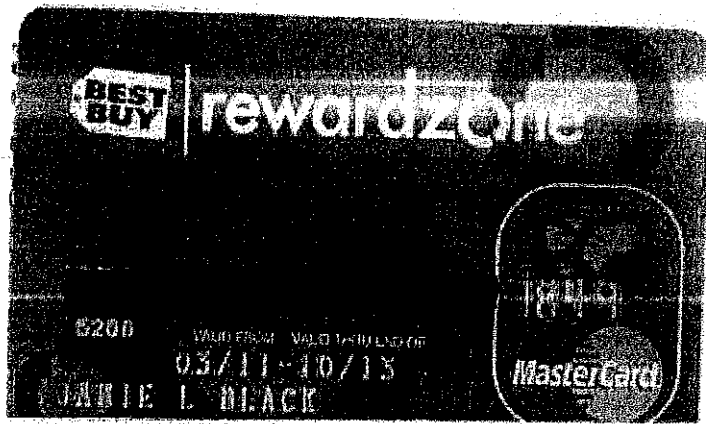
715



MARKE
PR

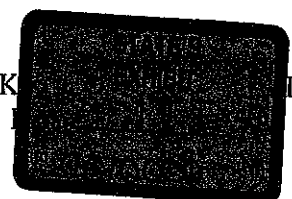


717

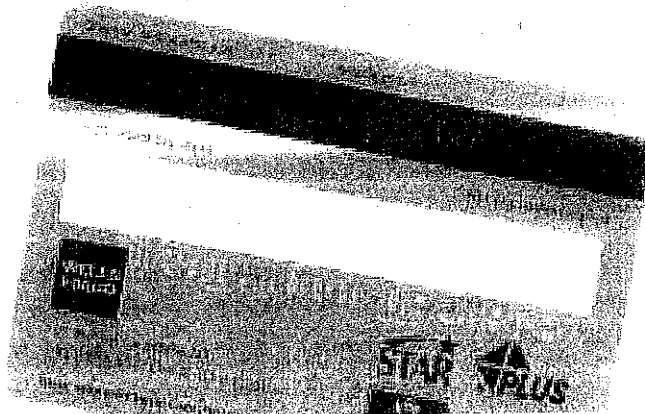
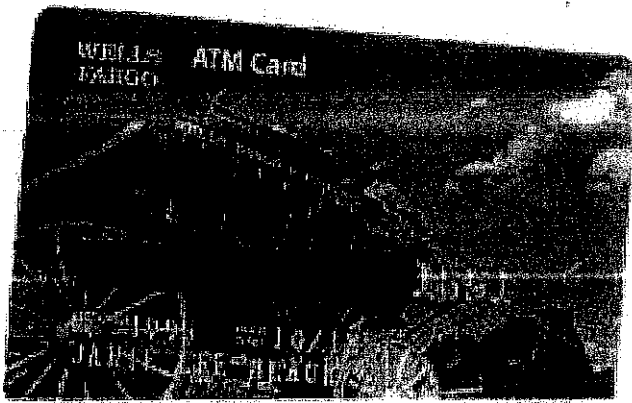


MARK

ITION

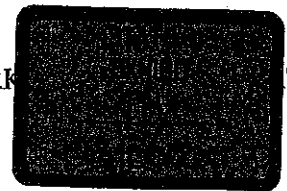


718

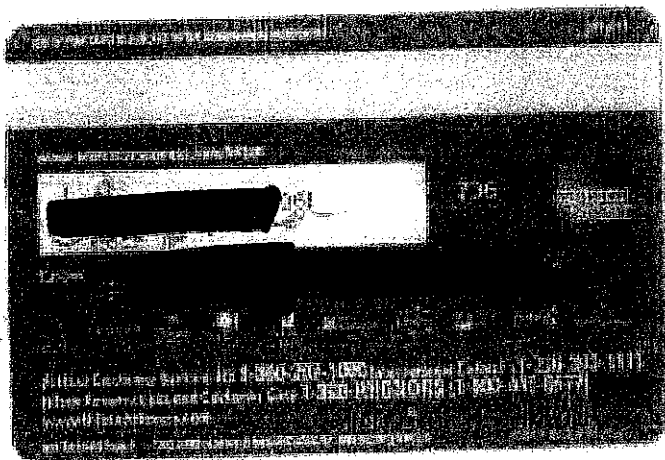
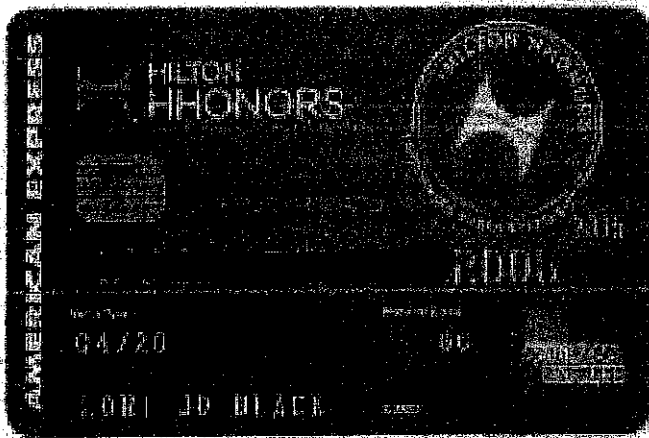


MARK

TION



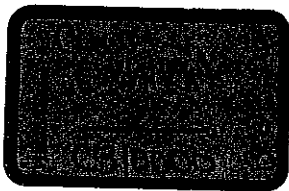
719



MARK

TION

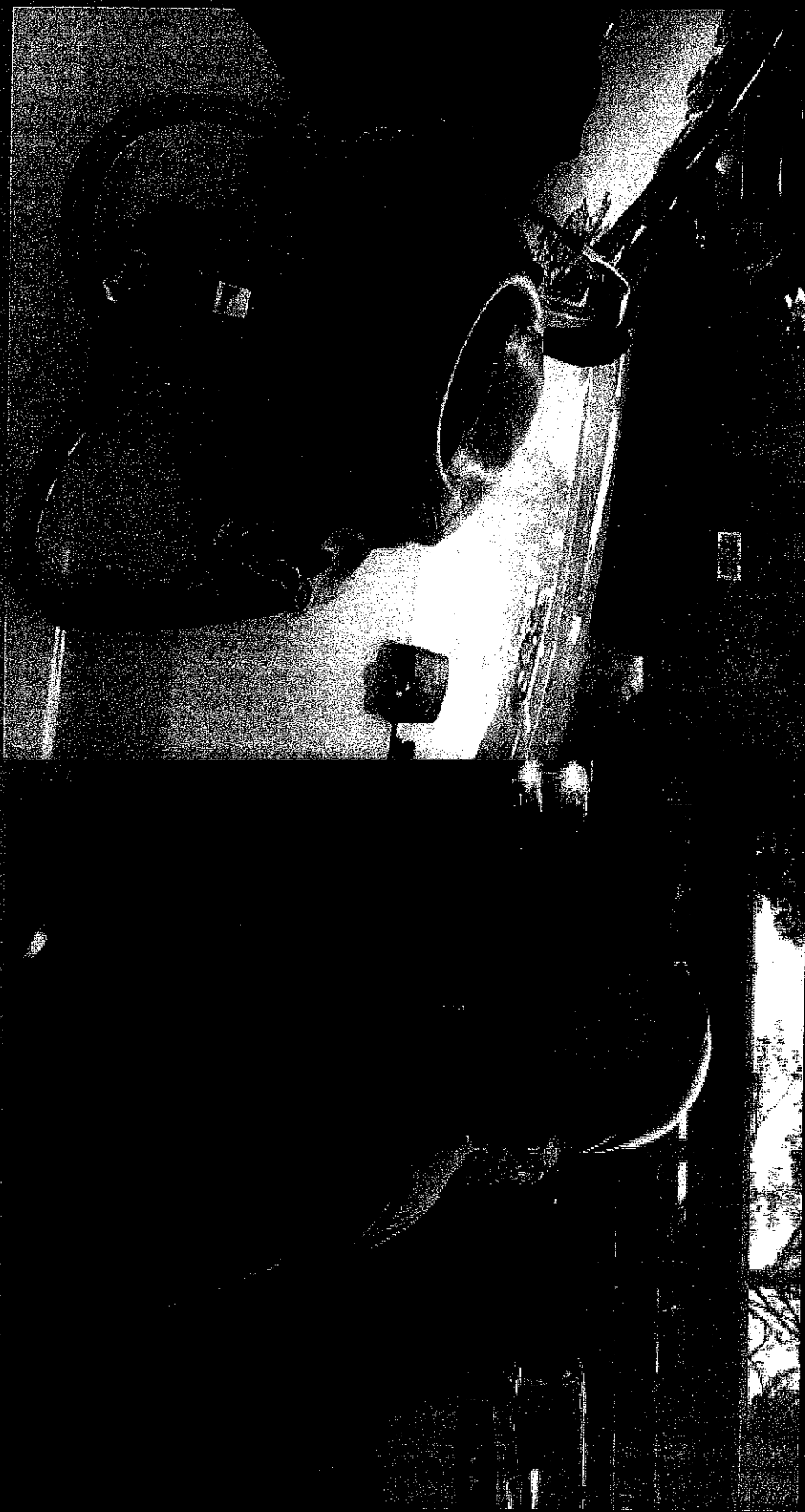
720



• State of Nevada

VS.

• Sayedboashe Sayedzada



723

INSTRUCTION NO. 7

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.

There are two types of evidence; direct and circumstantial. 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.

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.

INSTRUCTION NO. 9

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.

INSTRUCTION NO. 9

1. Any person who possesses a credit card or debit card
2. without consent of the cardholder
3. 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.

INSTRUCTION NO. 9

1. Any person who possesses a credit card or debit card

2. without consent of the cardholder

3. 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.

INSTRUCTION NO. 11

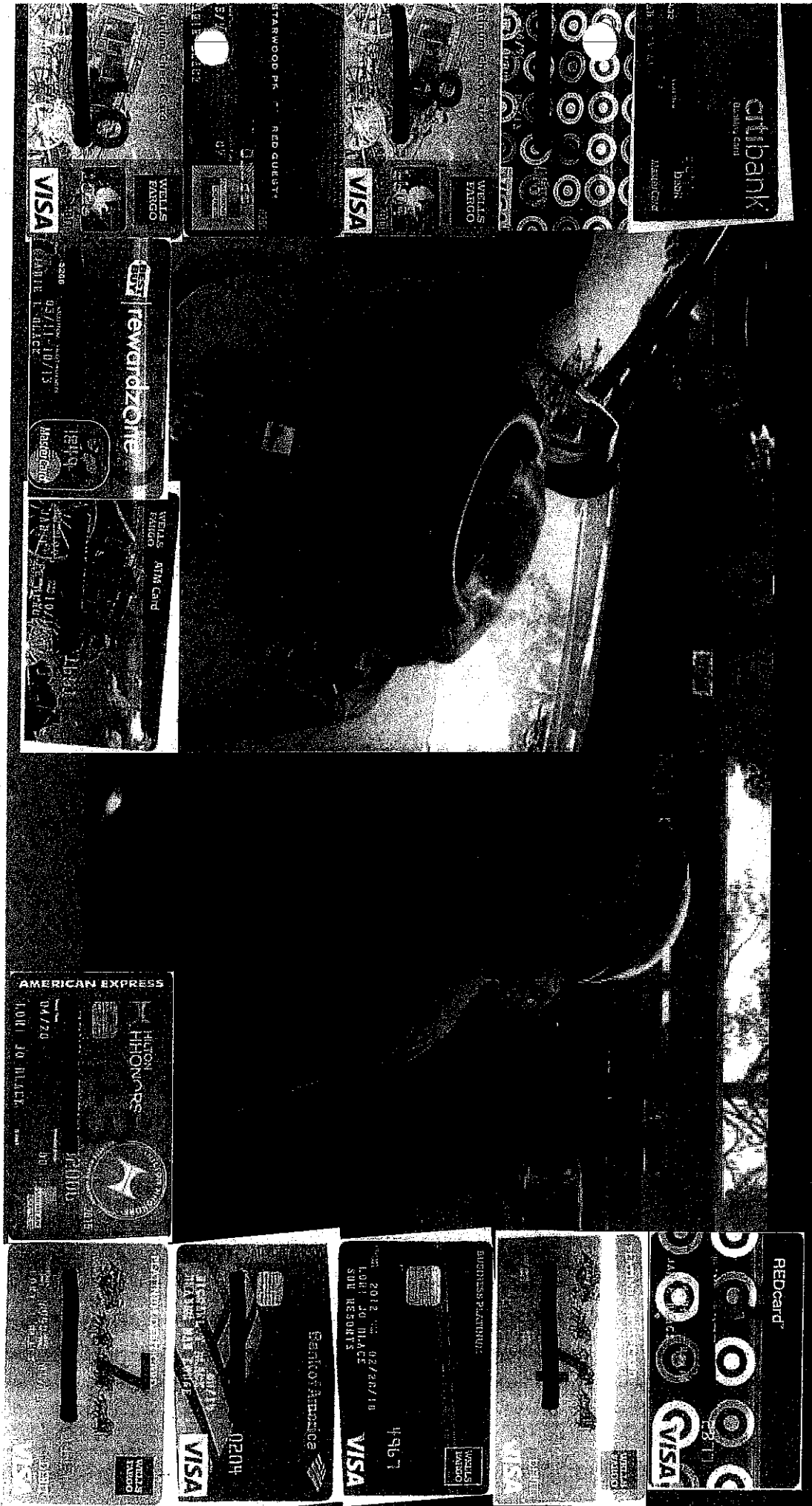
A credit card includes the number or other identifying description of a credit card or credit account.

INSTRUCTION NO. 13

“Debit card” includes, without limitation, the number or other identifying physical or electronic description of a debit card.

INSTRUCTION NO. 15

A person is in possession of an article or object if he knowingly exercised control, dominion, or custody over it.



730

INSTRUCTION NO. 9

1. Any person who possesses a credit card or debit card
2. without consent of the cardholder
3. 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.

INSTRUCTION NO. 9

1. Any person who possesses a credit card or debit card
2. without consent of the cardholder
3. 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.

INSTRUCTION NO. 17

In a criminal prosecution for Possession of a Credit Card Without Cardholder's

Consent, you may infer but are not required to do so, that any person who has in his

possession or under his control two or more credit cards issued in the name of another person, obtained and possessed the credit cards with the knowledge that they have been stolen and with the intent to circulate, use, sell, or transfer them with the intent to defraud

For you to draw this inference, its existence must, on all the evidence, be proved beyond a reasonable doubt.

734

INSTRUCTION NO. 20

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.

INSTRUCTION NO. 16

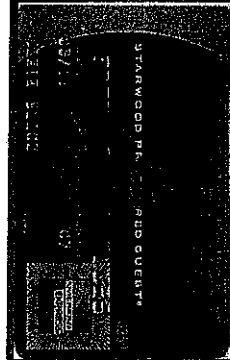
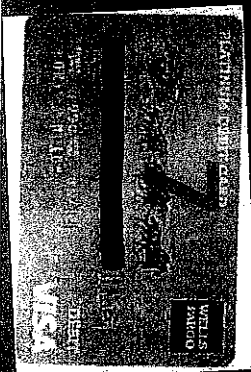
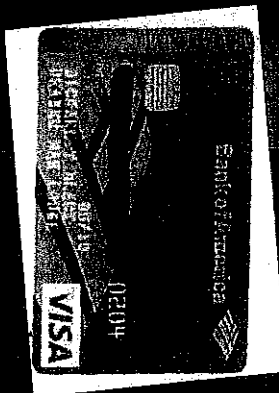
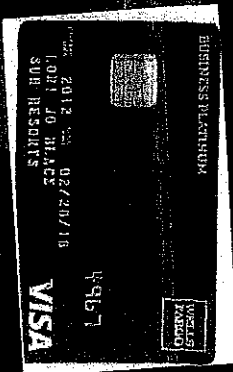
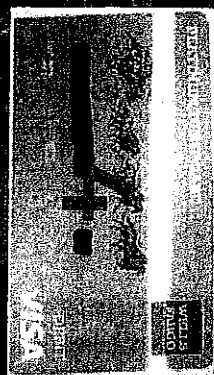
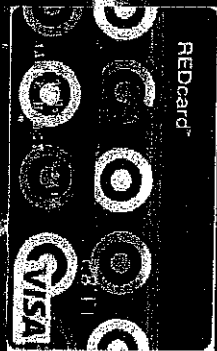
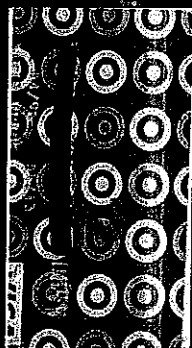
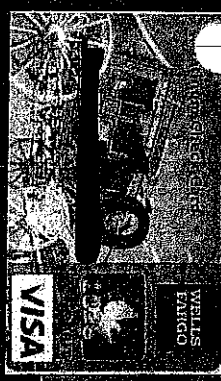
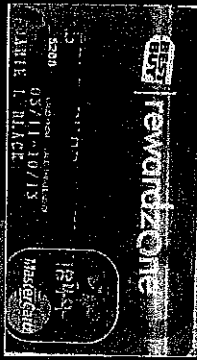
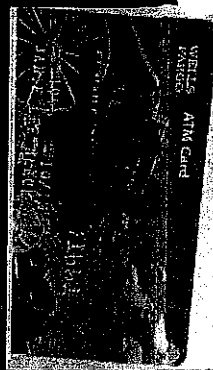
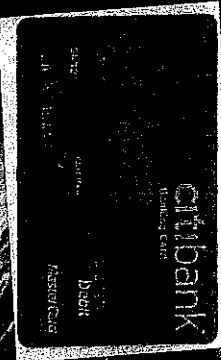
The intent of a person or the knowledge that a person possesses at any given time may not ordinarily be proved directly because there is no way of directly scrutinizing the workings of the human mind. In determining the issue of what a person knew or what a

you may consider any statements made or acts done by that person and all other facts and circumstances received in evidence which may aid in your determination of that person's knowledge or intent.

INSTRUCTION NO. 9

1. Any person who possesses a credit card or debit card
2. without consent of the cardholder
3. 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.



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

2 _____

3 SAYEDBASHE SAYEDZADA,) No. 71731

4)

5 Appellant,)

6)

7 vs.)

8)

9 THE STATE OF NEVADA,)

10)

11)

12 Respondent.)

13)

14 _____

15 **APPELLANT'S APPENDIX – VOL IV PAGES 557-737**

16 PHILIP J. KOHN
17 Clark County Public Defender
18 309 South Third Street
19 Las Vegas, Nevada 89155-2610

20 Attorney for Appellant

21 STEVEN B. WOLFSON
22 Clark County District Attorney
23 200 Lewis Avenue, 3rd Floor
24 Las Vegas, Nevada 89155

25 ADAM LAXALT
26 Attorney General
27 100 North Carson Street
28 Carson City, Nevada 89701-4717
(702) 687-3538

Counsel for Respondent

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that this document was filed electronically with the Nevada
3 Supreme Court on the 24th day of May, 2017. Electronic Service of the
4 foregoing document shall be made in accordance with the Master Service List as follows:

5 ADAM LAXALT
6 STEVEN S. OWENS

7 DEBORAH L. WESTBROOK
8 HOWARD S. BROOKS

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

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

16 BY  _____
17 Employee, Clark County Public Defender's Office

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

)
)
)
)
)
)
)
)
)

Electronically Filed
May 24 2017 02:12 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

V.

Respondent.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Counsel for Respondent

INDEX
SAYEDBASHE SAYEDZADA
Case No. 71731

	<u>PAGE NO.</u>
Amended Criminal Complaint filed 10/06/15	6-9
Court Exhibit 2 dated 03/23/16	721-737
Criminal Complaint filed 09/25/15.....	1-4
Defendant's Motion for Discovery Date of Hrg: 03/15/16.....	148-159
Defendant's Motion for Judgment Of Acquittal Notwithstanding the Verdict or, In the Alternative, for a New Trial Date of Hrg: 04/11/16.....	656-661
Defendant's Motion to Instruct Jury on Lesser-Related Charge Date of Hrg: 03/15/16.....	141-144
Defendant's Notice of Witnesses, Pursuant to NRS 174.234 Filed 03/16/16.....	175-176
Defendant's Proposed Jury Instructions Not Used at Trial Filed 03/23/16.....	181-187
District Court Minutes from 10/14/15 through 10/10/16	256-275
Information filed 10/13/15.....	14-18
Instructions to the Jury filed 03/23/16.....	188-214
Judgment of Conviction (Jury Trial) filed 10/19/16.....	250-252
Jury List filed 03/22/16.....	177
Jury List filed 03/23/16.....	178
Justice Court Minutes from 09/25/15 through 10/12/15	10-13
Motion for Judgment of Acquittal Notwithstanding the Verdict or, In the Alternative, for a New Trial Date of Hrg: 04/11/16.....	220-227
Motion for Own Recognizance Release, or, in the Alternative, For Setting of Reasonable Bail Date of Hrg: 11/10/15.....	19-24
Motion to Dismiss Appointed Counsel And Motion to Dismiss Criminal Complamt (sic) And Over turn Conviction Date of Hrg: 07/18/16.....	233-237
Motion to Run Time Concurent (sic) Date of Hrg: 09/14/16.....	242—245

1	Notice of Appeal filed 11/09/16.....	253-255
2	Notice of Witnesses filed 03/10/16	173-174
3	Notice to Place on Calendar filed 09/30/15.....	5
4	Opposition to Defendant's Motion for Judgment of Acquittal Notwithstanding the Verdict or, in the Alternative, for a New Trial	
5	Filed 04/07/16.....	228-232
6	Peremptory Challenges dated 03/22/16.....	699
7	Sentencing Memorandum filed 10/09/16	246-249
8	State's Exhibit 1 dated 03/22/16.....	702
9	State's Exhibit 2 dated 03/22/16.....	703
10	State's Exhibit 3 dated 03/22/16.....	704
11	State's Exhibit 4 dated 03/22/16.....	705
12	State's Exhibit 5 dated 03/22/16.....	706
13	State's Exhibit 6 dated 03/22/16.....	707
14	State's Exhibit 7 dated 03/22/16.....	708
15	State's Exhibit 8 dated 03/22/16.....	709
16	State's Exhibit 9 dated 03/22/16.....	710
17	State's Exhibit 10 dated 03/22/16.....	711
18	State's Exhibit 11 dated 03/22/16.....	712
19	State's Exhibit 12 dated 03/22/16.....	713
20	State's Exhibit 13 dated 03/22/16.....	714
21	State's Exhibit 14 dated 03/22/16.....	715
22	State's Exhibit 15 dated 03/22/16.....	716
23	State's Exhibit 16 dated 03/22/16.....	717
24	State's Exhibit 17 dated 03/22/16.....	718
25	State's Exhibit 18 dated 03/22/16.....	719
26	State's Exhibit 19 dated 03/22/16.....	720
27	State's Exhibit 20 dated 03/22/16.....	700-701
28	State's Opposition to Defendant's Motion For Discovery filed 03/11/16.....	160-172

1	State's Opposition to Defendant's Motion To Dismiss Appointed Counsel and Motion	
2	To Dismiss Criminal Complaint and Overturn Conviction	
3	Filed 07/14/16.....	238-241
4	State's Opposition to Defendant's Motion to Instruct Jury on Lesser-Related Charge	
5	Filed 03/11/16.....	145-147
6	State's Proposed Jury Instructions Not Used at Trial filed 03/23/16	179-180
7	Verdict filed 03/23/16.....	215-219
8	<u>TRANSCRIPTS</u>	
9	<i>Recorder's Transcript</i>	
10	<i>Jury Trial—Day One</i>	
11	<i>Date of Trial: 03/22/16</i>	<i>313-579</i>
12	<i>Recorder's Transcript</i>	
13	<i>Jury Trial—Day Two</i>	
14	<i>Date of Trial: 03/23/16</i>	<i>580-655</i>
15	Recorder's Transcript	
16	Confirmation of Counsel	
17	Date of Hrg: 08/22/16.....	683-684
18	Recorder's Transcript	
19	Defendant's Pro Per Motion to Dismiss	
20	Appointed Counsel and Motion to Dismiss	
21	Criminal Complaint and Overturn Conviction	
22	Date of Hrg: 07/18/16.....	669-675
23	Recorder's Transcript	
24	Defendant's Pro Per Motion to	
25	Run Time Concurrent	
26	Date of Hrg: 09/14/16.....	685-689
27	Recorder's Transcript	
28	Defendant's Pro Per Motion to	
29	Withdraw Counsel (To Be Filed); Sentencing	
30	Date of Hrg: 06/20/16.....	666-668
31	Recorder's Transcript	
32	Initial Arraignment	
33	Date of Hrg: 10/14/15.....	276-278
34	Recorder's Transcript	
35	Overflow	
36	Date of Hrg: 03/18/16.....	310-312
37	Recorder's Transcript	
38	Sentencing (Continued)	
39	Date of Hrg: 06/08/16.....	662-665

1	Recorder's Transcript	
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 The Alternative, for Setting Of Reasonable Bail	
12	Date of Hrg: 11/10/15.....	279-288
13	Reporter's Transcript	
14	Preliminary Hearing	
15	Date of Hrg: 10/12/15.....	25-140
16	Reporter's Transcript	
17	Proceedings	
18	Date of Hrg: 03/15/16.....	289-309
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		

1 THE COURT: Your witness, Mr. Jones.

2 MR. JONES: Thank you, Your Honor.

3 **DIRECT EXAMINATION**

4 BY MR. JONES:

5 Q Sir, where are you employed?

6 A With the Las Vegas Metropolitan Police Department.

7 Q And how long have you been with the Las Vegas Metropolitan Police
8 Department?

9 A Approximately eight years.

10 Q And in what capacity do you currently for the Las Vegas Metropolitan
11 Police Department?

12 A I'm currently assigned to patrol.

13 Q How long have you been with patrol?

14 A My entire career.

15 Q So you were employed in patrol on September 23rd of 2015?

16 A Yes, I was.

17 Q Now that morning were you dispatched to 1407 Santa Margarita?

18 A Yes, sir.

19 Q Is that here within Clark County, Nevada?

20 A Yes, it is.

21 Q And what was the nature of that call?

22 A Nature of the call was security call dispatch reference a subject who
23 was trespassing in an apartment complex and they stated that he also had
24 possession of credit cards with someone's name on it.

25 Q And did you in fact arrive at 1407 Santa Margarita?

1 A Yes, I did.

2 Q And when you arrived what did you find?

3 A I found security officer -- I believe it's Newton, he was on the east side
4 of the complex, and I also observed they had a suspect in custody.

5 Q So you saw Security Officer Newton with a suspect in custody?

6 A Yes, sir.

7 Q Do you see that -- do you see that person in the courtroom today?

8 A Yes, I do.

9 Q Can you please point at that person and describe an article of clothing
10 that they have on?

11 A He's the gentleman sitting off to my left in a green dress shirt.

12 MR. JONES: Okay. Let the record reflect identification of the Defendant.

13 THE COURT: It will.

14 BY MR. JONES:

15 Q Now let's describe your contact with Security Officer Newton. Did you
16 in fact approach Security Officer Newton?

17 A Yes, sir.

18 Q And did you receive anything from Security Officer Newton?

19 A I did.

20 Q And what in fact did you receive from Security Officer Newton?

21 A I received a tan purse.

22 MR. JONES: Your Honor, may I retrieve an exhibit?

23 THE COURT: Yes.

24 MR. JONES: May I approach the witness?

25 THE COURT: Yes.

1 MR. JONES: For the record, Your Honor, I'm showing the wit -- the witness
2 what's been previously admitted as State Exhibit 21.

3 BY MR. JONES:

4 Q Sir, do you recognize that?

5 A Yes, I do.

6 Q What is that?

7 A That's a tan purse which was handed to me from Security Officer
8 Newton.

9 Q Now once you received this purse from Security Officer Newton what
10 did you do with it?

11 A I looked at the contents inside the purse.

12 Q And when you looked at the contents did anything inside that purse
13 draw your attention?

14 A There were several credit cards inside that purse.

15 Q And what did -- did you do anything with those credit cards?

16 A I inspected all the credit cards to see whose name was on the front of
17 the credit cards and who they were issued to.

18 Q And what did that inspection reveal?

19 A That they were all issued to a person by the name of Jamie Black.

20 Q Was anything else inside that purse?

21 A I believe there were sunglasses inside the purse.

22 MR. JONES: Your Honor, may I retrieve the exhibit from the witness?

23 THE COURT: Yes.

24 BY MR. JONES:

25 Q So did you in fact log the -- the cards that you received from the purse?

1 A Yes, I did.

2 Q Now after you went through the contents of the purse what did you do

3 next?

4 A I spoke with the Defendant.

5 Q Okay. Prior to speaking with the Defendant, did you advise Defendant

6 of anything?

7 A Yes, I advised him of his *Miranda* rights.

8 Q And did the Defendant in fact say he understood his *Miranda* rights?

9 A Yes, he did.

10 Q Okay. What, if anything, did you ask Defendant?

11 A I asked him where he -- if the purse belonged to him; he said it did not

12 belong to him. I asked him where he found the purse and he stated that -- well, he

13 initially motioned with his head in I would say a westward direction, that he found it

14 down the street. And I asked him specifically where down the street and he would

15 not specify.

16 Q Now when the Defendant motioned with his head down the street, what

17 direction did Defendant motion with his head?

18 A He was facing north and he motioned to his left which would be a

19 westward direction.

20 Q So that was the complete opposite direction of where you understood

21 the incidents to have occurred?

22 A Yes.

23 Q Okay. So he said he retrieved it down the street?

24 A Yes, sir.

25 Q Okay. What else did you ask him?

1 A I asked him if the credit cards inside the purse belonged to him?

2 Q And what was his response?

3 A He said they did not and --

4 Q Did you ask him anything else with respect to the credit cards?

5 A I asked him if he knew anyone by the name of Jamie Black and he
6 stated he did not.

7 Q Now at some point did you -- were you able to obtain other credit
8 cards?

9 A Yes, sir.

10 Q And where in fact were those credit cards located?

11 A They were located near the area in which officer -- Security Officer
12 Newton stated he took Mr. Sayedzada into custody. They were located on the
13 ground.

14 Q And were you given those credit cards?

15 A Yes, I was.

16 MR. JONES: Your Honor, may I approach the witness?

17 THE COURT: Yes.

18 MR. JONES: At this time I'm showing the witness -- Your Honor, at this time
19 I'm showing the witness what had been previously marked as exhibits -- State
20 proposed Exhibits 1 through 19.

21 THE COURT: Okay.

22 BY MR. JONES:

23 Q I'm going to ask -- take your time. I want you to look at each of those
24 exhibits individually.

25 A Okay.

1 Q Did you in fact inspect State's proposed Exhibits 1 through 19, officer?
2 A Yes, I did.
3 Q And did you recognize these proposed exhibits?
4 A Yes, those are the cards that were found.
5 Q So these are the cards that were found?
6 A Yes, sir; they're photocopies.
7 Q Are the images that you just looked at, do they truly and accurately
8 reflect the cards that you found on September 23rd, 2015?
9 A Yes, they do.
10 Q Okay. Now --
11 MR. JONES: At this time, Your Honor, I move to admit State's proposed
12 Exhibits 1 through 19.
13 THE COURT: Any object --
14 MR. GASTON: No objection.
15 THE COURT: Okay. One through 19 will be admitted.
16 **[STATE'S EXHIBITS 1 THROUGH 19 ADMITTED]**
17 MR. JONES: Permission to publish, Your Honor.
18 THE COURT: Yes.
19 MR. JONES: Your Honor, at this time I'm showing the jury what's been
20 marked as State's now Exhibit Number 1.
21 BY MR. JONES:
22 Q And can -- what is this, Officer Reese?
23 A Those are photocopies of the credit cards which were found.
24 Q Now who in fact made this photocopy?
25 A I did.

1 Q Now where did you make a photocopy of these cards?

2 A At Clark County Detention Center.

3 Q So from the 19 -- excuse me, the 1407 Santa Margarita all the way to
4 the Clark County Detention Center these cards were in your -- in your custody and
5 care?

6 A Yes, sir.

7 Q Okay. And you did photocopy them there?

8 A Yes, sir.

9 Q And State's now Exhibit Number 1 is four of these cards?

10 A Yes, sir.

11 Q Now I'm showing you what's been marked as State's Exhibit Number 2;
12 what is this?

13 A That's the back side of the cards which you just showed me.

14 Q Showing you what's been marked as State's Exhibit Number 3; what is
15 this?

16 A That's more photocopies of the cards which I did at CCDC.

17 Q And State's Exhibit Number 4?

18 A It's the reverse side of the previous cards.

19 Q State's Exhibit Number 5?

20 A Five more credit cards which I made copies of.

21 Q And State's Exhibit Number 6?

22 A Those are the -- it's the back side of the previous cards which you just
23 showed me.

24 MR. JONES: Your Honor, may I approach the witness again?

25 THE COURT: Yes.

1 MR. JONES: And, Your Honor, for record, I'm handing the witness a -- a pen.

2 BY MR. JONES:

3 Q I'm showing the witness what's been admitted as State's Exhibit
4 Number 1. On this exhibit can you please mark on each of the -- on -- next to each
5 card where you found that particular card?

6 A Okay.

7 Q I'm showing you what's been marked as State's -- admitted Exhibit
8 Number 3 and it shows four cards. Can you please mark on that document where
9 you found each of those cards?

10 And I'm showing you what's been marked as State's Exhibit Number 5.
11 Can you please mark where these were -- were all these found in the same
12 location?

13 A These all were found in the same location.

14 Q Okay. Can you just mark where they were found?

15 So now I'm showing the jury what's been marked as State's Exhibit
16 Number 1. You indicated that all of these cards were found on the ground; is that
17 correct?

18 A Yes, sir.

19 Q So that's a Visa ending in 0204, American Express ending in 2006, a
20 Visa card ending in 2877, and another Visa card were all found on the ground;
21 correct?

22 A Yes, sir.

23 Q I'm showing you what's been marked as State's Exhibit Number 3.
24 Now these are split. Two were found on the ground and two were found in a purse.
25 Why are these on the same page?

1 A I attempted to get all of the copies on the same page of the cards that I
2 found in the purse, but I could only get five cards on one page.

3 Q Okay. So you in fact just split it up this way?

4 A Yes.

5 Q Okay. And so two of these cards were found on the ground and two
6 were found in the purse?

7 A Yes, sir.

8 Q Now I'm showing you what's been marked as State's Exhibit Number 5.
9 These are five credit cards; correct?

10 A Yes, sir.

11 Q And all of these were found in the purse?

12 A Yes, sir.

13 Q Now after you took photocopies of these credit cards what did you do
14 with them?

15 A Other officers were able to locate the victims. So once I was finished at
16 Clark County Detention Center I met the victims at their home and documented
17 these items on a property report and released them back to the victims.

18 Q So you did document all of these items on a property report?

19 A Yes.

20 Q And eventually you did in fact return them to the victim?

21 A Yes.

22 Q Okay. Why did not impound these items?

23 A It's common practice for us when we have -- when we have a crime that
24 is involving stolen property that's recently occurred. If we're able to locate a victim
25 then we will -- common practice is to document these items, in this case make

1 photocopies, and release them back to the rightful owner if we're able to get a hold
2 of a rightful owner. In this case we were able to.

3 MR. JONES: Court's indulgence.

4 BY MR. JONES:

5 Q Now it's your testimony you returned the cards to the Black family;
6 correct?

7 A Yes, sir.

8 Q What else did you return to the Black family?

9 A I believe there was the purse; there was a pair of sunglasses, and I
10 believe there was a cell phone.

11 Q And all of those items were in fact returned to the Black family?

12 A Yes.

13 MR. JONES: At this time we'll pass the witness, Your Honor.

14 THE COURT: Cross?

15 MR. HOWELL: Thank you, Your Honor.

16 **CROSS-EXAMINATION**

17 BY MR. HOWELL:

18 Q Good afternoon, Mr. Reese.

19 A Hello, sir.

20 Q How are you?

21 A Good, sir.

22 Q Good. So I kind of want to start my questioning when you first arrived
23 and spoke with Officer Newton; do you understand?

24 A Yes, sir.

25 Q Thank you. He turned over a purse to you?

1 A Yes.

2 Q Okay. And at some point he also handed over credit cards that had
3 fallen on the ground?

4 A Yes.

5 Q He also handed over cell phones that had fallen on the ground?

6 A Yes.

7 Q Okay. At some point after that you searched the purse?

8 A Yes.

9 Q Okay. And some of the items that you found in the purse were two pair
10 of sunglasses?

11 A Yes, sir.

12 Q Credit cards in the name of Jamie Black?

13 A Yes, sir.

14 Q Okay. You did not find Jamie Black's ID in the purse?

15 A No, sir.

16 Q Did you find any car keys?

17 A No, sir.

18 Q You didn't find any cash?

19 A No, sir.

20 Q Okay. Now you indicated that you spoke with Sayed after you read him
21 *Miranda* warnings. Did you search him prior to speaking with him?

22 A I read him *Miranda* prior to speaking with him.

23 Q I'm sorry. Before --

24 A I'm sorry.

25 Q Did you search him?

1 A No -- no, sir. I read him *Miranda* before I searched him --
2 Q Okay.
3 A -- before I searched the purse.
4 Q Sure. Okay. So I'm going to talk to you about your search on Sayed.
5 You didn't find any credit cards on his person?
6 A No, sir.
7 Q Okay. You didn't find Jamie Black's ID on him?
8 A No, sir.
9 Q You didn't find any -- you didn't find \$200 cash on him?
10 A No, sir.
11 Q You didn't find any car keys on him?
12 A No, sir.
13 Q Okay. Do you recall any property you did find on him?
14 A I believe I found -- on his person -- I don't believe he had any items on
15 his person. I believe all the items I found were indeed inside the purse.
16 Q Okay. And then you spoke with Sayed?
17 A Yes, sir.
18 Q Okay. And you questioned about why he was at the apartment
19 complex?
20 A Yes, sir.
21 Q And he told you that he was taking a shortcut?
22 A Yes.
23 Q And you questioned him about the purse?
24 A Yes.
25 Q Okay. And he told you that he found it?

1 A Yes, sir.

2 Q Okay. You asked him if he knew there were cards in the purse?

3 A Yes, sir.

4 Q He told you no?

5 A Yes.

6 Q And you asked him if he knew the people who the cards belonged to?

7 A Yes.

8 Q And he also told you no?

9 A Yes.

10 Q Okay. Now the area where Sayed was taken into custody by Officer

11 Newton --

12 A Correct.

13 Q -- is an apartment complex; right?

14 A Yes, sir.

15 Q Now to the best of your knowledge that apartment complex doesn't sell

16 anything?

17 A No, sir.

18 Q Apartments maybe?

19 A Yes.

20 Q Okay. It's not a store like Walmart?

21 A No.

22 Q Okay. You don't know if the cards that were found in connection with

23 this case were used by Sayed?

24 A I don't know that; no.

25 Q Okay. So you're not aware of any fraudulent transactions?

1 A Not that I'm aware of.

2 Q Okay. You don't know where Sayed was going?

3 A No.

4 Q Okay. And you don't know if Sayed was going to use the cards?

5 A No.

6 Q Okay. And based on your conversation with Sayed, you can't even say
7 for certain that Sayed knew the cards were in the purse?

8 A Not 100 percent. He did not say he knew anything about the cards.

9 Q Right. He denied knowing anything them?

10 A Yes.

11 Q Okay. And again, he didn't have any identification in the name of any of
12 Black family on him?

13 A No, he did not.

14 Q Okay. Okay. So you can't say with any certainty where Sayed
15 intended on using the cards?

16 A No.

17 MR. HOWELL: Okay. Court's brief indulgence.

18 No further questions, Your Honor.

19 THE COURT: Further -- any further direct?

20 MR. JONES: Court's indulgence, Your Honor.

21 THE COURT: Okay.

22 **REDIRECT EXAMINATION**

23 BY MR. JONES:

24 Q Officer, just to clarify, you did in fact ask Defendant if he knew about the
25 credit cards?

1 A Yes.

2 Q And what did Defendant say?

3 A He said he didn't know about the credit cards.

4 Q But you asked him if the credit cards were his and what was his
5 response?

6 A He said they weren't his.

7 Q Okay. And you asked -- you asked him if he knew of -- if he knows
8 anybody by the name of Jamie Black and what was his answer?

9 A He said he did not.

10 Q Now you indicated that you did in fact go to the Black residence?

11 A Yes, sir.

12 Q How far away was the Black residence?

13 A I would say approximately two or three miles.

14 Q Okay. Is there a common street?

15 A I do not recall exact street.

16 MR. JONES: No further questions.

17 MR. HOWELL: No, recross. Thank you, officer.

18 THE COURT: Okay. Officer, thank you for your testimony.

19 THE WITNESS: Thank you.

20 THE COURT: You can step down, you are excused.

21 MR. JONES: Your Honor, may we approach?

22 THE COURT: Yes.

23 [Bench conference -- not recorded]

24 THE COURT: Okay. Ladies and gentlemen, at this point in time we're going
25 to take our overnight recess. The State has indicated their next witnesses won't be

1 available until tomorrow, so I'm going to ask that you be here by ten o'clock
2 tomorrow.

3 You are admonished not to converse amongst yourselves or with
4 anyone else on any subject connected with this trial; read, watch, or listen to any
5 report of or commentary on the trial by any person connected with this case, or by
6 any medium of information, including without limitation newspapers, television,
7 internet, radio. You're further admonished not to form or express any opinion on
8 any subject connected with this trial until the case is finally submitted to you.

9 Be here outside the courtroom at ten o'clock tomorrow. Do not come in
10 the courtroom. We'll be at ease while the jury leaves the room; okay.

11 [Outside the presence of the jury]

12 THE COURT: Okay. We're outside the presence of the jury.

13 I'd like -- do you need to make a record with respect to your objection
14 as to the shirt --

15 MR. GASTON: For two seconds.

16 THE COURT: -- the photo of Exhibit Number 20?

17 MR. GASTON: Two seconds. I just want to put both bench conferences on
18 the record.

19 THE COURT: Okay.

20 MR. GASTON: The first bench conference I asked to approach specifically in
21 starting Mr. Dickerson's cross -- direct examination. I objected. He was standing
22 close to the jury -- actually right next to the jury, although outside the actual box
23 while he was asking his questions. I objected as to misconduct. I found that to be --
24 I -- you know, I argued that was inappropriate. The Court indicated that, A, he didn't
25 find it inappropriate; B, I have the same opportunity if I wanted to do so in my cross-

1 examination; and three, that the motive wasn't to improperly suggest himself to the
2 jury; instead it was mainly submit the -- the witness would be facing the jury when he
3 answered the questions and so the Court overruled my objection.

4 THE COURT: Okay.

5 MR. GASTON: If that's a correct statement of the bench conference.

6 THE COURT: Do you concur with that, Mr. Dickerson?

7 MR. DICKERSON: I would, Your Honor.

8 THE COURT: Okay.

9 MR. GASTON: The next bench conference we -- we approached. I objected
10 to Exhibit 20 on irrelevant and unfairly prejudicial -- the unfair prejudice is
11 substantially -- substantially outweighs the probative value. The district attorney
12 indicated that it wasn't going to publish Exhibit 20, but it was going to move to admit
13 it, so I objected to it being admitted. The Court overruled my objection and allowed
14 it to be admitted.

15 Given that it was admitted, the district attorney did then actually publish
16 it to the jury. And specifically what the district attorney did is he published the photo
17 of Exhibit 20 to the jury and showed it to the witness, and then he went on to the
18 next photo, which is a photo of the purse, and published that to the jury. However,
19 when he published the second photo to the jury he did exactly the kind of thing that I
20 was concerned about when I objected at the bench, is he showed the photo while
21 simultaneously showing a photo of the purse while simultaneously showing the
22 photo --

23 MR. JONES: Well -- I'm sorry.

24 THE COURT: Let -- let him finish because that's correct; he did.

25 MR. GASTON: While simultaneously showing the photo of the Defendant.

1 So -- and then he actually even with his hands scooted over the photo of the purse
2 so that the jury and the witness could more clearly see the photo of the purse, while
3 still he was very careful to not obscure the photo of the Defendant. And so for a
4 period of time during the questioning and while has doing his direct examination
5 there was a photo of my client standing right next to the photo of the purse. And
6 that's the kind of -- absolutely no probative value and the unfair prejudice I was
7 worried about at the bench. And in fact it's direct contradiction to what Mr.
8 Dickerson stated his intent was to the Court which is not -- he just wanted to move it
9 into -- admit it into evidence. He specifically said I'm not intending to publish it and
10 then he went ahead and did exactly that.

11 THE COURT: Well, he asked. He asked before he published.

12 MR. GASTON: He did. He did.

13 THE COURT: Okay. Go ahead. Do you want to respond?

14 MR. DICKERSON: Yes, Your Honor.

15 I did ask before I published and Your Honor granted me the right to
16 publish that. With that the defense counsel did not object when I published both
17 images, including the images side-by-side. I would also note for the record that the
18 image of the Defendant was quite obscured by the lighting anyway. It was very hard
19 to see if at all. Given that, Your Honor, and given that there was no objection at the
20 time of the publishing I didn't see anything wrong with that.

21 MR. GASTON: Does the Court want me to respond --

22 THE COURT: Mr. Dick --

23 MR. GASTON: Oh, go ahead. I'm sorry.

24 THE COURT: Mr. Dickerson, Mr. Gatson, those are -- those are evidence
25 that's going to be presented to the jury. You publish them merely during the portion

1 that you have the individual on the witness stand. I don't see any prejudice with it.
2 I've already indicated that it was admissible. I do find that it is relevant based on the
3 description of the witness and what he was wearing, and how he had it concealed.
4 And matter of fact he even did draw on his neck on how the individual had the --
5 how your Defendant -- how your client had this purse on underneath his shirt. So I
6 understand your record and that's fine.

7 Anything further?

8 MR. JONES: Not from the State, Your Honor.

9 MR. GASTON: I have a question about jury instructions.

10 THE COURT: Okay.

11 MR. GASTON: So I know the State has given me a copy of their jury
12 instructions. I think they emailed it to me -- or going to email it to me --

13 MR. JONES: I've not. My -- his -- his address won't come to my phone, but I
14 will email him a PDF of my jury instructions this afternoon.

15 MR. GASTON: And I believe he has filed a copy --

16 THE COURT: Do --

17 MR. GASTON: I'm sorry.

18 THE COURT: I do.

19 Mr. Jones, did you prepare any of these without -- without the citations?

20 MR. JONES: I have them in my office that I can send to the Court.

21 THE COURT: Yeah, send me a copy without citations as well.

22 And I don't know if this will be the right time to do this. Since we have,
23 do you want me to admonish your client; give him an opportunity to think about this
24 over the night -- overnight on whether or not he's going to testify?

25 MR. GASTON: If the Court wishes.

1 THE COURT: Okay.

2 Mr. Sayedzada, I -- you know, I apologize ahead of time in my
3 pronunciation of your name. I just -- I don't know if I'm pronouncing it right. I've
4 tried to follow what you indicated, but please don't take any offense to that. I'm not
5 trying to belittle you or anything like that. I just -- I don't -- Sayedzada?

6 THE DEFENDANT: Correct.

7 THE COURT: Okay. Sir, under the Constitution of the United States, and
8 under the Constitution of the State of Nevada, you cannot be compelled to testify in
9 this case; do you understand that?

10 THE DEFENDANT: [Indiscernible.]

11 THE COURT: Is that a yes?

12 THE DEFENDANT: Yes.

13 THE COURT: Okay. You may at your own request give up that right and
14 take the witness stand and testify. If you do, you'll be subject to cross-examination
15 by the deputy district attorney and anything that you may say, be it on direct or
16 cross-examination, will be subject to fair comment when the deputy district attorney
17 speaks to the jury in his final argument; do you understand that?

18 THE DEFENDANT: Correct. I do.

19 THE COURT: If you choose not to testify the Court will not permit the deputy
20 district attorney to make any comments to the jury because you have not testified;
21 do you understand that?

22 THE DEFENDANT: Yes, I do.

23 THE COURT: Also, if you elect not to testify the Court will instruct the jury,
24 but only if your attorney specifically requests me to do so, that the law does not
25 compel a defendant in a criminal case to take the stand and testify, and no

1 presumption may be raised, and no inference of any kind may be drawn from the
2 failure of a defendant to testify. Do you have any questions regarding your rights?

3 THE DEFENDANT: No, I don't.

4 THE COURT: Okay. You are further advised that if you have a felony
5 conviction and more than ten years has not lapsed from the date that you've been
6 convicted or discharged from prison, parole or probation, whichever is later, and the
7 defense has not sought to preclude that coming before the jury and you elect to take
8 the stand and testify, the deputy district attorney in the presence of the jury will be
9 permitted to ask the follow: have you been convicted of a felony, what was that
10 felony, and when it happen; however, I won't let them go into any details; do you
11 understand?

12 THE DEFENDANT: Yes.

13 THE COURT: Okay. I'm going to ask you to consider that over the --
14 overnight and then let your attorney know whether or not you -- what your position
15 is. Also, I need you to talk to him regarding the actual jury instructions because
16 that's what we were kind of -- that's what brought me to this is -- that's a specific jury
17 instruction and I will put it in if you ask me for it; okay?

18 THE DEFENDANT: Mm-hmm.

19 THE COURT: And, State, you didn't provide -- you didn't provide a copy of
20 the stock one to me; do you have one?

21 MR. JONES: I'm sure I do. I don't know -- I can't remember if that's in there
22 or not, Your Honor. I apologize.

23 THE COURT: It's not. I -- it's not. I looked for it.

24 MR. GASTON: We are going to be asking -- most likely we are going to be
25 asking. I provide -- I'll provide a copy.

1 THE COURT: Okay. I ask however if you get a copy of the State's and
2 you're presenting a copy -- something to the Court, follow the same font --
3 MR. GASTON: Sure.
4 THE COURT: -- all right?
5 MR. GASTON: Yes, Your Honor.
6 THE COURT: Okay. All right.
7 MR. JONES: Just one question though. When will be receiving defense's -- I
8 don't want this to be a situation --
9 THE COURT: He said he's going give them to you for tonight.
10 MR. GASTON: I don't want to super promise a time, but it will be tonight.
11 MR. JONES: Okay. As long as it's tonight.
12 MR. HOWELL: It will be tonight.
13 MR. JONES: I just don't want to receive them at 9:55 tomorrow and be
14 expected to argue in chambers, so --
15 THE COURT: Okay.
16 MR. JONES: Okay. Thank you, Your Honor.
17 THE COURT: That's fair. All right.
18 MR. GASTON: Do you want us to be here at ten tomorrow --
19 THE COURT: Yeah.
20 MR. GASTON: -- or just be a little early?
21 THE COURT: Well --
22 MR. HOWELL: I'll be here at 8:30.
23 THE COURT: Yeah, you're --
24 MR. GASTON: I think there's a chance we can submit the case --
25 THE COURT: I know. That's what I'm thinking --

1 MR. GASTON: -- I mean, those witnesses aren't going to take any time.

2 THE COURT: -- is we could probably settle jury instructions if you come -- try
3 to come about a half hour early because I think my calendar -- you know, I don't
4 know.

5 MR. GASTON: I think Chris will be here anyways because he has --

6 THE COURT: Yeah.

7 MR. GASTON: -- two sentencings, but I'll be here at 9:30 if the --

8 THE COURT CLERK: It's just because it's pretrial conference.

9 THE COURT: It's all pretrial conference stuff; yeah.

10 Okay. So if you could be here by 9:30 tomorrow maybe we can get the
11 jury instructions done and --

12 MR. GASTON: Thank you, Your Honor.

13 THE COURT: Okay. Anything else?

14 MR. GASTON: That's it.

15 MR. JONES: That's it, Your Honor. Thank you.

16 THE COURT: All right. Have a good evening; okay.

17 MR. DICKERSON: Thank you, Your Honor.

18 THE COURT: We're off the record.

19 [Proceedings concluded at 4:25 p.m.]

20 * * * * *

21 ATTEST: Pursuant to Rule 3(c)(d) of the Nevada Rules of Appellate Procedure, I
22 acknowledge that this is a rough draft transcript, expeditiously prepared, not
23 proofread, corrected, or certified to be an accurate transcript.

24 Sandra A Pruchnic
25 SANDRA PRUCHNIC
Court Transcriber

IN THE SUPREME COURT OF THE STATE OF NEVADA

SAYEDBASHE SAYEDZADA,) No. 71731
)
Appellant,)
vs.)
)
THE STATE OF NEVADA,)
)
Respondent.)

APPELLANT'S APPENDIX – VOL III – 313-579

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

Attorney for Appellant

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

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

Counsel for Respondent

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 24th day of May, 2017. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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

Employee, Clark County Public Defender's Office


CLERK OF THE COURT

1 RTRAN

2
3
4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
7

8
9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs.

12 SAYEDBASHE SAYEDZADA,

13 Defendant.

)
)
) CASE NO. C310000
)
)

) DEPT. XIX
)
)

14 BEFORE THE HONORABLE WILLIAM D. KEPHART, DISTRICT COURT JUDGE

15 WEDNESDAY, MARCH 23, 2016

16 **RECORDER'S ROUGH DRAFT TRANSCRIPT OF PROCEEDINGS**
17 **JURY TRIAL - DAY 2**

18 APPEARANCES:

19 For the State:

JOHN T. JONES, JR., ESQ.
Chief Deputy District Attorney
MICHAEL DICKERSON, ESQ.
Deputy District Attorney

22 For the Defendant:

21 TYLER GASTON, ESQ.
CHRISTOPHER T. HOWELL, ESQ.
Deputy Public Defenders

24
25 RECORDED BY: CHRISTINE ERICKSON, COURT RECORDER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX OF WITNESSES

STATE'S WITNESSES

DAY

PAGE

CORY NEWTON

Direct Examination by Mr. Dickerson	1	211
Cross-Examination by Mr. Gaston	1	236
Redirect Examination by Mr. Dickerson	1	242
Examination by the Court	1	243
Follow-up by Mr. Dickerson	1	243

JOEL REESE

Direct Examination by Mr. Jones	1	245
Cross-Examination by Mr. Howell	1	254
Redirect Examination by Mr. Jones	1	258

MICHAEL BLACK

Direct Examination by Mr. Jones	2	6
---------------------------------	---	---

LORI BLACK

Direct Examination by Mr. Jones	2	8
---------------------------------	---	---

JAMIE LEE BLACK

Direct Examination Mr. Dickerson	2	11
Cross-Examination Mr. Howell	2	25
Redirect Examination Mr. Dickerson	2	27
Recross Examination Mr. Howell	2	27

DEFENSE WITNESSES

DAY

PAGE

[None presented.]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX OF EXHIBITS

STATE'S EXHIBITS

DAY

PAGE

22	1	216
20	1	233
21	1	234
1 through 19	1	250

DEFENSE EXHIBITS

DAY

PAGE

[None offered.]

WEDNESDAY, MARCH 23, 2016 AT 10:34 A.M.

[Outside the presence of the jury]

THE COURT: Okay. We're on the record in State of Nevada versus Sayedbashe Sayedzada, C310000. We're outside the presence of the jury. Is the State ready to proceed?

MR. JONES: The State is ready, Your Honor.

THE COURT: Are you ready to proceed?

MR. GASTON: We are. Do you want us to go ahead and put the jury instructions and --

THE COURT: No; we'll do it after we --

MR. GASTON: Before closing after the --

THE COURT: Right; mm-hmm.

MR. JONES: And, Your Honor, I did - I now have one but I did have two witnesses in here. I was -- that they leave. Do you want me to do that prior to the jury coming in?

THE COURT: Yeah, just let them go outside.

MR. GASTON: Your Honor, for scheduling purposes -- I don't know if this will be amenable to the Court, but what we were thinking is about doing the three witnesses, the State would rest, we would take a break. The jury would be released for lunch, do the jury instructions issue, have lunch, come back and close, if that works for the Court.

MR. JONES: It should go -- the three witnesses we have, Your Honor, should go pretty quick. We're hoping to get them done within an hour.

THE COURT: Okay.

1 MR. JONES: And quite frankly depending on cross, it could go much faster
2 than that.

3 THE COURT: Okay.

4 MR. JONES: The jury instructions might take a while. May I retrieve the
5 exhibits?

6 THE COURT: What's that?

7 MR. JONES: May I --

8 THE COURT: Yes.

9 [Inside the presence of the jury]

10 THE COURT: Okay. This is the continuation of the jury trial in case number
11 C310000, State of Nevada versus Sayedbashe Sayedzada. I'd like the record to
12 reflect the presence of the Defendant and his counsel as well as State as their
13 counsel. When you hear your name, please answer that you're here.

14 [The Court calls the roll of the jury panel]

15 THE COURT: Will the parties stipulate to the presence of the jury?

16 MR. JONES: We will, Your Honor.

17 MR. GASTON: Yes, Your Honor.

18 THE COURT: Okay. Before we took a break the State was still in their case
19 in chief; do you have any further witnesses?

20 MR. JONES: The State does, Your Honor.

21 THE COURT: Call your next witness.

22 MR. JONES: The next witness is Michael Black.

23 Sayedbashe Sayedzada your first and last name for the record.

24 THE WITNESS: Michael Thomas Black, M-I-C-H-A-E-L B-L-A-C-K.

25 THE COURT: Your witness, Mr. Jones.

1 MR. JONES: Thank you, Your Honor.

2 **DIRECT EXAMINATION**

3 BY MR. JONES:

4 Q Sir, do you know a Jamie Black?

5 A Yes.

6 Q How do you know Jamie Black?

7 A My daughter.

8 Q She's your daughter. And what about Lori Black?

9 A My wife.

10 Q I want to turn your attention to September 23rd of 2016. Did you in fact
11 on that date possess a Visa card --- had a Visa card in your name ending in 0204?

12 A Yes.

13 MR. JONES: Okay. Your Honor, may I approach the witness?

14 THE COURT: Yes.

15 BY MR. JONES:

16 Q I'm showing the witness what's been admitted as State's proposed
17 Exhibit number 12. Sir, do you recognize what's depicted in that picture?

18 A Yes.

19 Q What is depicted in that picture?

20 A Of a Visa credit card.

21 Q Okay. And whose name is that card in?

22 A Michael T. Black, mine.

23 Q Now this card also has under it the name Beaver Dam Lodge; what is
24 Beaver Dam Lodge?

25 A That's a business that we own.

1 Q And when you say we, who is we?
2 A My wife and I.
3 Q Okay. So, you and your wife own Beaver Dam Lodge?
4 A Yes.
5 Q Okay. And this card is issued in your name before Beaver Dam Lodge?
6 A Yes.
7 Q Okay. Who had permission to add this card on them on September 23rd
8 2015?
9 A Jamie Black, my daughter.
10 Q Okay. Now what about Lori Black; would Lori Black have had
11 permission to have this card?
12 A Yes.
13 Q Okay. In fact, Lori Black is the signature that's on the back; correct?
14 A Yes.
15 Q Okay. What does -- what do you, Jamie and Lori use this card for?
16 A To purchase materials for the job, for the business.
17 Q And that would be the lodge that's on the card?
18 A Yes.
19 Q Now did you give on September 23rd of 2015 an individual by the name
20 of Sayedbashe Sayedzada permission to use this card?
21 A No.
22 Q Okay. And prior to that date, September 23rd 2015, did you in fact know
23 an individual by the name of Sayedbashe Sayedzada?
24 A No.
25 MR. JONES: Court's indulgence. No further questions, Your Honor.

1 THE COURT: Cross.

2 MR. HOWELL: No questions, Your Honor.

3 THE COURT: All right. Okay. Mr. Black, thanks for your testimony. You can
4 step down; you're excused. Call your next witness.

5 MR. JONES: The State calls Lori Black, Your Honor.

6 **LORI BLACK**

7 [having been called as a witness and being first duly sworn, testified as follows:]

8 THE COURT MARSHAL: Remain standing and raise your hand and face the
9 clerk.

10 THE COURT CLERK: Thank you. Please be seated. Please state your full
11 name, spelling your first and last name for the record.

12 THE WITNESS: Lori Jo Black, L-O-R-I B-L-A-C-K.

13 THE COURT: Your witness, Mr. Jones.

14 MR. JONES: Thank you, Your Honor.

15 **DIRECT EXAMINATION**

16 BY MR. JONES:

17 Q Ms. Black, do you know a Michael Black?

18 A Yes.

19 Q How do you know Michael Black?

20 A He's my husband.

21 Q And do you know a Jamie Black?

22 A Yes; she's my daughter.

23 MR. JONES: Your Honor, may I approach the witness?

24 THE COURT: Yes.

25 BY MR. JONES:

1 Q Your Honor, I'm showing the witness what's been marked as State's
2 Exhibit number 11; do you recognize what's depicted in this exhibit?
3 A Yes, it's our credit card number, our company credit cards.
4 Q And is that card in fact in your name?
5 A Yes, it is.
6 Q And who has in fact signed for that card on the back?
7 A I did.
8 Q Okay. I'm showing the witness what's been marked as State's Exhibit
9 number 13; do you recognize this exhibit?
10 A Yes.
11 Q What is depicted in this exhibit?
12 A It's my credit card.
13 Q Okay. And is the credit card in your name?
14 A Yes, it is.
15 Q And who has in fact signed the back of that credit card?
16 A I did.
17 Q And showing the witness what's been admitted as State's Exhibit
18 number 19. Ms. Black, do you recognize that exhibit?
19 A Mm-hmm.
20 Q What is that exhibit?
21 THE COURT: Is that a yes, ma'am?
22 THE WITNESS: Yes.
23 THE COURT: Okay.
24 THE WITNESS: It's my credit card.
25 BY MR. JONES:

1 Q Okay. And is that card in fact in your name?
2 A Yes, it is.
3 Q And have you in fact signed the back of that card?
4 A Yes.
5 Q Okay. So, Your Honor, also I'm showing the witness what's been
6 marked as State's Exhibit number 11; do you recognize what's depicted in Exhibit
7 number 12?
8 A Yes.
9 Q What is in this exhibit?
10 A It's a company credit card, our other company credit card.
11 Q Now whose name is this card in?
12 A It's in my husband's.
13 Q Okay. But who has signed the back of this card?
14 A I did.
15 Q Okay. Now why did you sign the back of the card with your husband's
16 name on it?
17 A I don't know. It's our company credit card.
18 Q Okay. It's for company purposes?
19 A It is.
20 Q Okay. I want to turn your attention to September 23rd of 2015. Did
21 Jamie Black have permission to possess these cards depicted in Exhibits 12, 13, 11
22 and 19?
23 A Yes.
24 Q Did you give an individual by the name of Sayedbashe Sayedzada
25 permission to use any of those cards?

1 A No, I did not.

2 Q Okay. And prior to September 23rd 2015, did you in fact know an
3 individual by the name of Sayedbashe Sayedzada?

4 A No, I did not.

5 MR. JONES: No further questions.

6 THE COURT: Cross.

7 MR. HOWELL: No questions, Your Honor.

8 THE COURT: Okay. Ms. Black, thank you so much for your testimony.

9 THE WITNESS: Thank you.

10 THE COURT: Step down, you're excused; okay.

11 Call your next witness.

12 MR. DICKERSON: The next witness is going to be Jamie Black.

13 THE COURT MARSHAL: Remain standing, raise your right hand and face
14 the clerk over here.

15 **JAMIE BLACK**

16 [having been called as a witness and being first duly sworn, testified as follows:]

17 THE COURT CLERK: Thank you. Please be seated. Please state your full
18 name, spelling your first and last name for the record.

19 THE WITNESS: Jamie Lee Black, J-A-M-I-E L-E-E B-L-A-C-K.

20 THE COURT: Your witness, Mr. Dickerson.

21 MR. DICKERSON: Thank you, Your Honor.

22 **DIRECT EXAMINATION**

23 BY MR. DICKERSON:

24 Q Ms. Black, who were Michael and Lori Black?

25 A My father and mother.

1 Q And what do you do for a living?
2 A I work at Beaver Dam Lodge for my mom.
3 Q Is part of that job do you carry financial resources for the company?
4 A I carry a business card for Beaver Dam Lodge and for another company
5 we have in Mesquite.
6 Q Do you carry any other cards in your parent's name?
7 A No -- well not now.
8 Q Was there a time before when you did?
9 A Yeah. I did have a --I believe it was a Hilton credit card for booking
10 rooms.
11 Q And when was that?
12 A September -- like around September 20th is when I got those.
13 Q So, around September 20th 22nd, 2015, where were you living?
14 A I was -- I'm living in Mesquite and Vegas part-time, but I was in Vegas
15 around that certain time.
16 Q Were you in Las Vegas on September 22nd, 2015?
17 A Yes, I was.
18 Q And were you staying here that evening?
19 A Well I was on my way to Mesquite and came back because I had forgot
20 some of my daughter's stuff and that's when --
21 Q I'm sorry. Go ahead.
22 A And that's when I -- she was sleeping. So, I just went -- got out of my
23 car and left my things in my car.
24 Q How old is your daughter?
25 A Five.

1 Q She rides in a car seat still?
2 A Yeah.
3 Q So, she was in your car that evening?
4 A Yes, she was.
5 Q You said that you were on your way to Mesquite.
6 A Mesquite.
7 Q And what happened? What caused you to come back home?
8 A We forgot some of her stuff -- some of her school stuff.
9 Q So, when you got home, what time was it?
10 A Around -- I would say 11:30.
11 Q And what did you do?
12 A We pulled in and I parked my car. It was late, she was sleeping, so I
13 just jumped out the car went inside and went to bed.
14 Q This neighborhood that you live in, is there -- is it gated?
15 A It is gated and it's all -- the only people living there is family.
16 Q So, you know everybody that lives in the neighborhood?
17 A Yes.
18 Q You have walls around the neighborhood?
19 A Mm-hmm.
20 Q Are they pretty tall?
21 A Yeah.
22 Q So, you took your daughter inside?
23 A Mm-hmm.
24 THE COURT: Is that a yes, ma'am?
25 THE WITNESS: Yes.

1 THE COURT: Ma'am, you can't say mm-hmm or uh-huh because I don't
2 know what that means. Okay.

3 THE WITNESS: Sorry.

4 THE COURT: All right.

5 BY MR. DICKERSON:

6 Q Was that at 11:30 at night; is that what you said?

7 A Yes.

8 Q Was she sleeping?

9 A She was sleeping.

10 Q And when you took her inside did you lock the car doors?

11 A I didn't. I -- being where we live I just figured it was safe to -- we never
12 really had problems with that before so --

13 Q So, what did you keep in your car?

14 A My purse was in there, my keys, my wallet, and some of my daughter's
15 like toys, a laptop and like a portable DVD player.

16 Q That she plays with?

17 A Yes.

18 Q Let's talk about the items that were in your purse; what did you have in
19 there?

20 A My wallet, my keys, and credit cards and money.

21 Q So you said you had your wallet, you had keys. And were the credit
22 cards and money within your wallet?

23 A Some of the credit cards. The expired ones were in my center console
24 and the other ones were in my wallet in my purse.

25 Q How did you keep them in your wallet?

1 A In the little pockets. The business ones are on one side and my
2 personal ones are on the other.

3 Q You said you had some cash in your wallet?

4 A Yes.

5 Q About how much?

6 A Like a hundred dollars.

7 Q But you're not sure?

8 A I'm not a hundred percent sure.

9 Q Would you say that it would be more or less than a hundred?

10 A I usually carry like a hundred dollars cash just in case of emergencies.

11 Q And did you have an ID in there?

12 A Yes.

13 Q Did you have anything else, grocery cards or anything?

14 A Yeah.

15 Q What was that?

16 A Like a Vons grocery card, fuel points things.

17 Q You said you also had some kid's stuff in the car; is that right?

18 A There was the -- like the DVD player and some play cell phones and
19 stuff like that.

20 Q The cell phones that you had, what are they?

21 A They were just old cell phones that she had like played with; they didn't
22 work.

23 Q Do you recall what kind of cell phones they are?

24 A No.

25 Q Did you have anything else in the car, sunglasses or anything?

1 A There was sunglasses, but some that the officer brought back were not
2 mine so --

3 Q We'll chat about that in a second. So, at some point in time you were
4 contacted by police officers?

5 A My sister had woken me up saying that there was a officer there. I
6 didn't -- I had no idea that it happened.

7 Q Was this on the morning of September 23rd 2015?

8 A Yes.

9 Q About what time?

10 A Eight-thirty, 9 o'clock.

11 Q And at this point in time did you learn anything that had happened?

12 A I didn't -- I learned that --

13 Q Specifically about your vehicle.

14 A I didn't know anything happened until he told me.

15 Q Did you happen to look in your vehicle at that point in time?

16 A Yeah.

17 Q And did you notice whether anything was missing?

18 A Well he -- the officer said not to go in my --

19 MR. HOWELL: Objection.

20 THE WITNESS: -- in my car yet.

21 THE COURT: So -- hold on, hold on, hold on.

22 MR. HOWELL: Hearsay, Your Honor.

23 THE COURT: Sustained.

24 BY MR. DICKERSON:

25 Q At some point in time did you go in your car and realize that you were

1 missing some items?

2 A Yeah.

3 Q And what was missing?

4 A My purse and everything from my center console was taken out. So,
5 the credit cards were gone out of there and then my daughter's stuff was gone too.

6 Q And that included the cell phones?

7 A Mm-hmm.

8 THE COURT: Is that a yes, ma'am?

9 THE WITNESS: Yes.

10 BY MR. DICKERSON:

11 Q Now at some point in time did another police officer come up to your
12 house?

13 A There was two; one came in the morning and then one brought my
14 items back later in the day.

15 Q And what did he bring back; what did you identify as yours?

16 A My purse and some of my credit cards and one of my pay stubs.

17 Q So, you got your purse back; is that correct?

18 A Yes.

19 MR. DICKERSON: I'm going to show you what's been previously admitted as
20 State's Exhibit 21. Permission to approach, Your Honor.

21 THE COURT: Yes.

22 BY MR. DICKERSON:

23 Q Do you recognize what's depicted in State's Exhibit 21?

24 A Yes.

25 Q How do you recognize it? What is it?

1 A My purse.

2 MR. DICKERSON: Permission to publish, Your Honor?

3 THE COURT: Yes.

4 BY MR. DICKERSON:

5 Q Publishing State's Exhibit 21. This is, as you said, your purse?

6 A Yes.

7 Q Is this the purse that you had left in your car on the evening of the 22nd?

8 A Yes.

9 Q This is the purse that you were -- you had returned to you on the
10 morning on the 23rd?

11 A Yes.

12 Q And this is the purse where you kept the items that you testified to?

13 A Yes.

14 Q Specifically your wallet?

15 A And keys, my car keys, house keys.

16 Q And -- so you identified this as being your purse; what else did you get
17 back?

18 A That was -- that and my wallet and some of the cards and the phones.

19 Q So, you got how many phones back?

20 A I believe there was two.

21 Q And you got several credit cards back; is that correct?

22 A Yeah.

23 MR. DICKERSON: Permission to approach, Your Honor.

24 THE COURT: Yes.

25 BY MR. DICKERSON:

1 Q I'm showing you what's already been admitted, first as State's Exhibit 1
2 through 5 -- I'm sorry -- 1 through 6. If you would just please look through those and
3 tell me if you recognize those.

4 A I recognize all of them.

5 Q Okay. And how do you recognize them? What do you recognize them
6 as?

7 A My credit cards.

8 Q I'll take those back. I'm going to now show you what's been previously
9 admitted as State's Exhibit 7 through 19; do you also recognize those?

10 A Yes.

11 Q And what do you recognize State's Exhibit 7 through 19 to be?

12 A Credit cards.

13 Q Are they the same credit cards that you saw in the other exhibits? Are
14 these your credit cards?

15 A Yes.

16 Q And we'll just go thru 'em. State's Exhibit 7, do you recognize this to be
17 City Bank Mastercard in your name?

18 A Yes.

19 Q Bearing number 9977?

20 A Yes.

21 Q State's Exhibit 18. I'm sorry. Go back real quick to State's Exhibit 7.
22 On September 23rd 2015, did you give an individual by the name of Sayedbashe
23 Sayedzada permission to possess this credit card?

24 A No.

25 Q State's Exhibit 8; do you recognize this?

1 A Yes.

2 Q As a Visa card in your name?

3 A Yes.

4 Q Bearing number last four 0849?

5 A Yes.

6 Q And on September 23rd 2015, did you give an individual by the name of
7 Sayedbashe Sayedzada permission to possess this card?

8 A No.

9 Q Showing you State's Exhibit 9; do you recognize this item to be a
10 Target red card bearing last four 2877?

11 A Yes.

12 Q And this is also in your name?

13 A Yes.

14 Q And on September 23rd, 2015, did you give an individual by the name of
15 Sayedbashe Sayedzada permission to possess this card?

16 A No.

17 Q Showing you what's been admitted as State's Exhibit 10; do you
18 recognize this to be a card in your name?

19 A Yes.

20 Q Specifically a Visa debit card bearing last four 9153?

21 A Mm-hmm, yes.

22 Q And on September 23rd 2015 did you give an individual by the name of
23 Sayedbashe Sayedzada permission to possess this card?

24 A No.

25 Q Showing you what's been admitted as State's Exhibit 11; do you

1 recognize this to be a card in your mother Lori Black's name?

2 A Yes.

3 Q And specifically it's a Wells Fargo Visa card bearing last four 4967?

4 A Yes.

5 Q And was this card in your possession on September 22nd 2015?

6 A It was.

7 Q And on September 23rd 2015, did you given an individual by the name
8 of Sayedbashe Sayedzada permission to possess this card?

9 A No.

10 Q Showing you what's been admitted as State's Exhibit 12; do you
11 recognize this to be a Visa credit card in the name of your father, Michael Black?

12 A Yes.

13 Q Bearing last four 0204?

14 A Yes.

15 Q And were you in possession of this card on September 22nd 2015?

16 A Yes.

17 Q On September 23rd 2015, did you give an individual by the name of
18 Sayedbashe Sayedzada permission to possess this card?

19 A No.

20 Q Showing you what's been admitted as State's Exhibit 13; do you
21 recognize this to be a Visa debit card in the name of your mother, Lori Black?

22 A Yes.

23 Q And that's bearing last four 1117?

24 A Yes.

25 Q Did you have possession of this card on September 22nd, 2015?

1 A Yes.

2 Q And on September 23rd, 2015 did you given an individual by the name
3 of Sayedbashe Sayedzada permission to possess this card?

4 A No.

5 Q Showing you what's been admitted as State's Exhibit 14; do you
6 recognize this to be a debit card, a Visa debit card in your name?

7 A Yes.

8 Q And that's bearing last four 6609?

9 A Yes.

10 Q Did you give an individual by the name of Sayedbashe Sayedzada
11 permission to possess this card on September 23rd 2015?

12 A No.

13 Q Showing you what's been admitted as State's Exhibit 15; do you
14 recognize this as a Amex credit card in your name?

15 A Yes.

16 Q Bearing last four 1025?

17 A Yes.

18 Q And on September 23rd 2015 did an individual by the name of
19 Sayedbashe Sayedzada have permission to possess this card?

20 A No.

21 Q Showing you what's been admitted as State's Exhibit 16; do you
22 recognize this to be a Visa debit card in your name?

23 A Yes.

24 Q Bearing last four 1026?

25 A Yes.

1 Q And on September 23rd 2015 did an individual by the name of
2 Sayedbashe Sayedzada have permission to possess this card?

3 A No.

4 Q Showing you what's been admitted as State's Exhibit 17; do you
5 recognize this as a Best Buy Mastercard in your name?

6 A Yes.

7 Q And this is bearing last four 7849?

8 A Yes.

9 Q On September 23rd 2015 did Sayedbashe Sayedzada have permission
10 to possess this card?

11 A No.

12 Q Showing you what's been admitted as State's Exhibit 18; do you
13 recognize this as a Wells Fargo ATM card --

14 A

15 Q -- in your name?

16 A Yes.

17 Q And this is bearing last four 1651?

18 A Yes.

19 Q Did Sayedbashe Sayedzada have permission to possess this card on
20 September 23rd 2015?

21 A No.

22 Q And, finally, showing you what's been admitted as State's Exhibit 19; do
23 you recognize this to be a Hilton American Express card in your mother Lori Black's
24 name?

25 A Yes.

1 Q Bearing last four 2006?

2 A Yes.

3 Q And did Sayedbashe Sayedzada -- first did you have possession of this
4 card on September 22nd 2015?

5 A Yes.

6 Q And on September 23rd 2015, did Sayedbashe Sayedzada have
7 permission to have possession of this card?

8 A No.

9 Q Did anybody other than yourself, your mother or your father have
10 permission to possess any of the cards that I just showed you on either September
11 22nd 2015 or September 23rd 2015?

12 A No.

13 Q Now you got all these cards back that I just showed you?

14 A Some -- most of them, yes.

15 Q And these were given to you by Officer Reese?

16 A Yes.

17 Q That was on the morning of September 23rd 2015?

18 A Well it was later in the afternoon.

19 Q You said that he had other items with him?

20 A Yes.

21 Q What items did he also bring?

22 A There was another purse and some sunglasses that were not mine.

23 Q What did that other purse look like?

24 A I don't remember.

25 Q And how many sunglasses?

1 A Two.

2 Q And Officer Reese brought those with him to your house?

3 A Yes.

4 Q And you identified those as not being your property?

5 A Yes.

6 Q Okay. Just to be clear, one last time, tell me where you kept the credit
7 cards?

8 A The expired ones were in my center console and the new ones were in
9 my wallet in my purse.

10 Q And all the cards that you didn't deem as being expired were placed in
11 our wallet?

12 A The ones that were expired were in the center console and the other
13 ones were in my wallet, the good ones.

14 Q Into those slots in your wallet?

15 A Yes.

16 Q And then your wallet was in your purse?

17 A In my purse.

18 Q And that's where you last saw it?

19 A Yes.

20 MR. DICKERSON: Pass the witness.

21 THE COURT: Cross.

22 MR. HOWELL: Thank you, Your Honor.

23 **CROSS-EXAMINATION**

24 BY MR. HOWELL:

25 Q Good morning, Ms. Black.

1 A Good morning.

2 Q I just want to go over a couple things that I think maybe we covered on
3 direct that I just want to get a little clarification on. Okay. You indicated that you got
4 your purse back from Officer Reese at some point in time on September 23rd?

5 A Yes.

6 Q And you also received some of the items that were taken back?

7 A Yes.

8 Q Okay. But you didn't get back everything?

9 A No.

10 Q Okay. What didn't you get back, if you know specifically?

11 A I did not get my keys back, my car keys and my house keys; I did not
12 get my ID back, and I didn't get a couple of my like rewards just Vons cards and
13 some money that was in my wallet.

14 Q Okay. So, you didn't get your Nevada driver's license back?

15 A No.

16 Q Okay. And you didn't get your cash back. I think you said it was
17 around a hundred dollars?

18 A Yeah.

19 Q Okay. You didn't get your vehicle keys back?

20 A No.

21 Q You didn't get some of your rewards cards back?

22 A Yeah.

23 Q Did you mention that there were toys that were taken?

24 A Yes.

25 Q You didn't get those back either?

1 A No.

2 MR. HOWELL: Okay. Court's indulgence. All right. No further questions.

3 Thank you, Ms. Black.

4 THE COURT: All right. Thank you, Mr. Howell. Any redirect?

5 MR. DICKERSON: Briefly, Your Honor.

6 **REDIRECT EXAMINATION**

7 BY MR. DICKERSON:

8 Q When you said that you didn't get some items back, you're referring to
9 getting those items back on September 23rd 2015 that morning?

10 A Yes.

11 Q Because isn't it true that -- did you get items back later on?

12 A I -- someone had mailed -- someone had found my driver's license and
13 sent it to me in the mail. And then someone found my Triple A card and sent it to
14 the person that does, I guess, their Triple A and she mailed me some of my stuff
15 back as well.

16 MR. DICKERSON: All right. Thank you.

17 THE COURT: Any recross?

18 MR. HOWELL: Court's indulgence.

19 THE COURT: Okay.

20 **RECROSS EXAMINATION**

21 BY MR. HOWELL:

22 Q One question. About how long after September 23rd 2015 did those
23 items get returned to you?

24 A One was mailed maybe three or four days later I got it and then the
25 other one I got maybe a week later.

1 Q But you still didn't get our keys back?

2 A No.

3 Q And you also didn't get your cash back?

4 A No.

5 Q And you didn't get your toys back?

6 A No.

7 MR. HOWELL: Your kid's toys. Sorry. I have no further questions.

8 THE COURT: Thank you, Mr. Howell. Any redirect.

9 MR. DICKERSON: Nothing from the State, Your Honor.

10 THE COURT: All right. Okay, Ms. Black, thank you so much for your
11 testimony. You can step down and you're excused.

12 THE WITNESS: Thank you.

13 THE COURT: State, you have another witness.

14 MR. JONES: Court's indulgence, Your Honor.

15 THE COURT: Okay.

16 MR. JONES: Your Honor, I just would like to confirm with the clerk that
17 State's Exhibits 1 through 22 have all been admitted.

18 THE COURT CLERK: Yes.

19 THE COURT: They have been.

20 MR. JONES: At this time, Your Honor, the State rests.

21 **[State rests]**

22 THE COURT: Okay. The State has rested. Mr. Gaston.

23 MR. GASTON: Your Honor, the Defense rests at this time.

24 **[Defense rests]**

25 THE COURT: Okay. Ladies and gentlemen, it's ten after eleven. I'm going

1 to give you about an hour and 15 minutes for lunch, and when we return I'm going to
2 instruct you on the law and the State and the Defense, if they choose, will give
3 closing arguments and then I suspect you'll probably have the case probably some
4 time shortly after that.

5 In the meantime, you are admonished not to talk or converse amongst
6 yourselves or with anyone else on any subject connected with this trial or read,
7 watch or listen to any report or commentary on the trial or any person connected
8 with this trial by any medium of information, including without limitation, newspapers,
9 television, internet or radio or form or express any opinion on any subject connected
10 with this trial until the case is finally submitted to you.

11 It's ten after now. Why don't you be back at 12:30 and then we'll get
12 started. Okay.

13 [Outside the presence of the jury]

14 THE COURT: Okay. We're outside the presence of the jury. You up to settle
15 on jury instructions now so we can get it done. Just hang on. Let me go get them.

16 [Off the record at 11:09 a.m.]

17 [Proceedings resumed at 11:27 a.m.]

18 THE COURT: Okay. We're back on the record in the State of Nevada versus
19 Sayedbashe Sayedzada, C310000. This is the time set for settling instructions. I've
20 handed copies of the instructions that we went over previously. Does the State
21 have a copy of Instructions 1 through 24 proposed by the Court?

22 MR. JONES: The State does, Your Honor.

23 THE COURT: Does the State object to any -- giving of these instructions?

24 MR. JONES: I just started going through them now, Your Honor, but
25 everything appears to be in order.

1 THE COURT: Okay. Mr. Jones, did you have a chance to look at those?
2 MR. JONES: I have, Your Honor, and everything appears to be in order.
3 THE COURT: All right. Is there any additional instructions that you propose?
4 MR. JONES: No, Your Honor.
5 THE COURT: Is the Defendant familiar with Instructions 1 through 24?
6 MR. GASTON: Yes, Your Honor.
7 THE COURT: And do you object to any of these?
8 MR. GASTON: Yes, Your Honor.
9 THE COURT: Okay. Which ones do you object to?
10 MR. GASTON: Court's indulgence. On Instruction number 3, line 9, it reads:
11 Facts of the case and determine whether or not the Defendant is guilty of the
12 offense charged.
13 THE COURT: Yes.
14 MR. GASTON: We object to that language and we propose a change to --
15 instead of whether or not the Defendant is guilty, it should be whether the Defendant
16 is guilty or not guilty.
17 THE COURT: Okay.
18 MR. GASTON: The rationale for that is that the language as proposed while,
19 yes, it does give the alternative yes or no, it's all proposed in the language of
20 Defendant is guilty as opposed to using more neutral language whether the
21 Defendant is guilty or not guilty. Both options are equal and it doesn't seem like the
22 instruction is based on one or the other.
23 THE COURT: Okay. This instruction is how I'm going to give it. I believe it
24 satisfies your concern. So, you're -- understand it's noted but I'm overruling that.
25 Okay. Anything further?

1 MR. GASTON: Yes, Your Honor. Specifically, we object to Instruction
2 Number 5. We have a couple grounds for objecting here. First, this is an instruction
3 where the State has combined the typical presumption of innocence instruction
4 along with the reasonable doubt instruction. These are two very different things and
5 both serve very important functions of the criminal justice system and, you know,
6 trial specifically, and by putting them together not only is it more confusing it also
7 diminishes the importance of each one.

8 The Defendant proposed an alternative jury instruction to the
9 presumption of innocence one that the Court did ultimately give, the State's
10 proposed instruction. We think our presumed innocent instruction presumption of
11 innocence instruction absolutely communicates the law. Additionally, it isn't as
12 confusing and is separated from the reasonable doubt instruction.

13 So, my first grounds for objecting is I think the presumption of
14 innocence and reasonable doubt section should be separated and specifically the
15 presumption of innocence the Court should offer the Defendant's proposed
16 presumption of innocence instruction.

17 THE COURT: Okay. Which instruction is your proposed?

18 MR. GASTON: And actually now would be a good time, by the way. I'm
19 going to ask the Court either now or at the end but put both the Defendant's
20 proposed jury instructions and the State's proposed jury instructions as part of the
21 record so it's available to the appellate court.

22 THE COURT: I am, that's why I'm asking. What instruction is the one that
23 you --

24 MR. GASTON: I'm sorry. Not just reading -- not just this specific instruction
25 reading off into the record. I'd like to do it that way.

1 THE COURT: No, I have a copy of it.

2 MR. GASTON: Okay.

3 THE COURT: Make it part of the record.

4 MR. GASTON: Okay. So, I misunderstood. Specifically it's the jury
5 instruction number 1 of Defendant's proposed jury instructions, it says: Every
6 person charged with a commission of a crime --

7 THE COURT: Okay. I got it right here. All right. So, we'll -- I understand.
8 State, do you have an objection to this one?

9 MR. JONES: I'm sorry, Your Honor.

10 MR. GASTON: Defendant's proposed jury instruction, second page.

11 MR. JONES: All right. Yes, Your Honor. With respect to the Defendant's
12 proposed jury instruction, we've got lines 4 where it says the burden on the State is
13 to attempt to prove beyond a reasonable doubt the Defendant committed the crime
14 charged. Just quite frankly this is not an appropriate instruction. The way the State
15 worded Instruction number 5 is appropriate. The reasonable doubt instruction is one
16 that comes directly from case law and statute.

17 Additionally, with respect to both presumption of innocence and the
18 reasonable doubt instruction being in one instruction. There's also an instruction
19 that says you're not to give weight to any one or with the other. It's here in black
20 and white. The jury can read it.

21 THE COURT: Okay. All right. I'm going to give the instructions proposed by
22 the State. I won't be giving the Defense instruction. We'll mark that one.

23 MR. GASTON: Given that, Your Honor, then I have an additional objection to
24 Instruction number 5 as given.

25 THE COURT: Okay.

1 MR. GASTON: Specifically language -- line 2 says the Defendant is
2 presumed innocent until the contrary is proven. We would propose that until is
3 changed to unless. The reason is because until and unless have different
4 meanings, subtle but different. Until implies it's going to happen. It is an
5 eventuality. Unless is more specific and more accurate. And so we don't want to
6 give the wrong impression to the jury, and I so I think unless is a more appropriate
7 revision.

8 THE COURT: Okay. I understand your request. I'm going to deny that
9 request. The instruction is going to be given as proposed by the State. I believe
10 this is the proper instruction. It's been approved numerous times and actually been
11 instructed by this Court that that's the appropriate instruction. Okay.

12 MR. GASTON: My final objection for this instruction is lines through ten is the
13 reasonable doubt instruction from the statute, specifically statute -- Court's
14 indulgence -- NRS 175.211, subsection 1. Subsection 2 -- and it's a correct
15 statement of that statute, it's exactly right, but subsection 2 says no other instruction
16 shall be given. That being said, given the case law that indicates -- recognizes the
17 importance of negative instructions as well as the right of the Defendant to have
18 those negative instructions, we think that line 8 should be changed so line 8 reads --
19 or I'll just read the whole sentence starting on line 6. If the minds of the jurors after
20 the entire comparison and consideration of all the evidence, are in such a condition
21 that they can say they feel an abiding conviction of the truth of the charge, there is
22 not a reasonable doubt. I think that should be changed to the inverse and so it
23 reads are in such a condition that they cannot say they feel an abiding conviction of
24 the truth of the charge, there is a reasonable doubt.

25 THE COURT: Okay. Thank you. As I said, this instruction is has been

1 approved numerous times and has been an instruction to the Court that this be the
2 instruction given and it will be the only instruction given with that.

3 With that being said, Mr. Gaston, you had purposed an additional
4 instruction that was separating that particular paragraph. It's interesting because
5 the proposed instruction that you gave to the Court has that exact paragraph, a
6 reasonable doubt is one based on reason and ending in not mere possibility or
7 speculation. It doesn't have the language that you proposed, but this is an
8 instruction you gave to separate the two instructions.

9 MR. GASTON: We're talking about the jury instruction, Defense proposed
10 jury instruction that starts a reasonable doubt is one based on reason.

11 THE COURT: Right.

12 MR. GASTON: That does actually reflect the changes we mentioned, lines 5,
13 four and five. If the minds of the jurors after the entire comparison and
14 consideration of all the evidence are in such a condition that they cannot say they
15 feel an abiding conviction of the truth of the charge is a reasonable doubt.

16 THE COURT: All right. So, this is your proposed instruction; right?

17 MR. GASTON: Yes.

18 THE COURT: All right. So, I'll mark that next in line so we'll keep these
19 together. Okay. All right.

20 Any further objections?

21 MR. GASTON: Court's indulgence for a minute.

22 Your Honor, when we did discuss this instruction number 6 --

23 THE COURT: Uh-huh.

24 MR. GASTON: -- the State's original proposed instruction has the words guilt
25 or innocence --

1 THE COURT: Right.

2 MR. GASTON: -- instead of guilty or not guilty.

3 THE COURT: Changed it to the way that you've asked.

4 MR. GASTON: The Defendant objected, the Court agreed -- the State
5 disagreed.

6 THE COURT: I know, but this is what I'm proposing; are you accepting this?

7 MR. GASTON: Yes, Your Honor

8 THE COURT: Okay.

9 MR. JONES: We just wanted to make a record that it was changed. And I
10 don't remember opposing it. In fact, I said -- I don't remember objecting to this
11 change.

12 THE COURT: You didn't, you did not.

13 MR. JONES: I did not.

14 THE COURT: Okay.

15 MR. JONES: Thank you.

16 THE COURT: All right. Anything further?

17 MR. GASTON: Not for Instruction number 6.

18 Instruction number 8, the credibility instruction, we do object to. It's not
19 a thorough or as complete as Defendant's proposed jury instruction which, I believe,
20 is on our third page.

21 THE COURT: It starts a witness is a person who has knowledge. That's your
22 proposed instruction; correct?

23 MR. GASTON: Yes.

24 THE COURT: Okay.

25 MR. GASTON: Our citation to that -- this is a Defense instruction that's taken

1 from a stock California jury instruction, 2.20. And this proposed instruction more
2 accurately sets out factors which a jury should consider --

3 THE COURT: Mr. Gaston, I thought you said in chambers there was no such
4 thing as stock jury instructions.

5 MR. GASTON: Not for Nevada.

6 THE COURT: Oh, okay.

7 MR. GASTON: This is a California jury instruction.

8 THE COURT: Okay.

9 MR. GASTON: And so this proposed instruction more accurately sets out
10 factors which a jury should consider when assessing the credibility of a witness.

11 THE COURT: Okay.

12 MR. GASTON: And that's why we think ours should be offered instead of --

13 MR. JONES: And, Your Honor, our position is this instruction quite frankly is
14 confusing and it invades the purview of the jury and there's no authority in Nevada
15 for this instruction.

16 THE COURT: Okay. And I'm not going to be giving it. I will be giving the one
17 as marked as 8, credibility and believability of a witness.

18 MR. GASTON: We object also to Instruction number 9.

19 THE COURT: Okay.

20 MR. GASTON: While it is a correct statement of the law, it doesn't -- it isn't in
21 the negative as entitled to -- pursuant to *Crawford*. So, I -- we like Defendant's
22 proposed Instruction better. It begins --

23 THE COURT: Unless the State proves.

24 MR. GASTON: Yes, it does; specifically, we remind that unless the State
25 proves beyond a reasonable doubt then -- and then we have the same language,

1 the Defendant is not guilty. Whereas the State is any person who does this is guilty.
2 We think we are entitled pursuant to *Crawford v. State* to the negative instruction
3 and it's still a correct statement of the law. So, we think that the Defendant's
4 proposed instructions should be offered instead.

5 THE COURT: State.

6 MR. JONES: Again, Your Honor, this is a correct statement of law. It's taken
7 directly from statute.

8 THE COURT: Okay. I'm going to give the instruction as proposed in the
9 group here, number 9, and will not be giving the proposed for the State -- I mean
10 Defense.

11 Okay. Anything further?

12 MR. GASTON: Court's indulgence. Your Honor, may we approach?

13 [Bench conference -- not recorded]

14 THE COURT: All right. Okay. That instruction, a person in possession of
15 article or object if he knowingly exercised, control, dominion, or custody over it, is
16 the proposed instruction with the exception of exclusive that was proposed by the
17 Defense; is that correct?

18 MR. GASTON: Yes, it is.

19 THE COURT: Okay.

20 MR. JONES: Yes. So, just to be clear we have accepted Defense's definition
21 of possession, sans one word the word exclusive

22 THE COURT: Okay. This is State's proposed; I'm not going to give them.
23 We give the Defense, okay, with the exclusion of the exclusive. Okay.

24 Anything further?

25 MR. GASTON: We do object to Jury Instruction 17.

1 THE COURT: Okay.

2 MR. GASTON: Court's indulgence.

3 So, this instruction should not be given. Pursuant to NRS 47.230 that
4 deals with presumptions against the accused in criminal actions, subsection 2 says
5 the judge shall not direct a jury to find a presumed fact against an accused. And if
6 it's an essential element or we go -- now in jury instruction, to be fair, as offered by
7 this jury instruction the judge is not directing the jury to find a presumed fact against
8 the accused. They're merely saying that they have the option.

9 That being said -- well and to go further, the State's -- this instruction is
10 based off the statute, the possession of a credit card without cardholder's consent
11 statute. I believe that's 205.690 where the statute says pretty unambiguously if you
12 can prove the person has two or more credit cards he's not supposed to have, you
13 can or it is presumed -- it is presumed that this person has the intent to defraud or
14 circulate.

15 So, this is -- based off that statute -- and it seems drafted at first glance
16 -- it seems drafted in accordance with the Nevada Supreme Court case law when
17 this type of instruction arises. Specifically, *Marshall v. State of Nevada*, the case
18 cite is 95 Nevada 802, 1979, and in that case the Nevada Supreme Court reversed
19 when the District Court granted an instruction that basically just quoted the statute
20 and says it is presumed. They -- specifically they rested on the rationale of
21 conclusive -- that presumptions cannot be conclusive. So, when you [indiscernible]
22 the jury to find a presumed fact against the accused, it violates the State's -- it
23 obviates the State of their burden.

24 Now this is -- again when the instruction is changed a little bit but still
25 pretty conclusive in *Thompson v. State*, the citation is 108 Nevada 749, 1992, that

1 same rationale it's not okay to remove the State's burden, and then it's applied one
2 more time in a subsequent case, *Brakeen v. State*. I don't -- Court's indulgence --
3 *Brakeen v. State*, 104 Nevada 547, 1998. And throughout all this -- the Nevada
4 Supreme Court was very consistent about the burden is on the State. We should
5 remove the burden.

6 Now all of those cases dealt with the conclusive presumptions. In this
7 case as worded, it is -- seems to be a permissive inference which would be
8 supported under *Ricci v. State*, R-I-C-C-I v. State, 91 Nevada 373, 1975 where a
9 permissive inference regarding intent was given. But the facts of that case are very
10 different than the facts of this case. And in function what's happening here if the
11 Court give its instruction is they're highlighting facts to the jury. Essentially through
12 giving the jury instructions we are making argument to the jury. Specifically, the jury
13 always has the option to make presumptions, to make assumptions is what we're
14 really saying. The jury always has the assumption -- the ability to make inferences
15 based on the facts. So, all we're doing is telling them what they already know they
16 can do. We're not adding new -- we're not explaining the law to them, we're not
17 adding anything different. We're just highlighting an inference that we think they
18 should make and that's the effect of the statute and that's exactly why we object.

19 MR. JONES: And, Your Honor, this -- there are numerous case law out there
20 and Mr. Gaston has alluded to many of the cases, but if had the opportunity to say
21 the presumptions are invalid. The Supreme Court has never done that. In fact the
22 only thing they have said is if you're going to give a presumption it must be, in other
23 words, permissive and not mandatory, and that the case law is very clear about that.
24 In fact, every instance in which the Court has overruled a presumption and the
25 State, it is then because the Court had said I am directing you to find this particular

1 fact. The instruction proposed by the State ways, quote: You may infer but are not
2 required to do so, and this come from statute, 205.690 subsection 3. And the main
3 language comes from 47.230 which says basically, again, you can't force a jury to
4 accept a presumed fact.

5 So, this does meet case law, Your Honor, it does meet the statute and,
6 quick frankly, it is an instruction that Your Honor should be giving.

7 THE COURT: I am going to give this instruction. I understand the Defense
8 objection, however, the -- I don't believe that the instruction is requiring them to
9 accept that inference. As a matter of fact it says they're not required to do so. And
10 it's permissive. It's not mandatory. So, over the objection I'm going to give the
11 instruction. Okay.

12 MR. GASTON: I also object -- Defense also objects to Instruction number 18.

13 THE COURT: Okay.

14 MR. GASTON: Flight instruction.

15 THE COURT: All right.

16 MR. GASTON: A couple reasons. On one hand -- and I'll get to the case law
17 in a second -- but on one hand our objection is similar with regards to the fact that
18 the jury always has the ability to make inferences based on the facts presented. So,
19 when we tell them they have the ability to make some specific inference, what we're
20 really doing in the jury instructions is arguing to the jury that this inference is more
21 appropriate than other inferences and that's not a proper province for the jury
22 especially in facts here.

23 Now with flight instructions specifically, the jury -- the [indiscernible]
24 Court has held that it is appropriate to give them. It's not required to do so, but the
25 Court has the discretion to do so if certain predicate facts are met. Namely, in

1 *Jackson v. State*, a 2001 case, 117 Nevada 116, the Court said that the instruction
2 can be given if there's an unbroken chain of inferences from the flight to the fact the
3 Defendant is guilty of the crime charged. If we applied that law here to this situation
4 that's not at all. The flight that they're asking -- they're talking about is when he ran
5 from the security. After being -- trespass or, you know, after trespassing and being
6 stopped by the officer while also carrying a purse that he's not supposed to have
7 under his sweatshirt. There is many inferences that can be drawn from his flight of
8 security guard other than the fact that he must of committed this crime that he's
9 charged with. Therefore the flight instruction is inappropriate. And we look at the
10 other cases, *Hutchins v. State* and *McGuire v. State*, *Hutchins* cite is 110 Nevada
11 103, 1993; *McGuire v. State* kind of just reaffirms the principle in *Hutchins*, and that
12 cite is 86 Nevada 262, 1970. And the premise all along is flight instruction is
13 appropriate if it's a valid inference from the flight to the guilt here. That's not the
14 [indiscernible] in this facts therefore we object to this instruction.

15 MR. JONES: And, Your Honor, we do have an unbroken chain of events
16 here. From the moment the Defendant is seen by the security all the way through to
17 where he's taken into custody in front of the car, we have an unbroken chain of
18 events. And I'll point out the car is where he deposited of the credit cards and is
19 found with the purse. So, we do have an unbroken chain of events here, Your
20 Honor. And, again, this instruction says is not sufficient in it of itself to establish guilt
21 but is in fact which if proved may be considered by you. Again, it's a permissive
22 instruction, Your Honor. Defense is free to argue that he ran for any other reason,
23 but this is an instruction that we would urge the Court to accept.

24 THE COURT: I'm going to go ahead and give that instruction over the
25 Defense objection. Okay.

1 The next instruction. You are asking the Court to give that instruction?

2 Mr. Gaston, it's the right not to testify.

3 MR. GASTON: Yes.

4 THE COURT: Okay. Any further objections?

5 MR. JONES: Not to the jury instructions.

6 THE COURT: Okay. Is there any other instruction that you propose?

7 MR. GASTON: Yes, there is.

8 THE COURT: Okay.

9 MR. DICKERSON: Your Honor, just -- I'm sorry. I do want to point out that
10 Instruction number 21 we did all agree to make a change, lines three and four, it
11 was changed at Defense request to your duty is confined to determination of
12 whether the Defendant is guilty or not guilty. That is different from what the State
13 proposed. It was proposed and got changed by Defense and we did accept that
14 change.

15 THE COURT: Okay. All right. Any other instructions you propose, Mr.
16 Gaston?

17 MR. GASTON: Yes. We propose an instruction that says you're not required
18 to make any inference in the existence of any facts must on all the evidence be
19 proved beyond a reasonable doubt.

20 THE COURT: Okay.

21 MR. GASTON: This is directly from the language in the statute dealing with --
22 Court's indulgence -- this from the language of NRS 47.230 where it talks about if
23 the presumption instruction is going to be given on a fact you must still -- and it
24 deals with an element of the offense -- you must still talk about how the existence of
25 all this and any inference must be still be proved beyond a reasonable doubt. So,

1 it's consistent with the case law and the statues. We do think its appropriate. The
2 State may object if that's covered by other instructions, but I don't think that's
3 actually true.

4 THE COURT: Is that your objection?

5 MR. JONES: Well I will note, Your Honor, that in the -- I'm sorry I've lost the
6 instruction -- Instruction 17 it says, line seven and eight, for you to draw this
7 inference its existence must, on all the evidence, be proved beyond a reasonable
8 doubt. Essentially there are other instructions which I'll point to the jury that we
9 must prove our entire case beyond a reasonable doubt, each element. So, yes, this
10 has been met by other instructions.

11 THE COURT: This very instruction, it said right there in number 17.

12 MR. GASTON: And so the State's arguing that this is covered by that
13 instruction, but it's not exactly. Specifically, that instruction is fine as written.
14 Obviously I objected. If the Court is going to give this instruction it's fine as written.
15 But this says, on line three it says, but are not required to do so, you know, the
16 inference.

17 THE COURT: Mm-hmm.

18 MR. GASTON: And then it gives the rest of it down on line seven through
19 eight. It's split up. It's in the middle of this instruction talking about this
20 presumption. While I do think it's appropriate that instruction as written, given the
21 importance of this and given that the presumption instruction is given, the flight
22 instruction is given, it is very important that the jury is made unequivocally clear
23 every inference must be proved beyond a reasonable doubt and they are not
24 required to make any inference. So, we think it's appropriate as a separate
25 instruction as written here.

1 THE COURT: Okay. I believe that this instruction is covered by other
2 instructions. It's very clear specifically with the inference that you're directing about.
3 So, I'm not going to be giving that instruction.

4 All right. Any other instructions?

5 MR. GASTON: Court's indulgence, please.

6 Yes, Your Honor. It's the one that begins before you may rely on
7 circumstantial evidence to conclude that fact. We do think this is an appropriate
8 instruction. The Court is allowed to give this instruction if it so wishes. It's not
9 required to do so, but it is allowed to do so. This is supported by *Bales v. State*,
10 5456 P.2d 1155, 1976, *Crane v. State*, 88 Nevada 684, 1972. This is also an exact
11 quote of the California jury instruction 224 in both civil cases and criminal cases.
12 This same instruction came up in *State v. 8th Judicial District Court, Supranovich*
13 [phonetic], an unpublished decision that was made on September 24th, 2015. The
14 background of that case is -- I believe it was a murder case -- Defense proposed a
15 jury instruction that looked like this but I think it was actually just a couple lines that
16 the Defense had cherry picked. The motion was granted. The Court was going to
17 give the instruction. The State riddled this to the Supreme Court where a -- or riddled
18 this up and the higher Court held that it was in error for the Court to give this kind of
19 instruction, but it was an error to give as written. If the Court wants to give this
20 instruction, this is the one they should give and they gave an exact wording here.

21 THE COURT: Mr. Gaston, to interrupt you a minute.

22 MR. GASTON: Sure.

23 THE COURT: It's interesting your arguments because you just argued the
24 Court is not to instruct the jury on specific -- to draw inferences. Here, you're
25 specifically saying but if they have a conclusion between the two and they can't

1 decide the two then I'm telling them they have to find not guilty here.

2 MR. GASTON: The difference -- the difference there, and I'm glad the
3 pointed it out, the difference there is that in one in situation with the one -- the jury
4 instructions that are giving inferences we are highlighting facts that the jury's already
5 able to do. The jury knows they can make inferences from different facts. The
6 State's going to get up and argue that. And so by putting the actual jury instruction
7 saying they're allowed to do it, we're not adding anything with explaining the law,
8 we're just highlighting certain facts.

9 With my proposed jury -- with Defendant's proposed jury instruction
10 here, we're not actually asking them to draw any inferences, we're not highlighting
11 any facts. What instead we're saying is it's a further explanation what beyond or the
12 application of the beyond a reasonable doubt; specifically, if you have two types of
13 reasonable interpretations based on circumstantial evidence, if you're applying
14 beyond a reasonable doubt you must go with the one that points to not guilty
15 because that's what reasonable doubt means. And this evidence is even more
16 important in a case like this where we're trying to -- the State is trying to prove intent
17 and all they have is circumstantial evidence. And especially given the inferences
18 that they were given where -- which can go different ways, given the other jury
19 instructions the Court has decided to give it's even more important that this
20 instruction be given.

21 THE COURT: Mr. Gaston, I believe that this instruction is covered by the
22 reasonable doubt instruction. I believe there's clear instructions on them with
23 regards to when they have to determine what's reasonable and not reasonable.
24 Also there's other instructions that talk about the State's burden of finding beyond a
25 reasonable doubt and in their conclusion with regard to every essential fact. So, I

1 believe that this is covered substantially in the instructions already given. I'm not
2 going to be giving this instruction.

3 MR. GASTON: And our final objection is to the verdict form itself which
4 wasn't provided but we do -- hasn't been provided to us yet. We indicate that the
5 box for the jury to check, the guilty option, is above the not guilty option. We think
6 that suggests not fair and we should switch to not guilty as first.

7 THE COURT: Well I believe it's the State's burden to prove the case beyond
8 a reasonable doubt as the State goes first in their argument and closes the
9 argument. I believe it's appropriate that it be set as it is and it's always been done
10 this way as long as I've known. So, for that reason I'm giving the verdict the form as
11 it is. And that is in regards to counts one through 13 and they've all are identical in a
12 sense to guilty of possession of credit card without owner's consent and not guilty; is
13 that correct? Is that how you see it?

14 MR. GASTON: Yes, Your Honor.

15 THE COURT: Okay. Is there anything additional?

16 MR. GASTON: Not from the Defense.

17 THE COURT: From the State.

18 MR. JONES: No, Your Honor.

19 THE COURT: All right. So, go ahead, you got a half hour. Go ahead and
20 take lunch. Yeah, we're off the record.

21 [Recess taken at 11:57 a.m.]

22 [Proceedings concluded at 12:38 p.m.]

23 [Outside the presence of the jury]

24 THE COURT: You guys ready? Anything you need to put on the record
25 outside the presence of the jury?

1 MR. JONES: Court's indulgence for just one moment.

2 THE COURT: All right. We ready to go. Are we ready to go?

3 MR. GASTON: I'm sorry. We might have a negotiation on the table. If we
4 can have 30 seconds. I'm sorry.

5 THE COURT: Are you kidding me?

6 MR. JONES: We have not offered a negotiation, Your Honor.

7 THE COURT RECORDER: Are we off the record?

8 THE COURT: Call me when you're ready.

9 [Off the record at 12:40 p.m.]

10 [Proceedings resumed at 12:41 p.m.]

11 [Outside the presence of the jury]

12 THE COURT: Okay. We're on the record in the State of Nevada versus
13 Sayedbashe Sayedzada. This is C310000. The parties ready for their closings?

14 MR. JONES: The State is ready, Your Honor.

15 THE COURT: Okay. Jim, you want to bring the jury in.

16 MR. JONES: We do have the State of Nevada versus --

17 [Inside the presence of the jury]

18 THE COURT: Okay. This is the continuation of the jury trial in Sayedbashe
19 Sayedzada versus State of Nevada, in C310000. Let the record reflect the
20 presence of the Defendant and his counsel as well as State and their counsel and
21 all members of the jury. Do the parties stipulate to the presence of the jury?

22 MR. JONES: Yes, Your Honor.

23 MR. GASTON: Yes, Your Honor.

24 THE COURT: Ladies and gentlemen, at this time I'm about to instruct you
25 upon the law as it applies in this case. I would like to instruct you without reading to

1 you. These instructions are of such importance that it's necessary for me to read to
2 you these carefully prepared instructions. You should get a copy. My marshal is
3 passing them out to you now. The instructions are long and some are quite
4 complicated. If they're not especially clear when I read them to you, please kind in
5 mind that when you go back to the jury room you'll be able to take them with you so
6 you can read them and consider them in the jury room. Okay. Everybody have one.
7 All right.

8 [The Court reads the instructions to the jury]

9 THE COURT: Mr. Jones, Mr. Dickerson, did you want to address the Court --
10 address the jury. Okay.

11 **CLOSING ARGUMENT BY THE STATE**

12 BY MR. DICKERSON:

13 Ladies and gentlemen of the jury, hiding the evidence doesn't hide the
14 proof. In this case, Sayedbashe Sayedzada, attempted to hide the evidence from
15 the sgtart.

16 Before he even made contact with Security Officer Newton in the back
17 of the condominium complex of 1407 Santa Margarita, the Defendant was hiding
18 this purse, Jamie Black's purse, underneath the shirt. He had those two handles
19 swung around his neck and that's where it began. As he made contact with Security
20 Officer Newton, he again took steps to hide and conceal his intentions. Officer
21 Newton tried to have a conversation with him about why he was trespassing on the
22 property. The Defendant says fuck off.

23 Then in further steps to hide the evidence and conceal his intent, the
24 Defendant runs, runs towards that back wall, and that's where Officer Newton made
25 contact with him. And once again in another concerted effort to hide what he's

1 doing and to conceal his intent, he punches Officer Newton in the face. And then
2 again in another concerted effort to hide the evidence once more. This time as he
3 sees that Officer Newton is -- must have been following him, he turns around and
4 Officer Newton notices this. [Indiscernible] for another attack, Officer Newton tased
5 Sayedbashe Sayedzada and he hits the ground.

6 Officer Newton immediately started rendering aid and that's when he
7 noticed that that huge bulge underneath his shirt was that purse. In that purse there
8 was seven credit card, debit cards in the name of Jamie Black. On the ground later
9 discovered by the car where he was sat up and handcuffed six more credit debit
10 cards in the name of Lorie and Michael Black. That's why the Defendant is charged
11 in this case with 13 counts of carrying credit or debit cards without cardholder
12 consent, and he did that. That is the truth of the matter. He carried 13 cards of the
13 Blacks without their consent with the intent of fraudulent use of those cards. In all
14 cases, you can look at the evidence as it is direct and circumstantial evidence.
15 There's two kinds.

16 Direct evidence if the testimony of a person, something that they tell
17 you. Circumstantial evidence is a chain of facts that tend to prove something is true.
18 The Judge gave you an example at the start of this trial that it was when the man
19 walks in and you see that he has water on his sleeves and that the ground was also
20 wet outside. You can tell it was raining. Well as it would apply to this case it would
21 be something like the Defendant had credit cards in his possession that belonged to
22 the Blacks and he fell in an area where more credit cards were found that belonged
23 to the Blacks. That is circumstantial evidence of possession. The law makes no
24 distinction. You consider both in your deliberation in this case.

25 This is the charge and this is how we're going analyze the charge in this

1 case, the 13 charges because 13 of the same charge, that's possession of credit or
2 debit card without cardholder's consent. There's three elements to this charge. Any
3 person who possesses a credit or debit card without consent of the cardholder and
4 with the intent to circulate, use, sell, or transfer the credit or debit card with the intent
5 to defraud is guilty of possession of credit or debit card without cardholder's
6 consent.

7 First take a look at that first one, possession of a credit or debit card.
8 To get it out of the way -- the definition of a credit debit card is pretty clear, and jury
9 instructions number 10 and 12 as well as 11 and 13, 10 and 12 are the general
10 definitions for what a credit and debit card are. And 11 and 13 explain to you even
11 further that a credit card includes for the purposes of the law a number or other
12 identifying description of a credit or debit card. A debit card includes, without
13 limitation, the number or other identifying physical or electronic description of the
14 debit card. So, just those numbers that's the descriptions.

15 As far as possession of those credit or debit card, Instruction number
16 15 tells you that a person in possession of an article or object if he knowingly
17 exercised control or dominion or custody over it. So, we have 13 credit cards, 13
18 counts. We have counts 1,2,8,9, 10,11 and 12 are all credit cards that were found in
19 the purse; counts 3,4,5,6,7 and 13 are the credit cards that were found on the
20 ground.

21 We'll start with the cards in the purse. We know that he exercised
22 dominion and control over those cards because he had them in the purse that was
23 around his neck. We know that he knew those cards were in there because he put
24 that purse around his neck. He picked it up, took both handles, put it around his
25 neck and then put his shirt over that purse. That tells you that he knew everything

1 that was in that purse because common sense dictate that somebody is not going to
2 grab something off the ground, specifically a purse, without looking inside of it and
3 then put it around their neck, put it on their bare skin, and pull their shirt over it. The
4 Defendant had actual possession of that purse and all of those cards that were in it.

5 Defendant also had possession over all of the cards that were found on
6 the ground. The evidence that shows that is well the cards. The cards and the
7 purse are in the name of Jamie Black. Those same cards were in Ms. Black's
8 possession earlier. Those cards were with these cards in the same place at a prior
9 time. The cards that were found on the ground are all in the name of the Blacks.
10 They're all related. And what that means is that the Defendant had these cards on
11 his person as he sat there three feet away from the -- where the cards were later
12 found for approximately half an hour before the police arrived. This tells you by
13 circumstantial evidence that the Defendant is -- he's not only in possession, he not
14 only exercised control and dominion over those cards but he's also the one that
15 placed the cards under the car. The Defendant had possession of all 13 cards in
16 this case.

17 The next element is without consent of the cardholder. Well we know
18 that the Defendant, Sayedbashe Sayedzada, did not have consent of Jamie Black,
19 Michael Black or Lori Black to possess any of those cards. They told you so today,
20 this morning.

21 So, we move on to the third element of the crime. The element is with
22 the intent to circulate use, sell, transfer the credit card or debit card with the intent to
23 defraud. Now the Judge instructed you on a presumption. You may infer is how
24 you're instructed under the jury instructions, under the law, that a person who had in
25 his or her possession or under his control two or more credit cards in the name of

1 another person. Well this is a presumption that needs to be proven beyond a
2 reasonable doubt for you to presume it, for you to infer it. And what we have to
3 show is that he possessed two or more cards. Well we know that he possessed 13;
4 seven in the bag that he was carrying around his neck and the six others that he
5 discarded under the vehicle. Therefore, this presumption is open to you. You may
6 infer that the Defendant possessed all of those cards with the intent that he used
7 them to defraud the owners; that being that he obtained the cards with the
8 knowledge to that they were stolen.

9 Additionally, you're supposed to bring with you in your deliberations in
10 this case your everyday common sense. This is an instruction of the law. You may
11 draw reasonable inferences as well as from the [indiscernible]. Common sense and
12 reasonable inference dictate that the Defendant had these cards for a specific
13 purpose. He hid these cards on his person for a specific purpose. He ran from
14 Security Officer Newton for a specific purpose and he later hid the other cards that
15 he had on him for a specific purpose. It was because he knew he was using these
16 cards or he had these cards so that he could fraudulently use them, and he didn't
17 want to get caught not one stop of the way. That's why he continued to hide the
18 evidence but it didn't hide the truth.

19 The intent of a person can be drawn from many things. You can
20 consider their statement that they made, acts done, and all other facts or
21 circumstances of the case. In looking at statements and facts and circumstances
22 consider this. The Defendant told Officer Reese I got the cards over there, pointing
23 in the opposite direction of where all the cards were located, first in Jamie Black's
24 purse and then under the car. That was prior to those second set of cards being
25 found, another step to conceal those cards. What that tells you he's the one that put

1 them there.

2 With that considered, take a look at -- all elements of the crime have
3 been met for all 13 counts. That means that the Defendant is guilty of a possession
4 of credit card without cardholder's consent. And just to be sure, when you go back
5 into that jury deliberation room, we've broken out each card for you. We're broken it
6 out by exhibits. So, exhibits -- and you might want to take a note on this -- Exhibits
7 7 through 19 are in order of each card individually by count, 7 being count 1, that
8 being the City Mastercard that was found in the purse and so on with count 2, it's
9 Exhibit 8. And also take a look at the other exhibits that we've included them on and
10 how they were originally photocopied which are Exhibits 1 through 6 and that will tell
11 you where they found as well.

12 With that, Ladies and gentlemen, the State asks you to find the
13 Defendant guilty of all counts.

14 THE COURT: Thank you, Mr. Dickerson. Mr. Gaston, Mr. Howell, did you
15 want to address the jury?

16 **CLOSING ARGUMENT BY THE DEFENSE**

17 BY MR. GASTON:

18 Ladies and gentlemen, make no mistake. Sayed is not guilty of what
19 he's been charged with. Specifically, Sayed explained why he had that purse. He
20 did this on two occasions; first, when talking to Mr. Newton, the security guard, he
21 said I found it, I had just found it. He then later tells the same explanation to Officer
22 Reese. I had just found it.

23 Mr. Newton testified that he saw Sayed coming from the west. Officer
24 Reese testified that he asked Sayed where'd you get the purse, where'd you find it,
25 and Sayed gestured with his head, looking north, gestured to the west which is

1 consistent. He's coming from the west and he found the purse. It's the direction he
2 came from. Not one thing the State just argued, not one thing that anybody testified
3 to, not one thing this entire trial contradicts Sayed's explanation that he found the
4 purse. Okay. In fact, we mention, the State mentioned and some witnesses
5 mentioned about this purse and some items in the car being stolen sometime the
6 night before.

7 Now if we actually look at that and we listen to testimony, that actually
8 supports Sayed's explanation, right, because remember Jamie Black, the daughter
9 Jamie Black, she testified that she didn't get all her items back. Specifically, she
10 didn't get some cash back, about a hundred bucks; she didn't get all her cards back,
11 the rewards cards she didn't get back; her house keys, her car keys, some toys.
12 She didn't get those back. Did she get some items back? Yes, she did. But the
13 reason she didn't get everything back is because those items weren't on Sayed. He
14 didn't have any cash, any of those items that were missing he didn't have them in
15 his pockets, he didn't have them on him. And remember he was searched by Mr.
16 Newton and then later searched by Officer Reese. Those items weren't among the
17 items found underneath the car. Those items were in the purse. The reason is
18 because Sayed isn't the person who took the purse. He would -- if Sayed was the
19 person who had taken the purse he would have those items on him. They would
20 have been in the purse; they would have been with the rest of the items. So, even
21 this explanation, this testimony corroborates Sayed's explanation that he just found
22 a purse.

23 Now don't get me wrong. I'm not saying Sayed didn't do anything
24 wrong in this incident. I think it's pretty unquestionable he behaved inappropriately
25 on several different levels. First, we know he trespassed; right? He's on an

1 apartment complex he's not supposed to be. He was actually going to get
2 trespassed before he mouthed off to the security guard and started running away
3 and all that stuff happened, but he's not charged with trespass. If he were charged
4 with trespass there's no question I would be standing here and I would say find him
5 guilty of trespass.

6 You know what else Sayed did? He committed battery. No question
7 battery, punching somebody else. He punched the security guard twice. We heard
8 that testimony. No question. If the State had decided to charge with him battery I
9 would stand here and I would say find him guilty of battery. You know what. Sayed
10 had that purse on him. Sayed wasn't supposed to have the purse on him. He
11 knows that. You find a purse that belongs to somebody else you don't take it home,
12 you don't put it under your sweatshirt and hide it. There's no question Sayed was
13 not supposed to have that purse and in fact that's a crime too; specifically,
14 possession of stolen property. If the State had charged with possession of stolen
15 property I would stand here and I would say find him guilty of possession of stolen
16 property. But you know what. The State didn't charge him with any of that.
17 Instead, they want to try to get 13 felony convictions out of his case. Okay. They
18 said this case, we don't care. We're not charging him with that. We want the 13
19 felony convictions.

20 At the beginning of this case Mr. Howell, in opening statement, he told
21 you pretty clear there's no dispute in this case. This is case is about intent. We're
22 not talking about facts. We agree on all the facts. We don't disagree with any of the
23 testimony that came out. We don't disagree with any of the facts in this case and
24 the facts, the actual evidence supports Sayed committed trespass, battery, and
25 possession of stolen property. You know what we do disagree with the State

1 standing up here and asking you to guess, asking you to make assumptions based
2 on nothing. No evidence supports the actual felony convictions they're asking for,
3 and that's what we disagree with. Ladies and gentlemen, you cannot guess your
4 way and in convicting a man of 13 felony convictions.

5 All right. I'm going to talk about jury instructions here for a minute. I
6 don't know if this is easy to see or not but it's Instruction 18 if you guys want to open
7 your jury instructions. The State does have a couple things that it's dressing up as
8 evidence of an intent. All right. First thing that they talked about and they're going
9 talk -- it's in your instructions is this flight instruction. All right. Specifically it talks
10 about how you can take flight into consideration, and this kind of makes sense for a
11 couple of reasons. And you guys can read this instruction. But this is what I'm
12 talking about.

13 So, essentially what a flight instruction says is -- and it makes sense
14 intuitively; right. Someone runs away from a police officer right after committing a
15 crime, fair to say the fact that he ran away probably shows he knows he committed
16 a crime. The State's going to argue that. That's evidence of intent. The even sort
17 of brought it up. I think the exact words he said was that he mouthed off to the
18 security guard and ran away and punched the security guard in the face to conceal
19 his intent. Okay. Punched in the fact to conceal his intent. So, the security guard
20 didn't know if he had the intent to use the cards I guess is the argument.

21 Here's the thing. The State's argument boils down to this with respect
22 to the incident with the security guard. It boils down to the fact that this man
23 mouthed off to the security guard, ran away, ultimately punched the security guard a
24 couple times and got tased because he knew the cards were in the purse and he
25 had the intent to use them and didn't want to get caught. Okay. I mean, that's just

1 flat out wrong. There's no other way to say it. It's incorrect. Sayed had just
2 committed a crime, trespass; that's a crime for which you can be arrested and
3 charged. He is in the process of committing a crime, possession of stolen property.
4 He rather poorly concealed a purse underneath his sweatshirt. He didn't want to get
5 caught with that. That would be a crime. That is also a reason to run from the
6 security guard before the security guard starts questioning you about this weird
7 purse object thing you have under your sweatshirt. He doesn't want to get caught,
8 he doesn't want to get charged with that. That is a reason to run away.

9 Now is it appropriate that he ran away? It is appropriate that he
10 punched a security guard? No. And that's a crime for which he could have been
11 charged. But what it isn't is proof that it -- that more likely he must have known the
12 cards were the purse. It isn't that he makes it more likely; he had the intent to use
13 these cards. And there's some other items in this purse, okay. It's not just a purse
14 full of -- a pile of credit cards. Right. There's -- I don't remember everything that
15 was mentioned. I think there were some sunglasses, there was some phones.
16 Right. There's other things in this purse, a wallet in the purse itself. Okay. Other
17 things of value. And he runs away from the security guard. Not only does he not
18 make it [indiscernible] but that's not even standard here. Remember we talked
19 about this in voir dire. It's not probably, it's not less likely. The standard's beyond a
20 reasonable doubt. The question is does that prove beyond a reasonable doubt of
21 someone's intent. We know there's reasons he ran away. We know he ran away
22 because he did something wrong. The question is what did he do wrong that he's
23 trying to get from. Is it the stuff we actually have evidence to support, battery -- well
24 I guess at that time he wasn't running from battery, but the trespass, the hidden
25 purse under his sweatshirt. Or is it what the State's asking you to guess. This is not

1 proof beyond a reasonable doubt; yet again, it is speculation built on assumptions,
2 built on guesses. You cannot convict a man of 13 felonies based only on guess
3 work. That's not what presumption of innocence means and it's surely not what
4 beyond a reasonable doubt means.

5 Now the State talks about something else, and they pulled up the jury
6 instructions and I'm going to do this too. This is Jury instruction number 5. Actually
7 this is -- I'm going to bring this up in a minute. Sorry, guys. I want you to refer to
8 Jury Instruction number 17. I put the wrong one up there. Jury Instruction number
9 17. The State spent a lot of time talking about this instruction. What this instruction
10 basically says is if you want to, you don't have to, but just by the fact that he
11 possessed these credit cards, knowing nothing else, you can infer that he had the
12 intent to use them. It makes sense; right? And the reason this makes sense is
13 because there are situations in which -- and maybe -- I'm going to give an example
14 because it might make it a little more clear. Let's imagine a situation where a guy is
15 caught by a security guard, and in this wallet he's got six credit cards belonging to
16 different people. It's in his wallet, it's in his back pocket. I don't know why he got
17 stopped but he got stopped and they search and they find -- they find these credit
18 cards, okay, in his wallet. Now we have no other evidence in that hypothetical, just
19 possession alone. All right. But I think it's fair to say almost certainly he knew those
20 credits were in his wallet and almost certainly he was going to intend to use those
21 cars. Right. You don't walk around with someone else's credit cards in your wallet
22 along with some of your stuff unless you know that you intend to use 'em. So, it
23 makes sense in this situation that that jury instruction should get a lot of flack. It
24 makes sense in that situation that you don't really need a lot of other evidence. It
25 would be helpful if you had it. But you can make the inference based on

1 presumption -- possession of [indiscernible] in that kind of situation.

2 That's not at all similar to this situation. In this situation, a man finds a
3 purse. That's it. The purse happens to have some credit cards in it that belonged to
4 this family, all the same family, and that's it. There's nothing to indicate the guy ever
5 looked inside the purse; there's nothing to indicate he rummaged around and knew
6 the cards were there; there's nothing to indicate he intended to use those cards as
7 opposed to the other things you could do that still are not okay but isn't what he's
8 charged with, with the purse and the things of value inside that purse. This is a
9 totally different situation from the type of situation where you infer intent just from
10 possession.

11 Another thing the State mentioned. Let's talk about -- this is the other
12 thing they dressed up as evidence of his intent, evidence of his knowledge; proof
13 beyond a reasonable doubt. [Indiscernible] the card. All right. Specifically, there
14 are six credit cards and two iPhones that are found in this black car once the guy
15 comes out and moves the car. All right. And so the State's argument is pretty much
16 that how did the cards get in there. All right. They just didn't happen to be there.
17 There again, Sayed put those cards there. All right. So, therefore Sayed knew the
18 cards were there, knew he wasn't supposed to have 'em, and from that coupled with
19 the possession and the way he acted we can infer intent. That's pretty much their
20 whole case. Well think about that. All right. I mean, let's not just keep it all day and
21 let's not just keep it abstract and talk about assumptions. Let's look at the actual
22 facts that were presented. Well on one hand, yes, the guy's only a couple feet away
23 from the car. He's there for about 30 minutes waiting for Metro to arrive. That's it.
24 There's no other facts they have to support the inference. The guess, the
25 assumption that Sayed must be the person who -- must have intentionally ditched

1 those cards.

2 Now let's look at the other fact that the State didn't really mention when
3 they were talking about this. Okay. Well Mr. Newton's chasing after Sayed and
4 ultimately catches up with Sayed, then loses sight of him while he's chasing him,
5 tases him. Sayed falls to the ground right in front of this car. While he's silently
6 seizing from the effects of the taser, he falls to the ground, and he's got this purse.

7 MR. DICKERSON: May we approach, Your Honor?

8 THE COURT: Yes.

9 [Bench conference -- not recorded]

10 THE COURT: Mr. Dickerson, do you have an objection?

11 MR. DICKERSON: Yes, Your Honor. I had an objection to the use of the
12 word silently seizing as that is facts not in evidence.

13 THE COURT: Ladies and gentlemen, it's up to you to make the determination
14 on what you believe the facts were as you heard 'em. This is argument. Go ahead
15 and proceed.

16 MR. GASTON: Thank you.

17 BY MR. GASTON:

18 All right. Let me rephrase. The guy's running away and gets tased and
19 immediately stops running and falls to the ground. While he falls to the ground, he's
20 got the purse underneath or -- the sweatshirt's on or hanging around his neck. He
21 falls right in front of the car. He falls to the ground, full stop; tased and falls to the
22 ground right in front of the car. Immediately -- and I'm using the State's own words
23 used in testimony -- immediately. Mr. Newton is there, handcuffed; medical
24 attention but he's there, handcuffs him and sits him up and places him on the curb
25 where he falls -- which is a couple feet away from the black car. Okay. Then

1 because Mr. Newton fears for his safety wants to check and make sure the guy
2 [indiscernible] doesn't have any weapons, right; he asked to pat down and
3 eventually does pat him down and tries to see if the guys has a weapon. Mr.
4 Newton testified he receives training on how to conduct searches for weapons.

5 Additionally, Mr. Newton has every intent in the world to do as good job
6 searching for weapons as possible and he does search and he finds nothing. Now
7 remember the items, six credit cards, two iPhones -- okay, maybe you missed the
8 credit cards when you're patting a guy down. Maybe you don't feel the credit card in
9 the guy's pocket. How are you going to miss two iPhones. iPhones are hard.
10 You're going to feel those iPhones and you're going to take them out and you're
11 going to see what it is. You're surely not just going to gloss over when you're
12 looking to see for weapons to protect yourself. All right.

13 He then removes the purse, searched the purse, and takes all the stuff
14 away and then Sayed sits there. Mr. Newton doesn't see all the time. He's keeping
15 an eye on him. He's around the area, he's keeping on eye on him. He's just not
16 going to walk away and go inside and have coffee. He's staying outside. He's
17 watching the guy. Okay. Do you know why he didn't find anything when he
18 searched him, why he didn't feel the phones, why he didn't feel the cards? Because
19 they have already fallen under the car. Mr. Newton, on direct, testified that the items
20 were scattered on the ground underneath the car. That's what he found, scattered;
21 all right. Why? Because they had already fallen. When he got tased he fell to the
22 ground and some of the items, the loose items that are in the purse came out of the
23 purse and spewed underneath the car. All right. That make sense. It's logical -- it's
24 a logical inference. It's consistent with all the facts, it's based on facts.

25 Well let's think about just for a second what the State actually claims

1 happened. Okay. And remember this is their proof beyond a reasonable doubt.
2 Okay. Let's think about what the State actually said, what they claim happened.
3 They're saying Sayed gets handcuffed, puts his hands around his back, he's
4 handcuffed, okay, he's handcuffed. Mr. Newton's search doesn't find anything, he
5 must have missed it, doesn't find anything. He's sitting there about 30 minutes.
6 While he's there with his handcuffs he manages to kind of reach in his pockets and
7 get the items that he somehow concealed earlier, hoping they're in the back pockets
8 because if they're in the front pockets I don't know how he would have got 'em, but
9 in the back pockets, reaches in and gets the items out. He somehow manages to
10 scoot a couple feet closer to the car and kind of get 'em under there so no one can
11 see them, scoot back, and get on the curb all the while Mr. Newton doesn't see
12 anything, doesn't hear anything, and doesn't notice anything. It doesn't make
13 sense. That's another guess, it's another assumption, and it's not even the logical
14 assumption. It's not even one that makes the most sense much less proof beyond a
15 reasonable doubt that Sayed knew those cards were in the purse or had the intent
16 to use them. The evidence is not strong enough -- it's not proof beyond a
17 reasonable doubt; it's not strong enough to convict a man of 13 felonies. Okay.

18 Now I want to talk about a couple other things we talked about in voir
19 dire. I think I probably asked the question a dozen different ways and everybody
20 always answered if they're going to be able to follow along, answered a dozen
21 different times. If by the end of this trial you are convinced my client's a jerk -- my
22 language -- is a jerk, okay, but you're also convinced simultaneously that he's not
23 guilty, the State's not met their burden of proof beyond a reasonable doubt of what
24 they've actually charged, will you find him guilty and punish him anyway because
25 he's a jerk or will you find him not guilty as the law tells you to do? Every person I

1 call upon and when I asked everyone answered I will apply the law. I will not just
2 punish him for being a jerk.

3 I also asked well what if you've convinced by the end of this trial that he
4 did something wrong. He may have committed a different crime maybe on
5 something morally wrong. He isn't a nice guy, he did something wrong, but it's not
6 what the State charged him with; that you're still convinced or you're not convinced
7 beyond a reasonable doubt that he did that, would you be able to find him not guilty.
8 Everyone said yes.

9 We even talked about beyond a reasonable doubt a little bit and said
10 what if you're not sure. What if in this trial you're really not sure what happened. He
11 could have done what the State charged with him maybe. It's possible. I think we
12 even talked to one guy, he's not here anymore, but we talked to one guy and asked
13 him specifically probably, and everyone agreed that that's not the same thing as
14 beyond a reasonable doubt. And that if you were stuck with a situation based on the
15 evidence, based on what happened, if you were stuck with a situation where you
16 were forced with two choices, finding a person not guilty who may have committed
17 what the State's said, you don't really know, he may have, but you're definitely not
18 convinced beyond a reasonable doubt. You have a doubt. Would you be able to
19 find him not guilty? Everyone said yes. That's what happened here; that's this
20 case.

21 Sayed, not the nicest guy in the world. Did stuff wrong. Committed
22 some crimes but the State didn't want to charge with any of that. They wanted to try
23 to get 13 felonies out of this case and it's not supported. It's not supported by the
24 evidence, it's not supported by the facts. It's just guess work and assumptions and
25 speculation, and that's not strong enough to deprive someone of their liberty.

1 Going back to the jury instruction number 5. This is the one I put on
2 earlier. This is the beyond a reasonable doubt instruction, the presumption of
3 innocence instruction. Now Mr. Howell told you at the outside of this case that this
4 case was about intent. The State's going to be asking you to make some guesses
5 about intent but to stay focused this case is about intent, and he's right. That's what
6 this case is about. You still have to think about it.

7 Sayed has found an apartment complex. It's not a business. No
8 fraudulent transactions were ever used on this card. In fact, if you actually look at
9 the card --

10 MR. DICKERSON: Your Honor, may we approach?

11 THE COURT: Yes.

12 [Bench conference -- not recorded]

13 THE COURT: Again, this argument, Ladies and gentlemen.

14 BY MR. GASTON:

15 There were no fraudulent transactions on this card. If these cards had
16 been used in fraudulent transactions, you would have heard about it. The State
17 would ask, I promise you. The District Attorney would have stood up here and said
18 these cards were used at Best Buy in this location. They were used to buy this;
19 right. They didn't do that because none of the transactions were used. These cards
20 were not used in any fraudulent transactions.

21 Additionally, Sayed had no other property on his person other than
22 purse. He didn't have cash, he didn't IDs, he didn't have any cards. He didn't have
23 anything on the purse or on his person because it's not like he looked inside and
24 reached in and decided what he wanted to put in his pocket and kept the rest in the
25 purse. That never happened because he didn't have anything on at all. He was

1 searched by Newton, he was searched by Officer Reese. Nothing was found on his
2 person.

3 Additionally, if we actually look at the cards -- if you take a close look at
4 the cards -- I don't know if you were able to follow that -- all the [indiscernible] and
5 the numbers and stuff, if you look at the cards more than half the cards are expired.
6 He wouldn't even be able to use those cards anyway. On the other hand, yeah, he
7 possessed the purse. It's not proof beyond a reasonable doubt especially in light of
8 everything else.

9 All right. Now I want to tie in the jury instruction. You're here to do a
10 very important job. I don't know if you guys noticed but jury selection, picking the
11 jury, was almost half this trial time wise. It's important. Everyone here is here for a
12 reason. They were selected, they made it past the jury selection. They're selected
13 because they understand how important this job is, how important it is to follow the
14 law, and the different consequences your action has either way. And in fact if we
15 actually look at the jury instruction, it mentions on line 6 govern or control a person
16 in the more weighty affairs of life. On line 8 it says an abiding conviction in the truth
17 of the charge, abiding conviction, one that will stay with you [indiscernible] and will
18 abide with you. It's pretty clear just from even reading the instruction even if you
19 never even heard the attorney speak -- all right -- just [indiscernible] good in reading
20 the instruction your decision is important because however you decide, one way or
21 the other, your decision today will forever change Sayed's life.

22 And so the State is asking you to make that decision, that important
23 decision, based on almost no evidence. The State will stand up here before you --
24 they're going to get up here, they get one more chance to talk, they get up here and
25 they're going to ask you to find him guilty based on nothing but guess work and

1 speculation. There's no evidence that Sayed knew what was in that purse, there's
2 no evidence that Sayed had the intent to use those cards, and you cannot and must
3 not guess your way into convicting a man of 13 felonies. Please find Sayed not
4 guilty to a crime.

5 THE COURT: All right. Thank you, Mr. Gaston.

6 **REBUTTAL ARGUMENT**

7 BY MR. JONES:

8 Ladies and gentlemen of the jury, you heard from Officer Cory Newton.
9 You heard Officer Newton indicate that he first met Defendant back here in the back
10 of this complex; that the only entrances to this complex are up front. There's two
11 driveways and one pedestrian entrance. The rest of this complex is all one big wall.

12 He first met Defendant back here and he was heading from this
13 direction. So, from -- I believe west was what we all agreed on; he was coming from
14 this direction and he met up with him here. This is where the first encounter
15 occurred and then they started heading towards this direction.

16 Defendant has said that as well to the officer. He sort of gestured over
17 in this direction as to where he first saw the purse, he being Defendant. So,
18 Defendant obtained the purse somewhere over on this street. He manages to bring
19 the purse to this location where he's found by Officer Newton. A confrontation
20 occurs and then he heads over to the wall and eventually to right behind the
21 dumpster. Now that dumpster location is important because that's where six credit
22 cards were found, six different credit cards. And we saw from security -- excuse me
23 -- we saw from Office Newton where some of these cards were found. And you'll
24 have a chance to take these exhibits back and look at them during your deliberation,
25 and what's I'm showing you now is State's Exhibit number 1. You can see it clearly