

No. CR16-1457

STATE OF NEVADA

vs.

IAN ANDRE HAGER

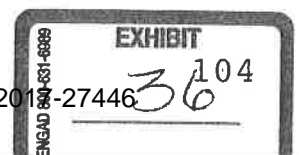
Ex. 36

Admitted: 12/13/16

JACQUELINE BRYANT, CLERK

By /s/ Linda Sabo, Deputy

Docket 72613 Document 2016-27446



1 Case No. CR 13-6258

2 Dept. No. 2

FILED

2013 MAY 15 AM 9:49

[Signature]
JANIS BAL SPERO
DIST. COURT CLERK

3
4
5 IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
6
7 IN AND FOR THE COUNTY OF HUMBOLDT

8 -o0o-

9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs.

12 IAN ANDRE HAGER,
13 DOB: 10/07/1984

ORDER SUSPENDING FURTHER
PROCEEDINGS PURSUANT TO
NRS 176A.250

14 Defendant./

15 WHEREAS, on the 11th day of March, 2013, the Defendant
16 entered his plea of guilty to the charge of

17 in violation of and the
18 matter having been submitted before the Honorable Michael R.
19 Montero, the above-entitled Court did, thereafter on the 29th day
20 of April, 2013, without entering a judgment of conviction and
21 with the consent of the Defendant, suspend further proceedings
22 pursuant to NRS 176A.250 and place him on probation for a period
23 of thirty-six (36) months with the following special conditions:

- 24 1. That the Defendant submit to a search of the Defendant's
person, property, vehicle, residence or any area and /or

Case No. CR 13-6258

Dept. No. 2

FILED

2013 MAY 15 AM 9:49

JANIS DAL SPERG
DIST. COURT CLERK

IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF HUMBOLDT

-o0o-

THE STATE OF NEVADA,

Plaintiff,

vs.

IAN ANDRE HAGER,
DOB: 10/07/1984

Defendant./

ORDER SUSPENDING FURTHER
PROCEEDINGS PURSUANT TO
NRS 176A.250

WHEREAS, on the 11th day of March, 2013, the Defendant entered his plea of guilty to the charge of

in violation of and the matter having been submitted before the Honorable Michael R. Montero, the above-entitled Court did, thereafter on the 29th day of April, 2013, without entering a judgment of conviction and with the consent of the Defendant, suspend further proceedings pursuant to NRS 176A.250 and place him on probation for a period of thirty-six (36) months with the following special conditions:

1. That the Defendant submit to a search of the Defendant's person, property, vehicle, residence or any area and /or

1 things under the defendant's control, at any time of the
2 day or night without a warrant, for evidence of any crime
3 or evidence of any violation of probation by a Parole and
4 Probation Officer or Peace Officer acting under their
5 direction during the entire term of the Defendant's
6 probation;

7 2. That the Defendant completely abstain from the consumption,
8 purchase or possession of any alcoholic beverage;

9 3. That the Defendant completely abstain from being present in
10 any cocktail lounge, bar, liquor store, casino or any
11 establishment where alcoholic beverages are sold, served or
12 dispensed whatsoever;

13 4. That the Defendant applies for the Washoe County Mental
14 Health Court Program. Further, if the Defendant is found
15 eligible, that the Defendant enters into and successfully
16 complete the Mental Health Court Program. If accepted into
17 the Washoe County Health Court program, the Defendant shall
18 be subject to the terms and conditions of the Mental Health
19 Court;

20 5. That the Defendant attends the Humboldt County Drug Court
21 Program until the Defendant provides proof that he has been
22 accepted into the Washoe County Mental Health Court
23 Program;

24 6. That the Defendant pay a \$25 administrative assessment fee
immediately after sentencing, payable to the Humboldt

County Clerk of the Court;

7. That the Defendant pay a \$250 Humboldt County Public Defender fee, payable within twelve (12) months of Defendant's probation grant, payable to the Humboldt County Clerk's Office.

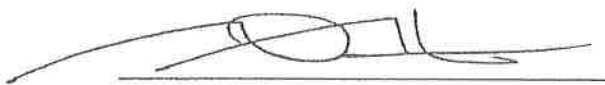
Furthermore, bail, if any, is hereby exonerated.

The Defendant was represented by Matt Stermitz, at all stages of these proceedings.

Jason R. Dworin, Deputy District Attorney, represented the State of Nevada at all stages of these proceedings.

Furthermore, pursuant to NRS 239B.030, the undersigned hereby affirms this document does not contain the social security number of any person.

DATED this 14th day of May, 2013, in the City of Winnemucca, County of Humboldt, State of Nevada.


DISTRICT JUDGE

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee
of the Humboldt County District Attorney's Office, and that on the
15th day of May, 2013, I deposited for mailing at Winnemucca,
Nevada, a true copy of the ORDER SUSPENDING FURTHER PROCEEDINGS
PURSUANT TO NRS 453.3363 to:

Matt Stermitz
Humboldt County Public Defender
Humboldt County Courthouse
Winnemucca, NV
(placed in DCT box)



No. CR16-1457

STATE OF NEVADA

vs.

IAN ANDRE HAGER

Ex. 38

Admitted: 12/14/16

JACQUELINE BRYANT, CLERK

By /s/ Linda Sabo, Deputy



CERTIFICATE OF CUSTODIAN OF RECORDS
(NRS 51.135)

STATE OF NEVADA)
) ss.
COUNTY OF WASHOE)

I, James Papovich, do hereby swear under penalty of perjury that the assertions of this affidavit are true.

1. That James Papovich is the custodian of records for the Specialty Courts institution known as Specialty Courts and has access to the files and records of said entity.

2. That the undersigned has searched the files and records of said entity and has made a true, complete and correct reproduction of the records and documents of said institution, maintained in the ordinary course of business and on file herein, and has attached a true and complete reproduction of said records and documents hereto.

3. That the attached records and documents are true and complete reproductions of records and documents actually maintained and filed in the offices of said entity and are hereby certified as being maintained in the course of a regularly conducted activity of this entity and were made at or near the time of said activity reflected hereon.

4. That the deponent/undersigned's position with said entity is that of Specialty Courts Manager and that I am authorized to make this certification as custodian of records for the attached records and documents.



Subscribed and sworn to before me this ____ day of _____, 200__.

Notary Public

My appointment expires on: _____

SECOND JUDICIAL DISTRICT COURT
STATE OF NEVADA, WASHOE COUNTY

Policy Area: Specialty
Courts - 4
Effective Date: 7/26/16
Revised Date:
Review Date: 7/26/17

POLICY AND PROCEDURE

1. **Title:** Mental Health Court Eligibility Criteria
2. **Purpose:** To set forth the criteria governing the eligibility of an individual to participate in the Second Judicial District Court's Mental Health Court (Mental Health Court).
3. **Policy:** To allow participation in Mental Health Court when authorized by statute and referred by the Sentencing Judge. Upon request, Mental Health Court may indicate its willingness to accept a participant before the participant is sentenced by the Sentencing Judge or referred by the Referring Judge.
4. **Scope and Applicability:** The Second Judicial District Court's Mental Health Court.
5. **Definitions:**
 - A. **Eligible Mental Health Court Participant:** A person who has been diagnosed with a Serious Mental Illness as defined by NRS 433.164. [Commonly accepted diagnoses include Schizophrenia, Schizoaffective Disorder, Psychosis, Bipolar Disorder, PTSD, and Major Depressive Disorder.]:
 - i. A clinically significant disorder of thought, mood, perception, orientation, memory, or behavior which is listed in the current Diagnostic and Statistical Manual; AND
 - ii. Seriously limits the capacity of a person to function in the primary aspects of daily living.
 - B. **Referring Judge:** The judge who presided over the defendant's proceeding that precipitated the referral to Mental Health Court.
 - C. **Sentencing Judge:** The judge who sentenced the defendant in the proceeding that precipitated the referral to Mental Health Court.
 - D. **Referring Authority:** The statute authorizing an individual be referred to Mental Health Court. Justice or municipal courts can refer those diagnosed with serious mental illness on a diversion track pursuant to NRS 176A.255. District courts can refer an individual on a diversion track pursuant to NRS 176A.260. Or, the Sentencing Judge can order a convicted individual to participate in Mental Health Court as a condition of probation pursuant to NRS 176A.400.
6. **Law:** NRS 176A.250, NRS 176A.255, NRS 176A.260, NRS 176A.400, NRS 433.164
7. **Procedures:**
 - A. **Justice Court or Municipal Court Diversion Eligibility Criteria:** Individuals who meet all of the following criteria may be referred from a justice or municipal court into Mental Health Court on a diversion track:

SECOND JUDICIAL DISTRICT COURT
STATE OF NEVADA, WASHOE COUNTY

Policy Area: Specialty
Courts - 4
Effective Date: 7/26/16
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-
- i. The defendant is an individual diagnosed with a serious mental illness and documentation can be provided by a licensed mental health professional as defined in NRS 433.209;
 - ii. The defendant has not tendered a plea or been found guilty or guilty but mentally ill;
 - iii. The defendant's offense is a misdemeanor; AND
 - iv. The Referring Judge makes the affirmative decision to refer the defendant to Mental Health Court.
- B. District Court Diversion Eligibility Criteria:** Individuals who meet all of the following criteria may be referred from District Court into Mental Health Court on a diversion track:
- i. The defendant is an individual diagnosed with a serious mental illness and documentation can be provided by a licensed mental health professional as defined by NRS 433.209;
 - ii. The defendant has pled or been found to be:
 - 1. Guilty;
 - 2. Nolo contendere;
 - iii. The defendant's offense is one for which a suspended sentence or probation is allowed;
 - iv. The defendant's offense was not one in which the defendant used or threatened to use force or violence;
 - 1. If the defendant used force or threatened to use force or violence, the prosecuting attorney must stipulate to the Mental Health Court referral.
 - v. The defendant was not previously convicted in this State or in any other jurisdiction of a felony that involved the use or threatened use of force or violence; AND
 - 1. If the defendant was previously convicted for a felony that involved the use or threatened use of force or violence, the prosecuting attorney must stipulate to the Mental Health Court referral.
 - vi. The Sentencing Judge makes the affirmative decision to refer the defendant to Mental Health Court.
- C. Post-Adjudication Eligibility Criteria:** Individuals who meet all of the following criteria may be referred to Mental Health Court as a condition of their probation. In this instance, diversion is not an available outcome and the case will not be sealed.
- i. The defendant has a serious mental illness as defined by NRS 433.164. [Commonly accepted diagnoses include Schizophrenia, Schizoaffective Disorder, Psychosis, Bipolar Disorder, PTSD, and Major Depressive Disorder.];
 - ii. A clinically significant disorder of thought, mood, perception, orientation, memory, or behavior which is listed in the current Diagnostic and Statistical Manual;

SECOND JUDICIAL DISTRICT COURT
STATE OF NEVADA, WASHOE COUNTY

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- iii. Seriously limits the capacity of a person to function in the primary aspects of daily living; AND
 - iv. The Sentencing Judge makes the affirmative decision to refer the defendant to Mental Health Court as a condition of probation.
 - D. Exclusions: Participants who have committed a sex crime or a particularly violent crime will be considered on a case-by-case basis.
 - E. Process for Admission
 - i. Please refer to the Opening, Processing and Closing Cases in Mental Health Court Policy and Procedure.
8. Approved By: Senior Judge Peter I. Breen, District Court Administrator/Clerk of Court Jacqueline Bryant, Specialty Court Manager James Popovich

End of Policy

NRS 433.164 "Mental illness" defined. "Mental illness" means a clinically significant disorder of thought, mood, perception, orientation, memory or behavior which:

1. Is listed in the most recent edition of the clinical manual of the *International Classification of Diseases, ICD-9-CM*, code range 295 to 302.9, inclusive, 306 to 309.9, inclusive, or 311 to 316, inclusive, or the corresponding code in the most recent edition of the *American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, DSM-IV*, Axis I; and
2. Seriously limits the capacity of a person to function in the primary aspects of daily living, including, without limitation, personal relations, living arrangements, employment and recreation.
(Added to NRS by 1975, 1591; A 2003, 1941)

NRS 433.099 "Intellectual disability" defined. "Intellectual disability" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.

(Added to NRS by 1975, 1591; A 2013, 662) — (Substituted in revision for NRS 433.174)

NRS 433.209 "Person professionally qualified in the field of psychiatric mental health" defined. "Person professionally qualified in the field of psychiatric mental health" means:

1. A psychiatrist licensed to practice medicine in the State of Nevada and certified by the American Board of Psychiatry and Neurology;
2. A psychologist licensed to practice in this State;
3. A social worker who holds a master's degree in social work, is licensed by the State as a clinical social worker and is employed by the Division;
4. A registered nurse who:
 - (a) Is licensed to practice professional nursing in this State;
 - (b) Holds a master's degree in the field of psychiatric nursing; and
 - (c) Is employed by the Division;
5. A marriage and family therapist licensed pursuant to chapter 641A of NRS; or
6. A clinical professional counselor licensed pursuant to chapter 641A of NRS.
(Added to NRS by 1975, 1591; A 1983, 506; 1985, 2044; 1987, 527, 1124, 2133, 2134; 1989, 1550; 2007, 3086)

NRS 176A.250 Establishment of program for treatment of mental illness or intellectual disabilities; assignment of defendant to program; progress reports. A court may establish an appropriate program for the treatment of mental illness or intellectual disabilities to which it may assign a defendant pursuant to NRS 176A.260. The assignment must include the terms and conditions for successful completion of the

SECOND JUDICIAL DISTRICT COURT
STATE OF NEVADA, WASHOE COUNTY

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program and provide for progress reports at intervals set by the court to ensure that the defendant is making satisfactory progress towards completion of the program.

(Added to NRS by 2001 Special Session, 259; A 2003, 1946; 2013, 686)

NRS 176A.255 Transfer of jurisdiction from justice court or municipal court to district court for assignment of defendant to program.

1. A justice court or a municipal court may, upon approval of the district court, transfer original jurisdiction to the district court of a case involving an eligible defendant.

2. As used in this section, "eligible defendant" means a person who:

(a) Has not tendered a plea of guilty, guilty but mentally ill or nolo contendere to, or been found guilty or guilty but mentally ill of, an offense that is a misdemeanor;

(b) Appears to suffer from mental illness or to be intellectually disabled; and

(c) Would benefit from assignment to a program established pursuant to NRS 176A.250.

(Added to NRS by 2001 Special Session, 259; A 2003, 1467, 1946; 2007, 1422; 2013, 686).

NRS 176A.260 Conditions and limitations on assignment of defendant to program; effect of violation of terms and conditions; discharge of defendant upon fulfillment of terms and conditions; effect of discharge.

1. Except as otherwise provided in subsection 2, if a defendant who suffers from mental illness or is intellectually disabled tenders a plea of guilty, guilty but mentally ill or nolo contendere to, or is found guilty or guilty but mentally ill of, any offense for which the suspension of sentence or the granting of probation is not prohibited by statute, the court may, without entering a judgment of conviction and with the consent of the defendant, suspend further proceedings and place the defendant on probation upon terms and conditions that must include attendance and successful completion of a program established pursuant to NRS 176A.250.

2. If the offense committed by the defendant involved the use or threatened use of force or violence or if the defendant was previously convicted in this State or in any other jurisdiction of a felony that involved the use or threatened use of force or violence, the court may not assign the defendant to the program unless the prosecuting attorney stipulates to the assignment.

3. Upon violation of a term or condition:

(a) The court may enter a judgment of conviction and proceed as provided in the section pursuant to which the defendant was charged.

(b) Notwithstanding the provisions of paragraph (e) of subsection 2 of NRS 193.130, the court may order the defendant to the custody of the Department of Corrections if the offense is punishable by imprisonment in the state prison.

4. Upon fulfillment of the terms and conditions, the court shall discharge the defendant and dismiss the proceedings. Discharge and dismissal pursuant to this section is without adjudication of guilt and is not a conviction for purposes of this section or for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose, but is a conviction for the purpose of additional penalties imposed for second or subsequent convictions or the setting of bail. Discharge and dismissal restores the defendant, in the contemplation of the law, to the status occupied before the arrest, indictment or information. The defendant may not be held thereafter under any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge that arrest, indictment, information or trial in response to an inquiry made of the defendant for any purpose.

(Added to NRS by 2001 Special Session, 259; A 2003, 1467, 1946; 2007, 1422; 2013, 687)

NRS 176A.400 Imposition by court; alternative programs or treatment; prohibition on suspending term of imprisonment; placement under supervision of Chief Parole and Probation Officer.

1. In issuing an order granting probation, the court may fix the terms and conditions thereof, including, without limitation:

(a) A requirement for restitution;

(b) An order that the probationer dispose of all the weapons the probationer possesses; or

(c) Any reasonable conditions to protect the health, safety or welfare of the community or to ensure that the probationer will appear at all times and places ordered by the court, including, without limitation:

**SECOND JUDICIAL DISTRICT COURT
STATE OF NEVADA, WASHOE COUNTY**

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-
- (1) Requiring the probationer to remain in this State or a certain county within this State;
 - (2) Prohibiting the probationer from contacting or attempting to contact a specific person or from causing or attempting to cause another person to contact that person on the probationer's behalf;
 - (3) Prohibiting the probationer from entering a certain geographic area; or
 - (4) Prohibiting the probationer from engaging in specific conduct that may be harmful to the probationer's own health, safety or welfare, or the health, safety or welfare of another person.
2. In issuing an order granting probation to a person who is found guilty of a category C, D or E felony, the court may require the person as a condition of probation to participate in and complete to the satisfaction of the court any alternative program, treatment or activity deemed appropriate by the court.
 3. The court shall not suspend the execution of a sentence of imprisonment after the defendant has begun to serve it.
 4. In placing any defendant on probation or in granting a defendant a suspended sentence, the court shall direct that the defendant be placed under the supervision of the Chief Parole and Probation Officer.

1
2
3
4
5
6 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF WASHOE**
8

9 **STATE OF NEVADA,**

10 **Plaintiff(s),**

Case No. CR13-6258

11 **vs.**

Dept. No. SCD

12 **IAN HAGER**

13 **Defendant(s).**
14 _____

15 **ACCEPTANCE LETTER: MENTAL HEALTH COURT**
16

17 This letter is to inform you that Ian Hager is eligible and has been accepted into the Mental
18 Health Court program on the charge of:

19 In order for the Defendant to be transferred into Mental Health Court, please ensure the
20 following steps are taken:
21

- 22 • For Defendants transferring from a Lower Court or Court outside the jurisdiction of
23 Washoe County, please fax a copy of the Defendant's Criminal Complaint or
24 Amended Criminal Complaint and Minutes or Docket sheet to (775) 325-6617. The
25 original Order Transferring Jurisdiction to Mental Health Court can be either mailed
26 or sent through inter-office mail to the above listed address.
27
28

1 • For Defendants remaining in custody pending transfer into Mental Health Court,
2 please notify the Specialty Courts Officers at the numbers listed below in order to
3 have the Defendant set on calendar for Mental Health Court.
4

5 • Defendants should be placed on the Mental Health Court 11:30 docket on the first
6 Friday following their sentencing.
7

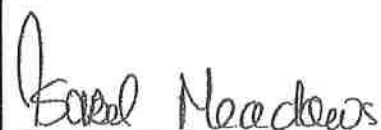
8 Defendants may attend orientation before they are set on the Mental Health Court
9 calendar on any Tuesday at 10:00 a.m. in the Specialty Courts office.
10

11 If the above listed Defendant is not ordered into Mental Health Court, please notify
12 Specialty Courts Officers listed below.
13

14 Thank you for your attention to these details and for referring a defendant to the Mental
15 Health Court.
16

17 Affirmation:

18 Pursuant to NRS 239B.030, this document does not contain social security numbers.
19

20 
21

22 Specialty Courts Officer

23 Rene Biondo, 325-6605

24 Isabel Meadows, 325-6650
25

26 Fax (775) 325-6617

27 6/12
28

MENTAL HEALTH COURT REFERRAL

Please complete all fields and fax to the Mental Health Court at 325-6617.

Defendant's Name: IAN HAGER DOB: 10/7/84
Gender: M Race: W SS# 530-37-2903
Arresting Agency: HCPD Agency Case #: _____ Arrest Date/Time: _____
Original Court: 6TH Case #: CR-13-625B Judge: MICHAEL MONTERO
COUNTY OF HUMBOLDT
Name of Legal Defender/Public Defender: MATT STERMITZ, HCPD

INRS (NRC-EPIC)		Type

Where has the defendant received mental health care? RENO, COLORADO, CA

Diagnosis? PTSD

Please attach the following information (if available):

- | | |
|---|---|
| <input type="checkbox"/> Booking Sheet | <input type="checkbox"/> P.C. |
| <input type="checkbox"/> Case Information Sheet | <input type="checkbox"/> PSI |
| <input type="checkbox"/> Psychiatric Evals, MH hx | <input type="checkbox"/> Substance abuse hx |

Referred by: MATT STERMITZ
HUMBOLDT COUNTY PUBLIC

Relationship: ATTY

Phone Number: 775-623-6550

Date Referred: _____

*****Mental Health Court Use Only*****

Disposition: Accepted Rejected Date:

Comments:

Diagnosis: Substance Abuse:

☐ ML ☐ Shelia ☐ CC ☐ Sharron ☐ PD ☐ ML update ☐ S update

☐ ES ☐ LS

3/12

Orientation Data

Name: Ian Hager Start Date: 5-7-13
Address 2460 Angua Dr. Sparks NV 89434
Phone Number(s) 775-771-6788

Charges _____
Reduced? _____
Need to do classes? ☐ yes ☒ no
Restitution? No
Veteran? ☐ yes ☒ no If yes getting services? _____

Medications currently taking Diazepam
Advised of medications not allowed ☒ yes ☐ no

Substance abuse history Methamphetamine from '98 to '02
Short relapse in '12
Oxycotton in '11 - prescribed for pain management but abuse after a death in family
Drug of choice Meth
Last Use Dec. 15th? 2012
Method of use Smoked

Release(s) have been signed for: Mental Health Court

Does the client have an open case with CPS? ☐ yes ☒ no
If yes has a release been signed? ☐ yes ☐ no

Notes: _____

Mental Health Court Rules About Medications

You can not take the following:

Opiates
Benzodiazepines
Muscle Relaxants
Anything with Sudafed in it
Anything with Alcohol in it
Methadone
Suboxone

Please be aware that telling the court that a hospital gave you something without you knowing what it was is not an excuse that can be used. You are responsible for your health care and knowing what a doctor is giving you.

If you are prescribed a medication not allowed in Mental Health Court you may not get it filled. Mental Health Court considers this intent to use it or give / sell to others.

There are occasionally exceptions with regards to opiates such as having surgery. You must talk to your Specialty Courts Officer to get permission to take it. If you are given permission it will be limited and carefully supervised.

If you are unsure about a medication talk to your Specialty Courts Officer or the nurse from NNAHMS that is assigned to our court, Debi Campanella. You are responsible for doing this before you take the medication.

By signing below, I acknowledge that I understand this to be a condition of Mental Health Court and if I fail to comply I may be sanctioned in court.



Client

5-7-13

Date

Witness

Date

Mental Health Court Contract

If I am accepted into the Mental Health Court as a condition of participation, I agreed to the following:

1. I understand that Mental Health Court is a one-year minimum voluntary program. Time spent in another court does not count towards the year.
2. I will sign any releases of information as required in order for the court to obtain the information needed for my participation.
3. I will attend all court hearings as schedule.
3. I understand that I will start attending court weekly with the possibility of attending less frequently up to 4 weeks out based upon my progress.
5. I will check in with my Specialty Courts Officer as scheduled.
6. If I am on probation, I will see my Probation Officer as scheduled.
7. I will be admitted to NNAMHS Outpatient Care within 7 days of my first appearance in Mental Health Court.
8. I will keep all appointments with my Service Coordinator, which will usually be weekly.
9. I understand I am subject to random alcohol and drug testing.
9. I will actively look for and secure employment. If it is determined by Vocational Services that I am unable to work due to a mental disability, I will apply for SSI/SSDI and any other appropriate benefits.
11. I will attend Medication Clinic appointments as scheduled.
12. I will take medication for my psychiatric condition as prescribed by a doctor.
13. I will attend and participate in all assigned group and individual therapy sessions.
14. I understand I may get assistance for housing if I qualify and there may be a waiting list.
15. I understand that if I have any major medical issues including pregnancy I need to make everyone on my team aware as soon as I find out.
16. I understand that should I fail to comply with these conditions, I will be subject to sanctions including jail, community service, or any other sanction the court deems appropriate.

By signing below, I acknowledge and understand the conditions as they pertain to my participation in Mental Health Court.


CLIENT

5-7-13
DATE

WITNESS

DATE

Appearance in Court

When attending Mental Health Court you need to present yourself in a positive way to the Judge and Mental Health Court Team. You must dress appropriately and arrive to court on time. Some do's and do not's for the Mental Health Court are:

DO:

- Wear appropriate pants, shirts, jeans, dresses or skirts and shoes.
- Arrive to court on time.
- Make eye contact with the Judge.
- Be respectful to everyone who is in court.
- Turn off cell phones and pagers.

DO NOT:

- Wear clothing showing alcohol, alcoholic beverages, drugs, sex, violence or bad language.
- Wear hats, caps, bandanas, sweatbands, or other headgear, including sunglasses.
- Wear shorts, skirts above the knee, tank tops or spaghetti straps.
- Wear baggy / sagging pants.
- Wear clothes that show your stomach or cleavage.
- Wear underwear or boxers so others can see them.
- Wear pajamas or slippers.
- Use profanity in the courtroom.

CHILDREN:

You are welcome to bring your children to court. If they are disruptive please be respectful to others and take them out of the courtroom until your name is called.

EARLY CALLS

If there is a reason you need to be called early in court, you will need to let one of the Specialty Courts Officers know ahead of time by Wednesday. We will try to accommodate you, but there needs to be a very good reason for it and you may be asked to show some sort of verification. It is disruptive to the entire team to make changes in the docket.

By signing below, I acknowledge that I have reviewed this and agree to follow these guidelines.

Client



Date

5-7-13

Witness

Date

MISSING COURT APPEARANCES / APPOINTMENTS

If you miss a court appearance a Bench Warrant may be issued. The Mental Health Court team is not available on court day to take your calls to excuse you from court. If you miss court you must check in with your Specialty Courts Officer as soon as possible.

The only person that can excuse you from Specialty Courts Officer check-ins is your Specialty Courts Officer.

The only person that can excuse you from seeing your Service Coordinator, attending groups, or other NNAHMS appointments is your Service Coordinator.

The only person that can excuse you from seeing your Probation Officer is your Probation Officer.

The general rule of thumb is if you are sick enough to miss court, a check in, or an appointment you are sick enough to see a doctor and get a note for bed rest.

Leaving a message for any of the Mental Health Court staff does not guarantee that you will be excused.

Snow days- If Washoe County Schools are closed you will be excused for court or appointments. If the schools are open you are expected to show up.

By signing below, I acknowledge that I have reviewed this and agree to follow these guidelines.



Client

5-7-13

Date

Witness

Date



SECOND JUDICIAL DISTRICT COURT
STATE OF NEVADA
WASHOE COUNTY

PRETRIAL SERVICE
75 COURT STREET, ROOM
P.O. BOX 30
RENO, NV 895
(775) 325-6

Mental Health Court Consent For Disclosure of Confidential Mental Health And
Substance Abuse Treatment Information

Name Ian Hager
Social Security Number 530-37-2903

Date of Birth 10-7-84
Case Number _____

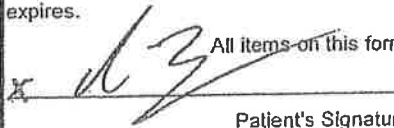
I, Ian Hager, understand that under federal regulations information given by me to substance abuse or health provider is confidential and may not be disclosed to others. In order to participate in Mental Health Court I voluntarily waive this right and hereby consent to communications and disclosure of my mental health and substance abuse treatment information to the following parties pursuant to 45 CFR 164.508(b)(4) and 42 U.S.C. 290dd-2 (CFR), Part 2.

(INITIAL EACH THAT APPLIES)

IH Presiding Judge
IH Washoe County Deputy District Attorney
IH Washoe County Deputy Alternate Public Defender
IH Washoe County Deputy Public Defender
IH Specialty Courts Officers
IH Washoe County Department of Social Services
IH State Vocational Rehabilitation
IH Nevada State Welfare (TANF, food stamps, Medicaid)
IH State of Nevada Parole and Probation
IH Northern Nevada Adult Mental Health Services
IH Mojave Adult Child and Family Services
IH Bristlecone Family Services
IH West Hills Hospital
IH Veterans Affairs Medical Center
IH Mental Health Court Peer Mentor
IH Other: _____
IH Other: _____

The purpose and need for this disclosure is to inform the Court and the other above-named agencies of my eligibility and or acceptance for mental health or substance abuse treatment services; including diagnosis, prognosis, treatment attendance, compliance, toxicology results and progress.

Authorization for release of Protected Health Information Pursuant to HIPAA

From: Name/Facility: <u>Washoe County Jail</u> Address: <u>911 Parr Blvd</u> <u>Reno NV 89504</u> Phone: <u>(775) 328-2932</u> Fax: _____ Attention: <u>Jan Budetti</u> Date(s) of Service: _____	To: Site: <u>NNAHMS</u> Address: <u>480 Galletti Way</u> <u>Sparks NV 89431</u> Phone: <u>(775) 688-2001</u> Fax: _____ Attention: <u>Mental Health Court Service</u> <u>Coordination</u>
DEMOGRAPHICS	
Patient Name: _____	Inmate Number: _____
Alias: _____	Date of Birth: _____
Social Security Number: _____	
INFORMATION REQUESTED	
I hereby authorize the above named provider to release the following confidential information to my current health care provider: <input type="checkbox"/> Physician/Provider's summary of diagnosis, medications, treatments, prognosis and recent care <input type="checkbox"/> Recent Hospitalization <input type="checkbox"/> Discharge Summary <input type="checkbox"/> Operative Summary Reports <input type="checkbox"/> X-Ray <input type="checkbox"/> Special Studies Report <input type="checkbox"/> HIV Test <input type="checkbox"/> Laboratory Results <input type="checkbox"/> Immunization History <input type="checkbox"/> Dental Treatment Records <input type="checkbox"/> Psychiatric Summary Report <input type="checkbox"/> Drug Treatment History & Counseling Reports <input checked="" type="checkbox"/> All Records <input type="checkbox"/> Other Records: _____	
CONSENT FOR RELEASE	
I, or my authorized representative, request the disclosure of my protected health information as set forth on this form. In accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), I understand that: 1) The information to be released or disclosed may include information relating to sexually transmitted diseases, acquired immunodeficiency syndrome (AIDS), human immune deficiency syndrome (HIV), alcohol and drug abuse, or mental health treatment, only if I have placed my initials on the appropriate items. 2) I understand that signing this authorization is voluntary. My treatment or payment for my treatment will not be conditioned upon my authorization of this disclosure. 3) I have a right to revoke this authorization at any time by writing to the health care provider listed above, except to the extent information has been released in reliance upon this authorization. 4) I understand that information disclosed pursuant to the authorization may be re-disclosed by the recipient and no longer protected by the federal privacy regulations. This authorization shall be in force and effect until _____; or two (2) years from date of execution, at which time this authorization expires.	
All items on this form have been completed by me and all of my questions have been answered. <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;">  Patient's Signature </div> <div style="width: 45%; text-align: right;"> <u>5-7-13</u> Date / Time </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 45%;"> _____ Witness Signature / Title </div> <div style="width: 45%; text-align: right;"> _____ Date / Time </div> </div>	
The information requested is recognized as confidential and will be used to facilitate prompt and appropriate treatment of the named patient. Any facsimile, copy or photocopy of this authorization shall authorize you to release the information requested herein.	
<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> _____ Signature for PHS </div> <div style="width: 45%; text-align: right;"> _____ Title </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 45%;"> _____ Printed </div> <div style="width: 45%; text-align: right;"> _____ Date/Time </div> </div>	
HIPAA has created additional patient confidentiality considerations under the privacy regulations, covered entities may usually release protected health information without authorization only to facilitate treatment, payment or health care operations.	

Authorization for release of Protected Health Information Pursuant to HIPAA

From: Name/Facility: <u>Washoe County Jail</u> Address: <u>911 Parr Blvd</u> <u>Reno NV 89506</u> Phone: <u>(775) 328-2932</u> Fax: _____ Attention: <u>Jan Budetti</u> Date(s) of Service: _____	To: Site: <u>Washoe County Mental Health</u> Address: <u>Court</u> <u>75 Court St.</u> <u>Reno NV 89520</u> Phone: <u>(775) 325-6641 or (775) 325-6605</u> Fax: _____ Attention: <u>Isabel Meadows</u> <u>or Rene Biando</u>
---	---

DEMOGRAPHICS	
Patient Name: _____	Inmate Number: _____
Alias: _____	Date of Birth: _____
Social Security Number: _____	

INFORMATION REQUESTED	
I hereby authorize the above named provider to release the following confidential information to my current health care provider:	
<input type="checkbox"/> Physician/Provider's summary of diagnosis, medications, treatments, prognosis and recent care <input type="checkbox"/> Recent Hospitalization <input type="checkbox"/> X-Ray <input type="checkbox"/> Laboratory Results <input type="checkbox"/> Psychiatric Summary Report <input type="checkbox"/> Other Records: _____	<input type="checkbox"/> Discharge Summary <input type="checkbox"/> Special Studies Report _____ <input type="checkbox"/> Immunization History <input type="checkbox"/> Drug Treatment History & Counseling Reports <input type="checkbox"/> Operative Summary Reports <input type="checkbox"/> HIV Test <input type="checkbox"/> Dental Treatment Records <input checked="" type="checkbox"/> All Records

CONSENT FOR RELEASE	
I, or my authorized representative, request the disclosure of my protected health information as set forth on this form. In accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), I understand that:	
1) The information to be released or disclosed may include information relating to sexually transmitted diseases, acquired immunodeficiency syndrome (AIDS), human immune deficiency syndrome (HIV), alcohol and drug abuse, or mental health treatment, only if I have placed my initials on the appropriate items.	
2) I understand that signing this authorization is voluntary. My treatment or payment for my treatment will not be conditioned upon my authorization of this disclosure.	
3) I have a right to revoke this authorization at any time by writing to the health care provider listed above, except to the extent information has been released in reliance upon this authorization.	
4) I understand that information disclosed pursuant to the authorization may be re-disclosed by the recipient and no longer protected by the federal privacy regulations.	
This authorization shall be in force and effect until _____; or two (2) years from date of execution, at which time this authorization expires.	
All items on this form have been completed by me and all of my questions have been answered.	
<u>X d g</u> Patient's Signature	<u>5-7-13</u> Date / Time
_____ Witness Signature / Title	_____ Date / Time

The information requested is recognized as confidential and will be used to facilitate prompt and appropriate treatment of the named patient. Any facsimile, copy or photocopy of this authorization shall authorize you to release the information requested herein.	
_____ Signature for PHS	_____ Title
_____ Printed	_____ Date/Time

HIPAA has created additional patient confidentiality considerations under the privacy regulations, covered entities may usually release protected health information without authorization only to facilitate treatment, payment or health care operations.

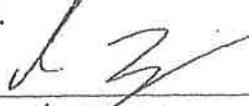
PET RESPONSIBILITY

As a participant in the Mental Health Court you are required to provide information about any pets you have currently. If you do have pets you are required to provide a plan of how the pet(s) will be taken care of in the event you are sanctioned to jail. The Mental Health Court team will not be responsible for finding someone or a place to take care of your pet. This includes calling the person you plan to care for your pet.

During the time you are in Mental Health Court you are not permitted to obtain a new pet. Pets need lots of care and attention as well as financial support. Your focus while you are in Mental Health Court is to take care of yourself and meet your financial obligations such as probation fees or restitution if this applies.

If you qualify and get housing you may not have pets at your place of residence. If you already have a pet and get housing you will have to make other arrangements for your pet.

I do not have a pet at this time and understand the Mental Health Court's policy about pets.



Client signature

5-7-13

Date

I do have _____ pet(s). I have _____

In the event I am arrested one of the following 3 people will be able to care for them.

I understand it is not the responsibility of anyone on the Mental Health Court team to contact any of these people.

Client Signature

Date

Witness signature

Date

No. CR16-1457

STATE OF NEVADA

vs.

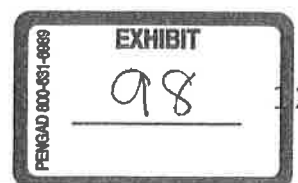
IAN ANDRE HAGER

Ex. 98

Admitted: 12/15/16

JACQUELINE BRYANT, CLERK

By /s/ Linda Sabo, Deputy



Firearms Transaction Record Part I -
Over-the-Counter

OMB No. 1140-0020

WARNING: You may not receive a firearm if prohibited by Federal or State law. The information you provide will be used to determine whether you are prohibited under law from receiving a firearm. Certain violations of the Gun Control Act, 18 U.S.C. §§ 921 et seq., are punishable by up to 10 years imprisonment and/or up to a \$250,000 fine.

Transferor's Transaction
Serial Number (If any)

Prepare in original only. All entries must be handwritten in ink. Read the Notices, Instructions, and Definitions on this form. "PLEASE PRINT."

Section A - Must Be Completed Personally By Transferee (Buyer)

1. Transferee's Full Name		
Last Name <u>Hager</u>	First Name <u>Tan</u>	Middle Name (If no middle name, state "NMN") <u>Andre</u>
2. Current Residence Address (U.S. Postal abbreviations are acceptable. Cannot be a post office box.)		
Number and Street Address <u>2460 Angus Dr.</u>	City <u>Sparks</u>	County <u>Wasloe</u> State <u>NV</u> ZIP Code <u>89434</u>
3. Place of Birth	4. Height	5. Weight
U.S. City and State <u>Reno, NV</u> -OR- Foreign Country	Ft. <u>5</u> In. <u>6</u>	(Lbs.) <u>180</u>
6. Gender	7. Birth Date	
<input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	Month <u>10</u> Day <u>07</u> Year <u>84</u>	
8. Social Security Number (Optional, but will help prevent misidentification) <u>530-37-2903</u>		9. Unique Personal Identification Number (UPIN) if applicable (See Instructions for Question 9.)

10.a. Ethnicity	10.b. Race (Check one or more boxes.)
<input type="checkbox"/> Hispanic or Latino <input type="checkbox"/> Not Hispanic or Latino	<input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Black or African American <input checked="" type="checkbox"/> White <input type="checkbox"/> Asian <input type="checkbox"/> Native Hawaiian or Other Pacific Islander

11. Answer questions 11.a. (see exceptions) through 11.i. and 12 (if applicable) by checking or marking "yes" or "no" in the boxes to the right of the questions.	
a. Are you the actual transferee/buyer of the firearm(s) listed on this form? Warning: You are not the actual buyer if you are acquiring the firearm(s) on behalf of another person. If you are not the actual buyer, the dealer cannot transfer the firearm(s) to you. (See Instructions for Question 11.a.) Exception: If you are picking up a repaired firearm(s) for another person, you are not required to answer 11.a. and may proceed to question 11.b.	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
b. Are you under indictment or information in any court for a felony, or any other crime, for which the judge could imprison you for more than one year? (See Instructions for Question 11.b.)	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
c. Have you ever been convicted in any court of a felony, or any other crime, for which the judge could have imprisoned you for more than one year, even if you received a shorter sentence including probation? (See Instructions for Question 11.c.)	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
d. Are you a fugitive from justice?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
e. Are you an unlawful user of, or addicted to, marijuana or any depressant, stimulant, narcotic drug, or any other controlled substance?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
f. Have you ever been adjudicated mentally defective (which includes a determination by a court, board, commission, or other lawful authority that you are a danger to yourself or to others or are incompetent to manage your own affairs) OR have you ever been committed to a mental institution? (See Instructions for Question 11.f.)	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
g. Have you been discharged from the Armed Forces under dishonorable conditions?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
h. Are you subject to a court order restraining you from harassing, stalking, or threatening your child or an intimate partner or child of such partner? (See Instructions for Question 11.h.)	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
i. Have you ever been convicted in any court of a misdemeanor crime of domestic violence? (See Instructions for Question 11.i.)	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
j. Have you ever renounced your United States citizenship?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
k. Are you an alien illegally in the United States?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
l. Are you an alien admitted to the United States under a nonimmigrant visa? (See Instructions for Question 11.l.) If you answered "no" to this question, do NOT respond to question 12 and proceed to question 13.	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
12. If you are an alien admitted to the United States under a nonimmigrant visa, do you fall within any of the exceptions set forth in the instructions? (If "yes," the licensee must complete question 20c.) (See Instructions for Question 12.) If question 11.l. is answered with a "no" response, then do NOT respond to question 12 and proceed to question 13.	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
13. What is your State of residence (if any)? (See Instructions for Question 13.) <u>NV</u>	14. What is your country of citizenship? (List/check more than one, if applicable. If you are a citizen of the United States, proceed to question 16.) <input checked="" type="checkbox"/> United States of America <input type="checkbox"/> Other (Specify)
15. If you are not a citizen of the United States, what is your U.S.-issued alien number or admission number?	

I certify that my answers to Section A are true, correct, and complete. I have read and understand the Notices, Instructions, and Definitions on ATF Form 4473. I understand that answering "yes" to question 11.a. if I am not the actual buyer is a crime punishable as a felony under Federal law, and may also violate State and/or local law. I understand that a person who answers "yes" to any of the questions 11.b. through 11.k. is prohibited from purchasing or receiving a firearm. I understand that a person who answers "yes" to question 11.l. is prohibited from purchasing or receiving a firearm, unless the person also answers "Yes" to question 12. I also understand that making any false oral or written statement, or exhibiting any false or misrepresented identification with respect to this transaction, is a crime punishable as a felony under Federal law, and may also violate State and/or local law. I further understand that the repetitive purchase of firearms for the purpose of resale for livelihood and profit without a Federal firearms license is a violation of law (See Instructions for Question 16).

16. Transferee's/Buyer's Signature

17. Certification Date

Section B - Must Be Completed By Transferor (Seller)

18. Type of firearm(s) to be transferred (check or mark all that apply):

☒ Handgun ☒ Long Gun (rifles or shotguns) ☐ Other Firearm (Frame, Receiver, etc. See Instructions for Question 18.)

19. If sale at a gun show or other qualifying event.

Name of Event

City, State

20a. Identification (e.g., Virginia Driver's license (VA DL) or other valid government-issued photo identification.) (See Instructions for Question 20.a.)

Issuing Authority and Type of Identification

Number on Identification

Expiration Date of Identification (if any)

Month

Day

Year

NV DL

0000259791

10

07

22

20b. Alternate Documentation (if driver's license or other identification document does not show current residence address) (See Instructions for Question 20.b.)

20c. Aliens Admitted to the United States Under a Nonimmigrant Visa Must Provide: Type of documentation showing an exception to the nonimmigrant visa prohibition. (See Instructions for Question 20.c.)

Questions 21, 22, or 23 Must Be Completed Prior To The Transfer Of The Firearm(s) (See Instructions for Questions 21, 22 and 23.)

21a. Date the transferee's identifying information in Section A was transmitted to NICS or the appropriate State agency: (Month/Day/Year)

Month

Day

Year

12

8

15

21b. The NICS or State transaction number (if provided) was:

21c. The response initially provided by NICS or the appropriate State agency was:

☒ Proceed
☐ Denied
☐ Cancelled

☐ Delayed

(The firearm(s) may be transferred on

(Missing Disposition

Information date provided by NICS) if State law permits (optional))

21d. If initial NICS or State response was "Delayed," the following response was received from NICS or the appropriate State agency:

☐ Proceed (date)

☐ Denied (date)

☐ Cancelled (date)

☐ No resolution was provided within 3 business days.

21e. (Complete if applicable.) After the firearm was transferred, the following response was received from NICS or the appropriate State agency on:

(date).

☐ Proceed

☐ Denied

☐ Cancelled

21f. The name and Brady identification number of the NICS examiner (Optional)

(name)

(number)

22. ☐ No NICS check was required because the transfer involved only National Firearms Act firearm(s). (See Instructions for Question 22.)

23. ☐ No NICS check was required because the buyer has a valid permit from the State where the transfer is to take place, which qualifies as an exemption to NICS (See Instructions for Question 23.)

Issuing State and Permit Type

Date of Issuance (if any)

Expiration Date (if any)

Permit Number (if any)

Section C - Must Be Completed Personally By Transferee (Buyer)

If the transfer of the firearm(s) takes place on a different day from the date that the transferee (buyer) signed Section A, the transferee must complete Section C immediately prior to the transfer of the firearm(s). (See Instructions for Question 24 and 25.)

I certify that my answers to the questions in Section A of this form are still true, correct and complete.

24. Transferee's/Buyer's Signature

25. Recertification Date

Transferor (Seller) Continue to Next Page
STAPLE IF PAGES BECOME SEPARATED

Section D - Must Be Completed By Transferor (Seller)

26. Manufacturer and/or Importer (If the manufacturer and importer are different, the FFL should include both.)	27. Model	28. Serial Number	29. Type (pistol, revolver, rifle, shotgun, receiver, frame, etc.) (See instructions for question 29)	30. Caliber or Gauge
Winchester		L1697661	Shotgun	20g
Marlin		05267863	Rifle	.22
Blue Browning		02394NM146	Rifle	.22
Colt	1911	2750016	Pistol	.45

30a. Total Number of Firearms (Please *handwrite* by printing e.g., one, two, three, etc. Do not use numerals.)

four

30b. Is any part of this transaction a Pawn Redemption? ☐ Yes ☒ No

30c. For Use by FFL (See Instructions for Question 30c.)

Complete ATF Form 3310.4 For Multiple Purchases of Handguns Within 5 Consecutive Business Days

31. Trade/corporate name and address of transferor (seller) (Hand stamp may be used.)

32. Federal Firearms License Number (Must contain at least first three and last five digits of FFL Number X-XX-XXXXX.) (Hand stamp may be used.)

The Person Transferring The Firearm(s) Must Complete Questions 33-36. For Denied/Cancelled Transactions, The Person Who Completed Section B Must Complete Questions 33-35.

I certify that my answers in Sections B and D are true, correct, and complete. I have read and understand the Notices, Instructions, and Definitions on ATF Form 4473. On the basis of: (1) the statements in Section A (and Section C if the transfer does not occur on the day Section A was completed); (2) my verification of the identification noted in question 20a (and my reverification at the time of transfer if the transfer does not occur on the day Section A was completed); and (3) the information in the current State Laws and Published Ordinances, it is my belief that it is not unlawful for me to sell, deliver, transport, or otherwise dispose of the firearm(s) listed on this form to the person identified in Section A.

33. Transferor's/Seller's Name (Please print)	34. Transferor's/Seller's Signature	35. Transferor's/Seller's Title	36. Date Transferred
Joanna Bellamy	<i>Joanna Bellamy</i>	Evidence Tech	1/14/16

NOTICES, INSTRUCTIONS AND DEFINITIONS

Purpose of the Form: The information and certification on this form are designed so that a person licensed under 18 U.S.C. § 923 may determine if he or she may lawfully sell or deliver a firearm to the person identified in Section A, and to alert the buyer of certain restrictions on the receipt and possession of firearms. This form should only be used for sales or transfers where the seller is licensed under 18 U.S.C. § 923. The seller of a firearm must determine the lawfulness of the transaction and maintain proper records of the transaction. Consequently, the seller must be familiar with the provisions of 18 U.S.C. §§ 921-931 and the regulations in 27 CFR Part 478. In determining the lawfulness of the sale or delivery of a long gun (rifle or shotgun) to a resident of another State, the seller is presumed to know the applicable State laws and published ordinances in both the seller's State and the buyer's State.

After the seller has completed the firearms transaction, he or she must make the completed, original ATF Form 4473 (which includes the Notices, General Instructions, and Definitions), and any supporting documents, part of his or her permanent records. Such Forms 4473 must be retained for at least 20 years. Filing may be chronological (by date), alphabetical (by name), or numerical (by transaction serial number), as long as all of the seller's completed Forms 4473 are filed in the same manner. **FORMS 4473 FOR DENIED/CANCELLED TRANSFERS MUST BE RETAINED:** If the transfer of a firearm is denied/cancelled by NICS, or if for any other reason the transfer is not complete after a NICS check is initiated, the licensee must retain the ATF Form 4473 in his or her records for at least 5 years. Forms 4473 with respect to which a sale, delivery, or transfer did not take place shall be separately retained in alphabetical (by name) or chronological (by date of transferee's certification) order.

If you or the buyer discover that an ATF Form 4473 is incomplete or improperly completed after the firearm has been transferred, and you or the buyer wish to make a record of your discovery, then photocopy the inaccurate form and make any necessary additions or revisions to the photocopy. You only should make changes to Sections B and D. The buyer should only make changes to Sections A and C. Whoever made the changes should initial and date the changes. The corrected photocopy should be attached to the original Form 4473 and retained as part of your permanent records.

Over-the-Counter Transaction: The sale or other disposition of a firearm by a seller to a buyer, at the seller's licensed premises. This includes the sale or other disposition of a rifle or shotgun to a nonresident buyer on such premises.

State Laws and Published Ordinances: The publication (ATF P 5300.5) of State firearms laws and local ordinances ATF distributes to licensees.

Exportation of Firearms: The State or Commerce Departments may require you to obtain a license prior to export.

Section A

Question 1. Transferee's Full Name: The buyer must personally complete Section A of this form and certify (sign) that the answers are true, correct, and complete. However, if the buyer is unable to read and/or write, the answers (other than the signature) may be completed by another person, excluding the seller. Two persons (other than the seller) must then sign as witnesses to the buyer's answers and signature.

When the buyer of a firearm is a corporation, company, association, partnership, or other such business entity, an officer authorized to act on behalf of the

business must complete Section A of the form with his or her personal information, sign Section A, and attach a written statement, executed under penalties of perjury, stating: (A) the firearm is being acquired for the use of and will be the property of that business entity and (B) the name and address of that business entity. If the buyer's name in question 1. is illegible, the seller must print the buyer's name above the name written by the buyer.

Question 2. Current Residence Address: U.S. Postal abbreviations are acceptable. (e.g., St., Rd., Dr., Pk., NC, etc.). Address cannot be a post office box. County and Parish are one and the same.

If the buyer is a member of the Armed Forces on active duty acquiring a firearm in the State where his or her permanent duty station is located, but does not reside at his or her permanent duty station, the buyer must list both his or her permanent duty station address and his or her residence address in response to question 2. If you are a U.S. citizen with two States of residence, you should list your current residence address in response to question 2 (e.g., *if you are buying a firearm while staying at your weekend home in State X, you should list your address in State X in response to question 2.*)

Question 9. Unique Personal Identification Number (UPIN): For purchasers approved to have information maintained about them in the FBI NICS Voluntary Appeal File, NICS will provide them with a Unique Personal Identification Number, which the buyer should record in question 9. The licensee may be asked to provide the UPIN to NICS or the State.

Question 11.a. Actual Transferee/Buyer: For purposes of this form, you are the actual transferee/buyer if you are purchasing the firearm for yourself or otherwise acquiring the firearm for yourself (e.g., *redeeming the firearm from pawn/retrieving it from consignment, firearm raffle winner*). You are also the actual transferee/buyer if you are legitimately purchasing the firearm as a gift for a third party. **ACTUAL TRANSFEREE/BUYER EXAMPLES:** Mr. Smith asks Mr. Jones to purchase a firearm for Mr. Smith. Mr. Smith gives Mr. Jones the money for the firearm. Mr. Jones is **NOT THE ACTUAL TRANSFEREE/BUYER** of the firearm and must answer "NO" to question 11.a. The licensee may not transfer the firearm to Mr. Jones. However, if Mr. Brown goes to buy a firearm with his own money to give to Mr. Black as a present, Mr. Brown is the actual transferee/buyer of the firearm and should answer "YES" to question 11.a. However, you may not transfer a firearm to any person you know or have reasonable cause to believe is prohibited under 18 U.S.C. § 922(g), (n), or (x). **Exception:** If you are picking up a repaired firearm(s) for another person, you are not required to answer 11.a. and may proceed to question 11.b.

Question 11.b. - 11.i. Definition of Prohibited Person: Generally, 18 U.S.C. § 922 prohibits the shipment, transportation, receipt, or possession in or affecting interstate commerce of a firearm by one who: has been convicted of a misdemeanor crime of domestic violence; has been convicted of a felony, or any other crime, punishable by imprisonment for a term exceeding one year (*this does not include State misdemeanors punishable by imprisonment of two years or less*); is a fugitive from justice; is an unlawful user of, or addicted to, marijuana or any depressant, stimulant, or narcotic drug, or any other controlled substance; has been adjudicated mentally defective or has been committed to a mental institution; has been discharged from the Armed Forces under dishonorable conditions; has renounced his or her U.S. citizenship; is an alien illegally in the United States or an alien admitted to the United States under a nonimmigrant visa; or is subject to certain restraining orders. Furthermore, section 922 prohibits the shipment, transportation, or receipt in or affecting interstate commerce of a firearm by one who is under indictment or information for a felony, or any other crime, punishable by imprisonment for a term exceeding one year.

Question 11.b. Under Indictment or Information or Convicted in any Court: An indictment, information, or conviction in any Federal, State, or local court. An information is a formal accusation of a crime verified by a prosecutor.

Exception to 11.c. and 11.i: A person who has been convicted of a felony, or any other crime, for which the judge could have imprisoned the person for more than one year, or who has been convicted of a misdemeanor crime of domestic violence, is not prohibited from purchasing, receiving, or possessing a firearm if: (1) under the law of

the jurisdiction where the conviction occurred, the person has been pardoned, the conviction has been expunged or set aside, or the person has had their civil rights (*the right to vote, sit on a jury, and hold public office*) taken away and later restored AND (2) the person is not prohibited by the law of the jurisdiction where the conviction occurred from receiving or possessing firearms. Persons subject to this exception should answer "no" to 11.c. or 11.i., as applicable.

Question 11.f. Adjudicated Mentally Defective: A determination by a court, board, commission, or other lawful authority that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease: (1) is a danger to himself or to others; or (2) lacks the mental capacity to contract or manage his own affairs. This term shall include: (1) a finding of insanity by a court in a criminal case; and (2) Those persons found incompetent to stand trial or found not guilty by reason of lack of mental responsibility.

Committed to a Mental Institution: A formal commitment of a person to a mental institution by a court, board, commission, or other lawful authority. The term includes a commitment to a mental institution involuntarily. The term includes commitment for mental defectiveness or mental illness. It also includes commitments for other reasons, such as for drug use. The term does not include a person in a mental institution for observation or a voluntary admission to a mental institution. Please also refer to Question 11.c. for the definition of a prohibited person.

Exception to 11. f. NICS Improvement Amendments Act of 2007: A person who has been adjudicated as a mental defective or committed to a mental institution is not prohibited if: (1) the person was adjudicated or committed by a department or agency of the Federal Government, such as the United States Department of Veteran's Affairs ("VA") (as opposed to a State court, State board, or other lawful State authority); and (2) either: (a) the person's adjudication or commitment for mental incompetency was set-aside or expunged by the adjudicating/committing agency; (b) the person has been fully released or discharged from all mandatory treatment, supervision, or monitoring by the agency; or (c) the person was found by the agency to no longer suffer from the mental health condition that served as the basis of the initial adjudication. **Persons who fit this exception should answer "no" to Item 11.f.** This exception does not apply to any person who was adjudicated to be not guilty by reason of insanity, or based on lack of mental responsibility, or found incompetent to stand trial, in any criminal case or under the Uniform Code of Military Justice.

Question 11.b. Definition of Restraining Order: Under 18 U.S.C. § 922, firearms may not be sold to or received by persons subject to a court order that: (A) was issued after a hearing which the person received actual notice of and had an opportunity to participate in; (B) restrains such person from harassing, stalking, or threatening an intimate partner or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and (C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or (ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury. An "intimate partner" of a person is: the spouse or former spouse of the person, the parent of a child of the person, or an individual who cohabitates or cohabitated with the person.

Question 11.i. Definition of Misdemeanor Crime of Domestic Violence: A Federal, State, local, or tribal offense that is a misdemeanor under Federal, State, or tribal law and has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with, or has cohabitated with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim. The term includes all misdemeanors that have as an element the use or attempted use of physical force or the threatened use of a deadly weapon (e.g., *assault and battery*), if the offense is committed by one of the defined parties. (*See Exception to 11.c. and 11.i.*) A person who has been convicted of a misdemeanor crime of domestic violence also is not prohibited unless: (1) the person was represented by a lawyer or gave up the right to a lawyer; or (2) if the person was entitled to a jury, was tried by a jury, or gave up the right to a jury trial. Persons subject to this exception should answer "no" to 11.i.

Question 11.I. An alien admitted to the United States under a nonimmigrant visa includes, among others, persons visiting the United States temporarily for business or pleasure, persons studying in the United States who maintain a residence abroad, and certain temporary foreign workers. The definition does NOT include permanent resident aliens nor does it apply to nonimmigrant aliens admitted to the United States pursuant to either the Visa Waiver Program or to regulations otherwise exempting them from visa requirements.

An alien admitted to the United States under a nonimmigrant visa who responds "yes" to question 11.I. must provide a response to question 12 indicating whether he/she qualifies under an exception.

Question 12. Exceptions to the Nonimmigrant Alien Response: An alien admitted to the United States under a nonimmigrant visa is not prohibited from purchasing, receiving, or possessing a firearm if the alien: (1) is in possession of a hunting license or permit lawfully issued by the Federal Government, a State, or local government, or an Indian tribe federally recognized by the Bureau of Indian Affairs, which is valid and unexpired; (2) was admitted to the United States for lawful hunting or sporting purposes; (3) has received a waiver from the prohibition from the Attorney General of the United States; (4) is an official representative of a foreign government who is accredited to the United States Government or the Government's mission to an international organization having its headquarters in the United States; (5) is en route to or from another country to which that alien is accredited; (6) is an official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State; or (7) is a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business.

Persons subject to one of these exceptions should answer "yes" to questions 11.I. and 12 and provide documentation such as a copy of the hunting license or letter granting the waiver, which must be recorded in 20.c. If the transferee (buyer) answered "yes" to this question, the licensee must complete 20.c.

The seller should verify supporting documentation provided by the purchaser and must attach a copy of the provided documentation to this ATF Form 4473, Firearms Transaction Record.

Question 13. State of Residence: The State in which an individual resides. An individual resides in a State if he or she is present in a State with the intention of making a home in that State. If an individual is a member of the Armed Forces on active duty, his or her State of residence also is the State in which his or her permanent duty station is located.

If you are a U.S. citizen with two States of residence, you should list your current residence address in response to question 2 (e.g., if you are buying a firearm while staying at your weekend home in State X, you should list your address in State X in response to question 2.)

Question 16. Certification Definition of Engaged in the Business: Under 18 U.S.C. § 922 (a)(1), it is unlawful for a person to engage in the business of dealing in firearms without a license. A person is engaged in the business of dealing in firearms if he or she devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms. A license is not required of a person who only makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his or her personal collection of firearms.

Section B

Question 18. Type of Firearm(s): Check all boxes that apply. "Other" refers to frames, receivers and other firearms that are not either handguns or long guns (rifles or shotguns), such as firearms having a pistol grip that expel a shotgun shell, or National Firearms Act (NFA) firearms.

If a frame or receiver can only be made into a long gun (rifle or shotgun), it is still a frame or receiver not a handgun or long gun. However, they still are "firearms" by definition, and subject to the same

GCA limitations as any other firearms. See Section 921(a)(3)(b). 18 U.S.C. Section 922(b)(1) makes it unlawful for a licensee to sell any firearm other than a shotgun or rifle to any person under the age of 21. Since a frame or receiver for a firearm, to include one that can only be made into a long gun, is a "firearm other than a shotgun or rifle," it cannot be transferred to anyone under the age of 21. Also, note that multiple sales forms are not required for frames or receivers of any firearms, or pistol grip shotguns, since they are not "pistols or revolvers" under Section 923(g)(3)(a).

Question 19. Gun Shows: If sale at gun show or other qualifying event sponsored by any national, State, or local organization, as authorized by 27 CFR § 478.100, the seller must record the name of event and the location (city and State) of the sale in question 19.

Question 20a. Identification: List issuing authority (e.g., State, County or Municipality) and type of identification presented (e.g., Virginia driver's license (VA DL), or other valid government-issued identification).

Know Your Customer: Before a licensee may sell or deliver a firearm to a nonlicensee, the licensee must establish the identity, place of residence, and age of the buyer. The buyer must provide a valid government-issued photo identification to the seller that contains the buyer's name, residence address, and date of birth. The licensee must record the type, identification number, and expiration date (if any) of the identification in question 20.a. A driver's license or an identification card issued by a State in place of a license is acceptable. Social Security cards are not acceptable because no address, date of birth, or photograph is shown on the cards. A combination of government-issued documents may be provided. For example, if a U.S. citizen has two States of residence and is trying to buy a handgun in State X, he may provide a driver's license (showing his name, date of birth, and photograph) issued by State Y and another government-issued document (such as a tax document) from State X showing his residence address. If the buyer is a member of the Armed Forces on active duty acquiring a firearm in the State where his or her permanent duty station is located, but he or she has a driver's license from another State, you should list the buyer's military identification card and official orders showing where his or her permanent duty station is located in response to question 20.a.

Question 20.b. Alternate Documentation: Licensees may accept a combination of valid government-issued documents to satisfy the identification document requirements of the law. The required valid government-issued photo identification document bearing the name, photograph, and date of birth of transferee may be supplemented by another valid, government-issued document showing the transferee's residence address. This alternate documentation should be recorded in question 20.b., with issuing authority and type of identification presented. A combination of government-issued documents may be provided. For example, if a U.S. citizen has two States of residence and is trying to buy a handgun in State X, he may provide a driver's license (showing his name, date of birth, and photograph) issued by State Y and another government-issued document (such as a tax document) from State X showing his residence address.

Question 20c. Documentation for Aliens Admitted to the United States Under a Nonimmigrant Visa: See instructions for Question 11.I. Types of acceptable documents would include a valid hunting license lawfully issued in the United States or a letter from the U.S. Attorney General granting a waiver.

Question(s) 21, 22, 23. NICS BACKGROUND CHECKS: 18 U.S.C. § 922(i) requires that prior to transferring any firearm to an unlicensed person, a licensed importer, manufacturer, or dealer must first contact the National Instant Criminal Background Check System (NICS). NICS will advise the licensee whether the system finds any information that the purchaser is prohibited by law from possessing or receiving a firearm. For purposes of this form, contacts to NICS include contacts to State agencies designated to conduct NICS checks for the Federal Government. **WARNING:** Any seller who transfers a firearm to any person they know or have reasonable cause to believe is prohibited from receiving or possessing a firearm violates the law, even if the seller has complied with the background check requirements of the Brady law.

After the buyer has completed Section A of the form and the licensee has completed questions 18-20, and before transferring the firearm, the licensee must contact NICS (read below for NICS check exceptions.) However, the licensee should NOT contact NICS and should stop the transaction if: the

buyer answers "no" to question 11.a.; the buyer answers "yes" to any question in 11.b.-11.l., unless the buyer only has answered "yes" to question 11.l. and also answers "yes" to question 12; or the buyer is unable to provide the documentation required by question 20.a, b, or c.

At the time that NICS is contacted, the licensee must record in question 21.a-c: the date of contact, the NICS (or State) transaction number, and the initial response provided by NICS or the State. The licensee may record the Missing Disposition Information (MDI) date in 21.c. that NICS provides for delayed transactions (States do not provide this number). If the licensee receives a "delayed" response, before transferring the firearm, the licensee must record in question 21.d. any response later provided by NICS or the State or that no resolution was provided within 3 business days. If the licensee receives a response from NICS or the State after the firearm has been transferred, he or she must record this information in question 21.e. Note: States acting as points of contact for NICS checks may use terms other than "proceed," "delayed," "cancelled," or "denied." In such cases, the licensee should check the box that corresponds to the State's response. Some States may not provide a transaction number for denials. However, if a firearm is transferred within the three business day period, a transaction number is required.

NICS Responses: If NICS provides a "proceed" response, the transaction may proceed. If NICS provides a "cancelled" response, the seller is prohibited from transferring the firearm to the buyer. If NICS provides a "denied" response, the seller is prohibited from transferring the firearm to the buyer. If NICS provides a "delayed" response, the seller is prohibited from transferring the firearm unless 3 business days have elapsed and, before the transfer, NICS or the State has not advised the seller that the buyer's receipt or possession of the firearm would be in violation of law. (See 27 CFR § 478.102(a) for an example of how to calculate 3 business days.) If NICS provides a "delayed" response, NICS also will provide a Missing Disposition Information (MDI) date that calculates the 3 business days and reflects when the firearm(s) can be transferred under Federal law. States may not provide an MDI date. Please note State law may impose a waiting period on transferring firearms.

EXCEPTIONS TO NICS CHECK: A NICS check is not required if the transfer qualifies for any of the exceptions in 27 CFR § 478.102(d). Generally these include: (a) transfers where the buyer has presented the licensee with a permit or license that allows the buyer to possess, acquire, or carry a firearm, and the permit has been recognized by ATF as a valid alternative to the NICS check requirement; (b) transfers of National Firearms Act weapons approved by ATF; or (c) transfers certified by ATF as exempt because compliance with the NICS check requirements is impracticable. See 27 CFR § 478.102(d) for a detailed explanation. If the transfer qualifies for one of these exceptions, the licensee must obtain the documentation required by 27 CFR § 478.131. A firearm must not be transferred to any buyer who fails to provide such documentation.

Section C

Question 24 and 25. Transfer on a Different Day and Recertification: If the transfer takes place on a different day from the date that the buyer signed Section A, the licensee must again check the photo identification of the buyer at the time of transfer, and the buyer must complete the recertification in Section C at the time of transfer.

Section D

Immediately prior to transferring the firearm, the seller must complete all of the questions in Section D. In addition to completing this form, the seller must report any multiple sale or other disposition of pistols or revolver on ATF Form 3310.4 (see 27 CFR § 478.126a).

Question(s) 26, 27, 28, 29 and 30. Firearm(s) Description: These blocks should be completed with the firearm(s) information. Firearms manufactured after 1968 should all be marked with a serial number. Should you acquire a firearm that is not marked with a serial number, you may answer question 28 with "NSN" (No Serial Number), "N/A" or "None."

If more than five firearms are involved in a transaction, the information required by Section D, questions 26-30, must be provided for the additional firearms on a separate sheet of paper, which must be attached to the ATF Form 4473 covering the transaction.

Types of firearms include: pistol, revolver, rifle, shotgun, receiver, frame and other firearms that are not either handguns or long guns (rifles or shotguns), such as firearms having a pistol grip that expel a shotgun shell or National Firearms Act (NFA) firearms.

Additional firearms purchases by the same buyer may not be added to the form after the seller has signed and dated it. A buyer who wishes to purchase additional firearms after the seller has signed and dated the form must complete a new ATF Form 4473. The seller must conduct a new NICS check.

Question 30c. This box is for the FFL's use in recording any information he or she finds necessary to conduct business.

Question 32 Federal Firearms License Number: Must contain at least the first three and last five digits of the FFL number, for instance X-XX-XXXXX.

Question 33-35 Transferor/Sellers Information: For "denied" and "cancelled" NICS transactions, the person who completed Section B must complete Section D, questions 33-35.

Privacy Act Information

Solicitation of this information is authorized under 18 U.S.C. § 923(g). Disclosure of the individual's Social Security number is voluntary. The number may be used to verify the buyer's identity.

Paperwork Reduction Act Notice

The information required on this form is in accordance with the Paperwork Reduction Act of 1995. The purpose of the information is to determine the eligibility of the transferee to receive firearms under Federal law. The information is subject to inspection by ATF officers and is required by 18 U.S.C. §§ 922 and 923.

The estimated average burden associated with this collection is 30 minutes per respondent or recordkeeper, depending on individual circumstances. Comments about the accuracy of this burden estimate and suggestions for reducing it should be directed to Reports Management Officer, Document Services Section, Bureau of Alcohol, Tobacco, Firearms and Explosives, Washington, DC 20226.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Confidentiality is not assured.

CONTROLLED
DOCUMENT
NOT TO BE
DUPLICATED



CITY OF SPARKS
POLICE DEPARTMENT
1701 E. PRATER WAY
SPARKS, NV 89434
(775) - 353 - 2247

Sparks Police Department

Case Number 15-2096

Offense(s):

Barcode	Location	Description	1/14/2016 4:54:00 PM
S041427	WEAPON BOX	KG1-S/S MARLIN .22 RIFLE S/N 05267863 WITH US EAGLE SCOPE AND LENSE COVERS	
S041428	WEAPON BOX	KG2-BLUE BROWNING .22 RIFLE S/N 02394NM146 WITH REDFIELD SCOPE AND LENSE COVER	
S041418	GUN SHELF	JE1-ONE BLACK PELICAN HARD CASE CONTAINING A CHROME COLORED COLT 1911 .45 CALIBER PISTOL WITH MAGAZINE S/N 2750016	

CONTROLLED
DOCUMENT
NOT TO BE
DUPLICATED

I hereby acknowledge the release of the above listed items

x Ian Hager
Received By

NAME IAN HAGER

Joanna Bellamy
Released By

ID # GALLOP

No. CR16-1457

STATE OF NEVADA

vs.

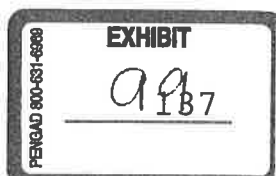
IAN ANDRE HAGER

Ex. 99

Admitted: 12/15/16

JACQUELINE BRYANT, CLERK

By /s/ Linda Sabo, Deputy



MH13-0034
STATE VS. IAN HAGER (MHC)
District Court 05/04/2014 10:23 AM
Washoe County
nht

FILED
2014 JUN -4 AM 10:29
JOEY DIOLINA HASTINGS
CLERK OF THE COURT
BY [Signature]
DEPUTY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

THE STATE OF NEVADA,
Plaintiff,
vs.
Ian Andre Hager,
Defendant

Criminal Case No. ~~CR13-0258~~ MH13-0034
Department No. Specialty Court

PETITION AND ORDER OF DISMISSAL AND DISCHARGE AND SETTING ASIDE OF CONVICTION

To the Honorable Specialty Court Judge of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe.

The undersigned Lieutenant for the State of Nevada represents that, pursuant to an order entered by the Sixth Judicial District Court on the 29th day of April, 2013, and with the consent and election of the defendant, the above-named proceedings were suspended and the defendant placed on probation or otherwise supervised by a state-approved facility upon certain terms as more fully identified with said order.

The undersigned would represent that on 9th day of May, 2014, this Court entered an order dismissing the above-entitled proceedings against the defendant, discharging the defendant from any further obligations therein and, where appropriate, setting aside any convictions entered by the Court.

Pursuant to NRS 239B.030, the undersigned hereby affirms this document does not contain the social security number of any person.


[Signature]
Stephanie O'Rourke, DPS Lieutenant

1 ORDER OF DISMISSAL AND DISCHARGE AND SETTING ASIDE OF CONVICTION

2 GOOD CAUSE APPEARING,

3 IT IS HEREBY ORDERED that the above entitled proceedings are dismissed per Court Order and the defendant
4 is discharged from any further obligations, and any convictions entered herein are set aside.
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6 Dated this 28 of May, 2014

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10 Specialty Court Judge
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Reno Law Group, LLC
595 Humboldt Street
Reno, NV 89509
(775) 329-5800-Telephone
(775) 329-5819-Facsimile

Certificate of Service

I certify that I am an attorney representing the Defendant, that I am over 18 years of age, and that on September 24, 2014, I placed in the United States Mail, postage prepaid, and I emailed a complete copy of this Petition to the District Attorney who has represented to be the attorney assigned to this matter.

Anthony Gordon, Esq.

Deputy District Attorney

P.O. Box 909

Winnemucca, Nevada 8944

EMAIL: heda-anthony@hcnv.us

DATED this 24th of September, 2014.



Treva J. Hearne

No. CR16-1457

STATE OF NEVADA

vs.

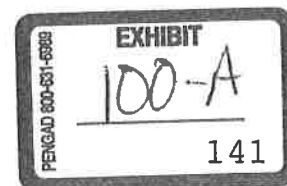
IAN ANDRE HAGER

Ex. **100-A**

Admitted: 12/15/16

JACQUELINE BRYANT, CLERK

By /s/ Linda Sabo, Deputy



FILED

2014 OCT 17 PM 5:02

TAMI RAE SPERO
DIST. COURT CLERK

B. Recumbent

IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF
NEVADA, IN AND FOR THE COUNTY OF HUMBOLDT

THE STATE OF NEVADA,

Case No.: CR 13-6258

Plaintiff,

Department No. 2

(Proposed) ORDER

vs.

IAN HAGER,

Defendant.

The Court, good cause appearing, and having been advised by the Second
Judicial District Court of Nevada of the completion by the Defendant of the terms of
his Plea, does now accept the Defendant's withdrawal of his plea and dismisses the
above entitled proceedings and, thereby, the defendant is discharged from and
further obligations, and any convictions entered herein are set aside.

IT IS SO ORDERED.

Dated this 17th day of October, 2014.



District Court Judge

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4 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
5 IN AND FOR THE COUNTY OF WASHOE.

6 * * *

7 THE STATE OF NEVADA,

8 Plaintiff,

Case No. CR16-1457

9 v.

Dept. No. 9

10 IAN ANDRE HAGER,

11 Defendant.

12 _____ /
13 LADIES AND GENTLEMEN OF THE JURY:

14 It is my duty as judge to instruct you in the law that
15 applies to this case, and it is your duty as jurors to follow the law
16 as I shall state it to you, regardless of what you may think the law
17 is or ought to be. On the other hand, it is your exclusive province
18 to determine the facts in the case, and to consider and weigh the
19 evidence for that purpose. The authority thus vested in you is not
20 an arbitrary power, but must be exercised with sincere judgment,
21 sound discretion, and in accordance with the rules of law stated to
22 you.

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26 Instruction No. 1

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

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26 Instruction No. 2

1 If, during this trial, I have said or done anything which
2 has suggested to you that I am inclined to favor the position of
3 either party, you will not be influenced by any such suggestion.

4 I have not expressed, nor intended to express, nor have I
5 intended to intimate, any opinion as to which witnesses are or are
6 not worthy of belief, what facts are or are not established, or what
7 inference should be drawn from the evidence. If any expression of
8 mine has seemed to indicate an opinion relating to any of these
9 matters, I instruct you to disregard it.

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26 Instruction No. 3

1 The defendant in this matter, IAN ANDRE HAGER, is being
2 tried upon an Information charging the said defendant with:

3 COUNT I. POSSESSION OF A FIREARM BY A PROHIBITED PERSON, A
4 VIOLATION OF NRS 202.360.2.a, A CATEGORY D FELONY, in the manner
5 following, to wit:

6 That the said defendant IAN ANDRE HAGER, on, about, and
7 between November 6, 2015 and April 8, 2016, within the County of
8 Washoe, State of Nevada, did willfully and unlawfully, having been
9 previously adjudicated as mentally ill in the Sixth and/or Second
10 Judicial District Courts of Nevada and committed to Mental Health
11 Court, did own or have in his actual or constructive possession or
12 under his dominion and control a firearm, which was a Bushmaster .223
13 caliber assault rifle, and another firearm, which was a Winchester 20-
14 gauge shotgun.

15 COUNT II. POSSESSION OF A FIREARM BY A PROHIBITED PERSON, A
16 VIOLATION OF NRS 202.360.2.a, A CATEGORY D FELONY, in the manner
17 following, to wit:

18 That the said defendant IAN ANDRE HAGER, on, about, and
19 between November 6, 2015 and April 8, 2016, within the County of
20 Washoe, State of Nevada, did willfully and unlawfully, having been
21 previously adjudicated as mentally ill in the Sixth and/or Second
22 Judicial District Courts of Nevada and committed to Mental Health
23 Court, did own or have in his actual or constructive possession or
24 under his dominion and control a firearm, which was a Navy Arms
25 handgun, and another firearm, which was a Colt 1911 handgun.

26 ///

1 COUNT III. POSSESSION OF A FIREARM BY A PROHIBITED PERSON, A
2 VIOLATION OF NRS 202.360.2.a, A CATEGORY D FELONY, in the manner
3 following, to wit:

4 That the said defendant IAN ANDRE HAGER, on, about, and
5 between November 6, 2015 and April 8, 2016, within the County of
6 Washoe, State of Nevada, did willfully and unlawfully, having been
7 previously adjudicated as mentally ill in the Sixth and/or Second
8 Judicial District Courts of Nevada and committed to Mental Health
9 Court, did own or have in his actual or constructive possession or
10 under his dominion and control a firearm, which was a Sears & Roebuck
11 shotgun, another firearm, which was a Sig Sauer .40 caliber handgun,
12 and another firearm, which was a Ruger .22 caliber rifle.

13 COUNT IV. POSSESSION OF A FIREARM BY A PROHIBITED PERSON, A
14 VIOLATION OF NRS 202.360.1.c, A CATEGORY B FELONY, in the manner
15 following, to wit:

16 That the said defendant IAN ANDRE HAGER, on, about, and
17 between November 6, 2015 and April 8, 2016, within the County of
18 Washoe, State of Nevada, did willfully and unlawfully own or have in
19 his actual or constructive possession or under his dominion and control
20 a firearm, which was a Bushmaster .223 caliber assault rifle, and
21 another firearm, which was a Winchester 20-gauge shotgun, while being
22 an unlawful user of, or addicted to, any controlled substance.

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1 COUNT V. POSSESSION OF A FIREARM BY A PROHIBITED PERSON, A
2 VIOLATION OF NRS 202.360.1.c, A CATEGORY B FELONY, in the manner
3 following, to wit:

4 That the said defendant IAN ANDRE HAGER, on, about, and
5 between November 6, 2015 and April 8, 2016, within the County of
6 Washoe, State of Nevada, did willfully and unlawfully own or have in
7 his actual or constructive possession or under his dominion and control
8 a firearm, which was a Navy Arms handgun, and another firearm, which
9 was a Colt 1911 handgun, while being an unlawful user of, or addicted
10 to, any controlled substance.

11 COUNT VI. POSSESSION OF A FIREARM BY A PROHIBITED PERSON, A
12 VIOLATION OF NRS 202.360.1.c, A CATEGORY B FELONY, in the manner
13 following, to wit:

14 That the said defendant IAN ANDRE HAGER, on, about, and
15 between November 6, 2015 and April 8, 2016, within the County of
16 Washoe, State of Nevada, did willfully and unlawfully own or have in
17 his actual or constructive possession or under his dominion and control
18 a firearm, which was a Sears & Roebuck shotgun, another firearm, which
19 was a Sig Sauer .40 caliber handgun, and another firearm, which was a
20 Ruger .22 caliber rifle, while being an unlawful user of, or addicted
21 to, any controlled substance.

22
23 To the charges stated in the Information, the said
24 defendant IAN ANDRE HAGER pled "NOT GUILTY."

25
26 Instruction No. 4

1 An Information is a formal method of accusing a defendant
2 of a crime. It is not evidence of any kind against the accused, and
3 does not create any presumption or permit any inference of guilt.
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Instruction No. 5

1 To the jury alone belongs the duty of weighing the evidence
2 and determining the credibility of the witnesses. The degree of
3 credit due a witness should be determined by his or her character,
4 conduct, manner upon the stand, fears, bias, impartiality,
5 reasonableness or unreasonableness of the statements he or she makes,
6 and the strength or weakness of his or her recollections, viewed in
7 the light of all the other facts in evidence.

8 If the jury believes that any witness has willfully sworn
9 falsely, they may disregard the whole of the evidence of any such
10 witness.

1 Although you are to consider only the evidence in the case
2 in reaching a verdict, you must bring to the consideration of the
3 evidence your everyday common sense and judgment as reasonable men
4 and women. Thus, you are not limited solely to what you see and hear
5 as the witnesses testify. You may draw reasonable inferences which
6 you feel are justified by the evidence, keeping in mind that such
7 inferences should not be based on speculation or guess.

8 A verdict may never be influenced by sympathy, passion,
9 prejudice, or public opinion. Your decision should be the product of
10 sincere judgment and sound discretion in accordance with these rules
11 of law.
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Instruction No. 7

1 There are two kinds of evidence: direct and circumstantial.
2 Direct evidence is direct proof of a fact, such as testimony of an
3 eyewitness. Circumstantial evidence is indirect evidence, proof of a
4 chain of facts from which you could find that another fact exists,
5 even though it has not been proved directly. Such evidence may
6 consist of any acts, declarations or circumstances of the crime. You
7 are entitled to consider both kinds of evidence. The law permits you
8 to give equal weight to both, but it is for you to decide how much
9 weight to give to any evidence.

10 If you are satisfied of the defendant's guilt beyond a
11 reasonable doubt, it matters not whether your judgment of guilt is
12 based upon direct or positive evidence or upon indirect and
13 circumstantial evidence or upon both.

14 It is for you to decide whether a fact has been proved by
15 circumstantial evidence. In making that decision, you must consider
16 all the evidence in the light of reason, common sense and experience.

17 You should not be concerned with the type of evidence but
18 rather the relative convincing force of the evidence.
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1 Intent may be proved by circumstantial evidence. It rarely
2 can be established by any other means. The prosecution is not
3 required to present direct evidence of a defendant's state of mind as
4 it existed during the commission of a crime.

5 While witnesses may see and hear and thus be able to give
6 direct evidence of what a defendant does or fails to do, there can be
7 no eyewitness account of a state of mind with which the acts were
8 done or omitted, but what a defendant does or fails to do may
9 indicate intent or lack of intent to commit the offense charged. You
10 may infer the existence of a particular state of mind from the
11 circumstances disclosed by the evidence.

12 In determining the issue as to intent, you are entitled to
13 consider any statements made and acts done or omitted by the accused,
14 and all facts and circumstances in evidence which may aid in the
15 determination of state of mind.

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26 Instruction No. 9

1 Neither side is required to call as witnesses all persons
2 who may have been present at any of the events disclosed by the
3 evidence or who may appear to have some knowledge of these events, or
4 to produce all objects or documents mentioned or suggested by the
5 evidence.
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Instruction No. 10

1 The evidence consists of the testimony of the witnesses,
2 the exhibits admitted in evidence, and stipulations.

3 Certain things are not evidence. Arguments and statements
4 by lawyers are not evidence. The lawyers are not witnesses. What they
5 say in their opening statements, closing arguments, and at other
6 times is intended to help you interpret the evidence, but it is not
7 evidence. If the facts as you remember them from the evidence differ
8 from the way the lawyers have stated them, your memory of them
9 controls.

10 Questions and objections by lawyers are not evidence.
11 Lawyers have a duty to their clients to object when they believe a
12 question is improper under the rules of evidence. You should not be
13 influenced by the objection or by my ruling on it. When the Court has
14 sustained an objection to a question you are to disregard the
15 question and may draw no inference from the wording of it or
16 speculate as to what the witness would have said if permitted to
17 answer. A question is not evidence and may be considered only as it
18 supplies meaning to the answer.

19 Anything that I have excluded from evidence or ordered
20 stricken and instructed you to disregard is not evidence. You must
21 not consider such items.

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26 Instruction No. 11

1 A witness who has special knowledge, skill, experience,
2 training or education in a particular science, profession or
3 occupation may testify as an expert witness. An expert witness may
4 give an opinion as to any matter in which the witness is skilled.

5 You should consider such expert opinion and weigh the
6 reasons, if any, given for it. You are not bound, however, by such
7 an opinion. Give it the weight to which you deem it entitled,
8 whether that be great or slight, and you may reject it, if, in your
9 judgment, the reasons given for it are unsound.

10 The opinions of experts are to be considered by you in
11 connection with all other evidence in the case. The same rules apply
12 to expert witnesses that apply to other witnesses in determining the
13 weight or value of such testimony.

1 Inconsistencies or discrepancies in the testimony of a
2 witness, or between the testimony of different witnesses, may or may
3 not cause the jury to discredit such testimony. Two or more persons
4 witnessing an incident or transaction may see or hear it differently;
5 an innocent misrecollection, like failure to recollect, is not an
6 uncommon experience. In weighing the effect of a discrepancy,
7 consider whether it pertains to a matter of importance, or an
8 unimportant detail, and whether the discrepancy results from innocent
9 error or willful falsehood.

1 Every person charged with the commission of a crime shall
2 be presumed innocent unless the contrary is proved by competent
3 evidence, and the burden rests upon the prosecution to establish
4 every element of the crime with which the defendant is charged beyond
5 a reasonable doubt.
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Instruction No. 14

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

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26 Instruction No. 15

1 The crime of Possession of a Firearm by a Prohibited
2 Person, as alleged in Counts III-VI, consists of the following
3 elements:

4 7. The defendant willfully owned or had in his possession
5 or under his custody or control;

6 8. Any firearm;

7 3.a. While an unlawful user of any controlled substance, or

8 b. While addicted to any controlled substance.

9
10 Possession of a Firearm by a Prohibited Person is a strict
11 liability offense. A person commits the offense if he willfully
12 possesses a firearm while being addicted to or while an unlawful user
13 of any controlled substance. The prohibited person need not have
14 known that his possession of the firearm was illegal, and need not
15 have intended to violate the law. Ignorance or misapprehension of the
16 law is not a defense to this crime.

17 The term "controlled substance" means a drug or other
18 substance included in schedule I, II, III, IV, or V of Chapter 453 of
19 the Nevada Administrative Code. Methamphetamine, cocaine, heroin,
20 ecstasy, psilocybin, psilocin, oxycodone, hydrocodone, and marijuana,
21 by whatever official, common, usual, chemical or trade name designated,
22 are controlled substances. It is unlawful to use or possess these
23 substances without a prescription from a physician. The term
24 "controlled substance" does not include distilled spirits, wine, malt
25 beverages, or tobacco.

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1 A person is "addicted to" any controlled substance if he
2 habitually takes or otherwise uses any controlled substance, other than any
3 maintenance dosage of a narcotic or habit-forming drug administered pursuant
4 to a pilot clinic program for the treatment of narcotic addicts pursuant to
5 Chapter 453 of the Nevada Revised Statutes, to the extent that the person
6 endangers the health, safety or welfare of himself or herself or any other
7 person.

8 A "user" of any controlled substance is a person who uses any
9 controlled substance.

10 In order for a person who is an unlawful user of or addicted to
11 any controlled substance to be guilty of Possession of a Firearm by a
12 Prohibited Person, he must have owned or had a firearm in his
13 possession or under his custody or control while addicted to or while
14 an unlawful user of any controlled substance.

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26 Instruction No. 16

1 An unlawful drug user may regain his right to possess a
2 firearm simply by ending his drug use.
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Instruction No. 17

1 The crime of Possession of a Firearm by a Prohibited
2 Person, as alleged in Counts I-III, consists of the following
3 elements:

- 4 1. The defendant willfully owned or had in his possession
5 or under his custody or control;
- 6 2. Any firearm;
- 7 3. After having been adjudicated mentally ill by a court of
8 this State, any other state or the United States.

9 Possession of a Firearm by a Prohibited Person is a strict
10 liability offense. A person who has been adjudicated mentally
11 ill commits the offense if he willfully possesses a firearm.
12 The prohibited person need not have known that his possession
13 of the firearm was illegal, and need not have intended to
14 violate the law. Ignorance or misapprehension of the law is
15 not a defense to this crime.

16 To "adjudicate" is to rule upon judicially.

17 "Mental illness" means a clinically significant disorder
18 of thought, mood, perception, orientation, memory or behavior
19 which:

- 20 1. Is listed in the most recent edition of the clinical
21 manual of the International Classification of Diseases,
22 ICD-9-CM, code range 295 to 302.9, inclusive, 306 to
23 309.9, inclusive, or 311 to 316, inclusive, or the
24 corresponding code in the most recent edition of the
25 American Psychiatric Association's Diagnostic and
26

1 Statistical Manual of Mental Disorders, DSM-IV, Axis I;
2 and

3 2. Seriously limits the capacity of a person to function
4 in the primary aspects of daily living, including,
5 without limitation, personal relations, living
6 arrangements, employment and recreation.

7 Posttraumatic Stress Disorder is an Axis I disorder having
8 a Code of 309.81 in the most recent edition of the American
9 Psychiatric Association's Diagnostic and Statistical Manual of
10 Mental Disorders, DSM-IV.

11 "Firearm" means any device designed to be used as a weapon
12 from which a projectile may be expelled through the barrel by
13 the force of any explosion or other form of combustion. The
14 term "firearm" includes any firearm that is loaded or unloaded
15 and operable or inoperable.

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Instruction No. 18

1 NRS 176A.250 provides that a court may establish an
2 appropriate program for the treatment of mental illness or
3 intellectual disabilities to which it may assign a defendant
4 pursuant to NRS 176A.260.

5 NRS 176A.260 provides that if a defendant who suffers from
6 a mental illness or is intellectually disabled tenders a plea
7 of guilty, or is found guilty of, any probationable offense,
8 the court may, without entering a judgment of conviction and
9 with the consent of the defendant, suspend further proceedings
10 and place the defendant on probation upon terms and conditions
11 that must include attendance and successful completion of a
12 program established pursuant to NRS 176A.250.

13 Upon fulfillment of the terms and conditions, the court
14 shall discharge the defendant and dismiss the proceedings.
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26 Instruction No. 19

Possession may be actual or constructive. A person who knowingly has direct physical control over a thing at a given time is then in actual possession of it. A person who, although not in actual possession, knowingly has both the power and the intention at a given time to exercise dominion or control over a thing, either directly or through another person or persons, is then in constructive possession of it.

The possession element of the offense of Possession of a Firearm by a Prohibited Person is satisfied if you find beyond a reasonable doubt that the defendant had either actual or constructive possession of a firearm.

1 In regard to Counts III-VI of the Information, the State
2 has alleged alternative theories of Possession of a Firearm by a
3 Prohibited Person, as allowed by law.

4 In order to reach a verdict as to each of these counts, you
5 must unanimously agree that the defendant is guilty of the offense
6 based upon one or more of the alternative theories alleged by the
7 State. However, it is not necessary that you unanimously agree upon
8 the specific theory by which the offense was committed.

9 For example, if six of you agree that the Defendant
10 possessed a firearm while addicted to any controlled substance, and
11 six of you agree that the Defendant possessed a firearm while a user
12 of any controlled substance, then you may properly find the Defendant
13 guilty of Possession of a Firearm by a Prohibited Person.

14 The elements of the offense are set forth elsewhere in
15 these instructions.

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26 Instruction No. 21

1 One of the questions in this case is whether the defendant
2 relied on the Sparks Police Department evidence employee and
3 the State of Nevada evidence employee that the criminal act(s)
4 as alleged were legal. This defense is called entrapment by
5 estoppel.

6 For the defense of entrapment by estoppel, the defendant
7 must prove the following five elements by a preponderance of
8 the evidence:

9 1) An authorized government official empowered to render
10 the claimed erroneous advice;

11 2) Who has been made aware of all the relevant historical
12 facts;

13 3) Affirmatively told him the proscribed conduct was
14 permissible;

15 4) That he relied on the false information; and

16 5) That his reliance was reasonable.

17 Additionally, a defendant must do more than show that the
18 government made vague or even contradictory statements. He
19 must show that the government affirmatively told him the
20 proscribed conduct was permissible.
21

22 If you find the defendant has proven by a preponderance of
23 the evidence each of the five elements listed above, then you
24 must find the defendant not guilty.
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1 "Preponderance of the evidence" is defined as "more likely
2 than not." In other words, the defendant must prove to you that
3 the five elements just read are more likely true than not.
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25 Instruction No. 22
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1 Evidence of other crimes, wrongs or acts is not admissible
2 to prove the character of a person in order to show that he
3 acted in conformity therewith. It may however, be admissible
4 to for other purposes such as proof of motive, opportunity,
5 intent, preparation, plan, knowledge, identity or absence of
6 mistake or accident.

7 In this case, you should consider the evidence for the
8 limited purpose of deciding whether the Defendant was
9 adjudicated mentally ill by a court of this State, any other
10 state or the United States, as alleged in Counts I-III; whether
11 the Defendant was an unlawful user of any controlled substance
12 as alleged in Count IV-VI; and whether the Defendant was
13 addicted to any controlled substance as alleged in Counts IV-
14 VI.

15 For the limited purpose for which you may consider such
16 evidence, you must weigh it in the same manner as you do all
17 other evidence in the case.

18 You are not permitted to consider such evidence for any
19 other purpose. Specifically, you may not use this evidence to
20 conclude that because the defendant may have committed the act
21 alleged in his prior case, he must also have committed the acts
22 charged in the information.

1 On arriving at a verdict in this case, you shall not
2 discuss or consider the subject of penalty or punishment, and it must
3 not in any way affect your decision as to the guilt or innocence of
4 the defendant.

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26 Instruction No. 24

Each charge should be considered separately. The fact that you may find the defendant guilty or not guilty of one of the charges should not control your verdict as to the other charge. You must give separate consideration to the evidence as to each charge.

Instruction No. 25

1 Except for discussing the case with your fellow jurors
2 during your deliberations:

3 Do not communicate with anyone in any way and do not let
4 anyone else communicate with you in any way about the case or its
5 merits. This includes discussing the case in person, in writing, by
6 phone or electronic means, via email, text messaging, or any Internet
7 chat room, blog, website or other feature. This applies to
8 communicating with your family members, your employer, and the media
9 or press. If you are asked or approached in any way about your jury
10 service or anything about this case, you must respond that you have
11 been ordered not to discuss the matter.

12 Do not read, watch, or listen to any news or media accounts
13 or commentary about the case. Do not do any research, such as
14 consulting dictionaries, searching the Internet or using other
15 reference materials. No juror is to make any investigation on your
16 own, test a theory of the case on your own, re-create any aspect of
17 the case on your own, or in any other way try to learn about the case
18 on your own.

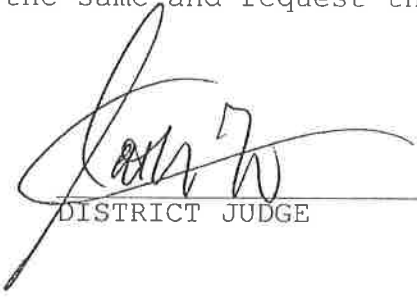
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26 Instruction No. 26

1 It is your duty as jurors to consult with one another and
2 to deliberate, with a view of reaching an agreement, if you can do so
3 without violence to your individual judgment. You each must decide
4 the case for yourself, but should do so only after a consideration of
5 the case with your fellow jurors; and you should not hesitate to
6 change an opinion when convinced that it is erroneous. However, you
7 should not be influenced to vote in any way on any question submitted
8 to you by fact that a majority of the jurors, or any of them, favor
9 such a decision. In other words, you should not surrender your honest
10 convictions concerning the effect or weight of evidence for the mere
11 purpose of returning a verdict or solely because of the opinion of
12 the other jurors.

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26 Instruction No. 27

1 Upon retiring to the jury room you will select one of your
2 number to act as foreperson, who will preside over your deliberations
3 and who will sign a verdict to which you agree.

4 When all twelve (12) of you have agreed upon a verdict, the
5 foreperson should sign and date the same and request the Bailiff to
6 return you to court.

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10 DISTRICT JUDGE
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Instruction No. 28

1 A person is an "unlawful user of, or addicted to, any
2 controlled substance if a person who uses a controlled substance
3 and has lost the power of self-control with reference to the use
4 of controlled substance; and any person who is a current user of
5 a controlled substance in a manner other than as prescribed by a
6 licensed physician. Such use is not limited to the use of drugs
7 on a particular day, or within a matter of days or weeks before,
8 but rather that the unlawful use has occurred recently enough to
9 indicate that the individual is actively engaged in such
10 conduct. A person may be an unlawful current user of a
11 controlled substance even though the substance is not being used
12 at the precise time the person seeks to acquire a firearm or
13 receives or possesses a firearm. An inference of current use may
14 be drawn from evidence of a recent use or possession of a
15 controlled substance or a pattern of use or possession that
16 reasonably covers the present time, e.g., a conviction for use
17 or possession of a controlled substance within the past year;
18 multiple arrests for such offenses within the past 5 years if
19 the most recent arrest occurred within the past year; or persons
20 found through a drug test to use a controlled substance
21 unlawfully, provided that the test was administered within the
22 past year.

23
24
25
26 *Makes various changes concerning the sale, disposition,
manufacture, and possession of weapons (BDR 15-331);
Minutes of the Senate Committee on Judiciary, 2003 Leg.,*

*Δ's Rejected
#2*

1 72nd Sess. 6-7, 11-12, Ex. G (statement of Stan Olsen,
2 Lobbyist, Las Vegas Metropolitan Police Department;
3 statement of Sgt. Robert Roshak, Las Vegas Metropolitan
4 Police Department, representing the Nevada Sheriffs' and
5 Chiefs' Association) (intent of SB 199 was to mirror
6 federal law. This would allow Nevada law enforcement to
7 operate without relying on federal involvement or
8 federal oversight; the language... was mirrored from
9 federal firearms legislation); 27 C.F.R. § 478.11; NRS
10 202.360.
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Reject

1 A person has been adjudicated mentally ill if:

2 a). A determination by a court, board, commission or other
3 lawful authority that a person, as a result of marked
4 subnormal intelligence or mental illness, incompetency,
5 condition or disease:

6 1) Is a danger to himself or others; or

7 2) Lacks the mental capacity to contract or manage his
8 own affairs.
9

10 b) The term shall include-

11 1) A finding of insanity by a court in a criminal
12 case; and

13 2) Those persons found incompetent to stand trial or
14 found not guilty by reason of lack of mental
15 responsibility pursuant to articles 50a and 72b of the
16 Uniform Code of Military Justice, 10 U.S.C. 850a,
17 876b.
18

19 *Makes various changes concerning the sale, disposition,*
20 *manufacture, and possession of weapons (BDR 15-331);*
21 *Minutes of the Senate Committee on Judiciary, 2003 Leg.,*
22 *72nd Sess. 6-7, 11-12, Ex. G (statement of Stan Olsen,*
23 *Lobbyist, Las Vegas Metropolitan Police Department;*
24 *statement of Sgt. Robert Roshak, Las Vegas Metropolitan*
25 *Police Department, representing the Nevada Sheriffs' and*
26 *Chiefs' Association) (intent of SB 199 was to mirror*
federal law. This would allow Nevada law enforcement to
operate without relying on federal involvement or federal
oversight; the language... was mirrored from federal firearms
legislation); 27 C.F.R. § 478.11; NRS 202.360

Δ's Rejected
#3

1 CODE 4245
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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF WASHOE.
8

* * *

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

Case No. CR16-1457

12 IAN ANDRE HAGER,

Dept. No. 9

13 Defendant.
14
15 _____ /

16 VERDICT

17 We, the jury in the above-entitled matter, find the
18 defendant, IAN ANDRE HAGER, GUILTY of Count I. POSSESSION OF A
19 FIREARM BY A PROHIBITED PERSON.
20

21 DATED this 16 day of December, 2016.
22

23 Patricia Cruz-Hernandez
FOREPERSON
24
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1 CODE 4245
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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF WASHOE.

8 * * *

9 THE STATE OF NEVADA,

10 Plaintiff,

Case No. CR16-1457

11 v.

Dept. No. 9

12 IAN ANDRE HAGER,

13 Defendant.
14

15 _____ /
16 VERDICT

17 We, the jury in the above-entitled matter, find the
18 defendant, IAN ANDRE HAGER, GUILTY of Count II. POSSESSION OF A
19 FIREARM BY A PROHIBITED PERSON.
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21 DATED this 16 day of December, 2016.

22 Patricia Cruz-Hernandez
23 FOREPERSON
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1 CODE 4245
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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF WASHOE.

8 * * *

9 THE STATE OF NEVADA,

10 Plaintiff,

Case No. CR16-1457

11 v.

Dept. No. 9

12 IAN ANDRE HAGER,

13 Defendant.
14
15 _____/

16 VERDICT

17 We, the jury in the above-entitled matter, find the
18 defendant, IAN ANDRE HAGER, GUILTY of Count III. POSSESSION OF A
19 FIREARM BY A PROHIBITED PERSON.
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21 DATED this 16 day of December, 2016.

22 Patricia Cruz-Hernandez
23 FOREPERSON
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1 CODE 4245
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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF WASHOE.

8 * * *

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

Case No. CR16-1457

12 IAN ANDRE HAGER,

Dept. No. 9

13 Defendant.
14
15 _____/

16 VERDICT

17 We, the jury in the above-entitled matter, find the
18 defendant, IAN ANDRE HAGER, GUILTY of Count IV. POSSESSION OF A
19 FIREARM BY A PROHIBITED PERSON.
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21 DATED this 16 day of December, 2016.

22 Patricia Cruz-Hernandez
23 FOREPERSON
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1 CODE 4245
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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF WASHOE.
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* * *

9 THE STATE OF NEVADA,

10 Plaintiff,

Case No. CR16-1457

11 v.

Dept. No. 9

12 IAN ANDRE HAGER,

13 Defendant.
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15 _____/

16 VERDICT

17 We, the jury in the above-entitled matter, find the
18 defendant, IAN ANDRE HAGER, GUILTY of Count V. POSSESSION OF A
19 FIREARM BY A PROHIBITED PERSON.
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21 DATED this 16 day of December, 2016.

22 Patricia Cruz-Hernandez
23 FOREPERSON
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1 CODE 4245
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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF WASHOE.

8 * * *

9 THE STATE OF NEVADA,

10 Plaintiff,

Case No. CR16-1457

11 v.

Dept. No. 9

12 IAN ANDRE HAGER,

13 Defendant.
14

15 _____/
16 VERDICT

17 We, the jury in the above-entitled matter, find the
18 defendant, IAN ANDRE HAGER, GUILTY of Count VI. POSSESSION OF A
19 FIREARM BY A PROHIBITED PERSON.
20

21 DATED this 16 day of December, 2016

22 Patricia Cruz-Hernandez
23 FOREPERSON
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1 CODE NO. 1850
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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF WASHOE
8

* * *

9 THE STATE OF NEVADA,

10 Plaintiff,

Case No. CR16-1457

11 vs.

Dept. No. 9

12 IAN ANDRE HAGER,

13 Defendant.
14 _____/

15 JUDGMENT

16 The Defendant having been found Guilty by a jury, and no sufficient cause
17 being shown by Defendant as to why judgment should not be pronounced against him, the
18 Court rendered judgment as follows:

19 That Ian Andre Hager is guilty of the crimes of Possession of a Firearm by a
20 Prohibited Person, a violation of NRS 202.360.2.a, a Category D felony, as charged in
21 Counts I, II and III of the Information and Possession of a Firearm by a Prohibited Person, a
22 violation of NRS 202.360.1.c, a Category B felony, as charged in Counts IV, V and VI of the
23 Information, and that he be punished by imprisonment in the Nevada Department of
24 Corrections for the minimum term of nineteen (19) months to a maximum term of forty-eight
25 (48) months, as to each of Counts I through VI, to run concurrently with each other. The
26 Defendant is further ordered to pay the statutory Twenty-Five Dollar (\$25.00) administrative
27 assessment fee, the Three Dollar (\$3.00) administrative assessment for obtaining a
28 biological specimen and conducting a genetic marker analysis, a One Hundred Fifty Dollar

1 (\$150.00) DNA testing fee and reimburse the County of Washoe the sum of Five Hundred
2 Dollars (\$500.00) for legal representation by the Washoe County Public Defender's Office.
3 The Defendant is given credit for three hundred seven (307) days time served.

4 DATED this 8th day of February, 2017.

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7 _____
8 DISTRICT JUDGE
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28

1 CODE NO. 2515
2 WASHOE COUNTY PUBLIC DEFENDER
3 JOHN REESE PETTY, State Bar Number 10
4 350 South Center Street, 5th Floor
5 P.O. Box 11130
6 Reno, Nevada 89520-0027
7 (775) 337-4827
8 Attorney for Defendant

9
10 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
11
12 IN AND FOR THE COUNTY OF WASHOE
13

14 THE STATE OF NEVADA,

15 Plaintiff,

16 vs.

Case No. CR16-1457

17 IAN ANDRE HAGER,

Dept. No. 9

18 Defendant.
19

20 **NOTICE OF APPEAL**

21 IAN ANDRE HAGER, the defendant above named, appeals to the Supreme Court of
22 Nevada from the judgment of conviction entered in this action on February 9, 2017. This is not a
23 Fast Track appeal.

24 The undersigned hereby affirms, pursuant to NRS 239B.030, that this document does not
25 contain the social security number of any person.

26 DATED this 10th day of March 2017.

JEREMY T. BOSLER
WASHOE COUNTY PUBLIC DEFENDER

By: /s/ John Reese Petty
JOHN REESE PETTY, Chief Deputy

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IAN ANDRE HAGER (#1172948)
Northern Nevada Correctional Center
P.O. Box 7000
Carson City, Nevada 89702

ADAM LAXALT
Attorney General State of Nevada
100 N. Carson Street
Carson City, Nevada 89701

/s/ John Reese Petty
JOHN REESE PETTY

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 16th day of August 2017. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Terrence P. McCarthy, Chief Appellate Deputy,
Washoe County District Attorney

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

Ian Andre Hager (#1172948)
Tonopah Conservation Camp
HC 76
Box 8045
Tonopah, Nevada 89049

John Reese Petty
Washoe County Public Defender's Office

IN THE SUPREME COURT OF THE STATE OF NEVADA

IAN ANDRE HAGER,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Appeal from a Judgment of Conviction in Case Number CR16-1457
The Second Judicial District Court of the State of Nevada
Honorable Scott N. Freeman, District Judge

JOINT APPENDIX VOLUME ONE

JEREMY T. BOSLER
Washoe County Public Defender

JOHN REESE PETTY
Chief Deputy
350 South Center Street, 5th Floor
P.O. Box 11130
Reno, Nevada 89520-0027

Attorneys for Appellant

CHRISTOPHER J. HICKS
Washoe County District Attorney

TERRENCE P. McCARTHY
Chief Appellate Deputy
One South Sierra, 7th Floor
P.O. Box 11130
Reno, Nevada 89520

Attorneys for Respondent

Electronically Filed
Aug 16 2017 12:56 p.m.
No. 72613 Elizabeth A. Brown
Clerk of Supreme Court

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DA #16-5592

SPD 16-2829

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Jacqueline Bryant
Clerk of the Court
Transaction # 5742838 : mcholicco

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5 Reno, NV 89520
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7 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
8 IN AND FOR THE COUNTY OF WASHOE

9 * * *

10 THE STATE OF NEVADA,

11 Plaintiff,

Case No.: CR16-1457

12 v.

Dept. No.: D09

13 IAN ANDRE HAGER,

14 Defendant.

15 INFORMATION

16 CHRISTOPHER J. HICKS, District Attorney within and for the
17 County of Washoe, State of Nevada, in the name and by the authority
18 of the State of Nevada, informs the above entitled Court that IAN
19 ANDRE HAGER, the defendant above named, has committed the crime(s)
20 of:

21 COUNT I. POSSESSION OF A FIREARM BY A PROHIBITED PERSON, A
22 VIOLATION OF NRS 202.360.2.a, A CATEGORY D FELONY, (51460) in the
23 manner following, to wit:

24 That the said defendant IAN ANDRE HAGER, on, about, and
25 between November 6, 2015 and April 8, 2016, within the County of
26 Washoe, State of Nevada, did willfully and unlawfully, having been

1 previously adjudicated as mentally ill in the Sixth and/or Second
2 Judicial District Courts of Nevada and committed to Mental Health
3 Court, or after having been committed to any mental health facility,
4 did own or have in his actual or constructive possession or under his
5 dominion and control a firearm, which was a Bushmaster .223 caliber
6 assault rifle, and another firearm, which was a Winchester 20-gauge
7 shotgun.

8 COUNT II. POSSESSION OF A FIREARM BY A PROHIBITED PERSON, A
9 VIOLATION OF NRS 202.360.2.a, A CATEGORY D FELONY, (51460) in the
10 manner following, to wit:

11 That the said defendant IAN ANDRE HAGER, on, about, and
12 between November 6, 2015 and April 8, 2016, within the County of
13 Washoe, State of Nevada, did willfully and unlawfully, having been
14 previously adjudicated as mentally ill in the Sixth and/or Second
15 Judicial District Courts of Nevada and committed to Mental Health
16 Court, or after having been committed to any mental health facility,
17 did own or have in his actual or constructive possession or under his
18 dominion and control a firearm, which was a Navy Arms handgun, and
19 another firearm, which was a Colt 1911 handgun.

20 COUNT III. POSSESSION OF A FIREARM BY A PROHIBITED PERSON, A
21 VIOLATION OF NRS 202.360.2.a, A CATEGORY D FELONY, (51460) in the
22 manner following, to wit:

23 That the said defendant IAN ANDRE HAGER, on, about, and
24 between November 6, 2015 and April 8, 2016, within the County of
25 Washoe, State of Nevada, did willfully and unlawfully, having been
26 previously adjudicated as mentally ill in the Sixth and/or Second

1 Judicial District Courts of Nevada and committed to Mental Health
2 Court, or after having been committed to any mental health facility,
3 did own or have in his actual or constructive possession or under his
4 dominion and control a firearm, which was a Sears & Roebuck shotgun,
5 another firearm, which was a Sig Sauer .40 caliber handgun, and another
6 firearm, which was a Ruger .22 caliber rifle.

7 COUNT IV. POSSESSION OF A FIREARM BY A PROHIBITED PERSON, A
8 VIOLATION OF NRS 202.360.1.c, A CATEGORY B FELONY, (51460) in the
9 manner following, to wit:

10 That the said defendant IAN ANDRE HAGER, on, about, and
11 between November 6, 2015 and April 8, 2016, within the County of
12 Washoe, State of Nevada, did willfully and unlawfully own or have in
13 his actual or constructive possession or under his dominion and control
14 a firearm, which was a Bushmaster .223 caliber assault rifle, and
15 another firearm, which was a Winchester 20-gauge shotgun, while being
16 an unlawful user of, or addicted to, any controlled substance.

17 COUNT V. POSSESSION OF A FIREARM BY A PROHIBITED PERSON, A
18 VIOLATION OF NRS 202.360.1.c, A CATEGORY B FELONY, (51460) in the
19 manner following, to wit:

20 That the said defendant IAN ANDRE HAGER, on, about, and
21 between November 6, 2015 and April 8, 2016, within the County of
22 Washoe, State of Nevada, did willfully and unlawfully own or have in
23 his actual or constructive possession or under his dominion and control
24 a firearm, which was a Navy Arms handgun, and another firearm, which
25 was a Colt 1911 handgun, while being an unlawful user of, or addicted
26 to, any controlled substance.

1 COUNT VI. POSSESSION OF A FIREARM BY A PROHIBITED PERSON, A
2 VIOLATION OF NRS 202.360.1.c, A CATEGORY B FELONY, (51460) in the
3 manner following, to wit:

4 That the said defendant IAN ANDRE HAGER, on, about, and
5 between November 6, 2015 and April 8, 2016, within the County of
6 Washoe, State of Nevada, did willfully and unlawfully own or have in
7 his actual or constructive possession or under his dominion and control
8 a firearm, which was a Sears & Roebuck shotgun, another firearm, which
9 was a Sig Sauer .40 caliber handgun, and another firearm, which was a
10 Ruger .22 caliber rifle, while being an unlawful user of, or addicted
11 to, any controlled substance.

12
13 All of which is contrary to the form of the Statute in such
14 case made and provided, and against the peace and dignity of the
15 State of Nevada.

16
17 CHRISTOPHER J. HICKS
18 District Attorney
19 Washoe County, Nevada

20
21 By: /s/ LUKE PRENGAMAN
22 LUKE J. PRENGAMAN
23 6094
24 CHIEF DEPUTY DISTRICT ATTORNEY
25
26

1 The following are the names and addresses of such witnesses
2 as are known to me at the time of the filing of the within
3 Information:
4

5 LINDA BROWN, SPD - 1701 E. PRATER WAY SPARKS, NV 89434
6 SHAWN CONGDON, SPARKS POLICE DEPARTMENT
7 KEVIN L. DACH, SPARKS POLICE DEPARTMENT
8 KENNETH GALLOP, SPARKS POLICE DEPARTMENT
9 BRYAN ORR, SPARKS POLICE DEPARTMENT
10 CHRISTOPHER M. ROWE, SPARKS POLICE DEPARTMENT
11 JOHN VASQUEZ, SPARKS POLICE DEPARTMENT
12 JAMES POPOVICH, SPECIALTY COURT MANAGER

13 The party executing this document hereby affirms that this
14 document submitted for recording does not contain the social security
15 number of any person or persons pursuant to NRS 239B.230.

16 CHRISTOPHER J. HICKS
17 District Attorney
18 Washoe County, Nevada

19 By/s/ LUKE PRENGAMAN
20 LUKE J. PRENGAMAN
21 6094
22 CHIEF DEPUTY DISTRICT ATTORNEY

23
24
25
26 PCN: SPPD0046366C-HAGER

1 CODE NO. 2245
2 WASHOE COUNTY PUBLIC DEFENDER
3 N. ERICA FLAVIN, BAR #13870
4 P.O. BOX 11130
5 RENO, NV 89520-0027
6 (775)337-4800
7 Attorney for Defendant

8
9 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
10
11 IN AND FOR THE COUNTY OF WASHOE

12 THE STATE OF NEVADA,
13
14 Plaintiff,

Case No.: CR16-1457

15 IAN ANDREW HAGER,
16
17 Defendant.

Dept. No.: 9

18
19 MOTION IN LIMINE TO PRECLUDE IRRELEVANT TESTIMONY

20 COMES NOW, IAN HAGER, by and through his attorney of record, Erica Flavin, and
21 hereby respectfully requests that this Court issue an order precluding the State from introducing
22 any evidence that Mr. Hager allegedly made threats to police officers and preclude any videos
23 of Mr. Hager where he does not possess a firearm. This evidence is not relevant to the charged
24 offenses, and is more prejudicial than it is probative. This motion is based on the attached points
25 and authorities, all papers and pleadings on file, and any evidence presented to this Court.
26 Further, Mr. Hager requests a hearing in this matter.

POINTS AND AUTHORITIES

FACTUAL HISTORY

Mr. Hager incorporates into this motion the factual history and legal argument stated in
the Motion to Dismiss filed on November 17, 2016.

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1 that Mr. Hager allegedly made threats to police officers and preclude any videos of Mr. Hager
2 where he does not possess a firearm.

3 **AFFIRMATION PURSUANT TO NRS 239B.030**

4 The undersigned does hereby affirm that the preceding document does not contain the
5 social security number of any person.
6

7 Respectfully submitted this 21st day of November, 2016.

8 JEREMY T. BOSLER
9 Washoe County Public Defender

10
11 By /s/ N. Erica Flavin
12 N. ERICA FLAVIN
13 Deputy Public Defender
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CERTIFICATE OF SERVICE

I, LINDA GRAY, hereby certify that I am an employee of the Washoe County Public Defender's Office, Reno, Washoe County, Nevada, and that on this date I forwarded a true copy of the foregoing document through electronic service to:

LUKE PRENGAMEN, Deputy District Attorney

DATED this 21st day of November, 2016.

/s/ LINDA GRAY
LINDA GRAY

1 CODE 2645
2 Christopher J. Hicks
3 #7747
4 P.O. Box 11130
5 Reno, NV 89520
6 (775) 328-3200
7 Attorney for State of Nevada

8
9 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
10
11 IN AND FOR THE COUNTY OF WASHOE.

12 * * *

13 THE STATE OF NEVADA,

14 Plaintiff,

Case No. CR16-1457

15 v.

Dept. No. 9

16 IAN ANDRE HAGER,

17 Defendant.

18
19 OPPOSITION TO DEFENDANT'S "MOTION IN LIMINE
20 TO PRECLUDE IRRELEVANT TESTIMONY"

21 Comes now the State of Nevada, by and through Luke Prengaman, Chief Deputy
22 District Attorney, and hereby opposes the Defendant's "MOTION IN LIMINE TO
23 PRECLUDE IRRELEVANT TESTIMONY." This Opposition is based on the attached
24 Memorandum of Points and Authorities.

25 DATED this 1st day of December, 2016.

26 Christopher J. Hicks
27 Washoe County District Attorney

28 By /s/ LUKE PRENGAMAN
Luke Prengaman
6094
Chief Deputy District Attorney

I. ARGUMENT

¹ The videos on Facebook show the dates on which they were posted to the site, but do not show the date or time that the videos were created.

1 In conjunction with evidence of the Defendant's contacts with the Reno Police, and
2 specifically Det. Scott Johnson, his frustration with them, and his e-mail to Det. Johnson
3 on March 31, evidence of the content of the above-referenced videos is relevant to show
4 that the Defendant posted his videos relatively close in time to when they were created,
5 which tends to show that his actual and constructive possession of the firearms depicted in
6 the other videos posted to his Facebook account occurred during the timeframe alleged in
7 the information (November 6, 2015, to April 8, 2016).

8 Additionally, evidence of the Defendant's contacts with Det. Johnson are relevant to
9 explain how the Sparks Police Department came to investigate the Defendant and why
10 they sought and obtained a search warrant to search his residence.² On April 5, 2016,

11
12 ² See, e.g., *Commonwealth v. Beckwith*, 674 A.2d 276, 280 (Pa. Super. 1996) (Rejecting
13 defendant's argument that trial court "erred by denying his motion in limine to preclude reference
14 to the existing PFA [Protection From Abuse] Order, where violation of same was not at issue
15 during the jury trial"; "Evidence of the existence of the PFA Order was necessary to explain the
16 police course of conduct in responding to the disturbance on the evening in question"); *State v.*
17 *Laprade*, 958 A.2d 1179, 1185-1186 (Vt. 2008) (Prior bad acts evidence in the form of testimony
18 about defendant's prior domestic assault against his girlfriend, was relevant to show context of
19 charged crime and explain witness's actions; "the jury might well have found C.B.'s behavior –
20 particularly her decision not to call the police herself when she repeatedly saw defendant near her
21 apartment after the charged incident – incongruous or difficult to reconcile with her claim that
22 defendant had recently broken into her apartment and strangled her. This is just the sort of
23 incongruity that 'context' evidence is meant to remedy in domestic-violence cases. The jury would
24 have been unable to make an adequate determination of C.B.'s credibility without hearing further
25 testimony about the nature of her relationship with defendant"); *United States v. Vizcarra-*
26 *Martinez*, 66 F.3d 1006, 1012-1013 (9th Cir. 1995) (recognizing exception to Fed.R.Evid. 404(b) (cf.
27 NRS 48.045) for non-propensity use of prior crime evidence when admission is necessary "to offer a
28 coherent and comprehensible story regarding the commission of the crime; it is obviously
29 necessary in certain cases for the government to explain either the circumstances under which
particular evidence was obtained or the events surrounding the commission of the crime"; also
noting that "[c]oincidence in time is insufficient. . . There must be a sufficient contextual or
substantive connection between the proffered evidence and the alleged crime to justify exempting
the evidence from the strictures of Rule 404(b)."); *United States v. Collins*, 90 F.3d 1420, 1428-
1429 (9th Cir. 1996) (evidence of defendant's prior criminal activity that would otherwise be
inadmissible under Fed.R.Evid. 404(b) (cf. NRS 48.045) "may be used for the purpose of providing
the context in which the charged crime occurred"; "[t]he jury cannot be expected to make its
decision in a void - without knowledge of the time, place, and circumstances of the acts which form
the basis of the charge") (quoting *United States v. Daly*, 974 F.2d 1215, 1216 (9th Cir.1992)
(quoting *United States v. Moore*, 735 F.2d 289, 292 (8th Cir.1984)); *United States v. Gougis*, 432
F.3d 735, 742-743 (7th Cir. 2005) ("evidence of other acts that relate to the chronological unfolding
of events or otherwise explain the circumstances surrounding the charged crime is not offered to
show propensity and therefore does not implicate the character/propensity prohibition of Rule
404(b)" (cf. NRS 48.045)); *United States v. Waloke*, 962 F.2d 824, 828-829 (8th Cir. 1992) (Although

1 Sergeant Kenneth Myers of the Reno Police Department notified the Sparks Police
2 Department that the Defendant had made threats towards Reno Detective Scott Johnson
3 via Facebook, and requested that the Sparks Police conduct a criminal investigation.³
4 When the Sparks Police followed the link Hager had sent to Det. Johnson, they viewed the
5 videos Hager posted, including a number wherein Hager could be seen handling,
6 manipulating, and otherwise in possession of several firearms, including an assault rifle
7 and a handgun. They also viewed the video Hager posted on February 26, 2016, wherein
8 he is seen ingesting what appears to be (and which he would later admit was in fact) a
9 large quantity of methamphetamine. The police learned that, in addition to two prior
10 contacts with the Sparks Police Department,⁴ Hager had a CCW and Possession of a
11 Firearm by a Prohibited Person case in the Sixth Judicial District Court in Humboldt
12 County in 2013, wherein he pled guilty to CCW and was ordered into Washoe County's
13 Mental Health court (as well as the local drug court) as a condition of the sentencing
14 judge's Order Suspending Further Proceedings Pursuant to NRS 176A.250. They learned
15 that this was based on Hager's diagnosis of PTSD, and that Hager in fact entered and
16 completed Mental Health Court. The Sparks Police also learned that, in the course of the
17 Sixth Judicial District Court proceedings, Hager made a number of admissions regarding
18 his controlled substance use and addiction. Based upon this information, the Sparks Police
19 applied for a search warrant for Hager's residence in Sparks (where the videos of Hager in
20 possession of firearms were filmed). The warrant was granted, and Sparks detectives
21 ultimately located a number of firearms in Hager's residence.

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25 evidence of a defendant's prior bad acts generally is not admissible, it is admissible when it relates
26 to an "integral part of the immediate context of the crime charged") (quoting *United States v.*
27 *Bass*, 794 F.2d 1305, 1312 (8th Cir.)), *cert. denied*, 479 U.S. 869, 107 S. Ct. 233 (1986); *United*
28 *States v. Williford*, 764 F.2d 1493, 1499 (11th Cir. 1985) (bad acts evidence tending to place
charged crime in context "is properly admitted if linked in time and circumstances with the
charged crime, or forms an integral and natural part of an account of the crime, or is necessary to
complete the story of the crime for the jury").

³ Hager resided within the jurisdiction of the Sparks Police Department.

⁴ One was on March 6, 2016, wherein Hager was in possession of multiple firearms, made suicidal comments to Sparks officers, and stated that he wanted to commit suicide by cop.

1 The Defendant's contacts with Det. Johnson and his videos addressing Johnson and his
2 investigative efforts are relevant because they account for police conduct that might
3 appear, in the absence of such explanation, unduly aggressive, abusive or unjustified.⁵ For
4 example, if the Sparks detectives are not allowed to explain how the Defendant came to
5 their attention, the result would be a highly artificial narrative that begins with the police
6 seemingly trolling Facebook and arbitrarily looking for people to pick on based on the
7 videos they post, then getting search warrants and going in force to search their houses for
8 their guns.⁶ Without context, the police officers involved are portrayed as engaging in
9 arbitrary and possibly unreasonable conduct toward the Defendant – essentially 'picking
10 on' him out of the blue, with him having done nothing to warrant police scrutiny except
11 posting videos on his Facebook account. This portrayal stands in stark contrast to the true
12 facts of the case: The Defendant engaged in threatening conduct toward Det. Johnson, and
13 the Sparks Police, when asked to investigate, followed the link the Defendant provided to
14 facilitate conveyance of his videos to Det. Johnson, where they found evidence indicating
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18 ⁵ Cf. *United States v. Bowser*, 941 F.2d 1019, 1021 (10th Cir. 1991) (not error to allow agent
19 to testify that he had been told by an informant that defendant carried a gun during drug
20 transactions and "would like to kill the undercover agent"; "the evidence was not hearsay because
21 it was not introduced for the purpose of proving defendant carried a gun or intended to kill the
22 agent. . . . The statements were introduced merely to explain the officer's aggressive conduct
23 towards the defendant"); *United States v. Vizcarra-Porras*, 889 F.2d 1435, 1439 (5th Cir. 1989)
24 (Officer's testimony that he was informed by informant that defendant wanted to sell heroin and
25 that he would be at a particular location deemed non-hearsay and admissible to "demonstrate to
26 the jury how the Government came to investigate [the defendant]" and to "explain the origin of the
27 Government's investigation" and show why they approached the defendant at the border); *United*
28 *States v. Goodchild*, 25 F.3d 55, 61 (1st Cir. 1994) (Out-of-court statement admissible when not
29 offered for its truth, but to "to explain what [the listener] did in response to it," which tended to
establish the steps taken to investigate circumstances of the crime); *United States v. Barela*, 973
F.2d 852, 855 (10th Cir. 1992) (informant's out-of-court statement to officer admissible to show
why police began investigation; "a statement [regarding an out-of-court declaration] such as that
made by the undercover officer may come in for a nonprejudicial relevant use, such as
demonstrating reasons for taking certain investigatory steps"); *United States v. Wilson*, 107 F.3d
774, 780-782 (10th Cir. 1997) (Officer's testimony regarding information received by law
enforcement about drug transactions admissible for non-hearsay purpose of explaining how
government investigation came to focus on defendant; "out of court statements are not hearsay
when offered for the limited purpose of explaining why a Government investigation was
undertaken") (quoting *United States v. Freeman*, 816 F.2d 558, 563 (10th Cir. 1987)).

1 that the Defendant was illegally in possession of multiple firearms.⁷ Their follow-up
2 investigation yielded supporting evidence, which resulted in a search warrant and arrest.

3 For these reasons and those set forth in its Other Acts motion, the State Opposes the
4 Defendant's Motion and seeks to admit this evidence.

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12 ⁶ It could also appear that the Reno police were out to unfairly harass the Defendant by
13 siccing a neighboring police agency on him because he would not accept their investigative
conclusions.

14 ⁷ *United States v. Collins*, 90 F.3d 1420, 1428-1429 (9th Cir. 1996) (evidence of prior
15 attempted burglary admissible to avoid artificial presentation of evidence wherein "the jury would
16 have been left wondering why [the defendant] would have wanted a gun"); *United States v.*
17 *Walohe*, 962 F.2d 824, 828-829 (8th Cir. 1992) (Proper to admit evidence of defendant's prior
18 violent act toward wife to provide context for and explain the actions of those involved in the later
19 charged crime; "[t]he victim, as well as other witnesses, testified the defendant's wife had stated
20 she was afraid of her husband because of the prior incident at her father-in-law's house. Testimony
21 indicated the defendant was trying to get his wife to leave the party with him; the victim
22 intervened because he had heard of the prior incident and knew the defendant's wife was afraid to
23 leave with the defendant. Defendant then assaulted the victim with the hoe. Evidence concerning
24 the earlier fight explained the circumstances which led to the assault on the victim") (quoting trial
25 court's ruling admitting evidence); *United States v. LeCompte*, 108 F.3d 948, 952 (8th Cir. 1997)
26 (prior bad acts evidence admissible when it "relates to an integral part of the immediate context of
27 the crime charged"; evidence of defendant's prior verbal and physical assault "admissible to
28 explain [the victim's] intense fear, as well as her initial statements to her neighbors regarding the
29 knife, and to provide insight into what motivated [the victim] to flee from the house naked in
search of help") (quoting *Walohe*, 962 F.2d at 828); *United States v. Powers*, 59 F.3d 1460, 1464-
1466 (4th Cir. 1995) (evidence of defendant's prior beatings of both the victim and other family
members was relevant for non-propensity purpose of placing sexual abuse evidence in context and
showing victim's state of mind, as it provided "a cogent explanation" for the victim's "submission to
the acts and her delay in reporting the sexual abuse" for almost eighteen months. Thus evidence of
the beatings makes it more probable that [victim] failed to report the sexual abuse not because it
never took place, but because of her fear of retribution"), *cert. denied, Powers v. U.S.*, 516 U.S.
1077, 116 S. Ct. 784 (1996); *Ochoa v. State*, 115 Nev. 194, 200, 981 P.2d 1201, 1205 (1999)
(Evidence of prior drug transactions between defendant and victim relevant under NRS 48.035(3)
to show history of ongoing dispute between the two; "[t]he drug transactions at issue were so
interconnected to the dispute between Ochoa and Ortiz that Harriman could not have accurately
described the nature of that dispute without referring to the drug transactions").

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED this 1st day of December, 2016.

Christopher J. Hicks
Washoe County District Attorney

By /s/ LUKE PRENGAMAN
Luke Prengaman
6094
Chief Deputy District Attorney

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KATHERYN HICKMAN, ESQ.

/s/ LUKE PRENGAMAN
LUKE PRENGAMAN

1 Code No. 4185

2
3 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

4 IN AND FOR THE COUNTY OF WASHOE

5 THE HONORABLE SCOTT N. FREEMAN, DISTRICT JUDGE

6 -oOo-

7 STATE OF NEVADA,)

8 Plaintiff,)

9 vs.)

10 IAN ANDRE HAGER,)

11 Defendant.)

Case No. CR16-1457

Dept. No. 9

12
13 TRANSCRIPT OF PROCEEDINGS

14 Motions in Limine

15 Monday, December 5, 2016

16 Reno, Nevada

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24 Reported By: SUSAN KIGER, CCR No. 343, RPR

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A P P E A R A N C E S

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The Defendant: IAN ANDRE HAGER

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I N D E X

E X H I B I T S

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1 RENO, NEVADA, MONDAY, DECEMBER 5, 2016, 9:04 A.M.

2 -oOo-

3
4 THE COURT: Good morning. We are on the record in
5 CR16-1457, State of Nevada versus Ian Andre Hager. This is
6 the time set for pretrial motions appearances, please.

7 MR. PRENGAMAN: Good morning, Your Honor. Luke
8 Prengaman for the State.

9 MR. LESLIE: Your Honor, Jim Leslie for the
10 Defendant.

11 MS. FLAVIN: And Erica Flavin also, Your Honor, for
12 Mr. Hager.

13 THE COURT: Thank you. I wanted to make a record.

14 As we began yesterday -- or excuse me, last week, I
15 think on Friday, Mr. Leslie requested a conference call
16 requesting a continuance of the motions based upon one of the
17 lawyers in his office not being available to participate.
18 Earlier in the week when I set this hearing for today, I
19 didn't have my transcript available for the time Mr. Hager was
20 here on a previous motion for a release on his own
21 recognizance and we confirmed the trial on that date. And
22 that was October 20th, 2016. And I indicated on the record
23 that if there were going to be any motions in this case which
24 is typically what I do in trial, that the motions be ripe and

1 ready for the Motion to Confirm date. And when we had the
2 Motion to Confirm date on November 30th, Ms. Flavin indicated
3 she needed more time for the motions, so they weren't ready to
4 go at that time. I understand there were additional motions
5 and Mr. Prengaman gave a heads-up as to one of the types of
6 motions that it might be, like a Writ of Habeas Corpus. So I
7 granted the request for continuance to today for the motions
8 hearing.

9 And then Mr. Leslie indicated on Friday that despite
10 the continuance, he wanted another continuance because the
11 lawyer that was supposed to be present to do these motions
12 wasn't present. And Mr. Leslie graciously agreed when I
13 denied that request to be ready, and thank you for being here.
14 So I wanted to make that record in terms of timeliness related
15 to the pretrial motions under the circumstances.

16 Now, that being said, we are ready to go forward, at
17 least the Court is. Is the State ready?

18 MR. PRENGAMAN: Yes, Your Honor.

19 THE COURT: And is the Defense ready?

20 MR. LESLIE: Yes, Your Honor.

21 THE COURT: I carefully reviewed all the motions in
22 this case and I'm prepared to proceed. It didn't matter to me
23 too much the order it was in, but I absolutely now am up to
24 speed and fully prepared with respect to the heads-up

1 Mr. Prengaman gave me related to the nature of the motions,
2 and that would make some sense to me if you wanted to start
3 there, Mr. Prengaman.

4 MR. PRENGAMAN: It would, Your Honor.

5 THE COURT: So essentially, there's a Motion to
6 Dismiss filed by the State couched in -- I guess there's two
7 of them couched in terms of pretrial motions. One declaring
8 that one of the statutes is void for vagueness which you
9 argued should have been in the nature of a Writ of Habeas
10 Corpus, and, of course, the actual attack of the basis for the
11 other counts were put in the form of a Motion to Dismiss as
12 opposed to a Petition.

13 So I'll hear from you now.

14 MR. PRENGAMAN: And, Your Honor, I think I outlined
15 my argument in my pleadings. Unless the Court's wants or has
16 specific questions about it, I don't want to rehash or spend
17 time going over what I know the Court has already read. My
18 position is that the two matters that the defense filed under
19 the statute clearly fall within the realm of what should have
20 been a petition for Writ of Habeas Corpus and that should have
21 been filed within 21 days of the Arraignment. And the
22 Defendant, in order to get those issues in front of the Court,
23 needed to waive his right to a speedy trial.

24 And so the State's position is that in order for

1 the -- technically speaking, that should not be cognizable
2 under the case law, either one of those. However, I
3 understand that at least one of those is probably something of
4 significance that the Court may want to address.

5 But the State's position is that in order for the
6 Court to do that, the Defendant has to follow the statute. So
7 he needs to waive his speedy trial in order to get that in
8 front of the Court.

9 THE COURT: Actually, the first piece of the
10 argument that you made that needs to be addressed is, you
11 know, it's the Court's experience that if you miss anything
12 from a timing perspective related to a pretrial Writ of Habeas
13 Corpus, jurisdictionally it's out. So the first threshold
14 piece is if you don't file it on time and it should have been
15 filed as a Writ of Habeas Corpus its waived, it's done, it's
16 out.

17 What I'm hearing you say is that understanding that
18 the Court might be in a position to hear it anyway despite
19 that -- that was your initial position. Your fallback
20 position is if I'm willing to hear it, then there's other
21 issues in this statute related to Writs of Habeas Corpus
22 almost so much that your fallback position is you
23 understand -- you're not waiving your first position, but you
24 understand if I want to hear it anyway, then you would be all

1 right with it being couched like a Writ of Habeas Corpus even
2 though it's not timely. You're not waiving that argument, but
3 if I view it that way, then you want the other aspects of
4 the -- NRS 37 -- I think 37 or 34, come into play which
5 includes an automatic time waiver.

6 And then I'm assuming if that's the case, you would
7 be moving for a continuance of the trial under that breakdown,
8 if you will.

9 MR. PRENGAMAN: Yes, Your Honor. That is correct.

10 THE COURT: All right. Who's going to argue that?

11 MR. LESLIE: I'll argue that, Your Honor.

12 Your Honor, with regard to the waiver of the 60-day
13 issue, I know that there's the issue of whether or not this
14 was a motion, whether or not this was a writ, did we file it
15 as a motion, but it's really a writ. I've spoken to my client
16 last week. We iWebbed him Friday, I think right before we did
17 the conference call with Your Honor, and advised him that we
18 could well find ourselves in the position in the courtroom on
19 Monday with the Court essentially saying, "Which is it? A
20 motion or a writ?" And if it's a writ, is he going to waive
21 or not, because if he doesn't waive, the prospect is the Court
22 will not hear the motion on vagueness, the Motion to Dismiss,
23 or would summarily deny it.

24 I told my client my recommendation. If we get to

1 that point, I would like a brief point to confer with my
2 client.

3 THE COURT: We are at that moment so this would be
4 the time. But go ahead, please -- I didn't mean to interrupt
5 you. Go ahead.

6 MR. LESLIE: Well, you know, our response in the
7 writ and motion work that I studied over the weekend is that
8 it's not a writ, but it's a motion. It's a motion dispositive
9 over the issue that you do have jurisdiction. We are not
10 challenging that jurisdiction, that we in fact embrace you
11 exercising your jurisdiction, finding the statute
12 unconstitutionally vague, and dismissing the case on that
13 basis.

14 But if the Court is indicating to me that the Court
15 construes the motion work as writ work, I can consult with my
16 client and see if we have a waiver.

17 THE COURT: I'll share with you that I made some
18 notes. And the motion that requests me to look at the statute
19 as to whether it's void as vague doesn't strike me necessarily
20 as a pretrial Writ of Habeas Corpus, but the Motion to Dismiss
21 very much looks like a Writ of Habeas Corpus when you're
22 asking me to dismiss counts.

23 MR. LESLIE: Based upon evidentiary sufficiency.

24 THE COURT: Based upon evidentiary sufficiency and

1 that's -- I -- I'm inclined to agree with Mr. Prengaman. And
2 if you want me to make that ruling before you talk to your
3 client, I will. But then you're going to be really between a
4 rock and a hard place.

5 But I want to give you have a heads-up as we move
6 forward in this case for Mr. Hager's benefit that I didn't
7 find -- I wasn't super impressed, if that's good for the
8 record, that the void for vagueness was in the nature of a
9 writ. I think you can make that challenge, that
10 constitutional challenge at various times during a criminal
11 proceeding. But when you're asking for a case to be dismissed
12 based on my review of the evidence as it relates to the
13 statute, that's smacks of a writ.

14 MR. LESLIE: And does Your Honor prefer to take a
15 five-minute recess or just stand down for the moment?

16 THE COURT: I'll stand down for the moment.

17 MR. PRENGAMAN: And if I could, Your Honor, if you
18 would allow me?

19 THE COURT: Sure.

20 MR. PRENGAMAN: Now that I've kind of heard your
21 thought process, I would like to briefly, if would you allow
22 my make a brief argument on that point.

23 THE COURT: Sure.

24 MR. PRENGAMAN: I understand what the Court just

1 said. I would argue, however, Your Honor, that if you look at
2 the statutory scheme, it basically does two things. It says
3 anything that is going to affect the Court's ability to go to
4 trial in this case, evidence presented at the preliminary
5 hearing, jurisdiction, all of those issues, you have to do it
6 a pretrial writ within 21 days of getting to District Court.

7 The rest of the statutory scheme suggests towards
8 the evidence to be submitted during the trial, the statutes
9 that talk about timeframe to file motions, motions to
10 suppress. So that is geared toward the evidence that's going
11 to be admitted. So essentially the statute says on the one
12 hand, we are not going to litigate these important
13 jurisdictional other issues that may affect the trial in the
14 first place except on the front end. When we get down towards
15 trial, we are going to be talking about issues of evidence.
16 So I think the language, having heard what the Court says, the
17 language is quite straightforward and encompassing. Anything
18 that would address this Court's ability to go to trial, which
19 this clearly does by rendering the statute void for vagueness,
20 it ends this case. There's no charges.

21 So I submit that falls well within 34.700's purview
22 and it should have been filed.

23 Thank you, Your Honor.

24 MR. LESLIE: Your Honor, while Mr. Prengaman was

1 recapping those arguments, I consulted with my client. If I
2 understand him correctly, he would not be willing to waive his
3 60 days.

4 Did I say that correctly?

5 THE DEFENDANT: Correct.

6 MR. LESLIE: Okay. And, Your Honor, I tend to
7 agree, just to recap, that the vagueness motion calls upon you
8 to exercise your jurisdiction, and from our perspective to
9 declare the statute void for vagueness. The Motion to Dismiss
10 I must admit does have an evidentiary assessment aspect to it,
11 and I'll submit on that basis.

12 THE COURT: All right. Now I'll hear argument
13 related to both. Just to supplement what you already said,
14 based upon your client's position on the case, I'm now going
15 to call the Motion to Dismiss Be Filed Under Seal and I would
16 like your argument on that on all the issues.

17 Number one, I want you to supplement your argument
18 related to it being in the nature of a writ, and then I want
19 to hear the argument on the merits. So I'm going to call that
20 first. That would be the -- I guess it would be the defense
21 argument first.

22 MR. LESLIE: Right. Well, with regard to
23 characterizing it as a writ, so I heard that the Court wants
24 two things. Is it a writ or not, and then argument on the

1 merits.

2 THE COURT: Yeah.

3 MR. LESLIE: We would say that it is not a writ and
4 that you can rule upon it, notwithstanding the prior colloquy
5 that we had. It's styled as a motion. I know that it does
6 have an evidentiary aspect to it, but I think that essentially
7 it should be treated as a motion. I think I struggle with
8 that argument because of the nature of what the motion is
9 calling the Court to do, and I -- you know, I can't a hundred
10 percent with confidence say why it was styled the way it was,
11 but I think we've responded as well as we can and said that
12 basically, Your Honor, there's insufficient evidence to even
13 let this case go to trial, and I'm sure that the Prosecutor
14 will say, "Well, that's the very nature of a writ."

15 So on the evidentiary issues, it certainly is an
16 interesting issue on the mental health or the mental illness
17 aspect of it, that's where three of the charges are. The
18 other three are either drug addiction or unlawful use. But
19 with regard to the mental illness issue, I would submit that
20 the State has a pretty simplistic assessment of what an
21 adjudication is, any decision by the Judge essentially is how
22 I read the motion work.

23 I think it's not without reason that Ms. Hickman,
24 who authored the motion, keeps pointing, for example, to

1 Chapter 433 where you have a statute that contemplates an
2 adjudicatory process to have somebody declared mentally ill.
3 That is distinctly lacking in this case. There is no
4 adjudication. There was a referral into Mental Health Court.
5 She does point out in the paperwork that that is voluntarily
6 and you're not involuntarily adjudicated.

7 I think the distinction there is when somebody is
8 availing themselves of Mental Health Court, they are asking
9 the Court to treat them as having a mental health condition
10 that meets one of the criteria. But they are not asking for
11 an adjudication that they are mentally ill. They are asking
12 to be diverted outside the criminal court system, not based on
13 an adjudication, but based on agreement that we will treat
14 this person as having a qualifying diagnosis for purposes of
15 diverting out of the criminal case.

16 I think for them to argue without an adjudication
17 under Chapter 433, using just the Mental Health Court referral
18 goes beyond the intent of the statute in the charging document
19 in this case. He's never been adjudicated. He's been treated
20 as having had a mental illness. He complied with all the
21 Court orders in that diversion case. I think the quote was he
22 ran a perfect program, did everything he was supposed to do. And
23 notwithstanding the questionable behavior that we see
24 reflected in the Facebook posts and so forth, that's not an

1 adjudication of mental illness.

2 So on the evidence, I would argue that there's been
3 no adjudication. I think that the State gets points for
4 effort and even to some degree points for -- you know,
5 Mr. Hager's behavior doesn't help his cause, but in the end,
6 we don't have an adjudication. And if you're going to take
7 away somebody's gun rights based on a statute that says having
8 been adjudicated as mentally ill, I think there should be an
9 adjudication with regard to that other statute, 433.

10 With regard to addiction, I think the problem is
11 even more problematic. He was treated as having drugs of
12 choice back when he was going through the -- I think he was
13 going to start or did start in Drug Court in the Sixth
14 Judicial Circuit, and then the case was transferred here and
15 he was put through the Mental Health Court program. He
16 acknowledged in paperwork that we see in the motion work that
17 he had some drugs of choice and drugs he struggled with, but
18 that was quite a while ago. So we fast-forward. We have a
19 space of roughly speaking a couple of years to get to the
20 present case.

21 THE COURT: What about the fact that he has to say
22 he's an addict to begin the process? In other words, he
23 claims he's an addict to get into the diversion arena.

24 MR. LESLIE: Right. But that was a couple of years

1 ago. So from a recovery point of view, I know that when
2 people go to AA or NA, there's a phrase, "Once an addict,
3 always an addict" in order to tell themselves that they always
4 need to be vigilant and not fall back into bad practices. But
5 we are assuming he's still a diagnosed addict two years later.
6 He went through the program. He ran a perfect program, tested
7 clean all the time, did all his counseling. That sounds like
8 a recovered addict who is no longer addicted to drugs. So
9 we've got that timespan. We don't have anymore contemporary
10 evidence that indicates he falls in the statutory category of
11 addict. And then I was about to say statutory definition, but
12 we don't even have a definition of that.

13 THE COURT: How about a claim to be snorting
14 methamphetamine in a video most recently, as we don't have
15 a -- any type of legal end spot, so to speak, ending, that
16 says you're not an addict anymore. And then the evidence in
17 this case is that he's on a video seemingly snorting drugs he
18 later tells an officer is methamphetamine. How do I ignore
19 that?

20 MR. LESLIE: I don't think you ignore it, but I have
21 some questions and I think they are raised in the motion work,
22 but how do we know those were drugs?

23 THE COURT: Because he said so.

24 MR. LESLIE: Understood. But he disclaims that

1 after the fact is my understanding. Understood. But even if
2 did he that, and I don't mean to splice hairs, but an addict
3 is someone who suffers from a condition. Somebody who does
4 drugs on a particular occasion may or may not be an addict,
5 but the use of drugs on a particular occasion does not
6 automatically give rise to the finding that one is an addict.
7 Addiction is a condition, an enduring condition. I think one
8 of the definitions I saw, it might have been the federal
9 definition of addict buried in a footnote was that they lost
10 the capacity to exercise self-control.

11 THE COURT: When is there a break in the chain? If
12 he says, "I'm an addict," two years ago, and most recently
13 says in a video or in a video seemingly shows himself snorting
14 methamphetamine, tells the police officer it's
15 methamphetamine, I'm not following your break in him stopping
16 his addictive behavior.

17 MR. LESLIE: Well, if that were a video
18 surreptitiously taken, capturing him exercising his behavior
19 and he didn't know he was being recorded, it might be a little
20 more relevant to a finding that he's addicted.

21 But what it was was a Facebook posting that he
22 posted, as I understand it, out of frustration, that the
23 officers -- well, but -- I think it is susceptible to being
24 interpreted to some degree as a statement of protest, because

1 as I understand it, he was unsatisfied that the explanation of
2 his brother's death --

3 THE COURT: I understand the background.

4 MR. LESLIE: -- was an overdose. So he says, "I'm
5 going to snort more than he even took. I'm fine."

6 Now as I understand it, I haven't seen the video,
7 but as I understand it, even the video lends itself to what is
8 the substance and was it actually snorted. The parties may
9 disagree, but what I understand is there's at least the
10 possibility that the video shows him talking on the screen and
11 then the alleged snorting occurs off screen. So we don't know
12 if the crystalline substance is sent up his nostrils.

13 THE COURT: You didn't answer my question.

14 MR. LESLIE: I am trying to answer it. If I didn't
15 answer it --

16 THE COURT: My question to you is, when somebody is
17 deemed an addict for purposes of getting into the Diversion
18 Court process, there is no line where all of a sudden he is an
19 addict or isn't an addict.

20 What I heard you say was because it was remote in
21 time and he did everything he was supposed to in Mental Health
22 Court, then somehow I should ignore the fact that he
23 originally deemed himself to be an addict to get into the
24 courts.

1 Now what comes before me and what is the evidence
2 before me that is subject to other motion practice in this
3 case is he is on a video most recently, whether it's by
4 protest or not, claiming to be snorting methamphetamine. He
5 says later to a police officer it's methamphetamine. So I
6 have a behavior consistent with drug usage along the line of
7 this individual. So it makes it more challenging for you to
8 make the arguments whether he's an addict or not for the
9 purpose of prohibition of guns, and that's the picture. So
10 you can explain to me all you want what the meaning of the
11 video is, but it's really my review of what the statute says
12 that prohibits him from possessing guns under the addict
13 umbrella.

14 MR. LESLIE: It would be a lot easier case for me if
15 we didn't have that video. And it's -- I --

16 THE COURT: Point well-taken.

17 MR. LESLIE: The word "invited" somehow makes its
18 way into the discussion, I suppose, on some level, but I would
19 think that I don't know if you can definitively say he's no
20 longer an addict when he runs a perfect program, evidences
21 that he's no longer using drugs at that point and so forth. I
22 don't know if a subsequent isolated use, regardless of the
23 additional motive means that he's once again full blown
24 addicted or if he's fallen back. But I agree that it's

1 problematic.

2 I would point to -- I have would point to the fact
3 that we have had a passage of time that he did do a successful
4 program, and there's a different between use and addiction.

5 THE COURT: I appreciate your argument.

6 MR. LESLIE: I guess it is worth reminding ourselves
7 that where he ended up was in Mental Health Court and not in
8 Drug Court. So the issue being primarily addressed was one of
9 mental health. And I don't know that the substance was
10 actually ever recovered, as I understand the evidence.

11 THE COURT: Thank you.

12 Mr. Prengaman.

13 MR. PRENGAMAN: Thank you, Your Honor.

14 Your Honor, I would first suggest that the argument
15 that you've heard highlights the nature of my argument with
16 regard to the vagueness motion. It's -- I would suggest that
17 it's like this Motion to Dismiss is like an anchor around the
18 vagueness motions in the case, so to speak, because that's
19 essentially what happened, they are arguing that the evidence
20 should be dismissed because the statute is unconstitutionally
21 vague. That's what their argument is. They are saying it's
22 vague, so we could have -- so it's a slightly different
23 species of the same argument, but I submit that highlights the
24 argument that I have made earlier, why all of this stuff

1 should be litigated within the context of the writ. So in
2 terms of the evidence itself, in the course of that
3 discussion, the discussion fleshed out essentially states
4 theories.

5 As to the adjudication, I made the argument in my
6 pleadings, I would submit there's an ordinary understanding of
7 that word. The evidence that we have certainly falls within
8 it. He stood before a court. He said, "I am mentally ill."
9 The Court ordered him into a program for which the very
10 criteria is mental illness under the statute, and then a Judge
11 on the other end agreed that he met the criteria for a statute
12 and put him into Mental Health Court.

13 In terms of the use, that is pled in the
14 alternative. There's two theories there. There's use and
15 there's addiction. Again, the State's theory has been fleshed
16 out of here. He stood before a court. He talked to a Parole
17 and Probation officer in the course of that proceeding. He
18 talked about his prior drug history. He told the Court, "I'm
19 an addict. I want into Drug Court," filed pleadings to that
20 effect. And the State's theory is that he is an addict by
21 virtue of that evidence, and then we have evidence of him
22 continuing to use controlled substances namely the video, and
23 then he also has some drug paraphernalia at his house
24 consistent with the use of methamphetamine. So on that basis,

1 the motion should be denied.

2 Again, however, the State -- just by hearing this, I
3 submit he should waive his speedy trial right. When we first
4 appeared in Department 6, the Defendant didn't want to enter a
5 plea. He said he wanted to file a writ. And that was okay
6 with me. I said, "Judge, that's fine with me, as long as he
7 understands he needs to waive his speedy trial right." So he
8 in fact did so. He said, "I want to waive my speedy trial
9 right so I can file a writ. When we got back to Department 9,
10 he changed his mind and the Court allowed him to invoke his
11 speedy trial right.

12 But what you have here now is an attempt to have his
13 cake and eat it, too. He said, "I want to keep my speedy
14 trial rights and litigate at the same time." I believe
15 there's two reasons, although you're considering it, I guess I
16 lost ground there, but in considering why the Court should
17 enforce the law, one reason is, it's the law. It's the law.
18 Secondly is to discourage this in the future.

19 THE COURT: The challenge you have, Mr. Prengaman,
20 is this, and I need to interrupt you at this point. The
21 challenge is this, is that I'm not sure what a reviewing court
22 would do if you were correct at least at this level. If you
23 were correct that these are in the nature of a writ and you go
24 to the time and expense of trying this case on Monday, you may

1 be successful in your prosecution, and then a reviewing court
2 says it wasn't a writ and I should have heard it on the
3 merits. You've done all of that for naught, when you might --
4 under the circumstances, I understand your argument and it
5 makes sense, but if there is any inkling that it could be
6 heard past that time, the case would be sent back if you're
7 successful on your prosecution. I'd think about that, not
8 whether we are right. We are going to call it the way you see
9 it today with your argument and my judgment, but it's an
10 unsettled area because I agree with your analysis that writs
11 are to prevent the trial from going forward or you need to
12 resolve them so you can do -- I agree with your analysis that
13 it's an evidentiary consideration at this point where you're
14 doing Motions in Limine and Motions for Trial. But the
15 challenge is, if we make the wrong call, it's an exercise in
16 futility and sometimes it makes sense to, in the spirit of
17 justice, to decide everything at once and let the chips fall
18 where they may. That's why I'm allowing everybody full
19 argument on the merits, and then I'll decide whether it's
20 framed in the way of a writ. I will represent that it's a
21 tough call because I might agree with you, but if a reviewing
22 court doesn't, we waste a lot of time.

23 MR. PRENGAMAN: I certainly appreciate that,
24 Your Honor. But from the perspective of this side of the

1 proceedings, it would be worth rolling the dice. I understand
2 there's that risk there, but essentially what we are doing
3 here is saying the law doesn't matter. We are saying that,
4 you know what? You can invoke your speeding trial and then
5 you can file these motions close to trial. And the State
6 shouldn't have to be litigating vagueness challenges right
7 before trial, shouldn't have to be litigating evidentiary
8 issues that should have been resolved on the front end before
9 trial. That's a burden the State shouldn't have to bear. And
10 by considering that, and I appreciate everything the Court
11 said, but what it does in reality is it simply encourages this
12 again, the next time. "Well, hey, you know, we invoked last
13 time, we just filed it. Yeah, maybe there was a little finger
14 wagging that we shouldn't have done it, but the Court heard it
15 anyway. So we got to do both." That's one of the
16 considerations for the State, I thought. Honestly,
17 Your Honor, I would rather have us make the right call. If
18 the Court believes my analysis is correct and this shouldn't
19 be heard, then I would be willing to take that chance. If the
20 Supreme Court disagrees later, then we know where the lay of
21 the land is. But as it stands right now, the way I see it is
22 that it -- by considering it, it takes away -- it basically
23 says the law isn't the law. When the Court -- the Supreme
24 Court said you either file it timely or it's not cognizable,

1 it doesn't matter, we are going to hear it anyway. And we are
2 going to hear it notwithstanding there's an analysis that
3 would probably go along with that in the ineffectiveness
4 realm, really, would be the way that a Court would be able to
5 get to that when we hear it on the merits. So not only are we
6 doing that, we are going to engage in that analysis which I
7 submit encourages in the future this type of pleading. So
8 other prosecutors and other cases in the future will have to
9 deal with these issues right before trial because, again, the
10 law won't be enforced.

11 So I appreciate certainly what the Court says. I
12 see that a little bit differently. And of course, the risk
13 applies.

14 In terms of if the Court -- that concludes my
15 argument unless the Court wants me to address the issue of the
16 proof of methamphetamine. In a nutshell, the State doesn't
17 have to submit scientific evidence. We have to prove beyond a
18 reasonable doubt that he was using methamphetamine. And I
19 would submit the evidence on the video in conjunction with his
20 admissions certainly are sufficient.

21 Thank you, Your Honor.

22 THE COURT: All right. Anything to reply?

23 MR. LESLIE: The only question I have, because I was
24 not counsel at the time, but as I understand it, the case was

1 originally Arraigned in 6 and then -- and he waived and came
2 back at later date. We were looking to see if we could recall
3 why the case was heard in Department 6. It might have been an
4 absence of the Court. But it was a little bit of an anomaly
5 in my mind that we originally had a waiver of 60 days and with
6 the passage of time we had an invocation.

7 THE COURT: Didn't it have to do with the fact that
8 he was evaluated at Lake's and came back, then it was brought
9 back before me?

10 MR. LESLIE: I think that was intervening. I don't
11 know if there had been a finding or assumption or better
12 phrased a finding that perhaps the first waiver was suspect
13 because of the treatment to competency.

14 THE COURT: I don't have that in the record. I
15 don't have an answer for you.

16 MR. LESLIE: But no, I don't have further argument.

17 THE COURT: Submitted?

18 MR. LESLIE: Yes.

19 THE COURT: I agree with the State. The Motion to
20 Dismiss should have been filed as a Writ of Habeas Corpus. I
21 am not going to consider the merits. It's jurisdictionally
22 barred. It was not filed within 21 days. I agree with that
23 aspect of the State's motions. And the Motion to Dismiss is
24 denied based on the untimeliness.

1 Mr. Prengaman, I agree with your analysis. I'll
2 have you prepare the order as it relates to that particular
3 denial setting forth that it was not timely filed. It's in
4 the nature of a Writ of Habeas Corpus. It challenges the
5 sufficiency of the evidence and it should have been filed
6 within 21 days. The Defendant made the decision that he does
7 not want to waive time consistent with NRS 34, and as a
8 consequence, I'm not going to consider the writ on the merits,
9 and I therefore so find.

10 The next one I'll hear about is the void for
11 vagueness, please.

12 MR. LESLIE: Your Honor, that's a defense motion and
13 I think the issues have been pretty well briefed on both
14 sides. Our argument essentially is that there's not enough
15 definition in there to meet the test of vagueness. It does
16 not put ordinary persons on notice of what behavior is
17 prohibited because it doesn't define its term sufficiently and
18 it lends itself to arbitrary or other inappropriate
19 applications in that regard. I note the investigation in this
20 case didn't begin until, again, I -- not the best move, but we
21 take our facts as we take them, but Mr. Hager had a
22 disagreement with local police over an issue and he took to
23 Facebook as the generations coming up behind us tend to do.
24 Sometimes without full contemplation of the possible

1 consequences of publicizing one's grievances in that manner.
2 But we do have that interesting develop. And then in response
3 or at least occurring subsequent in time, we have the
4 investigations, we have the research by police to find that
5 he's got the prior Mental Health Court case, he's got the
6 prior issues with drugs and then we have the charges alleging
7 that he's a drug addict or an habitual user, and that he's
8 been adjudicated mentally ill.

9 I can't remember the timeframe, but sometime prior
10 to him having a disagreement and going to Facebook, there's
11 been some welfare calls, I'll call them, where police are
12 encountering him and at one point they take his guns away.
13 They undertake an investigation when he fills out the ATF form
14 that's been referenced in the motions. A lot of language in
15 there very similar, but not similar enough to the concepts we
16 are talking about in the charging document in this case. And
17 after the full review, law enforcement determines that they
18 are going to hand the guns back. Now, whether that is the
19 best example of the second concern on the void for vagueness
20 criteria, that is the arbitrary or the otherwise inappropriate
21 application of the law. We do have a situation where he has
22 an encounter with law enforcement before, they take, I think,
23 three or four firearms from him, and they end up giving them
24 back. And then we have the different situation where what's

1 different? Well, what's different is that he is allegedly
2 making threats against police officers, he's posting his
3 grievance to Facebook and then the same individual with the
4 same background is then charged as an ex-felon in possession
5 of firearms when previously he had been handed those firearms
6 back after providing essentially the same information through
7 that ATF form.

8 THE COURT: Was he charged with being an ex-felon or
9 prohibited person?

10 MR. LESLIE: I was being generic. I mean prohibited
11 person. I apologize.

12 THE COURT: Apology accepted. You have to be more
13 specific for the record. This isn't an ex-felon case. This
14 is a prohibited person case.

15 MR. LESLIE: And this case requires us to think more
16 precisely, so I apologize for that.

17 THE COURT: That's all right.

18 MR. LESLIE: So we have that concern. So our void
19 for vagueness argument is that this statute is sufficiently
20 vague, that it can be arbitrarily or inappropriately enforced
21 because the same statute existed when the police handed his
22 guns back the last time. What's different now is that -- I'm
23 going to say this for the purpose of argument because I think
24 we are thinking it, is that he picks an argument or picks a

1 beef with law enforcement and draws their attention. Well, in
2 the prior case when he was allegedly suicidal, that's a pretty
3 good way to call police attention, especially if you've got
4 guns, so rightfully they take the guns away, make sure he's
5 then stable. They do the background check, make sure he
6 doesn't have the qualifying prohibitors that then are the very
7 prohibitors that are brought to bear in this case in the
8 charging document. And what's different between the two? If
9 the legislature had done a better job, I'm sure they tried, it
10 was a well-intended statute. I think that people who are
11 addicts probably should not have a possession of a gun. And
12 if you're adjudicated mentally ill, that's a debate point in
13 society, but the statute doesn't sufficiently define the
14 terms.

15 So what is an addict? In order to define those
16 terms, the State is saying what the Court needs to do is
17 finish the legislature's job and go reaching into other
18 portions of the NRS and construct, after the fact, what those
19 meanings and definitions are and essentially rewrite the
20 statute and do what the legislature didn't do in the first
21 place.

22 The better course, the more constitutional course is
23 to tell the legislature by granting our motion that you've got
24 a good idea, there may or may not be any disagreement on the

1 policy level about what we are trying to do to make society
2 safe, and this case may potentially be a good example of that.
3 But you need to define your terms and you need to make it
4 clear enough that ordinary people don't have to reach around
5 throughout the NRS or consult experts that determine if the
6 person does or does not fall into that class. And that's the
7 essence of our argument.

8 THE COURT: Mr. Prengaman.

9 MR. PRENGAMAN: Your Honor, unless the Court has
10 questions, I'm not -- I've made my argument in my pleadings.
11 The only thing I would add is the State submits, as I do in my
12 pleadings, the facts of the case don't come into play in the
13 vagueness analysis. The vagueness analysis is not concerned
14 with Mr. Hager's idiosyncrasies or the history of how he came
15 to be here. It's simply concerned about simply two things:
16 What the statute gives a person of ordinary intelligence knows
17 what's prohibited, and whether it lends itself to arbitrary
18 enforcement. Those two things. And whether -- if it does, it
19 is unconstitutional in most applications.

20 And so unless the Court -- again, I don't want to
21 rehash what I've written. I know the Court read it. So
22 unless the Court has specific questions.

23 THE COURT: I actually don't. I thought everybody's
24 brief was very good. And void for vagueness for the Court is

1 relatively straightforward. It's difficult for me to say for
2 the record that either it is or it isn't when I review it.
3 But that's how I look at statutes from my own knowledge and my
4 own times in practice when I challenged them and not
5 challenged them. It's exactly how you articulated what the
6 Court needs to look to.

7 MR. PRENGAMAN: Thank you.

8 THE COURT: Any last word on that, Mr. Leslie?

9 MR. LESLIE: Your Honor, I think that potentially
10 there's a more compelling argument on our side with regard to
11 the drugs, the addiction issue, because assuming arguendo, and
12 we don't concede the point, we think that a 433 type of
13 adjudication of mental illness is what's necessary as the
14 predicate for the charges in this case. We don't think that
15 that's been made. But assuming arguendo that the Court
16 concludes in this case that the referral into Mental Health
17 Court is enough, there's still the issue of the addiction
18 charges, and we think that the argument is more compelling
19 because -- and again, the question is, does the statute put
20 ordinary people on notice? Not lawyers and not judges, but
21 ordinary people. So I have to imagine pulling 10 people off
22 the bus and saying, "What's a drug addict?" You might get
23 several different answers. You might say, "If you've ever
24 used drugs, you're and addict if they are illegal." You might

1 get people that say, "If you did them a few times and do them
2 periodically over the years, that's addiction." Some people
3 may say, "You lost your ability to exercise self-control."

4 THE COURT: But in this particular case, he declared
5 and identified himself as such to avail himself of the
6 specialty court process.

7 MR. LESLIE: That's an inescapable fact. Again,
8 I've made the best arguments I can think of with regard to the
9 passage of time. You know, if somebody is discharged from a
10 court where they got into it by virtue of their claim of
11 addiction and they are discharged after running a perfect
12 program, I mean, at some point don't we essentially treat that
13 person as having overcome the addiction? Isn't that why they
14 were discharged? I think that is the case and I think that
15 does cut it off and it does say that person is no longer
16 addicted. Go forth and prosper. And then we look to more
17 contemporaneous evidence.

18 THE COURT: And what happens when you look at the
19 contemporaneous evidence in this case?

20 MR. LESLIE: You have isolated behavior that is
21 originally spawned by his right or wrong, frustration with
22 police officers, his right or wrong perception that they are
23 investigating this death the right way, in making a statement
24 that it couldn't have been the way the police officers say.

1 "He didn't die of an overdose because I'm going to pretend,"
2 that would be my position, "to snort in excess of that fatal
3 amount." But again, I agree that his subsequent admission
4 doesn't help my argument.

5 THE COURT: As always, Mr. Leslie, I appreciate your
6 argument as an officer of the Court. You have a lot of
7 credibility with me because you have that reasonable approach.

8 MR. LESLIE: And I appreciate a Court that is a hot
9 bench and that asks the questions that needs to be asked.

10 THE COURT: Submitted?

11 MR. LESLIE: Yes.

12 THE COURT: The motion is denied. I don't find
13 either one of the applications as used in this case should be
14 declared void for vagueness constitutionally. And again,
15 Mr. Prengaman, I'm going to ask you to prepare the order
16 accordingly consistent with your arguments.

17 All right. Let's talk about some more motions.

18 I don't really -- doesn't really matter to me. Do
19 you want to go first, Mr. Prengaman, related to -- the next
20 one I have is a Motion in Limine Re Evidence of Defendant's
21 State of Mind and Entrapment By Estoppel Defense.

22 MR. PRENGAMAN: Certainly, Your Honor.

23 THE COURT: That's what I have as next up.

24 MR. PRENGAMAN: Certainly, Your Honor.

1 THE COURT: Go ahead.

2 MR. PRENGAMAN: Again, I'll -- if it please the
3 Court, I'll look to the Court to guide me in terms of what you
4 like to hear. I don't want to rehash the arguments I know the
5 Court has read. In a nutshell, as I've outlined in my
6 pleadings, the violation of the prohibited person statute is
7 the strict liability defense. The result of that is
8 Defendant's state of mind other than the willful possession of
9 the firearm is irrelevant. And therefore, any evidence about
10 his misapprehension of the law, about his -- anything he could
11 have gleaned from the process of Sparks giving him his guns
12 back in the past is simply irrelevant to his violation of the
13 statute here. And for those reasons, and as was argued and
14 touched on at the preliminary examination, I believe that --
15 it appears to the State that the defense plans to, and they've
16 certainly done nothing here to disabuse me of that. Defense
17 wants to argue he was misled. He went to Sparks, based on his
18 prior case, he filled out a federal form, and based on that
19 they gave him his guns back. And they want to come into court
20 and introduce evidence of that and say he was misled or he
21 misunderstood, and that's simply not relevant in a strict
22 liability defense. All of that, even if it was true, even if
23 you give the defense the full benefit of that evidence, which
24 I think there's significant reasons that you shouldn't or the

1 jury shouldn't, but irrespective of any of that, give it the
2 full weight and it's still is irrelevant. It simply is
3 irrelevant. All that matters here is is he a prohibited
4 person, and did he willfully possess firearms while being a
5 prohibited person?

6 The burden of making the affirmative defense of
7 estoppel by entrapment is on the defense, and they are -- they
8 need to take a pretrial offer of proof to the Court that they
9 can make out the elements of that defense if that's what they
10 are going to put on.

11 THE COURT: Are you sure about that? Can't they
12 present evidence at trial and then they make the argument
13 whether or not a jury instruction will be appropriate based
14 upon the evidence that comes out in trial? I mean, I think
15 that's a challenging burden for the defense to have to do a
16 pretrial to establish their defense.

17 MR. PRENGAMAN: That's what the case law tells us.

18 THE COURT: I understand what strict liability
19 means.

20 MR. PRENGAMAN: Not just that, Your Honor, but
21 there's no shortage of the cases I've cited in my pleadings.
22 There's no shortage of Courts that have held, yes, when the
23 burden is on the defense, estoppel by entrapment, any
24 affirmative defense, that yes, because the jury shouldn't hear

1 irrelevant evidence. They don't have to put on the defense to
2 prove it. They have to make an offer of proof. They have to
3 make out all the elements, otherwise it's unfair to the State.
4 And this is one reason. Imagine if we go to trial in this
5 case and they can't make out the estoppel by entrapment
6 defense or else they would have put it forward. Let's say
7 they present their evidence that Mr. Hager went to the -- so
8 he maybe and to do so says I've got to take the stand to do
9 it --

10 THE COURT: I would think as well, any entrapment
11 case you have to take of the stand.

12 MR. PRENGAMAN: So he gets up there, says, "I went
13 there, filled out this form. I thought I was being truthful
14 on it. I don't believe I lied on it. They gave me my guns
15 back, therefore I believed I was entitled to possess my guns."
16 That's still not a defense. So it would be unfair to the
17 State to allow that because the jury will look at that and
18 say, "Jeez." At the end of the day, let's say we are settling
19 instructions and the Court says, "No you didn't make out the
20 elements, I'm not going to instruct on that defense." So what
21 do you tell the jury? The jury is sitting there thinking,
22 "Well, the Judge must have let us hear the evidence for some
23 reason." And they're going to consider that evidence. "Oh, I
24 was mislead." That's the reason the Court said you have to

1 make the offer of proof. It's unfair to the State to present
2 that. It's more highly --

3 THE COURT: I know what --

4 MR. PRENGAMAN: It's substantially more prejudicial
5 than probative to allow the defense to put on that type of
6 evidence. It plays to the jury's sympathies. It plays to
7 their passions to hear, "Oh, poor Mr. Hager believed that he
8 was entitled to possess his guns," when the law says that
9 doesn't matter. That's why the Court's, many Courts, many
10 Courts have required the defense to make that showing pretrial
11 for that exact reason. And there's no harm in making a simple
12 offer of proof as to the evidence that you have to make out
13 each of those elements. I've laid out what the elements are.
14 They had an opportunity to come back, and they cannot make
15 those elements out.

16 So for two reasons: One, it's -- it's simply
17 irrelevant. It is irrelevant, his state of mind, apart from
18 the willful possession of a firearm. So for that reason alone
19 they should not be allowed. It's irrelevant.

20 Secondly, if they were going to try to put on that
21 defense, which they haven't said, and by their silence I take
22 that as, "We'll I think we'll have to pass." But even if --
23 again, they haven't met the elements and they should be
24 precluded.

1 Thank you.

2 THE COURT: Appreciate your argument.

3 MR. LESLIE: Your Honor, I heard Mr. Prengaman say
4 that we would have to make a showing of proof for any
5 affirmative defense. I disagree with that. For example,
6 self-defense may mature at trial.

7 THE COURT: Actually, self-defense matures when the
8 Defendant takes the stand as a last --

9 MR. LESLIE: It sometimes matures even to the
10 surprise of defense counsel even through other evidence.

11 THE COURT: You still have the burden on an
12 affirmative defense.

13 MR. LESLIE: Not necessarily the burden of a
14 pretrial --

15 THE COURT: Agreed.

16 MR. LESLIE: -- articulating it, and if we don't, we
17 get it dismissed before we get to the trial. That's where I
18 disagree with Mr. Prengaman on that. I wrote down the word
19 re-cast. And what I meant by that is what he's done, as a
20 good lawyer, I don't mean this in any negative sense, but he's
21 brought the motion. He's brought the motion because he wants
22 to put us into a corner and try to make it sound like we have
23 some burden that we have to meet with you in advance of trial.
24 And he, because he is the movant, gets to say they haven't

1 responded. They haven't done what I said in the motion. So
2 they failed to meet their burden. It makes it sound easier
3 and more common sensical that he would say, "Well, they didn't
4 do something that you say they have to do, so I'm going to
5 grant the relief you're requesting." But I just wanted to
6 point that out for the Court.

7 I would say that we can -- I don't want to be pushed
8 into that corner, but just for the sake of argument, I'll say
9 that we do make that offer of proof, and, you know, as I
10 understand the law, there's four elements that he believed he
11 was legally entitled to possess guns, he had his guns given
12 back to him by law enforcement, and that's the essence of this
13 factual occurrence that the defense wants permission to go
14 ahead and put before the jury. He was in, as a separate
15 incident, when he went into the mental --

16 THE COURT: Let me stop you there. Isn't one of the
17 elements is law enforcement gives him back the guns and says,
18 "You're no longer a prohibited person, you may have guns."

19 MR. LESLIE: Well --

20 THE COURT: Just giving you back the guns isn't --

21 MR. LESLIE: Yes.

22 THE COURT: -- you might argue very aggressively at
23 trial to get that jury instruction that's implied, but that's
24 not the law.

1 MR. LESLIE: But they never said, "You're a
2 prohibited person." He went into Mental Health Court. He was
3 told not to have guns. I remember there was some
4 documentation in the Mental Health Court. But then he is
5 discharged from Mental Health Court, the case was dismissed.
6 I can't remember specifically if it was sealed, but it was at
7 least dismissed. And so the prohibitions of "don't have guns"
8 was tied to a condition of the Mental Health Court. It was
9 not that he had been found a person who could not possess guns
10 even beyond the pendency of that action. So when that case
11 concludes and is dismissed, that condition of his deferral
12 goes away.

13 And then subsequent in time, we have the incident
14 where he's suicidal or allegedly so. His guns are taken. He
15 goes through the ATF paperwork that has a lot of the same kind
16 of questions and language as the charges in the Information in
17 this case. As a result of that or subsequent to that, he's
18 given the guns back. So he's never told, "You're a person who
19 cannot have guns," other than back in Mental Health Court.
20 And that had a conclusion date.

21 And so I think that would go to the lack of notice.
22 The lack of intent to violate, you know, if he had lied to the
23 police about the guns or something like that, you might think
24 that he was trying to violate the law that he had a guilty

1 conscience. But as I understand it, the police are -- their
2 attention is drawn to him because of the Facebook stuff. The
3 warrant is obtained. They go in and find a bunch of guns as
4 opposed to, "Hey, do you have a bunch of guns?" "No." Well,
5 then they search and then they find them and then you would
6 wonder if he was intending to violate the statute.

7 And he believed, finally, that he was entitled to
8 possess those guns. I think that's sort of the conclusion of
9 the discussion that we've just had.

10 So with regard to the State's assertion that we have
11 to make an offer of proof, I think we can make that offer of
12 proof. There's objective evidence to support that. There's
13 the ATF form. There's whoever that clerk was at the police
14 department that conducted that background check and then
15 returned the guns to them. So it's a provable event in time
16 that we would be able to put in front of the jury and not just
17 have it come from his subjective testimony.

18 THE COURT: How do you reconcile it's a strict
19 liability crime? How do you allow to put that before the
20 jury? Either he possesses or he doesn't. It's a strict
21 liability crime.

22 MR. LESLIE: Yeah, and that's a tough one. And that
23 is challenging. But I think that again, it's the State that's
24 come forward and filed their motion saying that, "We think

1 they are going to do something called an estoppel or
2 entrapment by estoppel." Court's indulgence.

3 THE COURT: I understand.

4 MR. LESLIE: It becomes challenging, but the fact --
5 I think that the jury is entitled to know that this citizen,
6 under the same conditions, presumably an addict at that time
7 or presumably that subsequent to the mental health
8 adjudication, and that's the State's argument here, is we may
9 not have had a 433 adjudication, but we had a finding of
10 mental health issues for the Mental Health Court referral.
11 Under those same circumstances, he has an encounter with the
12 government with --

13 THE COURT: I understand the defense. But how can
14 you interpose a defense like that in a strict liability crime?
15 It's not a -- it's either it is or it isn't. His defense is,
16 "It never happened," in a strict liability crime, or, "I did
17 possess," in a strict liability crime. Not that the I have an
18 explanation for the possession, which is a different type of
19 crime. A strict liability crime is either you did or you
20 didn't. You either possessed or you didn't possess, and you
21 don't get to explain it.

22 MR. LESLIE: That's why I say it's challenging.

23 THE COURT: It's the State of the law. Just a
24 question from the Court.

1 MR. LESLIE: Yeah. You know, it's interesting, I
2 think that this discussion kind of dovetails back to the
3 vagueness argument that we had made before that we've got the
4 same law enforcement handing the guns back in one instance and
5 saying that he's a criminal for possession in the other
6 instance.

7 So I'll submit on that, Your Honor.

8 THE COURT: All right.

9 MR. PRENGAMAN: Thank you, Your Honor.

10 First, on the argument about self-defense.
11 Self-defense isn't really an affirmative defense in the true
12 sense. The State has the burden of disproving self-defense.
13 So in a way, if you want to call it an affirmative defense,
14 it's one where nonetheless it negates one of the elements, and
15 the State has to disprove it, unlike entrapment by estoppel,
16 withdraw from conspiracy, necessity. All of those are
17 affirmative defenses where the defense has the affirmative
18 burden of proof. They have to prove the defense.

19 So the self-defense is fundamentally different from
20 these. What we have here is a situation where it's a strict
21 liability crime, the Defendant's intent is irrelevant.

22 Entrapment by estoppel is an exception to that. It
23 says his intent is irrelevant unless the Government has
24 affirmatively misled, in which case then you get to present

1 that evidence. They can't do it, nobody in a position to tell
2 him, so gave his guns back and said, "It's okay for you to
3 possess these." So they cannot make that out. So it's a
4 strict liability, intent is irrelevant. They can't make out
5 that exception. The State's motion should had been granted.

6 THE COURT: Your motion is denied without prejudice
7 pretrial. We'll see what the evidence presents itself. I'll
8 examine the various objections at the appropriate time. You
9 may not introduce evidence of this in your opening statement,
10 but I'm denying the State's motion pretrial. I want to see
11 what the evidence will be from the defense perspective and see
12 what relevance it has. I'm not going to allow the Defense to
13 be backed into a corner as you are, Mr. Leslie. But I will
14 share with you that I indicated that I'll look to see what the
15 defense is going to be on the issue. And the Court does not
16 believe that Sparks Police Department giving his guns back is
17 a defense to a strict liability, and I'll so say that on the
18 record. I've got to wait to see what the evidence is.

19 MR. LESLIE: I want to ask a follow-up question to
20 that because I'm hearing that the State's motion is denied
21 which is gratifying --

22 THE COURT: Without prejudice.

23 MR. LESLIE: -- but for now. It's a for-now ruling.
24 And I'm hearing the Court say, "I want to see what the

1 evidence is going to be at trial." Does the Court want
2 another discussion outside the presence of the jury before we
3 approach the witnesses --

4 THE COURT: If you're going to go in that direction,
5 yes.

6 See, I don't believe you should be precluded -- I
7 don't ever believe the Defense should be precluded pretrial
8 from presenting what they think they should be present,
9 because I don't know what the evidence is going to be. Weird
10 things always happen in trial. So I disagree that I'm going
11 to make a decision pretrial. I want to see what will happen.
12 But if it's your defense, and you're going to take the witness
13 stand, and say, "Sparks gave me my guns back in a strict
14 liability crime," I'm not going to allowing that. If you're
15 defense is something else, I'm not going to stop you from it.

16 MR. LESLIE: There may be room for a better
17 articulated argument on the government authority. I think
18 there is a difference between, you know, at the worst end of
19 the spectrum for us is sort of a passive action by a state
20 agent and us trying to extrapolate too much meaning for that.

21 At the other end of it is a state agent having
22 perhaps a more full understanding of the background having
23 reviewed it. For example, if Mr. Prengaman, not that he
24 would, but he would be a much more informed state agent if he

1 were to say to Mr. Hager, "Knowing everything I know in this
2 case at this point, here's your guns back. I think you're
3 good to go."

4 THE COURT: Oh, no, you are. The Court accepted it.
5 Entrapment by estoppel. The State agent, using Mr. Prengaman
6 as an example, has to say, "You're not only good to go, you're
7 not violating any laws by taking the guns, and I am the Sparks
8 Police Department. There you go." No. That's not the facts
9 of this case. The facts of this case is an evidence tech
10 after quote/unquote researching best case facts for the
11 defense, said, "Here's your guns back." That is not, as a
12 matter of law, entrapment by estoppel.

13 MR. LESLIE: There may be more to it than what I
14 understand factually, and that's why I want to say do you want
15 us to bring that up again outside the presence of the jury or
16 can the defense -- I just want to make sure we don't step on
17 the Court's ruling. But can the defense start putting up
18 those witnesses or did you want to address that as we get into
19 the trial?

20 THE COURT: Well, the answer is really -- now you're
21 asking me to cross over defense strategy, but the defense
22 would run afoul of my indicator if you start putting witnesses
23 on in direct violation of my order. So if you have a witness
24 that, for example, would say with Mr. Prengaman's type of

1 academic intellectual background that he or she told
2 Mr. Hager, "It is legal for you to have guns henceforth,"
3 other than being handed to him, I would be interested in that
4 evidence and that would be outside the presence.

5 MR. LESLIE: That's what I wanted to clarify.

6 THE COURT: Then you're making the proffer that I've
7 just denied pretrial -- that I'm not going to make you make
8 pretrial, during trial, because as I say, different facts
9 happen during trial. I'm not going to preclude the defense
10 from establishing that, but not in front of the jury in light
11 of what I'm saying.

12 MR. LESLIE: All right. And I wanted to clarify
13 that. I will make sure that we understand that throughout the
14 trial.

15 THE COURT: Thank you.

16 The next motion, request for disclosures.
17 Mr. Prengaman.

18 MR. PRENGAMAN: Your Honor, that -- that's not in
19 the way of a motion. There's a long-standing -- just for the
20 Court's background, there was a long-standing practice where
21 both parties used to file or have traditionally signed a
22 discovery stipulation at the discovery stage. There have been
23 some defense attorneys who have refused to do that and for
24 that reason because the statute requires the State to

1 essentially ask for discovery -- actually both sides to ask
2 each other for it formally, I simply have adopted that
3 practice so that I don't run into a problem.

4 THE COURT: Has there been an issue in this case I
5 need to address?

6 MR. PRENGAMAN: No, Your Honor. That's why -- I
7 just file that so my request is on record. I'm entitled to
8 the statutory discovery, it's what the statute requires. I'm
9 asking for nothing further from the Court.

10 THE COURT: So it's been self -- it's been
11 self-adhered to. It's filed for the record, but there's
12 nothing for me to rule on.

13 MR. PRENGAMAN: Nothing, Your Honor.

14 THE COURT: Thank you.

15 The next one I have is a Motion to Quash Subpoena
16 Duces Tecum.

17 MR. PRENGAMAN: That's the State's motion,
18 Your Honor. And I would -- again, I'm not rehashing my
19 arguments. I think there was --

20 THE COURT: Is this motion still alive or is it
21 moot.

22 MR. PRENGAMAN: Your Honor, the defense might
23 consider it moot, but I don't. What I did is when I got that,
24 I treated that as a Brady request. I obtained the materials.

1 I reviewed them. I disclosed them to the State.

2 THE COURT: So you know, I typically would quash a
3 subpoena like this. I believe, and I followed the State's
4 argument, and I did when I was practicing is you've got to ask
5 for it and everybody gets it. Defense has other issues if you
6 don't get it, but I don't subscribe to the subpoena around
7 discovery issues, so I would have granted it. So has it been
8 resolved?

9 MR. PRENGAMAN: Yes, it has, Your Honor. Thank you.

10 THE COURT: Okay. Trial Memorandum Reassertion of
11 the Defense Theory of the Case is the Basis for Admitting
12 Evidence.

13 MR. PRENGAMAN: I'm not asking for a ruling,
14 Your Honor. That's simply the law I will rely on if as
15 sometimes it does happen in the course of trial the defense
16 makes that argument. So everyone is on notice of the law I'll
17 rely on.

18 THE COURT: I'm familiar with the argument and I've
19 ruled accordingly. Thank you.

20 MR. PRENGAMAN: Thank you.

21 THE COURT: Now we'll go to the defense motion in
22 limine to exclude testimony regarding alleged methamphetamine.

23 MS. FLAVIN: Yes, Your Honor. In this motion, this
24 refers essentially to the Facebook video that we have

1 previously discussed from February 26th of this year. The
2 State would like to provide that evidence, and the video
3 essentially showed Mr. Hager showing a baggy with a substance
4 in it. We don't know specifically what that substance is
5 because it was not tested. And then it shows him later
6 seemingly snorting a substance, but we don't actually see that
7 happen. And so in this -- for this motion, I believe that all
8 evidence and all testimony should be excluded. That involves
9 the video itself and obviously also the officer's testimony as
10 far as what his beliefs are to what that controlled substance
11 was. Again, there was no test as far as what the controlled
12 substance was. There was no --

13 THE COURT: Didn't the Defendant admit it was
14 methamphetamine?

15 MS. FLAVIN: The Defendant did state in an interview
16 with Officer Rowe that it was methamphetamine, and that for
17 preliminary hearing or for a grand jury hearing is sufficient
18 evidence for probable cause. But however, it's not enough
19 evidence to prove beyond a reasonable doubt that a controlled
20 substance is in fact -- or I should say a substance is in fact
21 a controlled substance. So again, the Defendant's statement
22 plus the officer's beliefs is not enough evidence at a trial
23 to prove beyond a reasonable doubt of what that substance
24 actually was.

1 THE COURT: But he's not being charged with
2 possession of methamphetamine. He's being charged as a
3 prohibited person who's a continuing addict possessing a
4 firearm.

5 MS. FLAVIN: And the State is attempting to use that
6 evidence that he is an unlawful user and/or addicted.

7 THE COURT: Right.

8 MS. FLAVIN: And so this evidence of or testimony as
9 far as methamphetamine is not relevant and it's not sufficient
10 enough because we -- the substance was not tested.

11 THE COURT: The Defendant admitted it was
12 methamphetamine. So wouldn't it be up to the jury to decide
13 whether he's continuing to use methamphetamine based upon his
14 own admissions?

15 MS. FLAVIN: But again, his admissions as well as
16 the officer's beliefs are not enough evidence to prove beyond
17 a reasonable doubt. And I believe that came --

18 THE COURT: Prove what beyond a reasonable doubt?

19 MS. FLAVIN: Proof that it was a controlled
20 substance beyond a reasonable doubt.

21 THE COURT: All right.

22 MS. FLAVIN: And that's from the *Paige V State of*
23 *Nevada* case.

24 THE COURT: I understand.

1 MS. FLAVIN: So I would ask for the exclusion of all
2 testimony of the video as well as Mr. Hager's statements as
3 far as the substance, which again, we don't know what the
4 actual substance was, but his statement that it was
5 methamphetamine.

6 THE COURT: Thank you.

7 You can be brief.

8 MR. PRENGAMAN: Your Honor, the State simply submits
9 we are entitled to present the evidence. It's relevant. It
10 goes to the heart of one of the elements of the charge and
11 what the defense raises goes to the weight but not the
12 admissibility.

13 THE COURT: Any reply?

14 MS. FLAVIN: No, Your Honor.

15 THE COURT: Thank you. The motion is denied. The
16 video will come in as it relates to the relevance of his
17 continuing use of drugs in this case.

18 All right. I have a motion I believe related to the
19 Defendant's mental health diagnosis and participation in
20 Mental Health Court. Is that correct from the defense?

21 MR. LESLIE: Yes, Your Honor. Your Honor, I'll
22 basically submit on the motion. I mean, I --

23 THE COURT: Isn't it part of your defense that he
24 participated in mental health court and successfully

1 graduated?

2 MR. LESLIE: No. It's their -- it's their case.
3 Our position is that that's not a proper adjudication. They
4 are saying that his participation in Mental Health Court
5 because the Court accepted him constitutes an adjudicative
6 decision by the Court. We are trying to exclude it because we
7 don't think that that's really an adjudication as contemplated
8 by the statute. I know we are essentially asking that the
9 Court issue that they are trying to approve for his status of
10 being mentally ill or having been adjudicated is what we are
11 asking to exclude. But I think this relates to our position
12 that that is not an adjudication and it should not be
13 admissible. They're trying to prove that it's an
14 adjudication. I -- and I'll submit on that unless you have
15 any questions.

16 THE COURT: I don't.

17 MR. PRENGAMAN: Well, Your Honor, again that
18 evidence -- that dovetails with the State's prior bad act
19 motion. Again, that evidence goes directly to the heart of
20 the elements of three of the charges in this case. The State
21 believes that it is highly relevant and probative on that
22 element of Counts I through III, and the State believes as I
23 outlined in my prior bad act motion that the State should be
24 allowed to present evidence of the pleadings from the

1 Winnemucca case wherein the Defendant affirmatively requests
2 going into Mental Health Court, the recordings of the court
3 proceedings wherein he again appears personally and requests
4 by pleadings and in the process of the Court proceedings both
5 Drug Court and then Mental Health Court by saying, "I'm an
6 addict and I am mentally ill." And then we should be allowed
7 to present evidence that he -- again, a Judge heard that,
8 ordered him into a program for which mental illness is a
9 requirement. And then on the other end, because it was out of
10 the jurisdiction, they referred him to our Mental Health
11 Court. The Judge that presides over our Mental Health Court
12 agreed he was mentally ill and he was allowed to enter into
13 the program. So we believe we should be able to present all
14 of that evidence. And I have attached the -- the only thing I
15 haven't attached, because it's a video recording, is a
16 recording of the Court proceedings.

17 THE COURT: I read that.

18 MR. PRENGAMAN: But I presented all the other
19 documentary evidence that the State would seek to admit on
20 that issue.

21 THE COURT: Yes.

22 Anything in reply?

23 MR. LESLIE: Your Honor, I think that the threshold
24 issue is whether this Court is going to accept, and I think

1 this really is the issue, is the Mental Health Court accepting
2 him, is that the same as an adjudication? And/or is his claim
3 of mental health issues, for that matter, addiction, does that
4 constitute for the mental health an adjudication? I get the
5 sense the Court believes that that is sufficient evidence and
6 that's why the rulings are going the way they are, and we have
7 our difference of opinion on that and maybe somebody else will
8 tell us what the real answer is. But to me that's what it
9 really boils down to. We are saying, where is the document?
10 Where is the adjudication? Where is the actual determination
11 of mental health issue or diagnosis, versus simply accepting a
12 self-report and a diagnosis and allowing a deferral. And is
13 that what the legislature meant? Did the legislature in this
14 statute mean to have the effect be that everybody who goes to
15 Mental Health Court now can no longer possess guns ad
16 infinitum, or did they mean that we want them adjudicated?
17 What we meant was something like a 433 adjudication. If you
18 declare it unconstitutional, we'll rewrite it and make it
19 clearer than that. But that's really the point of
20 disagreement.

21 THE COURT: Understood.

22 Anything?

23 MR. PRENGAMAN: Your Honor, I believe part of the
24 motion was also, if I'm not mistaken, that the defense doesn't

1 want the State to make reference to what the specific
2 diagnosis was in the case. I believe that's part of it. I
3 believe I should be able to, because that's part of -- that's
4 a qualifying diagnosis as was testified to at the preliminary
5 hearing. Because I believe that was specifically mentioned, I
6 didn't want that to be overlooked. So from the State's
7 perspective, sort of prior-bad-act-wise, the State -- because
8 its another case, so he pled guilty to a weapons charge in the
9 Sixth Judicial District Court. And so again, I believe that
10 all should come before the jury, but a part of my prior bad
11 act motion is to put that forward, and I believe I should in
12 an abundance of caution, what my intentions are. And my
13 intentions are to bring in all of that evidence that I've
14 indicated. The recording of the proceedings, reference being
15 made to him having posttraumatic stress disorder as the
16 qualifying diagnosis, and additionally the fact that he pled
17 guilty to that charge and sought and received Mental Health
18 Court. So that's -- I don't want anyone to -- again, if
19 there's argument about whether they should know it was a
20 charge, a criminal charge, the nature of the charge, I don't
21 want this hearing to pass without that being fully out there.

22 THE COURT: I'm not going to allow the trial within
23 a trial. But I would be inclined to allow the name of the
24 crime that allowed him to go into court. So that's for

1 clarification. Nobody is going to be going behind that for
2 purpose of the case.

3 MR. PRENGAMAN: No, absolutely not. I wouldn't try
4 to submit anything on the facts.

5 But, for instance, if there was -- I would do a
6 redaction if I needed to comply with any order of the Court,
7 of course, but my intention is to present those documents as
8 they are.

9 THE COURT: I understand.

10 MR. PRENGAMAN: Absent any other order of the Court.

11 THE COURT: I will give you the last word because
12 it's your motion.

13 MR. LESLIE: Just I recall now that we did -- we,
14 others who wrote the motions, did say that the PTSD, that
15 there's a prejudicial aspect. I tend to agree. PTSD, you
16 know, the man on the street, so to speak, thinks PTSD is
17 dangerous or can be at least. So --

18 THE COURT: But check this out. If you're able to
19 get the benefits of Mental Health Court, he has to have a
20 treatable diagnosis which is part of the total story.

21 MR. LESLIE: Sure.

22 THE COURT: That's why I said in some ways, you
23 know, I'm going to deny your motion. But in some ways this
24 information works to the Defense's benefit as well. It just

1 depends on how you do it. But I am denying the motion for the
2 record.

3 MR. LESLIE: It's interesting, maybe I'll stand
4 corrected in a moment, but as I understand it, again, I
5 crammed for this exam.

6 THE COURT: I know you did. And again, for the
7 record, you were not the lead attorney, but --

8 MR. LESLIE: I think I --

9 THE COURT: You've done an admirable job.

10 MR. LESLIE: Thank you.

11 It's interesting that the original charges in that
12 case were CCW. The other charge is a prohibited person in
13 possession of a firearm. I didn't see it, but I would be
14 interested to see if the prohibited person was mental health
15 or drug addiction, and I don't know if there's a prior felony.
16 If that's the case, I think it's awfully interesting to
17 resolve the case by saying, "Let's go for the easier one, the
18 CCW, and let's avoid talking about the addiction as a
19 prohibited person." That's open or dictum to my argument.

20 THE COURT: Capable of repetition but evading review
21 until today.

22 The motion in limine to preclude testimony regarding
23 mental health and participation in Mental Health Court is
24 denied.

1 The next one is motion in limine preluding
2 Mr. Hager's statement regarding drug use in his 2013
3 Presentence Investigation Report.

4 MS. FLAVIN: Yes, Your Honor. And this motion we
5 would be asking to preclude any evidence, again, that he
6 reported drug use in December of 2012 or January of 2013 to
7 either the Division of Parole and Probation or Mental Health
8 Court. And that is due to the evidence -- you know, we stand
9 that the evidence at that time is not relevant to this case,
10 and that was because, again, it's remote in time. It was
11 approximately three years ago. The statements that he made at
12 that time, he was using substances. He went and entered and
13 successfully completed Mental Health Court. And just, again,
14 reiterating that there were no further instances, there were
15 no criminal arrests, there were no positive drug tests. So at
16 that time, that was the issue that he was facing. But again,
17 that was three years ago. And so those statements that were
18 made to the Division of Parole and Probation and to Mental
19 Health Court do not provide information of his current status
20 of his -- any current addiction, any current drug use. And
21 so -- and also that information would be very prejudicial for
22 the jury to hear because they are hearing information that at
23 one time he was a drug user.

24 But again, what we are here for today when we would

1 go to trial is that at that time the offense was charged that
2 he was addicted to or an unlawful user, and so statements from
3 three years prior are not giving us information as to where he
4 was when this offense was charged.

5 Thank you.

6 THE COURT: Mr. Prengaman.

7 MR. PRENGAMAN: Thank you, Your Honor.

8 Your Honor, this also is the subject that was
9 addressed in what I'm referring to as the State's prior bad
10 act motion. I attached the prior PSI as one of my exhibits.
11 I think it was Exhibit 1. The matter that the State seeks to
12 admit is on pages 3 to 4 and it's under the section called
13 Controlled Substance. The State intends to call the P & P
14 officer who spoke to him and elicit simply that information
15 about the use of controlled substance. Likewise, as occurred
16 at the preliminary examination with Mr. Poplavich, I intend to
17 call him and seek admission of the documentation of his
18 admission of Mental Health Court wherein the Defendant filled
19 out a portion of the orientation packet entitled Substance
20 Abuse History, and we've touched -- we've already sort of gone
21 down this road in earlier argument, but the State's theory is
22 that indeed Mr. Hager not only admitted that he was an addict,
23 sought Drug Court, he gave specific information about the
24 nature of his controlled substance use, that in conjunction

1 with his use in the video, that is the State's theory as well
2 as that is one of the most recent evidence of his continuing
3 addiction. And this is evidence of the addiction itself and
4 should come in.

5 So the State is seeking not just the testimony of
6 what he admitted as to substance abuse history in the course
7 of the Sixth Judicial District court proceedings, but also the
8 admissions he made in the course of applying for Drug Court --
9 I'm sorry, Mental Health Court.

10 THE COURT: I understand.

11 MS. FLAVIN: I'll submit, Your Honor.

12 THE COURT: The motion in limine is denied. That is
13 relevant and you may introduce that evidence from the State.

14 Next thing is Trial Memorandum Re scope of Voir
15 Dire.

16 Mr. Prengaman, that was yours.

17 THE COURT: Just so you, know I don't -- I think
18 everybody has tried a case in here. I don't let people talk
19 about the facts of the case during voir dire. I assume that
20 was a memorandum in an abundance of caution to make a record.
21 I've been down that road before, and I know what the law is
22 related to that.

23 MR. PRENGAMAN: I'm not asking for a ruling of the
24 Court. Again, I wanted to -- if I feel the need to object,

1 I've got my authorities out there.

2 THE COURT: You sure do.

3 MR. PRENGAMAN: Thank you.

4 THE COURT: Any comment on that?

5 MR. LESLIE: Just, Your Honor, that I would agree
6 that a fact specific voir dire is not the best.

7 THE COURT: I don't allow it.

8 MR. LESLIE: And I would think, though, that they
9 would be permitted to inquire as to weapons, mental health
10 issues, drug addiction issues, those I don't think are fact
11 specific. Those are either charge or category specific.

12 THE COURT: I'm not making any pretrial, pre voir
13 dire rulings, but you have identified in my opinion fair game
14 issues in a generic general sense, of course.

15 MR. LESLIE: And I know that anchor questions, I
16 think we are all familiar with that, I think those are
17 generally frowned upon.

18 THE COURT: What do you mean?

19 MR. LESLIE: Anchor questions, "How would you vote
20 with," and you cite the anticipated State facts or Defense
21 facts. I think that's taking fact questioning too far. I
22 think we would all agree we are not doing that.

23 THE COURT: I don't allow it. I won't and I don't.
24 I was going to say something else. I don't

1 remember.

2 All right. The next one is Motion in Limine to
3 Preclude Irrelevant Testimony, a general motion filed by the
4 Defense.

5 MS. FLAVIN: And in this motion, Your Honor, we
6 would be seeking to preclude any evidence of alleged threats
7 made to police officers as well as any videos of the Defendant
8 where he does not possess a firearm, and that is because, you
9 know, this evidence is not relevant and is more prejudicial
10 than anything else. With this being a strict liability case,
11 a video of him not possessing firearms is not relevant, again,
12 to the fact of whether he did or did not possess a firearm. I
13 believe those videos are not relevant and also more
14 prejudicial as well as any statements that were allegedly made
15 to officers.

16 THE COURT: Wait. Wait a second. That's a
17 different subject.

18 MS. FLAVIN: Alleged threats, I should say,
19 Your Honor.

20 THE COURT: Yeah. There is a -- this is related to
21 him threatening Officer Johnson, being on Facebook saying
22 those things. That's different than his admission about
23 methamphetamine use.

24 MS. FLAVIN: Correct.

1 THE COURT: I want to make sure I'm clear on that.

2 MS. FLAVIN: This is not as far as any statements of
3 controlled substance. This is specifically statements that
4 again are not related to these charges.

5 THE COURT: I understand.

6 MS. FLAVIN: The videos not -- with him not
7 possessing a firearm and also statements where they are not
8 related to these charges. Again, they are more prejudicial
9 than anything else and they are not relevant, and the State
10 had, I believe, discussed something about essentially wanting
11 to paint a picture for the jury. And it's a picture that
12 again is not relevant. We are not here to explain police
13 conduct in this case. We were here to say whether --

14 THE COURT: You're actually not here to explain his
15 frustration with police conduct in this case, it is more
16 whether he possessed the firearms.

17 MS. FLAVIN: That's correct.

18 THE COURT: I understand the argument.

19 Mr. Prengaman.

20 MR. PRENGAMAN: Thank you, Your Honor. Your Honor,
21 I am prepared to play any of the videos that I intend to
22 introduce, but what I intend to do to outline or make the
23 offer of proof. My intention is to call Officer Johnson --
24 I'm sorry, Detective Johnson. He would generally testify as

1 follows: That on February 17th of 2016, Mr. Hager appeared at
2 the Reno Police Department. He had contact with him about the
3 subject of his brother's case. He was initially very upset,
4 calmed down in the course of the discussion. Detective
5 Johnson, because the original investigating detective had
6 since retired, he looked into the case and approximately a
7 week later called Mr. Hager and had a discussion where he
8 relayed a number of things including the fact that in his
9 research, he discovered that the cause of the defendant's
10 brother's death was methamphetamine intoxication in
11 conjunction with some other activity that I don't -- some
12 other erotic activity that I don't necessarily need to bring
13 out for the jury. But the specific thing, it was
14 methamphetamine intoxication. Now that is significant because
15 that knowledge or information was conveyed to Mr. Hager. And
16 that would be approximately around the time of February 26th,
17 and that's the day Mr. Hager posted on Facebook the video of
18 him snorting what he later admits to be methamphetamine. And
19 in the course of discussing on the video, he says, "This is
20 more than my brother had in his system. I'm going to test the
21 theory that that's what killed him." Now that assists in term
22 of pinpointing the day that he used the methamphetamine and
23 that's why it's relevant. The videos posted to Facebook show,
24 and this was an argument that was touched on by the defense at

1 the preliminary hearing, they show the day they were posted,
2 but they don't show the day they were created. So the State
3 can circumstantially show that the use of that methamphetamine
4 within the timeframe alleged in this case occurred on or about
5 the 26th, because that is exactly the substance of the
6 conversation that Detective Johnson had with the Defendant,
7 and he goes out and does a video where he talks about the
8 content of that statement which tends to prove that the
9 ingestion of methamphetamine occurred on or shortly after
10 Detective Johnson had that conversation.

11 THE COURT: I'm struggling with how the relevance of
12 his brother's demise has any relevance in the case.

13 MR. PRENGAMAN: The relevance, Your Honor, is in
14 that, the methamphetamine, the methamphetamine overdose.
15 Because when the Defendant goes in that video, and I can play
16 it so the Court can see it, what he does in that video is he
17 has a short introduction where he talks about, "I'm going to
18 have breakfast like I used to." He produces the small square
19 baggy of looks like white powder, holds it up and says, "I
20 need to test" --

21 THE COURT: I need to see the video.

22 MR. PRENGAMAN: Okay. May I have --

23 THE COURT: How long is it, Mr. Prengaman? Just
24 curious.

1 MR. PRENGAMAN: Your Honor, it is -- I believe that
2 was approximately just over nine minutes long.

3 THE COURT: Let's take a look.

4 MR. PRENGAMAN: 9 minutes 47 seconds.

5 May I have this marked, please.

6 THE COURT CLERK: Exhibit 1.

7 (Exhibit 1 marked for identification.)

8 MR. PRENGAMAN: Your Honor, for the record,
9 Exhibit 1 is a disk. As previously indicated, I intend to
10 play any video I intend to introduce. This contains all of
11 the videos I intend to produce. Right now I'm just playing
12 the February 26th post.

13 (Whereupon a DVD was played.)

14 THE COURT: Can you hit the light, Mr. Bailiff.
15 That's good.

16 MR. PRENGAMAN: Let me pause it there. For the
17 Court's information, there is approximately -- it's
18 approximately 2 minutes in when he gets to that part, so
19 there's going to be some preceding, just him talking, then
20 he'll get to that point.

21 THE COURT: All right.

22 (Whereupon the DVD was played.)

23 THE COURT: For the record, I've now seen the video.

24 MR. PRENGAMAN: Your Honor, so the content of his

1 discussion that he has -- Officer Johnson will testify that
2 when he -- when Mr. Hager sent the link to the Facebook and he
3 looked at the videos there, this is one of the ones that he
4 saw and that he recognized having that exact discussion with
5 him in that follow-up conversation, which was again right
6 around February 26th, approximately a week after the 17th.

7 THE COURT: What do you plan to elicit from Officer
8 Johnson in addition to the timing of the conversation?

9 MR. PRENGAMAN: Just that, that -- well, as to this,
10 simply that. The nature -- that he related to the Defendant
11 the nature of the cause of death which was methamphetamine
12 intoxication, and the timing of when that occurred. And then
13 when he watched this video, when he later subsequently on the
14 31st, on or about the 31st, that's when Mr. Hager sends the
15 link that he recognized that content as being the discussion
16 he had with Mr. Hager that day which tends to prove that in
17 fact this occurred on or very near the 26th when it was posted
18 which is within the time we had alleged.

19 THE COURT: I understand this particular issue. Was
20 there another video you were trying to preclude?

21 MS. FLAVIN: Your Honor, there were other videos
22 that did not have him with -- where he was not possessing a
23 firearm aside from this February 26th video, and there was no
24 mention of any drug use or anything in that.

1 THE COURT: Hold that thought. I understand the
2 relevance of this.

3 Were you going to be producing something else that I
4 should be aware of?

5 MR. PRENGAMAN: Your Honor, as to those, just going
6 to the ones that do not, there are.

7 THE COURT: For the record, I'm going to allow the
8 testimony of Officer Johnson as you outlined.

9 I'm going to allow the video, and that's acceptable
10 to the Court.

11 So the motion is denied to that degree.

12 Let's move onto additional area.

13 MR. PRENGAMAN: Additionally, there are a number of
14 videos, there's not a lot of them, but there are a number
15 where for similar reasons, I believe the content is relevant
16 to establish habit or routine that he is posting these videos
17 the same day or very close in time to when he is creating
18 them. And so there is -- for instance, there's one video
19 where he doesn't talk about -- or he doesn't have a gun. He
20 is not in possession of any guns or showing guns in his
21 residence where for instance he makes reference to the fact
22 that it's -- I'm going to pull the day of the out air without
23 taking the time to locate it in my notes. But for instance,
24 he says, "Another Friday night," and he actually puts the date

1 the 27ish, which would be -- he posts that video on the 28th.

2 There are some other videos where he is upset and
3 he's talking about the police not doing their job, and
4 Detective Johnson would further testify, if allowed, that in
5 the course -- so he has essentially, what I'll summarize, he
6 has that phone call about a week after that first contact with
7 Mr. Hager. He meets subsequently with him in person and has
8 approximately two more telephone conversations in addition to
9 some e-mail communication with Mr. Hager. He will describe
10 Mr. Hager got increasingly upset about his perceived lack of
11 doing his job investigating --

12 THE COURT: I understand.

13 MR. PRENGAMAN: And then in a number of videos
14 posted in the mid to late March timeframe which is when he is
15 getting upset, he is correspondingly talking about being upset
16 with the police on those videos.

17 THE COURT: I understand.

18 MR. PRENGAMAN: So in essence, there's approximately
19 two to three where he makes some reference to the date which I
20 believe is relevant to his practice of posting.

21 So the one he mentions the specific date. There's
22 another one that -- he has a gun.

23 THE COURT: How is it threatening law enforcement
24 any relevance to the case?

1 MR. PRENGAMAN: It's not the threat, it's simply the
2 content of him being upset with the police and talking about
3 -- he mentioned Scott Johnson by name. Scott Johnson in
4 the --

5 THE COURT: You have to show me the video. I'm not
6 getting it until I see them.

7 MR. PRENGAMAN: Okay. And now would be the time.

8 Are there any videos, Ms. Flavin you don't object to
9 that I don't have to see?

10 MS. FLAVIN: No, Your Honor. I mean, we would be
11 objecting to all of them and you've already ruled on the
12 February 26th.

13 THE COURT: I did. And I also ruled that Officer
14 Johnson can lay a foundation for it.

15 MR. PRENGAMAN: So this is would be a March 16th
16 audio. It's approximately 2 minutes 24 seconds long. He
17 doesn't have guns or make reference to guns, but he makes
18 reference to the fact that it's March and identifies himself
19 as Ian Andre. So my relevance here is, number one, he says
20 it's March, and indeed it's posted on March 16th. So he is
21 again corroborating further evidence of his habit of posting
22 these.

23 THE COURT: What's your theory on needing to prove
24 habit of behavior related to posting videos related to the

1 your prosecution?

2 MR. PRENGAMAN: Ultimately, Your Honor, my argument
3 is he was in possession -- he was in possession of the guns
4 that they found, and in particular, there's three -- actually
5 four, but three that make appearances from late 2015 all the
6 way to the day that they served the warrant. And my -- one of
7 State's theories that he is in possession of that the whole
8 time. So the whole time, simply from the beginning of
9 November to April in the State's allegation that shows durable
10 possession of firearms during the entirety of that time under
11 all three of the State's theories of prohibited person.
12 The -- that's relevant because it also means that he was in
13 possession of at least those three if not all seven that they
14 recovered on the date that he ingested that methamphetamine as
15 well as during the entire period.

16 THE COURT: I'll see. I'll see what you've got.

17 MR. PRENGAMAN: That's the relevance of the State's
18 theory because he is, by proving in particular as to the
19 February 26th video as it occurs, but that he posted them on
20 or about the same day he's making them, tends to, again, show
21 the durable possession over time.

22 THE COURT: You only have to show one possession.
23 You don't have to show durable possession.

24 MR. PRENGAMAN: Well, Your Honor, I would tend to

1 agree with you if he's an addict.

2 THE COURT: I understand.

3 MR. PRENGAMAN: Then the -- I would submit that that
4 entire time he's in possession is relevant. So now with this
5 video, it's making reference to the fact that it's March and
6 because the Facebook name is in the name Ian Andre and he
7 identifies himself here as, "Me, Ian Andre."

8 (Whereupon an audio recording was played.)

9 THE COURT: How did you want to use that?

10 MR. PRENGAMAN: So the fact at about 1:20 when he
11 says, "That was me, Ian Hager, alias Ian Andre," which is the
12 name of his Facebook. That's the name which his Facebook
13 account is. And at 2:02, he says, "You know, it's only
14 March." Again, this video is posted April 16th, so it shows
15 when he's posted.

16 THE COURT: I'm not going to allow that video. The
17 motion is granted on that audiotape. I find it's too
18 prejudicial, that its prejudicial impact is too great and
19 outweighs its probative value.

20 What's the next one?

21 MR. PRENGAMAN: And if I may, Your Honor, on that,
22 would I be allowed to have a -- to sanitize it from those
23 things, have the detective that watched the video testify that
24 he has identified himself as Ian Andre as one of the videos

1 posted on the 16th?

2 THE COURT: You may. You may.

3 For more specific, language of threats to police
4 officers and other inflammatory statements made out of the
5 defendant's own mouth would be too confusing, misleading, and
6 prejudicial.

7 MR. PRENGAMAN: So then, the next one, Your Honor
8 would be 2 minutes 22 seconds long. It's posted on March
9 21st. The Defendant's in his house, and the reason I would
10 seek to admit it is he at approximately -- he makes reference
11 to, in the course of it, to St. Patty's Day, having adventure
12 on Saint Patty's Day which would have been Thursday,
13 March 17th, very close to the 21st when he posts this, which
14 shows in time he's posting this on or about the day it's
15 posted.

16 Additionally, about 1:18 he mentions Scott Johnson
17 by name, and if allowed, Detective Johnson would testify this
18 is approximately the timeframe that Mr. Hager was getting very
19 upset with his perception of Detective Johnson not doing his
20 job.

21 So the content of the video in terms of him
22 expressing his frustration would be similar to what
23 conversation he had with him at approximately this timeframe.

24 (Whereupon a DVD was played.)

1 THE COURT: Tell me again what you want to use that
2 video for?

3 MR. PRENGAMAN: So the reference to the adventure on
4 St. Patty's Day, which would have been Thursday, March 17th,
5 which would have been very close to the March 21st day this
6 was posted, so it's making reference to a recent -- and again,
7 his reference to Scott Johnson, Detective Fox, the former
8 detective on the case. If allowed, Detective Johnson will
9 testify that is consistent with the type of content of the
10 conversations he was having.

11 THE COURT: How far would you alternatively sanitize
12 if I didn't allow that in?

13 MR. PRENGAMAN: I would simply ask Detective Johnson
14 if he reviewed the videos that were posted on the website, if
15 he viewed one that was posted March 21st, if on that video the
16 Defendant made reference to having some type of adventure on
17 Saint Patrick's Day, and he would answer, "Yes."

18 And then I would ask him, "Did he make reference to
19 any subject matter that was consistent with the conversation
20 you had with him around this period of time?" And he would
21 say, "Yes."

22 THE COURT: I'll allow that. I'm not going to allow
23 the video for the same reasons, it's too prejudicial and the
24 prejudicial impact outweighs it's probative value.

1 Go ahead.

2 MR. PRENGAMAN: So there are three more. Now they
3 would be similar. There is one that was posted on March 28th,
4 he is driving in his car, he makes reference to Ken and some
5 text messages, that's Detective Ken Gallop of the Sparks
6 Police Department, and he would say, and this is part of the
7 case, the Defense has disclosure of these, but the text
8 messages that he was corresponding with Mr. Hager on this same
9 day were consistent with what Mr. Hager was referencing, text
10 messages in this *Delinski* case, which is unrelated to his
11 case. But he makes reference to a *Delinski* both in this video
12 post as well as in the text message he sends to Detective
13 Gallop.

14 THE COURT: You get the flavor of the Court's
15 feeling on the videos. Unless you feel I need to see them, my
16 ruling would be the same. But I would allow you to inquire of
17 the officers from a relevance perspective relating to the
18 timing. And they may refer to the video by foundation, but I
19 don't want it to be played before the jury.

20 MR. PRENGAMAN: And I am, Your Honor. So then
21 there's another one, as I said, that actually posts the date
22 and the 27ish across the screen, and it was posted on the
23 28th. So again, I would be proposing to do the same method.

24 THE COURT: That's absolutely admissible to the

1 Court. You may do so to establish your dates. But for
2 purposes of the actual video and the things he's saying on the
3 videos, it's not that type of case.

4 MR. PRENGAMAN: And then if I understand correctly,
5 the defense is not objecting to any of the videos where he is
6 actually having guns or showing guns, displaying guns is what
7 I hear.

8 THE COURT: Well, I mean you can make the objection
9 but I would tend to think --

10 MR. LESLIE: We are not going to get pulled into a
11 stipulation of admissibility. I think that they will have to
12 lay the foundation, and we'll go that way unless the Court had
13 a different idea.

14 THE COURT: I don't.

15 MR. LESLIE: I took that as a sweeping pretrial
16 statement that we are admitting everything else. I'm not
17 going to agree to that.

18 THE COURT: Not at all. You can see, if there are
19 videos he's posted that involve drugs or guns, they would be
20 more palatable for relevance purposes. I haven't seen them.
21 But if there are, then the ones that don't --

22 MR. LESLIE: Right. And that first video was sort
23 of almost in a different class than what we are talking about
24 with the recent ones that had been either redacted or rejected

1 by the Court.

2 Courts indulgence.

3 That's our position, Your Honor.

4 THE COURT: All right.

5 MR. PRENGAMAN: Then with that, that's my -- any
6 videos that don't show guns or drug use, I will seek to admit
7 testimony about the relevant aspect of that.

8 THE COURT: That's great.

9 Did you want me to see any other videos,
10 Mr. Prengaman? As I indicated, I'm inclined to allow drugs
11 and gun videos.

12 MR. PRENGAMAN: No, Your Honor. The reason I ask, I
13 mean, there is quite a number of him with guns, and there's
14 some photos that he takes of guns and --

15 THE COURT: Within the time period?

16 MR. PRENGAMAN: Within the time period, that are
17 clearly in his house. There's also some outside the time
18 period. For instance, there are a number of photos. When
19 police searched the cell phone, they found photos of guns that
20 were taken, some in September for instance. Although that's
21 outside my timeframe, I believe it's relevant to show that he
22 would likely have those guns the entire period of time. So it
23 is my intention to submit those photographs of guns in his
24 home. There are a number of videos where he's walking around

1 his house carrying guns, displaying guns. He's engaging in
2 not the type of threatening conduct that we see or extreme
3 agitated conduct we see in these videos. There's a lot
4 similar to the sort of what I'll call the preamble to the
5 methamphetamine video where he's in his house talking about
6 various subjects, sort of stream of consciousness type.

7 THE COURT: Clearly I would not be allowing him
8 threatening police officers as part of this particular trial.
9 It's about possessing firearms by a prohibited person by two
10 different reasons, and that's what would remain relevant for
11 the Court.

12 So anything else?

13 MR. PRENGAMAN: I don't believe so.

14 THE COURT: Okay. That's my ruling related to the
15 Defense motion. So it's partially granted and partially
16 denied.

17 All right. The next I have is Motion in Limine Re
18 Admission of Other Acts Evidence Regarding the Defendant. I
19 think that's next.

20 That's yours, Mr. Prengaman.

21 MR. PRENGAMAN: It is, Your Honor. And as well,
22 we've already dealt with most of the subject matter by way of
23 the Defense objections which are essentially responsive to my
24 motion.

1 THE COURT: All right.

2 MR. PRENGAMAN: So I believe the first section that
3 has to do with the Mental Health Court evidence we've already
4 addressed. The Defendant's -- the video posted February 26th
5 and photographs of the Defendant in possession of firearms.

6 THE COURT: Very good.

7 MR. PRENGAMAN: Section C, the -- I believe it was
8 the last exhibit, Exhibit 11 to the State's motion, I believe
9 in Section C, the only thing we haven't dealt with is the drug
10 paraphernalia when the police searched his residence on
11 April 8th in the master bedroom in the top drawer of the
12 bureau, there's a photograph what they will testify to as drug
13 paraphernalia.

14 THE COURT: I'm inclined to allow that if you want
15 to make an argument from the defense.

16 MR. LESLIE: We'll submit on that.

17 THE COURT: It's going to be allowed.

18 Section D, I think I ruled on, but if you want me to
19 be more specific, I will.

20 MR. PRENGAMAN: I don't think so. I'll adapt the
21 contour of the testimony to avoid any reference to threats.

22 THE COURT: That's fine. I don't believe, not in
23 this trial, but maybe some other trial, but not in this trial,
24 threats to police officers really -- you know, as we focus

1 intellectually for everybody's benefit on a strict liability
2 crime, Possession of a Firearm by a Prohibited Person, focus
3 on that. That's what will be proved, that's what the law
4 requires. So getting into his threats of Detective Johnson is
5 marginally relevant as to why he became the attention to law
6 enforcement. But I think my admission of the February 26th
7 video explains a lot for the jury.

8 MR. PRENGAMAN: And on that subject, I would, as I
9 said, tend to say that he was somewhat upset when he first had
10 contact, but calmed down in the subsequent conversation when
11 he was told about the cause of death, that he was unhappy with
12 that explanation. Nothing about threats or anything.

13 THE COURT: I'm allowing that. It makes sense.
14 It's consistent with the res gestae of the crime and the total
15 story of it, and I'm allowing it.

16 MR. PRENGAMAN: That concludes the State's motion.

17 THE COURT: Did I touch on all the Defense? That's
18 all the motions, isn't it?

19 MR. LESLIE: I think so.

20 MS. FLAVIN: Yes.

21 THE COURT: All right. So we are scheduled for a
22 week next week. Typically speaking, I do try to get through
23 my criminal cases before we begin. So Monday is an early day.
24 Monday we'll start at -- I think we start at 9:00.

1 MR. PRENGAMAN: I think we are scheduled for 10:00
2 if I'm not mistaken.

3 THE COURT: 10:00. I think everybody has tried a
4 case here. I take a break in the morning, an hour for lunch,
5 a break in the afternoon, about 15 minutes. And we have a
6 full day. I think I have youth offender court Monday at 4:00,
7 so we'll stop at 4:00 on Monday. And I'm taking Department
8 8's criminal cases, so when I get done with those on Tuesday,
9 we'll begin. So I think we'll have a jury and maybe opening
10 statements on Monday. This is set for a week.

11 MR. PRENGAMAN: It is, Your Honor. And if it's okay
12 with the Court, can we plan on that maybe for Monday, to do
13 jury selection, opening statements?

14 THE COURT: Absolutely.

15 MR. PRENGAMAN: I'll offer to have witnesses ready
16 just in case, but it's extremely inconvenient for them when
17 they are waiting around.

18 THE COURT: I agree. Do you want to call a witness
19 after opening on Monday?

20 MR. PRENGAMAN: No, Your Honor. I actually would be
21 happy just to let their minds be at ease, let them know
22 Tuesday is the day to start calling witnesses.

23 THE COURT: That's fair. We'll see how it goes and
24 we can take our time on Monday.

1 Do you agree with that from the defense even though
2 you might not be here?

3 MR. LESLIE: I would agree to that. That makes
4 sense the parties can focus on those two main tasks, and it's
5 the State's burden on production anyway, but well start with
6 that.

7 THE COURT: I'm going to sua sponte raise the issue
8 because you have done it previously, Mr. Leslie, in other
9 cases I had with you, I do challenge for cause in front of a
10 venire panel. You've made motions to do it outside. I
11 enjoyed your argument, but I do it in front of a jury in case
12 anybody asks.

13 MR. LESLIE: Thank you.

14 THE COURT: So I think that's all. Anything else?

15 I let you make brief comments to the venire panel
16 about the nature of the case, not in the nature of an opening
17 statement, but just generally speaking what the case is about.

18 Other than that, that's all I can really think of
19 that's unique to this department unless either one of you can
20 think of anything I haven't covered.

21 MR. LESLIE: That's it.

22 THE COURT: Any other housekeeping?

23 MR. LESLIE: No, Your Honor.

24 THE COURT: We'll see you when we pick 12 Monday.

1 Have a good week. Thank you for all your arguments.

2 (Proceedings concluded.)

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1 STATE OF NEVADA)
2 COUNTY OF WASHOE) ss.

3
4 I, SUSAN KIGER, an Official Reporter of the
5 Second Judicial District Court of the State of Nevada, in and
6 for the County of Washoe, State of Nevada, DO HEREBY CERTIFY:

7 That I am not a relative, employee or
8 independent contractor of counsel to any of the parties, or a
9 relative, employee or independent contractor of the parties
10 involved in the proceeding, or a person financially interested
11 in the proceedings;

12 That I was present in Department No. 9 of the
13 above-entitled Court on December 5, 2016, and took verbatim
14 stenotype notes of the proceedings had upon the matter
15 captioned within, and thereafter transcribed them into
16 typewriting as herein appears;

17 That the foregoing transcript, consisting of
18 pages 1 through 86, is a full, true and correct transcription
19 of my stenotype notes of said proceedings.

20 DATED: At Reno, Nevada, this 6th day of
21 December, 2016.

22 /s/ Susan Kiger

23 SUSAN KIGER, CCR No. 343
24