

1 Court to give you one now?

2 MS. CHRISTENSEN: If you have available dates in June, I think everybody's
3 available then.

4 MS. PALM: Yes.

5 MR. BINDRUP: Okay. Again, June is -- it's ridiculous. Why can't we
6 accommodate something earlier; February then.

7 MS. PALM: I have a murder trial set in February, Your Honor.

8 MS. PIEPER: I have a death penalty trial set in March.

9 THE COURT: All right.

10 The COURT CLERK: Calendar call will be June 18th at 8:30; jury trial will be
11 June 23rd at 1 p.m.

12 MS. PALM: Thank you, Your Honor.

13 THE COURT: That puts you on the top of the stack.

14 MS. PALM: And, Your Honor, I don't believe we're getting transcripts in this
15 case and it's a 250 case. So, I think that we need to start getting pre-trial motion
16 transcripts. Does the Court want us to submit an order for that or --

17 THE COURT: I guess so; sure.

18 MS. PALM: Under 250 we're supposed to get them, it's my understanding.
19 So, do you want a motion and an order?

20 THE COURT: I think you probably should since it's not before me. If you can
21 work it out, work it out. If not, file the motion.

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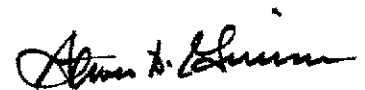
MS. PALM: Okay. Thank you.

MR. WEINSTOCK: Thank you, Your Honor.

[Proceedings concluded at 9:02 a.m.]

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


PATRICIA SLATTERY
Court Transcriber



CLERK OF THE COURT

1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
7

8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 CEDRIC L. JACKSON,
12 PRENTICE COLEMAN,

13 Defendant.

)
) CASE#: C265339-1
) C265339-2
) DEPT. X
)
)
)
)
)

14
15 BEFORE THE HONORABLE JESSIE WALSH, DISTRICT COURT JUDGE
16 WEDNESDAY, MAY 30, 2012

17 **RECORDER'S TRANSCRIPT OF PROCEEDINGS**
18 DEFENDANT JACKSON'S MOTION TO CONTINUE TRIAL

19 APPEARANCES:

20 For the State:

NELL E. CHRISTENSEN, ESQ.
SONIA V. JIMENEZ, ESQ.
Chief Deputy District Attorneys

21 For Defendant:

22 Cedric Jackson

PATRICIA PALM, ESQ.
DAN WINDER, ESQ.

23 For the Defendant:

24 Prentice Coleman

IVETTE A. MANINGO, ESQ.
Deputy Special Public Defender
SCOTT L. BINDRUP, ESQ.
Deputy Special Public Defender

25 RECORDED BY: VICTORIA BOYD, COURT RECORDER

1 WEDNESDAY, MAY 30, 2012 AT 9:14 A.M.

2
3 THE COURT CLERK: Case number C265339, State of Nevada versus
4 Prentice Coleman, and case number C265339-2, State of Nevada versus Prentice
5 Coleman.

6 THE COURT: Can we have appearances for the record, please?

7 MR WINDER: Dan Winder on behalf of Cedric Jackson along with Patricia
8 Palm.

9 THE COURT: Thank you.

10 MR. BINDRUP: Scott Bindrup and Ivette Maningo on behalf of Mr. Coleman.

11 MS. CHRISTENSEN: Nell Christensen and Sonia Jimenez on behalf of the
12 State.

13 THE COURT: Thank you.

14 I'm showing that this is Defendant's motion by Defendant Jackson to
15 continue the trial.

16 MS. PALM: It is, Your Honor.

17 We filed that motion because we need more time to prepare and
18 specifically to prepare the mitigation in this case. We don't have the same
19 resources as the SPDs. Our mitigation investigator is out of state and actually in
20 Illinois. And so we have to fly her out here for a week at a time to do the
21 investigation. And she believes that, pursuant to the ABA rules, to do an effective
22 mitigation investigation, she needs to make one more week long trip, interview about
23 12 more witnesses, and we still need to go to California. We haven't been able to
24 accomplish all that and we did put this investigation on a little bit of a hold when the
25 new DA took over because we were contemplating perhaps that he would

1 reconsider the death penalty notice in this case or that we'd be able to negotiate it.
2 We worked in good faith to do that; it eventually failed. And so we need to now
3 prepare for trial and we're left without enough time to effectively prepare. And I know
4 that the SPDs is opposing the motion, however, their client did waive the speedy
5 trial right under the statute.

6 THE COURT: The State didn't file an opposition; right?

7 MS. CHRISTENSEN: That's correct, Your Honor. We do believe they do
8 have a good reason to continue it under the rules. They do need to do this
9 mitigation work. Our only concern is that we don't want one Defendant to go without
10 the other. Your Honor already a motion to sever and denied it. So, we would
11 request that if you do grant Mr. Jackson's motion that you continue both of them for
12 as short a time as we have in this courtroom as all the attorneys can do with their
13 schedules to keep both of the Defendants together.

14 THE COURT: Ms. Palm, how much time do you need?

15 MS. PALM: Well, Your Honor, speaking with my mitigation investigator, she's
16 actually going to be occupied all except for February of next year, and I'm actually in
17 a Federal trial, and then I go into a death penalty trial in March of next year. So, my
18 soonest available is April and that would be with Mr. Winder also.

19 THE COURT: Ms. Maningo.

20 MS. MANINGO: Your Honor, if we can make a record. And I realize -- I
21 understand Ms. Palm's position and Mr. Winder's position one hundred percent and
22 I understand the State's position. The problem is is that Mr. Coleman, in this case,
23 is from January 2010. I realize he's waived his right to a speedy trial and he did that
24 because at the time, of course it's a death case, and we needed more time. But we
25 are now ready to go. He's absolutely ready to go and he's adamant about it. We

1 want to make sure that the record is clear that, you know -- I understand Your
2 Honor's position or your prior ruling on the severance, but we find ourselves in a
3 different position now and so I would ask that you consider letting us go ahead of
4 schedule for trial because the SPD is ready to go. Again, I understand their position
5 but that shouldn't really affect us. We're ready to go to trial and, again, I just want to
6 tell that my client's adamant about proceeding when scheduled.

7 THE COURT: I understand. But given the fact that he's waived his speedy
8 trial right and given the fact the Court's prior ruling regarding the severance, I'm not
9 inclined to split these cases up. So, when are you available next year to defend this
10 case?

11 MS. MANINGO: I mean, the date that they're available we can do it. Of
12 course, again, my client is opposed to it.

13 THE COURT: So, I understood, Ms. Palm, you say that you had a death
14 penalty case in another department in March?

15 MS. PALM: In March, yes, Your Honor, starting March 4th and it's probably a
16 three week.

17 MR WINDER: And I have a February murder case already scheduled in 6.
18 So, April or May of next year would be great.

19 THE COURT: How long do you anticipate that this case will take to try?

20 MR. WINDER: I would say three to five weeks.

21 THE COURT: Given half days?

22 MR. WINDER: Maybe a little longer, Your Honor.

23 THE COURT: What does the State think?

24 MS. CHRISTENSEN: Your Honor, I don't think it'll be five weeks even half
25 days, but it will be, you know, especially given half days it will go more than a week

1 or two.

2 THE COURT: Well we're in the same position we were in before. Do we
3 have any time in -- I can't really schedule for April if Ms. Palm is in a death penalty
4 case for three or four weeks. The soonest we'd be looking at would be May or June.

5 MS. CHRISTENSEN: The only thing the State can't do would be the first
6 week of June, Your Honor.

7 THE COURT: How about June 24th?

8 THE COURT CLERK: June 19th at 8:30 for calendar call 2013, and June 24th
9 for jury trial at 1 p.m. 2013.

10 MS. PALM: Thank you, Your Honor.

11 THE COURT: We will vacate the June trial date this year.

12 MR. WINDER: Thank you.

13 MS. CHRISTENSEN: Thank you, Your Honor.

14
15 [Proceedings concluded at 9:20 a.m.]
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21 ATTEST: I do hereby certify that I have truly and correctly transcribed the
22 audio/video proceedings in the above-entitled case to the best of my ability.

23 
24 PATRICIA SLATTERY
25 Court Transcriber

1

Alvin D. Gorman

CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
PLAINTIFF,
vs.
JACKSON, CEDRIC
COLEMAN PRENTICE LOVELL
DEFENDANTS.

Case No.: C265339
Dept No.: XX

ORIGINAL

REPORTER'S TRANSCRIPT

Held before the Honorable Lee Gates
On July 7, 2010
At the Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada

A P P E A R A N C E S:

For the State: MEGAN THOMSON,
Deputy District Attorney

For the Defendants: ARNOLD WEINSTOCK, ESQ.
SCOTT BENSON, ESQ.

Reported by:
Julie M. Lever, RPR, CCR 582

1 THE COURT: State of Nevada versus
2 Cedric Jackson and Prentice Lovell Coleman.

3 MR. WEINSTOCK: For the record,
4 your Honor, Arnold Weinstock for Cedric Jackson.

5 MR. BENSON: And Scott Benson on behalf
6 of Mr. Coleman.

7 MR. WEINSTOCK: All we need is a trial
8 date. We, tentatively, with the Court's
9 approval, agreed on a date, I believe, May 2.

10 MS. THOMSON: May 2 of next year, Judge.

11 THE COURT: What about defendant's
12 motion for discovery: Jackson?

13 MR. WEINSTOCK: Your Honor, I'm sure
14 we'll be able to work that out with the District
15 Attorney's office. We will contact them.

16 MS. THOMSON: We haven't even seen that
17 motion, Judge, but we will work with
18 Mr. Weinstock.

19 THE COURT: The Court is going to order
20 that all discovery required by statute in the
21 case law be afforded to him.

22 MR. WEINSTOCK: Thank you, your Honor.
23 We'll work with the DA.

24 THE COURT: If there is a problem,
25 bring it up. All right. And the May 2 date of

1 2011. How old is this case?

2 MR. WEINSTOCK: It's brand new. This is
3 arraignment today.

4 THE COURT: Oh, okay. They haven't been
5 arraigned yet?

6 MS. THOMSON: They've been arraigned but
7 I think we passed it to set the trial is my
8 understanding.

9 THE CLERK: Calendar call will be
10 April 27 of 2011 at 9 a.m., with a jury trial of
11 May 2 of 2011 at 1 p.m.

12 MR. WEINSTOCK: Thank you, your Honor.

13 MS. THOMSON: Thank you, Judge.

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REPORTER'S CERTIFICATE

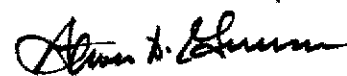
STATE OF NEVADA)
COUNTY OF CLARK)

I, JULIE M. LEVER, Court Reporter
and Notary Public, in and for the County of
Clark, State of Nevada, do hereby certify that
the foregoing and attached pages 1-4, inclusive,
comprise a true, and accurate transcript of the
proceedings reported by me in the matter of The
State of Nevada, Plaintiff, versus
Cedric Jackson and Prentice Coleman, Case No.
C265339 on July 7, 2010.

Dated this 14th day of July, 2013.


Julie M. Lever, CCR NO.: 582, RPR
Notary Public

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DOCUMENT,
NUMBERED PAGE(S)
414 – 416
WILL FOLLOW VIA
U.S. MAIL



CLERK OF THE COURT

1 **NISD**
2 **STEVEN B. WOLFSON**
3 Clark County District Attorney
4 Nevada Bar #001565
5 **LIZ MERCER**
6 Chief Deputy District Attorney
7 Nevada Bar #10681
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

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

9 **THE STATE OF NEVADA,**

10 **Plaintiff,**

11 **-vs-**

12 **CEDRIC LEROB JACKSON**
13 **# 1581340**

14 **Defendant.**

CASE NO: 10C265339-1

DEPT NO: X

15 **NOTICE OF EVIDENCE IN AGGRAVATION**

16 COMES NOW, the State of Nevada by Clark County District Attorney STEVEN B.
17 WOLFSON, through LIZ MERCER, Chief Deputy District Attorney, pursuant to Rule
18 250(4)(f) of the Nevada Supreme Court, hereby gives notice of the existence of the following
evidence in aggravation to be presented at the penalty phase of the trial:

19 **1. NRS 200.033(1) provides: The murder was committed by a person under**
20 **sentence of imprisonment.**

21 In the instant case, the Defendant committed the crimes charged within the Information
22 while under sentence of imprisonment in the United States District Court for the District of
23 Nevada in case CR-S-05-0098-LRH (LRL) / 2:05-cr-98-LRH(GWF). In that case the
24 Defendant was indicted on several counts. He later pled guilty and was convicted of
25 "Interference with Commerce by Armed Robbery; Aiding and Abetting" in the United States
26 District Court District of Nevada for an offense that occurred on January 28, 2005. Judgment
27 was imposed and he received a prison sentence of time served followed by a period of
28

1 supervised release of three (3) years. He was on supervised release on January 31, 2010 when
2 he committed the crimes charged in the instant case. The Judgment of Conviction for the
3 above mentioned offense was filed in February 2007.

4 In 2008, Defendant violated his supervised release, and admitted guilt to two violations
5 (committing another crime and possession of controlled substances). He was then committed
6 to the custody of the United States Bureau of Prisons to be imprisoned for a term of eight (8)
7 months to be followed by a term of supervised release of 28 months. The Judgment reflecting
8 the revocation of supervised release was filed December 10, 2008.

9 The State will rely on testimony of witnesses, to include MITCHELL OSWALD,
10 Defendant's United States Probation Officer in case CR-S-05-0098-LRH (LRL) / 2:05-cr-98-
11 LRH (GWF), the pleadings, motions, writ petitions, filings, transcripts, judgment of
12 conviction, sentencing documents, court minutes in CR-S-05-0098-LRH (LRL) / 2:05-cr-98-
13 LRH (GWF) and Federal Parole and Probation records, as well as the police reports,
14 statements, photographs, and/or physical evidence from Las Vegas Metropolitan Police
15 Department Event Number 050128-1352.

16 All of the discovery and records have been provided related to the above referenced
17 case and are incorporated herein by reference. [See NRS 200.033(2)(b)].

18 **2. NRS 200.033(2) provides: The murder was committed by a person who, at any**
19 **time before a penalty hearing is conducted for the murder pursuant to NRS**
20 **175.552 is or has been convicted of:**

21 **b. A felony involving the use or threat of violence to the person of another and the**
22 **provisions of subsection 4 do not otherwise apply to that felony.**

23 Defendant was convicted of "Interference with Commerce by Armed Robbery; Aiding
24 and Abetting" in the United States District Court District of Nevada under case number 2:05-
25 cr-98-LRH(GWF). The State will rely on the statutory definition of "Interference with
26 Commerce by Armed Robbery; Aiding and Abetting", the charging document, the written plea
27 agreement, and the judgment of conviction to prove this aggravating circumstance against
28 Defendant.

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1 The conviction is based on crimes Defendant committed on January 28, 2005 and
2 documented under Las Vegas Metropolitan Police Department Event Number 050128-1352.
3 On January 28, 2005, Defendant Coleman and Defendant Jackson committed an armed
4 robbery of a female at a bank. Around 11:30 a.m., Maria Para went to a U.S. Bank located in
5 an Albertson's store to cash a \$75,000.00 check for her business. She owned a check cashing
6 company, and cashed large checks on a weekly basis. Defendant Coleman was dating a clerk
7 at the U.S. Bank who was familiar with Para's banking habits, and who had been fired from
8 U.S. Bank a week earlier for embezzling money.

9 Upon cashing the check, the cash was placed in a U.S. Bank bag, which Para carried.
10 Para exited the building and walked to her vehicle, which was parked near the exit doors.
11 Defendant Coleman and Defendant Jackson confronted her. One of them pointed a black
12 revolver to her head and said, "Give me the money." He grabbed the bag with the money,
13 while the other one grabbed her purse. They then ran through the parking lot and fled in a
14 vehicle.

15 Having no suspects at first, detectives looked into associates of the bank employee who
16 had recently been fired. As a result, they determined that Defendant Coleman (the employee's
17 boyfriend) and his close friend Defendant Jackson may have been involved. They showed
18 photographic lineups including photos of each of the suspects to Para, who picked out
19 Defendants as the robbers. Police later deduced that the two suspects had used Defendant
20 Coleman's girlfriend's vehicle. A gun was located in that vehicle when police searched it.
21 Defendants were arrested on March 10, 2005 together at Defendant Coleman's home.

22 **3. NRS 200.033(2) provides: The murder was committed by a person who, at any**
23 **time before a penalty hearing is conducted for the murder pursuant to NRS**
24 **175.552 is or has been convicted of:**

25 **b. A felony involving the use or threat of violence to the person of another and the**
26 **provisions of subsection 4 do not otherwise apply to that felony.**

27 In the instant case, Defendant is charged with COUNT II: Attempt Murder With Use
28 of a Deadly Weapon. On or about January 31, 2010, the Defendant and/or his co-Defendant
and/or unknown co-conspirator, each armed with a firearm, shot at Jamario Macklin, Marcus

1 Albert, Carlos Bass, and Devin Bass attempting to kill the victims. As a result, Marcus Albert
2 was shot in the knee causing substantial bodily harm. Defendant and/or his co-Defendant
3 and/or unknown co-conspirator continued shooting at Devin and Carlos Bass as they pursued
4 Devin and Carlos Bass in the co-Defendant's vehicle while Devin and Carlos Bass fled in
5 another vehicle, which was shot at least once during the pursuit.

6 The State will rely on the jury's verdict regarding Count II to prove this aggravating
7 circumstance against Defendant, as well as any statements or police reports, photographs
8 and/or physical evidence from the instant case, North Las Vegas Police Department event
9 number 10002450. The State will rely on the statutory definitions of Attempt Murder With
10 Use of a Deadly Weapon.

11 **4. NRS 200.033(2) provides: The murder was committed by a person who, at any**
12 **time before a penalty hearing is conducted for the murder pursuant to NRS**
13 **175.552 is or has been convicted of:**

14 **b. A felony involving the use or threat of violence to the person of another and the**
15 **provisions of subsection 4 do not otherwise apply to that felony.**

16 In the instant case, Defendant is charged with COUNT III: Battery With Use of a
17 Deadly Weapon Resulting in Substantial Bodily Harm – Victim Marcus Albert. On or about
18 January 31, 2010, the Defendant and/or his co-Defendant and/or unknown co-conspirator,
19 each armed with a firearm, shot at Jamario Macklin, Marcus Albert, Carlos Bass, and Devin
20 Bass attempting to kill the victims. As a result, Marcus Albert was shot in the right knee
21 causing substantial bodily harm. Albert's gunshot wound retained bullet fragments; he
22 suffered a "vertical fracture of the patella" and/or a "nondisplaced patella fracture." He was
23 transported to the hospital and underwent surgery on January 31, 2010. He remained in the
24 hospital until 2/2/2010. He had several additional medical appointments for the injury. The
25 injury Albert suffered caused substantial risk of death and/or serious, permanent
26 disfigurement, and/or protracted loss or impairment of the function of his right knee, and/or
27 prolonged physical pain.

28 //

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1 The State will rely on the jury's verdict regarding Count III to prove this aggravating
2 circumstance against Defendant, as well as any statements or police reports, photographs
3 and/or physical evidence from the instant case, North Las Vegas Police Department event
4 number 10002450. The State will rely on the statutory definitions of Battery With Use of a
5 Deadly Weapon Resulting in Substantial Bodily.

6 **5. NRS 200.033(2) provides: The murder was committed by a person who, at any**
7 **time before a penalty hearing is conducted for the murder pursuant to NRS**
8 **175.552 is or has been convicted of:**

9 **b. A felony involving the use or threat of violence to the person of another and the**
10 **provisions of subsection 4 do not otherwise apply to that felony.**

11 In the instant case, Defendant is charged with COUNT IV: Attempt Murder With Use
12 of a Deadly Weapon. On or about January 31, 2010, the Defendant and/or his co-Defendant
13 and/or unknown co-conspirator, each armed with a firearm, shot at Jamario Macklin, Marcus
14 Albert, Carlos Bass, and Devin Bass attempting to kill the victims. As a result, Marcus Albert
15 was shot in the knee causing substantial bodily harm. Defendant and/or his co-Defendant
16 and/or unknown co-conspirator continued shooting at Devin and Carlos Bass as they pursued
17 Devin and Carlos Bass in the co-Defendant's vehicle while Devin and Carlos Bass fled in
18 another vehicle, which was shot at least once during the pursuit. The State will rely on the
19 jury's verdict regarding Count IV to prove this aggravating circumstance against Defendant.

20 The State will rely on the jury's verdict regarding Count IV to prove this aggravating
21 circumstance against Defendant, as well as any statements or police reports, photographs
22 and/or physical evidence from the instant case, North Las Vegas Police Department event
23 number 10002450. The State will rely on the statutory definitions of Attempt Murder With
24 Use of a Deadly Weapon.

25 **6. NRS 200.033(2) provides: The murder was committed by a person who, at any**
26 **time before a penalty hearing is conducted for the murder pursuant to NRS**
27 **175.552 is or has been convicted of:**

28 **b. A felony involving the use or threat of violence to the person of another and the**
29 **provisions of subsection 4 do not otherwise apply to that felony.**

30 //

1 In the instant case, Defendant is charged with COUNT V: Assault With Use of a
2 Deadly Weapon. On or about January 31, 2010, the Defendant and/or his co-Defendant and/or
3 unknown co-conspirator, each armed with a firearm, shot at Jamario Macklin, Marcus Albert,
4 Carlos Bass, and Devin Bass attempting to kill the victims. As a result, Marcus Albert was
5 shot in the knee causing substantial bodily harm. Defendant and/or his co-Defendant and/or
6 unknown co-conspirator continued shooting at Devin and Carlos Bass as they pursued Devin
7 and Carlos Bass in the co-Defendant's vehicle while Devin and Carlos Bass fled in another
8 vehicle, which was shot at least once during the pursuit. The State will rely on the jury's
9 verdict regarding Count V to prove this aggravating circumstance against Defendant.

10 The State will rely on the jury's verdict regarding Count V to prove this aggravating
11 circumstance against Defendant, as well as any statements or police reports, photographs
12 and/or physical evidence from the instant case, North Las Vegas Police Department event
13 number 10002450. The State will rely on the statutory definitions of Assault With Use of a
14 Deadly Weapon.

15 **7. NRS 200.033(2) provides: The murder was committed by a person who, at any**
16 **time before a penalty hearing is conducted for the murder pursuant to NRS**
17 **175.552 is or has been convicted of:**

18 **b. A felony involving the use or threat of violence to the person of another and the**
19 **provisions of subsection 4 do not otherwise apply to that felony.**

20 In the instant case, Defendant is charged with COUNT VI: Attempt Murder With Use
21 of a Deadly Weapon. On or about January 31, 2010, the Defendant and/or his co-Defendant
22 and/or unknown co-conspirator, each armed with a firearm, shot at Jamario Macklin, Marcus
23 Albert, Carlos Bass, and Devin Bass attempting to kill the victims. As a result, Marcus Albert
24 was shot in the knee causing substantial bodily harm. Defendant and/or his co-Defendant
25 and/or unknown co-conspirator continued shooting at Devin and Carlos Bass as they pursued
26 Devin and Carlos Bass in the co-Defendant's vehicle while Devin and Carlos Bass fled in
27 another vehicle, which was shot at least once during the pursuit. The State will rely on the
28 jury's verdict regarding Count VI to prove this aggravating circumstance against Defendant.

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1 The State will rely on the jury's verdict regarding Count VI to prove this aggravating
2 circumstance against Defendant, as well as any statements or police reports, photographs
3 and/or physical evidence from the instant case, North Las Vegas Police Department event
4 number 10002450. The State will rely on the statutory definitions of Attempt Murder With
5 Use of a Deadly Weapon.

6 **8. NRS 200.033(2) provides: The murder was committed by a person who, at**
7 **any time before a penalty hearing is conducted for the murder pursuant to NRS**
8 **175.552 is or has been convicted of:**

9 **b. A felony involving the use or threat of violence to the person of another and**
10 **the provisions of subsection 4 do not otherwise apply to that felony.**

11 In the instant case, Defendant is charged with COUNT VII: Assault With Use of a
12 Deadly Weapon. On or about January 31, 2010, the Defendant and/or his co-Defendant and/or
13 unknown co-conspirator, each armed with a firearm, shot at Jamario Macklin, Marcus Albert,
14 Carlos Bass, and Devin Bass attempting to kill the victims. As a result, Marcus Albert was
15 shot in the knee causing substantial bodily harm. Defendant and/or his co-Defendant and/or
16 unknown co-conspirator continued shooting at Devin and Carlos Bass as they pursued Devin
17 and Carlos Bass in the co-Defendant's vehicle while Devin and Carlos Bass fled in another
18 vehicle, which was shot at least once during the pursuit. The State will rely on the jury's
19 verdict regarding Count VII to prove this aggravating circumstance against Defendant.

20 The State will rely on the jury's verdict regarding Count VII to prove this aggravating
21 circumstance against Defendant, as well as any statements or police reports, photographs
22 and/or physical evidence from the instant case, North Las Vegas Police Department event
23 number 10002450. The State will rely on the statutory definitions of Assault With Use of a
24 Deadly Weapon.

25 **9. NRS 200.033(3). The murder was committed by a person who knowingly**
26 **created a great risk of death to more than one person by means of a weapon,**
27 **device or course of action which would normally be hazardous to the lives of**
28 **more than one person.**

To establish this aggravating circumstance the State will rely on the facts and
circumstances of the instant case and the evidence as described in the Information.

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1 On or about January 31, 2010 outside of 2642 Blue Reef Drive, Defendant engaged in
2 a course of conduct which knowingly created a great risk of death to Jamario Macklin, Marcus
3 Albert, Carlos Bass, Devin Bass, Juanetta Washington, and Laquitta Langstaff. Pursuant to a
4 conspiracy to commit murder with his co-Defendant and an unknown co-conspirator, and/or
5 each aiding and abetting the others, Defendant and/or his co-Defendant and/or unknown co-
6 conspirator, each armed with a firearm, shot at Jamario Macklin, Marcus Albert, Carlos Bass,
7 and Devin Bass, knowing that two females, Juanetta Washington and Laquitta Langstaff, sat
8 in nearby vehicles. Defendant was familiar with the residential area in which the shooting
9 took place and knew that various residents were inside the homes in the area. Defendant, his
10 co-Defendant, and an unknown co-conspirator shot at least 27 times aiming toward Jamario
11 Macklin, Marcus Albert, Carlos Bass, and Devin Bass. As a result, Jamario Macklin was shot
12 nine (9) times resulting in his death, Marcus Albert was shot in the knee causing substantial
13 bodily harm, and several vehicles and at least one home in the residential area were damaged
14 by gunfire. Defendant and/or his co-Defendant and/or unknown co-conspirator continued
15 shooting at Devin and Carlos Bass as they pursued Devin and Carlos Bass in Defendant's
16 vehicle while Devin and Carlos Bass fled in another vehicle, which was shot at least once
17 during the pursuit.

18 The evidence the State intends to rely on to prove this aggravating circumstance is the
19 evidence presented at the guilt phase of the instant matter, the jury verdicts returned in the
20 instant matter, as well as any witness statements, photographs, any reports authored by the
21 North Las Vegas Police Department event number 10002450, and/or any other law
22 enforcement agency involved in the instant case, and testimony from witnesses, crime scene
23 analysts, and North Las Vegas Police Department officers to establish the actions of Defendant
24 on January 31, 2010 that created a great risk of death to more than one person.

25 **Other Relevant Evidence**

26 In addition to the evidence to be offered to establish the statutory aggravating
27 circumstances, the State hereby also gives notice of evidence of other relevant circumstances
28 in the Penalty Phase of the Jury Trial. For each of the below incidents, arrests and/or

1 convictions, the State will rely on the testimony of witnesses, motions, filings, transcripts,
2 charging documents, guilty plea agreements, judgments and/or related paperwork, prison
3 records, and/or court minutes in each case, as well as the police reports, statements, 911 calls,
4 CAD reports, photographs, and/or physical evidence for each of the events listed below. All
5 of the discovery and records related to the incidents have been provided or will be provided
6 upon receipt and are incorporated herein by reference.

7 Merely because these items are included in this list does not in any way suggest that
8 the State may not admit some of this information during the guilt phase.

9 1. Defendant was convicted of Possession of Dangerous Weapon in a Vehicle in
10 North Las Vegas Municipal Court case #CR002598-02. Defendant was originally arrested for
11 Possession of Stolen Property – Firearm under North Las Vegas Police Department Event
12 Number 0217208. The District Attorney did not file charges.

13 On July 26, 2002, North Las Vegas officers conducted a traffic stop on a vehicle in
14 which Defendant was a front seat passenger. Defendant was the front seat passenger of the
15 vehicle. Police located a .40 caliber Glock Model 23 firearm under the front passenger seat
16 where Defendant had been sitting. The registered owner of the Glock was contacted and
17 informed police that the gun had been stolen in a burglary that had occurred at his home.
18 Defendant admitted that his fingerprints might be on the gun because he had handled it.
19 Defendant was arrested for Possession Stolen Property.

20 Defendant Coleman was the back seat passenger in the vehicle. Upon the officers
21 making contact with the occupants, Defendant Coleman informed them that there was a
22 warrant out for his arrest. Defendant Coleman was making furtive movements, acting nervous,
23 and moving around a lot. Police looked in the area in which he was sitting and found a .380
24 semiautomatic firearm loaded with a magazine containing six (6) live rounds located in the
25 seat pocket in front of where Defendant Coleman was seated. Defendant Coleman admitted
26 his fingerprints might be on the gun because he had handled it.

27 //

28 //

1 2. Defendant was convicted of Possession of Marijuana Less Than One Ounce in
2 North Las Vegas Municipal Court case #C-054787 for incidents occurring on January 17,
3 2004.

4 3. Defendant was convicted of Possession of Controlled Substance and Use of
5 Revoked License and Registration in North Las Vegas Municipal Court case #CR-000969-04
6 for incidents occurring on February 7, 2004.

7 4. Defendant was convicted of two counts of Possession of Dangerous Drugs Not
8 to Be Introduced Into Interstate Commerce in 04FN0624X, and Defendant was convicted of
9 Possession of Dangerous Weapon in a Vehicle in North Las Vegas Municipal Court case #CR-
10 002575-04, all under North Las Vegas Police Department event number 0408727.

11 On April 10, 2004, North Las Vegas Police officers conducted a traffic stop on a vehicle
12 in which Defendant was a passenger. Police located a Colt .45 semiautomatic firearm on the
13 floorboard between Defendant's feet. The firearm was loaded with a large extended magazine
14 loaded with full metal jacket rounds. The gun had been reported stolen. A search of
15 Defendant's person revealed eleven (11) small baggies of marijuana in his front left pants
16 pocket.

17 Defendant was arrested for Dangerous Deadly Weapon in Vehicle, Possession of Stolen
18 Firearm, and two counts of Possession of Controlled Substance with Intent to Sell. Defendant
19 pled guilty to two counts of Possession of Dangerous Drugs Not to Be Introduced Into
20 Interstate Commerce on August 16, 2004, and was sentenced to six (6) months in custody on
21 each, to run consecutively to one another, suspended.

22 5. Defendant was arrested and charged with Battery Domestic Violence under Las
23 Vegas Metropolitan Police Department event number 080717-3773 and case number
24 08M24484X. The case was later dismissed.

25 On July 17, 2008, Defendant Jackson attacked his girlfriend, Niesha Dee. He wrestled
26 her, kicked her, slapped her, threw her down, hit her in the face, and punched her in the face.
27 Ana Dee witnessed Defendant Jackson attacking her sister Niesha Dee and tried to help, but
28 Defendant slapped Niesha Dee again and hit Ana Dee, injuring her lip. Ana and Niesha tried

1 to push Defendant out of the door, and he fought to keep the door open. Finally, they were
2 able to push him out and call the police.

3 6. On September 16, 2008, U.S. probation issued a warrant for Defendant after an
4 incident with police. Police attempted to stop him for jaywalking near the El Cortez Hotel,
5 but he attempted to flee. Police caught him, and an officer was injured in the struggle. A
6 search incident to arrest revealed narcotics.

7 7. On October 24, 2008, U.S. probation searched Defendant's residence and
8 located several kinds of prescription drugs such as Lortab and Codeine, for which Defendant
9 did not have a prescription. Defendant's supervised release was revoked on December 8,
10 2008. He was sentenced to serve eight months in custody with 28 months supervised release
11 to follow. He was released again in mid 2009 to supervised release.

12 In additional to the individuals named above, below is a list of the names of the
13 individuals that may give testimony and what they will testify to:

14 1. PERRY MACKLIN, Jr., a brother of the decedent, may appear and give victim
15 impact testimony. Photographs of the victim and his family may be admitted during the
16 testimony of this witness.

17 2. PERRY MACKLIN, the father of the decedent, may appear and give victim
18 impact testimony. Photographs of the victim and his family may be admitted during the
19 testimony of this witness.

20 3. STEPHANIE MACKLIN, the mother of the decedent, may appear and give
21 victim impact testimony. Photographs of the victim and his family may be admitted during
22 the testimony of this witness.

23 4. KYUASHA MACKLIN, a sister of the decedent, and/or any other family
24 member, may appear and give victim impact testimony. Photographs of the victim and his
25 family may be admitted during the testimony of these witnesses.

26 5. CUSTODIAN OF RECORDS – CLARK COUNTY DETENTION CENTER-
27 During the penalty phase, testimony of the Custodian of Records of the Clark County
28 Detention Center regarding the disciplinary record of the Defendant while in the care and

1 custody of the Clark County Detention Center and/or certified copies of such records may be
2 admitted. Statements of the Defendant in the form of phone calls made from the Clark County
3 Detention Center and/or the North Las Vegas Detention Center may be admitted.

4 6. CUSTODIAN OF RECORDS – NORTH LAS VEGAS DETENTION
5 CENTER, During the penalty phase, testimony of the Custodian of Records of the North Las
6 Vegas Detention Center regarding the disciplinary record of the Defendant while in the care
7 and custody of the North Las Vegas Detention Center and/or certified copies of such records
8 may be admitted.

9 7. CUSTODIAN OF RECORDS – NORTH LAS VEGAS POLICE
10 DEPARTMENT - During the penalty phase, copies of records of the North Las Vegas Police
11 Department may be admitted including any report, statement, audio recording, photograph or
12 physical evidence from event numbers cited in this Notice.

13 8. CUSTODIAN OF RECORDS –LAS VEGAS METROPOLITAN POLICE
14 DEPARTMENT - During the penalty phase, copies of records of the Las Vegas Metropolitan
15 Police Department may be admitted including any report, statement, audio recording,
16 photograph or physical evidence from event numbers cited in this Notice.

17 9. NLVPD DETECTIVE JESSE PRIETO and/or any detective employed with the
18 North Las Vegas Police Department previously noticed – May appear and testify to the North
19 Las Vegas Police Department investigation of the instant case and/or other agencies'
20 investigations into the instant case.

21 10. DA INVESTIGATOR JAMIE HONAKER and/or JEROME REVELS and/or
22 NLVPD DETECTIVE JESSE PRIETO and/or any detective employed with the North Las
23 Vegas Police Department previously noticed - May appear and testify to the Defendant's
24 criminal history outlined in this Notice. During the penalty phase, copies of records of the
25 NLVPD, LVMPD, and court paperwork including but not limited to Judgments of Conviction
26 may be admitted including any report, statement, audio recording, photograph or physical
27 evidence from the cases included in Defendant's criminal history outlined above, and may be
28 admitted during testimony. This witness may also testify as to records from the Nevada

1 Department of Public Safety, Division of Parole and Probation, the Nevada Department of
2 Prisons, the North Las Vegas Detention Center, and the Clark County Detention Center.

3 11. CUSTODIAN OF RECORDS Clark County Coroners Office: During the
4 penalty phase, copies of records of the Clark County Coroners Office may be admitted
5 including any report, photograph or physical evidence from the incidents occurring on or about
6 and in the days preceding and following January 31, 2010.

7 12. KENNETH P. LEON and/or VICKI Y. GILCHRIST, Defendant's Nevada
8 Department of Public Safety Parole Officers, and/or the CUSTODIAN OF RECORDS
9 Custodian of Records of the Nevada Department of Public Safety, Division of Parole and
10 Probation: During the penalty phase, the testimony of the Parole Officer assigned to
11 Defendant, and/or the Custodian of Records of the Nevada Department of Public Safety,
12 Division of Parole and Probation, regarding their supervision of the Defendant and his
13 response to community supervision while under sentence of imprisonment and/or supervised
14 release in his prior cases may be admitted.

15 13. MITCHELL OSWALD, Defendant's United States Probation Officer in case CR-
16 S-05-0098-LRH (LRL) / 2:05-cr-98-LRH (GWF). May appear and testify to her supervision
17 of Defendant, and copies of records from CR-S-05-0098-LRH (LRL) / 2:05-cr-98-LRH
18 (GWF) may be admitted during her testimony.

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1 This notice hereby incorporates by reference all discovery in the case submitted to
2 counsel. Defendant's counsel is invited to come to the Office of the District Attorney and
3 review the file to ensure that they have all items listed in this notice.

4 DATED this 14th day of May, 2014.

5 Respectfully submitted,

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

9 BY /s//LIZ MERCER
10 LIZ MERCER
11 Chief Deputy District Attorney
12 Nevada Bar #0010681

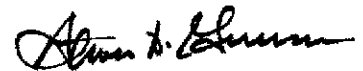
13 **CERTIFICATE OF ELECTRONIC FILING**

14 I hereby certify that service of State's Opposition was made this 14th day of May, 2014,
15 by Electronic Filing to:

16 DAN M. WINDER, ESQ.
17 E-mail Address: winderdanatty@aol.com

18 Shellie Warner
19 Secretary for the District Attorney's Office

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28 mmw/GCU



CLERK OF THE COURT

NOTC

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
LIZ MERCER
Chief Deputy District Attorney
Nevada Bar #010681
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

-vs-

CEDRIC L. JACKSON, #1581340
PRENTICE L. COLEMAN, #1660312

Defendant.

CASE NO: 10C265339-1

DEPT NO: X

**SECOND SUPPLEMENTAL NOTICE OF WITNESSES
AND/OR EXPERT WITNESSES
[NRS 174.234]**

TO: CEDRIC L. JACKSON, Defendant; and

TO: DAN WINDER, ESQ. and PATRICIA PALM, ESQ., Counsel of Record:

TO: PRENTICE L. COLEMAN, Defendant; and

TO: SCOTT BINDRUP, Special Public Defender, Counsel of Records:

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

These witnesses are in addition to those witnesses endorsed on the Information and any other witness for which a separate Notice has been filed.

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

The substance of each expert witness testimony and copy of all reports made by or at the direction of the expert witness has been provided in discovery.

***Indicates an additional witness**

A copy of each expert witness curriculum vitae, if available, is attached hereto.

<u>NAME</u>	<u>ADDRESS</u>
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*ABBINGTON, REX – 2637 BLUE REEF, NLVN	
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ACUNA, RONALD - CC DISTRICT ATTORNEY'S OFFICE	
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ALBERT, BETTY – 2642 BLUE REEF, NLVN 89030	
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ALBERT, JOVON - 2642 BLUE REEF, NLVN 89030	
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ALBERT, KEANDRE - 2642 BLUE REEF, NLVN 89030	
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ALBERT, MARCUS - 2642 BLUE REEF, NLVN 89030	
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ALBERT, ROBERT - 2642 BLUE REEF, NLVN 89030	
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*ALEXANDER, COURTNEY – 2621 SOMMER CT., NLVN	
--	--

ANTONIEWICZ, ALLEN – NLVPD P#1529	
-----------------------------------	--

ARROYO, RAUL – 2617 BLUE REEF, NLVN 89030	
---	--

BASS, CARLOS - 2621 SOMMER CT., NLVN	
--------------------------------------	--

BASS, DEVIN - 5901 TRUMBULL ST., LVN	
--------------------------------------	--

BOKSBERGER, DR. - UNIVERSITY MEDICAL CENTER He is an expert in the area of emergency medicine and will give scientific opinions related thereto. He is expected to testify regarding the injuries sustained by Marcus Albert in this case.	
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BRUCELAS, GEPP – NLVPD P#2342	
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BRYANT, JR., GEORGE – 2633 BLUE REEF, NLVN 89030	
--	--

CREED, M.D. LUTHER – UNIVERSITY MEDICAL CENTER He is an expert in the area of radiology and will give scientific opinions related thereto. He is expected to testify regarding the injuries sustained by Marcus Albert in this case.	
--	--

CUSTODIAN OF RECORDS – AT&T	
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CUSTODIAN OF RECORDS – CLARK COUNTY DETENTION CENTER	
--	--

CUSTODIAN OF RECORDS - LVMPD – DISPATCH	
---	--

CUSTODIAN OF RECORDS - LVMPD – GUN REGISTRATION	
---	--

CUSTODIAN OF RECORDS - LVMPD – RECORDS	
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1 CUSTODIAN OF RECORDS – NEVADA DMV – RECORDS
2 CUSTODIAN OF RECORDS – NEVADA DEPT. OF CORRECTIONS
3 CUSTODIAN OF RECORDS – NEVADA DEPT. OF PAROLE AND PROBATION
4 CUSTODIAN OF RECORDS - NLVPD – DISPATCH
5 CUSTODIAN OF RECORDS - NLVPD – RECORDS
6 DAVIS, NICHOLE – ADDRESS UNKNOWN
7 DELALIS, PETER - NLVPD P#1623
8 DOUGHERTY, ED – CC DISTRICT ATTORNEY’S OFFICE
9 DIXON, ROBERT – NLVPD P#1187
10 FARAGE, MICHAEL – NLVPD P#1669
11 GIAMPAOLO, NICK - NLVPD P#932
12 GLAZIER, LT. – NLVPD P#701
13 HANKS, ROBERT – NLVPD P#998
14 HARDER, WILLIAM – NLVPD P#2099
15 *HARRIS, CAHLIN – 1213 TUMBLEWEED, LVN
16 HARRIS, NICHOLAS – NLVPD P#1962
17 HEITZENRATER, JEFFREY – NLVPD P#2029
18 HILSON, CALVIN – NLVPD P#1955
19 HONAKER, JAMIE - CC DISTRICT ATTORNEY’S OFFICE
20 *HUERTA, NAUM – 2617 BLUE REEF, NLVN
21 JOHNS, MATTHEW - CC DISTRICT ATTORNEY’S OFFICE
22 KUHLS, MD. DEBORAH A. - UNIVERSITY MEDICAL CENTER She is an
23 expert in the area of emergency medicien and will give scientific opinions related
24 thereto. She is expected to testify regarding the injuries sustained by Marcus Albert
25 in this case.
26 LANGSTAFF, LAQUITTA - 18 W. WEBB AVE., #D, NLV
27 LEAVITT, ERIC – NLVPD P#1879
28 LUBKING, MICHAEL - NLVPD P#1984

1 MACKLIN, PERRY – 2608 WEST, NLVN 89032
2 MACKLIN, STEPHANIE – 2608 WEST, NLVN 89032
3 *MADDOCK, ASHLEY – 2621 SOMMER CT., NLVN
4 MCFARLAND, ANDRE – 2617 BLUE REEF, NLVN 89030
5 MEIER, RYAN – NLVPD P#2026
6 MELGAREJO, EDWING - NLVPD P#837
7 MICHAELIS, MICHELLE – U.S. PROBATION OFFICER, 300 LAS VEGAS
8 BLVD., S., SUITE 1200, LVN
9 NELSON, PETER – NLVPD P#2332
10 *ORLANDO “WANTA”, RENEE – NLVPD P#1694 (or designee): CRIME SCENE
11 ANALYST: Expert in the identification, documentation, collection and preservation
12 of evidence and is expected to testify as an expert to the identification,
13 documentation, collection and preservation of the evidence in this case.
14 OSWALD, MITCHELL - U.S. PROBATION OFFICER, 300 LAS VEGAS
15 BLVD., S., SUITE 1200, LVN
16 PATEL, DR. KETAN – UNIVERSITY MEDICAL CENTER He is an medical
17 expert and is expected to testify regarding the injuries, treatment and care of Marcus
18 Albert in this case.
19 PRIETO, JESUS - NLVPD P#674
20 RADKE, WENDY – NLVPD P#1915
21 *REVELS, JEROME – CCDA INVESTIGATOR
22 ROSEN, MD. MARK J. – UNIVERSITY MEDICAL CENTER He is an expert in
23 the area of emergency medicine and will give scientific opinions related thereto. He
24 is expected to testify regarding the injuries sustained by Marcus Albert in this case.
25 RYAN, JUSTIN – NLVPD P#1000
26 SILVA, JUSTIN – SURREY DIVISION, DEPT. OF PUBLIC WORKS – 50 E.
27 BROOKS AVE., NLVN
28 //

1 SIMMS, DR. LARY – CLARK COUNTY CORONER - Chief Medical Examiner
2 with the Clark County Coroner's Office. He is an expert in the area of forensic
3 pathology and will give scientific opinions related thereto. He is expected to testify
4 regarding the cause and manner of death of the decedent in this case.

5 ST. HILL, DR. - UNIVERSITY MEDICAL CENTER He is an expert in the area of
6 emergency medicine and will give scientific opinions related thereto. He is expected
7 to testify regarding the injuries sustained by Marcus Albert in this case.

8 STITES, DR. DANNIEL – UNIVERSITY MEDICAL CENTER He is an medical
9 expert and is expected to testify regarding the injuries, treatment and care of Marcus
10 Albert in this case.

11 STONE, Nanci - NVLPD P#1227

12 STONE, RANDALL – LVMPD P#2887, Forensic Scientist II (or designee): He is an
13 expert in the area of firearm/toolmark analysis, Gun ID, ballistics, burn stippling and
14 muzzle flash and and will give opinions related thereto. He is expected to testify
15 regarding evidence collected from the crime scene.

16 SURANOWITZ, MARK – NLVPD P#1072

17 TETLOW, ALEXANDER - NLVPD P#1687

18 TROLISE, ALBERT – 5421 ASHTON, LVN 89142

19 VACHON, CRYSTINA R. - Criminalist with the Bexar County Forensic Science
20 Center. She is an expert in the area of gunshot residue and will give scientific
21 opinions related thereto. She is expected to testify regarding the gunshot residue
22 analysis she performed in this case.

23 *VELEY, ARLANDRA – 1209 STONES THROW, NLVN

24 WASHINGTON, JAUNTTA - 732 ASTER LANE, #11D, LVN

25 *WILLIAMS, RN, R. – UMC, 1800 W. CHARLESTON BLVD., LVN

26 YOUNG, DR. CHRISTIAN – UNIVERSITY MEDICAL CENTER He is an medical
27 expert and is expected to testify regarding the injuries, treatment and care of Marcus
28 Albert in this case.

1 ZWIEFEL, CHRIS – SURRY DIVISION, DEPT. OF PUBLIC WORKS – 50 E.
2 BROOKS AVE., NLVN

3 STEVEN B. WOLFSON
4 District Attorney
Nevada Bar #001565

5
6 BY /s//LIZ MERCER
LIZ MERCER
7 Chief Deputy District Attorney
Nevada Bar #010681

1 **CERTIFICATE OF ELECTRONIC FILING**

2 I hereby certify that service of State's Supplemental Notice, was made this 20th day of
3 May, 2014, by Electronic Filing to:

4 DAN WINDER, ESQ.
5 E-mail Address: winderdanatty@aol.com

6 and

7 PATRICIA PALM, ESQ.
8 E-mail Address: patricia.palmlaw@gmail.com

9 and

10 SCOTT BINDRUP, Special Public Defender
11 SBindrup@ClarkCountyNV.gov

12 Shellie Warner
13 Secretary for the District Attorney's Office

14
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28 mmw/GCU

Renee Wanta P#1694
North Las Vegas Police Department
Resume for Court
Last updated 1/06/08

Community College of Southern Nevada
Associate Degree: Criminal Justice; emphasis on Law Enforcement
Fall 2001

Las Vegas Metropolitan Police Department
Crime Scene Analyst Academy
November 1-30th 2004
160 hours

Las Vegas Metropolitan Police Department
Testifying in Court
December 6, 2004
7 hours

North Las Vegas Police Department
Crime Scene Investigator Training and Evaluation Program
December 22, 2004

The Institute of Applied Forensic Technology
Crime Scene Technology 2: A Crime Scene Practicum
March 14-18, 2005
40 hours

American Institute of Applied Science
Forensic Science 101
April 22, 2005

Public Agency Training Council
Death and Homicide Five Day
November 28 - December 2, 2005

International Association for Identification
Active Member
March 14, 2006

Nevada State Division of the IAI – Tri-Division Educational Conference
Conference
August 22-24 2006

Las Vegas Metropolitan Police Department
Clandestine Laboratory Investigations
January 15-19th 2007
40 hours

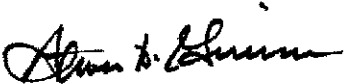
The University of Tennessee
National Forensic Institute
Bloodstain Pattern Analysis
March 19-23rd 2007
40 hours

Ron Smith & Associates
Introduction to the Science of Fingerprint Identification
April 16-20
40 hours

Ron Smith & Associates
Advanced Palm Print Comparison Techniques
September 25-27
24 hours

Renee Wanta P#1694
North Las Vegas Police Department

Homicides: 21
Attempt Homicides: 19
Death Investigations: 21
Shooting Investigations: 77
Suicides: 13
Burglaries: 212
Robberies: 19
Autopsies: 11
Sexual Assaults: 17
Fingerprint Comparisons: 130
Offenses against Children: 24
Vehicle Process: 57
Stabbing: 22
Traffic Collisions: 76
Firearm Processing: 18
Office Involved Shootings: 5
Miscellaneous: 142



CLERK OF THE COURT

NOTC
PALM LAW FIRM, LTD.
PATRICIA PALM, ESQ.
Nevada Bar No. 6009
1212 S. Casino Center Blvd.
Las Vegas, NV 89104
Phone: (702) 386-9113
Fax: (702) 386-9114
Email: Patricia.palmlaw@gmail.com
LAW OFFICE OF DAN M. WINDER, P.C.
DAN M. WINDER, ESQ.
3507 W. Charleston Blvd.
Las Vegas, NV 89102
Phone: (702) 474-0523
Fax: (702) 474-0631
Email: winderdanatty@aol.com
Attorneys for Cedric Jackson

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

v.

CEDRIC L. JACKSON, AND
PRENTICE L. COLEMAN,

Defendants.

CASE NO: 10-C-265339-1
10-C-265339-2

DEPT. NO: X

DEFENDANT CEDRIC JACKSON'S NOTICE OF EXPERT WITNESSES

TO: THE STATE OF NEVADA, BY AND THROUGH ITS COUNSEL, CLARK
COUNTY DEPUTY DISTRICT ATTORNEYS NOREEN DEMONTE AND
ELIZABETH MERCER, OFFICE OF THE CLARK COUNTY DISTRICT
ATTORNEY STEVEN B. WOLFSON

TO: PRENTICE L. COLEMAN, BY AND THROUGH HIS COUNSEL, CLARK
COUNTY DEPUTY SPECIAL PUBLIC DEFENDERS SCOTT L. BINDRUP
AND ROBERT ARROYO, OFFICE OF THE CLARK COUNTY SPECIAL
PUBLIC DEFENDER DAVID SCHIECK

1 YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that
2 DEFENDANT CEDRIC L. JACKSON intends to call as expert witnesses in his case in
3 chief the following persons:

4 1) GEORGE SCHIRO. Mr. Schiro is an expert in the identification,
5 documentation, collection, preservation and analysis of evidence, including: crime
6 scene investigation, processing and reconstruction; bloodstain patterns; firearm/tool
7 mark and ballistics evidence; gun identification; burn stippling and muzzle flash;
8 firearm and bullet trajectory evidence; gunshot residue; latent print analysis and
9 comparisons; footwear examination; forensic DNA analysis and testing; and is expected
10 to testify during the guilt phase of trial and give opinions regarding the forensic
11 evidence in this case as well as relating to such evidence in the possibly related cases
12 involving the 4/28/07 shooting in LVMPD event number 070428-0696 (702 Club) and
13 any related event numbers; the 9/19/10 shooting in LVMPD event number 100919-
14 0766 (killing of Breion Mack) and related event numbers 101227-2463, 101222-2789
15 and 110103-3047; and the 11/10/12 shooting in LVMPD event number 121110-2913
16 (killing of Edwin Clark) and any related event numbers. No report has been prepared.

17 2) THOMAS F. KINSORA, PH.D. Dr. Kinsora is an expert in the area of
18 clinical neuropsychology and is expected to testify during any penalty phase of trial
19 regarding his neuropsychological assessment, testing, and examination of Defendant
20 Cedric L. Jackson and give opinions related thereto. No report has yet been prepared.

21 3) SHARON JONES FORRESTER, PH.D. Dr. Jones Forrester is an expert in
22 the area of clinical neuropsychology and is expected to testify during any penalty phase
23 of trial regarding her neuropsychological assessment, testing, and examination of
24 Edwina Jackson, Defendant Cedric Jackson's mother, and give opinions relating
25 thereto. A report is being provided in discovery.

26 4) WILLIAM WERNER ORRISON, JR., MD., MBA. Dr. Orrison is an
27 expert in the area of diagnostic brain imaging and neuroradiology. He is expected to
28

1 testify during any penalty phase of trial regarding such diagnostic imaging of Cedric
2 Jackson's brain and the results of such imaging, and regarding such diagnostic imaging
3 in general. A copy of his report is being provided in discovery.

4 A copy of each expert's curriculum vitae is attached.

5 The Defense reserves the right to call as its own witness any expert witness
6 noticed by the State in this matter and to amend and supplement this Notice as may be
7 necessary.

8 Dated this 30th day of May, 2014.

9
10 /S/ Patricia A. Palm

11
12 PATRICIA A. PALM, NV Bar No. 6009
13 PALM LAW FIRM, LTD.
14 1212 S. Casino Center Blvd.
15 Las Vegas, NV 89104
16 (702) 386-9113
17 DAN M. WINDER, ESQ.
18 LAW OFFICE OF DAN M. WINDER, P.C.
19 3507 W. Charleston Blvd.
20 Las Vegas, NV 89102
21 (702) 474-0523
22
23
24
25
26
27
28

1 CERTIFICATE OF ELECTRONIC FILING

2 I hereby certify that Service of Defendant Cedric Jackson's Notice of Expert
3 Witnesses was made this 2nd day of June, 2014 by Electronic Filing to:

4 Elizabeth Mercer, Clark County Deputy District Attorney
5 Email Address: Elizabeth.Mercer@clarkcountyda.com

6 Noreen DeMonte, Chief Deputy Clark County District Attorney
7 Email Address Noreen.DeMonte@clarkcountyda.com

8 Scott Bindrup, Clark County Deputy Special Public Defender
9 Email Address: sbindrup@clarkcountynv.gov

10 Robert Arroyo, Clark County Deputy Special Public Defender
11 Email Address: rarroyo@clarkcountynv.gov

12
13 /S/ Patricia A. Palm

14
15 _____
16 An employee at the Office of Palm Law Firm

HOME PAGE

**GEORGE SCHIRO, MS, F-ABC
FORENSIC SCIENTIST
SCALES BIOLOGICAL LABORATORY, INC.
220 WOODGATE DR. S.
BRANDON, MS 39042 USA
OFFICE PHONE: 601-825-3211
CELL PHONE: 337-322-2724
E-MAIL: Gjschiro@cs.com
Web: www.forensicscienceresources.com**

EDUCATION**Master of Science, Industrial Chemistry - Forensic Science**

Including five hours of credit in Forensic DNA Analysis of Biological Materials and accompanying lab course, three hours of credit in Quality Assurance and Bioinformatics, three hours of credit in Biochemistry, two hours of credit in Forensic Analysis of DNA Data, and three hours of credit in Experimental Statistics

University of Central Florida, Orlando, FL.

Bachelor of Science, Microbiology

Including three hours of credit in Genetics

Louisiana State University, Baton Rouge, La.

PROFESSIONAL CERTIFICATION

Certificate of Professional Competency in Criminalistics, Fellow of the American Board of Criminalistics, Specialty Area: Molecular Biology

PROFESSIONAL TRAINING ATTENDED

June 2013	"Basic TrueAllele® Casework Science and Software" Instructor: <u>Cybergenetics</u> , Web based course, New Iberia, LA
March 2011	"2011 Forensic Symposium – Forensic Examination & Crime Scene Processing" – Instructors: George Schiro, Jeff Branyon, Natasha Neel, Joseph Morgan, and Mathew Simon, North Georgia College & State University, Dahlonega, GA
October 2010	"21 st International Symposium on Human Identification" – Instructors: various, San Antonio, TX
October 2010	"Current Views & Applications of Low Copy Number Analysis Workshop" – Instructors: various, San Antonio, TX

- March 2010 "2010 Forensic Symposium – Advanced Death Investigation" – Instructors: Dr. Karen Sullivan, Dennis McGowan, George Schiro, Rae Wooten, Dr. Richard Weems, and Dr. Mark Guilbeau, North Georgia College & State University, Dahlonega, GA
- February 2010 Forensic "ISO 17025 and Audit Preparation" - Instructor: David Epstein, Quality Services, New Iberia, LA
- August 2009 "Actual Innocence: Establishing Innocence or Guilt, Forensic Science Friend or Foe to the Criminal Justice System" – Instructors: various, The Center for American and International Law, Plano, TX
- June 2009 "Digital Photography for Law Enforcement" – Instructors: Donnie Barker and Joe Russo, Institute of Police Technology and Management, Lafayette, LA
- March 2008 "Forensic Symposium 2008 – The Investigation of Sex Crimes and Deviant Behavior" – Instructors: Roy Hazelwood, George Schiro, Dr. Brent Paterline, Jeff D. Branyon, Tim Relph, and Dr. Daniel J. Sheridan, North Georgia College & State University, Dahlonega, GA
- February 2008 "Conference on Crimes Against Women" – Instructors: various, Dallas, TX
- October 2007 "Integrity, Character, and Ethics in Forensic Science" – Instructor: Dan B. Gunnell, Louisiana Association of Forensic Scientists (LAFS) Fall 2007 Meeting, Baton Rouge, LA
- February 2007 "Anatomy of a Wrongful Conviction: A Multidisciplinary Examination of the Ray Krone Case" – Co-chairmen: George Schiro and Dr. Thomas Streed, American Academy of Forensic Sciences Meeting, San Antonio, TX
- February 2006 "Solving the South Louisiana Serial Killer Case – New Approaches Blended With Older Trusted Techniques" Co-chairmen: George Schiro and Ray Wickenheiser, American Academy of Forensic Sciences (AAFS) Meeting, Seattle, WA
- December 2004 "National Forensic Science Technology Center (NFSTC) Auditor Workshop" – Instructors: Mark Nelson, John Wegel, Richard A. Guerreri, and Heather Subert
- June 2003 "CODIS v5.6 Software Training" – Instructor: Carla Heron, Baton Rouge, LA
- May 2003 "DNA Auditor Training" - Instructors: Richard A. Guerreri and Anja Einseln, Austin, TX
- April 2003 "Statistical Analysis of Forensic DNA Evidence" - Instructor: Dr. George Carmody, Harvey, LA
- January 2002 "Association of Forensic DNA Analysts and Administrators (AFDAA) Workshops" - Instructors: S. Cribari, Dr. T. Wang, and R. Wickenheiser, Austin, TX

March 2001 "Basic Forensic DNA Analysis" - Instructor: Dr. Pat Wojtkiewicz, Baton Rouge, LA

February 2000 DNA Workshop, AAFS Meeting, Reno, NV

November 1999 "Advanced AmpFt STR™ & ABI Prism™ 310 Genetic Analyzer Training" - Instructor: Catherine Caballero, PE Biosystems, Baton Rouge, LA

March 1998 "DNA Typing with STRs - Silver Stain Detection Workshop" - Instructors: Dr. Brent Spoth and Kimberly Huston, Promega Corp., Madison, WI

November 1997 "Laboratory Auditing" - Instructors: Dr. William Tilstone, Richard Lester, and Tony Longhetti, NFSTC Workshop, Baton Rouge, LA

October 1997 "Forensic Microscopy" - Instructor: Gary Laughlin, McCrone Research Institute, La. State Police Training Academy, Baton Rouge, LA

September 1997 "Presenting DNA Statistics in Court" - Instructors: Dr. Bruce Weir and Dr. George Carmody, Promega Symposium, Scottsdale, AZ

August 1997 "Forensic DNA Analysis" - Instructors: Pat Wojtkiewicz and Michelle Gaines, North La. Crime Lab, Shreveport, LA

February 1997 DNA Workshop, AAFS Meeting, New York, NY

November 1996 "Forensic DNA Testing" - Instructors: Dr. Jim Karam and Dr. Sudhir Sinha, Tulane University Medical Center, New Orleans, LA

August 1996 "Bloodstain Pattern Analysis and Crime Scene Documentation" - Instructors: Paulette Sutton, Steven Symes, and Lisa Elrod North La. Crime Lab, Shreveport, LA

June 1996 "Introduction to Forensic Fiber Microscopy" - Instructor: Skip Palenik, Acadiana Crime Lab, New Iberia, LA

February 1996 DNA Workshop, AAFS Meeting, Nashville, TN

July 1995 "Personality Profiling and Crime Scene Assessment" - Instructors: Roy Hazelwood and Robert Ressler, Loyola University, New Orleans, LA

June 1993 "Basic Forensic Serology," FBI Academy, Quantico, VA

May 1993 DNA Workshop - Instructor: Anne Montgomery, GenTest Laboratories, Southern Association of Forensic Scientists (SAFS) Spring Meeting, Savannah, GA

March 1993 Attended the Second International Symposium on the Forensic Aspects of DNA Analysis, FBI Academy, Quantico, VA

September 1990 "Introduction to Human Immunoglobulin Allotyping" - Instructor:
 Dr. Moses Schanfield, AGTC, La.State Police Crime Lab, Baton Rouge, LA

July 1989 Bone Grouping Techniques Workshop - Instructor: Dr. Robert Gaensslen and
 Dr. Henry Lee, University of New Haven, New Haven, CT

June 1989 Attended the International Symposium on the Forensic Aspects of DNA Analysis,
 FBI Academy, Quantico, VA

September 1988 DNA Workshop, SAFS Fall Meeting, Clearwater, FL

June 1988 "Non-Isotopic Detection of DNA Polymorphisms" - Instructor: Dale Dykes,
 AGTC, North La. Crime Lab, Shreveport, LA

June 1988 "Microscopy of Hairs" - Instructor: Skip Palenik, North La. Crime Lab,
 Shreveport, LA

April 1988 "Analysis of Footwear and Tire Evidence" - Instructors: Max Courtney and Ed
 Hueske, North La. Crime Lab, Shreveport, LA

September 1987 Introduction to Forensic Genetics Workshop - Instructor: Dr. Moses Schanfield,
 SAFS Fall Meeting, Atlanta, GA

March 1987 Isoelectric Focusing Workshop, SAFS/ SWAFS/ SAT Combined Spring Meeting,
 Baton Rouge, LA

June 1986 Attended the International Symposium on Forensic Immunology, FBI Academy,
 Quantico, VA

February 1986 "Collection and Preservation of Physical Evidence" - Instructor: Dale Moreau,
 FBI School, Metairie, LA

August 1985 "Atomic Absorption in Determining Gunshot Residues," FBI Academy,
 Quantico, VA

April 1985 "Arson Accelerant Detection Course" - Instructors: Rick Tontarski, Mary Lou
 Fultz, and Rick Stroebel, Bureau of Alcohol, Tobacco, and Firearms (BATF)
Lab,
 Rockville, MD

July 1984 "Questioned Documents for the Investigator" - Instructor: Dale Moreau, FBI
 School, Baton Rouge, LA

PROFESSIONAL EXPERIENCE

2013-present Scales Biological Laboratory, Inc. -- Brandon, MS
An ASCLD-LAB accredited laboratory

Employed as a Forensic Scientist. Duties include incorporating the FBI Quality Assurance Standards for Forensic DNA Testing Laboratories, conducting DNA analysis using the 13 STR core loci and Y STR in casework, DNA research, and latent print development. Qualified as an expert over 175 times in 31 Louisiana parish courts, Pope County Arkansas, San Bernardino County California, Escambia and Lee Counties Florida, Washington County Mississippi, St. Louis County Missouri, Clark County Nevada, Bronx County New York, Bexar and Harris Counties Texas, Cabell County West Virginia, federal court (La. Middle, Nebraska, and Tennessee Middle districts), U.S. court-martial (Luke Air Force Base), and two Louisiana city courts. Has qualified as an expert in the following areas: latent fingerprint development; serology; crime scene investigation; forensic science; trajectory reconstruction; shoeprint identification; crime scene reconstruction; bloodstain pattern analysis; DNA analysis; fracture match analysis; and hair comparison. Has also consulted on cases in 29 states, for the United States Army and Air Force, and in New Zealand, Panama, and the United Kingdom. Worked over 3500 cases. Independently contracted DNA technical auditor with NFSTC and Forensic Quality Services. Volunteer "on call" scientist for the American Association for the Advancement of Science.

2002 - 2013 Acadiana Criminalistics Laboratory -- New Iberia, LA
An ANSI-ASQ NAB/FQS ISO 17025 accredited laboratory

Employed as a Forensic Chemist - DNA Technical Leader. Duties included incorporating the FBI Quality Assurance Standards for Forensic DNA Testing Laboratories, accountability for the technical operations of the lab's biology section, conducting DNA analysis using the 13 STR core loci and Y STR in casework, DNA research, forensic science training, and crime scene investigation. Independently contracted DNA technical auditor with NFSTC and Forensic Quality Services. Contracted DNA Technical Leader to the Southwest La. Crime Lab in Lake Charles, LA from 2005-2008. Was a charter member of the Lafayette Parish Sexual Assault Response Team (SART). Was also a member of the La. Foundation Against Sexual Assault (LAFASA) Training Team. Volunteer "on call" scientist for the American Association for the Advancement of Science.

1988 - 2001 Louisiana State Police Crime Lab - Baton Rouge, LA
An ASCLD-LAB accredited laboratory

Employed as a Forensic Scientist 2. Duties included incorporating the DNA Advisory Board (DAB) standards and conducting DNA analysis using the 13 STR core loci in casework. Duties have also included setting up and developing methods for the analysis of blood and body fluids using biological, chemical, microscopic, immunological, biochemical, electrophoretic, and isoelectric focusing techniques; applying these methods to criminal investigations; and testifying to the results in court. Additional duties included crime scene investigation/reconstruction; latent print development; fracture match comparison; projectile trajectory determination; shoeprint comparison; hair examination; blood spatter interpretation; and training personnel in various aspects of forensic science.

1984 – 1988

Jefferson Parish Sheriff's Office Crime Lab – Metairie, LA

Employed as Criminalist (I). From 11/85 to 4/88 duties included collection and analysis of blood, body fluids, hairs, and fibers using microscopic, immunological, biochemical, and chemical techniques. Also testified to the results of these analyses in court. Trained under Senior Forensic Biologist Joseph Warren. From 6/84 to 10/85 duties included marijuana analysis, arson analysis, gunshot residue detection, hit and run paint analysis, and development of latent fingerprints. Trained under Lab Director Ron Singer.

PROFESSIONAL PAPERS

“A Cold Hit...Relatively Speaking” presented at the International Association of Forensic Sciences 18th Triennial Meeting in New Orleans, LA, July 25, 2008. Also presented as “We Are Family...the Key to Solving a Series of Rapes” at the 2008 Southern Association of Forensic Scientists Meeting in Shreveport, LA.

“Criminalistics Errors, Omissions, Problems, and Ethical Issues” presented as part of the “Anatomy of a Wrongful Conviction: A Multidisciplinary Examination of the Ray Krone Case” workshop at the 2007 AAFS Meeting in San Antonio, TX; as part of the LAFS Fall 2007 Meeting in Baton Rouge, LA; and as part of “Actual Innocence: Establishing Innocence or Guilt, Forensic Science Friend or Foe to the Criminal Justice System” at The Center for American and International Law in Plano, TX.

“Using the Quality Assurance Standards for Forensic DNA Testing Laboratories to Distinguish the Unqualified Forensic DNA Experts From the Qualified Forensic DNA Experts” presented at the 2007 AAFS Meeting in San Antonio, TX and at the AFDA 2007 Winter Meeting in Austin, TX.

“Investigative Uses of DNA Databases” presented as part of the “Solving the South Louisiana Serial Killer Case – New Approaches Blended With Older Trusted Techniques” workshop at the 2006 AAFS Meeting in Seattle, WA.

“Trace DNA Analysis: Casework Experience” presented as a poster at the 2004 AAFS Meeting in Dallas, TX and as a talk at the July 2003 AFDA Meeting in Austin, TX. Also presented as “Interesting Casework Using AmpFISTR® Profiler Plus® and COfiler® Kits” at Applied Biosystems’ “Future Trends in Forensic DNA Technology,” September, 2003 in New Orleans, LA.

“Extraction and Quantification of Human Deoxyribonucleic Acid, and the Amplification of Human Short Tandem Repeats and a Sex Identification Marker from Fly Larvae Found on Decomposing Tissue” a thesis to fulfill one of the Master of Science requirements. Successfully defended on July 13, 2001 at the University of Central Florida, Orlando, Florida. Presented at the 2004 AAFS Meeting in Dallas, TX, the Spring 2002 La. Association of Forensic Scientists (LAFS) Meeting, and the January 2003 AFDA Meeting in Austin, TX.

“Administrative Policies Dealing with Crime Scene Operations” published in the Spring 1999 issue of *Southern Lawman Magazine*.

“Shooting Reconstruction - When the Bullet Hits the Bone” presented at the 10th Anniversary Convention of the La. Private Investigators Association (LPIA)/ National Association of Legal Investigators (NALI) Region IV Seminar, September 13, 1997, New Orleans, LA. Licensed as continuing education for Texas Private Investigators by the Texas Board of Private Investigators and

Private Security Agencies. Published in the Fall 1998 issue of *Southern Lawman Magazine*.

"Using Videotape to Document Physical Evidence" presented at the Seventh Annual Convention of the LPIA/NALI Region IV Seminar, August 16, 1996, New Orleans, LA. Licensed as continuing education for Texas Private Investigators by the Texas Board of Private Investigators and Private Security Agencies. Published in April 1997 issue of *The LPIA Journal*. An edited version was published in the Winter 1998 issue of *Southern Lawman Magazine*.

"Collection and Preservation of Blood Evidence from Crime Scenes" distributed as part of a blood collection workshop held at the Jefferson Parish Coroner's Eighth Annual Death Investigation Conference, November 17, 1995, Harahan, LA. Presented as continuing legal education by the La. Bar Association. Electronically published on the World Wide Web at the Crime Scene Investigation Web Page (<http://police2.ucr.edu/csi.htm>). Published in the September/October 1997 issue of the *Journal of Forensic Identification*. Referenced in the 7th edition of *Techniques of Crime Scene Investigation* by Barry A.J. Fisher.

"Collection and Preservation of Evidence" presented at La. Foundation Against Sexual Assault/La. District Attorneys Association sponsored conference, "Meeting the Challenge: Investigation and Prosecution of Sex Crimes," March 3, 1994, Lafayette, LA. Presented as continuing legal education by the La. Bar Association. Published in the *Forensic Medicine Sourcebook*. Electronically published on the World Wide Web at the Crime Scene Investigation Web Page (<http://police2.ucr.edu/csi.htm>). Also published in *Nanogram*, the official publication of LAFS. A modified version of the paper was presented at the Sixth Annual Convention of the LPIA, August 19, 1995, New Orleans, LA; the NALI Region IV Continuing Education Seminar, March 9, 1996, Biloxi, MS; and the Texas Association of Licensed Investigators (TALI) Winter Seminar, February 15, 1997, Addison, TX. Published in the July/August 1996 issue and the September/October 1996 issue of *The Texas Investigator*. Electronically published on the World Wide Web at TALI's Web Page (<http://pimall.com/tali/evidence.html>). Published in the May 2001 issue of *The Informant*, the official publication of the Professional Private Investigators Association of Colorado. An updated version was presented at La. Foundation Against Sexual Assault/La. District Attorneys Association sponsored conference, "Collaborating to STOP Violence Against Women Conference," March 12, 2003, Lafayette, LA.

"The Effects of Fecal Contamination on Phosphoglucosmutase Subtyping" presented at the 1989 AAFS Meeting held in Las Vegas, Nevada and at the Fall, 1987 SAFS Meeting held in Atlanta, Georgia.

"A Report on Gamma Marker (Gm) Antigen Typing" presented at the Fall, 1986 SAFS Meeting held in Auburn, Alabama and at the Summer, 1986 LAFS Meeting.

"An Improved Method of Glyoxylase I Analysis" co-presented with Joseph Warren at the Summer, 1986 LAFS Meeting.

ARTICLES PUBLISHED

"Forensic Science and Crime Scene Investigation: Past, Present, and Future" published in the Winter 2000 issue of *American Lawman Magazine*.

"New Crime Scenes – Same Old Problems" published in the Winter 1999 issue of *Southern Lawman Magazine*.

"Shoeprint Evidence: Trampled Underfoot" published in the Fall 1999 issue of *Southern Lawman Magazine*.

"LASCI: A Model Organization" published in the Summer 1999 issue of *Southern Lawman Magazine*.

"Applications of Forensic Science Analysis to Private Investigation" published in the July 1999 issue of *The LPIA Journal*.

TRAINING CONDUCTED

Have conducted training at the following seminars and have trained the following organizations and agencies in crime scene investigation, forensic science, and/or the collection and preservation of evidence: Fourth and Seventh International Conferences of Legal Medicine held in Panama City, Panama; U.S. State Department's Anti-Terrorism Assistance Program Police Executive Seminar; Intellinet 27th Annual Conference; AAFS; American Chemical Society; AFDAA; Forensic Science Education Conference; SAFS; Southern Institute of Forensic Science; University of Nevada Las Vegas Biotechnology Center; Professional Private Investigators Association of Colorado; Kansas Association of Licensed Investigators; Private Investigator Mid-America Regional Conference; Indiana Coroner's Training Board; DNA Security, Inc. Open House; South Carolina Coroners Association; Forensic Symposia 2008 and 2010, North Georgia College & State University, Dahlonega, GA; Palm Bay Police Dept., Palm Bay, Florida; CGEN 5200, Expert Testimony in Forensic Science, University of North Texas Health Science Center, Ft. Worth, TX; ENHS 6250, Emergency Response to Disasters and Terrorism, LSU Health Sciences Center, New Orleans, LA; Mississippi Society for Medical Technology; Forensic Investigation Research & Education; La. State Coroners' Association; Jefferson Parish Coroner's Office Eighth Annual Death Investigation Conference; Southern University Law Center; La. State University Chemistry Department Seminar; Chemistry 105, Southeastern Louisiana University; University of Louisiana at Lafayette Biology Club; Louisiana Homicide Investigators Association (LHIA); Louisiana Division of the International Association for Identification; U.S. Department of Justice La. Middle District Law Enforcement Coordinating Committee Crime Scene Investigation Workshop; La. State University's Law Enforcement Training Program Scientific Crime Investigator's Institute; La. State University's Continuing Law Enforcement Education School; La. State Police Training Academy's Advanced Forensic Investigation School; La. District Attorneys Association; La. Southeast Chiefs of Police Association; Acadiana Law Enforcement Training Academy; Caddo Parish Sheriff's Office; Mystery Writers of America - Florida Chapter; NALI Continuing Education Seminars; TALI; Lafayette Parish Sheriff's Office; Iberia Parish Sheriff's Office; Jefferson Parish Sheriff's Office Training Academy; Kenner Police Dept.; St. Charles Parish Sheriff's Office; Terrebonne Parish Sheriff's Office; East Feliciana Parish Sheriff's Office; Tennessee Association of Investigators; East Baton Rouge Parish Sheriff's Office; West Baton Rouge Parish Sheriff's Office; Vermilion Parish Sheriff's Office; Washington Parish Rape Crisis Center Volunteers; Mississippi Professional Investigators Association; East Baton Rouge Stop Rape Crisis Center Volunteer Physicians; Stuller Place Sexual Assault Response Center Volunteers; Evangeline and St. Landry Parish Rape Crisis Volunteers; Tri-Parish Rape Crisis Volunteer Escorts; LPIA; La. Foundation Against Sexual Assault; Louisiana Society for Medical Technology; Baton Rouge Society for Medical Technology; Baton Rouge Police Dept. Sex Crimes Unit, Crime Scene Unit, and Traffic Homicide Unit; Violence Against Women Conference; Family Focus Regional Conference; Our Lady of the Lake Hospital Emergency Room Personnel; Sexual Assault: Effective Law Enforcement Response Seminar; La. State Police Training Academy; La. Association of Scientific Crime Investigators (LASCI); LAFS; and the Basic Police Academy (La. Probation and Parole, La. Dept. of Public Safety, La. Motor Vehicle

Police, and La. Dept of Wildlife and Fisheries).

PROFESSIONAL ORGANIZATIONS

International Society for Forensic Genetics

International Association of Bloodstain Pattern Analysts (Full Member)

AAFS (Fellow)

American Board of Criminalistics (Molecular Biology Fellow)

American Society for Testing and Materials Committee E-30 on Forensic Sciences

AFDAA (Chairperson 2004-2005, Fellow)

Association for Crime Scene Reconstruction

American Investigative Society of Cold Cases Consulting Committee

SAFS

LAFS (Editor of *Nanogram*, the official publication of LAFS - July 1994 to May 1998, President - 1990, Vice President - 1989)

LASCI

LHIA

OTHER ACCOMPLISHMENTS

Analyzed evidence and issued a report in the 1991 La. State Police investigation of the assassination of U. S. Senator Huey P. Long.

Contributing author to the *Forensic Medicine Sourcebook*, edited by Annemarie S. Muth.

One of several technical advisors to the non-fiction books *Blood and DNA Evidence*, *Crime-Solving Science Experiments* by Kenneth G. Rainis, *O.J. Unmasked. The Trial, The Truth, and the Media* by M.L.Rantala and *Pocket Partner* by Dennis Evers, Mary Miller, and Thomas Glover.

One of several technical advisors to the fictional books *Crusader's Cross* by James Lee Burke, *Company Man* by Joseph Finder, *Savage Art* by Danielle Girard, *The King of Plagues: A Joe Ledger Novel* by Jonathan Maberry, and *Bones in the Backyard* by Florence Clowes and Lois J. Blackburn.

Featured on the "Without a Trace" and "Through the Camera's Eye" episodes of *The New Detectives* television show that first aired on the Discovery Channel, May 27, 1997 and June 11, 2002.

Featured on the "No Safe Place" episode of *Forensic Files* that first aired on Court TV, January 3, 2007.

Featured on the "Hung Up" episode of *Extreme Forensics* that first aired on the Investigation Discovery Channel, October 13, 2008.

Featured on the "Knock, Knock, You're Dead" episode of *Forensic Factor* that first aired on the Discovery Channel Canada, April 16, 2009.

Recipient of the second Young Forensic Scientist Award given by *Scientific Sleuthing Review*.

Formerly a columnist for *Southern Lawman Magazine*.

Authored and managed two federal grants that awarded the La. State Police Crime Lab \$147,000 and \$237,000 to set up and develop a DNA laboratory.

A member of the La. State Police Crime Lab's ASCLD-LAB accreditation preparation committee.

Featured in the books *The Bone Lady: Life as a Forensic Anthropologist* by Mary Manhein, *Rope Burns* by Robert Scott, *Smilin Acres: The Angry Victim* by Chester Pritchett, *An Invisible Man* by Stephanie A. Stanley, *Soft Targets. A Woman's Guide to Survival* by Detective Michael L. Varnado, *Kirstin Blaise Lobato's Unreasonable Conviction* by Hans Sherrer, *Zombie CSU. The Forensics of the Living Dead* by Jonathan Maberry, *Science Fair Winners: Crime Scene Science* by Karen Romano Young and David Goldin, *The Holy Ghost: He is the Blood of Jesus* by Derick Mack Virgil, and *Kirstin Blaise Lobato vs. State of Nevada* compiled by Hans Sherrer and Michelle Ravell.

Featured on an episode of *Split Screen* that first aired on the *Independent Film Channel*, May 31, 1999.

Featured as a character on the "Kirstin Lobato Case" episode of *Guilt or Innocent?* that first aired on the Discovery Channel, April 1, 2005.

On March 14, 2011, delivered the Fallen Warrior Memorial Lecture in memory of North Georgia College & State University (NGC&SU) alumni LT Earle John Bemis and CPT Jeremy Alan Chandler. This was the first Fallen Warrior Memorial Lecture and it was presented at the 2011 Forensics Symposium, NGC&SU, Dahlonega, GA.

THOMAS FRANCIS KINSORA, Ph.D.

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(702) 382-1950 FAX (702) 382-1950

EDUCATION

CALIFORNIA SCHOOL OF PROFESSIONAL PSYCHOLOGY,
Folsom, California, Fully Accredited by the American Psychological Association
* Ph.D. in Clinical Psychology-Neuropsychology
* Postdoctoral Independent Medicine Professorship, February, 1991
* M.A. in Clinical Psychology, 1988
WAYNE STATE UNIVERSITY, Detroit, Michigan: 1981-1984
* B.A. in Psychology, 1981

Fully meet and exceed criteria for definition of clinical neuropsychologist established by the National Academy of Neuropsychology and the Neuropsychology Division of the American Psychological Association. Training and experience exceeds requirements necessary for Board Certification by the American Board of Professional Psychology (ABPP)-American Board of Clinical Neuropsychology, and the American Board of Professional Neuropsychology (ABPN).

DOCTORAL RESEARCH: Implicit bias-completion priming and memory processing in the differentiation of Alzheimer's type dementia from Parkinson's related dementia.

TOTAL SUPERVISED TRAINING HOURS

Over 10,000 hours spanning eight years (excluding course work, workshops, continuing education).

TOTAL SUPERVISED TRAINING HOURS IN CLINICAL NEUROPSYCHOLOGY

Over 8000 hours spanning five years (excluding course work, workshops, continuing education). Nearly all of this experience was provided by formally trained clinical neuropsychologists. Exceeds recommended training by over 5000 hours.

CLINICAL EXPERIENCE

2000 - Present

President, Kinsora Institute of Neuroscience "Center for Applied Neuroscience"
Partner, Sports Concussion Specialists of Nevada, LLC.

1993 - Present

PEDiatric CHAIRMAN

- Neuropsychological Assessment (Child, Adult, Elderly)
- Concussion Management services to 18 (100 plus Nevada high school athletes (in conjunction with Shad R. Ross, Ph.D., ABPP). Covering approximately 300 concussions per year. Schools include:
 - Clark County School District High School Athletes
 - Washoe School District High School Athletes
 - Lyon County School District Athletes
 - Faith Lutheran High School Athletes
 - Professional Sports
- Forensic/Medical and Forensic and Independent Medical Evaluations
- Criminal Forensic Evaluations
- Courtroom experience (Primarily Capital Murder)
- Expert testimony and case consultation on complex medical/legal cases.
- Deposition and Courtroom experience (Defense and Plaintiff)
- Independent Medical Evaluations for Workers Compensation Claims
- Detection of Malingering/Exaggeration of Symptoms
- Resident and Founding Member - Nevada Children's Center Foundation (1998 - 2005)

1992-July, 1994

COMMUNITY REHABILITATION SERVICES OF LAS VEGAS, Las Vegas, Nevada.

Director of Clinical Services/Chief of Neuropsychology

- Directed delivery of brain injury rehabilitation by multidisciplinary team.
- Consultation with rehabilitation team to coordinate treatment.
- Neuropsychological and Neuropsychological Assessment.

1988-1992

REHABILITATION INSTITUTE OF MICHIGAN, Detroit, Michigan.

A comprehensive medical rehabilitation facility of Detroit Medical Center.

Lead Neuropsychologist-Traumatic Brain Injury Unit (1989-July 31, 1992)

Rehabilitation from Siller, PhD ABPP-ABCM, Mitchell Research, PhD

- Neuropsychological assessment
- Behavior programming
- Cognitive "rehabilitation" consultation
- Treatment/Management consultation
- Comprehensive multidisciplinary five day Independent Medical Evaluations
- Multiple research related activities.
- Inpatient education to treatment team and medical colleagues
- Program development

Staff Neuropsychologist on Stroke Unit (1988)

Supervisor/Diane Kitz-Rizzo, Ph.D.

1988-Sept. 1992 **PSYCHOLOGICAL SYSTEMS, INC.** Farmington Woods, Michigan.
Private practice setting.

Supervisor-Marked F. Grafton, PhD, ABPP-ACCN

- * Neuropsychological Assessment
- * Assessment of Learning Disabilities
- * Forensic/Medical-Legal Work and Independent Medical Evaluations
- * Detection of Malingering/Exaggeration of Symptoms

1987-1992 **VETERANS ADMINISTRATION MEDICAL CENTER**, Allen Park, Michigan.
Associated by the American Psychological Association.

Pre-doctoral Intern

- * Neuropsychology Laboratory (1 year)
- Supervisor-Marked F. Grafton, PhD, ABPP-ACCN
- Neuropsychological Assessment
- Group Life Assessments
- * Outpatient Clinic (1 year)
- Supervisor-Joseph Orsini, PhD; John Wicks, PhD
- Individual Psychotherapy (Outpatient Unit)
- Intake Interviews
- Psychological Testing
- * Inpatient Psychiatric Unit (6 months)
- Supervisor-Maria Husak, PhD
- Outpatient Group Therapy

1986-1987 **FRESNO TREATMENT CENTER**, Fresno, California.
A residential treatment facility for adolescents with emotional, behavioral, and substance abuse disorders. - Practice

1985-1986 **CALIFORNIA MEN'S COLONY**, San Luis Obispo, California. Training and Supervision
A prison with "maximum security" inmates and psychiatric care.

- Personality Assessments
- Individual psychotherapy
- Group Substance abuse therapy

1985-1986 **HAMES HAYSTOWN SCHOOL**, Fresno, California.
A private school for children with disorders of emotion and behavior.

1986 **FRESNO LUTHERAN SCHOOL, UNIVERSITY**, Fresno, California.
Psychology Trainee (6 month practicum)

- Intellectual and Projective Personality Testing

RESEARCH EXPERIENCE AND ACQUIRED GRANTS

REHABILITATION INSTITUTE OF MICHIGAN, Detroit, Michigan.

1986 to present Wrote or assisted in writing grants totaling over \$1 million dollars related to the delivery of services to children and families served by Nevada Children's Center.

1991 Recipient of a \$15,000 United Way/Kenny H. E.H.A.B. sponsored grant to develop a new memory measure.
Title of research: "Axcelle: Verbal Priming: A normative investigation of stem completion priming."

1990 Recipient of a \$10,000 United Way/Kenny H. E.H.A.B. sponsored grant to investigate stem completion performance to be used in the design of a new memory measure based on theoretical principles of stem completion priming and word recall.

1990-1991 Involved as a research fellow and in data collection for the Neuropsychology component of a NIMH sponsored grant entitled: "A Comprehensive Model of Research and Rehabilitation for the Biomedically Brain Impaired", co-developed a battery of neuropsychological measures to provide an index of change throughout the course of recovery. The project involves the rehabilitation of five major rehabilitation facilities.

1989-1992 Grant Review Panel Appointment

- * Research Funds Association Committee: Review research proposals for funding of United Foundation sponsored grants for research.

1992-1990 **VETERANS ADMINISTRATION MEDICAL CENTER**, Allen Park, Michigan.
Conducted research for doctoral dissertation on the identification of heritable subgroups by their performance on an implicit memory measure.

1983

WAYNE STATE UNIVERSITY, Detroit, Michigan.
Administered psychological and neuropsychological measures to relatives of schizophrenics
for a research project conducted by Gerald Rosenherm, Ph.D., Professor, WSU.

INTERNATIONAL CONFERENCE PRESENTATIONS

1989

INTERNATIONAL NEUROPSYCHOLOGICAL SOCIETY, Seventeenth Annual Meeting, Vancouver, British
Columbia, Canada, Paper Presentation:
"Anosic Verbal Priming in Cortical and Subcortical Dementia".

PUBLICATIONS

Kosson, T. F., Goodenstein, M. F., Verna, N. R., & Nichols, D. M. (1989). Anosic verbal priming in cortical and
subcortical dementia. *Journal of Clinical and Experimental Neuropsychology*, 11, 51. (Abstract).

PROFESSIONAL MEMBERSHIPS

International Neuropsychological Association
National Academy of Neuropsychology
Nevada State Psychological Association (Secretary of Southern Division)
American Psychological Association
Diplomate, American Board of Psychological Specialties in Neuropsychology
Epileptologist, American Board of Forensic Examiners

BOARD MEMBERSHIPS/Consultations (Non-reimbursed)

Nevada Children's Center - President, 1987 to 2001, 2003-2010
Nevada Board of Bar Examiners (Expert Panel on special accommodations) 1996 to present
National Multiple Sclerosis Society - Desert Southwest Chapter
Program Service Committee Chairman 1983-1996
Traumatic Brain Injury Professional Group 1993-1995
Nevada State Psychological Association - Southern Division, Secretary 1984 to 1993; Chair, 1993-2001

Sharon Jones-Forrester, Ph.D.

Curriculum Vita

Office

Center for Applied Neuroscience
716 South Sixth Street
Las Vegas, NV 89101
Phone: 702-382-1960 Cell: 702-510-6502
E-Mail: drjonesforrester@gmail.com

LICENSURE

08/2010 **State of Nevada Board of Psychological Examiners,
License PY0604**

EDUCATION

08/2009 **Doctor of Philosophy in Clinical Psychology,
University of Nevada Las Vegas (UNLV)
APA-Accredited Clinical Psychology Program**

05/2006 **Master of Arts in Clinical Psychology
University of Nevada Las Vegas (UNLV)**

1998 – 2001 **York University, Toronto, Canada
Honors Second Major in Psychology**

1987 – 1990 **Bachelor of Arts, York University, Toronto, Canada
Double Major: English and Women's Studies**

CLINICAL POSITIONS

09/2010-Present **Sharon Jones-Forrester, Ph.D., PC, Private Practice in Clinical
Neuropsychology, Psychotherapy, and Cognitive Rehabilitation**
Private practice within the Center for Applied Neuroscience.
Provision of neuropsychological assessment, forensic
neuropsychological evaluation, and cognitive rehabilitation to child,
adolescent, adult, and older adult patients with a wide range of
neurologic and developmental concerns. Provision of adult individual
and couple's psychotherapy, with psychotherapy services specializing
in the treatment of PTSD, and trauma-related depression, anxiety, and
interpersonal concerns.

10/2009-10/2011 **Center for Applied Neuroscience, Neuropsychology Clinic
Postdoctoral Fellowship in Clinical Neuropsychology**
Two year postdoctoral fellowship in a neuropsychology private
practice. Complete all aspects of neuropsychological evaluation and
integrative reports for child, adolescent, adult, and geriatric

outpatients in a private practice. Common presenting problems include Dementias, TBI, MS, ADHD, Developmental Disorders, and Autistic spectrum disorders. Also evaluate forensic, personal injury, medical disability, and DCFS custody cases. Involved in training and supervision of doctoral practicum students. Supervised by Thomas Kinsora, Ph.D., Clinical Neuropsychologist

- 08/2008 – 08/2009 **VA Northern California Health Care System
Clinical Psychology Internship Program**
One year clinical psychology internship at a VA medical center with a specialized neuropsychology and intervention focus.
Neuropsychology: Division 40/Houston guidelines compliant neuropsychology internship training. Complete neuropsychological evaluations and integrative reports with inpatients/outpatients with a wide range of neurologic and psychiatric issues including Polytrauma, TBI, Dementias, MS, and complex cognitive profiles due to medical and surgical issues. Supervised by Donna Sorensen, Ph.D. and Michael Cole, Ph.D.
Intervention: Provide individual, group and couples psychotherapy to patients presenting with a wide diagnostic range including PTSD, Anxiety, Mood, Psychotic and Personality Disorders, and Substance Abuse. Experienced with brief and longer-term empirically validated modalities including CBT, IPT, and TLDP. Supervised by Joel Schmidt, Ph.D.
Cognitive Rehabilitation: Provide inpatient and outpatient brief and longer-term cognitive rehabilitation-focused therapy to patients presenting with TBI, Polytrauma, and comorbid PTSD. Supervised by Jeff Kixmiller, Ph.D. and James Muir, Ph.D.
- 07/2006 – 08/2008 **Center for Applied Neuroscience Neuropsychology Clinic**
Completed neuropsychological evaluations and integrative reports for patients across the developmental lifespan, with a wide range of neurologic and psychiatric presenting complaints. Also assisted with forensic evaluations. Supervised by Thomas Kinsora, Ph.D.
- 05/2007 – 07/2007 **Practicum Student Supervisor, Center for Individual, Couples, and Family Counseling, UNLV**
Provided weekly individual clinical supervision to a junior practicum doctoral student. Used an integrative interpersonal and developmental model approach to supervision. Supervised by Michelle Carro, Ph.D.
- 05/2005 – 08/2006 **UNLV Student Wellness/Center for Counseling and Psychological Services**
Provided brief psychotherapy to patients from a diverse college student population. Responsible for case conceptualization, treatment and termination planning, crisis intervention, outreach, and intakes. Treatment modalities included IPT, CBT, and TLDP. Supervised by Phoebe Kuo-Jackson, Ph.D. and Vicky Genia, Psy.D.

05/2004 – 08/2005 **Therapist, Center for Individual, Couples, and Family Counseling, UNLV**
 Provided long-term psychotherapy to patients in a campus community mental health clinic. Responsible for all aspects of treatment planning and delivery. Treatment modalities included CBT, IPT, Existential, Psychodynamic, and Biopsychosocial theoretical perspectives. Supervised by Marta Meana, Ph.D.

PREVIOUS CLINICAL EXPERIENCE. CASE MANAGEMENT

11/2002 – 06/2003 **Service Coordinator, Adelante Developmental Services Albuquerque, New Mexico**
 Day program coordination for adults with severe developmental disabilities. Responsible for service delivery, crisis intervention, and critical incident reporting and follow up.

03/1991 – 10/2002 **Case Manager, Toronto Social Services, Toronto, Canada**
 Provided crisis intervention, advocacy, and needs assessments for refugee and homeless clients with a wide range of psychiatric, medical, legal, literacy, and substance abuse issues. Worked collaboratively with language interpreters.

AWARDS

08/2007 Graduate Research Award for dissertation research
 03/2007 UNLV Graduate and Professional Student Association Travel Grant

PROFESSIONAL SERVICE

08/2011- 12/2012 Chair, Nevada Psychological Association Diversity Committee
 10/2007-08/2008 Graduate Student Representative, UNLV Psychology Department Diversity Curriculum, Teaching, Research, and Mentorship Subcommittee

08/2007-08/2008 Graduate Student Coordinator, Outreach Undergraduate Mentorship Program; Graduate Student Coordinator, UNLV Psychology Department Diversity Committee; and UNLV Psychology Department Diversity Graduate Assistant

08/2006 – 08/2008 Graduate Student Coordinator, Nevada State Psychological Association (NSPA) Diversity Committee

08/2006 – 08/2007 Graduate Student Representative, UNLV Psychology Department Diversity Committee

08/2005 – 08/2006 Graduate Student Representative, NSPA

PROFESSIONAL ORGANIZATIONS

2003 – present American Psychological Association
 Nevada Psychological Association

2007 – present National Academy of Neuropsychology
 International Neuropsychological Society

PUBLICATIONS AND PRESENTATIONS

- Jones-Forrester, S., & Hurlburt, R. T. (2008, April). *Descriptive Experience Sampling of Bulimia Nervosa: A Case Study Illustrating the Importance of Careful Examination of Phenomena*. Paper presented at the Towards a Science of Consciousness Conference, Tucson, AZ.
- Benuto, L., Jones-Forrester, S., & Haboush, A. (2007). Compensatory Efforts for Body Dissatisfaction: Some Gender and Ethnic Differences. *The New School Psychology Bulletin*, 5:2: 19-25.
- Jones-Forrester, S., & Hurlburt, R. T. (2007, May). *Descriptive Experience Sampling of Bulimia Nervosa: Why Idiographic Research is Necessary*. Paper presented at the meeting of the Western Psychological Association, Vancouver, BC, Canada.
- Jones-Forrester, S., & Hurlburt, R. T. (2007, March). *Descriptive Experience Sampling of Individuals with Bulimia Nervosa*. Paper presented at the GPSA Research Forum, Las Vegas, Nevada.
- Jones-Forrester, S., & Hurlburt, R. T. (2006, August). *Bulimia: Its inner experience*. Poster session presented at the annual meeting of the American Psychological Association, New Orleans, LA.
- Jones-Forrester, S. (2006). *Inner experience in bulimia*. Unpublished master's thesis, University of Nevada, Las Vegas.
- Jones-Forrester, S., & Hurlburt, R. T. (2006, April). Applications of DES methodology to clinical and non-clinical populations. In R. T. Hurlburt (Chair), *Exploring Inner Experience: The Descriptive Experience Sampling Method*. Symposium conducted at the meeting of the Western Psychological Association, Palm Springs, CA.
- Jones-Forrester, S., & Hurlburt, R. T. (2005, April). *Inner experience in bulimia: Two case studies*. Paper presented at the meeting of the Western Psychological Association, Portland, OR.

TEACHING EXPERIENCE

- 08/2006 – 05/2007 **Part-Time Instructor, University of Nevada Las Vegas**
Responsibilities for all aspects of teaching 4 General Psychology courses.
- 08/2004 – 05/2005 **Graduate Teaching Assistant, University of Nevada Las Vegas**
Responsibilities: Taught 6 live laboratory sections of the Statistical Methods in Psychology course and assisted Professor with an additional 6 distance education sections. Responsible for grading, exam proctoring, and student technical support and tutoring.

SPECIALIZED TRAINING

- 08/2008 – 07.2011 **Neuropsychology Didactic Series**
Attend monthly didactic seminars sponsored by U.C. Davis Medical Center on a wide range of neuroscience research and clinical practice topics including neuropathology, differential diagnosis, imaging, and neurology/neuropsychology grand rounds. Attend monthly neurology grand rounds at the University of Nevada School of Medicine.

- 08/2008 – 08/2008 **VA Training Seminars**
Attend weekly seminars on a wide range of topics including TBI, PTSD, Ethics, Motivational Interviewing, Cultural Competence, Behavioral Medicine, Mandatory Reporting, and Human Sexuality.
- 11/2007 **Introduction to Acceptance and Commitment Therapy (ACT)**
Presented by Steven Hayes, Ph.D.
- 03/2005 – 01/2006 **Nevada State Psychological Association Workshop Series**
Attended workshops on intervention with dually diagnosed patients, chronic pain patients, and cultural competence and diversity.
- 11/2002 – 07/2003 **Adelante Development Center Training Seminars**
Trained on Incident Reporting; Medication Management; Self-Injurious Behavior and Behavior Modification; Seizure Protocols; Sexuality and Sexual Education for Individuals with Developmental Disabilities; Diversity; and Pet Therapy.
- 03/1991 – 10/2003 **Toronto Social Services Training Seminars**
Trained on Interventions and Resources for Victims of Torture; and Working with Interpreters in a Clinical Context.

Curriculum Vitae

William Werner Orrison Jr, MD, MBA

I. PERSONAL DATA

Birth Date:	April 2, 1949
Birth Place:	Louisville, Kentucky
Citizenship:	United States
Address:	Nevada Imaging Centers 5495 S. Rainbow Blvd., Suite 101 Las Vegas, NV 89118
Telephone:	702-214-9729
Fax:	702-214-9763

SECTIONS

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II. EDUCATION

B.A., University of Kansas
Lawrence, Kansas, 1971

M.D., University of Kansas School of Medicine
Kansas City, Kansas, 1975

M.B.A., University of Utah
Salt Lake City Utah, 2002

Internship

University of Wisconsin, Madison, Wisconsin
1975-1976 (mixed)

Residency

University of Wisconsin, Madison, Wisconsin
Neurology: 1976-1979
Radiology: 1979-1981

Fellowships

Ullevål Hospital, Oslo, Madison, Wisconsin
Neuroradiology: January 1981-July 1981

University of Wisconsin, Madison, Wisconsin
Neuroradiology: July 1981-July 1982

Licensures and Certifications

Wisconsin State Medical Examining Board of Medicine and Surgery, 1976 (No. 19938)

Mississippi State Board of Medical Licensure, 1982 (No. 9806)

Kansas State Board of Healing Arts, 1982 (No. 19851)

Colorado State Board of Medical Examiners, 1983 (No. 25109)

New Mexico State Board of Medical Examiners, 1985 (No. 85-76)

Utah State Board of Medical Examiners, 1997 (No. 97-332171-1205)

CAQ Certified Neuroradiology, American Board of Radiology, 1996

Nevada State Board of Medical Examiners 1999 (No. 8942)

Arizona Medical Board 2005 (No. 33573)

American Board of Radiology, 1983

American Board of Psychiatry and Neurology, Part I, 1980 / Part IIa, 1983

Advanced Cardiac Life Support Certification through September 2014

III. PROFESSIONAL EXPERIENCE

Academic Appointments

University of Wisconsin, Madison, Wisconsin
Neurology: Assistant Clinical Professor, 1979-1981
Radiology: Clinical Instructor, 1981-1982

University of South Alabama Medical Center, Mobile, Alabama
Radiology: Assistant Professor, 1983-1985

University of New Mexico School of Medicine, Albuquerque, NM
Radiology: Associate Professor, 1985-1989;
Professor, 1989-1997
Neurology: Associate Professor, 1986-1997
Cancer Center: Member, Medical and Scientific Staff, 1988-1997
Neuroradiology: Fellowship Program Director, 1985-1997

University of Utah School of Medicine, Salt Lake City, UT
Professor and Chairman Radiology, 1996-2001

University of Utah School of Medicine, Salt Lake City, UT
Professor of Radiology, 1996 - 2003

Chief Medical Officer, HealthHelp, 2001 - 2006

Academic Medical Institute of Nevada, Director, 2003 - 2005

Brigham Young University, Adjunct Professor of Psychology, 2001 - 2005

North Dakota State University College of Engineering and Architecture, Department
of Mechanical Engineering, Adjunct Professor 2005 - 2007

Touro University Nevada, College of Osteopathic Medicine, Las Vegas, Nevada
Adjunct Professor of Neuroradiology 2005 - present

University of Nevada School of Medicine, Clinical Professor of Medical Education
2008 - present

University of Nevada Las Vegas, Adjunct Professor Health Physics and Diagnostic Sciences 2009 - present

Employment

US Air Force Medical Center Keesler, Keesler Air Force Base, MS
Chief, Division of Neuroradiology, 1982-1983
Chief, Divisions of Diagnostic Radiology and Neuroradiology, 1983-1984
Chair, Department of Radiology, 1984-1985

University of New Mexico School of Medicine and Department of Veterans Affairs Medical Center, Albuquerque, NM
Chief, Division of Neuroradiology, 1985-1986
Chief, Divisions of Neuroradiology and Special Procedures, 1986-1988
Chief, Division of Neuroradiology and Medical Director of the Center for Non-Invasive Diagnosis, 1987-1989
Chief, Division of Neuroradiology and Director of MRI and MSI, 1985-1997

University of Utah School of Medicine, Salt Lake City, Utah
Professor and Chairman of Radiology, 1997-2001

Veterans Administration Medical Center, Salt Lake City, Utah 1997-2003

Lake Mead Hospital & Nevada Imaging Centers, Las Vegas Nevada
Staff Radiologist & Chief of Neuroradiology, 2003-2004

Academic Medical Institute of Nevada, Las Vegas, Nevada
Director, 2003-2005

Nevada Imaging Centers, Las Vegas Nevada
Staff Radiologist & Chief of Neuroradiology, 2003 - present

SimonMed, Scottsdale, Arizona Staff Radiologist &
Chief of Neuroradiology, 2005 - 2008

North Vista Hospital, Las Vegas, Nevada
Neuroradiologist 2003 - 2008

Desert Regional Medical Center Hospital, Pahrump, Nevada
Neuroradiologist 2006 - 2009

Administrative Summary

- 1) Chairman, Department of Radiology, Keesler AFB, Biloxi, MS 1984 - 1985
Equipment Acquisitions: Digital Subtraction Angiography (DSA), Computerized Tomography (CT)
Supervised 100 FTE including 7 MDs, 75 technologists, and support staff.
- 2) Chief of the Divisions of Neuroradiology (1985 –97) and Interventional Radiology (1986-88), University of New Mexico, Albuquerque, NM 1985 - 1997
Equipment Acquisitions: Digital Subtraction Angiography (DSA), Computerized Tomography (CT), Magnetic Resonance Imaging (MRI)
Supervised 25 FTE including 6 MDs, technologists, and support staff.
- 3) Established the New Mexico Institute of Neuroimaging (7,500 sq. ft.) 1989-1997
Equipment Acquisitions: Computerized Tomography (CT), Magnetic Resonance Imaging (MRI), and Magnetoencephalography (MEG)
New Programs Developed/Managed: Neuroradiology Research Center, Clinical/Research Functional Brain Imaging
Supervised 20 FTE including MDs, PhDs, technologists, and support staff.
- 4) Chairman, Department of Radiology, University of Utah School of Medicine, Salt Lake City, Utah 1997 - 2001

Equipment Acquisitions: Computerized Tomography (CT), Magnetic Resonance Imaging (MRI), Ultrasound (US), Digital Subtraction Angiography (DSA), Fluoroscopy, Routine X-ray, Mammography, Single Photon Emission Computed Tomography (SPECT), and Positron Emission Tomography (PET).

Responsible for Design and Renovation of Clinical Department including construction, and \$11 million Picture Archive and Communication System (PACS) installation.

Negotiated Memorandum of Understanding placing all of Hospital and School of Medicine under single management. Expanded budget responsibility from \$10 million to \$50 million annually. Increased number of employees from approximately 50 to 250 FTE.

- Increased Department Revenues by 18%
- Increased Patient Satisfaction to 94.8% positive
- Decreased Inpatient procedure turn around time by over 50%
- Decreased Cost per Procedure from \$80.20 to \$73.13

Designed, built, and supervised the Center for Advanced Medical Technologies (CAMT) at University of Utah (125,000 sq. ft.).

Equipment Acquisitions: Computerized Tomography (CT), Magnetic Resonance Imaging (MRI), Ultrasound (US), Mammography, Computer Assisted Diagnosis (CAD) for mammography, Single Photon Emission Computed Tomography (SPECT/ Positron Emission Tomography (PET), and Magnetoencephalography (MEG).

New Programs Developed/Managed at CAMT: Radiology Operations (including film file storage, Imaging, reading rooms): Approximately 12 clinical staff, including 3 MDs, front desk, file room personnel and technicians. Radiology Medical Imaging Research Laboratory:

- Approximately 40 FTE including 12 PhDs, graduate students, technicians, and support staff.
- Radiobiology Research Program: 20 FTE including 6 PhDs.
- Radiology EMERG Program: 6 FTE
- MEG Program: 10 FTE directly associated with the MEG research program, including 2 PhDs.
- OB/GYN Perinatal Genetics (Clinical and Research): 27 FTE including both clinical and research programs, including 2 MDs and 2 PhDs.
- Central Hospital Storage: 4 FTE
- Machine Shop: 3 FTE
- Office of Information Resources: 3 FTE

Co-founder of Imaging Joint Venture covering all imaging modalities for University of Utah outpatient centers. This includes Computerized Tomography (CT), Magnetic Resonance Imaging (MRI), Ultrasound (US), Mammography, Computer Assisted Diagnosis (CAD) for mammography, Single Photon Emission Computed Tomography (SPECT/ Positron Emission Tomography (PET), Plain Film, and Magnetoencephalography (MEG).

Chairman Imaging Joint Venture Board 1998 - 2001.

5) Chief Medical Officer HealthHelp 2000-2005.

6) Founder and Director, Academic Medical Institute of Nevada 2003 – 2005.

7) Medical Director, Nevada Imaging Centers 2004-present.

8) Founder and Chief of Neuroradiology, AMIGENICS 2005 – 2011.

9) Chief Medical Officer, RadSite 2005-present.

10) Founder and Chief of Neuroradiology, IMGEN, LLC. 20011-present.

IV. AWARDS & HONORS

Best Teaching Resident Nominee
University of Wisconsin, 1976

First Winthrop Pharmaceuticals Neuroradiology
Fellow, University of Wisconsin, 1981 - 1982

Faculty Senate Representative
University of New Mexico, 1986 - 1988

Radiological Society of North America Counselor for State of New Mexico, 1986 -
1991

Chair, Radiology Fellowship Committee, University of New Mexico, 1986 - 1990

Faculty Lecturer, American Academy of Neurology, April 1987

Reviewer for Radiology, 1987 - present

3rd Place Poster, Research Day 1989:
Rodeman, D., Orrison, W.W., Jr. Comparison of High Field and Ultra-Low Field MRI
in Elderly Patients, University of New Mexico, 1989

1st Place Resident, Winter Seminar 1989: McGinty, L., Orrison, W.W., Jr.
Evaluation of Klippel-Feil Syndrome. Carrie Tingley Hospital, 1989

Faculty Lecturer, Imaging Conference, Medical College of Wisconsin, February
1989

Moderator, American Society of Neuroradiology Session on Hemorrhage and
Trauma, March 1989

Tenure, Radiology and Neurology. University of New Mexico, July 1989

Reviewer for American Journal of Neuroradiology (AJNR), 1989 - present

Neuroscience Subspecialty Award, Western Federation Clinical Research,
February 1990: Kirsch, C., Orrison, W.W., Jr.

Member, Ph.D. Dissertation Committee for Harold Burke, 1989 - 1990

Judge, Medical Student Research Day, January 21, 1991

Advisory Board, Diagnostic Imaging, 1990 - 2000

First Place Award, MRI, CT and plain film comparison in acute cervical spine trauma, Congress of Neurosurgery, Orlando, Florida, 1991

Honorable Mention, Magnetic resonance functional mapping; poster presentation RSNA 1991, Chicago, Illinois, 1991

Guardian Member, Boy Scouts of America, 1992

Annual Gabriel Wilson Award, Clinical Applications of Magnetic Source Imaging; best paper presented at WNRS Annual Meeting, San Francisco, California, October 1-4, 1992

Guest Lecturer, ASNR, 1993

American Medical Association Physicians Recognition Award, August 1, 1993 - July 1, 1996

Reviewer, RSNA, 1994

Certificate of Merit, Clinical Applications of Magnetic Source Imaging; Scientific exhibit presented at American Roentgen Ray Society, 1994

Certificate of Merit, Clinical Applications of Magnetic Source Imaging; scientific exhibit presented at American Society of Neuroradiology, 1994

Moderator, Magnetic Resonance Imaging Update, November 12, 1994

Reviewer, Journal of Computer Aided Tomography, March 1996-present

Chair, Audit Committee; Session Moderator, and Wilson Award Committee Member, 28th Annual Meeting of the Western Neuroradiological Society, October 4-6, 1996.

Reviewer, IEEE Transactions in Medical Imaging, 1996-present

Physician's Recognition Award in Continuing Education with Commendation for Self-Directed Learning, American Medical Association, April 1, 1997-April 1, 2000.

Received Smithsonian Medal and inclusion of Center for Advanced Medical Technologies in the Smithsonian Institution Permanent Research Collection, which is considered the most prestigious awards program in the information technology industry, Washington, D.C., April 6, 1998.

Vice-Chairman, Institutional Review Board, University of Utah 1997-1999.

Best Speaker – Awarded by Forum 98' (StorageTek), included invitation to present in Berlin, Germany, April 1999.

Guest Speaker – International Forum 99', Berlin, Germany, April, 1999.

Member, Institutional Review Board Guidelines, University of Utah 1998-1999.

Member, Medical Sciences Council. University of Utah. 1997 to 2001.

Member, Executive Committee, School of Medicine, University of Utah. 1997 to 2001.

Member, Medical Board, School of Medicine, University of Utah. 1997 to 2001.

Member, Radiation Safety Committee, University of Utah. 1997 to 2001.

Member, School of Medicine Advisory Council. University of Utah. 1999 – 2000.

Chair, Mission Based Management Research Group. 1999 – 2000.

Member, Mission Based Management Advisory Committee. 1999 – 2001.

Member, University of Utah Health Network Board. 2000.

Member, Systems Committee, University of Utah Health Network. 2000.

Chair, Operations Committee, University of Utah Health Network. 2000.

Member, Finance Committee, University of Utah Health Network. 2000.

Member, Huntsman Cancer Institute Phase II Planning Committee. University of Utah. 2000 – 2001.

Reviewer for Archives of General Psychiatry. 2002 – present.

Guest Lecturer First Annual Joint Conference of the American Society of Radiologic Technologists and the Association of Educators in Radiological Sciences, Las Vegas, NV. 2003.

Who's Who 2006, Chief of Neuroradiology, Nevada Imaging Centers, In Business, Las Vegas, NV. 2006.

Member, State of Nevada Board of Regents Health Sciences Center Advisory Committee. 2006 - 2007

1st Place Award Touro University Nevada Research Day: Mishra R, Rowley RK, Hanson EH, & Orrison WW Jr. Agenesis of the Corpus Callosum, Las Vegas, NV, March 5, 2007.

New Mexico Public Regulation Commission External Review Medical Specialist 2007 to present.

Reviewer for Anatomical Sciences. 2009 - present.

Selected as Program Director for 14th Annual Computed Tomography National Symposium. October 2009.

Radiology Editor's Recognition Award for Reviewing with Special Distinction (Recognized as being in top 95% of reviewers). Kressel HY Editor, Radiology; 258(1):10-11, 2011

Selected as "Top Doctors 2011" from peer review survey of more than 3,500 physicians in Southern Nevada. Las Vegas Life, Spring Issue, pg. 48, 2011.

Selected to be included in 2012 Vegas Seven Top Doctors Edition - survey completed by the nonprofit Washington, DC organization "Consumers Checkbook." Feb 23, 2012

Selected to be included in The Best Doctors in America 1996-2013, Best Doctors, Inc., 100 Federal Street, 21st Floor, Boston, MA 02110

Radiology Editor's Recognition Award for Reviewing with Special Distinction (Recognized as being in top 90% of reviewers). Kressel HY Editor, Radiology; January 2013;266:8-9

Selected as among the 93 "Best Doctors 2013" from peer review survey. Desert Companion – August 2013

V. TEACHING RESPONSIBILITIES / ASSIGNMENTS

Neuroradiology Fellows

Randy R. Sibbit, M.D., 1986-1987
Lance Dell, M.D., 1987-1988
Jon Spar, M.D., 1988-1990
Francis Greiner, M.D., 1989-1991
Blaine Hart, M.D., 1989-1991
Fred Rupp, M.D., 1991-1993
John Gundzik, M.D., 1992-1993
Jesse Rael, M.D., 1992-1994

Special Procedures Fellows

Lee Monsein, M.D., 1986-1987
Robert Oliver, M.D., 1986-1987
Jerry King, M.D., 1987-1988
John Siner, M.D., 1987-1988
James Hinson, M.D., 1988-1989
Gary Famestead, M.D., 1988-1989
Anna Champlin, M.D., 1989-1990
Judith Peters, M.D., 1989-1990
Charles Hickam, M.D., 1990-1991
Ray Tipton, M.D., 1990-1991

Residents Entering Neuroradiology Fellowship Programs

1987 – Steven Pollei, M.D.
1988 – John Spar, M.D.
1989 – Michael Tryhus, M.D.
1989 – Marc Griffey, M.D.
1990 – Blaine Hart, M.D.

Medical Student Research

Touro University Nevada, College of Osteopathic Medicine, Las Vegas, Nevada

- David Chang (2005)
- David Chang (2006)
- Uly Yukio
- Tuesday Pearson
- Jeff Beecher
- Frank Lee
- Matt Eggleston
- Michael Fleischman
- Ronjit Kapil
- Zaira Jorai
- David Byun
- Travis Snyder
- Poorna Ramachandran
- Wendy Mojica
- Rahul Mishra

UNLV Department of Health Physics Collaborators

Spring Valley Imaging Center, Las Vegas, NV in 2006

- Phillip Patton, PhD Medical Health Physics, MS Health Physics, MS Nuclear Physics, BS Physics
- Jason Davis, BS Health Physics
- Rob Etnire, BS Health Physics
- Jeremy Mangum, BS Nuclear Medicine Technology
- Daniel Lowe, MS Mechanical Engineering with Nuclear Engineering Concentration

VI. GRANTS

1986	Clinical Evaluation of Portable Angiography	\$250,000	Orthopedic Equipment Co.	University of New Mexico School of Medicine
1986	Gadolinium DTPA in the Evaluation of Cranial Neoplasms	\$40,000	Berlex Laboratories	University of New Mexico School of Medicine
1987	Correlation of in the Evaluation of Spinal Neoplasms	\$5,000	Berlex Laboratories	University of New Mexico School of Medicine
1988	Correlation of Magnetic Resonance Imaging and Magnetoencephalography (MEG)	\$6,000	Veterans Admin. Research Fund	University of New Mexico School of Medicine and New Mexico Regional Medical Center
1988	Clinical Evaluation of	\$16,000	Diasonics, Inc.	University of New

1989	Permanent Magnetic Resonance Imaging Clinical Evaluation of Permanent Magnetic Resonance Imaging	\$32,000	Diasonics, Inc.	Mexico School of Medicine University of New Mexico School of Medicine
1989	Correlation of Magnetic Resonance Imaging and MEG	\$8,000	Veterans Admin. Research Fund	University of New Mexico School of Medicine and New Mexico Regional Medical Center
1990	Clinical Evaluation of Permanent Magnetic Resonance Imaging	\$ 27,000	Toshiba America, Inc.	University of New Mexico School of Medicine
1990	Evaluation of Dynamic MR and MR Angiography	\$440,000	Siemens Medical Systems, Inc.	VAMC
1991	Clinical Applications of Magnetic Source Imaging	\$2,500,000	Biomagnetic Technologies, Inc.	VAMC
1991	Clinical Applications of Magnetic Source Imaging	\$160,000	Biomagnetic Technologies, Inc.	University of New Mexico School of Medicine
1991	Clinical Applications of Magnetic Source Imaging	\$426,000	Biomagnetic Technologies, Inc.	BRINM
1997	Development of Brain Phantom Models for Head Injury Research	\$8,000	Center for Alternatives to Animal Testing	Johns Hopkins University School of Medicine
1997	Clinical Evaluation of MSI	\$250,000	Picker/ Neuromag	University of Utah School of Medicine
1997	Clinical Imaging	\$250,000	Picker/ Neuromag	University of Utah School of Medicine
1998	Clinical Evaluation of MSI	\$250,000	Picker/ Neuromag	University of Utah School of Medicine
1998	Clinical Imaging	\$250,000	Picker/ Neuromag	University of Utah School of Medicine
1999	Clinical Imaging	\$250,000	Picker	University of Utah School of Medicine
1999	Clinical Evaluation of MSI	\$250,000	Picker	University of Utah School of Medicine
2000	Clinical Imaging	\$325,000	Marconi	University of Utah School of Medicine
2000	Imaging Educational Grant	\$10,000	Acuson	University of Utah School of Medicine
2000	Mark H. Huntsman	\$1,250,000	Huntsman	University of Utah

2001	Chair Clinical Imaging	\$325,000	Family Marconi	School of Medicine University of Utah
2001	Imaging Educational Grant	\$60,000	Acuson	School of Medicine University of Utah
2001	Insight Project	\$17,000	National Library	School of Medicine University of Utah
2001- 2003	X-ray Development	\$270,000	Varian	School of Medicine University of Utah
2006- 2007	3.0T MRI Education Grant	\$75,000	Philips Healthcare	School of Computing University of Utah
2006- 2009	3.0T MRI Research Grant	\$250,000	Philips Healthcare	Amigenics
2007- 2009	Functional and Anatomic MRI of Chronic Brain Injury and HBO ²	\$23,200	Desert Foundation	Amigenics
2008- 2009	320-row CT Education Grant	\$115,000	Toshiba America Medical Systems	Spring Valley Imaging Center Las Vegas, NV
2008- 2009	320-row CT Research Grant	\$300,000	Toshiba America Medical Systems	Amigenics

VII. JOURNAL ARTICLES

1. Orrison WW Jr, Labadie EL, Ramgopal V. Fatal meningitis secondary to undetected bacterial psoas abscess. J Neurosurg 1977 Nov; 47:755-60.
2. Orrison WW Jr, Robertson WC, Sackett JF. Computerized tomography in chronic subdural hematomas (effusions) of infancy. Neuroradiology 1978; 16:79-81.
3. Orrison WW Jr. Vascular and nonvascular intracranial malformations associated with external capillary hemangiomas. Neuroradiology 1978; 16:82-4.
4. Orrison WW Jr., Robertson WC. Congenital ocular motor apraxia: a possible disconnection syndrome. Arch Neurol 1979 Jan; 3:29-31.
5. Messer B., Orrison WW Jr., Hawkins MJ, Quaglierie CE. Central pontine myelinolysis, considerations on etiology, diagnosis and treatment. Neurology 1979 Feb; 29:147-60.
6. Robertson WC, Chun RWM, Orrison WW Jr, Sackett JF. Benign subdural collections of infancy. J Peds 1979;94(3):382-86.
7. Orrison WW Jr, Schnitzler ER, Chun RW. The Dubowitz syndrome: Further observations. Am J Med Genetics 1980;7:155-70.

8. Lilleas F, Strother C, Sackett JR, Crummy A, Orrison WW Jr, Mistretta C. Computerized fluoroscopy til bruk ved intravenous arteriographi av arteria carotis. Norsk Forening for Medisinsk Radiologi 1981 Feb.
9. Orrison WW Jr, Sty JR. Ultrasound in the diagnosis of lymphangioma. Wisc Med J 1981 Mar; 80:30-2.
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IN THE SUPREME COURT OF THE STATE OF NEVADA

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CEDRIC LEROB JACKSON,
Appellant(s),

vs.

STATE OF NEVADA,
Respondent(s),

Case No: 10C265339-1

Docket No: 72409

RECORD ON APPEAL VOLUME 2

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1 Notably, Richardson raised, but did not resolve, another question left open in Bruton,
2 namely whether a statement redacted such that the co-defendant's name is replaced with a
3 neutral pronoun, such as "person," "individual," or "associate," may be admitted under
4 Bruton. See Richardson, 481 U.S. at 208-09, 107 S.Ct. 1702; Bruton, 391 U.S. at 134 n. 10,
5 88 S.Ct. 1620. One aspect of this question was addressed in Gray v. Maryland, 523 U.S.
6 185, 118 S.Ct. 1151 (1998). There, the Supreme Court concluded that it is not enough to
7 replace the co-defendant's name "with an obvious blank, the word 'delete,' a symbol, or
8 similarly notify the jury that a name has been deleted," such that it is nonetheless "facially
9 incriminatory" and "directly accusatory"; such a redacted statement still falls within the
10 Bruton rule and is inadmissible. Id. at 193-95, 88 S.Ct. at 1620. Gray did not, however,
11 address whether redactions that replace the co-defendant's name with a neutral pronoun,
12 instead of a deletion or blank space, might, in some circumstances, be constitutionally
13 permissible where other independent evidence might permit the jury to conclude that the co-
14 defendant is the person referenced in the redacted statement.

15 Statements of defendants can be introduced in multiple defendant cases if properly
16 redacted. Richardson v. Marsh, 481 U.S. 200, 107 S.Ct. 1702 (1987). Nothing about proper
17 redactions would "facially incriminate" the Defendant. The Nevada Supreme Court has
18 specifically embraced the rule of Bruton to permit the introduction of redacted statements
19 that do not "facially incriminate" a co-defendant. Ducksworth v. State, 114 Nev. 951, 954
20 (1998); see also Lisle v. State, 113 Nev. 679, 692-93 (1997); Richardson v. Marsh, 481 U.S.
21 200, 208, 107 S.Ct. 1702 (1987); United States v. Enriquez-Estrada, 999 F.2d 1355, 1359
22 (9th Cir. 1993). For example, in Lisle, the Nevada Supreme Court upheld the conviction
23 where Lisle's co-defendant's confession was redacted to replace Lisle's name with "the other
24 guy." Relying on Richardson and United States v. Enriquez-Estrada, 999 F.2d 1355, 1359
25 (9th Cir.1993), the Court concluded that the redacted confession was not facially
26 incriminating and, therefore, did not offend Bruton. Lisle, 113 Nev. at 692-93, 941 P.2d at
27 468. The Court in Lisle also further considered and distinguished its holding in Stevens v.
28 State, 97 Nev. 443, 634 P.2d 662 (1981), which is cited by the defense in its motion for the

1 proposition that redacted statements may still be prejudicial. In Stevens, the Court limited its
2 decision to cases in which the evidence of guilt was circumstantial and weak. Id. at 445, 634
3 P.2d at 664. In the instant case, the evidence is not only circumstantial, and is not weak.
4 Eye witnesses saw Defendant Jackson shoot Macklin.

5 The vast majority of federal courts have approved the use of redacted statements that
6 are not facially incriminatory even though additional evidence is admitted that “links up” the
7 redacted statements to identify that person.

8 [T]he government may offer other independent evidence that may lead the jury
9 to conclude that the unnamed ‘individual’ is in fact [the defendant], but that
10 does not render the statement inadmissible; the Supreme Court has explicitly
11 stated that this possibility does not render an otherwise properly redacted
12 statement constitutionally inadmissible. Thus, the Fourth Circuit, like the
13 majority of circuits, has **explicitly extended the Bruton line of cases to
permit admission of redacted statements that replace a co-defendant's
name with “a symbol or neutral pronoun” such that the statement is not
facially incriminatory, “even though the statement's application to [the co-
defendant] is linked up by other evidence properly admitted against the
defendant.”**

14 U.S. v. Reyes, 384 F.Supp.2d 926, 931 -932 (E.D.Va., 2005) (emphasis added). Thus, the
15 Defendant’s claim that admission of “Coleman’s prior statements indicating that he was
16 present, combined with the circumstantial links between Coleman and Jackson” (Motion p.
17 15) somehow violates Bruton and its progeny is absolutely incorrect.

18 As the United States Supreme Court has stated, “[w]hile an important element of a
19 fair trial is that a jury consider *only* relevant and competent evidence bearing on the issue of
20 guilt or innocence, a fair trial does not include the right to exclude relevant and competent
21 evidence.” Zafiro, 506 U.S. at 540, 113 S.Ct. at 938 (internal citations omitted). Here, the
22 State is aware of the need to redact any statements admitted so that assertions which facially
23 incriminate other co-defendants are removed and intends to do so at trial if the statements are
24 used, thus eliminating the need for severance.

25 If the State decides to admit evidence of Defendant Coleman’s statements, the
26 statements will be redacted so that they do not facially incriminate Defendant Jackson, and
27 so that they conform with Bruton and its progeny. Defendant’s Coleman’s statements cited
28

1 by the defense as problematic may be easily redacted to avoid reference to Defendant
2 Jackson.

3
4 **B. ANY DIFFERENCE IN EVIDENCE PRESENTED AGAINST EACH
DEFENDANT DOES NOT NECESSITATE SEVERANCE**

5 Defendant also claims that severance is required because there is more evidence
6 against his co-defendant than against him, and claims that the case against him is weak,
7 making a “great disparity in the amount of evidence” presented against each.

8 The evidence against Defendant Jackson is strong in the instant case. First, it is very
9 clear that Defendant Jackson had the motive in this case. He was seen by many people at the
10 Aruba nightclub getting into a fight with Macklin after he was slighted by Macklin. He then
11 called the surviving victim to set up a fight with Macklin. Second, *witnesses saw Defendant*
12 *Jackson shoot Macklin*. Despite telling detectives he was scared for his safety if he spoke
13 to them, Albert told detectives that Defendant Jackson and Defendant Coleman both had
14 guns and chased Macklin into the yard and shot him several times. This is absolutely
15 consistent with the ballistics evidence at the scene, with several casings being located near
16 the deceased’s body. Devon and Carlos Bass both also told detectives they were scared for
17 their safety and made it clear they did not want to give statements, but finally told detectives
18 that Defendant Jackson was the first one to approach Macklin to fight before the shooting
19 took place. They said they ducked for cover and did not know who was shooting.
20 Additionally, Washington also saw Defendant Jackson approach Macklin, and then she
21 heard shooting and ducked, not seeing who was shooting. However, Langstaff told police
22 that the first suspect who approached Macklin (Defendant Jackson) also ultimately pulled
23 out a gun and shot Macklin. She also said it was the same person who had fought Macklin at
24 the Aruba (Defendant Jackson).

25 The gunshot residue found on Macklin and Albert is absolutely consistent with having
26 been in close proximity of a firearm that was fired. Macklin had a large amount of gunshot
27 residue on him, which was consistent with Defendants having stood above him and shot him
28 nine (9) times as he lay incapacitated on the ground. The ballistics evidence found near his

1 body corroborates the fact that he would have been essentially showered with gunshot
2 residue from being shot that many times at a close range. Further, the small amount of
3 gunshot residue found on Albert is consistent with his account of Defendant Coleman having
4 shot at him from a close range.

5 Defendant's vehicle is found weeks later and it has gunshot residue in it as well.

6 All of the above-described evidence would be admissible against Defendant even if
7 he were tried separately from Defendant Coleman.

8 Thus, Defendant's claims that the case against him is weak are unfounded. There are
9 eye witnesses to the murder who, not only place Defendant Jackson there, but saw him
10 shooting. Further, he clearly had the motive in this case.

11 Defendant also alleges that if both Defendants are impeached with their prior
12 convictions during guilt phase, the fact that they committed the prior violent crime together
13 would be obvious. This is untrue. Unlike what the defense has suggested, the actual
14 paperwork would not be admissible, and the jury would not be viewing the documents side
15 by side. If impeached by prior felony convictions, the details and circumstances of the prior
16 crimes would be irrelevant and inadmissible, because the reason a felony conviction is
17 admissible in such cases is for the purpose of attacking credibility. Owens v. State, 1980,
18 620 P.2d 1236, 96 Nev. 880 (1980); Plunkett v. State, 84 Nev. 145, 147, 437 P.2d 92, 93
19 (1968). Only the name, year, and jurisdiction of the conviction would be admitted. Thus,
20 even if both Defendants were impeached by their convictions, there would be nothing telling
21 the jury that the Defendants committed a prior violent crime together. Further, if a prior
22 conviction is used as impeachment, the defense would be entitled to a jury instruction that
23 evidence of prior felony convictions could only be considered on issue of defendant's
24 credibility and not as substantive proof of his guilt. Harris v. State, 799 P.2d 1104, 106 Nev.
25 667 (1990)

26 Further, while making the argument that both Defendants' convictions may be
27 admitted, Defendant claims that he would be able to impeach Defendant Coleman's
28 statement, if admitted, with evidence of his prior felony conviction pursuant to NRS

1 51.069(1), which reads, “[w]hen a hearsay statement has been admitted in evidence, the
2 credibility of the declarant may be attacked or supported by any evidence which would be
3 admissible for those purposes if the declarant had testified as a witness.” However, a
4 defendant’s statement offered against him by the State is not hearsay according to the plain
5 language of the definition of hearsay in NRS 51.035(3)(a), thus, NRS 51.069(1) would not
6 apply, as it only applies to hearsay statements. Otherwise, the State would be permitted to
7 simply admit a defendant’s prior impeachable convictions at the same time it admitted the
8 defendant’s statement.

9 Defendant also points out that, in penalty phase, the prior Federal conviction against
10 both Defendants would be admissible. However, this would be no different whatsoever if
11 the case were severed. If the case were severed, the State would still be permitted to present
12 full evidence of all of the prior convictions, including all evidence regarding the prior
13 conviction of the crime the Defendants committed together and of which both were
14 convicted. It is well established in Nevada that evidence of prior convictions, including
15 details of those convictions, is admissible at penalty hearings when relevant and credible.
16 Emil v. State, 105 Nev. 858, 865-867, 784 P.2d 956, 960 - 962 (1989) citing Biondi v. State,
17 101 Nev. 252, 699 P.2d 1062 (1985); Allen v. State, 99 Nev. 485, 488, 665 P.2d 238 (1983);
18 NRS 175.552; see also Jones v. State, 101 Nev. 573, 707 P.2d 1128 (1985) (“a defendant’s
19 character and his record are ‘relevant factors to be considered by a jury in imposing a penalty
20 for a capital crime....’”). Thus, whether severed or not, evidence of the details of the prior
21 conviction would be admitted against Defendant.

22 **C. THE DEFENDANT HAS NOT DEMONSTRATED THAT MUTUALLY**
23 **ANTAGONISTIC DEFENSES EXIST IN THIS CASE, NOR THAT A**
24 **FUNDAMENTAL TRIAL RIGHT WILL BE VIOLATED**

25 The Nevada Supreme Court has addressed antagonistic defenses in Chartier v. State,
26 191 P.3d 1182 (2008). In Chartier, co-defendants John Douglas Chartier and David Wilcox
27 were tried together in the murders of Rachel Bernat and her father, Carlos Aragon. See id. at
28 1184. The Nevada Supreme Court reversed Chartier’s conviction finding cumulative error
on issues related to the joinder of the defendants’ trials. However, the facts of Chartier are

1 distinguishable from the facts of the instant case and severance is not required in the instant
2 case. The issues that the Court addressed in making its decision in Chartier included
3 mutually antagonistic defenses and a diminished ability to present a theory of defense,
4 specifically addressing several factual issues related to Chartier's defense. In addressing the
5 mutually antagonistic defense presented by Chartier and Wilcox, the Court began by quoting
6 its prior decision in Marshall v. State, 118 Nev. 642, 56 p.2d 376 (2002), where the Court
7 stated, "[a]ntagonistic defense are a relevant consideration but are not, in themselves,
8 sufficient grounds for concluding that joinder of defendants is prejudicial." See Chartier,
9 191 P.3d at 1186, quoting Marshall, 118 Nev. at 648, 56 P.2d at 379. The Court described
10 Chartier's defense as being that "he was not involved in the crime at any stage of planning or
11 execution and that Wilcox committed the murders of his own volition out of a misguided
12 desire to 'help' Chartier." See Chartier at 1186. In contrast, Wilcox's defense was that
13 "Chartier was not only the mastermind but that he was present at the scene and Wilcox acted
14 at Chartier's direction." See id. The Court went on to find that the defenses were mutually
15 antagonistic, stating that the reason they were antagonistic was because "Wilcox claimed
16 that Chartier was present at the scene and was the attacker despite a lack of evidence to
17 support this theory and despite [witness] Taylor's testimony that the attacker she saw was
18 definitively not Chartier." See id.

19 In distinguishing Chartier and Marshall, the Court relied on the fact that Wilcox's
20 defense was based on arguing that Chartier was at the scene when there was little to no
21 evidence to prove that he was at the scene. In Marshall, the Court had found that although
22 the defenses were mutually antagonistic, that the co-defendant "presented no evidence
23 against [the defendant] and the State's case was not in the least dependent on either
24 defendant's testimony." See Marshall at 648, 56 P.3d at 380.

25 Furthermore, the Nevada Supreme Court has commented that "while there are
26 situations in which inconsistent defenses may support a motion for severance, the doctrine is
27 a very limited one." Jones v. State, 111 Nev. 848, 854, 899 P.2d 544, 547 (1995). The
28 United States Supreme Court has also stated that "mutually antagonistic defenses are not

1 prejudicial *per se*.” See Zafiro v. United States, 506 U.S. 534, 538, 113 S.Ct. 933 (1993).
2 The Court in Zafiro rejected the defendants’ claim noting that they did not “articulate any
3 specific instances of prejudice.” See id. at 539, 113 S.Ct. 933. While an important element
4 of a fair trial is that a jury consider only relevant and competent evidence bearing on the
5 issue of guilt or innocence, a fair trial does not include the right to exclude relevant and
6 competent evidence. Id. at 540, 113 S.Ct. at 938. The Nevada Supreme Court’s ruling in
7 Chartier does not change the fact that in order to require severance, there must be a showing
8 that a fundamental trial right was infringed. The defense has failed to show that a
9 fundamental trial right of his will be infringed. Therefore the Court should not sever the
10 trial.

11 It is the Defendant’s burden to demonstrate what prejudice he is facing by a joint trial
12 and in meeting the burden necessary to cause the Court to grant a severance. Defendant’s
13 argument for severance fails. Defenses become “mutually exclusive” when “the core of the
14 codefendant’s defense is so irreconcilable with the core of [the defendant’s] own defense
15 that the acceptance of the codefendant’s theory by the jury precludes acquittal of the
16 defendant.” United States v. Throckmorton, 87 F.3d 1069, 1072 (9th Cir. 1996) cited with
17 approval in Rowland v. State, 118 Nev. 31, 39 P.3d 114 (2002). Here, the Defendant seems
18 to indicate in his motion that his defense to the crimes is that he only went to fight and was
19 surprised when the others began shooting. Defendant has not shown how this defense would
20 be mutually antagonistic to Defendant Coleman’s defense that he, too, went there for a fight,
21 but did not have a gun. These are not mutually exclusive defenses, and they are not even
22 truly inconsistent with one another. The jury’s acceptance of one defense does not preclude
23 acceptance of the other.

24 As the Nevada Supreme Court has explained,

25 Allegations of “competing defenses” raised by appellants because some were
26 employees and others employers do not persuade us that appellants were
27 prejudiced by the court's refusal to sever. **Inconsistent defenses must be
28 antagonistic to the point that they are mutually exclusive.** (citation
omitted). This the appellants failed to prove. **Different defenses are simply a
part of the adversarial process when defendants are tried together.**

1 Amen v. State, 106 Nev. 749, 756, 801 P.2d 1354, 1359 (1990) (emphasis added). That is
2 not the case here.

3 Additionally, the fact that these charges involve a conspiracy also supports a joint
4 trial. Courts have universally held that where conspiracy is charged, a joint trial is
5 particularly appropriate. See United States v. Polizzi, 500 F.2d 856, 901 (9th Cir. 1974), cert.
6 denied 419 U.S. 1120; Davenport v. United States, 260 F.2d 591, 594 (9th Cir. 1958). See
7 also, United States v. Cirard, 601 F.2d 69, 72 (2nd Cir. 1979), cert. denied 444 U.S. 871.

8 **D. JUDICIAL ECONOMY SUPPORTS A JOINT TRIAL**

9 Judicial economy is a relevant factor for the Court to consider in determining whether
10 or not to grant severance. The Nevada Supreme Court has stated that while prejudice to the
11 defendant is a relevant factor, it is not the only factor and that “a court must consider not
12 only the possible prejudice to the defendant but also the possible prejudice to the State
13 resulting from expensive duplicative trials.” Marshall at 646, 56 P.2d at 379, citing Lisle v.
14 State, 113 Nev. 679, 688-89, 941 P.2d 459, 466 (1997). Federal courts have agreed that
15 where persons have been jointly indicted, they should be tried jointly, absent compelling
16 reasons to the contrary. United States v. Escalante, 637 F. 2d 1197 (9th Cir. 1980); United
17 States v. Silla, 555 F.2d 703 (9th Cir. 1977). In United States v. Brady, 579 F. 2d 1121 (9th
18 Cir. 1978), Cert. denied, 439 U.S. 1074, the court recognized that:

19 . . . [W]e must be guided by our general rule that joint trials of persons
20 charged with committing the same offenses expedites the administration of
21 justice, reduced the congestion of trial dockets, conserves judicial time, lessens
22 the burden upon citizens who sacrifice time and money to serve on juries and
avoids the necessity of recalling witnesses who would otherwise be called
upon to testify once.

23 Here, judicial economy supports having a joint trial against the defendants. Largely
24 the same witnesses would be testifying at trials for each co-defendant and to have them
25 testify on as many as thirteen (13) different occasions would not promote judicial economy.
26 Additionally, the evidence against each defendant is largely the same, and so each trial
27 would not be significantly reduced in length, simply because it involves less defendants.

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CONCLUSION

The State respectfully requests the Defendant's Motion to Sever from Co-Defendants
be denied.

DATED this 30th day of January, 2012.

Respectfully submitted,

MARY-ANNE MILLER
Clark County District Attorney
Nevada Bar #001419

BY /s//NELL E. CHRISTENSEN
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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that service of State's Opposition, was made this 31st day of January,
2012 , by facsimile transmission to:

PATRICIA PALM, ESQ.
386-9114

BY Shellie Warner
Employee of the District Attorney's Office

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of State's Opposition, was made this 31st day of January,
2012, by Electronic Filing to:

SCOTT BINDRUP & IVETTE MANINGO,
Speical Public Defenders
E-mail Address: IManingo@ClarkCountyNV.gov
and SBindrup@ClarkCountyNV.gov

Shellie Warner
Secretary for the District Attorney's Office

mmw/GCU

Exhibit “1”

1
2 Q. Okay, I want you to give me a shot. Listen to me, okay?

3 A. Mm-hm.

4 Q. I'm gonna advise you of your Miranda Rights 'cause you're in - in custody,
5 okay? You have the right to remain silent. Anything you say can be used
6 against you in a court of law. You have the right to the presence of an attorney
7 during questioning. If you cannot afford an attorney, an attorney will be
8 appointed for you free of charge prior to any questions. Do you understand
9 your rights?

10 A. Yeah.

11 Q. You gotta say yes.

12 A. Yes.

13 Q. Okay. Um, listen to me, okay? I happen to be investigating a shooting, okay?
14 All right? I got information - and I'm sure you know that the word gets around
15 and at this point, I went tonight - we stopped you - some officers stopped you
16 mainly because I wanted to talk to you. They called me up, I went out there.
17 And - and in - during this time, I talked to your girl and she told me she had a
18 gun at the house. We went and got the gun. And we got some of - your kid in
19 the car told us, so we went over to the house and we picked the gun up. Um, a
20 convicted felon, okay? Um, I think maybe you can help me and - and maybe
21 in some kind of way this might help you. Ah, like I said, I don't know your
22 totally involvement in the whole situation, but at this point, you got no place
23 to go, but, you know, just kind of talk and tell me what's up. Um, and like I
24 said, I talked to your girl and, ah - ah, Arlanda...

25 A. Mm-hm.

26 Q. Veley? Been with her a long time, huh? Okay, Arlanda - she told me you
27 talked to her, okay? She told me that you told her some stuff about the fight in
28 the club on, um, the 31st with (Yak) and - and (Spark) and - and they - I know
29 the names because I've been doing this for a while, okay? You understand?
30 Okay. Um, I know that something happened later on, all right? Not too long

21 after the fight. I don't - I don't necessarily believe that you were shooting or
22 something like that could have happened from you because I got witnesses, all
23 right? There's a lot of people out there do some- there was a couple girls in
24 cars. There were some guys down the street. I just want to know what caused
25 the fight. What caused the fight? What - what happened that caused the fight,
26 you know? I don't know about - but it - I'm not saying you did anything. But
27 you know what happened to start the fight at the club, 'cause I got you on
28 video that you were there at the club. And every place has video now. So,
29 look, help me in some off kind of way help you because at this point, you ain't
40 got no place to go, you know? I would rather you talk to me and tell me what
41 happened and me - I - like I said, I don't know what happened there totally.
42 And I don't know if, by chance, because - from what I understand, was -
43 (unintelligible) you gonna fight. Maybe this was something where it's in self-
44 defense. I don't know. But unless somebody starts talking to me, then - you
45 know, it - it - it ends up the same way for everybody. And at this point,
46 unfortunately, you've got a gun. And that don't set too good, you know, being
47 on probation, having a firearm. It's not gonna be good. So, you know, you
48 want to talk to me and tell me what's up and what happened? How'd the fight
49 start that night?

50 A. I mean, shit, I don't even know how it happened. I mean, shit, I mean I don't
51 even know who - what started the fight.

52 Q. Well, who was involved in it?

53 A. Some of the witnesses. It wasn't - I was - me - I wasn't fighting.

54 Q. Okay, but you know who was involved because you grew up with all these
55 people. I just talked to your - to, ah, Arlanda and she told me, "You know
56 what? He grew up with all those guys." You know everybody's name. You
57 know who was involved in the fight. Why don't you talk to me and help me
58 out. Tell me what happened and so that I can kind of break this down and
59 make some sense of it. Because at this point, I don't want to go scoop
60 everybody up. And I don't have to, okay? But your cooperation with me now

61. is gonna be what sets you apart from a lot of this. Because, look, you got - you
62. do got a gun now and the (unintelligible)'s gonna look at you right away and
63. they're gonna say, "Oh, man, you got a gun."
64. A. I got a gun? On what did I...
65. Q. Okay. From the house, we just got the gun. Okay? From the house. Your girl
66. took us in the house, we got the gun that was in the house - that 22 hand rifle
67. gun. Okay? We got that. You know we gonna be able to match it up to you.
68. She said it was yours. You just got it a few days ago because you were scared
69. from what happened the other day. Now, if you're scared, tell me what
70. happened on that night. What happened - what - who - who started the fight?
71. Was it between just the two guys that were involved?
72. A. Yeah.
73. Q. Okay. So - and that was who? (Ced)? Yes?
74. A. Mm-hm.
75. Q. And? Who?
76. A. (Yak).
77. Q. (Yak). Okay, cool, so what happened? What happened?
78. A. Sweet, they had a fight. That was...
79. Q. That wasn't it, though.
80. A. And any kind of (unintelligible), I have no idea.
81. Q. Okay.
82. A. I don't know them.
83. Q. Okay, dude, I know, but the whole thing is - is, here, if you're trying to
84. cooperate with me and you try and do the right thing, look - look, we know
85. that you went over there because three people saw you over at the house.
86. Listen, your girl just gave me a taped interview, said that you told her you
87. went over to Blue Reef. Now, look, the girl's scared. She got three kids. She
88. don't want to be yanked in the middle of this. She said that you told her that
89. you went over to Blue Reef and that they kept fighting. You want to pick this
90. up here? You don't want to leave her hanging like this. Listen, you need to

91 start stepping up. Look, tell me what happened over there - whose fault it was.
92 I didn't say you did - you shot or anything, but lookit - you need to tell me
93 why they started. Because this separates you from this. Look, it's easy just to
94 yank you up and go and take you and throw you into jail, but I don't need to
95 do that. I'd rather you have - I'd rather use you or you help me as a witness
96 here and say, "You know what? Ah, they started it, they started." Then I'll
97 know what happened because I got you - I know what - I know, from what
98 people tell me - but I know them guys weren't totally clean. That's the whole
99 thing here. And I can't say something that could have been a self-defense over
100 a fight turn into somebody shooting that I'm just gonna yank two or three
101 people up and I'm gonna take them to jail for a murder. It doesn't make any
102 sense. So if this is gonna be something that was a self-defense issue, I gotta
103 look at that. You understand?

104 A. Mm-hm.

105 Q. Okay. So why don't you - who started the fight and did those guys pull out the
106 guns and they started shooting? Because I have three - three people that know
107 you very well that saw you there. That's why I don't - and then your girl, she
108 just told me that you were there on Blue Reef. She said you told her - you
109 watched the news and you told her - look, the whole thing is here, is that I'd
110 like to know the truth, but it - then I'd like to get the persons that are at the
111 biggest part of this to blame - set the blame where it belongs. Now, just
112 because (Yak) winded up dead doesn't necessarily mean he was innocent. You
113 understand that? Okay, so why don't you tell me at the place, who started the
114 fight or who continued the fight and what happened? Did they pull out a gun
115 because the shell- everything there shows that. Do you understand that?

116 A. I do.

117 Q. Okay. So I need you to help me because I don't - lookit, dude, Prentice, I'm
118 not asking if you were there because I got the two guys that were in the truck
119 that were right there - they saw you. They were like - they came around the
120 corner. They seen you walk around. I said - lookit - "Who - who's shooting?"

- 121 They said, "(Ced)." I know you were there. I knew you - I'm not worried
122 about asking you - I'm not gonna say, "Oh, you know what? Hey, Prentice,
123 were you there?" Because I don't have to. That's why I was looking for you,
124 right? Cool. You - do you want to level with me? So then look, like I said, tell
125 me what happened, who started it so that I'll know. Okay?
- 126 A. At the club, it ain't even (unintelligible) taking nothing. I mean, I don't know
127 who started what.
- 128 Q. Okay. Okay, okay. Well, at - at the Blue Reef, when you guys got over there
129 and (Ced) ran up there and he started fighting, you guys were there on the
130 corner. You were still there. I want to know which guy pulled out a gun first,
131 'cause I know (Ced) pulled out a gun, but I don't know if the other guy pulled
132 it out there or it was later. I don't know this. I got people over there on that
133 side that are saying one thing. They don't want to own up to anything. Right?
134 You know that. If everybody goes on the other side and I have to go grab
135 everybody and make them talk, and it doesn't look good - you understand that,
136 don't you? So here's your time - look at, if they pulled out the gun, then you
137 need to say, "Hey, lookit. This is what happened." If - if (Yak) and (Spark) -
138 you know, (Spark), right? Do you know who I'm talking about?
- 139 A. (Unintelligible).
- 140 Q. You - well, you know the guy that was with him, okay? If they pulled out a
141 gun, then I need to know that because I got - witnesses already got (Cedric)
142 pulling out a gun. I don't need that. I don't need you to tell me that. See, I had
143 that. So tell me what happened. Did - did you see their gun? Did you see what
144 they were doing? Did you see something that would have made it start to turn
145 that way?
- 146 A. No, it was - after the club, I have no idea if - I mean, if she told you all that
147 bull, she don't know, because...
- 148 Q. Dude, yeah, but I...
- 149 A. ...she ain't heard...
- 150 Q. You're not...

- 151 A. ...any of the conversating and stuff.
- 152 Q. You're not listening to me. Does - didn't I say...
- 153 A. I listened everything, but she...
- 154 Q. I'm just telling you what she - lookit, she told me what you told her. Look, I
- 155 didn't say...
- 156 A. (Unintelligible) saw him by the side of the club.
- 157 Q. Lookit. Or here, no, she's - I have witnesses that have you at Blue Reef. Dude,
- 158 you're not here because of your girl. You're here because you were seen at
- 159 Blue Reef. You were seen. I'm not - lookit, there's only a couple ways this can
- 160 go. You know this, don't you? You can either talk to me and tell me, "Hey,
- 161 you know what? I didn't - or I wasn't a part of anything. I just rode with them.
- 162 I don't know." Or, "I left the club after we got in a fight with the guys." I got
- 163 you on video, now. You know this. Lookit - lookit - lookit.
- 164 A. I went to my apartment.
- 165 Q. I know that. But you left with him in his car. You left with him in his car. I
- 166 got that on video, too. Okay?
- 167 A. Mm-hm.
- 168 Q. Okay. So now you're gonna say you didn't get in the car with him?
- 169 A. I never said I got in the car with him.
- 170 Q. Dude, listen, you drove with him in his car. Okay...
- 171 A. Do you know how far away I stay from (unintelligible)?
- 172 Q. Listen, I don't - listen, that's not - I know where you live. I know everything
- 173 about you, okay?
- 174 A. Okay.
- 175 Q. Okay, listen, you went with him over to Blue Reef. You guys came around the
- 176 corner. Lookit. The guys - (Trevia) and those kids, they saw you, they
- 177 identified you. Okay? They know you. They grew up with you.
- 178 A. The once, then he said the only thing (unintelligible) did was the he pointed
- 179 my picture out.
- 180 Q. Nope.

181 A. (Unintelligible) that me.

182 Q. Nope. He said that he - dude, he saw you. He identified you coming around

183 the corner. Lookit, dude. Let me tell you - listen, you can play the games you

184 want to play now. Ah, but I'm telling you...

185 A. (Unintelligible) playing no game with you.

186 Q. Okay, but listen, you got a h- you got a firearm in your house...

187 A. I didn't have nothing to do - that's not my house.

188 Q. You got - the gun...

189 A. That doesn't...

190 Q. I'm gonna find your DNA on the gun and your fingerprints, okay? So the gun

191 - you were staying over there with - I know it's not your house, but you were

192 staying with her, you spend the night. She took me over there - the gun that

193 you had in the house. The kid said it was your gun. She went over there, took

194 me to the closet and showed me where your gun was, said you got it a couple

195 days ago and then test fired. Lookit, dude, you're done. Lookit. Ex- ex-felon in

196 possession of a firearm. All right? Plus, you could help yourself by telling the

197 truth in this other thing. Did - did you go over there as - with somebody that

198 had a fight? Or did you go over there to kill somebody? But - see, 'cause I

199 don't know. Even if you didn't shoot, you went over there with somebody that

200 did shoot and was identified. So a conspiracy is there. You don't have to shoot

201 the gun. You don't have to. I charge you just the same. I'm gonna charge you

202 just the same. So you have an opportunity here. Look, you could be a person

203 that was just there. Now tell me what...

204 A. So you can - you can - you can charge me with something just because there

205 was a fight at the club?

206 Q. No, I'm gonna charge you with something 'cause you went over to the place,

207 they saw you, they identified you walking around the corner. So I don't know

208 which your part in it was. Lookit, man - dude, lose the club. Wait, act like...

209 A. I mean...

210 Q. No, let me tell you, act like the club ain't there. Don't even try to put - don't
211 jump in the club thing. Lookit, that's where it started. I know where it ended,
212 okay? Forget the club. People identified you coming around the corner, or you
213 wouldn't be here right now. I don't need you. I don't need you. What the heck -
214 or what do I care what you do? Do I care about you? No? Huh? Okay, so all I
215 wanted to know is was it your plan, or did you just happen to be there? If I
216 drove with somebody and they were in a fight with somebody, and I didn't
217 know what they were gonna do, that doesn't make me the person that pulled
218 the trigger. But if I drove with that person and I knew somebody was gonna
219 get shot, then that makes me equally guilty of it. Do you understand that?

220 A. I can understand that.

221 Q. Okay. So I'm not looking at this where, "Okay, um, Prentice, were you there?"
222 That's not the question. I didn't ask you that. Okay? I'm asking you, when you
223 went over there - because I have you identified - was it your plan to go and
224 kill somebody? This is not - listen, like I said, you don't have to pull the
225 trigger. You just have to have been with somebody that you knew was gonna
226 do something like this and it happened. So you can start talking to me or you
227 can play dumb. You can do whatever you want. You can say, "I don't know
228 who was at the club." Forget the club. 'Cause it's you, (Cedmack) and the
229 other guy who's - I - I'm gonna find out who it was. (Unintelligible) her family
230 went over there and then something happened. Somebody pulled out a gun
231 and started shooting. So you have an opportunity right now to either join in
232 this thing as a conspiracy or hey, you were just there. I mean, you're not tell-
233 you're not bringing - you're not giving me any - you're not giving me any play.
234 Look, I know you were there. I'm not asking you that. So what happened - if
235 you didn't know it was gonna happen, then you need to talk to me now so that
236 I can - I can separate you from the shooting. I can separate - if you were just
237 there, then talk to me. But you're not helping yourself. You're not helping
238 yourself. What are you doing? Are you thinking you being - just sitting there
239 is gonna get you out of anything? No?

240 A. No.

241 Q. Okay, now, why won't you talk to me? I - lookit. Look, forget saying you

242 weren't there, 'cause you were there, all right? Forget that. Look, you got an

243 opportunity here. Just 'cause you drove with somebody and just 'cause you

244 went over there didn't mean you did what they did. It doesn't mean you know

245 what they were gonna do.

246 A. Well, I mean, that don't mean (unintelligible) there was nothing. Like, I'm

247 telling you, I don't know.

248 Q. Well, that's what I need to know. I just said that you don't. There wasn't...

249 A. You could (unintelligible).

250 Q. Lookit, dude, this is - I'm not putting you there.

251 A. Okay.

252 Q. I don't even care about you.

253 A. Whoever they are putting me there, I mean, they probably just assuming

254 because...

255 Q. No.

256 A. ...I just always usually there.

257 Q. They saw you, they know you. In fact, lookit - right here - here. They know

258 you guys so good they know everything about you. Look. I - I don't need to

259 know anything about you. I know everything from them.

260 A. And this...

261 Q. Okay? I know what you guys did and what you got convicted of back then.

262 They know. I think - look, before I talked to them, I didn't know anything

263 about you. They said, boom, boom, boom. They went to jail together, they

264 hang out together, they came here together, they fought at the club together,

265 they were together at the club when the fight started, the followed them over

266 here. Boom. It went all the way. I don't know you. I don't know you. So now I

267 know you because of everybody else.

268 A. And that's what I'm getting at because they figure that we always together, I

269 had to come.

270 Q. No, no, no. No. They said they saw you walk around the corner. Lookit,
271 Prentice, help yourself here. Because I'm not - I don't need you. But what you
272 do - you do - you need this. You need to look. If you didn't know the shoot- I
273 think - I'm - what I'm looking at, I'm looking like it was a plan. It was look a -
274 'cause that's what it's looking like to me. To book you on a conspiracy to
275 commit murder, and one guy - three guys came around the corner. One ran in
276 the center of the street to fight. The other two set back and waited. That could
277 be a conspiracy. You guys had to talk before you got there. And all I want to
278 know is if there was no talk about the gun - if there was no talk about
279 shooting. Maybe he had the gun hidden in his pants. I don't know. But the
280 shooting started and that's where I come in. If you guys would have get - he
281 would have just fought that guy in the street - (Yak) in the street, that would
282 have been fine. But when somebody started shooting, it changed everything.
283 You know this, right?

284 A. I'm saying when I was with him, he didn't have nothing on him.

285 Q. Two...

286 A. I don't know if he had it with him then.

287 Q. Okay. Okay, just tell me, did you see him pull out a gun at the place by the -
288 in the street, or did you not see him pull out a gun? Or what - maybe it was
289 just shooting on that one (unintelligible). I don't know. But I need you to help
290 me out here. Because the other side - look, you can't go nowhere, Prentice.
291 You gotta help yours- listen, here - you have an opportunity right now. You
292 could step up. Tell me who started it in the street? Who you saw pull the gun?
293 Because at this point, you got no place to go. Only place you can go is up
294 instead of down. All right? Right now, you have a chance. You leave me no
295 choice but to believe what I think happened. I think - and unless you can
296 change this, it's a possibility you guys went over there because of the fight at
297 the club and shot that kid. Okay? Now...

298 A. I know (unintelligible) fighting, 'cause why I was gonna shoot a kid?

- 299 Q. You - I didn't say that. I - but here's the thing. This is what I'm trying to
300 understand. Maybe you were (unintelligible). But the whole thing is, is that...
- 301 A. Even (unintelligible) was there.
- 302 Q. I don't know. Lookit...
- 303 A. Ah, you seen - you know - you seen...
- 304 Q. ...they're fighting, you see them like this...
- 305 A. But you said what (unintelligible).
- 306 Q. If your buddy - if your friend got in a fight with somebody, I - you know
307 what? Unfortunately, videos don't show what people say, okay? So I don't
308 know if somebody would have been, ah, mother-fucking you or him or
309 whatever. See, I don't know that, right? So I can see somebody physically in a
310 fight, but I can't see what they say on a video. You know, I can't hear that.
311 You understand?
- 312 A. Mm-hm.
- 313 Q. You know, I - I - and you - damn sure I couldn't hear it in the club, okay? So I
314 don't know what was said. All I could see is the physical confrontation. So I
315 don't know how mad people were when everybody got thrown out to where
316 you guys would have went over there. So I don't know if it was just a fight, if
317 it was just a - if (Ced) just went over there to fight again, then you need to talk
318 to me. If it wasn't a plan. But the way it's looking right now, because you don't
319 want to talk - it looked like you guys might have went over there because it - I
320 don't need the - I don't need you to say, "Oh, I was there or I wasn't there,
321 because I don't have no questions there." All I want to know is if you knew
322 that (Ced) was gonna shoot that guy, you need to talk to me. And if you did
323 know, and it wasn't a plan, you need to tell me now.
- 324 A. I just told you it wasn't really - it wasn't - and I - I didn't - I didn't see him with
325 no gun or nothing - nothing that I know of. I don't know this whole thing.
- 326 Q. So, what did - well, who started the shooting? Who started - what - how did
327 this shooting start? The shooting started, I need to - some help here. Look,

328 dude, you already got yourself into this. Listen, do you want to go to jail for a
329 murder?
330 A. I am going to jail.
331 Q. No, I know, but you - but you - you're - you're going to jail for a gun. Do you
332 want to go to jail for a murder charge?
333 A. I mean, for (unintelligible). But you said that I'm in jail for murder trying to
334 (unintelligible).
335 Q. You don't - no, it's - no. No, you're not listening to me.
336 A. I mean...
337 Q. No, y- you're the one that determines what I do here. 'Cause lookit. It's not...
338 A. I can't give you what you're looking for.
339 Q. No, you gotta give me what you saw. I already know you were there. You said
340 didn't - you didn't see him with the gun. You didn't - you said it wasn't a plan.
341 Okay, good. I believe you. I'm gonna believe you. Who started shooting first?
342 I need to know this.
343 A. And that - that's what I keep telling you, right? They just assuming - or make
344 you believe that because I rode with the dude, that I'm always there, too.
345 Q. Dude, you were there. You're not listening to me. They saw you there.
346 A. And I was - ah, I (unintelligible).
347 Q. Why - wait, why are you doing this? Lookit, I'm gonna say this - I...
348 A. I was in that club, I was so fucking drunk.
349 Q. I know, I know. Then maybe you went over there - maybe you went over
350 there, you were drunk. Okay, cool, then tell me what...
351 A. I went home.
352 Q. But - but - but - no, you didn't go home, because they identified you being
353 there. Lookit, Prentice, this is for you, it's not for me.
354 A. I know.
355 Q. Okay. So I need help with this hill.
356 A. If I (unintelligible).

- 357 Q. If you want to talk to me. No, wait, it's - I wanted you to - I wanted you to tell
358 me. If you saw them shoot in person - you saw somebody pull out the gun,
359 then you need to tell me because I don't think everybody on that side was like,
360 "Oh, we just went there. We didn't do nothing and they came - somebody
361 started shooting." See, I don't believe that. I believe that somebody on the
362 other side was shooting. So I need your help. Okay? You want to talk to me,
363 dude, give me a...
- 364 A. Yeah. Yeah.
- 365 Q. Huh?
- 366 A. I said I just trying - I saw that, it did happen.
- 367 Q. Okay. Who - who - whose idea - was it your idea to go over there or
368 (Cedric)'s? Was it (Cedric)'s idea, you followed? You were in his car - he
369 drove? But do you - do you think that...
- 370 A. He drove me home. That's all...
- 371 Q. Okay. But it's like...
- 372 A. So you said that (unintelligible).
- 373 Q. Wait. Do you think I don't have lights to show people get in cars, those
374 cameras in - in...
- 375 A. I believe you, but...
- 376 Q. Okay. So you don't think that I know what's going on there? Wait, you think -
377 you're gonna tell me that you went home when - it didn't happen. I got
378 witnesses there. When - witnesses saw you on Blue Reef. You told your girl
379 you were on Blue Reef. Listen. I know when - me and her talked in the car.
380 She gave me a statement. She said that you said you were on Blue Reef and
381 (Ced) started fighting with the guy. And all of a sudden, the shooting started.
382 Now, she didn't say that you shot.
- 383 A. She couldn't say I didn't shot - I didn't shot nothing or nobody.
- 384 Q. No, no, okay. But that's what she said. She didn't say that. But she said you
385 were there and you told her, okay? So, tell me - help me out with this.
- 386 A. I didn't know this was going on, really, 'cause I talked to her...

387 Q. No.
388 A. ...about the fight at the club.
389 Q. Dude, no, I'm not - lookit, I don't - that's not what I'm saying.
390 A. Now, when...
391 Q. Listen, listen.
392 A. ...I talk to her or she maybe mentioned it to me on the news, I say...
393 Q. She said that you told her you went to Blue Reef, (Ced) started fighting with a
394 guy and then the shooting started. Listen, Listen, Prentice, it's time to help
395 yourself here. Don't worry about nobody else. Know what? Lookit, don't
396 worry about - lookit, if they did what they did, that's on them. All I need you
397 to do is talk to me and tell me which side started shooting.
398 A. That's what I mean. Whatever they did, I don't know. Man - man, you
399 throwing me into they shit.
400 Q. No, you're already in their shit. You're not listening to me. You were there.
401 A. (Unintelligible).
402 Q. You saw what happened. So who am I gonna - who am I gonna...
403 A. (Unintelligible).
404 Q. ...who am I gonna ask who's - like, let me go pull a person off the street that
405 don't know anything and ask him something about a shooting that - that he
406 wasn't there. When, in fact, I got the guy that was there. He could tell me who
407 started it, so why am I gonna go ask somebody who's a perfect stranger? Who
408 am I gonna ask? I'm gonna ask you. Dude, if I got people saying you were
409 there, why am I talking - that's the only reason I'm talking to you. So after
410 talking to them, after your girl Arlauda telling me what you told her - that - I
411 don't know need anymore, okay? All I want to do is clarify some issues here. I
412 don't - I'd hate to see you go to jail for something I don't have to book you for
413 that. Okay? I don't have to book you for that. I'm gonna book you for the gun.
414 I'm not gonna lie to you. I'm gonna book you for the gun, all right? But I don't
415 have to book you for a murder. But I need you to talk to me and tell me who
416 started the shooting over there. This is on you. Lookit. You have an

- 417 opportunity right now to talk to me. So tell me what happened after - on Blue
418 Reef. You said it was a - (unintelligible) an idea. If it wasn't like, a planned
419 thing where - where somebody in a car said, "Hey, let's go kill somebody,"
420 and this is like, not a planned thing and you would not know what was gonna
421 happen. But if somebody in the car did, then I could see why you're hesitant
422 and you don't want to talk to me. So then maybe you should - you know?
- 423 A. Yeah, but you getting at - I don't think (unintelligible). If I could help you
424 with (unintelligible) saying that anything happened, you know, I wouldn't do
425 it.
- 426 Q. Dude, you were there. I'm not trying to - you know, see (unintelligible). No,
427 was it - here...
- 428 A. And you (unintelligible).
- 429 Q. Here's a little - here's a - Prentice, Prentice. The thing is, is that because I
430 know you were there and I believe that everything you're doing, you're -
431 you're throwing a smoke screen at me because I know you were there because
432 they identified you. Look, that's why I'm talking to you now. I need you to
433 step up now and tell me the truth about what happened at the deal. If - if it
434 was the plan and you guys planned it or you went over there, tell me who
435 started the shooting there and I will know. Lookit, it was somebody over
436 there. The - the guy that - on the other side, that you went over - you had the
437 fight with - (Ced) had a fight with, then talk to me. Talk to me. Like I said, I
438 don't need to book you for a murder, but I need you to talk to me in order to
439 clarify these point here in - In this case. I don't know what's going on.
- 440 A. I can tell you, man, as we had the altercation, man, I wasn't - there was no talk
441 of no murder, no plans or nothing about the other guy. That's...
- 442 Q. So was all - it - was all (Ced) gonna do was fight him? Is that all he was
443 gonna do?
- 444 A. I didn't even know he was gonna fight him again.
- 445 Q. So what happened, then?

- 446 A. I don't exactly (unintelligible). 'Cause I mean, like you said, I could help
447 myself. Like - like, I don't want to be in there for no murder charge.
- 448 Q. Well, you're - that's what you're looking at because you want to keep playing -
449 you want to keep playing this game with me. You're like - you're gonna say -
450 wait, are you trying to honestly tell me now that you're still not there? Dude,
451 please. What are you doing?
- 452 A. I mean, you got your leads for real or whatever, I don't try - I mean, we just...
- 453 Q. They saw you there. What - it's - it's a perfect stranger, okay. They wouldn't
454 know.
- 455 A. A perfect stranger, it doesn't happen - it happened, didn't it?
- 456 Q. A perfect stranger, no. Those guys know you. They know you. They...
- 457 A. Me?
- 458 Q. ...they grew up with you.
- 459 A. Them dudes haven't been around me in no seven years. How they gonna...
- 460 Q. They did - they know you. They knew you at the club. They saw you. They
461 were at the club, too. They're - those guys are at the club, too. But - in fact,
462 several people at the c- saw the fight at the club and then a lot of them came
463 back to the house and that's when they saw you guys coming around the
464 corner. That's the only reason I know what happened. Dude, that's the only
465 reason I'm here. What - you don't think I pulled your name out of a hat, do
466 you?
- 467 A. Yeah, I thought you was just asking (unintelligible) for this club.
- 468 Q. Well, at - okay. So when you guys went over to there, it's either it was
469 planned that somebody was gonna shoot somebody, or it was no plan and it -
470 (Ced) just went over there to fight with, ah - with (Yak) or (Demario),
471 whatever you want to call him. And then somebody just started shooting.
472 Because I don't know. I know one guy was identified shooting. Okay? But I
473 know that you were identified as being there. But lookit, if - if - if there was a
474 plan before you guys went over there and...
- 475 A. Man, you (unintelligible) - you playing.

476 Q. Yeah, because I - lookit, here's the only way I can - oh, here. Here, just listen.
477 Prentice - Prentice, listen to me. I don't need to take you. I'm gonna take you
478 for the gun. I'm gonna tell you - I cannot charge the gun - I don't even care.
479 'Cause I can match you up with the gun because I'm gonna get your
480 fingerprints, I'm gonna get your DNA on the gun. I'm gonna get - that's for
481 sure. That's that.

482 A. That's (unintelligible).

483 Q. Yeah, okay, so your girl said you just got the gun. You brought it to the house.
484 She took me where you hid it in the closet. She took me to that. I didn't...
485 A. I didn't see it hid in the closet.

486 Q. There's no doubt - there's no doubt in my mind that that gun - you're gonna go
487 to jail for that gun. I mean, that's the - that's the - it cannot - you don't have to
488 go to jail for a murder, but you need to talk to me about what happened that
489 night over on Blue Reef.

490 A. Man...

491 Q. So what happened?

492 A. On Blue Reef, what happened?

493 Q. Your idea? Is that why you're kind of hesitant to tell me? It's your idea to do
494 this?

495 A. Nope.

496 Q. And, dude, I'm not laughing. This isn't funny. Somebody's dead, though.

497 A. Yeah, but, I mean, somebody is dead. (Unintelligible), I mean, like you say,
498 you all (unintelligible) down at the...

499 Q. But you went over there and that's why I got you here is because I got you
500 identified as being - coming around that corner. Lookit - hey...

501 A. Yeah, shoot. I just kept hearing about the (unintelligible), so then I just said -
502 okay, they - you know, I mean, to take - tell a story, they gonna have to do
503 something - I didn't have no altercation with nobody. I didn't have no
504 arguments with nobody.

505 Q. Got thrown out with the guys that had the fight. You left with them.

506 A. I didn't have to get thrown out. I could have stepped to the side, but - I mean, I
507 grew up with these dudes. There ain't no point in letting them continue to fight
508 when they getting (unintelligible).

509 Q. So you got pissed off and you guys went over to their house to get even.

510 A. Who got pissed off?

511 Q. You and (Ced).

512 A. What we pissed off for?

513 Q. You was - I don't know. Why don't you tell me? That's what I'm trying to find
514 out.

515 A. I don't need to get pissed off.

516 Q. Well, you got pissed off enough to go over there to the house and either plan
517 to shoot somebody or shoot somebody.

518 A. No. No plan, no shoot.

519 Q. Yeah. Well, listen, I'm gonna tell you what...

520 A. And I wasn't pissed at nobody - I - I wasn't pissed. I - I had...

521 Q. Listen. You went over to their house afterwards. I got you identified as going
522 over there.

523 A. You got some camera over there so you can show I wasn't (unintelligible)?

524 Q. Dude, I got eyewitnesses. Eyewitnesses.

525 A. You think credibility mean something, huh?

526 Q. Yes, it does. Man, if you want to think about it. This - this is your - like I said,
527 you determine what happens here, not me.

528 A. Well, I mean, but, ah, how long it's gonna be before I get to go tonight, man?

529 Q. Just a few minutes. You know, let me just - I'm - like I said, I'm trying to get
530 this - this ironed out to where I know what's happened over on Blue Reef.

531 A. Well, I don't...

532 Q. 'Cause it - I just want you to tell me the truth. If you didn't know that they
533 were gonna start shooting - if you didn't know - if there wasn't a plan...

534 A. We never talked about no shooting, he never talked about no gun. He never
535 showed me no gun, I never - you know?

- 536 Q. So what - and he just walked up there without a gun?
- 537 A. I don't know what he walked up there with. How do I know what - like, what
- 538 he walked up there with?
- 539 Q. I - I can't see him going up there not - and you not knowing what he has or if
- 540 he had a gun or he - I can't see that. You drive all the way with him and then
- 541 you don't see the gun? You don't know what's going on?
- 542 A. I mean, you put - you put - supporting that I didn't go. Dude, you know where
- 543 I stay at, right?
- 544 Q. Yeah, I know what you stay.
- 545 A. Okay, now, where I stay at to where the incident happened, it's on my way to
- 546 be dropped off.
- 547 Q. I know. But, I'm sorry, man, the people identified you as being there.
- 548 A. Mm-hm. That's right. (Unintelligible) and everything. And I'm just trying to
- 549 be (unintelligible) booking so I can call my employer and tell them I won't be
- 550 in. I mean, I told you everything for it - the club situation. Everything after
- 551 that is irrelevant to me. I took no parts and no plan and no talking, no shooting
- 552 and stuff.
- 553 Q. Well, you went over to the house with him. So you're looking - I'm - I'm
- 554 looking at the conspiracy to commit murder. I'm looking at battery with a
- 555 deadly weapon. I'm looking at attempt murder.
- 556 A. Damn, attempt murder. Who I attempt murder now?
- 557 Q. When you shot at the other guys that were there,
- 558 A. I shot...
- 559 Q. That's right. Okay, listen to me. Listen...
- 560 A. Oh, man, damn...
- 561 Q. ...you can say this is - well, if - if - if you're aware - if you're aware...
- 562 A. (Unintelligible).
- 563 Q. If you went with somebody - did you just hear me when I first started - if you
- 564 went with somebody that shot at somebody, then you're rolled up to the whole

565 thing. If - if you rolled with somebody to rob a bank and you sit in the car,
566 what do you get charged with?

567 A. Um, (unintelligible).

568 Q. No. I'm just saying if you - no, forget about that. That probably wasn't a good
569 one because you had - had - I know you - so I'll just - okay, forget the bank.
570 Okay, if you were the getaway driver in the crime, do you think you get
571 charged with the same thing? Right? Okay, so if you drove - if you drove with
572 somebody to a shooting and you shot at a bunch of people and there happened
573 to be an attempt murder and a battery, then I would charge you the same. That
574 doesn't mean you had to shoot, but I would charge you the same, okay? So
575 that's not having to put your gun in your hand as a shooter. But if you're not a
576 witness - if you're not a witness, then you're a part of this crime. And this is
577 what I was trying to tell you. If you're not...

578 A. I am, though, (unintelligible).

579 Q. And you're - you're already there - I already got you there. I already got you
580 walking around the corner with (Ced) and another guy I haven't yet identified
581 - but I will - and they got on the street, somebody pulled out his gun and
582 started shooting. Okay, so if you came with them, then it was either a plan or
583 you're a witness.

584 A. I wasn't (unintelligible).

585 Q. Dude, you were there. Okay, then, let me - let - tell me something.

586 A. Ask the boys over in (unintelligible). She can tell you I wasn't there. She
587 obviously knows who it is.

588 Q. Dude,

589 A. She can tell you I wasn't there.

590 Q. They had never fought. It's not about her. She don't even know you.

591 A. She know me enough to know I wasn't there.

592 Q. She don't even know you.

593 A. Well, she bouncing in the club, so she knows me.

594 Q. No.

595 A. Like I said, she can tell you I wasn't there.
596 Q. She - look, I'm telling you right now who identified you. You're - you're
597 already there. I'm not asking if you were there.
598 A. I mean, you can say that, um, (unintelligible) was in the car, they said, no, I
599 wasn't there.
600 Q. Dude. Fine, then, I'll play this game, then. I'll be back.
601 A. I'm not playing a game, man.
602 Q. It's a game. You are just playing the game. I told you - (unintelligible). Fine.
603

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Ann L. Blum
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10C265339-1
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Receipt of Copy
1783886



DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

v.

CEDRIC L. JACKSON, AND
PRENTICE L. COLEMAN,

Defendants.

CASE NO: 10-C-265339-1
10-C-265339-2

DEPT. NO: X

C265339-1

RECEIPT OF COPY

RECEIPT OF COPY of NOTICE OF MOTION AND MOTION BY
DEFENDANT JACKSON TO SEVER TRIAL OF DEFENDANTS is hereby
acknowledged this 18 day of January, 2012.

Quella Nanningo fv
An employee of the CLARK COUNTY
SPECIAL PUBLIC DEFENDER
Attorney for Defendant Prentice Coleman

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FEB 06 2012

CLERK OF THE COURT

ORIGINAL

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1 **ORDR**

2 MARY-ANNE MILLER
3 Interim Clark County District Attorney
4 Nevada Bar #001419
5 NELL E. CHRISTENSEN
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11 Attorney for Plaintiff

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FEB 16 2012

John L. Sullivan
CLERK OF COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

10C265339-1
ODM
Order Denying Motion
1773707



10 THE STATE OF NEVADA,

11 Plaintiff,

12 -vs-

13 CEDRIC LEROB JACKSON,
14 #1581340

15 Defendant.

CASE NO: C-10-265339-1

DEPT NO: X

16 **ORDER DENYING DEFENDANT'S MOTION TO SEVER**
17 **TRIAL OF DEFENDANTS**

18 DATE OF HEARING: 02/06/12

19 TIME OF HEARING: 8:30 A.M.

20 THIS MATTER having come on for hearing before the above entitled Court on the
21 6th day of February, 2012, the Defendant being present, represented by PATRICIA PALM,
22 ESQ. and DAN WINDER, ESQ., the Plaintiff being represented by MARY-ANNE
23 MILLER, Interim District Attorney, through NELL E. CHRISTENSEN, Chief Deputy
24 District Attorney, and the Court having heard the arguments of counsel and good cause
25 appearing therefore,

26 //

27 //

28 //

29 //

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1 IT IS HEREBY ORDERED that the Defendant's Motion to Sever Trial of
2 Defendants, shall be, and it is denied.

3 DATED this 14 day of February, 2012.

4
5 
6 DISTRICT JUDGE

7
8 MARY-ANNE MILLER
9 Interim District Attorney
Nevada Bar #001419

10 
11 NELL E. CHRISTENSEN
12 Chief Deputy District Attorney
13 Nevada Bar #008822
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Ann L. Johnson
CLERK OF THE COURT

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DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

v.

CEDRIC L. JACKSON,

Defendants.

CASE NO: 10-C-265339-1

DEPT. NO: X

DATE:

TIME:

**NOTICE OF MOTION AND MOTION BY DEFENDANT JACKSON TO
CONTINUE TRIAL**

COMES NOW Defendant Cedric Jackson, by and through his attorneys, Dan M. Winder and Patricia A. Palm and hereby moves this Honorable Court to grant a continuance of the currently scheduled trial date of June 25, 2012.

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10C265339-1
MTCT
Motion to Continue Trial
1648329



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CLERK OF THE COURT

1 This Motion is made and based upon the attached Points and Authorities, the
2 Sixth and Fourteenth Amendments to the United States Constitution, the Nevada
3 Constitution, article 1, section 8, all pleadings and papers on file herein, the record in
4 this case, the affidavit attached hereto, and any oral argument as this Court may
5 deem necessary.

6
7 DATED this 9TH day of May, 2012.

8
9 By: 

PATRICIA A. PALM
DAN M. WINDER

10
11 NOTICE OF MOTION

12
13 **TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for**
14 **the Plaintiff, STATE OF NEVADA;**

15 **CLARK COUNTY SPECIAL PUBLIC DEFENDER, Attorney for**
16 **Prentice Coleman, Codefendant.**

17 YOU, AND EACH OF YOU WILL PLEASE TAKE NOTICE that the
18 undersigned will bring the foregoing Motion on for hearing before the above-entitled
19 Court on the 21 day of May, 2012, at the hour of 830 a.m. or as soon
20 thereafter as counsel may be heard.

21 DATED this 9th day of May, 2012.

22
23 By: 

24 PATRICIA A. PALM
25 DAN M. WINDER
26 Attorneys for Defendant Cedric Jackson
27
28

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MEMORANDUM OF POINTS AND AUTHORITIES

STATEMENT OF THE CASE

On or about February 10, 2010, the State filed its Complaint charging Cedric Jackson (Jackson) in Case No. 10FN0329X with murder with use of a deadly weapon, battery with use of a deadly weapon causing substantial bodily harm, 3 counts of attempt murder with use of a deadly weapon, 2 counts assault with a deadly weapon, and one count conspiracy to commit murder. Pursuant to the State's Motion, the case against Jackson was joined with the related case against Prentice Coleman (Coleman) for preliminary hearing which was set for May 12, 2010. The preliminary hearing was continued to June 11, 2010, when the co-defendants unconditionally waived their rights to preliminary hearing and were bound over to District Court. The State was permitted to amend the Complaint to allege additional counts related to the discharge of a firearm at and from a vehicle. On June 24, 2010, Jackson and Coleman were arraigned, entered pleas of Not Guilty, and *waived their 60-day statutory speedy trial rights*. On June 16, 2010, the State filed its Information charging Jackson and Coleman by Information as follows:

Count 1: Murder with Use of a Deadly Weapon (related to the killing of Jamarion Macklin)

Count 2: Attempt Murder with Use of a Deadly Weapon (naming alleged victim Marcus Albert);

Count 3: Battery with Use of a Deadly Weapon Resulting in Substantial Bodily Harm (again naming alleged victim Marcus Albert);

Count 4: Attempt Murder with Use of a Deadly Weapon (naming alleged victim Carlos Bass);

Count 5: Assault with a Deadly Weapon (again naming alleged victim Carlos Bass);

1 Count 6: Attempt Murder with Use of a Deadly Weapon (naming alleged
2 victim Devin Bass);

3 Count 7: Assault with a Deadly Weapon (again naming alleged victim Devin
4 Bass);

5 Count 8: Conspiracy to Commit Murder (incorporating allegations in counts 1-
6 7);

7 Count 9: Discharging a Firearm at or into an occupied vehicle occupied by
8 Devin and Carlos Bass;

9 Count 10: Discharging a Firearm from out of a Motor Vehicle.

10 On July 7, 2010, the District Court set trial for both defendants for May 2,
11 2011.

12 On July 9, 2010, the State filed its Notices of Intent to Seek the Death Penalty
13 against each Defendant. The Notice filed in Jackson's case alleges the following
14 aggravating circumstances:

15 1. The murder was committed by a person under sentence of imprisonment
16 (NRS 200.033(1) (relying on Jackson's conviction in a federal case wherein he and co-
17 defendant Coleman were each convicted in the same case for aiding and abetting and
18 interference with commerce by armed robbery). Jackson is alleged to have been on
19 parole when the instant alleged capital offense was committed.

20 2. The murder was committed by a person who has been convicted of a felony
21 involving use or threat of violence (NRS 200.033(2)(b) (relying on the same above
22 mentioned federal conviction).

23 3-8. The murder was committed by a person who has been convicted of a
24 felony involving use or threat of violence (NRS 200.033(2)(b) (relying on the sought
25 after convictions in the instant case, based on Counts II through VII of the
26 Information).

1 9. The murder was committed by a person who knowingly created a great risk
2 of death to more than one person (NRS 200.033(3) (relying on an alleged risk of death
3 to Jamario Macklin, Marcus Albert, Carlos Bass, Devin Bass, Juanetta Washington,
4 and Laquitta Langstaff as well as unnamed residents in homes nearby where the
5 incident in question occurred).

6 On November 22, 2010, Attorney Dan Winder confirmed as court-appointed
7 counsel to Jackson, and on January 10, 2011, Attorney Patricia Palm confirmed as
8 court-appointed co-counsel for Jackson. On March 30, 2011, the Court granted the
9 Defenses' oral request to continue the matter, and trial was reset for June 25, 2012.

10 On January 18, 2012, Jackson moved to sever his trial from the trial of
11 Codefendant Coleman, which the State opposed. This Court heard the motion on
12 February 6, 2012, and entered its Order denying the Motion on February 16, 2012.

13 FACTS

14 As there was no preliminary hearing or grand jury proceeding whereby facts
15 were set forth through evidence and testimony was transcribed, the following
16 statement of facts relies on police reports and other items of discovery provided by
17 the State. This recitation of facts in no way concedes the veracity, reliability or
18 admissibility of the State's evidence discussed herein.

19 The State's evidence indicates that on January 31, 2010, shortly after
20 midnight, Jackson arrived at the Aruba Nightclub in Las Vegas. His girlfriend,
21 Nicole Davis, arrived separately shortly thereafter. While there, the couple met with
22 Co-defendant Prentice Coleman. After some hours, they met with Jamario Macklin.
23 A verbal altercation ensued and Macklin threw a glass at Jackson and Coleman. A
24 physical altercation began, and Macklin's friends joined in. Aruba Club's bouncers
25 threw these parties out of the club. Outside, the parties agreed to meet at another
26 location to fight.
27
28

1 Shortly afterward, the fight continued at Marcus Albert's house. Albert was
2 an associate of Macklin. Jackson and Macklin met to engage in a fist fight in the
3 street. Immediately after the fight began, gunshots were heard.

4 Witness/alleged victim Marcus Albert (Albert) gave three different statements
5 to police. Eventually, he stated that when the parties met outside his mother's
6 house, they were going to fight. He and Jamario Macklin (Macklin) (aka Yak and
7 Mario) went to Albert's mother's house and parked. Albert was out of the car when
8 Defendant Jackson (aka CedMac) walked around the corner. Macklin got out of the
9 car, and then "weighed up," and Jackson reached back like he was going to reach in
10 his pocket. Then Co-defendant Prentice Coleman (aka PB and PointBlank) came
11 running with a little dude. Coleman started shooting. He shot towards Albert's face,
12 then shot Albert's truck, then his knee. Albert saw Jackson and Coleman come into
13 the yard and shoot together at Albert and Macklin. Albert never saw Carlos or Devin
14 Bass at the scene. The other guy with Coleman was also shooting, but Albert could
15 not identify him. Albert was treated for a gunshot wound to his right knee.

16 Devin Bass (Devin) also gave two different statements. He heard there was
17 going to be a scrap and he drove over to Albert's home with his cousin Carlos Bass
18 (Carlos). Devin was parked in front of Albert's house, and another car pulled up
19 with "Diesel" in it. Diesel might have moved around the corner. Devin moved his
20 own car, then he saw three people walking. Devin could not see any faces. Devin
21 assumed that Jackson walked up, but he was not sure who it was. Macklin was in
22 the car with Albert, and "Spark" was in the car behind him when three guys walked
23 from the corner. Macklin was confronting one of the guys like he was going to fight.
24 Macklin was saying, "Hold, on," while he pulled up his pants, and a dark guy started
25 shooting. Devin assumed that Coleman pulled out the gun first, as it looked like
26 Jackson and Macklin were getting ready to fight. Jackson actually threw a blow, and
27 somebody said, "Fuck that." Devin did not see Jackson shooting. Carlos was still
28 outside of the car. Carlos said someone was shooting at him and Devin, as they were

1 taking off. Devin thought they were being chased so he headed toward Crip City.
2 They were being chased by a goldish brown Yukon XL. Devin told everyone it was
3 Jackson and Coleman that did it, but that was just because he heard this from other
4 people there.

5 Carlos Bass stated that he was present for the altercation at the Aruba club.
6 He later went to Albert's house and a girl parked behind him. Carlos hopped out of
7 the car and Jackson had already walked up. Jackson did not pull out a gun, but
8 Carlos heard one shot. Coleman had walked out with another male around the
9 corner. One of them was shooting, but Jackson did not shoot. Jackson ran up to
10 fight, and then somebody came from around the corner. Carlos left when he heard
11 the first shot. Jackson did not have a gun, and he ran up in a fighting stance. When
12 Carlos left, Jackson's truck was following them.

13 Laquita Langstaff gave a statement to police indicating that she was Macklin's
14 girlfriend. She was at the Aruba Club and saw the altercation which started when
15 Macklin refused to shake Jackson's hand. Langstaff followed Macklin in her vehicle
16 after they were escorted out. Langstaff parked behind Macklin and then saw some
17 guys pull up in a red or orange Camaro and an older white Jeep. She saw four
18 suspects approach Macklin's vehicle. All four had firearms. The first one began
19 fighting with Macklin then stepped back, pulled out a gun and started shooting at
20 him. Then all of the suspects shot toward the victims. Langstaff did not know any of
21 the suspects and could not recognize any pictures. The instigator was called
22 something with a "P". Langstaff got her cousin out of the car in front of her, then got
23 in her car and left. When she returned Macklin was lying in front of his gun, dying
24 on the ground.

25 Juanetta Washington stated that during the fight she was sitting in Macklin's
26 car. Jackson was there with other people. Macklin went into the street to fight
27 Jackson, and they met in the middle of the street. Macklin pulled his pants up and
28 told her to get down. She was already ducked down when the shooting started.

1 According to autopsy report, Macklin was shot 9 times. He had marijuana
2 active ingredients and metabolites in his blood as well as alcohol. Numerous shell
3 casings were found near his body, indicating he may have been firing a gun. No gun
4 was found by police when they arrived at the scene.

5 Gunshot Residue test results from the right hands of alleged victims Albert
6 and Macklin showed that they both may have been firing a gun or were in close
7 proximity to a firearm discharge. A ballistics report showed that three different
8 firearms fired the bullet casings recovered from the scene.

9 The vehicle of Jackson's girlfriend, Nicole Davis, was recovered on February
10 13, 2010, after she reported it stolen. It was found in an abandoned parking lot with
11 damage to doors and ignition. GSR testing showed that a weapon may have been
12 discharged near passenger side of car.

13 **1. The Statements of the Co-defendants:**

14 No statements admissible against Cedric Jackson: Jackson did not give a
15 statement to police and the discovery does not indicate that he made any statements
16 regarding the incident to others which would be admissible against him.

17 Prentice Coleman's statements to police: Numerous statements are likely to
18 be admissible against Coleman. He was arrested on February 24, 2010, on charges of
19 ex-felon in possession of a firearm and traffic warrants. A .22 Ruger long rifle
20 recovered from a search of Coleman's home. According to police several of Coleman's
21 comments to them indicate that he was present during the shooting. On March 1,
22 2010, Coleman gave a statement to police wherein he stated that it was not he who
23 was fighting. He indicated the fight was between Jackson and Macklin. In his second
24 statement, when the police told him that it appeared from the shell casings that
25 Macklin may have had a gun but none was found, he responded, "Oh, so they did
26 take the gun off them then." Coleman further indicated that it was possible that
27 Jackson did this alone. Coleman also stated, "I can tell you it wasn't planned and I
28 didn't see no gun."

1 Coleman is also reported to have made statements to his girlfriend, Arland
2 Veley, wherein he implicates Jackson and exculpates himself.

3 In addition, Coleman has made numerous statements during recorded
4 telephone calls at CCDC, which recordings have been provided in discovery, and
5 implicate both Coleman and Jackson. Finally, police recovered text messages from
6 Coleman's telephone which implicate him as having an interest in the State's
7 witnesses in this case.

8 ARGUMENT

9
10 When the newly appointed Clark County District Attorney Steven B. Wolfson
11 took office in February, 2012, Jackson's counsel made an immediate effort to
12 determine whether the State would withdraw its Notice of Intent to Seek Death in
13 this case, given Wolfson's public statements regarding death penalty overcharging.
14 Jackson's counsel also sought to attempt to negotiate the case, as counsel determined
15 that additional experts were going to be needed if the case were to go forward as a
16 death penalty case. In that vein, Jackson's counsel held off on requesting additional
17 expert approvals and approached the District Attorney's Office in February, 2012,
18 formally requesting reconsideration of the death penalty, and/or to discuss possible
19 case resolution. The District Attorney's Office and Jackson's counsel have since
20 attempted to negotiate in good faith, but those negotiations just recently failed.
21 Therefore, Jackson must now request additional approvals for expert witnesses to
22 continue with the preparation of Jackson's defense at trial.

23 Cedric Jackson's Defense has been working diligently to investigate and
24 prepare for the guilt and penalty phases of trial. As of this date, the defense has
25 made trips to the field with its guilt phase investigator on multiple occasions, the
26 defense's court-appointed out-of-state mitigation specialist has made two, separate
27 week-long trips to Las Vegas to conduct witness interviews and other forensic social
28 history mitigation investigation. However, this specialist believes that to effectively
present mitigation at trial, according to ABA Guidelines for Death Penalty Cases, at

1 least twelve (12) additional social history witnesses need to be interviewed, and other
2 background interviews and record gathering must be done in California and Nevada,
3 requiring an additional week-long trip to be planned for this specialist, which trip
4 must also be coordinated with counsels' schedules.

5 Jackson's neuropsychologist also must finish his examination of Jackson and
6 prepare a report, which efforts have been stayed during the recent attempts to
7 resolve this case. Furthermore, additional neuropsychological testing needs to be
8 done to adequately defend the penalty phase at trial.

9 Until the Jackson's Defense can finish with its full mitigation investigation, as
10 well as its guilt phase investigation of outstanding discovery, i.e., discovery related to
11 the 1700 E. Flamingo case (702 club), reference to which is made in the ballistics
12 reports in this case, Jackson's defense counsel cannot determine the merits of
13 potential pretrial motions necessary to adequate representation at trial.

14 Jackson's counsel has contacted the State as well as counsel for the
15 codefendants. Counsel for the State has indicated that they will not oppose this
16 motion to continue, however, counsel for the codefendant Prentice Coleman has now
17 indicated that they will oppose a continuance of trial. Prentice Coleman waived his
18 right to a speedy trial at the time of the initial trial setting.

19 20 ARGUMENT

21 The Eighth Judicial District Court Rule 7.30 states as follows:

22
23 "(a). Any party may, for good cause, move the court for an order
24 continuing the day set for trial of any cause. A Motion for continuance
of the trial must be supported by affidavit"

25 This Motion is based on the foregoing reasons and the Affidavit of Counsel
26 attached hereto.

27 ///

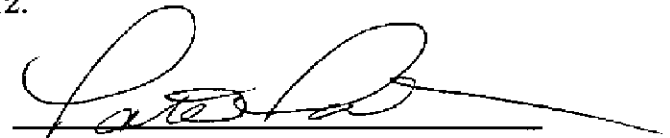
28 ///

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CONCLUSION

Defendant CEDRIC JACKSON respectfully requests that this Honorable Court grant this Motion to Continue, and vacate and reset the current trial date of June 25, 2012.

Dated this 27 day of May, 2012.



Patricia Palm, Esq.
Bar No. 6009
1212 Casino Center Blvd.
Las Vegas, NV 89104
(702) 386-9113
Dan M. Winder, Esq.
3507 W. Charleston Blvd.
Las Vegas, NV 89102
Phone: (702) 474-0523
Attorneys for Cedric Jackson

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DECLARATION OF COUNSEL

PATRICIA A. PALM, swears and states as follows:

1. That declarant is an attorney duly licensed to practice law in the State of Nevada and is the attorney appointed as SCR 250 counsel, along with Attorney Dan M. Winder, to represent Cedric Jackson in this Death Penalty case, which is currently set for trial on June 25, 2012, with a calendar call of June 20, 2012.

2. That I have read and am familiar with the discovery provided by the State and other records related to this matter, and that I have set forth true and accurate factual representations as to the proceedings and circumstances described herein.

3. That all other matters set forth in the foregoing motion are true and correct to the best of my knowledge upon information and belief.

4. That Defendant Cedric Jackson is aware of the need for the continuance and has no objection thereto.

5. That the State does not oppose a continuance.

6. That counsel for codefendant Prentice Coleman has indicated that they will oppose a continuance.

Pursuant to NRS 53.045, I declare under penalty of perjury that the foregoing is true and correct.

Dated this 9th Day of May, 2012.



PATRICIA A. PALM

ORIGINAL

FILED

MAY 16 11 59 AM '12

Pat. L. Palm
CLERK OF COURT

CERT
PALM LAW FIRM, LTD.
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Phone: (702) 474-0523
Fax: (702) 474-0631
Email: winderdanatty@aol.com
Attorneys for Cedric Jackson

10C265339-1
CSERV
Certificate of Service
1854857



DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

v.

CEDRIC L. JACKSON, AND
PRENTICE L. COLEMAN,

Defendants.

CASE NO: 10-C-265339-1

DEPT. NO: X

DATE:

TIME:

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 15 day of May, 2012, she mailed a true and correct copy of the Notice of Motion and Motion by Defendant Jackson to Continue Trial filed on May 10, 2012, by first class postage prepaid mail deposited at the United States Postal Service, addressed as follows:

Ivette Amelburu
Scott Bindrup
Clark County Special Public Defender's Office
300 S. Third Street
8th Floor
Las Vegas, NV 89155-2316

Gloria K
An Employee of
PALM LAW FIRM, LTD.

RECEIVED

MAY 16 2012

CLERK OF THE COURT

ORIGINAL

ROC
PALM LAW FIRM, LTD.
PATRICIA PALM, ESQ.
Nevada Bar No. 6009
1212 S. Casino Center Blvd.
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Fax: (702) 474-0631
Email: winderdanatty@aol.com
Attorneys for Cedric Jackson

FILED

MAY 16 11 58 AM '12

Ann L. Shuman
CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

v.

CEDRIC L. JACKSON,

Defendants.

CASE NO: 10-C-265339-1

DEPT. NO: X

10C265339 - 1
ROC
Receipt of Copy
1854867



RECEIPT OF COPY

RECEIPT OF COPY of NOTICE OF MOTION AND MOTION BY
DEFENDANT JACKSON TO CONTINUE TRIAL is hereby acknowledged this
10 day of May, 2012.

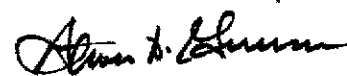
Eileen Monville

An employee of the
CLARK COUNTY DISTRICT ATTORNEY

RECEIVED

MAY 16 2012

CLERK OF THE COURT



CLERK OF THE COURT

NOTC

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
NELL E. CHRISTENSEN
Chief Deputy District Attorney
Nevada Bar #008822
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

-vs-

CEDRIC L. JACKSON, #1581340
PRENTICE L. COLEMAN, #1660312

Defendant.

CASE NO: 10C265339-1

DEPT NO: X

**SUPPLEMENTAL NOTICE OF WITNESSES AND/OR EXPERT WITNESSES
[NRS 174.234]**

TO: CEDRIC L. JACKSON, Defendant; and

TO: DAN WINDER, ESQ. and PATRICIA PALM, ESQ., Counsel of Record:

TO: PRENTICE L. COLEMAN, Defendant; and

TO: SCOTT BINDRUP, Special Public Defender, Counsel of Records:

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

These witnesses are in addition to those witnesses endorsed on the Information and any other witness for which a separate Notice has been filed.

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

The substance of each expert witness testimony and copy of all reports made by or at the direction of the expert witness has been provided in discovery.

A copy of each expert witness curriculum vitae, if available, is attached hereto.

<u>NAME</u>	<u>ADDRESS</u>
-------------	----------------

ACUNA, RONALD - CC DISTRICT ATTORNEY'S OFFICE	
---	--

ALBERT, BETTY – 2642 BLUE REEF, NLVN 89030	
--	--

ALBERT, JOVON - 2642 BLUE REEF, NLVN 89030	
--	--

ALBERT, KEANDRE - 2642 BLUE REEF, NLVN 89030	
--	--

ALBERT, MARCUS - 2642 BLUE REEF, NLVN 89030	
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ALBERT, ROBERT - 2642 BLUE REEF, NLVN 89030	
---	--

ANTONIEWICZ, ALLEN – NLVPD P#1529	
-----------------------------------	--

ARROYO, RAUL – 2617 BLUE REEF, NLVN 89030	
---	--

BASS, CARLOS - 2621 SOMMER CT., NLVN	
--------------------------------------	--

BASS, DEVIN - 5901 TRUMBULL ST., LVN	
--------------------------------------	--

BOKSBERGER, DR. - UNIVERSITY MEDICAL CENTER He is an expert in the area of emergency medicine and will give scientific opinions related thereto. He is expected to testify regarding the injuries sustained by Marcus Albert in this case.	
--	--

BRUCELAS, GEPP – NLVPD P#2342	
-------------------------------	--

BRYANT, JR., GEORGE – 2633 BLUE REEF, NLVN 89030	
--	--

CREED, M.D. LUTHER – UNIVERSITY MEDICAL CENTER He is an expert in the area of radiology and will give scientific opinions related thereto. He is expected to testify regarding the injuries sustained by Marcus Albert in this case.	
--	--

CUSTODIAN OF RECORDS – AT&T	
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CUSTODIAN OF RECORDS – CLARK COUNTY DETENTION CENTER	
--	--

CUSTODIAN OF RECORDS - LVMPD – DISPATCH	
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CUSTODIAN OF RECORDS - LVMPD – GUN REGISTRATION	
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CUSTODIAN OF RECORDS - LVMPD – RECORDS	
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CUSTODIAN OF RECORDS – NEVADA DMV – RECORDS	
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CUSTODIAN OF RECORDS – NEVADA DEPT. OF CORRECTIONS	
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CUSTODIAN OF RECORDS – NEVADA DEPT. OF PAROLE AND PROBATION	
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1 CUSTODIAN OF RECORDS - NLVPD – DISPATCH
2 CUSTODIAN OF RECORDS - NLVPD – RECORDS
3 DAVIS, NICHOLE – ADDRESS UNKNOWN
4 DELALIS, PETER - NLVPD P#1623
5 DOUGHERTY, ED – CC DISTRICT ATTORNEY’S OFFICE
6 DIXON, ROBERT – NLVPD P#1187
7 FARAGE, MICHAEL – NLVPD P#1669
8 GIAMPAOLO, NICK - NLVPD P#932
9 GLAZIER, LT. – NLVPD P#701
10 HANKS, ROBERT – NLVPD P#998
11 HARDER, WILLIAM – NLVPD P#2099
12 HARRIS, NICHOLAS – NLVPD P#1962
13 HEITZENRATER, JEFFREY – NLVPD P#2029
14 HILSON, CALVIN – NLVPD P#1955
15 HONAKER, JAMIE - CC DISTRICT ATTORNEY’S OFFICE
16 JOHNS, MATTHEW - CC DISTRICT ATTORNEY’S OFFICE
17 KUHLS, MD. DEBORAH A. - UNIVERSITY MEDICAL CENTER She is an
18 expert in the area of emergency medicien and will give scientific opinions related
19 thereto. She is expected to testify regarding the injuries sustained by Marcus Albert
20 in this case.
21 LANGSTAFF, LAQUITTA - 18 W. WEBB AVE., #D, NLV
22 LEAVITT, ERIC – NLVPD P#1879
23 LUBKING, MICHAEL - NLVPD P#1984
24 MACKLIN, PERRY – 2608 WEST, NLVN 89032
25 MACKLIN, STEPHANIE – 2608 WEST, NLVN 89032
26 MCFARLAND, ANDRE – 2617 BLUE REEF, NLVN 89030
27 MEIER, RYAN – NLVPD P#2026
28 MELGAREJO, EDWING - NLVPD P#837

1 MICHAELIS, MICHELLE – U.S. PROBATION OFFICER, 300 LAS VEGAS
2 BLVD., S., SUITE 1200, LVN
3 NELSON, PETER – NLVPD P#2332
4 OSWALD, MITCHELL - U.S. PROBATION OFFICER, 300 LAS VEGAS
5 BLVD., S., SUITE 1200, LVN
6 PATEL, DR. KETAN – UNIVERSITY MEDICAL CENTER He is an medical
7 expert and is expected to testify regarding the injuries, treatment and care of Marcus
8 Albert in this case.
9 PRIETO, JESUS - NLVPD P#674
10 RADKE, WENDY – NLVPD P#1915
11 ROSEN, MD. MARK J. – UNIVERSITY MEDICAL CENTER He is an expert in
12 the area of emergency medicine and will give scientific opinions related thereto. He
13 is expected to testify regarding the injuries sustained by Marcus Albert in this case.
14 RYAN, JUSTIN – NLVPD P#1000
15 SILVA, JUSTIN – SURREY DIVISION, DEPT. OF PUBLIC WORKS – 50 E.
16 BROOKS AVE., NLVN
17 SIMMS, DR. LARY – CLARK COUNTY CORONER - Chief Medical Examiner
18 with the Clark County Coroner's Office. He is an expert in the area of forensic
19 pathology and will give scientific opinions related thereto. He is expected to testify
20 regarding the cause and manner of death of the decedent in this case.
21 ST. HILL, DR. - UNIVERSITY MEDICAL CENTER He is an expert in the area of
22 emergency medicine and will give scientific opinions related thereto. He is expected
23 to testify regarding the injuries sustained by Marcus Albert in this case.
24 STITES, DR. DANNIEL – UNIVERSITY MEDICAL CENTER He is an medical
25 expert and is expected to testify regarding the injuries, treatment and care of Marcus
26 Albert in this case.
27 STONE, Nanci - NVLPD P#1227
28 STONE, RANDALL – LVMPD P#2887, Forensic Scientist II (or designee): He is an

1 expert in the area of firearm/toolmark analysis, Gun ID, ballistics, burn stippling and
2 muzzle flash and and will give opinions related thereto. He is expected to testify
3 regarding evidence collected from the crime scene.

4 SURANOWITZ, MARK – NLVPD P#1072

5 TETLOW, ALEXANDER - NLVPD P#1687

6 TROLISE, ALBERT – 5421 ASHTON, LVN 89142

7 VACHON, CRYSTINA R. - Criminalist with the Bexar County Forensic Science
8 Center. She is an expert in the area of gunshot residue and will give scientific
9 opinions related thereto. She is expected to testify regarding the gunshot residue
10 analysis she performed in this case.

11 WASHINGTON, JAUNTTA - 732 ASTER LANE, #11D, LVN

12 YOUNG, DR. CHRISTIAN – UNIVERSITY MEDICAL CENTER He is an medical
13 expert and is expected to testify regarding the injuries, treatment and care of Marcus
14 Albert in this case.

15 ZWIEFEL, CHRIS – SURRY DIVISION, DEPT. OF PUBLIC WORKS – 50 E.
16 BROOKS AVE., NLVN

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

19 BY /s//NELL E. CHRISTENSEN
20 NELL E. CHRISTENSEN
21 Chief Deputy District Attorney
22 Nevada Bar #008822
23
24
25
26
27
28

1 **CERTIFICATE OF ELECTRONIC FILING**

2 I hereby certify that service of State's Supplemental Notice, was made this 23rd day
3 of May, 2012, by Electronic Filing to:

4 DAN WINDER, ESQ.
5 E-mail Address: winderdanatty@aol.com

6 and

7 PATRICIA PALM, ESQ.
8 E-mail Address: patricia.palmlaw@gmail.com

9 and

10 SCOTT BINDRUP, Special Public Defender
 SBindrup@ClarkCountyNV.gov

11 Shellie Warner
12 Secretary for the District Attorney's Office

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Ann L. Shuman
CLERK OF THE COURT

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PALM LAW FIRM, LTD.
PATRICIA PALM, ESQ.
Nevada Bar No. 6009
1212 S. Casino Center Blvd.
Las Vegas, NV 89104
Phone: (702) 386-9113
Fax: (702) 386-9114
Email: Patricia.palmlaw@gmail.com
LAW OFFICE OF DAN M. WINDER, P.C.
DAN M. WINDER, ESQ.
3507 W. Charleston Blvd.
Las Vegas, NV 89102
Phone: (702) 474-0523
Fax: (702) 474-0631
Email: winderdanatty@aol.com
Attorneys for Defendant Cedric Jackson

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

v.

CEDRIC L. JACKSON,

Defendant.

CASE NO: 10-C-265339-1

DEPT. NO: X

DATE:

TIME:

NOTICE OF MOTION AND MOTION FOR IN CAMERA INSPECTION AND
RELEASE OF JUVENILE RECORDS

COMES NOW, Defendant CEDRIC JACKSON, by and through his counsel,
PATRICIA A. PALM, ESQ., and DAN M. WINDER, ESQ., and moves this Court for
an Order for the production of all of Defendant Cedric Jackson's juvenile criminal
history records, including but not limited to (a) all juvenile detention, jail, prison,
parole, probation and presentence investigation records; (b) all sentencing reports; (c)
all arrest, conviction, and juvenile criminal offense records; (d) all records of any
detention including but not limited to sign in/sign out sheets, visitor logs, booking
and release records, any medical or psychiatric treatment provided during detention;
and (e) all institutional records regarding Jackson of any kind. Counsel represents



12

1 Jackson in the instant case in which the State is seeking a Death Penalty, and
2 requests such production for possible use at the trial in this matter which is set for
3 June 24, 2013. Because the records are sealed, it is requested herein that the Court
4 order the records be ordered to be produced to the Juvenile Court for in camera
5 inspection, unsealing and production to counsel for Jackson.

6 This Motion is made and based upon the attached Points and Authorities, the
7 record in this case, the affidavit attached hereto, and any oral argument as this
8 Court may deem necessary.

9
10 DATED this 22nd day of August, 2012.

11
12 By: 

13 PATRICIA A. PALM

14 DAN M. WINDER

15 Attorneys for Defendant Jackson

16 **NOTICE OF MOTION**

17 TO: Steven B. Wolfson, Clark County District Attorney

18 YOU WILL PLEASE TAKE NOTICE that the undersigned will bring the
19 foregoing Motion on for hearing before the above-entitled Court on the 5 day of
20 Sept, 2012, at the hour of 8:30 a.m. or as soon thereafter as counsel may be
21 heard.

22
23 DATED this 22nd day of August, 2012.

24 By: 

25 PATRICIA A. PALM

26 DAN M. WINDER

27 Attorneys for Defendant Cedric Jackson

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MEMORANDUM OF POINTS AND AUTHORITIES

STATEMENT OF THE CASE

On or about February 10, 2010, the State filed its Complaint charging Cedric Jackson (Jackson) in Case No. 10FN0329X with murder with use of a deadly weapon, battery with use of a deadly weapon causing substantial bodily harm, 3 counts of attempt murder with use of a deadly weapon, 2 counts assault with a deadly weapon, and one count conspiracy to commit murder. Pursuant to the State's Motion, the case against Jackson was joined with the related case against Prentice Coleman (Coleman) for preliminary hearing which was set for May 12, 2010. The preliminary hearing was continued to June 11, 2010, when the co-defendants unconditionally waived their rights to preliminary hearing and were bound over to District Court. The State was permitted to amend the Complaint to allege additional counts related to the discharge of a firearm at and from a vehicle. On June 24, 2010, Jackson and Coleman were arraigned, entered pleas of Not Guilty, and waived their 60-day statutory speedy trial rights. On June 16, 2010, the State filed its Information charging Jackson and Coleman by Information as follows:

Count 1: Murder with Use of a Deadly Weapon (related to the killing of Jamario Macklin)

Count 2: Attempt Murder with Use of a Deadly Weapon (naming alleged victim Marcus Albert);

Count 3: Battery with Use of a Deadly Weapon Resulting in Substantial Bodily Harm (again naming alleged victim Marcus Albert);

Count 4: Attempt Murder with Use of a Deadly Weapon (naming alleged victim Carlos Bass);

Count 5: Assault with a Deadly Weapon (again naming alleged victim Carlos Bass);

1 Count 6: Attempt Murder with Use of a Deadly Weapon (naming alleged
2 victim Devin Bass);

3 Count 7: Assault with a Deadly Weapon (again naming alleged victim Devin
4 Bass);

5 Count 8: Conspiracy to Commit Murder (incorporating allegations in counts 1-
6 7);

7 Count 9: Discharging a Firearm at or into an occupied vehicle occupied by
8 Devin and Carlos Bass;

9 Count 10: Discharging a Firearm from out of a Motor Vehicle.

10 On July 7, 2010, the District Court set trial for both defendants for May 2,
11 2011.

12 On July 9, 2010, the State filed its Notices of Intent to Seek the Death Penalty
13 against each Defendant. The Notice filed in Jackson's case alleges the following
14 aggravating circumstances:

15 1. The murder was committed by a person under sentence of imprisonment
16 (NRS 200.033(1) (relying on Jackson's conviction in a federal case wherein he and co-
17 defendant Coleman were each convicted in the same case for aiding and abetting and
18 interference with commerce by armed robbery). Jackson is alleged to have been on
19 parole when the instant alleged capital offense was committed.

20 2. The murder was committed by a person who has been convicted of a felony
21 involving use or threat of violence (NRS 200.033(2)(b) (relying on the same above
22 mentioned federal conviction).

23 3-8. The murder was committed by a person who has been convicted of a
24 felony involving use or threat of violence (NRS 200.033(2)(b) (relying on the sought
25 after convictions in the instant case, based on Counts II through VII of the
26 Information).

9. The murder was committed by a person who knowingly created a great risk of death to more than one person (NRS 200.033(3) (relying on an alleged risk of death to Jamario Macklin, Marcus Albert, Carlos Bass, Devin Bass, Juanetta Washington, and Laquitta Langstaff as well as unnamed residents in homes nearby where the incident in question occurred)).

On November 22, 2010, Attorney Dan Winder confirmed as court-appointed counsel to Jackson, and on January 10, 2011, Attorney Patricia Palm confirmed as court-appointed co-counsel for Jackson. On March 30, 2011, the Court granted the Defenses' oral request to continue the matter, and trial was reset for June 25, 2012.

On January 18, 2012, Jackson moved to sever his trial from the trial of Codefendant Coleman, which the State opposed. This Court heard the motion on February 6, 2012, and entered its Order denying the Motion on February 16, 2012.

On May 21, 2012, the Court granted Jackson's subsequent motion to continue trial once more, and trial was set for June 24, 2013.

FACTS

As there was no preliminary hearing or grand jury proceeding whereby facts were set forth through evidence and testimony was transcribed, the following statement of facts relies on police reports and other items of discovery provided by the State. This recitation of facts in no way concedes the veracity, reliability or admissibility of the State's evidence discussed herein.

The State's evidence indicates that on January 31, 2010, shortly after midnight, Jackson arrived at the Aruba Nightclub in Las Vegas. His girlfriend, Nicole Davis, arrived separately shortly thereafter. While there, the couple met with Co-defendant Prentice Coleman. After some hours, they met with Jamarion Macklin. A verbal altercation ensued and Macklin threw a glass at Jackson and Coleman. A physical altercation began, and Macklin's friends joined in. Aruba Club's bouncers threw these parties out of the club. Outside, the parties agreed to meet at another location to fight.

1 Shortly afterward, the fight continued at Marcus Albert's house. Albert was
2 an associate of Macklin. Jackson and Macklin met to engage in a fist fight in the
3 street. Immediately after the fight began, gunshots were heard.

4 Witness/alleged victim Marcus Albert (Albert) gave three different statements
5 to police. Eventually, he stated that when the parties met outside his mother's
6 house, they were going to fight. He and Jamarion Macklin (Macklin) (aka Yak and
7 Mario) went to Albert's mother's house and parked. Albert was out of the car when
8 Defendant Jackson (aka CedMac) walked around the corner. Macklin got out of the
9 car, and then "weighed up," and Jackson reached back like he was going to reach in
10 his pocket. Then Co-defendant Prentice Coleman (aka PB and PointBlank) came
11 running with a little dude. Coleman started shooting. He shot towards Albert's face,
12 then shot Albert's truck, then his knee. Albert saw Jackson and Coleman come into
13 the yard and shoot together at Albert and Macklin. Albert never saw Carlos or Devin
14 Bass at the scene. The other guy with Coleman was also shooting, but Albert could
15 not identify him. Albert was treated for a gunshot wound to his right knee.

16 Devin Bass (Devin) also gave two different statements. He heard there was
17 going to be a scrap and he drove over to Albert's home with his cousin Carlos Bass
18 (Carlos). Devin was parked in front of Albert's house, and another car pulled up
19 with "Diesel" in it. Diesel might have moved around the corner. Devin moved his
20 own car, then he saw three people walking. Devin could not see any faces. Devin
21 assumed that Jackson walked up, but he was not sure who it was. Macklin was in
22 the car with Albert, and "Spark" was in the car behind him when three guys walked
23 from the corner. Macklin was confronting one of the guys like he was going to fight.
24 Macklin was saying, "Hold, on," while he pulled up his pants, and a dark guy started
25 shooting. Devin assumed that Coleman pulled out the gun first, as it looked like
26 Jackson and Macklin were getting ready to fight. Jackson actually threw a blow, and
27 somebody said, "Fuck that." Devin did not see Jackson shooting. Carlos was still
28 outside of the car. Carlos said someone was shooting at him and Devin, as they were

1 taking off. Devin thought they were being chased so he headed toward Crip City.
2 They were being chased by a goldish brown Yukon XL. Devin told everyone it was
3 Jackson and Coleman that did it, but that was just because he heard this from other
4 people there.

5 Carlos Bass stated that he was present for the altercation at the Aruba club.
6 He later went to Albert's house and a girl parked behind him. Carlos hopped out of
7 the car and Jackson had already walked up. Jackson did not pull out a gun, but
8 Carlos heard one shot. Coleman had walked out with another male around the
9 corner. One of them was shooting, but Jackson did not shoot. Jackson ran up to
10 fight, and then somebody came from around the corner. Carlos left when he heard
11 the first shot. Jackson did not have a gun, and he ran up in a fighting stance. When
12 Carlos left, Jackson's truck was following them.

13 Laquita Langstaff gave a statement to police indicating that she was Macklin's
14 girlfriend. She was at the Aruba Club and saw the altercation which started when
15 Macklin refused to shake Jackson's hand. Langstaff followed Macklin in her vehicle
16 after they were escorted out. Langstaff parked behind Macklin and then saw some
17 guys pull up in a red or orange Camaro and an older white Jeep. She saw four
18 suspects approach Macklin's vehicle. All four had firearms. The first one began
19 fighting with Macklin then stepped back, pulled out a gun and started shooting at
20 him. Then all of the suspects shot toward the victims. Langstaff did not know any of
21 the suspects and could not recognize any pictures. The instigator was called
22 something with a "P". Langstaff got her cousin out of the car in front of her, then got
23 in her car and left. When she returned Macklin was lying in front of his gun, dying
24 on the ground.

25 Juanetta Washington stated that during the fight she was sitting in Macklin's
26 car. Jackson was there with other people. Macklin went into the street to fight
27 Jackson, and they met in the middle of the street. Macklin pulled his pants up and
28 told her to get down. She was already ducked down when the shooting started.

1 According to autopsy report, Macklin was shot 9 times. He had marijuana
2 active ingredients and metabolites in his blood as well as alcohol. Numerous shell
3 casings were found near his body, indicating he may have been firing a gun. No gun
4 was found by police when they arrived at the scene.

5 Gunshot Residue test results from the right hands of alleged victims Albert
6 and Macklin showed that they both may have been firing a gun or were in close
7 proximity to a firearm discharge. A ballistics report showed that three different
8 firearms fired the bullet casings recovered from the scene.

9 The vehicle of Jackson's girlfriend, Nicole Davis, was recovered on February
10 13, 2010, after she reported it stolen. It was found in an abandoned parking lot with
11 damage to doors and ignition. GSR testing showed that a weapon may have been
12 discharged near passenger side of car.

13 **1. The Statements of the Co-defendants:**

14 No statements admissible against Cedric Jackson: Jackson did not give a
15 statement to police and the discovery does not indicate that he made any statements
16 regarding the incident to others which would be admissible against him.

17 Prentice Coleman's statements to police: Numerous statements are likely to
18 be admissible against Coleman. He was arrested on February 24, 2010, on charges of
19 ex-felon in possession of a firearm and traffic warrants. A .22 Ruger long rifle
20 recovered from a search of Coleman's home. According to police several of Coleman's
21 comments to them indicate that he was present during the shooting. On March 1,
22 2010, Coleman gave a statement to police wherein he stated that it was not he who
23 was fighting. He indicated the fight was between Jackson and Macklin. In his second
24 statement, when the police told him that it appeared from the shell casings that
25 Macklin may have had a gun but none was found, he responded, "Oh, so they did
26 take the gun off them then." Coleman further indicated that it was possible that
27 Jackson did this alone. Coleman also stated, "I can tell you it wasn't planned and I
28 didn't see no gun."

1 Coleman is also reported to have made statements to his girlfriend, Arland
2 Veley, wherein he implicates Jackson and exculpates himself.

3 In addition, Coleman has made numerous statements during recorded
4 telephone calls at CCDC, which recordings have been provided in discovery, and
5 implicate both Coleman and Jackson. Finally, police recovered text messages from
6 Coleman's telephone which implicate him as having an interest in the State's
7 witnesses in this case.

8 ARGUMENT

9
10 Defendant, Cedric Jackson, is entitled to all relevant and material discovery
11 pertaining to his case, including the juvenile records pertaining to him. NRS
12 174.235(1) provides, in part that

13
14 at the request of a defendant, the prosecuting attorney shall permit the
15 defendant to inspect and to copy or photograph any:

16 (a) Written or recorded statements or confessions made by the
17 defendant, or any written or recorded statements made by a witness the
18 prosecuting attorney intends to call during the case in chief of the State,
19 or copies thereof, within the possession, custody or control of the State,
the existence of which is known, or by the exercise of due diligence may
become known, to the prosecuting attorney;

20 (b) Results or reports of physical or mental examinations, scientific tests
21 or scientific experiments made in connection with the particular case, or
22 copies thereof, within the possession, custody or control of the State, the
23 existence of which is known, or by the exercise of due diligence may
become known, to the prosecuting attorney; and

24 (c) Books, papers, documents, tangible objects, or copies thereof, which
25 the prosecuting attorney intends to introduce during the case in chief of
26 the State and which are within the possession, custody or control of the
27 State, the existence of which is known, or by the exercise of due
28 diligence may become known, to the prosecuting attorney.

1 Further, NRS 174.285(2) provides that the State shall comply with a defense request
2 for such discovery, "not less than 30 days before trial or at such reasonable later time
3 as the court may permit."

4 In addition to the mandate of NRS 174.235, the Court may allow inspection of
5 the records pursuant to NRS 62H.170 (allowing inspection upon the petition of
6 subject of the records or upon the petition of the district attorney or an attorney
7 representing a defendant in a criminal action). Jackson also relies on his rights
8 under the Fifth, Sixth, Eighth and Fourteenth Amendments to the United States
9 Constitution as well as the similar provisions of Article 1 of the Nevada Constitution.
10 The State has an obligation to disclose all evidence to a defendant which is material
11 either to guilt or punishment, and a criminal defendant has a right to access to
12 evidence to aid in his defense. See United States v. Bagley, 473 U.S. 667, 105 S. Ct.
13 3375 (1985); California v. Trombetta, 467 U.S. 479, 104 S. Ct. 2528 (1984); United
14 States v. Agurs, 427 U.S. 97, 96 S. Ct. 2392 (1976); Brady v. Maryland, 373 U.S. 83,
15 83 S. Ct. 1194 (1963); Jimenez v. State, 112 Nev. 610, 918 P.2d 687, 692 (1996);
16 Roberts v. State, 110 Nev. 1121, 881 P.2d 1 (1994); Armstrong v. United States, 96
17 Nev. 175, 605 P.2d 1142 (1980). Exculpatory and material evidence is evidence
18 which is favorable to the defense and which may create any reasonable likelihood
19 that the outcome of the trial or capital sentencing trial would have been different.
20 Smith (Dennis Wayne) v. Wainwright, 799 F.2d 1442, 1444-45 (11th Cir. 1986);
21 Chaney v. Brown, 730 F.2d 1334, 1357 (10th Cir. 1984). A defendant also has the
22 right to make a defense to the charges against him and to receive effective assistance
23 of counsel in making his defense under the Sixth Amendment to the United States
24 Constitution. See Washington v. Texas, 388 U.S. 14, 87 S. Ct. 1920 (1967); In Re
25 Oliver, 333 U.S. 257, 68 S. Ct. 499 (1948); and Geders v. United States, 425 U.S. 80,
26 96 S. Ct. 1330 (1976). Finally due process guarantees of fundamental fairness give
27 an accused the right to documents that could be favorable to his defense, even if
28 those documents are confidential or privileged in nature. See Pennsylvania v.

1 Ritchie, 480 U.S. 39, 107 S. Ct. 989 (1987) (holding that a defendant was entitled to
2 confidential Child Protective Services records under the Fourteenth Amendment's
3 guarantee of a fair trial).

4 Jackson respectfully requests this Honorable Court to enter an order to aid
5 him in securing due process of law and his constitutionally guaranteed right of access
6 to evidence with which to aid with his defense. The juvenile records of Cedric
7 Jackson are material to the preparation of his defense in the State's capital case
8 against him and could affect the judgment of the trier of fact. Moreover, this request
9 is not only material, but it is reasonable. These records pertain to the defendant
10 himself and may affect his theories of defense or issues of mitigation of sentence.
11 The request is for records pertaining to a defendant in a capital case trial and it is in
12 no way burdensome to the State or the Court.

13 Based on the forgoing, Counsel is requesting and moves this Court for an
14 Order for the production of all of Defendant's juvenile criminal history records
15 maintained by any division of juvenile court, the Department of Juvenile Justice
16 Services, the District Attorney's juvenile division, any and all records generated or
17 maintained by the family court or support services and any investigation reports
18 generated or maintained by the juvenile or family court divisions, including but not
19 limited to (a) all juvenile detention, jail, prison, parole, probation and presentence
20 investigation records; (b) all sentencing reports; (c) all arrest, conviction, and juvenile
21 criminal offense records; (d) all records of any detention including but not limited to
22 sign in/sign out sheets, visitor logs, booking and release records, any medical or
23 psychiatric treatment provided during detention; and (e) all institutional records
24 regarding Cedric Jackson of any kind. Without the production of the requested
25 records, Jackson's counsel will be not be able to properly prepare and present his
26 defense in this capital case resulting in the violation of the rights afforded to him
27 under the Fifth, Sixth, Eighth and Fourteenth Amendments to the United States
28 Constitution and under Article I, Section 8 of the Nevada Constitution.

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Dated this 22nd day of August, 2012.

Patricia Palm, Esq.
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(702) 386-9113
Dan M. Winder, Esq.
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Phone: (702) 474-0523
Attorneys for Cedric Jackson

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Attorneys for Cedric Jackson

FILED

AUG 22 2012

Steph L. Hume
CLERK OF COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

v.

CEDRIC L. JACKSON,

Defendant.

CASE NO: 10-C-265339-1

DEPT. NO: X

RECEIPT OF COPY

RECEIPT OF COPY of NOTICE OF MOTION AND MOTION FOR IN
CAMERA INSPECTION AND RELEASE OF JUVENILE RECORDS is hereby
acknowledged this 22 day of August, 2012.

Eileen Monville
An employee of the
CLARK COUNTY DISTRICT ATTORNEY

CLERK OF THE COURT

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AUG 22 2012

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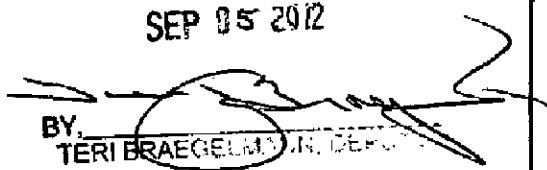


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FILED IN OPEN COURT
STEVEN D. GRIEPPSON
CLERK OF THE COURT

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SEP 05 2012

BY: 
TERI BRAEGELMANN, DEPUTY

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Attorneys for Defendant Cedric Jackson

10C265339-1
ORDR
Order
1955664



DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

v.

CEDRIC L. JACKSON,

Defendant.

CASE NO: 10-C-265339-1

DEPT. NO: X

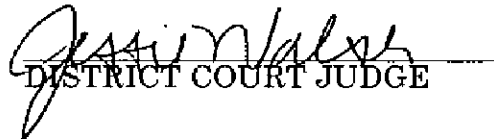
ORDER FOR IN CAMERA INSPECTION AND
RELEASE OF JUVENILE RECORDS

Defendant CEDRIC JACKSON's Motion for an Order granting in camera inspection and release of juvenile records having come on for hearing on this 5th day of September, 2012, and this Court having been fully advised in the matter and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the juvenile court and criminal history records of CEDRIC L. JACKSON, DOB 2/14/1983, SSN 530-98-4598, be made available to the Defendant Jackson's appointed counsel, PATRICIA A. PALM, ESQ., and DAN M. WINDER, ESQ., subject to an in camera inspection and determination of the Juvenile Court. This Order contemplates

1 production of the following: of all of CEDRIC L. JACKSON'S juvenile criminal
2 history records maintained by any division of juvenile court, the Department of
3 Juvenile Justice Services, the District Attorney's juvenile division, any and all
4 records generated or maintained by the family court or support services and any
5 investigation reports generated or maintained by the juvenile or family court
6 divisions, including but not limited to (a) all juvenile detention, jail, prison, parole,
7 probation and presentence investigation records; (b) all sentencing reports; (c) all
8 arrest, conviction, and juvenile criminal offense records; (d) all records of any
9 detention including but not limited to sign in/sign out sheets, visitor logs, booking
10 and release records, any medical or psychiatric treatment provided during detention;
11 and (e) all institutional records regarding Cedric Jackson of any kind.

12 DATED this 5th day of Sept, 2012.

13
14 
DISTRICT COURT JUDGE

15 Submitted by:

16 PALM LAW FIRM, LTD.

17
18 By 

19 PATRICIA A. PALM
1212 S. Casino Center Blvd.
20 Las Vegas, NV 89104
(702) 386-9113
21 Attorney for Defendant Jackson
330 South Third St. Suite 800
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Attorneys for Defendant Cedric Jackson


CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

v.

CEDRIC L. JACKSON,

Defendant.

CASE NO: 10-C-265339-1

DEPT. NO: X

ORDER FOR MITIGATION INVESTIGATOR TO BE ALLOWED

CONTACT VISITATION

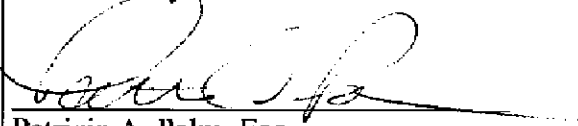
Upon application of counsel and good cause appearing therefore,

IT IS HEREBY ORDERED that Danielle Waller and/or Valerie Kennedy of Mitigation & Sentencing Services, be allowed contact visits with Defendant Cedric Jackson, Defendant, Inmate Id. No. #1581340, at the Clark County Detention Center while he is being held at the jail in custody in this matter.

DATED this 9th day of September, 2012.


DISTRICT COURT JUDGE

1 Submitted by:

2 
3
4 Patricia A. Palm, Esq.

5 Nevada Bar No. 6009

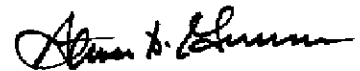
6 1212 S. Casino Center Blvd.

7 Las Vegas, NV 89104

8 Attorney for Cedric L. Jackson
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CLERK OF THE COURT

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Attorneys for Defendant Cedric Jackson

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

v.

CEDRIC L. JACKSON,

Defendant.

CASE NO: 10-C-265339-1

DEPT. NO: X

DATE:

TIME:

EX PARTE APPLICATION FOR ORDER ALLOWING CONTACT VISIT

COMES NOW, DEFENDANT CEDRIC L. JACKSON, by and through his attorneys, PATRICIA A. PALM and DAN M. WINDER, and hereby requests this Court grant him an Order allowing contact visitation between the appointed mitigation investigator in this matter, Danielle Waller and/or Valerie Kennedy, of Mitigation & Sentencing Services, and Defendant Cedric L. Jackson, Id. No. 1581340, at the Clark County Detention Center, where he is being housed pending trial.

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1 This application is made upon the attached Declaration of Counsel.

2 DATED this 5th day of September, 2012.

3 PALM LAW FIRM, LTD.

4
5
6 By 

7 PATRICIA A. PALM, ESQ.

8 Nevada Bar No. 6009

9 Attorney for Defendant Cedric Jackson

10
11
12 **DECLARATION OF COUNSEL**

13 Pursuant to NRS 53.045, PATRICIA A. PALM, being first duly sworn
14 according to law, deposes and states as follows:

15 1. That I am an attorney duly licensed to practice law in the State of Nevada
16 and am counsel appointed along with Attorney Dan M. Winder to represent
17 Defendant Cedric L. Jackson in the instant matter, in which the State is seeking a
18 Death Penalty.

19 2. That I am familiar with the record and facts in this matter, including the
20 mitigation investigation being done to defend against a death penalty at the time of
21 any penalty hearing.

22 3. That trial is set in this matter to begin June 24, 2013, and pending trial
23 Defendant Cedric Jackson is being housed at Clark County Detention Center
24 ("CCDC"), in Las Vegas, Nevada, under Id. No. 1581340.

25 4. That the Office of Appointed Counsel and Director Drew Christensen have
26 appointed Mitigation & Sentencing Services, and its employees, Danielle Waller
27 and/or Valerie Kennedy, to perform the mitigation investigation consistent with ABA
28 rules, Nevada Supreme Court Rule 250, and the Sixth, Eighth and Fourteenth

1 Amendments of the United States Constitutions, and article 1 of the Nevada
2 Constitution.

3 5. That Mitigation Sentencing Services is located in the State of Illinois, and
4 that twice previously, Ms. Waller and/or Ms. Kennedy have visited Las Vegas to
5 conduct mitigation investigation in this case, and that during those times Ms. Waller
6 has been allowed contact visits at CCDC to perform the mitigation investigation
7 without being required to be accompanied by an attorney. Such visitation was
8 allowed based upon presentation of a letter from this counsel.

9 6. That because of recent changes in CCDC policy, instead of court appointed
10 professionals being allowed access for contact visits with defendants by submitting a
11 letter from counsel, the jail now requires an Order from the Court to allow the same
12 contact visits.

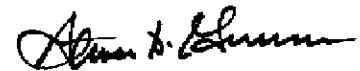
13 7. That Ms. Waller and/or Ms. Kennedy have a trip planned for October,
14 2012, to finalize the defense's mitigation investigation and will also plan to be
15 present during trial in June, 2013. Further, that during both of these trips Ms.
16 Waller and/or Ms. Kennedy will need access to Clark County Detention Center to
17 interview Defendant Cedric Jackson during contact visits.

18 8. That I have informed counsel for the State, Ms. Nell Christensen, of our
19 request for a Contact Visitation Order for the defense's appointed mitigation
20 specialist, and she had no opposition thereto.

21 I declare under penalty of perjury that the foregoing is true and correct.

22 Dated this 30th day of September, 2012.

23
24 
25 PATRICIA A. PALM
26
27
28



CLERK OF THE COURT

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Email: winderdanatty@aol.com
Attorneys for Defendant Cedric Jackson

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

v.

CEDRIC L. JACKSON and

PRENTICE L. COLEMAN,

Defendants.

CASE NO: 10-C-265339-1
10-C-265339-2

DEPT. NO: X

DATE:

TIME:

**NOTICE OF MOTION AND MOTION BY DEFENDANT JACKSON TO
CONTINUE TRIAL**

COMES NOW Defendant Cedric Jackson, by and through his attorneys, Dan M. Winder and Patricia A. Palm and hereby moves this Honorable Court to grant a continuance of the currently scheduled trial date of June 24, 2013.

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1 This Motion is made and based upon the attached Points and Authorities, the
2 Sixth and Fourteenth Amendments to the United States Constitution, the Nevada
3 Constitution, article 1, section 8, all pleadings and papers on file herein, the record in
4 this case, the affidavit attached hereto, and any oral argument as this Court may
5 deem necessary.

6
7 DATED this 8th day of April, 2013.

8 By: 
9 PATRICIA A. PALM
10 DAN M. WINDER

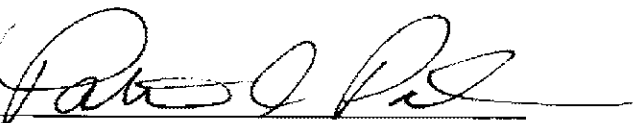
11
12 NOTICE OF MOTION

13 **TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for**
14 **the Plaintiff, STATE OF NEVADA;**

15 **CLARK COUNTY SPECIAL PUBLIC DEFENDER, Attorney for**
16 **Prentice Coleman, Codefendant.**

17 YOU, AND EACH OF YOU WILL PLEASE TAKE NOTICE that the
18 undersigned will bring the foregoing Motion on for hearing before the above-entitled
19 Court on the 22 day of April, 2013, at the hour of 8:30^{am} a.m. or as soon
20 thereafter as counsel may be heard.

21 DATED this 8th day of April, 2013.

22
23 By: 
24 PATRICIA A. PALM
25 DAN M. WINDER
26 Attorneys for Defendant Cedric Jackson
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28

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 On or about February 10, 2010, the State filed its Complaint charging Cedric
4 Jackson (Jackson) in Case No. 10FN0329X with murder with use of a deadly weapon,
5 battery with use of a deadly weapon causing substantial bodily harm, 3 counts of
6 attempt murder with use of a deadly weapon, 2 counts assault with a deadly weapon,
7 and one count conspiracy to commit murder. Pursuant to the State's Motion, the
8 case against Jackson was joined with the related case against Prentice Coleman
9 (Coleman) for preliminary hearing which was set for May 12, 2010. The hearing was
10 continued to June 11, 2010, when the co-defendants unconditionally waived their
11 rights to preliminary hearing and were bound over to District Court. The State was
12 permitted to amend the Complaint to allege additional counts related to the
13 discharge of a firearm at and from a vehicle. On June 24, 2010, Jackson and
14 Coleman were arraigned, entered pleas of Not Guilty, and *waived their 60-day*
15 *statutory speedy trial rights*. On June 16, 2010, the State filed its Information
16 charging Jackson and Coleman by Information as follows:

17 Count 1: Murder with Use of a Deadly Weapon (related to the killing of
18 Jamario Macklin)

19 Count 2: Attempt Murder with Use of a Deadly Weapon (naming alleged
20 victim Marcus Albert);

21 Count 3: Battery with Use of a Deadly Weapon Resulting in Substantial
22 Bodily Harm (again naming alleged victim Marcus Albert);

23 Count 4: Attempt Murder with Use of a Deadly Weapon (naming alleged
24 victim Carlos Bass);

25 Count 5: Assault with a Deadly Weapon (again naming alleged victim Carlos
26 Bass);
27
28

1 Count 6: Attempt Murder with Use of a Deadly Weapon (naming alleged
2 victim Devin Bass);

3 Count 7: Assault with a Deadly Weapon (again naming alleged victim Devin
4 Bass);

5 Count 8: Conspiracy to Commit Murder (incorporating allegations in counts 1-
6 7);

7 Count 9: Discharging a Firearm at or into an occupied vehicle occupied by
8 Devin and Carlos Bass;

9 Count 10: Discharging a Firearm from out of a Motor Vehicle.

10 On July 7, 2010, the District Court set trial for both defendants for May 2,
11 2011.

12 On July 9, 2010, the State filed its Notices of Intent to Seek the Death Penalty
13 against each Defendant. The Notice filed in Jackson's case alleges the following
14 aggravating circumstances:

15 1. The murder was committed by a person under sentence of imprisonment
16 (NRS 200.033(1) (relying on Jackson's conviction in a federal case wherein he and co-
17 defendant Coleman were each convicted in the same case for aiding and abetting and
18 interference with commerce by armed robbery). Jackson is alleged to have been on
19 parole when the instant alleged capital offense was committed.

20 2. The murder was committed by a person who has been convicted of a felony
21 involving use or threat of violence (NRS 200.033(2)(b) (relying on the same above
22 mentioned federal conviction).

23 3-8. The murder was committed by a person who has been convicted of a
24 felony involving use or threat of violence (NRS 200.033(2)(b) (relying on the sought-
25 after convictions in the instant case, based on Counts II through VII of the
26 Information).

1 9. The murder was committed by a person who knowingly created a great risk
2 of death to more than one person (NRS 200.033(3) (relying on an alleged risk of death
3 to Jamario Macklin, Marcus Albert, Carlos Bass, Devin Bass, Juanetta Washington,
4 and Laquitta Langstaff as well as unnamed residents in homes nearby where the
5 incident in question occurred).

6 On June 23, 2010, Defendant Jackson filed a motion for discovery, which the
7 Court heard on July 7, 2010. The Court ordered that all discovery required by
8 statute and case law be provided to the defense. November 22, 2010, Attorney Dan
9 Winder confirmed as court-appointed counsel to Jackson, and on January 10, 2011,
10 Attorney Patricia Palm confirmed as court-appointed co-counsel for Jackson. On
11 March 30, 2011, the Court granted the Defenses' oral request to continue the matter,
12 and trial was reset for June 24, 2012.

13 On January 18, 2012, Defendant Jackson filed a motion to sever, which the
14 State opposed. This Court heard argument on February 6, 2012, and denied the
15 Motion. On May 10, 2012, Defendant Jackson filed a motion to continue trial based
16 on the need for further investigation of mitigation and the need to obtain outstanding
17 discovery *including specifically requested discovery for an April 28, 2007 incident at*
18 *the 702 Club*. The request for discovery was based upon a ballistics report provided
19 in discovery which set forth an event number related to which the same gun was
20 used and subsequent investigation showing that event number corresponded with an
21 incident at the 702 Club.
22

23 On March 26, 2013, the District Attorney furnished additional discovery
24 regarding the 702 Club incident, which discovery indicated that the 702 Club was an
25 unsolved homicide involving multiple shooters. Furthermore, the new discovery
26 indicates that Cedric Jackson and his cousin Breion Mack were present at the 702
27 Club on the evening of the incident and were interviewed by police but denied
28 involvement or specific knowledge of the facts surrounding the homicide. The

1 District Attorney also furnished additional discovery indicating that on May 22,
2 2011, a man named Alvin Young was arrested and was in possession of a gun that
3 ballistics testing revealed had been used to fire one of the bullets recovered at the
4 702 Club crime scene. According to an officer's report dated October 13, 2011, the
5 gun also fired some of the bullets recovered at the scene in this case (No laboratory
6 report has yet been provided to show testing of the gun against the ammunition in
7 this case).

8 Furthermore, Breion Mack, Jackson's cousin, was recently killed in a homicide
9 for which another man was charged and possibly acquitted and/or released upon
10 dismissal of charges. Further information on that case is unknown to Jackson at this
11 time.

12 Jackson's defense counsels have conferred with Mr. Scott Bindrup, defense
13 counsel for Codefendant Prentice Coleman, and he indicates that he intends to use
14 the 702 Club evidence to shift blame from Coleman to Jackson, since Coleman was
15 not at the 702 Club incident but Jackson was present at both scenes and the same
16 gun was apparently used at both scenes which involved multiple shooters, therefore,
17 Coleman will attempt to show that the evidence points only to Jackson and not to
18 Coleman.

19 FACTS RELATING TO THIS INCIDENT

20 As there was no preliminary hearing or grand jury proceeding whereby facts
21 were set forth through evidence and testimony was transcribed, the following
22 statement of facts relies on police reports and other items of discovery provided by
23 the State. This recitation of facts in no way concedes the veracity, reliability or
24 admissibility of the State's evidence discussed herein.

25 The State's evidence indicates that on January 31, 2010, shortly after
26 midnight, Jackson arrived at the Aruba Nightclub in Las Vegas. His girlfriend,
27 Nicole Davis, arrived separately shortly thereafter. While there, the couple met with
28 Co-defendant Prentice Coleman. After some hours, they met with Jamarion Macklin.

1 A verbal altercation ensued and Macklin threw a glass at Jackson and Coleman. A
2 physical altercation began, and Macklin's friends joined in. Aruba Club's bouncers
3 threw these parties out of the club. Outside, the parties agreed to meet at another
4 location to fight.

5 Shortly afterward, the fight continued at Marcus Albert's house. Albert was
6 an associate of Macklin. Jackson and Macklin met to engage in a fist fight in the
7 street. Immediately after the fight began, gunshots were heard.

8 Witness/alleged victim Marcus Albert (Albert) gave three different statements
9 to police. Eventually, he stated that when the parties met outside his mother's
10 house, they were going to fight. He and Jamario Macklin (Macklin) (aka Yak and
11 Mario) went to Albert's mother's house and parked. Albert was out of the car when
12 Defendant Jackson (aka CedMac) walked around the corner. Macklin got out of the
13 car, and then "weighed up," and Jackson reached back like he was going to reach in
14 his pocket. Then Co-defendant Prentice Coleman (aka PB and PointBlank) came
15 running with a little dude. Coleman started shooting. He shot towards Albert's face,
16 then shot Albert's truck, then his knee. Albert saw Jackson and Coleman come into
17 the yard and shoot together at Albert and Macklin. Albert never saw Carlos or Devin
18 Bass at the scene. The other guy with Coleman was also shooting, but Albert could
19 not identify him. Albert was treated for a gunshot wound to his right knee.

20 Devin Bass (Devin) also gave two different statements. He heard there was
21 going to be a scrap and he drove over to Albert's home with his cousin Carlos Bass
22 (Carlos). Devin was parked in front of Albert's house, and another car pulled up
23 with "Diesel" in it. Diesel might have moved around the corner. Devin moved his
24 own car, then he saw three people walking. Devin could not see any faces. Devin
25 assumed that Jackson walked up, but he was not sure who it was. Macklin was in
26 the car with Albert, and "Spark" was in the car behind him when three guys walked
27 from the corner. Macklin was confronting one of the guys like he was going to fight.
28 Macklin was saying, "Hold, on," while he pulled up his pants, and a dark guy started

1 shooting. Devin assumed that Coleman pulled out the gun first, as it looked like
2 Jackson and Macklin were getting ready to fight. Jackson actually threw a blow, and
3 somebody said, "Fuck that." Devin did not see Jackson shooting. Carlos was still
4 outside of the car. Carlos said someone was shooting at him and Devin, as they were
5 taking off. Devin thought they were being chased so he headed toward Crip City.
6 They were being chased by a goldish brown Yukon XL. Devin told everyone it was
7 Jackson and Coleman that did it, but that was just because he heard this from other
8 people there.

9 Carlos Bass stated that he was present for the altercation at the Aruba club.
10 He later went to Albert's house and a girl parked behind him. Carlos hopped out of
11 the car and Jackson had already walked up. Jackson did not pull out a gun, but
12 Carlos heard one shot. Coleman had walked out with another male around the
13 corner. One of them was shooting, but Jackson did not shoot. Jackson ran up to
14 fight, and then somebody came from around the corner. Carlos left when he heard
15 the first shot. Jackson did not have a gun, and he ran up in a fighting stance. When
16 Carlos left, Jackson's truck was following them.

17 Laquita Langstaff gave a statement to police indicating that she was Macklin's
18 girlfriend. She was at the Aruba Club and saw the altercation which started when
19 Macklin refused to shake Jackson's hand. Langstaff followed Macklin in her vehicle
20 after they were escorted out. Langstaff parked behind Macklin and then saw some
21 guys pull up in a red or orange Camaro and an older white Jeep. She saw four
22 suspects approach Macklin's vehicle. All four had firearms. The first one began
23 fighting with Macklin then stepped back, pulled out a gun and started shooting at
24 him. Then all of the suspects shot toward the victims. Langstaff did not know any of
25 the suspects and could not recognize any pictures. The instigator was called
26 something with a "P". Langstaff got her cousin out of the car in front of her, then got
27 in her car and left. When she returned Macklin was lying in front of his gun, dying
28 on the ground.

1 Juanetta Washington stated that during the fight she was sitting in Macklin's
2 car. Jackson was there with other people. Macklin went into the street to fight
3 Jackson, and they met in the middle of the street. Macklin pulled his pants up and
4 told her to get down. She was already ducked down when the shooting started.

5 According to autopsy report, Macklin was shot 9 times. He had marijuana
6 active ingredients and metabolites in his blood as well as alcohol. Numerous shell
7 casings were found near his body, indicating he may have been firing a gun. No gun
8 was found by police when they arrived at the scene.

9 Gunshot Residue test results from the right hands of alleged victims Albert
10 and Macklin showed that they both may have been firing a gun or were in close
11 proximity to a firearm discharge. A ballistics report showed that three different
12 firearms fired the bullet casings recovered from the scene.

13 The vehicle of Jackson's girlfriend, Nicole Davis, was recovered on February
14 13, 2010, after she reported it stolen. It was found in an abandoned parking lot with
15 damage to doors and ignition. GSR testing showed that a weapon may have been
16 discharged near passenger side of car.

17 **1. The Statements of the Co-defendants:**

18 No statements admissible against Cedric Jackson: Jackson did not give a
19 statement to police and the discovery does not indicate that he made any statements
20 regarding the incident to others which would be admissible against him.

21 Prentice Coleman's statements to police: Numerous statements are likely to
22 be admissible against Coleman. He was arrested on February 24, 2010, on charges of
23 ex-felon in possession of a firearm and traffic warrants. A .22 Ruger long rifle
24 recovered from a search of Coleman's home. According to police several of Coleman's
25 comments to them indicate that he was present during the shooting. On March 1,
26 2010, Coleman gave a statement to police wherein he stated that it was not he who
27 was fighting. He indicated the fight was between Jackson and Macklin. In his second
28 statement, when the police told him that it appeared from the shell casings that

1 Macklin may have had a gun but none was found, he responded, "Oh, so they did
2 take the gun off them then." Coleman further indicated that it was possible that
3 Jackson did this alone. Coleman also stated, "I can tell you it wasn't planned and I
4 didn't see no gun."

5 Coleman is also reported to have made statements to his girlfriend, Arland
6 Veley, wherein he implicates Jackson and exculpates himself.

7 In addition, Coleman has made numerous statements during recorded
8 telephone calls at CCDC, which recordings have been provided in discovery, and
9 implicate both Coleman and Jackson. Finally, police recovered text messages from
10 Coleman's telephone which implicate him as having an interest in the State's
11 witnesses in this case.

12 ARGUMENT

13 The Eighth Judicial District Court Rule 7.30 states as follows:

14
15 "(a). Any party may, for good cause, move the court for an order
16 continuing the day set for trial of any cause. A Motion for continuance
17 of the trial must be supported by affidavit"

18 This Motion is based on the following reasons and the Affidavit of Counsel
19 attached hereto.

20 When the newly appointed Clark County District Attorney Steven B. Wolfson
21 took office in February, 2012, Jackson's counsel made an immediate effort to
22 determine whether the State would withdraw its Notice of Intent to Seek Death in
23 this case, given Wolfson's public statements regarding death penalty overcharging.
24 Jackson's counsel also sought to attempt to negotiate the case, as counsel determined
25 that additional experts were going to be needed if the case were to go forward as a
26 death penalty case. In that vein, Jackson's counsel held off on requesting additional
27 expert approvals and approached the District Attorney's Office in February, 2012,
28 formally requesting reconsideration of the death penalty, and/or to discuss possible

1 case resolution. The District Attorney's Office and Jackson's counsel then attempted
2 to negotiate in good faith but were unable to reach an agreement. Therefore, the
3 prior continuance request in this case on May 10, 2012, was based in part on
4 Jackson's need to request additional approvals for expert witnesses to prepare
5 Jackson's defense at trial.

6 The prior request for a continuance was also specifically based upon the need to
7 obtain outstanding requested guilt phase discovery related to the "1700 E. Flamingo
8 case (702 club), reference to which is made in the ballistics reports in this case."
9 5/10/12 Motion to Continue, p.10. This discovery was finally furnished on March 26,
10 2013, along with additional discovery related to the arrest of "Alvin Young," who had
11 a weapon which apparently was used at both homicides.

12 Although Cedric Jackson's Defense has been working diligently to investigate
13 and prepare for the guilt and penalty phases of trial, making multiple trips to the
14 field with its guilt phase investigator, attending file and evidence vault reviews, and
15 having worked with the defense's court-appointed out-of-state mitigation specialist
16 during three, separate week-long trips to Las Vegas to conduct witness interviews
17 and other forensic social history mitigation investigation, other investigation remains
18 to be done.

19 Specifically, from a review of the newly furnished 702 club discovery and
20 discovery related to Alvin Young, and from subsequent consultation with
21 Codefendant Counsel, it is apparent that Jackson will need to further investigate the
22 newly furnished evidence from the 702 Club unsolved homicide further in order to
23 effectively defend Jackson at trial, and to determine the merits of potential pretrial
24 motions necessary to adequate representation at trial. The defense will also need to
25 investigate the still unsolved homicide of Jackson's cousin, Breion Mack, to
26 determine whether any evidence suggests that Mack's homicide might be related to
27 the instant case or the 702 Club case.
28

1 Further, there remains other outstanding discovery in this case, such as the
2 reports related to testing of the firearm seized from Alvin Young, which apparently
3 showed the same firearm was used in this case (to date the only report is from testing
4 of the bullet materials, not testing of the gun recovered from Alvin as it relates to the
5 materials in this case). Jackson's defense expert in forensics will need to review all of
6 the ballistics evidence from the 702 Club and related to Alvin Young's gun, in order
7 to assist Jackson's defense. Such evidence has been subpoenaed but has not yet been
8 returned to Jackson's defense.

9 On February 21, 2013, Jackson's defense counsels also requested from the
10 District Attorney but have not yet received discovery related to the prior offenses of
11 the State's victim/witnesses, including:

12 1) witness/alleged victim Carlos Bass's recent federal case or his prior offense
13 in Clark County Case No. C191208 for numerous charges including home invasion,
14 for which he was convicted of felony burglary in 2003;

15 2) witness/alleged victim Devin Bass's 2012 conviction for a gross
16 misdemeanor crime of dishonesty, i.e., possession of burglary tools in Clark County
17 Case No. C282815-1;

18 3) alleged victim (deceased) Jamario Macklin's prior convictions, including in
19 Clark County Case No. C198830 (wherein both Macklin was charged with attempt
20 and unlawful possession of a controlled substance and Devin Bass admitted gang
21 involvement at the time of the incident, and Macklin was convicted of a gross
22 misdemeanor attempt possession of a controlled substance in 2004); and Clark
23 County Case No. C182418 (wherein Macklin was charged but acquitted of with
24 conspiracy murder, murder with use of a deadly weapon to assist a criminal gang,
25 multiple counts of attempt murder, and discharging a firearm at or into a structure
26 to assist a criminal gang, among other charges, and Codefendant Prentice Coleman
27 was a witness); and Clark County Case No. C215089 (wherein both Macklin and
28 alleged victim/witness Marcus Albert were charged with numerous crimes including

1 multiple counts of robbery with use and burglary, and Macklin was convicted of
2 burglary in 2006);

3 4) alleged victim/witness Marcus Albert's prior offenses, including in Clark
4 County Case No.'s C152615 (wherein he was charged with burglary, robbery and
5 conspiracy, and was convicted of felony robbery in 1998); No. C141319, wherein he
6 was charged with conspiracy robbery, robbery with use, attempt armed robbery, and
7 manufacture or importation of a dangerous weapon, and was convicted of felony
8 robbery in 1998); and No. C215089 (wherein he was jointly charged with Macklin for
9 multiple counts of robbery with use, and burglary, and was convicted of felony
10 burglary in 2006).

11 In addition, the Defense has learned that Marcus Albert is in federal custody
12 having been convicted of felon in possession of a stolen Glock 19, 9 mm. handgun, on
13 or about June 25, 2005, for which he was convicted on November 30, 2007, and
14 sentenced in US District Court of Nevada Case No. 2:05-cr-00407-PMP-GWF, and
15 was charged in 2011 with Conspiracy to Distribute Oxycodone and Use
16 Communication Facilities, and Conspiracy to Launder Drug Proceeds, Conspiracy to
17 Violate Travel Act, and was convicted in the US District Court of Oregon Case No.
18 3:11-cr-00060-HA of Conspiracy to Distribute Oxycodone and Conspiracy to Launder
19 Drug Proceeds on February 5, 2013, and sentenced to sixty-three months in the
20 United States Bureau of Prisons. Jackson's defense will need to obtain discovery
21 related to Mr. Albert's federal cases in order to fully investigate and impeach Marcus
22 Albert at trial.

23 All of the above listed prior case records are necessary for Jackson's defense to
24 investigate the evidence of propensity for violence of the alleged victims/witnesses, as
25 well as to impeach the witnesses in this case based on bias/motive.

26 Moreover, outstanding mitigation investigation work has not been completed,
27 although the defense has used due diligence with regard to the same. Jackson's court
28 appointed mitigation specialist believes that to effectively present mitigation at trial,

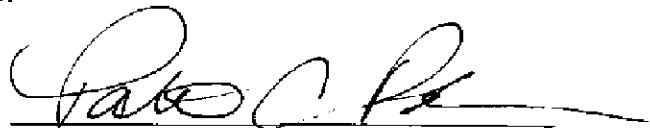
1 according to ABA Guidelines for Death Penalty Cases, further social history
2 witnesses need to be interviewed. Because the United States Attorney's Office in the
3 District of Nevada has not responded to multiple requests during the past year to
4 interview certain Federal Officials within the Bureau of Prisons in California where
5 Jackson was housed when serving his federal sentence for his prior robbery
6 conviction, it now appears that further federal court litigation may be necessary to
7 conclude the mitigation investigation in California.

8 Based on Jackson's counsels' current schedules and the large amount of
9 investigation still outstanding and pending further discovery, it will be impossible to
10 effectively pursue all investigation needed prior to the current June 2013 trial date
11 so as to make informed and timely decisions regarding which pretrial motions to
12 pursue. Thus, if forced to go to trial in June of 2013, counsel will be rendered
13 ineffective. Jackson's counsel has contacted counsel for the codefendant Prentice
14 Coleman who indicates that he will oppose a continuance of trial. Prentice Coleman
15 waived his right to a speedy trial at the time of the initial trial setting. Jackson has
16 not been able to determine whether the State will oppose this motion by the time of
17 its filing.
18

19 CONCLUSION

20 Defendant CEDRIC JACKSON respectfully requests that this Honorable
21 Court grant this Motion to Continue, and vacate and reset the current trial date of
22 June 24, 2013.
23

24 Dated this 8th day of April, 2013.

25 
26

27 Patricia Palm, Esq.
28 Dan Winder, Esq.
Attorney for Cedric Jackson

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DECLARATION OF COUNSEL

PATRICIA A. PALM, swears and states as follows:

1. That declarant is an attorney duly licensed to practice law in the State of Nevada and is the attorney appointed as SCR 250 counsel, along with Attorney Dan M. Winder, to represent Cedric Jackson in this Death Penalty case, which is currently set for trial on June 24, 2013.

2. That I have read and am familiar with the discovery provided by the State and other records related to this matter, and that I have set forth true and accurate factual representations as to the proceedings and circumstances described herein.

3. That all other matters set forth in the foregoing motion are true and correct to the best of my knowledge upon information and belief.

4. That Defendant Cedric Jackson is aware of the need for the continuance and has no objection thereto.

5. That counsel for codefendant Prentice Coleman has indicated that they will oppose a continuance.

6. That Defendant has not been able to communicate with Counsel for the State by the time of the filing of this motion and does not know whether the State will oppose a continuance.

7. That Defense Counsel for Defendant Jackson will be unable to effectively defend Jackson at trial, during the guilt and penalty phases, without adequate additional time to investigate the newly provided discovery relating to the 702 Club homicide and Alvin Young, and other matters relating to the unsolved homicide of Breion Mack and the underlying facts of the State's victim/witnesses criminal offenses as set forth in the attached motion.

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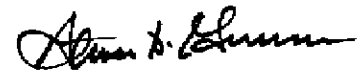
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1 Pursuant to NRS 53.045, I declare under penalty of perjury that the foregoing
2 is true and correct.

3 Dated this 7th Day of April, 2013.

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7 PATRICIA A. PALM
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CLERK OF THE COURT

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13 Las Vegas, NV 89102
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15 Fax: (702) 474-0631
16 Email: winderdanatty@aol.com
17 Attorneys for Cedric Jackson

DISTRICT COURT
CLARK COUNTY, NEVADA

18 STATE OF NEVADA,

19 Plaintiff,

20 v.

21 CEDRIC L. JACKSON, AND
22 PRENTICE L. COLEMAN,

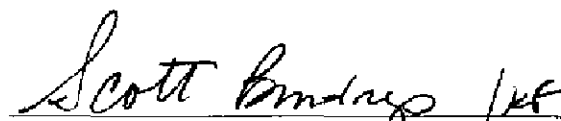
23 Defendants.

CASE NO: 10-C-265339-1
10-C-265339-2

DEPT. NO: X

RECEIPT OF COPY

24 RECEIPT OF COPY of NOTICE OF MOTION AND MOTION BY
25 DEFENDANT JACKSON TO CONTINUE TRIAL is hereby acknowledged this
26 9 day of April, 2013.



27 An employee of the CLARK COUNTY
28 SPECIAL PUBLIC DEFENDER
Attorney for CoDefendant Prentice Coleman



CLERK OF THE COURT

001
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Attorneys for Defendant Cedric Jackson

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

v.

CEDRIC L. JACKSON and

PRENTICE L. COLEMAN,

Defendants.

CASE NO: 10-C-265339-1
10-C-265339-2

DEPT. NO: X

DATE:

TIME:

**NOTICE OF MOTION AND MOTION BY DEFENDANT JACKSON TO
SEVER TRIAL**

COMES NOW Defendant Cedric Jackson, by and through his attorneys, Dan M. Winder and Patricia A. Palm and hereby moves this Honorable Court to sever his trial from the trial of the codefendant.

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1 This Motion is made and based upon the attached Points and Authorities, the
2 Sixth and Fourteenth Amendments to the United States Constitution, the Nevada
3 Constitution, article 1, section 8, all pleadings and papers on file herein, the record in
4 this case, and any oral argument as this Court may deem necessary.

5 DATED this 8th day of April, 2013.

6
7 By: 
8 PATRICIA A. PALM
9 DAN M. WINDER


10 NOTICE OF MOTION

11
12 **TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for**
13 **the Plaintiff, STATE OF NEVADA;**

14 **CLARK COUNTY SPECIAL PUBLIC DEFENDER, Attorney for**
15 **Prentice Coleman, Codefendant.**

16 YOU, AND EACH OF YOU WILL PLEASE TAKE NOTICE that the
17 undersigned will bring the foregoing Motion on for hearing before the above-entitled
18 Court on the 22 day of April, 2013, at the hour of 8:30 a a.m. or as soon
19 thereafter as counsel may be heard.

20 DATED this 8th day of April, 2013.

21
22 By: 
23 PATRICIA A. PALM
24 DAN M. WINDER
25 Attorneys for Defendant Cedric Jackson
26
27
28

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 STATEMENT OF THE CASE

3 On or about February 10, 2010, the State filed its Complaint charging Cedric
4 Jackson (Jackson) in Case No. 10FN0329X with murder with use of a deadly weapon,
5 battery with use of a deadly weapon causing substantial bodily harm, 3 counts of
6 attempt murder with use of a deadly weapon, 2 counts assault with a deadly weapon,
7 and one count conspiracy to commit murder. Pursuant to the State's Motion, the
8 case against Jackson was joined with the related case against Prentice Coleman
9 (Coleman) for preliminary hearing which was set for May 12, 2010. The hearing was
10 continued to June 11, 2010, when the co-defendants unconditionally waived their
11 rights to preliminary hearing and were bound over to District Court. The State was
12 permitted to amend the Complaint to allege additional counts related to the
13 discharge of a firearm at and from a vehicle. On June 24, 2010, Jackson and
14 Coleman were arraigned, entered pleas of Not Guilty, and *waived their 60-day*
15 *statutory speedy trial rights*. On June 16, 2010, the State filed its Information
16 charging Jackson and Coleman by Information as follows:
17

18 Count 1: Murder with Use of a Deadly Weapon (related to the killing of
19 Jamario Macklin)

20 Count 2: Attempt Murder with Use of a Deadly Weapon (naming alleged
21 victim Marcus Albert);

22 Count 3: Battery with Use of a Deadly Weapon Resulting in Substantial
23 Bodily Harm (again naming alleged victim Marcus Albert);

24 Count 4: Attempt Murder with Use of a Deadly Weapon (naming alleged
25 victim Carlos Bass);

26 Count 5: Assault with a Deadly Weapon (again naming alleged victim Carlos
27 Bass);
28

1 Count 6: Attempt Murder with Use of a Deadly Weapon (naming alleged
2 victim Devin Bass);

3 Count 7: Assault with a Deadly Weapon (again naming alleged victim Devin
4 Bass);

5 Count 8: Conspiracy to Commit Murder (incorporating allegations in counts 1-
6 7);

7 Count 9: Discharging a Firearm at or into an occupied vehicle occupied by
8 Devin and Carlos Bass;

9 Count 10: Discharging a Firearm from out of a Motor Vehicle.

10 On July 7, 2010, the District Court set trial for both defendants for May 2,
11 2011.

12 On July 9, 2010, the State filed its Notices of Intent to Seek the Death Penalty
13 against each Defendant. The Notice filed in Jackson's case alleges the following
14 aggravating circumstances:

15 1. The murder was committed by a person under sentence of imprisonment
16 (NRS 200.033(1) (relying on Jackson's conviction in a federal case wherein he and co-
17 defendant Coleman were each convicted in the same case for aiding and abetting and
18 interference with commerce by armed robbery). Jackson is alleged to have been on
19 parole when the instant alleged capital offense was committed.

20 2. The murder was committed by a person who has been convicted of a felony
21 involving use or threat of violence (NRS 200.033(2)(b) (relying on the same above
22 mentioned federal conviction).

23 3-8. The murder was committed by a person who has been convicted of a
24 felony involving use or threat of violence (NRS 200.033(2)(b) (relying on the sought-
25 after convictions in the instant case, based on Counts II through VII of the
26 Information).

1 9. The murder was committed by a person who knowingly created a great risk
2 of death to more than one person (NRS 200.033(3) (relying on an alleged risk of death
3 to Jamario Macklin, Marcus Albert, Carlos Bass, Devin Bass, Juanetta Washington,
4 and Laquitta Langstaff as well as unnamed residents in homes nearby where the
5 incident in question occurred).

6 On June 23, 2010, Defendant Jackson filed a motion for discovery, which the
7 Court heard on July 7, 2010. The Court ordered that all discovery required by
8 statute and case law be provided to the defense. November 22, 2010, Attorney Dan
9 Winder confirmed as court-appointed counsel to Jackson, and on January 10, 2011,
10 Attorney Patricia Palm confirmed as court-appointed co-counsel for Jackson. On
11 March 30, 2011, the Court granted the Defenses' oral request to continue the matter,
12 and trial was reset for June 24, 2012.

13 On January 18, 2012, Defendant Jackson filed a prior motion to sever, which
14 the State opposed. This Court heard argument on February 6, 2012, and denied the
15 Motion. On May 10, 2012, Defendant Jackson filed a motion to continue trial based
16 on the need for further investigation of mitigation and the need to obtain outstanding
17 discovery *including specifically requested discovery for an April 23, 2007 incident at*
18 *the 702 Club*. The request for discovery was based upon a ballistics report provided
19 in discovery which set forth an event number related to which the same gun was
20 used and subsequent investigation showing that event number corresponded with an
21 incident at the 702 Club.

22 On March 26, 2013, the District Attorney furnished additional discovery
23 regarding the 702 Club incident, which discovery indicated that the 702 Club was an
24 unsolved homicide involving multiple shooters. Furthermore, the new discovery
25 indicates that Cedric Jackson and his cousin Breion Mack were present at the 702
26 Club on the evening of the incident and were interviewed by police but denied
27 involvement or specific knowledge of the facts surrounding the homicide. The
28

1 District Attorney also furnished additional discovery indicating that on May 22,
2 2011, a man named Alvin Young was arrested and was in possession of a gun that
3 ballistics testing revealed had been used to fire one of the bullets recovered at the
4 702 Club crime scene. According to an officer's report dated October 13, 2011, the
5 gun also fired some of the bullets recovered at the scene in this case (No laboratory
6 report has yet been provided to show testing of the gun against the ammunition in
7 this case).

8 Furthermore, Breion Mack, Jackson's cousin, was recently killed in a homicide
9 for which another man was charged and possibly acquitted and/or released upon
10 dismissal of charges. Further information on that case is unknown to Jackson at this
11 time.

12 Jackson's defense counsels have conferred with Mr. Scott Bindrup, defense
13 counsel for Codefendant Prentice Coleman, and he indicates that he intends to use
14 the 702 Club evidence to shift blame from Coleman to Jackson, since Coleman was
15 not at the 702 Club incident but Jackson was present at both scenes and the same
16 gun was apparently used at both scenes which involved multiple shooters, therefore,
17 Coleman will attempt to show that the evidence points only to Jackson and not to
18 Coleman.

19 FACTS RELATING TO THIS INCIDENT

20 As there was no preliminary hearing or grand jury proceeding whereby facts
21 were set forth through evidence and testimony was transcribed, the following
22 statement of facts relies on police reports and other items of discovery provided by
23 the State. This recitation of facts in no way concedes the veracity, reliability or
24 admissibility of the State's evidence discussed herein.

25 The State's evidence indicates that on January 31, 2010, shortly after
26 midnight, Jackson arrived at the Aruba Nightclub in Las Vegas. His girlfriend,
27 Nicole Davis, arrived separately shortly thereafter. While there, the couple met with
28 Co-defendant Prentice Coleman. After some hours, they met with Jamarion Macklin.

1 A verbal altercation ensued and Macklin threw a glass at Jackson and Coleman. A
2 physical altercation began, and Macklin's friends joined in. Aruba Club's bouncers
3 threw these parties out of the club. Outside, the parties agreed to meet at another
4 location to fight.

5 Shortly afterward, the fight continued at Marcus Albert's house. Albert was
6 an associate of Macklin. Jackson and Macklin met to engage in a fist fight in the
7 street. Immediately after the fight began, gunshots were heard.

8 Witness/alleged victim Marcus Albert (Albert) gave three different statements
9 to police. Eventually, he stated that when the parties met outside his mother's
10 house, they were going to fight. He and Jamarion Macklin (Macklin) (aka Yak and
11 Mario) went to Albert's mother's house and parked. Albert was out of the car when
12 Defendant Jackson (aka CedMac) walked around the corner. Macklin got out of the
13 car, and then "weighed up," and Jackson reached back like he was going to reach in
14 his pocket. Then Co-defendant Prentice Coleman (aka PB and PointBlank) came
15 running with a little dude. Coleman started shooting. He shot towards Albert's face,
16 then shot Albert's truck, then his knee. Albert saw Jackson and Coleman come into
17 the yard and shoot together at Albert and Macklin. Albert never saw Carlos or Devin
18 Bass at the scene. The other guy with Coleman was also shooting, but Albert could
19 not identify him. Albert was treated for a gunshot wound to his right knee.

20 Devin Bass (Devin) also gave two different statements. He heard there was
21 going to be a scrap and he drove over to Albert's home with his cousin Carlos Bass
22 (Carlos). Devin was parked in front of Albert's house, and another car pulled up
23 with "Diesel" in it. Diesel might have moved around the corner. Devin moved his
24 own car, then he saw three people walking. Devin could not see any faces. Devin
25 assumed that Jackson walked up, but he was not sure who it was. Macklin was in
26 the car with Albert, and "Spark" was in the car behind him when three guys walked
27 from the corner. Macklin was confronting one of the guys like he was going to fight.
28 Macklin was saying, "Hold, on," while he pulled up his pants, and a dark guy started

1 shooting. Devin assumed that Coleman pulled out the gun first, as it looked like
2 Jackson and Macklin were getting ready to fight. Jackson actually threw a blow, and
3 somebody said, "Fuck that." Devin did not see Jackson shooting. Carlos was still
4 outside of the car. Carlos said someone was shooting at him and Devin, as they were
5 taking off. Devin thought they were being chased so he headed toward Crip City.
6 They were being chased by a goldish brown Yukon XL. Devin told everyone it was
7 Jackson and Coleman that did it, but that was just because he heard this from other
8 people there.

9 Carlos Bass stated that he was present for the altercation at the Aruba club.
10 He later went to Albert's house and a girl parked behind him. Carlos hopped out of
11 the car and Jackson had already walked up. Jackson did not pull out a gun, but
12 Carlos heard one shot. Coleman had walked out with another male around the
13 corner. One of them was shooting, but Jackson did not shoot. Jackson ran up to
14 fight, and then somebody came from around the corner. Carlos left when he heard
15 the first shot. Jackson did not have a gun, and he ran up in a fighting stance. When
16 Carlos left, Jackson's truck was following them.

17 Laquita Langstaff gave a statement to police indicating that she was Macklin's
18 girlfriend. She was at the Aruba Club and saw the altercation which started when
19 Macklin refused to shake Jackson's hand. Langstaff followed Macklin in her vehicle
20 after they were escorted out. Langstaff parked behind Macklin and then saw some
21 guys pull up in a red or orange Camaro and an older white Jeep. She saw four
22 suspects approach Macklin's vehicle. All four had firearms. The first one began
23 fighting with Macklin then stepped back, pulled out a gun and started shooting at
24 him. Then all of the suspects shot toward the victims. Langstaff did not know any of
25 the suspects and could not recognize any pictures. The instigator was called
26 something with a "P". Langstaff got her cousin out of the car in front of her, then got
27 in her car and left. When she returned Macklin was lying in front of his gun, dying
28 on the ground.

1 Juanetta Washington stated that during the fight she was sitting in Macklin's
2 car. Jackson was there with other people. Macklin went into the street to fight
3 Jackson, and they met in the middle of the street. Macklin pulled his pants up and
4 told her to get down. She was already ducked down when the shooting started.

5 According to autopsy report, Macklin was shot 9 times. He had marijuana
6 active ingredients and metabolites in his blood as well as alcohol. Numerous shell
7 casings were found near his body, indicating he may have been firing a gun. No gun
8 was found by police when they arrived at the scene.

9 Gunshot Residue test results from the right hands of alleged victims Albert
10 and Macklin showed that they both may have been firing a gun or were in close
11 proximity to a firearm discharge. A ballistics report showed that three different
12 firearms fired the bullet casings recovered from the scene.

13 The vehicle of Jackson's girlfriend, Nicole Davis, was recovered on February
14 13, 2010, after she reported it stolen. It was found in an abandoned parking lot with
15 damage to doors and ignition. GSR testing showed that a weapon may have been
16 discharged near passenger side of car.

17 18 LEGAL ARGUMENT

19 In order to protect the Defendants' constitutional due process rights to a
20 fair trial, this Court must sever the codefendants' cases for separate trials.

21 NRS 174.165(1) states as follows:

22 If it appears that a defendant or the State of Nevada is prejudiced by a
23 joinder of offenses or of defendants in an indictment or information, or
24 by such joinder for trial together, the court may order an election or
25 separate trials of counts, grant a severance of defendants or provide
26 whatever other relief justice requires.

27 Generally, the defendant seeking the severance of trial from a co-defendant's
28 trial must show that he would be prejudiced in some manner should he be forced to
proceed to trial as a co-defendant. Amen v. State, 106 Nev. 749, 755-56, 801 P.2d
1354, 1358 (1990) (under N.R.S. 174.165, a district court may sever a joint trial if it

1 appears that a defendant is prejudiced by the joinder); Application of Groesbeck, 77
2 Nev. 412, 365 P.2d 491 (1961).

3 In the case of Zafiro v. United States, 506 U.S. 534, 113 S. Ct. 933 (1993), the
4 Supreme Court stated that:

5 We believe that, when defendants properly have been joined under Rule
6 8(b), a district court should grant a severance under Rule 14 only if
7 there is a serious risk that a joint trial would compromise a specific trial
8 right of one of the defendant's, or prevent the jury from making a
9 reliable judgment about guilt or innocence. Such a risk might occur
10 when evidence that the jury should not consider against a defendant
11 and that would not be admissible if a defendant were tried alone is
12 admitted against a co-defendant. For example, evidence of a co-
13 defendant's wrongdoing in some circumstances erroneously could lead a
14 jury to conclude that a defendant was guilty. When many defendants
15 are tried together in a complex case and they have markedly different
16 degrees of culpability, the risk of prejudice is heightened. Evidence that
is probative of a defendant's guilt but technically admissible only
against a co-defendant also might present the risk of prejudice.
Conversely, a defendant might suffer prejudice if essential exculpatory
evidence that would be available to a defendant tried alone were
unavailable in a joint trial.

17 Id. at 540, 113 S. Ct. at 938 (citations omitted).¹

18 Courts must remember, in exercising their discretion, that "although a single
19 trial may be desirable from the standpoint of economical and efficient criminal
20 procedure, the right of a defendant to a fair trial must be overriding consideration."
21 State v. Martin, 673 P.2d 104, 106 (Kan. 1983) (quoting State v. Sully, 547 P.2d 344
22 (Kan. 1976)). While courts have a legitimate interest in joint trials for co-defendants,
23 "this interest must never be allowed to eclipse a defendant's right to a fair trial."
24 United States v. Long, 905 F2d 1572, 1581 (D.C. Cir. 1990). All doubts concerning
25

26
27 ¹ In Zafiro, the Court addressed severance under Federal Rule of Criminal Procedure
28 14; however the Nevada Supreme Court has recognized that the trial severance right
under that Rule is essentially the same as the right under NRS 174.165. Marshall v.
State, 118 Nev. 642, 647, 56 P.3d 376, 379 (2002).

1 severance should be resolved in favor of severance. State v. Velarde, 734 P.2d 440,
2 444-45 (Utah 1986).

3 **Renewed Ground for Severance Based upon Jackson's Sixth**
4 **Amendment Rights:**

5 "The decisive factor in any severance analysis remains prejudice to the
6 defendant. . . . *Despite the concern for efficiency and consistency, the district court has*
7 *'a continuing duty at all stages of the trial to grant a severance if prejudice does*
8 *appear.'*" Marshall v. State, 118 Nev. 642, 646, 56 P.3d 376, 378 (2002) (quoting Neill
9 v. State, 827 P.2d 884, 890 (Okla. Crim. App. 1992)) (emphasis added). Although
10 Jackson raised this ground for severance in his previous Motion to Sever heard and
11 summarily denied on February 6, 2012, he re-raises it here to demonstrate the
12 cumulative and unfair prejudice that Jackson will face during a joint trial.

13 **There are no statements admissible against Cedric Jackson:** Jackson did not
14 give a statement to police and the discovery does not indicate that he made any
15 statements regarding the incident to others which would be admissible against him.

16 Consistent with the Jackson's constitutional rights to confront and cross-
17 examine the witnesses against him, the following evidence is admissible against
18 Codefendant Prentice Coleman, alone:

19 **Prentice Coleman's statements to police:** Coleman was arrested on February
20 24, 2010, on charges of ex-felon in possession of a firearm and traffic warrants. A .22
21 Ruger long rifle recovered from a search of Coleman's home. According to police
22 several of Coleman's comments to them indicate that he was present during the
23 shooting. On March 1, 2010, Coleman gave a statement to police wherein he stated
24 that it was not he who was fighting. He indicated the fight was between Jackson and
25 Macklin. In his second statement, when the police told him that it appeared from the
26 shell casings that Macklin may have had a gun but none was found, he responded,
27 "Oh, so they did take the gun off them then." Coleman further indicated that it was
28

1 possible that Jackson did this alone. Coleman also stated, "I can tell you it wasn't
2 planned and I didn't see no gun."

3 Coleman's statements to Arlanda Veley: Coleman's girlfriend, Veley, gave a
4 statement as to Coleman's admissions to her: Veley told the police that Coleman had
5 said to her that he and another guy were fighting at Spark's house on Blue Reef (the
6 incident occurred on Blue Reef), and one thing led to another and several people
7 started shooting. She knew that Jackson was with Coleman at the fight. Coleman
8 said they got into it at the club with Yak/aka Mario/aka Macklin and a bunch of
9 people started shooting at Blue Reef. Jackson was involved in the shooting,
10 according to Coleman. Jackson was fighting with Macklin and several people were
11 shooting. After they got to fighting, Coleman heard a bunch of shots.

12 Audiotape evidence of Coleman's jail telephone calls: There is voluminous
13 audiotape evidence admissible against Coleman, consisting of his recorded telephone
14 calls from Clark County Detention Center. A review of just some of these calls
15 indicates that during a call on February 25, 2010, Coleman indicates that a female
16 gave a statement where she said too much and got him in trouble by saying he was
17 there when it happened. During an April 2, 2010 call, Coleman tells a female not to
18 accept a subpoena for the upcoming May, 2010, court date (the joint preliminary
19 hearing was originally set for May 2010). During an April 3, 2010 call, Coleman tells
20 a female to tell someone, whose name is unintelligible, "you know what it is with us.
21 He aint got nothing to worry about. I aint going the other way... I know you aint
22 going the other way." On April 6, 2010, Coleman tells the female to call the
23 investigator and talk to him, to clear this up. He tells her, "You didn't say no shit
24 like that." On April 12 and 13, 2010, he is advising a female on what kind of gun to
25 get and kind of bullets to buy. On April 14, 2010, a female tells him that he does not
26 listen to her, and when he asks for an example, she says, "I told you not to go back
27 there." He responded, "It aint my fault I was there though." During an April 16,
28

1 2010 call, he explains to a female how to shoot a gun. During an April 21, 2010 call,
2 he discusses his prowess with guns.

3 Coleman's text messages: Police recovered from Coleman's telephone a text
4 message received on February 19, 2010, when Jackson was already in custody, which
5 contained the names "Jaunta Washington and Laquitta Langstaff". The police and
6 the prosecutors have relied on this information to show that Coleman was interested
7 in the case and the two witnesses who were not from the neighborhood.

8 The United States Supreme Court, in concluding that the Sixth Amendment's
9 Confrontation Clause is applicable to the states, also recognized the importance of
10 the Sixth Amendment right to confront and cross-examine witnesses:

11
12 There are few subjects, perhaps, upon which this Court and other courts
13 have been more nearly unanimous than in their expressions of belief
14 that the right of confrontation and cross-examination is an essential and
fundamental requirement for the kind of fair trial which is this
country's constitutional goal.

15 Pointer v. Texas, 380 U.S. 400, 405, 85 S. Ct. 1065, 1068 (1965).

16 Subsequently, in Bruton v. United States, 391 U.S. 123, 88 S. Ct. 1620 (1968),
17 the Supreme Court held that a defendant's right of cross-examination, which is
18 secured by the Confrontation Clause of the Sixth Amendment, is violated when, at a
19 joint trial, the court admits a non-testifying co-defendant's confession inculcating the
20 defendant, notwithstanding jury instructions that the co-defendant's confession must
21 be disregarded in determining the defendant's guilt. Id. at 125, 88 S. Ct. at 1622.

22 The Court explained:

23
24 [T]here are some contexts in which the risk that the jury will not, or
25 cannot, follow instructions is so great, and the consequences of the
26 failure so vital to the defendant, that the practical and human
27 limitations of the jury system cannot be ignored. Such a context is
28 presented here, where the powerfully incriminating extrajudicial
statements of a co-defendant, who stands accused side-by-side with the
defendant, are deliberately spread before the jury in a joint trial. Not
only are the incriminations devastating to the defendant but their

1 credibility is inevitably suspect, a fact recognized when accomplices do
2 take the stand and the jury is instructed to weigh their testimony
3 carefully given the recognized motivation to shift blame onto others. The
4 unreliability of such evidence is intolerably compounded when the
5 alleged accomplice, as here, does not testify and cannot be tested by
6 cross-examination.

7 Id. at 135-36, 88 S. Ct. at 1627-28.

8 Simple redaction of a co-defendant's statements has been disapproved by the
9 Supreme Court in Gray v. Maryland, 523 U.S. 185, 118 S. Ct. 1151 (1999). In Gray,
10 the Court addressed a situation where a co-defendant's confession had been redacted
11 but, as it demonstrated obvious indication of deletion, *it still directly referred to the*
12 *existence of a non-confessing defendant, thereby linking the defendant to the crime.*
13 The Court stated, "Unless the prosecutor wishes to hold separate trials or to use
14 separate juries or to abandon use of the confession, he must redact the confession to
15 reduce or to eliminate the special prejudice that the Bruton Court found." Id. at 192,
16 118 S. Ct. at 1155. Cf. Richardson v. Marsh, 481 U.S. 200, 211, 107 S. Ct. 1702
17 (1987) (admission at a joint trial of co-defendant's confession that is redacted to omit
18 all reference to defendant's existence, does not violate defendant's confrontation
19 rights).

20 Our Nevada Supreme Court has also recognized that redaction or limiting
21 instructions are not always sufficient to cure the prejudice to a defendant from the
22 admission of confessions of a non-testifying co-defendant. Stevens v. State, 97 Nev.
23 443, 444, 634 P.2d 662 (1981). There, although the State had excised all references
24 to defendant Stevens before admitting the non-testifying co-defendant's confession at
25 a joint trial, the Court reversed Stevens' conviction pursuant to the Bruton rule. The
26 Court reasoned:

27 It appears likely that the jury read the appellant's [Stevens] name into
28 the blanks in each of [co-defendant] Oliver's statements introduced at
the trial below.

1 The circumstantial links between Oliver and Stevens, referred to by the
2 prosecutor, and the fact that Oliver and appellant were being tried
3 together made it not only natural, but seemingly inevitable, that the
4 jury would infer appellant to be the person referred to in the blanks in
5 Oliver's statement.

6 Id. at 444, 634 P.2d at 663.

7 The Nevada Supreme Court addressed the issue again in Ducksworth v. State,
8 113 Nev. 780, 942 P.2d 157 (1997). There, the Supreme Court held that the district
9 court erred in refusing to sever defendant Martin's trial from his co-defendant
10 Ducksworth's. "The evidence against Martin was largely circumstantial and was
11 much less convincing than was the evidence against Ducksworth. Most damaging to
12 Martin was the testimony of Crawl and Al concerning Ducksworth's confessions
13 which mentioned, *both directly and by inference, that Ducksworth acted with an*
14 *accomplice.*" Id. at 794, 942 P.2d at 166 (emphasis added). Because Ducksworth did
15 not testify, the introduction of his confession, which probably inculpated co-defendant
16 Martin, violated Martin's Sixth Amendment rights. Id. at 795, 942 P.2d at 167. As
17 recognized in Cruz v. New York, 481 U.S. 186, 192-93, 107 S. Ct. 1714, 1718-19
18 (1987), interlocking confessions may be even more harmful because they tend to
19 corroborate each other. See id. (introduction of a jointly tried co-defendant's
20 confession that interlocked with the defendant's confession was even more harmful to
21 the defendant, because it corroborated the defendant's own guilty confession). In
22 sum, under Bruton and its progeny, if a non-testifying co-defendant in a joint trial
23 has made a confession implicating a defendant and the prosecution seeks to use the
24 confession, the defendant has a right to exclusion of the confession, severance or
25 redaction of the confession to avoid mention or implication of him.

26 The State has not yet indicated which statements it intends to use at trial.
27 However, it is appropriate for this Court to require the State to produce such
28 statements to this Court's chambers. NRS 174.165(2). Here, Coleman's above
statements cannot be sufficiently redacted to protect Jackson from prejudice if

1 admitted at a joint trial. The statements would not be admissible in a severed trial.
2 Coleman has repeatedly indicated that he was present at the scene, but that it was
3 not he but was somebody else who was responsible for the shooting. Even if explicit
4 reference to Jackson is eliminated, Coleman's statements directly and by inference
5 indicate the presence of another person and shift blame to that person. Jackson has
6 not given a statement, but other witnesses put him at the scene and in the company
7 of Coleman prior to the incident. Therefore, Coleman's prior statements indicating
8 that he was present, combined with the circumstantial links between Coleman and
9 Jackson, implicate Jackson as having been involved in the shooting. In addition, the
10 physical evidence shows that at least three weapons were fired. If the jury believes
11 Coleman's statement that he did not fire a weapon, then the jury is more likely to
12 find that Jackson and two others (possibly the victims Macklin and Albert, consistent
13 with the GSR test results) fired the weapons. Jackson should not have to face an
14 accuser whom he cannot cross-examine.

15 In addition, the evidence is in contradiction whether Jackson had a weapon or
16 intended to do anything but engage in a fistfight. Alleged victims Devin and Carlos
17 Bass have both stated that he did not have a weapon and was only fighting at the
18 time shots were fired. The lack of consistency in the statements of the alleged
19 victims and witnesses and their questionable credibility, especially given the physical
20 evidence indicating the firing of weapons by alleged victims, makes the case against
21 Jackson weak. The risk of unfair prejudice to Jackson from a joint trial where
22 Coleman's statements are admitted is great. Because of the circumstantial links
23 between the two co-defendants, Coleman's statements cannot be sufficiently redacted
24 to cure the prejudice to Jackson. Likewise, limiting instructions cannot suffice to
25 eliminate that prejudice.

26
27 Renewed Ground for Severance Based upon Disparity in Evidence,
28 Irreconcilable Defenses, and Jackson's Diminished Ability to Present a
Defense:

1 This ground was also raised in the prior motion to sever, but pursuant to this
2 Court's duty to reconsider severance at any stage where prejudice appears, see
3 Marshall, 118 Nev. at 646, 56 P.3d at 378, Jackson re-raises this ground as bolstered
4 by the newly provided discovery addressed herein.

5 Joinder of defendants for the purpose of obtaining the overlapping
6 consideration of evidence or use of innuendo based on the strength of one case is
7 fundamentally unfair. Courts have recognized that "a great disparity in the amount
8 of evidence introduced against joined defendants may, in some cases, be grounds for
9 severance." United States v. Douglass, 780 F.2d 1472, 1479 (9th Cir. 1986); United
10 States v. Patterson, 819 F.2d 1495, 1503 (9th Cir. 1987). Severance may be
11 mandated in those instances where a weak evidentiary case and a strong one are
12 joined in the hope that an overlapping consideration of the evidence would lead to
13 conviction on both cases. Amen, 106 Nev. at 755, 801 P.2d at 1358-59 (concluding
14 that joinder was not error where evidence against the co-defendants would have been
15 cross-admissible at separate trials, the evidence against one was not disproportionate
16 to the evidence against the other so as to create an unfair overlapping effect, and the
17 defenses were not mutually exclusive). In other words, the prejudice due to a
18 "spillover" effect may warrant severance.

19 "The "spillover" or "rub-off" theory involves the question of whether a jury's
20 unfavorable impression of [one] defendant against whom the evidence is properly
21 admitted will influence the way jurors view the other defendant." Lisle v. State, 113
22 Nev. 679, 689, 941 P.2d 459, 466 (1997) (quoting State v. Rendon, 148 Ariz. 524, 715
23 P.2d 777, 782 (Ariz. App. 1986)), overruled on other grounds by Middleton v. State,
24 114 Nev. 1089, 968 P.2d 296 (1998). "The test as far as the 'rub-off' theory is
25 concerned is whether the jury can keep separate the evidence that is relevant to each
26 defendant and render a fair and impartial verdict as to him." Rendon, 715 P.2d at
27 782; Lisle, 113 Nev. at 689, 941 P.2d at 466 ("the ultimate issue is 'whether a jury
28 can reasonably be expected to compartmentalize the evidence as it relates to separate

1 defendants" (quoting Jones v. State, 111 Nev. 848, 854, 899 P.2d 544, 547 (1995))).
2 "[A] defendant is entitled to a separate trial if he presents a sufficient showing of
3 facts demonstrating substantial prejudice would result in a joint trial." Lisle, 113
4 Nev. at 689, 941 P.2d at 466 (citing Amen, 106 Nev. at 755, 801 P.2d at 1358).

5 A defense is mutually antagonistic where acceptance of a co-defendant's
6 defense precludes acquittal of the other co-defendant. Marshall, 118 Nev. at 545-46,
7 56 P.3d at 378. In Zafiro, the United States Supreme Court recognized that
8 "mutually antagonistic defenses are not prejudicial per se." 506 U.S. at 538. A
9 defendant must show that the joint trial compromised a specific trial right or
10 prevented the jury from making a reliable judgment regarding guilt or innocence.
11 Marshall, 118 Nev. at 647, 56 P.3d at 379 (citing Zafiro, 506 U.S. at 539). Joinder is
12 improper, and will cause reversal, where its cumulative effect prejudices a
13 defendant's defense. Chartier v. State, 124 Nev. 760, 191 P.3d 1182 (2008)
14 (reversing defendant's judgment of conviction where defendant defended at trial on
15 the basis that he was not involved in the crimes at any stage and that co-defendant
16 acted alone, but co-defendant defended on the theory that defendant was the
17 mastermind who was present at the scene and was the attacker, and the cumulative
18 prejudicial effect from these conflicting and irreconcilable defenses harmed
19 defendant).

20
21 The above section sets forth the great disparity in evidence admissible against
22 the codefendants in the form of statements. Codefendant Coleman has given
23 statements which are not admissible against Jackson pursuant to Bruton. The
24 statements may, however, be used against Coleman. Coleman's many statements
25 tend to indicate that he was present at the scene where someone else was the
26 shooter, that he is knowledgeable about guns, and that he was interested in
27 interfering with the State's prosecution. No similar evidence is admissible against
28 Jackson. The great amount of evidence admissible against Coleman mandates
severance pursuant to Zafiro, 506 U.S. at 540, 113 S. Ct. at 938 ("Evidence that is

1 probative of a defendant's guilt but technically admissible only against a co-
2 defendant also might present the risk of prejudice.") The effect of the disparate
3 evidence showing Coleman's complicity is likely to rub off on Jackson, who is
4 Coleman's associate and was present with him at the Aruba Club altercation before
5 the incident. Coleman's statements also shift blame away from Coleman and onto
6 Jackson.

7 Moreover, if Coleman's statements are admitted at a joint trial, Jackson will
8 be in the position of impeaching Coleman with evidence of his prior conviction that
9 would not be admissible by the State against Coleman at trial, unless Coleman
10 actually testifies. See NRS 51.069(1) (allowing impeachment of hearsay declarants
11 by evidence admissible to impeach a testifying witness). However, this creates a
12 Hobson's choice for Jackson, impermissibly infringing on his right to present a
13 defense, because the evidence that would impeach Coleman, also implicates Jackson
14 if he testifies in his own defense, which he has a right to do, and the State impeaches
15 him with his own conviction.² That is, where Coleman's prior federal conviction is
16 admitted alongside Jackson's identical conviction, the fact that a prior violent crime
17 was committed together by these two co-defendants is obvious. From the identical
18 conviction names, dates of conviction, and federal case numbers, the jury will
19 certainly understand that these co-defendants have a history of committing violent
20 crime together. However, such evidence is clearly inadmissible propensity evidence,
21 pursuant to NRS 48.045, which would not be admissible in a trial against Jackson
22 alone. On the other hand, Jackson will be prejudiced if he does not introduce
23 Coleman's prior conviction, and Coleman's statements or testimony are allowed to be
24

25 ² The State has indicated it intends to use as aggravators during the penalty phase
26 the prior convictions of Coleman and Jackson, and the fact that each were under a
27 sentence of imprisonment. See 7/9/10 Notices of Intent To Seek Death Penalty,
28 Aggravators 1 and 2. Coleman and Jackson were jointly indicted in the same federal
case, i.e., Case No: CR-S-05-0098-LRH (LRL), and were each convicted pursuant to
guilty pleas of Interference with Commerce by Armed Robbery and Aiding and
Abetting in federal Case No: 2:05-cr-98-LRH(GWF).

1 admitted at a joint trial without impeachment. Coleman will be unfairly prejudiced
2 if Jackson admits Coleman's prior felony to impeach his hearsay statements because
3 the State would not be entitled to introduce the prior felony conviction unless
4 Coleman actually testified.

5 Jackson also understands that the codefendants will have antagonistic
6 defenses. These antagonistic defenses arise from Coleman's numerous statements
7 indicating that he was present but not culpable of any crimes and that he did not
8 shoot a gun. Jackson has a right to put on a defense that he went only to fight and
9 was surprised when others began shooting. Ballistics show that three weapons were
10 fired. If the jury accepts Coleman's theory that he was present but did not shoot, this
11 makes it more likely that the jury will find that Jackson fired one of the three
12 weapons which left casings at the scene. Evidence indicates that the two named
13 victims, Marcus Albert and Jamario Macklin were also possibly shooting guns.

14 The newly discovered additional basis for severance: In addition, the recent
15 discovery provided by the State on March 26, 2013, shows that Jackson and his
16 cousin Breion Mack were present at the 702 Club and in the vicinity of an unsolved
17 homicide involving multiple shooters. Furthermore, Jackson and his cousin Breion
18 were interviewed by police but denied involvement or specific knowledge of the facts
19 surrounding the homicide. The new discovery also shows that a gun, later recovered
20 from Alvin Young in 2011, had been used to fire one of the bullets recovered at the
21 702 Club crime scene. Ballistics testing also showed that the same gun had been
22 used during the instant offense.

23 Codefendant Coleman has a right to present evidence consistent with his
24 theory of defense that he was not a shooter in this case, and this is bolstered by the
25 fact that he was not present a previous homicide where one of the same weapons was
26 used in an incident involving multiple shooters, but Jackson and his cousin were
27 present. Jackson will now have to defend against Coleman's 702 Club evidence.
28 However, the evidence could not be introduced by the State, consistent with due

1 process protections applicable to Jackson as it is overly prejudicial, since there is no
2 evidence that Jackson had any involvement in the 702 Club shooting, and only shows
3 that he was merely present in the vicinity. The new 702 Club evidence itself
4 mandates severance to protect Coleman's right to present a defense, pursuant to
5 Zafiro, 506 U.S. at 540, 113 S. Ct. at 938 ("a defendant might suffer prejudice if
6 essential exculpatory evidence that would be available to a defendant tried alone
7 were unavailable in a joint trial."). However, if the evidence is admitted at a joint
8 trial, then Jackson will be denied his due process rights because the evidenced is
9 overly prejudicial as to him.

10 Where, as here, the evidence is admissible as to one defendant and
11 inadmissible as to the co-defendant, the jury cannot reasonably be expected to
12 compartmentalize the evidence as it related to the separate defendant. "[T]here are
13 some contexts in which the risk that the jury will not, or cannot, follow instructions is
14 so great, and the consequences of failure so vital to the defendant, that the practical
15 and human limitations of the jury system cannot be ignored." United States v.
16 Roark, 924 F.2d 1426, 1434 (8th Cir. 1991) (quoting Bruton v. United States, 391 U.S.
17 123, 135, 88 S. Ct. 1620) (reversing conviction where the government attempted to tie
18 defendant's guilt directly to his association with the Hells Angels by introducing
19 unfairly prejudicial uncharged misconduct); United States v. Street, 548 F.3d 618,
20 632 (8th Cir. 2008) (recognizing that gang affiliation evidence is not admissible where
21 meant merely to prejudice defendant or prove his guilt by association with unsavory
22 characters).

23
24 The case against Jackson is not strong, i.e., the evidence is in juxtapose as to
25 whether he went merely to fight Macklin and was surprised by others' shooting
26 weapons and whether he actually was armed and fired a weapon. The State's
27 witnesses, many of whom have felony convictions, have given inconsistent
28 statements. In addition, the evidence indicates that both Macklin and Albert may
have fired a weapon and that one of Macklin's associates possibly removed evidence

1 of Macklin's own gun from the scene prior to the police arriving. In considering
2 whether Jackson conspired to commit murder and other crimes, the jury would likely
3 improperly rely on statements and other evidence admissible only against Coleman,
4 or improperly admitted in Coleman's defense but not admissible against Jackson and
5 overly prejudicial as to him.

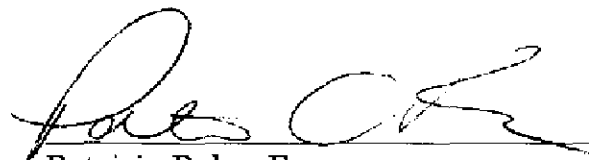
6 To deny Jackson a separate trial will unfairly prejudice him and violate his
7 rights to present a defense as guaranteed under the Nevada and United States
8 Constitutions. See Chartier, 124 Nev. 766-68, 191 P.3d 1186-87.

9
10 **CONCLUSION**

11 Based on the foregoing authorities and arguments, it is respectfully requested
12 that the Court sever the trial of CEDRIC JACKSON from the trial of PRENTICE
13 COLEMAN in order to protect Jackson's constitutional due process rights to a
14 fundamentally fair trial.

15
16 Respectfully submitted this 8th day of April, 2013.

17
18 PALM LAW FIRM, LTD.

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17 Attorneys for Cedric Jackson

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CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

v.

CEDRIC L. JACKSON, AND
PRENTICE L. COLEMAN,

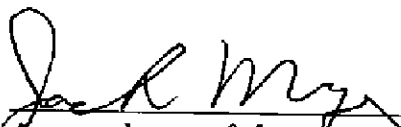
Defendants.

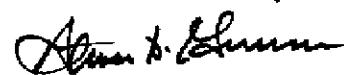
CASE NO: 10-C-265339-1
10-C-265339-2

DEPT. NO: X

RECEIPT OF COPY

RECEIPT OF COPY of NOTICE OF MOTION AND MOTION BY
DEFENDANT JACKSON TO SEVER TRIAL is hereby acknowledged this 10
day of April, 2013.


An employee of the
CLARK COUNTY DISTRICT ATTORNEY



CLERK OF THE COURT

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Attorneys for Cedric Jackson

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

v.

CEDRIC L. JACKSON, AND
PRENTICE L. COLEMAN,

Defendants.

CASE NO: 10-C-265339-1
10-C-265339-2

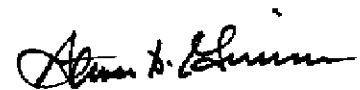
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An employee of the CLARK COUNTY
SPECIAL PUBLIC DEFENDER
Attorney for CoDefendant Prentice Coleman



CLERK OF THE COURT

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17 Attorneys for Defendant Cedric Jackson

DISTRICT COURT
CLARK COUNTY, NEVADA

12 STATE OF NEVADA,

13 Plaintiff,

14 v.

15 CEDRIC L. JACKSON and

16 PRENTICE L. COLEMAN,

17 Defendants.

CASE NO: 10-C-265339-1
10-C-265339-2

DEPT. NO: X

DATE: April 22, 2013

TIME: 8:30 a.m.

SUPPLEMENTAL DECLARATION IN SUPPORT OF DEFENDANT

JACKSON'S MOTION TO CONTINUE TRIAL

20 COMES NOW Defendant Cedric Jackson, by and through his attorneys, Dan
21 M. Winder and Patricia A. Palm and hereby supplements the Motion to Continue set
22 for April 22, 2013, with additional facts in support of the motion as set forth in the
23 attached Declaration of Counsel.

24
25 DATED this 15th day of April, 2013.

26
27 By: 

28 PATRICIA A. PALM
DAN M. WINDER

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DECLARATION OF COUNSEL

PATRICIA A. PALM, swears and states as follows:

1. That declarant is an attorney duly licensed to practice law in the State of Nevada and is the attorney appointed as SCR 250 counsel, along with Attorney Dan M. Winder, to represent Cedric Jackson in this Death Penalty case, which is currently set for trial on June 24, 2013.

2. That I have read and am familiar with the discovery provided by the State and other records related to this matter, and that I have set forth true and accurate factual representations as to the proceedings and circumstances described herein.

3. That all other matters set forth in the foregoing motion are true and correct to the best of my knowledge upon information and belief.

4. That in addition to the reasons stated in the previously filed Motion to Continue, which is set for argument on April 22, 2013, other reasons have come to light which require counsel to seek a continuance in order to effectively represent Defendant Jackson during the guilt and penalty phases at trial.

5. That on Thursday, April 11, 2013, Counsel attended a meeting with Codefendant Coleman's defense team and Randall Stone of the Las Vegas Metropolitan Police Department Forensics Lab regarding the examination of the ballistics evidence in this matter. During that investigation it was learned that two guns were recovered between this case and the related case from the 702 Club. The circumstances of the additional gun recovery were unclear at the time. Furthermore, the bullets from the autopsy had not been examined to determine whether they had been fired by any of the recovered weapons. In addition, there were other reports and documents which counsel had never seen.

6. That at the time of this meeting, Randall Stone represented that he had prepared files to comply with a defense subpoena from Jackson, but those files would have to be turned over to the District Attorney first, who would determine whether

1 the files could be provided to defense counsel. Defense counsel has not yet obtained
2 all of the documents/evidence at issue as they were still pending transfer to the
3 District Attorney's Office.

4 7. That Randall Stone further indicated, that North Las Vegas police had yet
5 to turn over the bullets and fragments recovered in this case, but from the
6 photographs taken by Counsel for Coleman during a recent evidence vault review, at
7 least some of the bullets appeared in sufficient condition for further forensic
8 determinations to be made regarding which, if any, of the recovered weapons had
9 fired which bullets, including the bullets recovered from the body of the deceased.

10 8. That subsequent to the meeting with Randall Stone, this Counsel contacted
11 Deputy District Attorney Nell Christensen, and discussed the above matters, and she
12 agreed that she would request further examination of the ballistics evidence be
13 performed.

14 9. That Defendant Jackson has retained a forensic expert to evaluate any and
15 all ballistics testing and examinations performed and yet to be performed, and he will
16 need adequate time to do so, once the LVMPD laboratory completes its additional
17 examinations and compiles further records to provide to the defense expert.

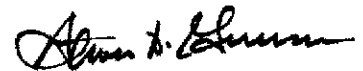
18 10. That it will also be necessary for Jackson's defense team to further
19 investigate the circumstances regarding the recovery of the weapons tested in this
20 case and the 702 Club case.

21
22 Pursuant to NRS 53.045, I declare under penalty of perjury that the foregoing
23 is true and correct.

24 Dated this 15th Day of April, 2013.

25
26 

27 PATRICIA A. PALM
28



CLERK OF THE COURT

OPPS

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
NELL CHRISTENSEN
Chief Deputy District Attorney
Nevada Bar #008822
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

-vs-

CEDRIC JACKSON,
#1581340

Defendant.

CASE NO: 10C265339-1

DEPT NO: X

STATE'S OPPOSITION TO DEFENDANT JACKSON'S

MOTION TO SEVER TRIAL

DATE OF HEARING: 04/22/13

TIME OF HEARING: 8:30 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through NELL CHRISTENSEN, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in Opposition to Defendant's Motion To Sever Trial.

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

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1 who were interviewed also stated Defendant was present at the time, but no one ever
2 suggested he was a shooter. He was not a suspect.

3 **POINTS AND AUTHORITIES**

4 Defendant Jackson filed a Motion to Sever Trials in January 2012. The State
5 opposed, and this Court denied the Motion. Defendant now files another Motion to Sever
6 Trials, based, in part of the same arguments previously rejected by this Court.

7 Defendant Jackson admits in his motion that his argument based on the 6th
8 Amendment, and his arguments based on "Disparity Evidence, Irreconcilable Defenses, and
9 Jackson's Diminished Ability to Present a Defense" are "renewed" motions, meaning they
10 were already considered and denied by this Court. The State asks this Court to deny the
11 "renewed" motions for the same reasons it previously denied the motion. Nothing has
12 changed as to those grounds.

13 Defendant Jackson raises one new ground: the fact that Jackson was present at the
14 scene of the 2007 "702 Club" murder, which is tied to the instant case because the same
15 firearm was shot at both scenes. Several cartridge cases at the "702 Club" murder were shot
16 by the same gun that shot several of the cartridge cases at the scene in the instant case.
17 Defendant Jackson was interviewed by police regarding the "702 Club" murder and admitted
18 to being present and knowing those who were present, but stated he did not shoot a gun. No
19 evidence establishes that Defendant Jackson did, in fact, shoot at the "702 Club."

20 The defense claims that the State would not be able to admit the evidence regarding
21 Defendant being present at the "702 Club", but that the co-defendant would have a right to
22 do so. This is unfounded. The evidence is relevant and admissible, because it is not more
23 prejudicial than probative.

24 **I. THE EVIDENCE OF DEFENDANT'S PRESENCE AT THE SCENE OF A** 25 **SHOOTING WHERE THE SAME GUN WAS USED IS RELEVANT AND** 26 **ADMISSIBLE.**

27 The evidence is relevant and admissible by the State. It is interesting that Defendant
28 Jackson claimed in its 2012 motion for continuance that the reports from the "702 Club"

1 murder were necessary for its investigation, and then once they receive the discovery
2 showing Defendant Jackson was present, they claim it is inadmissible against him. Surely, if
3 one of the victims in the case had been present at the "702 Club" murder, the defense
4 position would be that the evidence would be admissible. In fact, that was the reason they
5 gave for why they needed to review the reports from the "702 Club" murder. The evidence
6 showing that Defendant was present at the "702 Club" where that gun was also present is
7 relevant. The evidence is clear that Defendant was present at the same time that gun was
8 present at the "702 Club" with his friends. He admitted as much. The evidence suggests
9 that he was present with the person who shot the gun. Through his friends, he had access to
10 the gun, and it is well known that it is common for guns to change hands between friends.
11 The fact that he was at a shooting where that gun was used is relevant and admissible in the
12 instant case, where he is accused of shooting that gun, or where a co-conspirator shot the
13 gun. Basically, a person he knows did the "702 Club" shooting, giving him access to the
14 gun.

15 The evidence is relevant and admissible. The same reasons the State would be
16 allowed to present the evidence would apply to why Defendant Coleman would be able to
17 present it. If, as Defendant Jackson suggests, it would be relevant for Defendant Coleman to
18 introduce the evidence and admissible by Defendant Coleman, then they must concede that
19 the evidence is just as relevant for the State to introduce for the same reason. Defendant
20 Jackson essentially suggests that he would face a co-defendant who wanted to introduce the
21 same evidence that the State would introduce. If it's relevant for Defendant Coleman to
22 introduce it to show Defendant Jackson was present at the scene of the instant case, then it's
23 relevant for the State to introduce it.

24 Severance would not change the admissibility of the evidence. If it is relevant, it is
25 relevant, no matter who is on trial, and it will be admissible. However, if the Court finds the
26 evidence is not relevant for the State to admit, it is certainly not relevant for any other party
27 to admit.
28

1 **II. THE EVIDENCE IS NOT PREJUDICIAL BECAUSE THERE IS NO EVIDENCE**
2 **THAT DEFENDANT SHOT A GUN AT THE 702 CLUB MURDER, AND BEING**
3 **PRESENT DURING A SHOOTING IS NOT A CRIME.**

4 This evidence is not more prejudicial than probative. This is not a "bad act." In fact,
5 there was not an indication from a single witness to suggest that Defendant Jackson was a
6 shooter at the "702 Club." The evidence simply establishes that Defendant Jackson was
7 present there with friends when the shooting took place, and that his friends were involved.
8 Contrary to Defendant Jackson's claims, counsel for Defendant Coleman will not be able to
9 establish that the evidence from the "702 Club" shows that Defendant Jackson shot the gun
10 at the "702 Club" scene. The evidence from the investigation into the "702 Club" murder
11 does not suggest that Defendant Jackson shot the gun at the "702 Club." In fact, Defendant
12 Jackson was never a suspect in the murder. A case was never filed, but the detectives
13 investigating it had a definite suspect, and it was not Defendant.

14 **III. EVEN IN A SEPARATE TRIAL, THE CO-DEFENDANT CANNOT PRESENT**
15 **THE 702 CLUB EVIDENCE IN A WAY THAT SUGGESTS IT IS A BAD ACT.**
16 **THUS, SEPARATE TRIALS ARE NOT REQUIRED.**

17 Separate trials will not change the admissibility of the evidence. Similarly, it would
18 be impermissible for Defendant Coleman to use the evidence as "other bad act" evidence,
19 even in a severed case. He could not admit it in that way in even in a severed case. The
20 same rules apply to the defense as to the State for admitting "other bad act" evidence; the
21 statute and case law make it clear that it applies to all parties. NRS 48.045(2) reads as
22 follows:

23 NRS 48.045 Evidence of character inadmissible to prove conduct;
24 exceptions; other crimes.

25 ***

26 2. Evidence of other crimes, wrongs or acts is not admissible to prove
27 the character of a person in order to show that the person acted in
28 conformity therewith. It may, however, be admissible for other purposes,
such as proof of motive, opportunity, intent, preparation, plan, knowledge,
identity, or absence of mistake or accident.

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1 There must be clear and convincing evidence that the person committed the other
2 crime before it can be admissible for the purposes listed in NRS 48.045(2). Petrocelli v.
3 State, 101 Nev. 46 (1985). Thus, if Defendant Coleman tries to suggest that Defendant
4 Jackson is the shooter by suggesting that he has shot someone before, this would be
5 completely inappropriate, even in a severed trial against Defendant Coleman alone.

6 This Court would deny a Motion to Admit Bad Acts authored by the State or the
7 defense in this case. This is because “[e]vidence of other crimes, wrongs or acts is not
8 admissible to prove the character of a person in order to show that the person acted in
9 conformity therewith” and Defendant Coleman cannot reach the necessary burden to allow
10 admission of such evidence for proof of motive, opportunity, intent, preparation, plan,
11 knowledge, identity, or absence of mistake or accident. This is because there must be clear
12 and convincing evidence that the person committed the other crime, and in this case, the
13 reports from the “702 Club” do not even reach this burden. Petrocelli v. State, 101 Nev. 46
14 (1985). Defendant Jackson was never even a suspect. No one suggested he fired a shot.

15 **IV. THE 702 CLUB EVIDENCE DOES NOT HELP DEFENDANT COLEMAN.**

16 Finally, the defense for Jackson suggests that Defendant Coleman will be able to use
17 the “702 Club” evidence to bolster his defense that he was not there. This is nonsensical,
18 and the State doubts that this will be Coleman’s tactic. There were three shooters at the
19 murder in the instant case. Even if Defendant Coleman can conclusively show that
20 Defendant Jackson was one of the shooters, it does not make it less likely that Defendant
21 Coleman was present. In fact, it is just the opposite due to their close relationship. It would
22 be better for Defendant Coleman if the State cannot prove that Defendant Jackson was
23 present at the shooting in the instant case, because Defendant Coleman was on video with
24 Defendant Jackson a short time before the murder, Defendant Jackson got into a fight at the
25 club with the murder victim a short time before the victim was killed, and Defendant
26 Coleman is Defendant Jackson’s best friend. His association with Defendant Jackson
27 corroborates the witness statements that Defendants were both present and shooting. It
28 would be better for Defendant Coleman if a jury believed that it was an entirely different

1 group of people who did the murder, not involving him and his best friend, than to try to
2 show it was likely that his best friend killed the victim.

3 It is important to note that the evidence that Defendant Jackson was present during the
4 "702 Club" shooting is also admissible against his co-Defendant Coleman. The same
5 relevance argument goes to the admissibility of the evidence against Defendant Coleman.
6 Coleman is Defendant Jackson's best friend. They were seen together on the night of the
7 murder in the instant case. Marcus Albert testified that Defendant Jackson, Defendant
8 Coleman, and a person he did not know committed the murder and all fired weapons. It
9 would be likely that Defendant Coleman would have used a gun that Defendant Jackson had
10 access to. They are best friends. Thus, even in separate trials against the defendants, the
11 evidence would be admissible in both cases. Defendants were at the Aruba Nightclub
12 together prior to the shooting in this case. Macklin and Defendant Jackson got into a fight,
13 and Macklin was kicked out of the club. They then planned to fight, and soon showed up at
14 Albert's house, where they had planned to meet for the fight. In the time between leaving
15 the club and arriving at Albert's house, Defendants had recruited another individual, and all
16 three of them got guns. Because they were together, tying the gun to Defendant Jackson also
17 ties it to Defendant Coleman. They both would have had access to the gun. Defendant
18 Coleman has already stated his defense is that he was not there and did not commit the
19 crimes. Thus, the evidence is relevant as to him.

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CONCLUSION

Based on the foregoing, the State respectfully requests that this Court deny Defendant's Motion to Sever Trials.

DATED this 18th day of April, 2013.

Respectfully submitted,

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

BY /s//NELL E. CHRISTENSEN
NELL CHRISTENSEN
Chief Deputy District Attorney
Nevada Bar #8822

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of State's Opposition, was made this 18th day of April, 2013, by Electronic Filing to:

DAN M. WINDER, ESQ.
E-mail Address: winderdanatty@aol.com

Shellie Warner
Secretary for the District Attorney's Office

mmw/GCU



CLERK OF THE COURT

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16 Email: winderdanatty@aol.com
17 Attorneys for Cedric Jackson

DISTRICT COURT
CLARK COUNTY, NEVADA

18 STATE OF NEVADA,

19 Plaintiff,

20 CEDRIC L. JACKSON, AND
21 PRENTICE L. COLEMAN,

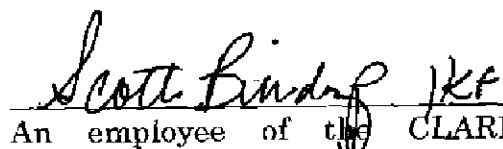
22 Defendants.

CASE NO: 10-C-265339-1
10-C-265339-2


DEPT. NO: X

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23 RECEIPT OF COPY of SUPPLEMENTAL DECLARATION IN SUPPORT OF
24 DEFENDANT JACKSON'S MOTION TO CONTINUE TRIAL is hereby
25 acknowledged this 17 day of April, 2013.

26 
27 An employee of the CLARK COUNTY
28 SPECIAL PUBLIC DEFENDER
Attorney for CoDefendant Prentice Coleman

5-6887



CLERK OF THE COURT

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17 Attorneys for Cedric Jackson

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

v.

CEDRIC L. JACKSON, AND
PRENTICE L. COLEMAN,

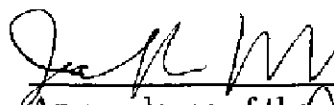
Defendants.

CASE NO: 10-C-265339-1
10-C-265339-2

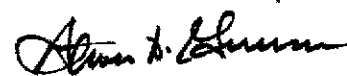
DEPT. NO: X

RECEIPT OF COPY

RECEIPT OF COPY of SUPPLEMENTAL DECLARATION IN SUPPORT OF
DEFENDANT JACKSON'S MOTION TO CONTINUE TRIAL is hereby
acknowledged this 17 day of April, 2013.



An employee of the
CLARK COUNTY DISTRICT ATTORNEY



CLERK OF THE COURT

RSPN

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
NELL CHRISTENSEN
Chief Deputy District Attorney
Nevada Bar #008822
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

-vs-

CEDRIC JACKSON,
#1581340

Defendant.

CASE NO: 10C265339-1

DEPT NO: X

STATE'S RESPONSE TO DEFENDANT JACKSON'S

MOTION TO CONTINUE TRIAL

DATE OF HEARING: 4/22/13
TIME OF HEARING: 8:30 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through NELL CHRISTENSEN, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in Response to Defendant's Motion To Continue Trial.

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

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1 victims' bodies.

2 On April 11, 2013, attorneys for both defendants in the instant case met with Randall
3 Stone from the Las Vegas Metropolitan Police Department's Forensic Lab. There, they
4 again asked about potential testing on the bullets and fragments recovered from the victims'
5 bodies. After the meeting, they requested that the State put in a formal request for additional
6 ballistics testing in the instant case. The State then requested that Detective Prieto send a
7 formal request to Metro's lab, and sent a corresponding email to Randall Stone apprising
8 him that the testing would be requested.

9 After the April 11, 2013 meeting with Randall Stone, Defendant Jackson's attorney
10 also apprised the State that it would be requesting the entire files from Metro's Forensic Lab
11 including all supporting documentation regarding any forensic testing done related to this
12 case via subpoena, and asked the State to help accommodate their receipt of same. The State
13 agreed. The State has been providing those items to the defense when received and copied.

14 Defendant Jackson has now filed this Motion to Continue Trial. The State does not
15 oppose.

16 ARGUMENT

17 The State has now requested that additional forensic examinations be conducted in the
18 instant case, at the defense request. This testing is not complete. This testing is related to
19 ballistics evidence found in the body of the deceased and the body of Marcus Albert, who
20 was also shot. Being that there is forensic examination outstanding, the State has no
21 opposition to the Defendant's Motion to Continue Trial in the instant case.

22 The State's concern is that if the trial is continued, it is continued as to the entire case
23 including both Defendants. The State opposes severance in the instant case, as there is no
24 legal basis (as outlined in the State's Opposition to Motion to Sever Trials filed April 18,
25 2013 the previous Opposition filed January 30, 2012), and asks that, if this Court grants the
26 Defendant's Motion to Continue Trials, that it be granted as to the entire trial, including both
27 Defendants. Both Defendants have waived their speedy trial rights in the instant case. It
28 would be a waste of judicial resources to hold two separate trials in the instant case, which

1 could last weeks. Further, the ballistics testing underway in the instant case relates equally
2 to each Defendant in the instant case. Thus, it is the State's belief that, despite what is
3 suggested in Defendant Jackson's Motion, Defendant Coleman's defense team could not
4 possibly oppose the continuance at this juncture in a case in which the State has filed Notice
5 of Intent to Seek Death.

6 DATED this 18th day of April, 2013.

7 Respectfully submitted,

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

10
11 BY /s//NELL E. CHRISTENSEN
12 NELL CHRISTENSEN
13 Chief Deputy District Attorney
14 Nevada Bar #008822

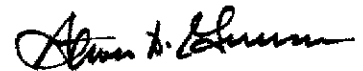
15 **CERTIFICATE OF ELECTRONIC FILING**

16 I hereby certify that service of State's Opposition, was made this 18th day of April,
17 2013, by Electronic Filing to:

18 DAN M. WINDER, ESQ.
19 E-mail Address: winderdanatty@aol.com

20 Shellie Warner
21 Secretary for the District Attorney's Office
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23
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25
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27

28 mmw/GCU



CLERK OF THE COURT

ORDR

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
NELL E. CHRISTENSEN
Chief Deputy District Attorney
Nevada Bar #008822
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

CEDRIC L. JACKSON,
#1581340

Defendant.

CASE NO: 10C265339-1

DEPT NO: X

ORDER DENYING DEFENDANT'S MOTION TO SEVER

DATE OF HEARING: 04/22/13
TIME OF HEARING: 8:30 A.M.

THIS MATTER having come on for hearing before the above entitled Court on the 22nd day of April, 2013, the Defendant being present, represented by PATRICIA PALM, ESQ. and ARNOLD WEINSTOCK, ESQ., the Plaintiff being represented by STEVEN B. WOLFSON, District Attorney, through NELL E. CHRISTENSEN, Chief Deputy District Attorney, and the Court having heard the arguments of counsel and good cause appearing therefore,

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1 IT IS HEREBY ORDERED that the Defendant's Motion to Sever, shall be, and it is
2 denied.

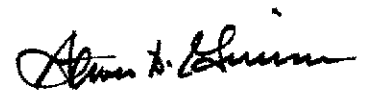
3 DATED this 21st day of April, 2013.

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5 
6 DISTRICT JUDGE *GR*

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

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11 NELL E. CHRISTENSEN
12 Chief Deputy District Attorney
13 Nevada Bar #008822

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28 mmw/GCU



CLERK OF THE COURT

1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
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8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 CEDRIC JACKSON,
12 PRENTICE COLEMAN,

13 Defendant.

CASE#: C265339-1
C265339-2

DEPT. X

14 BEFORE THE HONORABLE JESSIE WALSH, DISTRICT COURT JUDGE
15 MONDAY, FEBRUARY 6, 2012

16 **RECORDER'S TRANSCRIPT OF PROCEEDINGS**
17 **DEFENDANT'S MOTION TO SEVER TRIAL OF DEFENDANTS**

18 **APPEARANCES:**

19 For the State:

NELL E. CHRISTENSEN, ESQ.
Chief Deputy District Attorney

20 For the Defendant:
21 Cedric Jackson

PATRICIA PALM, ESQ
DAN WINDER, ESQ.

22 For Defendant:
23 Prentice Coleman

IVETTE A. MANINGO, ESQ.
Deputy Special Public Defender
SCOTT L. BINDRUP, ESQ.
Deputy Special Public Defender

24
25 RECORDED BY: VICTORIA BOYD, COURT RECORDER

1 MONDAY, FEBRUARY 6, 2012 AT 10:39 A.M.

2
3 THE COURT CLERK: Case number C265339 -1 State of Nevada versus
4 Cedric Jackson and case number C265339-2, State of Nevada versus Prentice
5 Coleman.

6 MS. PALM: Good morning, Your Honor. Patricia Palm and Dan Winder for
7 Cedric Jackson.

8 THE COURT: Good morning.

9 MS. CHRISTENSEN: Nell Christensen for the State.

10 THE COURT: Good morning.

11 MS. MANINGO: Good morning, Your Honor. Actually I know this is Mr.
12 Coleman's -- this is Mr. Jackson's motion to sever, but just wanted to let you know
13 that we're in the courtroom, Ivette Maningo and Scott Bindrup, on behalf of Mr.
14 Coleman.

15 THE COURT: Where's Coleman at?

16 MS. MANINGO: He was transported, I believe, since he was still on the
17 caption of the pleading, however, we don't have a motion on file or on docket today.

18 THE COURT: Okay. So, who's arguing this particular defense motion to
19 sever trial?

20 MS. PALM: I will be Your Honor.

21 THE COURT: Very well. Ms. Palm.

22 MS. PALM: Yes. Thank you.

23 Before I get going on the legal basis for severance, I just want to
24 develop the facts a little bit more than they were in the motion and opposition.

25 Jackson is implicated as a shooter in this case because of Coleman's

1 statements that indicate that he was there but he was not a shooter. There were --
2 according to ballistics, only three weapons fired. Both the alleged victims had GSR
3 on their hands. That's all the GSR information that we have. So, both of them could
4 be attributed to being a shooter. And then there's one third person that's a shooter
5 or there's three shooters.

6 Now there are four witnesses who talk about either one of the
7 Defendants being at the scene, independent witnesses, not Coleman's statement.
8 But all of the ballistics show that the shells fired that were in the yard around the
9 body, all those shells, were attributable to one gun. So, there's one person who
10 could have been the killer of Macklin, and he may have been firing his own gun.

11 So, Mr. Coleman's statement indicated he was present but was not a
12 shooter leaves Cedric Jackson as a shooter. So, they do implicate him by inference
13 even if they're not directly addressing Cedric Jackson. He did make statements
14 saying that Cedric Jackson was also there and the State, I'm sure, would
15 understand the need to redact those, but just by the implication that there's an
16 accomplice that he acted with and that he didn't do anything himself that implicates
17 Cedric Jackson. That's why we need a severance because of all of the statements
18 that Mr. Coleman made indicating that he was present but not a shooter. And the
19 State might want to admit the statements that he was not a shooter, but the defense
20 in his case has a right to put forward those statements as the complete story of what
21 he had actually said. And if they do, if those statements come in, then we have the
22 right to impeach them. And we can't cross-examine Coleman if he doesn't take the
23 stand. So, all of the statements in the case make a great disparity in evidence
24 between Coleman's case and Jackson's case because Mr. Jackson never made a
25 statement.

1 There's not strong -- it's not strong evidence that Mr. Jackson was a
2 shooter or that he did anything more than show up to take part in a fight. The
3 State's witnesses are inconsistent with each other. Albert, who is one of the victims,
4 gave three different statements and he had GSR on him. There are two Bass
5 cousins, two witnesses who are Bass cousins, who both say that Mr. Jackson was
6 present fighting but did not have a gun. There's one other witness, both Albert, the
7 alleged victim who had GSR on his hands, and Laquitta Langstaff who was dating
8 the deceased Macklin. Both of them say that Coleman and Jackson went up to the
9 yard -- into the yard and shot into Macklin, however, the ballistics don't support that.
10 So, there's not strong evidence that the two of them acted together in this. And so
11 the case against Jackson is not strong. It is weak compared to the case against
12 Coleman and he shouldn't have to stand trial with Coleman when we can impeach
13 statements that Coleman made by cross-examining him.

14 And then we have the whole issue of their prior offense. They had a
15 prior offense that was -- where they were both convicted together. They were both
16 convicted of aiding and abetting and interference of commerce by armed robbery in
17 2005. The State's saying well even if that's admissible only the title and date of it
18 are. Well the title and date of it are clear enough to anybody who's listening to think
19 well these guys must have done this together. That's a pretty unique title. I don't
20 know how we're going to get around that. Prejudice of -- it's kind of a bad act that
21 they acted together in the past and so they must have acted together now. So, we
22 have that whole issue with impeachment if they're tried together.

23 Coleman's text messages. The State also wants to use those to
24 implicate Jackson, but there's no foundation to show that they're admissible against
25 Jackson. Coleman had a couple text messages on his telephone stating the names

1 of the two victims in this case or the two alleged victims in this case. And the State
2 has a report from an officer surmising that because Cedric Jackson had discovery
3 that must be -- have that information about Coleman. Well we don't have any
4 information about how the information got to Coleman, who sent that text message.
5 It's on Coleman's phone. So, it's the kind of evidence that was talked about in
6 *Zafiro* where it's technically admissible only against Coleman, but the State wants to
7 kind of use that to say Mr. Jackson must somehow be guilty too because they must
8 have come -- the information must have come from him even without foundation.
9 So, again, there's a disparity in the evidence; it's admissible as to each of them.

10 Even with redactions to the statement, the fact -- with the way that
11 circumstantial evidence works out in this case, even if you redact Cedric Jackson's
12 name from the statements, you still have the issue that was present in *Chartier* and
13 in *Ducksworth* where he's implicated by inferences. If there's only two of them
14 sitting here at trial, the jury's going to understand that Coleman's talking about
15 somebody else being the shooter, being Mr. Jackson. That's why they can't be tried
16 together.

17 Both defenses are likely to be it wasn't me that was the shooter. If the
18 jury believes Coleman's defense then Jackson must have been a shooter. If the jury
19 believes Jackson's defense then Coleman must have been a shooter. Just based
20 on the physical evidence and what the witnesses say we need to be able to impeach
21 Coleman. The evidence against Mr. Jackson is not strong. And so for these
22 reasons, we would ask for severance, Your Honor.

23 THE COURT: Very well. Ms. Christensen.

24 MS. CHRISTENSEN: Thank you, Your Honor.

25 As a part of my opposition, I actually gave you the statements that Mr.

1 Coleman gave to detectives, and as you can see, it's not really what the defense is
2 saying that it was in this case. It's a decently brief statement that he gives to
3 detectives. He does not implicate Cedric Jackson in any way. In fact, he says I
4 never even knew there was shooting or went to a shooting scene. All that happened
5 is I was at the club and there was a fight between Jackson and this other individual
6 which we could clearly redact out who that fight was about. And then I got dropped
7 off at my house. I didn't go anywhere. He doesn't say Cedric Jackson was a
8 shooter. In fact, he helped Cedric Jackson by saying Cedric Jackson didn't have a
9 gun that I knew of. He didn't talk about a gun. I didn't see him with a gun.

10 So, this isn't the kind of concession that implicates himself and the co-
11 Defendant which typically *Bruton* is trying to protect against. We don't have a lot of
12 complex statements in this case where it would be difficult to redact out portions.
13 There's only a couple portions. If the State wanted to admit Prentice Coleman's
14 statement, which we haven't decided yet if we would, there really isn't that much in
15 there. So, I don't know if we will. But him -- once in a while in a response to a
16 detective's question mentioning where Cedric Jackson played into it in terms of,
17 yeah, he was at the bar, he got into fight, I don't know what happened, I don't how it
18 started, and I was riding with him, really isn't going to be problem with *Bruton* if we
19 decided to admit it. That can be something that can easily be redacted out.

20 As far as text messages, the reason that the text messages are related
21 to Defendant Jackson is because only one Defendant at that time had discovery
22 because Prentice Coleman had not been arrested, and in the discovery, the names
23 of these two witnesses are spelling incorrectly in a unique way. And the text
24 messages that go to Prentice Coleman's telephone they're spelled incorrectly in the
25 same unique way showing that the only way that it could have been disseminated is

1 either through his attorneys, Cedric Jackson's attorneys giving the discovery out
2 which I'm sure did not happen or Cedric Jackson having disseminated that
3 information. So, that's how that would be tied. And that really isn't something that
4 plays on severance; it's something that the Court would have to make a
5 determination on. At the time I'm sure there would be a motion regarding that from
6 the defense.

7 So, as for *Bruton*, it's just really not an issue in this case. If the State
8 decides to use the statement of Prentice Coleman, which is not likely, I believe that
9 it could easily be redacted to comply with *Bruton* and it would be something that just
10 as the defense suggests in their motion that we would bring before Your Honor first
11 to make sure that the Court was satisfied with how it was redacted before it would
12 be admitted in any manner.

13 Ms. Palm's rendition of the facts in this case aren't exactly correct with
14 my understanding of them. She says, for example, that the Defendant, Mr. Jackson,
15 is implicated by Coleman. He's not. And the way that -- in fact, before detectives
16 even speak to Mr. Coleman, Mr. Jackson's already been arrested and that's
17 because the witnesses who saw Mr. Jackson shooting the deceased in this case.
18 Ms. Palm says that the case is weaker against Mr. Jackson than it is Mr. Coleman.
19 I don't see it that way at all. I say they're either the same or they're a little bit
20 stronger against Mr. Jackson because of those witnesses saying what they saw.
21 And in this case Albert -- Marcus Albert, he did give different statements to the
22 police. When they first went and talked to him he had been shot in the knee; he was
23 in the hospital and he said, I'm not talking to you. I don't want anything to do with
24 this even though he was a shooting victim. And they showed him even photos of
25 the people who they thought had done it, who they knew he knows. They grew up

1 together. And he wouldn't even tell the detective that he knew who they were ever.
2 But little by little the detective established a rapport with him and then he said, yeah,
3 you know what. I'm very scared to be part of this, to make any statement. There is
4 still another person out there that you guys haven't identified because he said there
5 was a third individual who came with Mr. Coleman and Mr. Jackson. And so I'm
6 very scared to talk about this and that's why I wouldn't talk to you guys at the scene.
7 But then he was forthcoming about what happened and he said, Mr. Coleman shot
8 me and then I saw Mr. Coleman and Mr. Jackson chase Mr. Macklin down into the
9 yard and shoot him as Mr. Albert was trying to get away having been shot. And then
10 there are other individuals who also saw what happened.

11 Ms. Palm says that Mr. Carlos and Devin Bass both said that Defendant
12 Jackson didn't have a gun. They didn't actually say that. They said -- they told the
13 detectives, just like Mr. Albert had, we don't want to be part of this. We're very
14 scared. And they said, we didn't see any gun. I don't know whether there was a
15 gun. But of course there was guns because a shooting took place.

16 As for Ms. Palm's argument that these defenses are somehow mutually
17 antagonistic, they're absolutely not. According to all of the facts, there's nine to ten
18 people at this scene including witnesses and the deceased, Mr. Jackson, Mr.
19 Coleman, and the third individual who was also a shooter according to some of the
20 witnesses. And another witness said that there was three or four individuals. So,
21 that puts ten people at the scene. And we know that there were three guns at the
22 scene. So, just because two people are going to come in if that's what they're
23 defenses are and say we were there but we weren't the shooters, that does not
24 preclude somebody else of those ten people from being the shooters. So, those are
25 not mutually antagonistic.

1 Furthermore, we don't know that Mr. Coleman is going to say that he
2 was at the scene and was not a shooter. According to what his statement to the
3 police was, was I wasn't even at the scene. So, that doesn't put another gun to be
4 attributed if there were three or four shooters in this case. So, in this case, they're
5 just not mutually antagonistic. They can both go in and say either I was there and I
6 wasn't shooter or I wasn't there at all and those aren't going to clash against each
7 other in a manner that would make it mutually antagonistic so that couldn't be true of
8 the other were true.

9 As for the prior offense that they committed together, I'm not saying that
10 the date of the offense or the specific date including month, day and year would be
11 admissible. And if Your Honor ruled that way then the year may not even be
12 necessarily admissible if it would come to fruition that both of these individuals
13 would somehow take the stand and be impeached by this evidence. But that's
14 typically how it would be. It would be the year, the name of the offense, and maybe
15 the jurisdiction in which that offense occurred that we would use to impeach that
16 person if they took the stand. And that would be the only circumstances under
17 which that would occur is if both of these two individuals took the stand and then
18 Your Honor could make a ruling as to what -- if the year would be admissible. But
19 just the year itself isn't going to be a problem. I mean, if you have an offense that is
20 a similar offense it doesn't mean that they committed it together, and that's not even
21 close to saying --suggesting that to the jury in any manner.

22 I noticed in the motion the defense also suggested that there would be
23 a problem if they were admitted side by side at the penalty phase which doesn't
24 make any sense to me because even if, let's say, we did a separate trial with Mr.
25 Jackson and we admitted his prior from 2005, which he committed with Mr.

1 Coleman, it would be admissible against him even in a severed trial that he
2 committed that with Mr. Coleman. And so that certainly isn't going to be any
3 different whether it's severed or not.

4 In this case, Your Honor, the evidence is strong against Mr. Jackson.
5 The evidence is similar as to both Defendants. It's not a case in which one is very
6 weak and we're just trying to bolster the other one by keeping them severed --
7 keeping them joined. The reason that they should be joined is because of the
8 reason behind joinder which is judicial economy. And I've laid all that out and I
9 know you understand from the opposition so I won't go through all that. But there is
10 no bad faith by the State in trying to keep these together so that we can get in some
11 evidence that we wouldn't otherwise be able to get in. That's just not the kind of
12 case that we have or the facts before Your Honor. And so based on that, the
13 defense motion should be denied.

14 THE COURT: Okay. Concluding argument. Ms. Palm.

15 MS. PALM: May I respond?

16 THE COURT: Ms. Palm.

17 MS. PALM: Thank you.

18 Your Honor, the DA did not mention all of Coleman's statements to his
19 girlfriend which, you know, according to the police reports that he admitted basically
20 that he was there, and let's see, that Cedric was there and he got in a fight with
21 Macklin. That's when the shooting started. So, Coleman is implicating him not just
22 through his statement but that combined with the statements of the girlfriend, the
23 police think from Coleman's statement that he admitted to being there. Then
24 Coleman made statements to his girlfriend, which I don't know if the State's not
25 planning to admit those or not, but Coleman's statement to his girlfriend puts Cedric

1 there, and also stated that Mr. Coleman didn't do anything; that he was there, it
2 wasn't his fault. He was just there when the shooting started. That implicates Mr.
3 Jackson as well as we have a number of telephone calls from the -- from Clark
4 County Detention Center where Coleman's talking to his girlfriend and during those
5 calls he makes statements about how it wasn't his fault; you know, his girlfriend was
6 telling him I told you not to go back there; it's not my fault. He talks about -- he says
7 enough to her that I think that the State is going to want to use those phone calls.
8 And I haven't heard them say they're not going to use them. They're just saying if
9 they decide to use them at the time of trial well then we'll have to deal with it. But
10 right now is the time to decide severance because we need to decide what kind of
11 motions to file in each case and it's going to be different if they going together or if
12 they're going separately.

13 Finally, I did not think that I implied his priors shouldn't be used at
14 penalty. My argument is as to guilt phase; that the prior offenses tied together kind
15 of implicate them both in wrong doing together as a bad act. And so there are a lot
16 of statements that Coleman has made. I'm not hearing the State say that they're not
17 going to use any of them.

18 So, I think at this point we're entitled to severance because all those
19 statements implicate Mr. Jackson especially considering the physical evidence that
20 show there were only three guns fired and he's saying that he wasn't one of them.
21 And then the witnesses saying that two people came up into the yard but ballistics
22 saying that one person did it. He's saying he wasn't that one person. The jury is
23 naturally going to infer that the other person sitting here at the table with him was
24 that person. It does implicate Mr. Jackson by reference and that's just what's talked
25 about in *Chartier*.

1 THE COURT: I think counsel has done a good job in drafting the pleadings
2 and making the various arguments this morning, but the Court is not convinced that
3 the defenses are mutually antagonistic to the extent that severance ought to be
4 granted. The motion is denied.

5 Ms. Christiansen, I'll ask you to prepare an order for the Court's
6 signature.

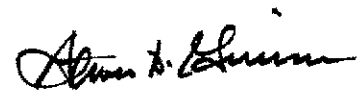
7 MS. CHRISTENSEN: Thank you, Your Honor.

8 MR. WINDER: Thank you.

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10 [Proceedings concluded at 10:58 a.m.]
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21 ATTEST: I do hereby certify that I have truly and correctly transcribed the
22 audio/video proceedings in the above-entitled case to the best of my ability.

23 
24 PATRICIA SLATTERY
25 Court Transcriber



CLERK OF THE COURT

1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
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8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 CEDRIC L. JACKSON,
12 PRENTICE COLEMAN,

13 Defendant.

CASE#: C265339-1
C265339-2
DEPT. X

14
15 BEFORE THE HONORABLE JESSIE WALSH, DISTRICT COURT JUDGE
16 MONDAY, APRIL 22, 2013

17 **RECORDER'S TRANSCRIPT OF PROCEEDINGS**
18 DEFENDANT JACKSON'S MOTION TO CONTINUE TRIAL

19 APPEARANCES:

20 For the State:

NELL E. CHRISTENSEN, ESQ.
DANIELLE K. PIPER, ESQ.
Chief Deputy District Attorneys

21 For the Defendant:
22 Cedric Jackson

PATRICIA PALM, ESQ.
ARNOLD WEINSTOCK, ESQ.

23 For the Defendant:
24 Prentice Coleman

SCOTT L. BINDRUP, ESQ.
Deputy Special Public Defender
ROBERT ARROYO, ESQ.
Deputy Special Public Defender

25 RECORDED BY: VICTORIA BOYD, COURT RECORDER

1 MONDAY, APRIL 22, 2013 AT 9:28 A.M.

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3 THE COURT CLERK: C265339 -1 State of Nevada versus Cedric Jackson,
4 and case number C265339-2, State of Nevada versus Prentice Coleman.

5 THE COURT: Can we have appearances for the record, one at a time in
6 order, please?

7 MS. PALM: Patricia Palm and ArnIE Weinstock for Mr. Jackson.

8 THE COURT: Mr. Weinstock, are you new to the case?

9 MR. WEINSTOCK: No; I'm appearing for Dan Winder on the case --

10 THE COURT: Okay.

11 MR. WEINSTOCK: -- on behalf of Mr. Jackson.

12 THE COURT: Okay.

13 MR. WEINSTOCK: My bar number's 810, for the record.

14 THE COURT: I'm familiar with your, Mr. Weinstock.

15 MR. WEINSTOCK: I know.

16 THE COURT: Mr. Bindrup.

17 MR. BINDRUP: And Scott Bindrup and Robert Arroyo for Mr. Coleman.

18 THE COURT: Thank you.

19 MS. CHRISTENSEN: Nell Christensen and Danielle Pieper for the State.

20 MS. PIEPER: Good morning, Your Honor.

21 THE COURT: Thank you.

22 There are two motions on calendar. Any preference on which one we
23 take first? The State didn't really oppose the motion to continue; correct?

24 MS. CHRISTENSEN: Correct, Your Honor.

25 MS. PALM: If you want to take that one first, Your Honor, we -- if the State's

1 not opposing it, we got in a great deal of additional discovery. There's still
2 outstanding discovery. And then we need to send the new discovery to our experts
3 who are out of state. So, for that reason we could not effectively defend Mr.
4 Jackson at trial if we were to go to trial in June. So, we're asking to continue it now
5 so that everybody doesn't have to attempt to get ready when it's impossible.

6 THE COURT: Mr. Weinstock.

7 MR. WEINSTOCK: I concur with her. And I think we've been talking a date in
8 June of next year, is the available date that I think everybody's agreed to.

9 THE COURT: Mr. Bindrup.

10 MR. BINDRUP: Your Honor, Mr. Coleman is -- has been in custody for years
11 now. He's very unhappy with the number of continuances in this case. And I told
12 him quite frankly we recently did get new discovery. In fact, there's ballistics from
13 the original crime scene that are yet to be processed and sorted through. I still
14 indicated to him that I would oppose this continuance.

15 I believe the next motion is a motion for severance. So, if we have our
16 druthers, I would hope that Your Honor grants the severance motion so that we can
17 go in and get this matter tried. And there is still a lot of work to be done especially
18 after we get the final ballistics in. And this relates to a 2008 case which leads us to
19 additional avenues of investigation, but I am opposing the continuance at this time.

20 THE COURT: Mr. Arroyo.

21 MR. ARROYO: Your Honor, I concur with Mr. Bindrup.

22 THE COURT: Why are we getting ballistics -- new ballistics from the original
23 crime scene so late in the game?

24 MS. CHRISTENSEN: It isn't new ballistics, Your Honor. It was something
25 that the defense -- the State had never requested. The defense now requested it a

1 few weeks ago after having done a review of the evidence at the evidence vault and
2 then speaking to the State's expert. The defense asked for additional testing. And
3 based on their request to me, I put forth that request. It wasn't the State's request; it
4 was the defense's request that the State request it.

5 THE COURT: And is the State intending to do additional discovery as well?

6 MS. CHRISTENSEN: I addressed that a little bit in my response. There are
7 things that I think that the State has subpoenaed for the defense, but there are other
8 things that they are requesting that probably aren't something that the State should
9 be ordered to produce. I can get with Ms. Palm regarding some of those so we can
10 ferret it out if she wants to look for some of those things on her own. For example,
11 she's asking for cases -- arrests reports regarding cases of witnesses in the case. I
12 don't think that *Brady* or its prodigy or the statute requires the State to get those.
13 So, if that's some of what she's referring to, no, the State isn't looking for those
14 things. But there are other things that she listed in her motion as well that we're
15 working on.

16 MS. PALM. And, Your Honor, just to be clear. We have been cooperating.
17 Ms. Christensen and I have been going back and forth, and if it comes to the point
18 where I think I'm entitled to something and they're saying no, then I will do a motion
19 to the Court. It hasn't been to that point yet. We've still been talking about, you
20 know, what she can get for me and what she can't get for me so it has been
21 cooperative. And as far as new evidence, some of that came from our vault review
22 that Ms. Keenan wasn't even aware of that was -- at the time we did the evidence
23 vault review led us to additional investigation that we needed to do.

24 THE COURT: Defendant Jackson's motion to continue the trial is granted
25 before we give you a new trial date. Let's hear the motion to sever argument.

1 MS. PALM: On the motion to sever, Your Honor, I realize that I brought up a
2 couple of the grounds previously which the Court denied, but there is a continuing
3 duty to reconsider severance at all stages if it appears that a Defendant will be
4 prejudiced by the joinder.

5 When we got the new discovery on the 702 Club, it showed that Mr.
6 Jackson was present at that scene in 2007 and had actually given a statement and
7 his cousin also who now is deceased. He was actually a victim in another case, and
8 that's partly why we need all this -- the additional time we need to investigate those
9 things.

10 But as far as the severance goes -- and the State admits in their
11 opposition or their opposition to the severance that evidence could not be used
12 against Mr. Jackson because it didn't show that he did anything other than being
13 present. However, we suspect that Mr. Coleman will use that evidence to say there
14 is one person who was common to both scenes where the same gun was used and
15 that's Mr. Jackson.

16 So, it would be evidence that I don't think the State could present at
17 trial. Unfortunately, I'm in a position to do a motion to preclude it yet because we
18 just got that discovery. And so that motion will come later. But I think we need
19 balance, probative versus prejudice; the fact that he wasn't a suspect and didn't do
20 anything. It couldn't come in against him in the State's case in chief in the trial.
21 However, the question is different and it's a different test when you're talking about
22 Mr. Coleman's right to present a defense. I think you're right to present a defense.
23 You can present anything including the fact that your co-Defendant was the person
24 who was present at both scenes and I think that's what they're intending to do.

25 So, now we have these questions of not only conflicting defenses and a

1 disparity in evidence considering all the other evidence against Coleman with his
2 statements that is not admissible against Mr. Jackson. Now we have a question -- a
3 problem with a co-Defendant being able to point the finger at my client who the
4 State couldn't use that same evidence to do it. That's the basis of our renewed
5 motion to sever.

6 THE COURT: It almost sounds like you're arguing for the co-Defendant
7 rather than for your own client.

8 MS. PALM: Well I'm arguing it for my client because the co-Defendant I'm
9 saying would have a right to do it where the State can't and my client will be
10 prejudiced. So, it is prejudiced to my client the fact that Mr. Coleman will intend --
11 intends to use that evidence.

12 THE COURT: I don't know what Mr. Coleman intends to do. Mr. Bindrup.

13 MR. BINDRUP: Your Honor, our defense is that Mr. Coleman was not
14 present at the time of this particular offense. We have three different guns and three
15 separate areas of shell casings.

16 The case before -- and I know Your Honor's already heard a motion to
17 sever, but what the new ballistics which tied in clearly one of those guns and the gun
18 that is tied in to the previous 2008 702 murder, okay, is a different gun then the
19 State would be alleging that Mr. Jackson used for this offense.

20 We also have a family connection. So, yes, when we present our
21 defense, it is our intention to fully go into an attempt to bring in as much as possible
22 the 702 stuff that implicates Mr. Jackson. There's an ancient saying, all roads lead
23 to Rome. In this particular case, with the new 2008 murder case, all roads lead to
24 the co-Defendant in this case. And as his attorney, whether or not he wants to
25 present it individually but as -- by himself, but as his attorney, I fully intend to show

1 why my client was not involved in that. He was in federal custody at the time. He
2 had nothing to do with it. And it's our position that we should be able to establish
3 why -- those guns weren't his. He was not there and he didn't use them.

4 The only evidence against my client that is a witness that was shot in
5 the leg. Only after the third statement that Marcus Albert gave to police did he
6 implicate my client, and that's only after a probation officer was involved. Detective
7 Prieto [phonetic] drug him out, arrested him; hauled him down to the station,
8 searched his house, and then all the sudden we have implicating statements that,
9 hey, this guy shot me. Then comes to find out this is not a shot. He didn't take a
10 bullet wound in the leg. This was rather little bullet fragments that ended going into
11 his leg. In discussing this case with the coroner, clearly that individual was not shot
12 with the bullet. He was not shot directly by my client, and his testimony is so
13 suspect and he's presently in custody, in federal custody, serving time in a California
14 facility.

15 But in light of those factors, I just fully intend on bringing in the other
16 charge to transfer the blame on other individuals that were there and that
17 participated in it. And as far as the State's concerned, I believe prior to trial at some
18 point, they will file a motion to introduce prior bad acts, meaning this 2008 702
19 murder case which ties in directly with Mr. Jackson. Not only was he there, gave a
20 statement, but from reading the discovery that we just got on that case, it's clear that
21 he's more tied in than he indicated to police officers at that time.

22 So, basically we have, you know, two prosecutors against one
23 individual. I don't mind doing that, but I just don't want to be precluded against
24 bringing incriminating evidence against Mr. Jackson during our trial. Thank you.

25 THE COURT: Does the State intend to file such a motion, Ms. Christensen?

1 MS. CHRISTENSEN: Your Honor, in this case, I laid out in my opposition to
2 the severance motion what my position would be regarding the admissibility of that
3 evidence. I don't think that it is admissible as another bad act. I don't think we can
4 admit it as another bad act and neither could Mr. Bindrup and that's because there's
5 no clear and convincing evidence that he was a shooter in that case. There wasn't
6 even an arrest made in that case. So, there wasn't even enough evidence to arrest
7 their actual suspect in the case as a shooter

8 In this case, all that is proven by the evidence from the 702 Club is that
9 Mr. Jackson was present at the time that that gun was used. And there were a lot of
10 people interviewed. Not one person even suggested that Mr. Jackson was a
11 shooter in that case. So, no, it would be completely unethical for the State to try to
12 admit evidence that he was somehow a shooter in that case when everything shows
13 that he wasn't. Similarly 48.045 also applies to defense, all parties it applies to. Mr.
14 Bindrup can't admit it for what he's trying to admit it for. And, Your Honor, what this
15 is my opinion is they tried to sever it in 2011. It didn't work. Now they have another
16 thing that maybe they're going to throw up there and see if it sticks.

17 There is no basis to sever in this case. Ms. Palm says that there's a
18 disparity in evidence and there's conflicting defenses. That's not a basis to sever
19 even if it's true. You know, we would say there is strong evidence against both of
20 these Defendants. And so that isn't even a basis for which Ms Palm had asked for
21 severance in this case.

22 Now certainly we do think that the evidence from the 702 Club might be
23 admissible by the State because it's relevant and not more prejudicial than probative
24 and that's something that applies to both parties as well. So, if Your Honor says no
25 it's not then nobody is able to admit even if we had separate trials.

1 So, this whole thing that they're bringing up is not cured by separate
2 trials. It's something that's going to be admissible against each of them if it's
3 admissible at all. And so severed trials in a month long trial is not the way to go with
4 this new evidence that we're bringing up. We can bring a motion at the time. A
5 motion in limine is what the State would entitle it because it's not a motion to admit
6 other bad acts. And we can ferret out that issue and we started to kind of argue
7 about it already, but it's certainly not a reason to sever. And maybe if they want to
8 renew a motion to sever after -- if your decision on that motion is something that has
9 changed the outcome possibly at this point, there's nothing even close to the law
10 that requires severance in this case.

11 THE COURT: I heard Mr. Bindrup say that the gun that was used in the 702
12 case is not the same gun that was used in this case; is that true?

13 MS. CHRISTENSEN: That's not what he said. I don't think it was used.

14 Mr. Bindrup is trying to assume which gun we're going to argue each
15 one of these individuals used during the shooting in our case. The shooting from
16 the 702 Club it shot eight rounds at the 702 Club; also shot eight or nine rounds at
17 our scene.

18 THE COURT: That's what I understood from the written pleadings --

19 MS. CHRISTENSEN: Right.

20 THE COURT: -- so I'm surprised to hear him say that or maybe I
21 misunderstood.

22 MR. BINDRUP: I misspoke, Your Honor.

23 MS. CHRISTENSEN: What he's trying to say is that we were going to -- one
24 way who we were going to say it was in the hands of. Quite frankly, Your Honor,
25 that doesn't matter because they're both charged via co-conspirator and aiding and

1 abetting liability. So, we can argue, you know what, it could have been in Mr.
2 Jackson's hands, it could have been in Mr. Coleman's hands, it could have been in
3 the third shooter's hands. It doesn't matter for culpability under the law. And so that
4 argument that Mr. Bindrup made has no bearing on this motion at all.

5 THE COURT: Any concluding argument, Ms. Palm?

6 MS. PALM: Well, Your Honor, I think it's a natural inclination for anybody to
7 think that the same weapons used at both scenes there's a common Defendant at
8 both scenes even that the Defendant is common at both scenes, even if he wasn't
9 an official suspect in the other case. And given the State's, you know, concession
10 that he was not a suspect, there's nothing that they could ethically do to show that
11 he was, of course it's overly prejudicial for anybody to admit in the case in chief
12 evidence regarding Mr. Jackson and the 702 Club. That would not be admissible if
13 the State were to do that. And I do believe that the defense, you know, you have a
14 right to defend and that's evidence that would be relevant to Mr. Coleman's defense.

15 So, I completely disagree with the argument that anybody could admit
16 this evidence because it is overly prejudicial and the jury is naturally going to
17 assume that Mr. Jackson was present and participating in both scenes given that we
18 have the same gun in both scenes also.

19 THE COURT: Mr. Bindrup.

20 MR. BINDRUP: And, again, just the shell -- just let me make clear. The shell
21 casings of one of the guns has been tied conclusively to the shell casings and the
22 gun used in the prior 2008 murder.

23 THE COURT: Well I don't think there's basis for the Court to grant the motion
24 to sever at this time. And the only other thing the Court would state is that, you
25 know, mutually antagonistic defense isn't necessarily mutually exclusive defense.

1 So, I'll ask the State to prepare an order for the Court's signature. We need a new
2 court date -- we need a new trial date; right?

3 THE COURT CLERK: Yes.

4 MR. BINDRUP: And if you're granting the motion to continue, I am still urging
5 the Court to -- yes, I can understand their requesting additional time and why. We
6 have a lot of work left as well, but still this is something that we can handle before
7 the end of the year. I would urge the Court, even if we need to kick much younger
8 cases, I believe this is old enough that it should go before the end of this year or at
9 least no more than the first part into next year. But he's already been -- he's already
10 very unhappy with the amount of time he's been sitting in custody and would ask for
11 a more expedited trial setting, please.

12 MR. WEINSTOCK: And, Your Honor, on behalf of Mr. --

13 THE COURT: The Court already granted the motion to continue. We're not
14 going to reargue. We've got plenty to do this morning.

15 MR. WEINSTOCK: On behalf of Mr. Winder, we are tied up through at least
16 February of next year. So, we're looking -- I think everybody is -- kind of been
17 talking about June of next year as an available date for everybody.

18 MS. PALM: And I am tied up through April of next year is my last murder trial.
19 So, after, you know -- and my mitigation person who needs to be here to help us
20 coordinate cannot be available until June.

21 THE COURT: What's the State's availability for trial? Ms Christensen.

22 MS. CHRISTENSEN: We're available, Your Honor. We'll just work with their
23 schedule.

24 THE COURT: All right. You want to get together and confer and we'll bring
25 you back on a status check for purposes of setting the trial date or do you want the