

# IN THE SUPREME COURT OF THE STATE OF NEVADA

JAVIER RIGHETTI,  
Appellant(s),

vs.

STATE OF NEVADA,  
Respondent(s),

Case No: C-11-276713-1

Docket No: 73015

**Death Penalty**

# RECORD ON APPEAL VOLUME 51

ATTORNEY FOR APPELLANT  
JAVIER RIGHETTI # 1177953,  
PROPER PERSON  
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ELY, NV 89301

ATTORNEY FOR RESPONDENT  
STEVEN B. WOLFSON,  
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LAS VEGAS, NV 89101

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| 21         | 04/17/2017  | PRE-SENTENCE INVESTIGATION REPORT (UNFILED) CONFIDENTIAL   | 4675 - 4685             |
| 4          | 02/25/2016  | PROPOSED AND FINAL JURY QUESTIONNAIRE  | 839 - 855               |
| 1          | 10/24/2011  | RECEIPT FOR GRAND JURY TRANSCRIPT  | 99 - 99                 |
| 9          | 02/09/2017  | RECEIPT OF COPY  | 1899 - 1899             |
| 1          | 08/13/2014  | REQUEST FOR WRIT OF HABEAS CORPUS  | 169 - 173               |

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| 3          | 02/02/2016  | REQUEST TO FILE EX PARTE ORDER FOR TRANSPORT UNDER SEAL   | 584 - 584               |
| 1          | 09/13/2012  | REQUEST TO FILE EX PARTE ORDER UNDER SEAL   | 103 - 103               |
| 1          | 10/03/2012  | REQUEST TO FILE EX PARTE ORDER UNDER SEAL   | 105 - 105               |
| 1          | 01/11/2013  | REQUEST TO FILE EX PARTE ORDER UNDER SEAL   | 107 - 107               |
| 1          | 02/11/2013  | REQUEST TO FILE EX PARTE ORDER UNDER SEAL   | 109 - 109               |
| 1          | 02/20/2013  | REQUEST TO FILE EX PARTE ORDER UNDER SEAL   | 111 - 111               |
| 1          | 08/07/2014  | REQUEST TO FILE EX PARTE ORDER UNDER SEAL   | 166 - 166               |
| 2          | 12/10/2015  | REQUEST TO FILE EX PARTE ORDER UNDER SEAL   | 286 - 286               |
| 1          | 07/03/2014  | REQUEST TO FILE EX PARTE ORDER UNDER SEAL (SEALED)  | 165 - 165               |
| 1          | 06/02/2014  | REQUEST TO FILE ORDER UNDER SEAL  | 161 - 161               |
| 20         | 03/21/2017  | SPECIAL VERDICT   | 4290 - 4292             |
| 20         | 03/21/2017  | SPECIAL VERDICT   | 4293 - 4295             |
| 4          | 03/02/2016  | STATE'S MOTION TO REJECT THE DEFENDANT'S GUILTY PLEA TO THE MURDER COUNT ENTIRELY OR IN THE ALTERNATIVE TO SET THE MURDER COUNT FOR TRIAL ON THE THEORY OF WILLFUL, DELIBERATE, AND PREMEDITATED MURDER | 859 - 872               |
| 3          | 01/29/2016  | STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR INDIVIDUAL SEQUESTERED VOIR DIRE   | 561 - 565               |
| 9          | 02/14/2017  | STATE'S OPPOSITION TO DEFENDANT'S MOTION IN LIMINE  | 1904 - 1907             |
| 9          | 02/14/2017  | STATE'S OPPOSITION TO DEFENDANT'S MOTION IN LIMINE FOR A FAIR TRIAL   | 1908 - 1911             |
| 10         | 03/03/2017  | STATE'S OPPOSITION TO DEFENDANT'S MOTION IN LIMINE TO PRESENT ATKINS TO JURY IN BIFURCATED PENALTY PHASE  | 2084 - 2092             |
| 3          | 02/08/2016  | STATE'S OPPOSITION TO DEFENDANT'S MOTION TO   | 634 - 638               |

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|            |             | BIFURCATE PENALTY PHASE   |                         |
| 9          | 02/14/2017  | STATE'S OPPOSITION TO DEFENDANT'S MOTION TO<br>CONTINUE ATKINS HEARING  | 1900 - 1903             |
| 2          | 03/20/2015  | STATE'S OPPOSITION TO DEFENDANT'S MOTION TO<br>EXCLUDE JUVENILE RECORDS   | 255 - 257               |
| 10         | 03/03/2017  | STATE'S OPPOSITION TO DEFENDANT'S MOTION TO<br>RECONSIDER REQUEST TO BIFURCATE PENALTY PHASE  | 2079 - 2083             |
| 3          | 02/04/2016  | STATE'S OPPOSITION TO DEFENDANT'S MOTION TO SEVER<br>COUNTS   | 611 - 622               |
| 4          | 02/23/2016  | STATE'S OPPOSITION TO DEFENDANT'S MOTION TO STRIKE<br>AGGRAVATING CIRCUMSTANCES AND EVIDENCE IN<br>AGGRAVATION  | 814 - 817               |
| 5          | 03/14/2016  | STATE'S OPPOSITION TO DEFENDANT'S MOTION TO STRIKE<br>TORTURE AND MUTILATION AGGRAVATORS  | 1096 - 1107             |
| 4          | 02/23/2016  | STATE'S OPPOSITION TO MOTION TO LIMIT STATE'S<br>EVIDENCE PRESENTED IN SUPPORT OF AGGRAVATION   | 820 - 833               |
| 4          | 02/23/2016  | STATE'S OPPOSITION TO MOTION TO STRIKE NOTICE OF<br>INTENT TO SEEK DEATH BASED ON THE<br>UNCONSTITUTIONALITY OF NEVADA'S DEATH PENALTY<br>SENTENCING SCHEME | 818 - 819               |
| 3          | 02/04/2016  | STATE'S OPPOSITION TO MOTION TO SUPPRESS<br>DEFENDANT'S STATEMENTS TO POLICE  | 587 - 610               |
| 8          | 09/02/2016  | STATE'S RESPONSE TO DEFENDANT'S MOTION FOR AN<br>ATKINS HEARING   | 1697 - 1715             |
| 8          | 08/30/2016  | SUPPLEMENTAL DEFENDANT'S NOTICE OF EXPERT<br>WITNESSES, PURSUANT TO NRS 174.234(2)  | 1680 - 1696             |
| 2          | 01/26/2016  | SUPPLEMENTAL NOTICE OF EXPERT WITNESSES [NRS<br>174.234(2)] (CONTINUED)   | 448 - 450               |
| 3          | 01/26/2016  | SUPPLEMENTAL NOTICE OF EXPERT WITNESSES [NRS<br>174.234(2)] (CONTINUATION)  | 451 - 454               |

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| 7          | 08/26/2016  | SUPPORTING DOCUMENTS FOR DEFENDANT'S MOTION FOR ATKINS HEARING (CONTINUED)    | 1352 - 1575             |
| 8          | 08/26/2016  | SUPPORTING DOCUMENTS FOR DEFENDANT'S MOTION FOR ATKINS HEARING (CONTINUATION) | 1576 - 1679             |
| 1          | 01/03/2014  | TRANSCRIPT OF HEARING HELD ON APRIL 2, 2013                                   | 125 - 131               |
| 4          | 02/18/2016  | TRANSCRIPT OF HEARING HELD ON FEBRUARY 11, 2016                               | 743 - 773               |
| 6          | 04/13/2016  | TRANSCRIPT OF HEARING HELD ON FEBRUARY 22, 2016                               | 1170 - 1181             |
| 11         | 03/07/2017  | TRANSCRIPT OF HEARING HELD ON FEBRUARY 22, 2017 (CONTINUED)                   | 2293 - 2475             |
| 12         | 03/07/2017  | TRANSCRIPT OF HEARING HELD ON FEBRUARY 22, 2017 (CONTINUATION)                | 2476 - 2529             |
| 9          | 03/01/2017  | TRANSCRIPT OF HEARING HELD ON FEBRUARY 23, 2017 (CONTINUED)                   | 1970 - 2025             |
| 10         | 03/01/2017  | TRANSCRIPT OF HEARING HELD ON FEBRUARY 23, 2017 (CONTINUATION)                | 2026 - 2038             |
| 4          | 03/07/2016  | TRANSCRIPT OF HEARING HELD ON FEBRUARY 25, 2016 (CONTINUED)                   | 875 - 900               |
| 5          | 03/07/2016  | TRANSCRIPT OF HEARING HELD ON FEBRUARY 25, 2016 (CONTINUATION)                | 901 - 932               |
| 9          | 03/01/2017  | TRANSCRIPT OF HEARING HELD ON FEBRUARY 8, 2017                                | 1966 - 1969             |
| 5          | 03/16/2016  | TRANSCRIPT OF HEARING HELD ON FEBRUARY 9, 2016 (CONTINUED)                    | 1108 - 1125             |
| 6          | 03/16/2016  | TRANSCRIPT OF HEARING HELD ON FEBRUARY 9, 2016 (CONTINUATION)                 | 1126 - 1138             |
| 1          | 01/03/2014  | TRANSCRIPT OF HEARING HELD ON JULY 18, 2013                                   | 132 - 138               |
| 1          | 01/02/2014  | TRANSCRIPT OF HEARING HELD ON JULY 2, 2013                                    | 118 - 124               |
| 2          | 07/09/2015  | TRANSCRIPT OF HEARING HELD ON JUNE 25, 2015                                   | 271 - 274               |

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| 14                | 03/13/2017         | TRANSCRIPT OF HEARING HELD ON MARCH 10, 2017<br>(CONTINUED)    | 3123 - 3150                    |
| 15                | 03/13/2017         | TRANSCRIPT OF HEARING HELD ON MARCH 10, 2017<br>(CONTINUATION) | 3151 - 3229                    |
| 1                 | 03/14/2014         | TRANSCRIPT OF HEARING HELD ON MARCH 13, 2014                   | 150 - 155                      |
| 15                | 03/14/2017         | TRANSCRIPT OF HEARING HELD ON MARCH 13, 2017                   | 3230 - 3352                    |
| 15                | 03/14/2017         | TRANSCRIPT OF HEARING HELD ON MARCH 14, 2017                   | 3353 - 3372                    |
| 16                | 03/17/2017         | TRANSCRIPT OF HEARING HELD ON MARCH 16, 2017<br>(CONTINUED)    | 3474 - 3600                    |
| 17                | 03/17/2017         | TRANSCRIPT OF HEARING HELD ON MARCH 16, 2017<br>(CONTINUATION) | 3601 - 3680                    |
| 6                 | 03/24/2016         | TRANSCRIPT OF HEARING HELD ON MARCH 17, 2016                   | 1139 - 1169                    |
| 17                | 03/20/2017         | TRANSCRIPT OF HEARING HELD ON MARCH 17, 2017<br>(CONTINUED)    | 3681 - 3825                    |
| 18                | 03/20/2017         | TRANSCRIPT OF HEARING HELD ON MARCH 17, 2017<br>(CONTINUATION) | 3826 - 3833                    |
| 18                | 03/21/2017         | TRANSCRIPT OF HEARING HELD ON MARCH 20, 2017<br>(CONTINUED)    | 4042 - 4050                    |
| 19                | 03/21/2017         | TRANSCRIPT OF HEARING HELD ON MARCH 20, 2017<br>(CONTINUATION) | 4051 - 4259                    |
| 20                | 03/22/2017         | TRANSCRIPT OF HEARING HELD ON MARCH 21, 2017                   | 4316 - 4494                    |
| 2                 | 04/09/2015         | TRANSCRIPT OF HEARING HELD ON MARCH 24, 2015                   | 258 - 264                      |
| 2                 | 04/09/2015         | TRANSCRIPT OF HEARING HELD ON MARCH 26, 2015                   | 265 - 268                      |
| 1                 | 03/07/2014         | TRANSCRIPT OF HEARING HELD ON MARCH 6, 2014                    | 143 - 149                      |
| 10                | 03/07/2017         | TRANSCRIPT OF HEARING HELD ON MARCH 6, 2017<br>(CONTINUED)     | 2095 - 2250                    |
| 11                | 03/07/2017         | TRANSCRIPT OF HEARING HELD ON MARCH 6, 2017                    | 2251 - 2292                    |



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| 12         | 03/08/2017  | TRANSCRIPT OF HEARING HELD ON MARCH 7, 2017<br>(CONTINUED)    | 2532 - 2700             |
| 13         | 03/08/2017  | TRANSCRIPT OF HEARING HELD ON MARCH 7, 2017<br>(CONTINUATION) | 2701 - 2740             |
| 5          | 03/10/2016  | TRANSCRIPT OF HEARING HELD ON MARCH 8, 2016                   | 938 - 949               |
| 13         | 03/09/2017  | TRANSCRIPT OF HEARING HELD ON MARCH 8, 2017<br>(CONTINUED)    | 2745 - 2925             |
| 14         | 03/09/2017  | TRANSCRIPT OF HEARING HELD ON MARCH 8, 2017<br>(CONTINUATION) | 2926 - 2974             |
| 14         | 03/10/2017  | TRANSCRIPT OF HEARING HELD ON MARCH 9, 2017                   | 2988 - 3122             |
| 21         | 05/09/2017  | TRANSCRIPT OF HEARING HELD ON MAY 8, 2017                     | 4705 - 4714             |
| 8          | 11/15/2016  | TRANSCRIPT OF HEARING HELD ON NOVEMBER 8, 2016                | 1733 - 1736             |
| 1          | 03/21/2014  | TRANSCRIPT OF HEARING HELD ON OCTOBER 11, 2012                | 156 - 160               |
| 1          | 10/20/2011  | TRANSCRIPT OF HEARING HELD ON OCTOBER 20, 2011                | 89 - 94                 |
| 8          | 11/15/2016  | TRANSCRIPT OF HEARING HELD ON OCTOBER 27, 2016                | 1728 - 1732             |
| 1          | 10/20/2011  | TRANSCRIPT OF HEARING HELD ON OCTOBER 6, 2011                 | 24 - 88                 |
| 2          | 08/07/2015  | TRANSCRIPT OF HEARING HELD ON SEPTEMBER 19, 2013<br>(SEALED)  | 275 - 283               |
| 8          | 09/13/2016  | TRANSCRIPT OF HEARING HELD ON SEPTEMBER 6, 2016               | 1718 - 1723             |
| 18         | 03/20/2017  | TRANSCRIPT OF PROCEEDINGS, ERRATA                             | 3834 - 3834             |
| 21         | 04/12/2017  | TRANSCRIPT OF PROCEEDINGS, ERRATA                             | 4674 - 4674             |
| 16         | 03/16/2017  | VERDICT   | 3453 - 3454             |
| 20         | 03/21/2017  | VERDICT   | 4315 - 4315             |
| 20         | 03/21/2017  | VERDICT(S) SUBMITTED TO JURY BUT RETURNED                     | 4288 - 4289             |

C-11-276713-1

State of Nevada  
vs  
Javier Righetti

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| <u>VOL</u> | <u>DATE</u> | <u>PLEADING</u>      | <u>PAGE<br/>NUMBER:</u> |
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|            |             | UNSIGNED             |                         |
| 21         | 05/08/2017  | WARRANT OF EXECUTION | 4693 - 4696             |

PROSPECTIVE JURY PANEL PRESENT: JURY SELECTED. Court thanked and excused remaining prospective jury panel members for their time and service. Court admonished and excused Jury for lunch.

OUTSIDE PRESENCE OF JURY: Mr. Pesci advised there are two proposed Exhibits defense objects to, which he was going to use during his opening statements. Ms. Craig objected to State's Proposed Exhibit No.'s 19 and 20; and argued regarding the photos being duplicative. Discussions as to Exhibit No.'s 22 and 24. Further objections were made by Ms. Craig. Mr. Pesci advised there are photos taken at the crime scene at the very beginning of investigation, and photos taken during investigation when crime scene analysts appear and collect evidence, and placards are placed on specific evidence items. Mr. Pesci argued in support of the photos. Court NOTED and OVERRULED defense's objection.

Lunch recess.

JURY PRESENT and SWORN by Clerk. Court instructed Jury on the law. Clerk read Amended Indictment. Further instructions were provided to Jury by Court. Opening statements by Mr. Pesci.

Defendant's Objection To The Trial Phase Process And Offer Of Proof As to The Defense's Opening Statement FILED IN OPEN COURT.

Opening statements by Ms. Craig. Court admonished and excused Jury for the evening.

OUTSIDE PRESENCE OF JURY: Ms. Craig renewed Defendant's Motion for sanctions for discovery violation; and argued in support of excluding documents provided by State regarding the knife tip testing, due to timeliness of when State provided these documents to defense prior to trial. Mr. Pesci argued as soon as State received these documents, they were provided to defense, he does not see any prejudice, and if Court was to apply the timeliness rule argued by defense, it would also have to suppress evidence defense provided to State in this case. Further arguments as to case law from State vs. Zane Floyd, penalty phase, and the duty being on both sides. Upon Court's inquiry, Mr. Pesci advised State is only using two photos. Ms. Craig argued that is not how discovery works, there is duty of due diligence, State had announced ready for trial numerous times, and these documents were not found until eve of trial. Ms. Craig added as to documents provided to the State by defense, the defense may not be using them, further noting there were supporting documents provided as to Mrs. Righetti, who is testifying during penalty phase. Court NOTED defense's objection and DENIED Defendant's motion to exclude evidence.

Further discussions regarding redactions from Defendant's recorded statements. Mr. Bashor argued as to statements Defendant made to his sister during the police interview, bad character attack evidence on some of the statements, and opening statements made to the Jury by Mr. Pesci. Ms. Fleck argued there is nothing impermissible nor any legal basis to exclude the objected portion of the bad character statement. Further arguments regarding relevance. Court DENIED defense's objection;

with exception of page 61. COURT ORDERED, the portion: "I started beating little kids" will be REDACTED. Mr. Bashor addressed page 63. Discussions regarding the Elko and dreaming reference by Defendant to be removed by stipulation, and some statements on page 67 to also be removed. Mr. Bashor addressed page numbers 88 to 90, 90 to 92, 92 to 98, and 101, and advised State wants this information removed. Following arguments, Ms. Fleck argued it is inappropriate to have the whole family conversation included, as it is hearsay and irrelevant what Defendant's sister is saying. Further arguments regarding page 94. Mr. Bashor argued the conversation was not private, purpose of redaction is to protect the Defendant, and defense does not object to this portion being played to the Jury, as it is relevant. Discussions as to family dynamics being referenced. COURT ORDERED, Defendant's request to include that portion is DENIED. Mr. Bashor requested the statement which includes the various highlighted colored portions and the e-mail be made as a Court's Exhibit. COURT SO ORDERED. Further discussions as to where redactions of the audio portion of statement will be done, including transcribed statement. Mr. Pesci clarified the transcript will not be an exhibit for the Jury, as the transcript will be provided just to have the Jury follow along, when the audio statement is played. Colloquy as to witness line up for tomorrow.

Evening recess. TRIAL CONTINUES.

CUSTODY

3/10/17 9:00 A.M. TRIAL BY JURY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****March 10, 2017**

C-11-276713-1      State of Nevada  
                                 vs  
                                 Javier Righetti

**March 10, 2017      9:00 AM      Jury Trial**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Jovanovich

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

|                 |                         |           |
|-----------------|-------------------------|-----------|
| <b>PRESENT:</b> | Bashor, Ryan            | Attorney  |
|                 | Craig-Rohan, Christy L. | Attorney  |
|                 | Fleck, Michelle         | Attorney  |
|                 | Pesci, Giancarlo        | Attorney  |
|                 | Public Defender         | Attorney  |
|                 | Righetti, Javier        | Defendant |
|                 | State of Nevada         | Plaintiff |

**JOURNAL ENTRIES**

- JURY PRESENT: Testimony and Exhibits presented (See Worksheets.). Court admonished and excused Jury for the weekend, to return Monday, March 13, 2017 at 1:30 P.M.

OUTSIDE PRESENCE OF JURY: Court expressed concerns due to scheduling issues with State's witnesses and duration time of today's trial. Court reminded State to get some witnesses lined up for the same day. Discussions regarding witness line up for Monday, March 13, 2017 and remainder of next week. Ms. Fleck noted because defense counsel is not doing any cross-examination, it is difficult for State to predict length of duration. Ms. Craig noted defense believes they cannot put on a defense in this stage, and they are not asking questions, further noting defense has filed offers of proof explaining why. Court advised Ms. Craig it never told defense that they could not put on a defense. Ms. Craig argued the Court has, for Counts 6 through 9, as Defendant has pled guilty, therefore, defense cannot do anything opposite of his plea that has already occurred. Additionally,

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there is nothing defense can do to attack anything on State going for felony murder under their one theory, Defendant has pled guilty to the underlying felonies, and that supplies mens rea for first degree murder. Court noted there are two other theories. Ms. Craig argued each one supports a theory of first degree murder, defense cannot attack premeditation, deliberation and torture, and that is the underlying basis of her earlier motion and ongoing objection. Mr. Pesci argued defense can always argue State did not prove with specificity, the felony murder theory, further noting it is just like a suppression of a statement, defense can still attack State's case and still say the State failed to prove it. Ms. Craig argued that is not the same thing, as a guilty plea that was adjudicated and accepted by Court, defense is in a different position, the Court already ruled on this, and this is why defense cannot put on a defense. Colloquy between Court and Marshal. Court advised parties Juror No. 3 approached the Marshal earlier, and stated he recognized one of State's witnesses. Court stated it will bring this juror in out of abundance of caution and ask him questions, to see if this will influence the juror in any way.

Juror No. 3 now present in Court at the podium. Court thanked the juror for listening to Court's instructions given earlier. Upon Court's inquiry, Juror No. 3 stated he lives two blocks away from a Subway sandwich shop, he recognizes State's witness Daniel Ortiz, who was employed at the same Subway shop, and Mr. Ortiz had fixed him sandwiches in the past, when he went to the sandwich shop a couple of times. Upon Court's inquiry, the juror stated it has been years since he has seen Mr. Ortiz, and he did not know his name before, until the witness appeared to testify. Upon Court's inquiry, the juror stated this would not interfere or affect his ability to continue to serve as a juror. Court thanked juror for bringing this to Court's attention; and excused him for the weekend to return on Monday, March 13, 2017.

Juror No. 3 not present. Parties made no objections. Court acknowledged receipt of defense's proposed jury instructions, which were provided earlier.

Court recessed. TRIAL CONTINUES.

CUSTODY

3/13/17 1:30 P.M. TRIAL BY JURY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****March 13, 2017**

C-11-276713-1      State of Nevada  
                                 vs  
                                 Javier Righetti

**March 13, 2017      1:30 PM      Jury Trial**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Jovanovich

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

|                 |                         |           |
|-----------------|-------------------------|-----------|
| <b>PRESENT:</b> | Bashor, Ryan            | Attorney  |
|                 | Craig-Rohan, Christy L. | Attorney  |
|                 | Fleck, Michelle         | Attorney  |
|                 | Pesci, Giancarlo        | Attorney  |
|                 | Public Defender         | Attorney  |
|                 | Righetti, Javier        | Defendant |
|                 | State of Nevada         | Plaintiff |

**JOURNAL ENTRIES**

- OUTSIDE PRESENCE OF JURY: Mr. Pesci advised Defendant's statement is not ready today, and redactions were made, however, State saw other things that might have been a concern for defense, further noting a copy of the statement was provided to defense, but there are pages of other things that need to get out, to make sure there is no information presented that was deemed inadmissible for the guilt phase. Ms. Craig agreed with State's representation. Mr. Pesci requested additional time to review the statement one more time, to see if there was anything that was missed. Court stated that is fine. Mr. Pesci further stated information about the composite sketch from the first sexual assault victim's incident will be removed by stipulation, and the Elko reference will also be removed by stipulation. Upon Court's inquiry, Mr. Bashor confirmed defense has no objections. SO NOTED. Ms. Craig advised she had asked Mr. Pesci to put a copy of his power point presentation from his opening statement as a Court's exhibit. Mr. Pesci stated he will provide this tomorrow. SO NOTED.

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JURY PRESENT: Testimony and Exhibits presented (See Worksheets.). State published the 7-11 video surveillance, being Exhibit No. 2 to the Jury. Further testimony and Exhibits presented (See Worksheets.). Court admonished and excused Jury for the evening, to return Thursday, March 16, 2017, at 10:30 A.M.

OUTSIDE PRESENCE OF JURY: Court asked parties to return tomorrow morning at 10:30 A.M., to go over and finalize proposed jury instructions for the guilt phase, with the Court. Mr. Bashor requested Defendant be allowed to appear dressed out as a normal trial day, due to the media coverage, and to avoid any risks or someone seeing things inadvertently. COURT SO ORDERED.

Evening recess. TRIAL CONTINUES.

CUSTODY

3/14/17 10:30 A.M. TRIAL BY JURY



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**March 14, 2017**

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C-11-276713-1      State of Nevada  
                                 vs  
                                 Javier Righetti

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**March 14, 2017      10:30 AM      All Pending Motions**

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**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D  
RJC Courtroom 14D

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**COURT CLERK:**  
Susan Jovanovich

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

|                 |                         |           |
|-----------------|-------------------------|-----------|
| <b>PRESENT:</b> | Bashor, Ryan            | Attorney  |
|                 | Craig-Rohan, Christy L. | Attorney  |
|                 | Fleck, Michelle         | Attorney  |
|                 | Pesci, Giancarlo        | Attorney  |
|                 | Public Defender         | Attorney  |
|                 | Righetti, Javier        | Defendant |
|                 | State of Nevada         | Plaintiff |

**JOURNAL ENTRIES**

- JURY TRIAL

Defendant's Additional Defense Proposed Jury Instructions (Trial) FILED IN OPEN COURT.

Defendant's Offer Of Proof-Jury Instructions In Light Of Defense's Objection To The Guilt Phase Trial Process FILED IN OPEN COURT.

OUTSIDE PRESENCE OF JURY: Defendant not present. Parties exited Courtroom to informally discuss proposed jury instructions with the Court in Chambers.

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CASE RECALLED. Defendant present in custody.

JURY INSTRUCTIONS FOR GUILT PHASE SETTLED. VERDICT FORM FOR GUILT PHASE APPROVED. Objections were made by defense counsel regarding proposed instructions rejected by Court. Discussions as to Carter instruction being included.

DEFENDANT'S MOTION IN LIMINE TO PRESENT ATKINS TO JURY IN BIFURCATED PENALTY

Discussions as to no ruling made on bifurcation in legislature. Ms. Craig argued in support of presenting Atkins and a bifurcated procedure. Mr. Pesci opposed; and argued as to cases cited by defense, and defense having created a second bite to the apple regarding intellectual disability issue. Mr. Pesci added the Supreme Court had ruled the states should decide this, Nevada statute has determined this Court is the source who decides this, and there is nothing in the statute that provides for a second attempt on this issue, or letting the Jury make the decision. Additionally, this Court's determination is final. Court NOTED that is how it interpreted the statute, and it is going to comply with the statute.

DEFENDANT'S MOTION TO RECONSIDER REQUEST TO BIFURCATE THE PENALTY PHASE

Ms. Craig argued in support of bifurcating the penalty phase. Ms. Craig argued the Jury should make the decision first on the penalty phase, before going back to consider death punishment. Court stated this motion was ruled on already. Mr. Pesci clarified Court ruled on the original bifurcation, however, there is a second one where defense cited to Johnson and Summers, and the third one is bifurcation with Atkins. Mr. Pesci argued there is nothing in Johnson that mandates the proceedings should be bifurcated, and State agrees Court has discretion; however, this Court already utilized the discretion and ruled against it. Mr. Pesci added it would be essential for State to rebut or attack the intellectual disability allegations, and Defendant can present mitigation evidence, however, defense cannot just argue that he is intellectually disabled, according to this Court's ruling. Mr. Pesci noted having two bifurcated proceedings in a penalty phase is a mess; and State will request Court to continue with the ruling already given on this. Ms. Craig argued regarding Johnson case, and ruling about juvenile records. COURT ORDERED, Motion DENIED.

DEFENDANT'S MOTION TO COMPEL APPLICATION OF THE RULES OF EVIDENCE TO PENALTY HEARING

Ms. Fleck moved to have Court deny this Motion; and argued as to page 3 of Defendant's Motion, Nevada Supreme Court ruling about constitutional guarantees, and confrontational cause not applying. Further arguments as to Summers and Williams case law. Ms. Craig argued lots of things are constitutional until they are unconstitutional, and if Court is inclined to deny this Motion, defense will request Court to consider finding both the statute and the case law all unconstitutional and granting the motion ultimately. COURT ORDERED, Motion DENIED.

Discussions as to Defendant's redacted recorded statement to be presented to the Jury Thursday, March 16, 2017. Ms. Craig requested the transcript of the interview also be included in the trial transcript for the Record, for purposes of appeal. COURT SO ORDERED. Further discussions on witness line up for Thursday, March 16, 2017.

Evening recess. TRIAL CONTINUES.

CUSTODY

3/16/17 10:30 A.M. TRIAL BY JURY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****March 16, 2017**

C-11-276713-1

State of Nevada

vs

Javier Righetti

**March 16, 2017****10:30 AM****Jury Trial****HEARD BY:** Leavitt, Michelle**COURTROOM:** RJC Courtroom 14D

RJC Courtroom 14D

**COURT CLERK:**

Susan Jovanovich

**RECORDER:** Kristine Santi**REPORTER:****PARTIES****PRESENT:**

Bashor, Ryan

Attorney

Craig-Rohan, Christy L.

Attorney

Fleck, Michelle

Attorney

Pesci, Giancarlo

Attorney

Public Defender

Attorney

Righetti, Javier

Defendant

State of Nevada

Plaintiff

**JOURNAL ENTRIES**

- Defense Proposed Penalty Phase Jury Instructions FILED IN OPEN COURT.

JURY PRESENT: Testimony and Exhibits presented (See Worksheets.). State's Exhibit No. 166 being Defendant's recorded and redacted statement to police, was PUBLISHED to the Jury in open Court. Transcripts of Defendant's recorded statement were provided to the Jury; and Court instructed the Jury. Upon conclusion of publication of Defendant's recorded statement, the transcripts Jury had followed along with were collected by Marshal at request of Court. Court admonished and excused the Jury for a lunch recess.

Lunch recess.

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JURY PRESENT: Further testimony presented (See Worksheets.). State rested. Court admonished and excused the Jury for a recess.

Defendant's Objection To The Trial Phase Process And Offer Of Proof With Regard To Trial Objections FILED IN OPEN COURT.

Defendant's Bench Brief In Support Of Defense Objection To The Admission Of Cumulative Or Improper Victim Impact Evidence In Violation Of The Due Process Clause FILED IN OPEN COURT.

OUTSIDE PRESENCE OF JURY: Defendant was admonished of his right not to testify. Ms. Craig made objection; and argued based on Defendant's guilty plea to Counts 6 through 9, which support the felony murder, defense does not think he has the right to testify under those circumstances. Upon Court's inquiry, Defendant stated he discussed these rights with his attorneys briefly. Court expressed concerns. Ms. Craig clarified defense has talked with their client about this plenty of times. Colloquy between Ms. Craig and Defendant. Court asked if more time is needed for Defendant to talk to his attorneys further. Defendant stated no. Ms. Craig confirmed defense counsel reminded Defendant today about their advice that was given to him. Defendant clarified he did have an opportunity to talk to his attorneys about whether or not he should testify. Court admonished to Defendant regardless of what his attorneys say, it is his decision and his decision alone as to whether he should testify. Upon Court's inquiry, Defendant stated he will waive his right to testify, and will remain silent. SO NOTED. Parties approached the Bench to review the revised Verdict Form which included Special Verdict on findings of murder. VERDICT FORM APPROVED.

JURY PRESENT: Defense rested. Court instructed Jury on the law. Closing arguments by Ms. Fleck.

Defendant's Objection To The Trial Phase And Offer Of Proof As To Defense's Closing Statement FILED IN OPEN COURT.

Ms. Craig informed Court defense is submitting this to the Jury without argument.

Marshal and Matron sworn by Clerk. Alternate Jurors were identified and instructed by Court to wait in a deliberation room, until a verdict is reached. At the hour of 3:30 P.M., the Jury retired to deliberate.

Jury deliberating.

OUTSIDE PRESENCE JURY: Ms. Craig advised defense requests to get a better picture of what is going to be told to the Jury when the Jury returns from deliberating, so defense can prepare openings about the prior guilty pleas and how it all occurred. Ms. Craig argued defense would be inclined to explain to Jury that Defendant pled guilty of all ten counts, and it is not clear to defense on how this will be done, based on earlier discussions. Upon Court's inquiry, Ms. Craig added defense wants to be able to tell this Jury Defendant had pled guilty, and also tell this Jury he pled guilty to felony

murder, including why the Jury had to go through this whole trial, when he had accepted responsibility all along, as this is a mitigator he is entitled to. Court asked if defense wanted to tell the Jury Defendant attempted to carve out a theory by pleading to only two theories and not the third theory. Ms. Craig argued it was her suggestion to put someone on the stand to testify about this, and it is not clear to defense where this ended up, what defense is going to be able to tell the Jury and what this Court's rulings were. Further arguments as to mens rea being supported for first degree murder.

Mr. Pesci argued there is no plea to Count 10, Court withdrew this plea, and Nevada Supreme Court upheld this Court's decision. Mr. Pesci argued if defense is allowed to do this, it would be State's intention to introduce the Nevada Supreme Court decision in order to explain what happened, and how Defendant does not have right to carve out an exception; further noting Defendant has had every single day during Court, the right to stand up and say he did it, he has not, he chose not to plead to the murder, and State will argue against any sort of taking responsibility, as Defendant has not taken responsibility. Ms. Craig disagreed; and argued Defendant pled guilty a year ago. Further arguments as to Supreme Court decision. Ms. Craig added defense is entitled to provide an explanation. Additional arguments by parties.

COURT ORDERED, it does not believe this is appropriate to explain the legal issues to the Jury, defense can argue to the Jury that Defendant has pled to the felony murder because he pled to the robbery, the kidnapping and sexual assault; however, Court does not believe it is appropriate for defense to go into that Defendant tried to carve out a theory, as this is very prejudicial, and defense had tried to use this to strike certain aggravators to prevent State from going forward.

Ms. Craig disagreed; and argued these are all mitigators, and it was a perfectly legal process to follow considering the fact that it is a question never considered in Nevada. Ms. Craig noted for the record it is still not clear as to what Court is going to allow defense to explain to this Jury, and defense believes that Defendant's plea of guilty to First Degree Murder by way of Felony Murder rule, is a mitigator, to which he is entitled to present this. Court noted State does not have to accept that, however, Supreme Court said a person has to plead to the charge, and if the charge is not pled, there is no plea, further noting there is no plea on Count 10, as it has been stricken. Court noted this is wholly inappropriate to try to explain to the Jury this entire process including how it went to the Supreme Court. Ms. Craig argued this was part of her motion to put on a witness, Andrea Luem, Esq., on the stand to explain how all that happened. Court clarified it is not going to allow that, as it would be inappropriate, and there is no plea to Count 10. Court stated it thought Defendant would come in and plead guilty to Count 10, after the Supreme Court decision came out, but he did not, so the State was required to plead up the entire murder charge. Further arguments by Ms. Craig. Court reminded Ms. Craig the Supreme Court disagreed with defense counsel, and that has to be accepted. Ms. Craig argued Defendant pled guilty to Counts 6 through 9. Court agreed; and reminded defense counsel the plea to Count 10 was stricken, and it was a void plea. Ms. Craig argued Defendant attempted to plead guilty; and defense is trying to get a sense of what Court is going to allow defense to say and not say. Court clarified it would be inappropriate for the Jury to know why the Jury did not know about Defendant's prior plea, as it was not relevant; defense is permitted to tell the Jury

what the state of the record is, however, it would be inappropriate to try to explain legal issues to the Jury. Further arguments by Ms. Craig. Court noted the decision was affirmed. Further discussions as to Court's ruling. Mr. Pesci noted Defendant did not take responsibility, because trial has occurred, and Defendant could have stood up and said he did the murder in a willful, deliberate and premeditated fashion. Court clarified defense can tell the Jury Defendant took responsibility, however, Court does not believe it is truthful to say Defendant took responsibility and pled guilty to all these counts, as he clearly did not take full responsibility for the murder count. Further discussions.

Mr. Pesci advised there has to be a formula to actually let the Jury know, because there is no judgment of conviction, further noting this Court has adjudicated Defendant guilty of the other counts. Mr. Pesci requested to prepare a written stipulation or document, to say Defendant had pleaded guilty and was adjudicated on the other charges. Ms. Craig advised parties can reference the document. COURT SO ORDERED. Ms. Craig requested State to run the document by defense to approve form and content.

Jury deliberating.

3:58 P.M.--JURY PRESENT: Court reconvened with all parties present from before, including the three Alternate jurors. JURY RETURNED VERDICTS AS FOLLOWS: COUNT 1 - GUILTY OF FIRST DEGREE MURDER WITH USE OF A DEADLY WEAPON (F).

SPECIAL VERDICT RETURNED as follows:

The Jury unanimously finds the murder willful, deliberate and premeditated.

The Jury unanimously finds the murder was committed during the perpetration or attempted perpetration of robbery.

The Jury unanimously finds the murder was committed during the perpetration or attempted perpetration of kidnapping.

The Jury unanimously finds the murder was committed during the perpetration or attempted perpetration of sexual assault.

Jury not polled.

CONFERENCE AT BENCH. Court instructed, admonished and excused the entire Jury panel and Alternate Jury members for the evening to return tomorrow morning at 10:00 A.M. for hearing on the penalty phase.

OUTSIDE PRESENCE OF JURY: Court advised both parties when the Jury was excused, the Alternates were separated from the Jury panel during the entire deliberation process. Parties

acknowledged.

Evening recess. TRIAL CONTINUES.

CUSTODY

3/17/17 10:00 A.M. JURY TRIAL PENALTY HEARING



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****March 17, 2017**

C-11-276713-1      State of Nevada  
                                 vs  
                                 Javier Righetti

**March 17, 2017      10:00 AM      Penalty Hearing**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D  
RJC Courtroom 14D

**COURT CLERK:**

Susan Jovanovich

**RECORDER:** Kristine Santi**REPORTER:****PARTIES**

|                 |                         |           |
|-----------------|-------------------------|-----------|
| <b>PRESENT:</b> | Bashor, Ryan            | Attorney  |
|                 | Craig-Rohan, Christy L. | Attorney  |
|                 | Fleck, Michelle         | Attorney  |
|                 | Pesci, Giancarlo        | Attorney  |
|                 | Public Defender         | Attorney  |
|                 | Righetti, Javier        | Defendant |
|                 | State of Nevada         | Plaintiff |

**JOURNAL ENTRIES****- TRIAL BY JURY - PENALTY HEARING**

OUTSIDE PRESENCE OF JURY: CONFERENCE AT BENCH. State's Exhibit No. 169, being the Indictment ADMITTED. Court addressed members of media present in the Courtroom, and admonished those members including members with cameras not to show faces or their likeness of State's two sexual assault witnesses, scheduled to testify today. Members of the media acknowledged.

JURY PRESENT: Court addressed and thanked the members of the Jury for appearing today. Opening statements by Mr. Pesci and Mr. Bashor. Testimony and Exhibits presented (See

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Worksheets). State published Exhibit No. 170 to the Jury in open Court. Further testimony and Exhibits presented (See Worksheets.). Court admonished and excused Jury for lunch recess.

OUTSIDE PRESENCE OF JURY: Court OVERRULED the objection made earlier, and ORDERED, State's Exhibit No. 207 ADMITTED. Mr. Bashor requested to have a photograph shown during opening statements be admitted as an exhibit by Defendant. COURT SO ORDERED.

Lunch recess.

OUTSIDE PRESENCE OF JURY: CONFERENCE AT BENCH. Exhibits ADMITTED (See Worksheets.).

JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.). Court admonished and excused the Jury for the weekend, to return on Monday morning, March 20, 2017 at 10:00 A.M.

OUTSIDE PRESENCE OF JURY: Mr. Pesci advised State has one more witness, being Defendant's cousin, testifying Monday. Upon Court's inquiry, Ms. Craig confirmed defense will be ready on Monday. Discussions as to witness line up for next week.

Evening recess. TRIAL CONTINUES with the Penalty Hearing.

CUSTODY

3/20/17 10:00 A.M. TRIAL BY JURY - PENALTY HEARING

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****March 20, 2017**

C-11-276713-1      State of Nevada  
                                 vs  
                                 Javier Righetti

**March 20, 2017      10:00 AM      Penalty Hearing**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D  
RJC Courtroom 14D

**COURT CLERK:**

Susan Jovanovich

**RECORDER:** Kristine Santi**REPORTER:****PARTIES**

|                 |                         |           |
|-----------------|-------------------------|-----------|
| <b>PRESENT:</b> | Bashor, Ryan            | Attorney  |
|                 | Craig-Rohan, Christy L. | Attorney  |
|                 | Fleck, Michelle         | Attorney  |
|                 | Pesci, Giancarlo        | Attorney  |
|                 | Public Defender         | Attorney  |
|                 | Righetti, Javier        | Defendant |
|                 | State of Nevada         | Plaintiff |

**JOURNAL ENTRIES****- JURY TRIAL - PENALTY HEARING**

OUTSIDE PRESENCE OF JURY: Mr. Pesci advised State's last witness is a sexual assault victim; and requested Court's order made to the media to remain in place. COURT SO ORDERED. Court addressed members of the media in the gallery, and reminded the members not to take photographs or show images of the State's next witness. Court also reminded the members of the media audio can be recorded, just like before, but they are not permitted to show the victim's face or take any pictures. Members of the media acknowledged. Upon Court's inquiry, Mr. Bashor advised defense witnesses are ready.

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JURY PRESENT: Court addressed and thanked the Jury for their willingness to be here and for their professional courtesy in their conduct. State's Witness is present with assistance from Certified Spanish Court Interpreter, Maggie Becerra. Clerk swore the Interpreter and witness. Testimony presented (See Worksheets.). State rested. Defense called witnesses. Testimony and Exhibits presented (See Worksheets.). Defense's second and third witnesses were assisted by Certified Spanish Court Interpreter, Maggie Becerra. Clerk swore the Interpreter and witnesses. Further testimony and Exhibits presented (See Worksheets.). Court admonished and excused the Jury for lunch recess.

OUTSIDE PRESENCE OF JURY: Mr. Pesci addressed the report from Mr. Greenspan; and objected regarding page 5 of this report, and Dr. Greenspan providing testimony about his opinion. Mr. Pesci further argued Mr. Greenspan cannot opine as to whether or not Defendant has intellectual disability, as this Court has resolved that issue, further noting State has no data, or anything about the tests; and even if defense provides this, there is no way for State to be ready before testimony. Ms. Craig argued defense did not decide to call Dr. Greenspan until before trial started, and it did not occur to her to share that. Additionally, defense had shared the report, and both Dr. Mahaffey and Dr. Kern did the same kind of testing. Ms. Craig added the witness did adaptive behavior deficits and will be testifying to this and Dandy-Walker. Mr. Pesci argued State takes issue with the concept of saying they are similar, the witness should not be testifying at all regarding any testing that was done, where State has not been provided with it, and there is nothing to support it. Ms. Craig argued as to Atkins hearing, IQ score, Dr. Greenspan not having anything to do with the IQ, and Dr. Orrison being a radiologist. Upon Court's inquiry, Ms. Craig stated defense did not turn over the testing; and apologized. Thereafter, Ms. Craig argued the witness is not going to opine as to each individual thing as to adaptive behavior. Mr. Pesci addressed the Vineland test, and argued there having been different numbers from interview. Mr. Pesci added the witness can testify to everything else, but not regarding adaptive functioning issue because he had tested Defendant, as giving the opinion would not be appropriate. Court SUSTAINED the objection to that extent; and ORDERED, the witness can testify but not about any of his testing.

Lunch recess.

JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.). Defense witness Adriana Ibarra-Fajardo is present on Stand with assistance from Certified Spanish Court Interpreter, Ricardo Pico. Clerk swore Interpreter and witness. Further testimony and Exhibits presented (See Worksheets.). Court admonished and excused Jury for afternoon break.

OUTSIDE PRESENCE OF JURY: Discussions as to scheduling of defense witnesses for this afternoon and tomorrow, including trial progression and status of proposed instructions for this penalty hearing. Further discussions as to State's concerns about Dr. Greenspan's report, and State objecting to admission of this report. Mr. Pesci advised as long as the report is not admitted, the witness can testify as to what he is going to do; further noting State consulted with defense counsel about having the witness Dr. Greenspan testify tomorrow, and having defense provide the data, for State to get prepared for cross examination of Dr. Greenspan. Court asked if defense wanted this opportunity.

Ms. Craig advised defense has declined to do that. Court's Exhibit ADMITTED (See Worksheets.). Upon inquiry by State, Court stated the proposed instructions and arguments will be done tomorrow afternoon. Both parties suggested going over proposed instructions later this afternoon.

JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.). During trial, Court received a note from Juror No. 2, being the Jury Foreperson, about scheduling for Wednesday, March 22, 2017, due to her having an interview to go to for that Wednesday morning. Upon concluding for the day, Court addressed the Jury and stated if this goes into Wednesday, March 22, 2017, with the Jury deliberating after being instructed on the Penalty Phase, Court will make the decision on Tuesday night, as to when the Jury has to come back, and Court would not have the Jury come back before 9:00 A.M. Jury panel acknowledged; and Jury Foreperson thanked the Court. Court admonished and excused the Jury for the evening, to return tomorrow at 10:00 A.M.

OUTSIDE PRESENCE OF JURY: Court noted it will canvass the Defendant tomorrow about his right to make an unsworn statement in allocution.

Evening recess. TRIAL CONTINUES.

CUSTODY

3/21/17 10:00 A.M. TRIAL BY JURY - PENALTY HEARING

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****March 21, 2017**

C-11-276713-1      State of Nevada  
                                 vs  
                                 Javier Righetti

**March 21, 2017      10:00 AM      Penalty Hearing**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:**  
Susan Jovanovich

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

|                 |                         |           |
|-----------------|-------------------------|-----------|
| <b>PRESENT:</b> | Bashor, Ryan            | Attorney  |
|                 | Craig-Rohan, Christy L. | Attorney  |
|                 | Fleck, Michelle         | Attorney  |
|                 | Pesci, Giancarlo        | Attorney  |
|                 | Public Defender         | Attorney  |
|                 | Righetti, Javier        | Defendant |
|                 | State of Nevada         | Plaintiff |

**JOURNAL ENTRIES**

- TRIAL BY JURY - PENALTY HEARING

**JURY PRESENT:** Testimony and Exhibits presented (See Worksheets.). Court admonished and excused the Jury for a recess.

**OUTSIDE PRESENCE OF JURY:** Upon Court's inquiry, Ms. Craig confirmed Defense has no more witnesses, and are going to rest, except for the allocution, as Defendant is going to make a statement in allocution. Court admonished Defendant on his right to make an un-sworn statement in allocution; and explained to Defendant the boundaries of what he may and may not go into with his un-sworn statement. Ms. Craig informed Court Defendant prepared a 4-5 paged double spaced statement to read. Mr. Pesci requested Court to read Defendant's un-sworn statement, before he

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reads it; and stated if Court thinks the document is going outside the boundaries, Court can address this beforehand. Ms. Craig objected; and argued defense can review the letter prior to Defendant reading it and make the decision, further noting defense has already reviewed it, the statement is brief, and some parts were already taken out. Court stated it is going to accept the representations as an officer of the Court, and it will have the defense review his statement. Court canvassed Defendant further; and reminded him if during his statement he starts to say things that are not appropriate; and if the Court tells him to sit down and be quiet, he must sit down and be quiet; and he will not be permitted to speak any further, if Court says he needs to stop and sit down. Defendant acknowledged.

CONFERENCE AT BENCH.

Lunch recess. After lunch, parties appeared in the Courtroom and exited to Chambers, to go over and finalize penalty hearing instructions, including Special Verdict forms, with the Court.

OUTSIDE PRESENCE OF JURY: JURY INSTRUCTIONS SETTLED. SPECIAL VERDICT FORMS APPROVED. There being no objection, COURT ORDERED, State's Exhibit 216 ADMITTED.

JURY PRESENT: Defendant made an un-sworn statement in allocution in open Court. Defense rested, as Ms. Craig stated there are no more witnesses. Court instructed Jury on the law. Closing arguments by parties. Marshal and Matron sworn by Clerk. Court instructed the Alternate Jurors, being the same instructions as during the guilt phase, to remain in a jury deliberation room with the Matron, until a verdict is reached. At the hour of 3:37 P.M., the Jury retired to deliberate.

Jury deliberating.

OUTSIDE PRESENCE OF JURY: Discussions as to Instruction No. 24 being in part at request of defense counsel, and in part at request of State. Ms. Craig advised she will file defense's proposed instructions later, to make them part of the record.

7:03 P.M. -- JURY PRESENT: Court reconvened with all parties present from before, including Defendant.

JURY RETURNED VERDICT of DEATH.

SPECIAL VERDICTS were also returned by Jury, to which the Jury made findings that the mitigating circumstances do not outweigh the aggravating circumstance or circumstances.

Jury was not polled. Court extended gratitude to the Jury for their willingness to be here, and participate in this case; and thanked the Jury for their service. Thereafter, Court excused and discharged the Jury from trial proceedings.

OUTSIDE PRESENCE OF JURY: COURT ORDERED, matter REFERRED to Division of Parole and

Probation (P&P), and SET for sentencing.

Defense Proposed Penalty Phase Jury Instructions FILED IN OPEN COURT.

Following statements by Ms. Craig about Instruction No. 11, Mr. Pesci noted State's objections to the proposed instruction by defense. Mr. Pesci requested to see the other Verdict forms. COURT SO ORDERED. Thereafter, Court allowed both sides to approach the Clerk to review all Special Verdicts forms and Jury Verdict. Clerk provided copies of the Verdict and Special Verdicts forms to both sides after trial ended.

Court adjourned. TRIAL ENDS.

CUSTODY

5/09/17 10:30 A.M. SENTENCING (JURY VERDICT)



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****May 08, 2017**

C-11-276713-1      State of Nevada  
                                 vs  
                                 Javier Righetti

**May 08, 2017      10:30 AM      Sentencing**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Jovanovich

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

|                 |                         |           |
|-----------------|-------------------------|-----------|
| <b>PRESENT:</b> | Bashor, Ryan            | Attorney  |
|                 | Craig-Rohan, Christy L. | Attorney  |
|                 | Pesci, Giancarlo        | Attorney  |
|                 | Public Defender         | Attorney  |
|                 | Righetti, Javier        | Defendant |
|                 | State of Nevada         | Plaintiff |

**JOURNAL ENTRIES**

- DEFT. JAVIER RIGHETTI ADJUDGED GUILTY as of February 11, 2016, of COUNT 1 - ATTEMPTED ROBBERY (F); COUNT 2 - BATTERY WITH INTENT TO COMMIT SEXUAL ASSAULT BY STRANGULATION (F); COUNT 3 - FIRST DEGREE KIDNAPPING (F); COUNT 4 - ATTEMPTED SEXUAL ASSAULT WITH A CHILD UNDER SIXTEEN YEARS OF AGE (F); COUNT 5 - SEXUAL ASSAULT WITH A CHILD UNDER SIXTEEN YEARS OF AGE (F); COUNT 6 - ROBBERY WITH USE OF A DEADLY WEAPON (F); COUNT 7 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON (F); COUNT 8 - SEXUAL ASSAULT WITH A CHILD UNDER SIXTEEN YEARS OF AGE WITH USE OF A DEADLY WEAPON (F); and COUNT 9 - SEXUAL ASSAULT WITH A CHILD UNDER SIXTEEN YEARS OF AGE WITH USE OF A DEADLY WEAPON (F).

By virtue of Jury Verdict returned in this matter on March 16, 2017, DEFT. JAVIER RIGHETTI ADJUDGED GUILTY OF COUNT 10 - MURDER OF THE FIRST DEGREE WITH USE OF A

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DEADLY WEAPON (F). Arguments by Mr. Pesci. Court asked Deft. if he wanted to say anything. Deft. stated no. Arguments by Ms. Craig. Victim Speaker provided sworn statement.

COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, \$150.00 DNA Analysis fee including testing to determine genetic marker testing, \$3.00 DNA Collection fee, and \$4,138.46 Restitution, Deft. SENTENCED as follows:

COUNT 1 - a MINIMUM of THIRTY SIX (36) MONTHS and a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS in the Nevada Department of Corrections (NDC);

COUNT 2 - LIFE without the possibility of parole in the Nevada Department of Corrections (NDC);  
COUNT 2 to run CONSECUTIVE TO COUNT 1;

COUNT 3 - LIFE with the possibility of parole after a MINIMUM of FIVE (5) YEARS is served in the Nevada Department of Corrections (NDC); COUNT 3 to run CONSECUTIVE to COUNT 2;

COUNT 4 - a MINIMUM of FOUR (4) YEARS and a MAXIMUM of TWENTY (20) YEARS in the Nevada Department of Corrections (NDC); COUNT 4 to run CONSECUTIVE to COUNT 3;

COUNT 5 - LIFE with the possibility of parole after a MINIMUM of TWENTY FIVE (25) YEARS is served in the Nevada Department of Corrections (NDC); COUNT 5 to run CONSECUTIVE to COUNT 4;

COUNT 6 - a MINIMUM of SEVENTY TWO (72) MONTHS and a MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS in the Nevada Department of Corrections (NDC), plus a CONSECUTIVE TERM of a MINIMUM of SEVENTY TWO (72) MONTHS and a MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS in the Nevada Department of Corrections (NDC) for use of deadly weapon enhancement; COUNT 6 to run CONSECUTIVE to COUNT 5;

COUNT 7 - LIFE with the possibility of parole after a MINIMUM of FIVE (5) YEARS is served in the Nevada Department of Corrections (NDC), plus a CONSECUTIVE TERM of a MINIMUM of THIRTY SIX (36) MONTHS and a MAXIMUM of TWO HUNDRED FORTY (240) MONTHS in the Nevada Department of Corrections (NDC) for use of deadly weapon enhancement; COUNT 7 to run CONSECUTIVE to COUNT 6;

COUNT 8 - LIFE with the possibility of parole after a MINIMUM of TWENTY FIVE (25) YEARS is served in the Nevada Department of Corrections (NDC), plus a CONSECUTIVE TERM of a MINIMUM of THIRTY SIX (36) MONTHS and a MAXIMUM of TWO HUNDRED FORTY (240) MONTHS in the Nevada Department of Corrections (NDC) for use of deadly weapon enhancement; COUNT 8 to run CONSECUTIVE to COUNT 7;

COUNT 9 - LIFE with the possibility of parole after a MINIMUM of TWENTY FIVE (25) YEARS is served in the Nevada Department of Corrections (NDC), plus a CONSECUTIVE TERM of a

MINIMUM of THIRTY SIX (36) MONTHS and a MAXIMUM of TWO HUNDRED FORTY (240) MONTHS in the Nevada Department of Corrections (NDC) for use of deadly weapon enhancement; COUNT 9 to run CONSECUTIVE to COUNT 8; and,

COUNT 10 - DEATH, plus a CONSECUTIVE TERM of a MINIMUM of THIRTY SIX (36) MONTHS and a MAXIMUM of TWO HUNDRED FORTY (240) MONTHS in the Nevada Department of Corrections (NDC), for use of deadly weapon enhancement, COUNT 10 to run CONSECUTIVE to COUNT 9, with TWO THOUSAND SEVENTY THREE (2,073) DAYS CREDIT FOR TIME SERVED.

COURT ADDITIONALLY ORDERED, Deft. to register as a sex offender in accordance with NRS 179D.460 within 48 hours upon release from imprisonment; and a special SENTENCE OF LIFETIME SUPERVISION is imposed to commence upon release from any term of probation, parole or imprisonment.

Warrant Of Execution SIGNED AND FILED IN OPEN COURT.

Order of Execution SIGNED AND FILED IN OPEN COURT.

At request of defense counsel, COURT FURTHER ORDERED, CASE STAYED pending DIRECT APPEAL.

Deft's Order For Stay Of Execution SIGNED AND FILED IN OPEN COURT.

BOND, if any, EXONERATED.

NDC

# Certification of Copy and Transmittal of Record

State of Nevada }  
County of Clark } SS:

Pursuant to Supreme Court Rule 250 6 (b), I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, do hereby certify that the foregoing is a true, full and correct copy of the complete trial court record for the case referenced below. The record comprises fifty-one volumes with pages numbered 1 through 11275.

STATE OF NEVADA,

Plaintiff(s),

vs.

JAVIER RIGHETTI,

Defendant(s),

Case No: C-11-276713-1

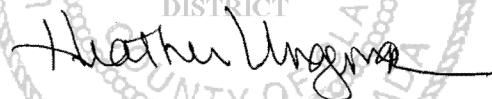
Dept. No: XII

**Death Penalty**

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto  
Set my hand and Affixed the seal of the  
Court at my office, Las Vegas, Nevada  
This 6 day of June 2017.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

# IN THE SUPREME COURT OF THE STATE OF NEVADA

JAVIER RIGHETTI,  
Appellant(s),

vs.

STATE OF NEVADA,  
Respondent(s),

Case No: C-11-276713-1

Docket No: 73015

**Death Penalty**

# RECORD ON APPEAL VOLUME 50

ATTORNEY FOR APPELLANT  
JAVIER RIGHETTI # 1177953,  
PROPER PERSON  
P.O. BOX 1989  
ELY, NV 89301

ATTORNEY FOR RESPONDENT  
STEVEN B. WOLFSON,  
DISTRICT ATTORNEY  
200 LEWIS AVE.  
LAS VEGAS, NV 89101

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| 10         | 03/06/2017  | ORDER RE: ATKINS HEARING   | 2093 - 2094             |
| 21         | 04/17/2017  | PRE-SENTENCE INVESTIGATION REPORT (UNFILED) CONFIDENTIAL   | 4675 - 4685             |
| 4          | 02/25/2016  | PROPOSED AND FINAL JURY QUESTIONNAIRE  | 839 - 855               |
| 1          | 10/24/2011  | RECEIPT FOR GRAND JURY TRANSCRIPT  | 99 - 99                 |
| 9          | 02/09/2017  | RECEIPT OF COPY  | 1899 - 1899             |
| 1          | 08/13/2014  | REQUEST FOR WRIT OF HABEAS CORPUS  | 169 - 173               |



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| 3          | 02/02/2016  | REQUEST TO FILE EX PARTE ORDER FOR TRANSPORT UNDER SEAL   | 584 - 584               |
| 1          | 09/13/2012  | REQUEST TO FILE EX PARTE ORDER UNDER SEAL   | 103 - 103               |
| 1          | 10/03/2012  | REQUEST TO FILE EX PARTE ORDER UNDER SEAL   | 105 - 105               |
| 1          | 01/11/2013  | REQUEST TO FILE EX PARTE ORDER UNDER SEAL   | 107 - 107               |
| 1          | 02/11/2013  | REQUEST TO FILE EX PARTE ORDER UNDER SEAL   | 109 - 109               |
| 1          | 02/20/2013  | REQUEST TO FILE EX PARTE ORDER UNDER SEAL   | 111 - 111               |
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| 2          | 12/10/2015  | REQUEST TO FILE EX PARTE ORDER UNDER SEAL   | 286 - 286               |
| 1          | 07/03/2014  | REQUEST TO FILE EX PARTE ORDER UNDER SEAL (SEALED)  | 165 - 165               |
| 1          | 06/02/2014  | REQUEST TO FILE ORDER UNDER SEAL  | 161 - 161               |
| 20         | 03/21/2017  | SPECIAL VERDICT   | 4290 - 4292             |
| 20         | 03/21/2017  | SPECIAL VERDICT   | 4293 - 4295             |
| 4          | 03/02/2016  | STATE'S MOTION TO REJECT THE DEFENDANT'S GUILTY PLEA TO THE MURDER COUNT ENTIRELY OR IN THE ALTERNATIVE TO SET THE MURDER COUNT FOR TRIAL ON THE THEORY OF WILLFUL, DELIBERATE, AND PREMEDITATED MURDER | 859 - 872               |
| 3          | 01/29/2016  | STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR INDIVIDUAL SEQUESTERED VOIR DIRE   | 561 - 565               |
| 9          | 02/14/2017  | STATE'S OPPOSITION TO DEFENDANT'S MOTION IN LIMINE  | 1904 - 1907             |
| 9          | 02/14/2017  | STATE'S OPPOSITION TO DEFENDANT'S MOTION IN LIMINE FOR A FAIR TRIAL   | 1908 - 1911             |
| 10         | 03/03/2017  | STATE'S OPPOSITION TO DEFENDANT'S MOTION IN LIMINE TO PRESENT ATKINS TO JURY IN BIFURCATED PENALTY PHASE  | 2084 - 2092             |
| 3          | 02/08/2016  | STATE'S OPPOSITION TO DEFENDANT'S MOTION TO   | 634 - 638               |

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|            |             | BIFURCATE PENALTY PHASE   |                         |
| 9          | 02/14/2017  | STATE'S OPPOSITION TO DEFENDANT'S MOTION TO<br>CONTINUE ATKINS HEARING  | 1900 - 1903             |
| 2          | 03/20/2015  | STATE'S OPPOSITION TO DEFENDANT'S MOTION TO<br>EXCLUDE JUVENILE RECORDS   | 255 - 257               |
| 10         | 03/03/2017  | STATE'S OPPOSITION TO DEFENDANT'S MOTION TO<br>RECONSIDER REQUEST TO BIFURCATE PENALTY PHASE  | 2079 - 2083             |
| 3          | 02/04/2016  | STATE'S OPPOSITION TO DEFENDANT'S MOTION TO SEVER<br>COUNTS   | 611 - 622               |
| 4          | 02/23/2016  | STATE'S OPPOSITION TO DEFENDANT'S MOTION TO STRIKE<br>AGGRAVATING CIRCUMSTANCES AND EVIDENCE IN<br>AGGRAVATION  | 814 - 817               |
| 5          | 03/14/2016  | STATE'S OPPOSITION TO DEFENDANT'S MOTION TO STRIKE<br>TORTURE AND MUTILATION AGGRAVATORS  | 1096 - 1107             |
| 4          | 02/23/2016  | STATE'S OPPOSITION TO MOTION TO LIMIT STATE'S<br>EVIDENCE PRESENTED IN SUPPORT OF AGGRAVATION   | 820 - 833               |
| 4          | 02/23/2016  | STATE'S OPPOSITION TO MOTION TO STRIKE NOTICE OF<br>INTENT TO SEEK DEATH BASED ON THE<br>UNCONSTITUTIONALITY OF NEVADA'S DEATH PENALTY<br>SENTENCING SCHEME | 818 - 819               |
| 3          | 02/04/2016  | STATE'S OPPOSITION TO MOTION TO SUPPRESS<br>DEFENDANT'S STATEMENTS TO POLICE  | 587 - 610               |
| 8          | 09/02/2016  | STATE'S RESPONSE TO DEFENDANT'S MOTION FOR AN<br>ATKINS HEARING   | 1697 - 1715             |
| 8          | 08/30/2016  | SUPPLEMENTAL DEFENDANT'S NOTICE OF EXPERT<br>WITNESSES, PURSUANT TO NRS 174.234(2)  | 1680 - 1696             |
| 2          | 01/26/2016  | SUPPLEMENTAL NOTICE OF EXPERT WITNESSES [NRS<br>174.234(2)] (CONTINUED)   | 448 - 450               |
| 3          | 01/26/2016  | SUPPLEMENTAL NOTICE OF EXPERT WITNESSES [NRS<br>174.234(2)] (CONTINUATION)  | 451 - 454               |

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| 7          | 08/26/2016  | SUPPORTING DOCUMENTS FOR DEFENDANT'S MOTION FOR ATKINS HEARING (CONTINUED)    | 1352 - 1575             |
| 8          | 08/26/2016  | SUPPORTING DOCUMENTS FOR DEFENDANT'S MOTION FOR ATKINS HEARING (CONTINUATION) | 1576 - 1679             |
| 1          | 01/03/2014  | TRANSCRIPT OF HEARING HELD ON APRIL 2, 2013                                   | 125 - 131               |
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| 9          | 03/01/2017  | TRANSCRIPT OF HEARING HELD ON FEBRUARY 23, 2017 (CONTINUED)                   | 1970 - 2025             |
| 10         | 03/01/2017  | TRANSCRIPT OF HEARING HELD ON FEBRUARY 23, 2017 (CONTINUATION)                | 2026 - 2038             |
| 4          | 03/07/2016  | TRANSCRIPT OF HEARING HELD ON FEBRUARY 25, 2016 (CONTINUED)                   | 875 - 900               |
| 5          | 03/07/2016  | TRANSCRIPT OF HEARING HELD ON FEBRUARY 25, 2016 (CONTINUATION)                | 901 - 932               |
| 9          | 03/01/2017  | TRANSCRIPT OF HEARING HELD ON FEBRUARY 8, 2017                                | 1966 - 1969             |
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| 14         | 03/13/2017  | TRANSCRIPT OF HEARING HELD ON MARCH 10, 2017<br>(CONTINUED)    | 3123 - 3150             |
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| 1          | 03/14/2014  | TRANSCRIPT OF HEARING HELD ON MARCH 13, 2014                   | 150 - 155               |
| 15         | 03/14/2017  | TRANSCRIPT OF HEARING HELD ON MARCH 13, 2017                   | 3230 - 3352             |
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| 6          | 03/24/2016  | TRANSCRIPT OF HEARING HELD ON MARCH 17, 2016                   | 1139 - 1169             |
| 17         | 03/20/2017  | TRANSCRIPT OF HEARING HELD ON MARCH 17, 2017<br>(CONTINUED)    | 3681 - 3825             |
| 18         | 03/20/2017  | TRANSCRIPT OF HEARING HELD ON MARCH 17, 2017<br>(CONTINUATION) | 3826 - 3833             |
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| 20         | 03/22/2017  | TRANSCRIPT OF HEARING HELD ON MARCH 21, 2017                   | 4316 - 4494             |
| 2          | 04/09/2015  | TRANSCRIPT OF HEARING HELD ON MARCH 24, 2015                   | 258 - 264               |
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| 10         | 03/07/2017  | TRANSCRIPT OF HEARING HELD ON MARCH 6, 2017<br>(CONTINUED)     | 2095 - 2250             |
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| 12         | 03/08/2017  | TRANSCRIPT OF HEARING HELD ON MARCH 7, 2017<br>(CONTINUED)    | 2532 - 2700             |
| 13         | 03/08/2017  | TRANSCRIPT OF HEARING HELD ON MARCH 7, 2017<br>(CONTINUATION) | 2701 - 2740             |
| 5          | 03/10/2016  | TRANSCRIPT OF HEARING HELD ON MARCH 8, 2016                   | 938 - 949               |
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| 21         | 05/09/2017  | TRANSCRIPT OF HEARING HELD ON MAY 8, 2017                     | 4705 - 4714             |
| 8          | 11/15/2016  | TRANSCRIPT OF HEARING HELD ON NOVEMBER 8, 2016                | 1733 - 1736             |
| 1          | 03/21/2014  | TRANSCRIPT OF HEARING HELD ON OCTOBER 11, 2012                | 156 - 160               |
| 1          | 10/20/2011  | TRANSCRIPT OF HEARING HELD ON OCTOBER 20, 2011                | 89 - 94                 |
| 8          | 11/15/2016  | TRANSCRIPT OF HEARING HELD ON OCTOBER 27, 2016                | 1728 - 1732             |
| 1          | 10/20/2011  | TRANSCRIPT OF HEARING HELD ON OCTOBER 6, 2011                 | 24 - 88                 |
| 2          | 08/07/2015  | TRANSCRIPT OF HEARING HELD ON SEPTEMBER 19, 2013<br>(SEALED)  | 275 - 283               |
| 8          | 09/13/2016  | TRANSCRIPT OF HEARING HELD ON SEPTEMBER 6, 2016               | 1718 - 1723             |
| 18         | 03/20/2017  | TRANSCRIPT OF PROCEEDINGS, ERRATA                             | 3834 - 3834             |
| 21         | 04/12/2017  | TRANSCRIPT OF PROCEEDINGS, ERRATA                             | 4674 - 4674             |
| 16         | 03/16/2017  | VERDICT   | 3453 - 3454             |
| 20         | 03/21/2017  | VERDICT   | 4315 - 4315             |
| 20         | 03/21/2017  | VERDICT(S) SUBMITTED TO JURY BUT RETURNED                     | 4288 - 4289             |

C-11-276713-1

State of Nevada  
vs  
Javier Righetti

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| <u>VOL</u> | <u>DATE</u> | <u>PLEADING</u>      | <u>PAGE<br/>NUMBER:</u> |
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|            |             | UNSIGNED             |                         |
| 21         | 05/08/2017  | WARRANT OF EXECUTION | 4693 - 4696             |

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DOCUMENT,  
NUMBERED PAGE(S)  
11026 - 11187  
WILL FOLLOW VIA  
U.S. MAIL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**October 07, 2011**

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C-11-276713-1      State of Nevada  
                                 vs  
                                 Javier Righetti

---

**October 07, 2011      11:45 AM      Grand Jury Indictment**

**HEARD BY:** Bell, Linda Marie

**COURTROOM:** RJC Courtroom 15C

**COURT CLERK:** Tina Hurd

**RECORDER:** Renee Vincent

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- Christopher Lalli, DDA, and Giancarlo Pesci, DDA, present for the State of Nevada. Roger Fotch, Grand Jury Foreperson, stated to the Court that at least twelve members had concurred in the return of the true bill during deliberation, but had been excused for presentation to the Court. State presented Grand Jury Case Number 10BGJ132X to the Court. COURT ORDERED, the Indictment may be filed and is assigned Case Number C276713-1, Department 12. Mr. Lalli requested a warrant and argued for no bail. COURT ORDERED, WARRANT WILL ISSUE, NO BAIL. Matter set for arraignment. Exhibit(s) 1-34 lodged with Clerk of District Court. COURT FURTHER ORDERED, Justice Court case 11F15772X DISMISSED.

**WARRANT (CUSTODY)**

10-20-11 8:30 AM INITIAL ARRAIGNMENT (DEPT. 12)



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**October 20, 2011**

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C-11-276713-1      State of Nevada  
                                 vs  
                                 Javier Righetti

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**October 20, 2011      8:30 AM      Initial Arraignment**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Jovanovich

**RECORDER:** Kerry Esparza

**REPORTER:**

**PARTIES**

|                 |                      |           |
|-----------------|----------------------|-----------|
| <b>PRESENT:</b> | Lalli, Christopher J | Attorney  |
|                 | O'Brien, Timothy P.  | Attorney  |
|                 | Pesci, Giancarlo     | Attorney  |
|                 | Public Defender      | Attorney  |
|                 | Righetti, Javier     | Defendant |
|                 | State of Nevada      | Plaintiff |

**JOURNAL ENTRIES**

- DEFT. RIGHETTI ARRAIGNED, PLED NOT GUILTY, and WAIVED the 60-DAY RULE. COURT ORDERED, matter SET for trial. At request of counsel, and there being no objection by State, COURT FURTHER ORDERED, counsel has 31 days from the date of filing the Grand Jury Transcript to file a Writ.

**CUSTODY**

10/11/12 8:30 A.M. CALENDAR CALL

10/16/12 1:00 P.M. TRIAL BY JURY

PRINT DATE: 06/05/2017

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Minutes Date: October 07, 2011

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****October 11, 2012**

C-11-276713-1      State of Nevada  
                                 vs  
                                 Javier Righetti

**October 11, 2012      8:30 AM      Calendar Call**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Jovanovich

**RECORDER:** Kerry Esparza

**REPORTER:**

**PARTIES**

|                 |                      |           |
|-----------------|----------------------|-----------|
| <b>PRESENT:</b> | Lalli, Christopher J | Attorney  |
|                 | O'Brien, Timothy P.  | Attorney  |
|                 | Pesci, Giancarlo     | Attorney  |
|                 | Public Defender      | Attorney  |
|                 | Righetti, Javier     | Defendant |
|                 | State of Nevada      | Plaintiff |

**JOURNAL ENTRIES**

- Mr. O'Brien advised defense is not ready to proceed with trial due to procedural, and discussions about this were already made to the State. Mr. O'Brien additionally advised he has another death penalty case going forward this month, with the Court. Mr. Lalli made no objections, and added State would have been ready to try this case. Additionally, State understands Mr. O'Brien has been working on his mitigation case. Mr. Lalli requested input on when this matter can be reset. Colloquy. COURT ORDERED, Deft's Motion to continue trial date GRANTED; trial date VACATED AND RESET. At request of the State, COURT ADDITIONALLY ORDERED, briefing schedule SET as follows: any pre trial motions are due by February 25, 2013; oppositions are due March 18, 2013; and replies are due March 25, 2013. FURTHER, matter SET for hearing on pre trial motions.

4/02/13 10:30 A.M. HEARING: PRE TRIAL MOTIONS

5/14/13 8:30 A.M. CALENDAR CALL

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5/21/13 1:30 P.M. TRIAL BY JURY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****April 02, 2013**

C-11-276713-1      State of Nevada  
                                 vs  
                                 Javier Righetti

**April 02, 2013      8:30 AM      All Pending Motions**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Jovanovich

**RECORDER:** Theresa Sanchez  
                         Patti Slattery

**REPORTER:**

**PARTIES**

|                 |                      |           |
|-----------------|----------------------|-----------|
| <b>PRESENT:</b> | Lalli, Christopher J | Attorney  |
|                 | O'Brien, Timothy P.  | Attorney  |
|                 | Pesci, Giancarlo     | Attorney  |
|                 | Public Defender      | Attorney  |
|                 | Righetti, Javier     | Defendant |
|                 | State of Nevada      | Plaintiff |

**JOURNAL ENTRIES**

- DEFT'S MOTION TO CONTINUE TRIAL DATE...HEARING: PRE-TRIAL MOTIONS  
(ORIGINALLY SET FOR 10:30 A.M.)

Upon Court's inquiry, Mr. Lalli advised State understands the reason for continuance, based upon what is happening with the mitigation case, and State is not in the position to object to Deft's Motion. Additionally, State would have been ready for trial, and Deputy Public Defender Curtis Brown, Esq., is expected to appear for trial proceedings. Upon Court's inquiry on status of mitigation work, Mr. O'Brien advised he cannot provide an answer as to whether or not the issues will change; however, defense is going to endeavor on getting the issues resolved. COURT ORDERED, Motion GRANTED; trial date VACATED AND RESET. FURTHER, hearing RESET on any pre trial motions; briefing schedule SET as follows: pre trial briefs are due January 6, 2014; oppositions are due February 3, 2014; and, replies are due February 18, 2014. At request of State, COURT FURTHER ORDERED, matter

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SET for status check on status of case and mitigation work.

CUSTODY

7/03/13 8:30 A.M. STATUS CHECK: STATUS OF CASE / MITIGATION

3/06/14 10:30 A.M. HEARING: PRE-TRIAL MOTIONS

3/25/14 8:30 A.M. CALENDAR CALL

3/31/14 1:30 P.M. TRIAL BY JURY (SPECIAL SETTING MONDAY START DATE)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****July 02, 2013**

C-11-276713-1

State of Nevada  
vs  
Javier Righetti

**July 02, 2013****8:30 AM****Status Check: Status of  
Case****HEARD BY:** Leavitt, Michelle**COURTROOM:** RJC Courtroom 14D**COURT CLERK:** Susan Jovanovich**RECORDER:** Theresa Sanchez**REPORTER:****PARTIES****PRESENT:**

O'Brien, Timothy P.  
Pesci, Giancarlo  
Public Defender  
Righetti, Javier  
State of Nevada

Attorney  
Attorney  
Attorney  
Defendant  
Plaintiff

**JOURNAL ENTRIES**

- Upon Court's inquiry, Mr. O'Brien advised there is no news on the travel advisory list, however, he believes the travel advisory will be released. Mr. Pesci requested Court to interact with defense counsel, outside the presence of the State, regarding the status and outline of the mitigation issues. Colloquy. Mr. O'Brien advised he sent an email to Mr. Lalli back in 2012, requesting time to review the case file, and argued there has been hindrance happening from both sides. Mr. Pesci offered a timeframe for defense counsel to appear at the District Attorney's office tomorrow morning at 10:00 a.m., to review the case file. Further colloquy. Mr. O'Brien advised he cannot speak for his co-counsel's schedule on when defense can review the case file. Following further colloquy, Court advised Mr. O'Brien to go review State's file within two weeks. Court advised Mr. Pesci to have the homicide book also available with the case file. Court further advised Mr. O'Brien the defense should not reveal their strategies to the Court, however, defense can present what has been done on the mitigation case, and provide reasons why the defense will need more time to complete everything. Additionally, the Court can have the representations on the mitigation sealed in the case file. COURT

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ORDERED, matter SET for status check.

CUSTODY

7/18/13 8:30 A.M. STATUS CHECK: FILE REVIEW / SET HEARING ON MITIGATION ISSUES

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****July 18, 2013**

C-11-276713-1      State of Nevada  
                                 vs  
                                 Javier Righetti

**July 18, 2013      8:30 AM      Status Check**

**HEARD BY:** Leavitt, Michelle**COURTROOM:** RJC Courtroom 14D**COURT CLERK:** Susan Jovanovich**RECORDER:** Theresa Sanchez**REPORTER:****PARTIES**

|                 |                     |           |
|-----------------|---------------------|-----------|
| <b>PRESENT:</b> | O'Brien, Timothy P. | Attorney  |
|                 | Pesci, Giancarlo    | Attorney  |
|                 | Public Defender     | Attorney  |
|                 | Righetti, Javier    | Defendant |
|                 | State of Nevada     | Plaintiff |

**JOURNAL ENTRIES**

- Upon Court's inquiry, Mr. Pesci advised the State's case file and the homicide file were made available to defense counsel, and copies of the files were also provided. Additionally, the State has photographs of an impounded computer in evidence, which need to be provided to defense. Mr. O'Brien advised defense will review the computer. Colloquy regarding ex parte hearing to be scheduled between defense and the Court on the mitigation issues. Mr. Pesci advised State wants the trial date to go forward. Mr. O'Brien informed the Court that defense received substantial amounts of discovery yesterday afternoon; further noting defense is seeking to proceed in a methodical and competent matter. Court stated there needs to be a hearing set in one week. Following colloquy, Court stated it is not confident that the travel advisory to Mexico will be lifted. Further colloquy. COURT ORDERED, matter SET for hearing between defense counsel and the Court regarding mitigation issues; State will not appear at this scheduled hearing. Upon Court's inquiry, Deft. WAIVED his right to appear at the hearing. SO NOTED.

**CUSTODY**

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9/19/13 10:30 A.M. HEARING: MITIGATION ISSUES

THESE SEALED  
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11198 - 11199  
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U.S. MAIL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****March 06, 2014**

C-11-276713-1      State of Nevada  
                                 vs  
                                 Javier Righetti

**March 06, 2014      8:30 AM      All Pending Motions**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Jovanovich

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

|                 |                         |           |
|-----------------|-------------------------|-----------|
| <b>PRESENT:</b> | Craig-Rohan, Christy L. | Attorney  |
|                 | Guymon, Gary L.         | Attorney  |
|                 | Pesci, Giancarlo        | Attorney  |
|                 | Public Defender         | Attorney  |
|                 | Righetti, Javier        | Defendant |
|                 | State of Nevada         | Plaintiff |

**JOURNAL ENTRIES**

- HEARING: PRE-TRIAL MOTIONS...DEFT'S MOTION TO CONTINUE TRIAL DATE

Deft. not present. Ms. Craig not present. Mr. Guymon standing in, on behalf of Ms. Craig. Mr. Pesci advised Ms. Craig has taken over the case load for Mr. O'Brien, and she had filed a Motion to continue trial date. Additionally, Ms. Craig is currently on her way over, as she had an emergency earlier. Mr. Guymon advised he is due back in Court this morning in Dept. 3. Court stated it will trail the matter for Ms. Craig to appear. Mr. Pesci added Ms. Feliciano is also on this case for Deft. SO NOTED. Court thanked and excused Mr. Guymon. MATTER TRAILED. CASE RECALLED. Deft. is present in custody. Ms. Craig is also present. Court advised Deft. he has new counsel from the Public Defender's office, and there has been a written motion to continue the trial date, currently set for March 13, 2014. Deft. acknowledged. Ms. Craig advised she was not aware of this hearing on the pre-trial motions, further noting she submitted the Motion to continue trial date, she has just taken over this case for Mr. O'Brien, and Ms. Feliciano is also on this case as co-counsel. Thereafter,

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Ms. Craig request trial date be continued; and added she spoke with the mitigation specialist and she has not completed the mitigation work on this matter, yet. Mr. Pesci advised State has no problem with Ms. Feliciano not being here this morning, further noting the State will disagree to a continuance, however, the State understands defense counsel's position. Ms. Craig requested both parties to return to Court on March 13, 2014, to get a new trial date set. COURT ORDERED, Deft's Motion to continue trial date GRANTED; trial date VACATED. FURTHER, the hearing currently set for the Motion to continue trial date for March 13, 2014 is VACATED; a status check hearing instead, will be SET for March 13, 2014.

CUSTODY

3/13/14 8:30 A.M. STATUS CHECK: RESET TRIAL DATE

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****March 13, 2014**

C-11-276713-1

State of Nevada

vs

Javier Righetti

**March 13, 2014****8:30 AM****Status Check: Reset Trial  
Date****HEARD BY:** Leavitt, Michelle**COURTROOM:** RJC Courtroom 14D**COURT CLERK:** Susan Jovanovich**RECORDER:** Kristine Santi**REPORTER:****PARTIES****PRESENT:**

Craig-Rohan, Christy L.  
Feliciano, Amy A.  
Pesci, Giancarlo  
Public Defender  
Righetti, Javier  
State of Nevada

Attorney  
Attorney  
Attorney  
Attorney  
Defendant  
Plaintiff

**JOURNAL ENTRIES**

- Ms. Craig advised defense reviewed the calendars, and based on the meeting with the team members, and review of the mitigation work that still needs to be completed, defense will not be ready for trial in this case until sometime in 2017. Following discussions, Mr. Pesci objected to a trial continuance; and argued the continuance to 2017 is incomprehensible. Court stated it will not have the case tried in three years. Further discussion. Upon Court's inquiry, Mr. Pesci advised State will be ready whenever the Court sets this matter for trial. Thereafter, Mr. Pesci requested monthly status checks be set regarding status of defense being ready for trial. Objections by Ms. Craig. Following discussions on scheduling, COURT ORDERED, trial date RESET. Ms. Craig advised she will provide a list to the Court of what has not been completed, regarding status of the mitigation case, if needed.

**CUSTODY**

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3/24/15 8:30 A.M. CALENDAR CALL

3/21/15 1:30 P.M. TRIAL BY JURY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****March 24, 2015**

C-11-276713-1      State of Nevada  
                                 vs  
                                 Javier Righetti

**March 24, 2015      8:30 AM      Calendar Call**

**HEARD BY:** Gonzalez, Elizabeth      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Jovanovich  
                         Shelley Boyle

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

|                 |                         |           |
|-----------------|-------------------------|-----------|
| <b>PRESENT:</b> | Craig-Rohan, Christy L. | Attorney  |
|                 | Feliciano, Amy A.       | Attorney  |
|                 | Fleck, Michelle         | Attorney  |
|                 | Pesci, Giancarlo        | Attorney  |
|                 | Public Defender         | Attorney  |
|                 | Righetti, Javier        | Defendant |
|                 | State of Nevada         | Plaintiff |

**JOURNAL ENTRIES**

- Ms. Craig advised defense has a pending Motion. Court stated it will address the Motion on Thursday, as scheduled. Ms. Feliciano indicated defense is not ready based on the pending Motion. Mr. Pesci advised State responded and opposed the Motion, further noting defense counsel has other basis for a trial continuance. Ms. Craig concurred; and stated defense has more work to do on the mitigation case. Court advised Deft. his attorneys are not ready as additional investigation must be completed. Deft. acknowledged; and understood. Mr. Pesci made objections to the trial continuance; and argued State has been objecting to the previous trial continuances and wants this case finished. Court agreed that the case needs to be done. Ms. Craig requested a status check be set to Thursday for parties to discuss on a new trial setting. COURT ORDERED, Deft's Motion to continue trial date GRANTED; trial date VACATED; status check hearing SET.

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Minutes Date: October 07, 2011

**CUSTODY**

**3/26/15 8:30 A.M. STATUS CHECK: RESET TRIAL DATE...DEFT. JAVIER RIGHETTI'S MOTION  
TO EXCLUDE JUVENILE RECORDS**



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**March 26, 2015**

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C-11-276713-1      State of Nevada  
                                 vs  
                                 Javier Righetti

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**March 26, 2015      8:30 AM      All Pending Motions**

**HEARD BY:** Gonzalez, Elizabeth      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Jovanovich  
                         Shelley Boyle

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

|                 |                         |           |
|-----------------|-------------------------|-----------|
| <b>PRESENT:</b> | Craig-Rohan, Christy L. | Attorney  |
|                 | Feliciano, Amy A.       | Attorney  |
|                 | Fleck, Michelle         | Attorney  |
|                 | Pesci, Giancarlo        | Attorney  |
|                 | Public Defender         | Attorney  |
|                 | Righetti, Javier        | Defendant |
|                 | State of Nevada         | Plaintiff |

**JOURNAL ENTRIES**

- DEFT. JAVIER RIGHETTI'S MOTION TO EXCLUDE JUVENILE RECORDS...STATUS CHECK:  
RESET TRIAL DATE

COURT ORDERED, trial date RESET. Ms. Fleck estimated 3 weeks for trial. LATER, case  
RECALLED by Court after all parties exited. COURT ORDERED, Deft's Motion CONTINUED.

CUSTODY

6/25/15 8:30 A.M. DEFT. JAVIER RIGHETTI'S MOTION TO EXCLUDE JUVENILE RECORDS

3/08/16 8:30 A.M. CALENDAR CALL

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3/15/16 1:30 P.M. TRIAL BY JURY

CLERK'S NOTE: Clerk notified all parties by email regarding Deft's Motion being continued to 6/25/15. /// sj

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**June 25, 2015**

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C-11-276713-1      State of Nevada  
                                 vs  
                                 Javier Righetti

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**June 25, 2015      8:30 AM      Motion to Exclude**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Jovanovich

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

|                 |                         |           |
|-----------------|-------------------------|-----------|
| <b>PRESENT:</b> | Bashor, Ryan            | Attorney  |
|                 | Craig-Rohan, Christy L. | Attorney  |
|                 | Fleck, Michelle         | Attorney  |
|                 | Pesci, Giancarlo        | Attorney  |
|                 | Public Defender         | Attorney  |
|                 | Righetti, Javier        | Defendant |
|                 | State of Nevada         | Plaintiff |

**JOURNAL ENTRIES**

- Ms. Craig requested this matter be stayed to appeal Court's decision on this Motion. Court clarified it did not make a ruling yet. Mr. Pesci opposed the Motion; and argued in support of juvenile records being used as lawful and relevant, including case law from Johnson & Domingues cases. COURT ORDERED, Motion DENIED. Court DENIED the stay as well; and advised counsel if Supreme Court needs the stay, this Court will issue one. Ms. Craig indicated defense is anticipating on being ready for trial next year. SO NOTED.

**CUSTODY**

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**February 09, 2016**

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C-11-276713-1      State of Nevada  
                                 vs  
                                 Javier Righetti

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**February 09, 2016      8:30 AM      All Pending Motions**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Jovanovich

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

|                 |                         |           |
|-----------------|-------------------------|-----------|
| <b>PRESENT:</b> | Bashor, Ryan            | Attorney  |
|                 | Craig-Rohan, Christy L. | Attorney  |
|                 | Fleck, Michelle         | Attorney  |
|                 | Pesci, Giancarlo        | Attorney  |
|                 | Public Defender         | Attorney  |
|                 | Righetti, Javier        | Defendant |
|                 | State of Nevada         | Plaintiff |

**JOURNAL ENTRIES**

**- DEFT'S MOTION TO CHANGE PLEA**

Ms. Craig requested to continue this Motion to Thursday. Counsel stated defense needs to speak with Deft. further before anything substantive is done, and Deft. may be seeking to plead straight up to the charges. Additionally, defense has been trying to file more pre-trial motions, and have all of them consolidated to be heard the same day, except bench briefs, however, there was an issue with calendaring. Court advised defense to contact Chambers to have any motions reset to all be heard on one date. Defense requested to have the Motion to sever and Motion to suppress heard today, further noting if defense is granted relief today, Deft's decision about his plea may be reconsidered. COURT SO ORDERED.

**DEFT'S MOTION TO SEVER COUNTS**

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Mr. Bashor requested to sever the Kitchen and Otremba matters; and argued regarding State's Opposition, NRS 173.115, plan or scheme, cross admissibility, Richmond case law, sex assault allegations involving same location and two different victims, State having failed to meet the burden, common plan analysis not being applicable, State's citation to Ledbetter, motive issue, and prejudice outweighing probative value. Ms. Fleck opposed the Motion; and argued regarding NRS 48.045, Deft's admissions about standing under tunnel to stalk and rape, Braunstein case, probative value for identity purposes, and there being relevance to keep the counts together to show more motive, common plan or scheme. Further arguments by Mr. Bashor. COURT ORDERED, Motion DENIED.

#### DEFT'S MOTION TO SUPPRESS DEFT'S STATEMENT TO POLICE

Ms. Craig argued regarding Deft's statements to police, custodial interrogation, Miranda waiver not being valid, and there having been no discussion on what Deft. understood during questioning. Mr. Pesci opposed the Motion; and argued the arguments being made involve cherry picking on parts of the police interrogation. Further arguments by State as to Deft. having signed the valid waiver, page 106 of statement, police having reminded Deft. about his rights, and there being no doubt that Deft. had knowledge of what he was doing during interrogation. Ms. Craig further argued as to Deft's comments during car ride with police, and there being questions surrounding the waiver, based on Deft's comments of not understanding. COURT ORDERED, MOTION DENIED.

#### AT REQUEST COURT: DENTAL WORK

Parties approached the Bench and discussed with Court about Deft's current dental work issue.

#### CUSTODY

2/11/16 8:30 A.M. DEFT'S MOTION TO CHANGE PLEA...DEFT'S MOTION FOR JURY QUESTIONNAIRE

3/08/16 8:30 A.M. CALENDAR CALL

3/15/16 1:30 P.M. TRIAL BY JURY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****February 11, 2016**

C-11-276713-1      State of Nevada  
                                 vs  
                                 Javier Righetti

**February 11, 2016      8:30 AM      All Pending Motions**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Jovanovich

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

|                 |                         |           |
|-----------------|-------------------------|-----------|
| <b>PRESENT:</b> | Bashor, Ryan            | Attorney  |
|                 | Craig-Rohan, Christy L. | Attorney  |
|                 | Pesci, Giancarlo        | Attorney  |
|                 | Public Defender         | Attorney  |
|                 | Righetti, Javier        | Defendant |
|                 | State of Nevada         | Plaintiff |

**JOURNAL ENTRIES**

- Attorney Martina Geinzer, Esq., (Nevada Bar No. 9337) is present on behalf of Las Vegas Metropolitan Police Department, Detention Services Division and Sheriff Joseph Lombardo. Court noted counsel for the jail is present pursuant to NRS 211.140, which controls the issue, and counsel for the jail is supposed to get notice when there are these types of issues. Additionally, nothing has really changed since the last Court date, and there was never a request for dental care at the jail. Ms. Geinzer advised there was a request for dental care, however, Deft's tooth is missing since 2011, further noting it is not an emergent issue about the front tooth; she spoke with the doctor who reviewed the chart, and who saw Deft. annually or if there was a kite to be seen. Further, the only request made was from last year, which are in the documents provided to the Court on that dental visit that the jail had received, and that was the extent of any issues with the front tooth; the other issue from 2013 was with a different tooth, which was taken care of; and there were other issues surrounding Deft. needing to rinse with hydrogen peroxide or mouth wash, which was also taken care of. Court asked if there was a reason to transport Deft for an emergent issue. Ms. Geinzer

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indicated there was no reason, according to what the dentist had said and upon his review of the medical records. Ms. Craig argued there was a broken tooth Deft. would like repaired, and repairs are not done at the jail; she had asked the jail about what the procedure was to get this done, and based on the e-mail traffic and speaking with the Captain and his staff, that this would be the process. Court asked if the broken tooth issue was a cosmetic nature. Ms. Craig advised it is a broken tooth that needs to be repaired; and argued Deft. is entitled to this like anyone else, and he is going to get it done on his own dime. Ms. Geinzer advised the jail was concerned about the transport issue. Court asked if the jail does not want to transport him. Ms. Geinzer advised the transport can be done, if Deft. agrees to pay for it, however, the transport is not going to just be with just two officers, and there will be overtime. Court determined there was no medical emergency or anything that has to be done prior to trial. COURT ORDERED, Deft's request to be transported from jail to the dentist is DENIED.

Court TRAILED the matter to end of calendar.

CASE RECALLED.

#### DEFT'S MOTION FOR CHANGE OF PLEA

COURT ORDERED, Motion GRANTED. Parties confirmed Deft. is going to plead straight up to all charges, with no benefits being offered or received from State. Ms. Craig advised Deft. had indicated he did not want to put the family members through the trial, and will take full responsibility. State provided the Court all possible prison terms for each Count, including Count 10. Court canvassed Deft. on all charges. DEFT. JAVIER RIGHETTI ARRAIGNED AND PLED GUILTY TO COUNT 1 - ATTEMPTED ROBBERY (F); COUNT 2 - BATTERY WITH INTENT TO COMMIT SEXUAL ASSAULT (F); COUNT 3 - FIRST DEGREE KIDNAPPING (F); COUNT 4 - ATTEMPTED SEXUAL ASSAULT WITH A CHILD UNDER SIXTEEN YEARS OF AGE (F); COUNT 5 - SEXUAL ASSAULT WITH A CHILD UNDER SIXTEEN YEARS OF AGE (F); COUNT 6 - ROBBERY WITH USE OF A DEADLY WEAPON (F); COUNT 7 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON (F); COUNT 8 - SEXUAL ASSAULT WITH A CHILD UNDER SIXTEEN YEARS OF AGE WITH USE OF A DEADLY WEAPON (F); COUNT 9 - SEXUAL ASSAULT WITH A CHILD UNDER SIXTEEN YEARS OF AGE WITH USE OF A DEADLY WEAPON (F); AND COUNT 10 - MURDER WITH USE OF A DEADLY WEAPON (F). For each Count, Deft. provided a factual basis for his plea. Ms. Craig confirmed Deft. did not waive his right to appeal anything from the penalty phase for Count 10, and Deft. will face sentencing for Counts 1 through 9. SO NOTED. Mr. Pesci advised Deft. needs to be adjudicated on all ten Counts. Defense made no objection. COURT ACCEPTED PLEA; and ADJUDGED DEFT. GUILTY OF COUNT 1 - ATTEMPTED ROBBERY (F); COUNT 2 - BATTERY WITH INTENT TO COMMIT SEXUAL ASSAULT (F); COUNT 3 - FIRST DEGREE KIDNAPPING (F); COUNT 4 - ATTEMPTED SEXUAL ASSAULT WITH A CHILD UNDER SIXTEEN YEARS OF AGE (F); COUNT 5 - SEXUAL ASSAULT WITH A CHILD UNDER SIXTEEN YEARS OF AGE (F); COUNT 6 - ROBBERY WITH USE OF A DEADLY WEAPON (F); COUNT 7 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON (F); COUNT 8 - SEXUAL ASSAULT WITH A CHILD UNDER SIXTEEN YEARS OF AGE WITH USE OF A DEADLY WEAPON (F); COUNT 9 - SEXUAL ASSAULT

WITH A CHILD UNDER SIXTEEN YEARS OF AGE WITH USE OF A DEADLY WEAPON (F); AND  
COUNT 10 - MURDER WITH USE OF A DEADLY WEAPON (F).

COURT ORDERED, trial date STANDS for the Penalty Hearing on Count 10.

Ms. Craig indicated defense may be ready; however, if there is a delay, defense will let State and Court know. Court stated this case will take first priority, and not schedule anything else. Mr. Pesci advised parties may waive the 21 days for the expert; however, he is not sure at this time. SO NOTED.

DEFT'S MOTION FOR JURY QUESTIONNAIRE

COURT ORDERED, Motion GRANTED. Court advised parties to provide the agreement on the jury questionnaire to Chambers, and the Court will review it and notify the Jury Commissioner.

CUSTODY

3/08/16 8:30 A.M. CALENDAR CALL

3/15/16 1:30 P.M. PENALTY HEARING



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****February 22, 2016**

C-11-276713-1      State of Nevada  
                                 vs  
                                 Javier Righetti

**February 22, 2016      1:00 PM      Argument**

**HEARD BY:** Leavitt, Michelle**COURTROOM:** RJC Courtroom 14D**COURT CLERK:** Susan Jovanovich**RECORDER:** Debbie Winn**REPORTER:****PARTIES**

|                 |                         |           |
|-----------------|-------------------------|-----------|
| <b>PRESENT:</b> | Craig-Rohan, Christy L. | Attorney  |
|                 | Fleck, Michelle         | Attorney  |
|                 | Pesci, Giancarlo        | Attorney  |
|                 | Public Defender         | Attorney  |
|                 | Righetti, Javier        | Defendant |
|                 | State of Nevada         | Plaintiff |

**JOURNAL ENTRIES**

- Court confirmed No. 22 and No. 25 from proposed jury questionnaire need to be resolved. Mr. Pesci confirmed; and objected to these questions being asked. Thereafter, Mr. Pesci argued as to No. 22 asking for opinion on imposition of death penalty on individual with sexual assault charges involved, being inappropriate. Arguments by Ms. Craig in support of the question, including defense having entitlement to ask this. Court SUSTAINED State's objection; and ORDERED, Question No. 22 will not be given based on arguments made. Court NOTED, it may not prevent defense from asking questions about this during Voir Dire.

Mr. Pesci objected to Question No. 25 (being No. 26 in State's copy of questions) addressing the death penalty and whether the sentence will be carried out; and argued this is dangerous, as this Jury is to assume the punishment will be imposed. Court confirmed it would provide an instruction to Jury at time of trial addressing this. Ms. Craig argued there is misconception about commuting sentences, to which defense is entitled to know what jurors' responses are. Court NOTED this is not relevant,

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however, if the issue arises during Voir Dire, defense may be able to ask about this. COURT ORDERED, Question No. 25 from Court's list will not be given in the jury questionnaire.

State to provide clean copy of questionnaire to Court and to defense prior to Wednesday, February 24, 2016. Ms. Craig requested to be present when Court meets with jury panel, when questionnaires are received by Jury Commissioner; and COURT SO ORDERED. Parties agreed Deft. does not need to be transported on Wednesday. Discussions as to trial readiness and status of defense.

CUSTODY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**February 25, 2016**

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C-11-276713-1      State of Nevada  
                                 vs  
                                 Javier Righetti

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**February 25, 2016      8:30 AM      All Pending Motions**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Jovanovich

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

|                 |                         |           |
|-----------------|-------------------------|-----------|
| <b>PRESENT:</b> | Bashor, Ryan            | Attorney  |
|                 | Craig-Rohan, Christy L. | Attorney  |
|                 | Fleck, Michelle         | Attorney  |
|                 | Pesci, Giancarlo        | Attorney  |
|                 | Public Defender         | Attorney  |
|                 | Righetti, Javier        | Defendant |
|                 | State of Nevada         | Plaintiff |

**JOURNAL ENTRIES**

- Deft's Motion to Continue and Proposed and Final Jury Questionnaire were FILED IN OPEN COURT.

**DEFT'S MOTION FOR INDIVIDUAL SEQUESTERED VOIR DIRE**

Ms. Craig argued in support of sequestering Jury members during Voir Dire, and there being nothing to say this cannot be done in trials. Discussions as to this Court's procedures for Voir Dire in murder cases with media coverage, including the procedures Court followed on the jury panel during Voir Dire in the Colon & Perez criminal murder case. Mr. Pesci assured this case will not have the same press Colon & Perez's case had; further noting State will request this Motion be denied. Thereafter, Mr. Pesci argued individual sequestered Voir Dire is not necessary, and Court can sequester a panel of members if necessary. Court noted the panel will come into Court in smaller groups during Voir

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Dire, due to size of the Courtroom, and based on the questionnaires, Court believes parties will get a feel about the panel. COURT ORDERED, Motion DENIED WITHOUT PREJUDICE.

DEFT'S MOTION TO STRIKE NOTICE OF INTENT TO SEEK DEATH BASED ON THE UNCONSTITUTIONALITY OF NEVADA'S DEATH PENALTY SENTENCING SCHEME

Ms. Craig made argument in support of striking the notice. COURT ORDERED, Motion DENIED.

DEFT'S MOTION TO BIFURCATE PENALTY PHASE

Ms. Craig argued in support of bifurcation into two phases; and further argued as to ensurance of fairness and properness. Ms. Fleck opposed the bifurcation. COURT ORDERED, Motion DENIED.

DEFT'S MOTION TO STRIKE AGGRAVATING CIRCUMSTANCES AND EVIDENCE IN AGGRAVATION

Ms. Craig argued in support of striking felony murder aggravators under the theories State relied on with the sexual assault and robbery, based on Deft's entry of plea to the murder charge during Court's plea canvass, and State's satisfaction of the plea. Defense further argued there is no ground to undo Deft's guilty plea. Mr. Pesci argued un-doing the plea is a remedy, or trial can proceed on the guilt phase for the Jury to make the decision. Mr. Pesci also argued Deft. was pleading to all charges from the Indictment. Ms. Craig argued there is no need for a remedy, Court accepted the plea, and State does not like Deft's guilty plea. Mr. Pesci added this was trickery of defense to get the benefit, and this is not appropriate.

Thereafter, both parties made extensive arguments regarding Deft's entry of guilty plea, the theories, and defense having interrupted the Court during plea canvass. Court advised defense counsel this was done with the intent for defense to file this Motion to strike. Further arguments by State regarding defense counsel's conduct. Discussions as to Deft. not having provided basis on State's theory surrounding premeditation. Ms. Craig argued Deft. did not have to admit on State's theories. During arguments, Ms. Fleck added there was no concession from the State when Deft. asked to change his plea. Ms. Craig argued Deft. is entitled to appear and plead guilty and Deft. does not have to plead guilty on every theory by State.

Parties reviewed the plea canvass on JAVS, which was played by Court Recorder Kristine Cornelius. Upon Court's inquiry, Mr. Pesci confirmed State is seeking to undo the plea on Count 10. Court noted State has the right to file written pleadings. Arguments and opposition by Ms. Craig. COURT ORDERED, Motion will be held in abeyance, pending additional pleadings.

DEFT'S MOTION TO LIMIT STATE'S EVIDENCE PRESENTED IN SUPPORT OF AGGRAVATION

Ms. Craig argued in support of Court making a ruling on all State's evidence and making determination today, including other evidence defense believes to be prejudicial against Deft. Court

stated there is no way a party can tell the jury to consider the facts without evidence. Arguments by Mr. Pesci. Court stated the defense can make a determination to argue on the evidence, when reviewing list of witnesses. Mr. Craig requested truancy records be excluded including uncharged juvenile sex assault records, and Deft's access to internet evidence. Mr. Pesci argued State has no idea what the mitigation evidence is going to be. Further arguments in support of evidence that is relevant to Deft's character, including there being probative value and not prejudicial value on the items in question. Ms. Craig addressed about the crime photos having gory details; and argued cumulative evidence is not necessary, and this is more prejudice than probative. COURT ORDERED, Motion DENIED WITHOUT PREJUDICE. Court NOTED, defense can make any objection deemed appropriate on this, during the penalty hearing.

Ms. Craig argued the surviving victim or her family's impact statements about the murder cannot be made, as this is not appropriate, since the murder was not the surviving victim's incident. COURT ORDERED, Motion GRANTED IN PART as to this portion.

Order Granting Request To File Affidavit In Support Of Motion To Continue Under Seal SIGNED IN OPEN COURT.

Deft's Affidavit In Support Of Motion To Continue FILED UNDER SEAL.

Ms. Craig addressed the Motion to continue; and advised defense expert hired to testify during mitigation is not available until October, 2016. Mr. Pesci argued if defense knew this in January, 2016, it should have been told to this Court. Further arguments by State as to perplexity and frustration, due to more delay from defense. Ms. Craig offered to address the Court in a sealed hearing about this issue, outside presence of State. Court stated it is not comfortable continuing this case out to October, 2016. Discussions as to re-noticing witnesses, trial schedules of Mr. Pesci, and defense not being able to commit on a new date today, without knowledge on availability. Court stated the case needs to take precedence.

COURT ORDERED, Deft's Motion to Continue is CONTINUED to allow time for State to respond, and for supplemental pleadings to be filed addressing the McConnell issue. FURTHER, status check hearing SET regarding the defense mitigation expert. Mr. Bashor advised there is another motion set for March 17, 2016, being the Motion to strike torture and mutilation aggravators. Following discussion, COURT ORDERED, the hearing for March 17, 2016 on that Motion will STAND at this time.

CUSTODY

3/08/16 8:30 A.M. CALENDAR CALL...DEFT'S MOTION TO CONTINUE...STATUS CHECK:  
EXPERT

3/15/16 1:30 P.M. PENALTY HEARING

3/17/16 8:30 A.M. DEFT'S MOTION TO STRIKE TORTURE AND MUTILATION AGGRAVATORS

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**March 08, 2016**

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C-11-276713-1      State of Nevada  
                                 vs  
                                 Javier Righetti

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**March 08, 2016      8:30 AM      All Pending Motions**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Jovanovich

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

|                 |                         |           |
|-----------------|-------------------------|-----------|
| <b>PRESENT:</b> | Bashor, Ryan            | Attorney  |
|                 | Craig-Rohan, Christy L. | Attorney  |
|                 | Pesci, Giancarlo        | Attorney  |
|                 | Public Defender         | Attorney  |
|                 | Righetti, Javier        | Defendant |
|                 | State of Nevada         | Plaintiff |

**JOURNAL ENTRIES**

- STATE'S MOTION TO REJECT THE DEFT'S GUILTY PLEA TO THE MURDER COUNT ENTIRELY OR IN THE ALTERNATIVE TO SET THE MURDER COUNT FOR TRIAL ON THE THEORY OF WILLFUL, DELIBERATE, AND PREMEDITATED MURDER

Court stated it received amended pleadings by State. Upon Court's inquiry, Ms. Craig advised defense needs time to respond to State's Motion; and requested until this Friday, March 8, 2016 to file written response. COURT ORDERED, Motion CONTINUED. State to file any written reply thereafter, prior to next scheduled hearing.

**STATUS CHECK: EXPERT**

**PRINT DATE:** 06/05/2017

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Upon Court's inquiry, Ms. Craig confirmed defense's retained expert will not be available until October, 2016, and expert is committed. Upon Court's inquiry, Ms. Craig advised this expert has not been identified. Mr. Pesci made objections as to no notice provided on this expert to State. Ms. Craig indicated she filed an affidavit on this, and she is not comfortable with revealing this expert to State at this juncture; and offered to make a record to the Court in a sealed hearing, outside presence of State, to provide more information. Additionally, defense submitted a sealed affidavit outlying some issues, and can reveal the expert to Court, but not to State. Court advised defense counsel if the expert is not revealed to State, defense is indicating it is not going to call this expert. Ms. Craig stated there was lateness on the work needing to be done, there was testing completed Friday March 4, 2016, to which defense did not get the results. Additionally, expert is not available next week, defense does not have the information to provide to State; however, defense can explain the issues to Court ex parte, but not to State. Court noted defense is asking for a continuance for a witness who has not been identified. Ms. Craig stated this expert was hired recently. Mr. Pesci argued how can this be a basis when defense is not committing to call this expert witness, and if defense is committed, file the notice. Arguments by Ms. Craig. Court stated defense is trying to seek to have this case continued further out, to which Court was never going to do, and four years was plenty of time for defense to get ready for a penalty hearing. Ms. Craig stated if Court is going to have defense go forward without this witness, Court can do so, however, this would be problematic. Discussions as to 21 day notice of disclosing witnesses. Further arguments by Mr. Pesci. Court offered to continue this case thirty days; and asked when witness disclosures can be made. Ms. Craig advised she is certain she will be calling this expert, and will provide results from March 4, 2016 as soon as she gets it; and defense can notice the State thereafter when required to by law. Court noted State may want to hire a rebuttal expert. Ms. Craig offered to provide the information sometime by end of August, 2016. Mr. Pesci objected; and argued why does this need to take from March 4 to end August to determine if this expert individual is going to be utilized, to which defense just indicated so; and why State cannot be told this, to prepare, in order to avoid another continuance request in October. To avoid future continuances, COURT ORDERED, defense to disclose any expert witness and any reports on or before April 19, 2016; and State may thereafter disclose any rebuttal expert witness and any reports on or before May 4, 2016.

#### DEFT'S MOTION TO CONTINUE...CALENDAR CALL

Upon Court's inquiry on the Motion, Mr. Pesci confirmed State is ready for trial. Ms. Craig advised she was going by the dates within this Court's criminal trial stack provided by JEA, when consulting with defense's expert witness on availability, and she cannot confirm if the expert can be available October 3, 2016. Court stated it can set the trial date whenever Court wants outside the criminal trial stack dates. COURT ORDERED, Motion GRANTED; trial date VACATED AND RESET.

FURTHER, Deft's motion to strike RESET.

#### CUSTODY

3/17/16 10:30 A.M. STATE'S MOTION TO REJECT THE DEFT'S GUILTY PLEA TO THE MURDER

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COUNT ENTIRELY OR IN THE ALTERNATIVE TO SET THE MURDER COUNT FOR TRIAL ON THE THEORY OF WILLFUL, DELIBERATE, AND PREMEDITATED MURDER....DEFT'S MOTION TO STRIKE TORTURE AND MUTILATION AGGRAVATORS

9/27/16 8:30 A.M. CALENDAR CALL

10/03/16 1:30 P.M. TRIAL BY JURY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****March 17, 2016**

C-11-276713-1      State of Nevada  
                                 vs  
                                 Javier Righetti

**March 17, 2016      8:30 AM      All Pending Motions**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Jovanovich

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

|                 |                         |           |
|-----------------|-------------------------|-----------|
| <b>PRESENT:</b> | Bashor, Ryan            | Attorney  |
|                 | Craig-Rohan, Christy L. | Attorney  |
|                 | Fleck, Michelle         | Attorney  |
|                 | Pesci, Giancarlo        | Attorney  |
|                 | Public Defender         | Attorney  |
|                 | Righetti, Javier        | Defendant |
|                 | State of Nevada         | Plaintiff |

**JOURNAL ENTRIES**

- Court TRAILED and RECALLED matter for Ms. Fleck to appear.

**DEFT'S MOTION TO STRIKE TORTURE AND MUTILATION AGGRAVATORS**

Ms. Craig submitted on pleadings. Mr. Pesci requested exhibits submitted to Chambers from State's Opposition, be admitted as Court's Exhibits. COURT SO ORDERED; these Exhibits are hereby SEALED by Order of Court due to content. Mr. Pesci argued regarding graphic nature of the murder, Hall case, Deft's entry of plea, and statements he made to police. Ms. Craig argued and submitted on pleadings. Mr. Pesci argued as to Hernandez case. COURT ORDERED, Motion DENIED.

**STATE'S MOTION TO REJECT THE DEFT'S GUILTY PLEA TO THE MURDER COUNT ENTIRELY, OR IN THE ALTERNATIVE, TO SET THE MURDER COUNT FOR TRIAL ON THE THEORY OF**

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## WILLFUL, DELIBERATE, AND PREMEDITATED MURDER

Mr. Pesci addressed Deft's entry of plea; and argued in support of rejection of plea on Count 10, citing case law from Washington. Further arguments by State regarding Court being allowed to look beyond Nevada law on this issue, Bowerman case, factual rendition, Jefferson case, defense seeking a lesser punishment for Count 10 by moving to strike the aggravators, and State never agreeing to offer anything to Deft. on change of plea. Mr. Pesci read the transcript of proceedings from lines 2-11 on page 22, into the record; and argued regarding actions from defense counsel during plea, Court having followed up with Deft. during entry of plea, non-verbal response (shaking head of no) having been done by defense counsel when Court canvassed Deft, and there having been no record of this non-verbal response. Mr. Pesci added Court can undo the plea, or in alternative, have Deft. enter his plea of guilty to Count 10, to make it clear. Further arguments as to page 22 of transcript, lines 18-24, case law from Hardin and Patterson, Court having ability to undo the plea per Hardin, or in alternative, Court allowing State to go to trial to establish the theories to Jury, and double jeopardy protection not permitted to be used by Deft. as a shield or sword. Mr. Pesci added if Court finds for Deft, State has a right to rebut, if Deft. had indicated he took responsibility; and if double jeopardy is found, State has a right to present evidence on Count 10. Ms. Craig opposed the Motion; and argued State has failed to provide supportive points. Further arguments as to Court having been exceedingly careful during the plea canvass, Deft. having pled guilty to murder in Count 10, Wilson case being clear, defense having been prepared to argue and object on State's theories, the Court having accepted Deft's plea to Count 10, State having been satisfied with Deft's plea, and there being no legitimate grounds for Court to undo the presumably valid guilty plea. Additional arguments as to State not having noticed the representations during Deft's plea to Count 10, and this not being legitimate or valid ground. Ms. Craig added the Bowerman case predates the Patterson case; further noting this Court needs to make findings and also has to decide if there are grounds, including whether or not double jeopardy is attached; and since Court adjudicated Deft. guilty, defense does not believe there are grounds, and this Court cannot allow the plea to be withdrawn.

Further arguments by State as to colloquy during plea canvass, reading from page 22 of transcript. Upon inquiry by State, Court stated it would not know, as to the non-verbal communication from defense counsel. Ms. Craig stated this Court knew, and she was ready to object at that point during canvass, which was the whole point of Wilson. Court stated defense had cut the Court off during the canvass; and asked how State would know or would have known this. Mr. Craig argued State was present in Court. Further discussions. Court stated defense is clearly saying State should be bound by communication defense had with Court that no one would be able to read on page 22 of the transcript, and this communication by defense is not in the cold record. Additionally, there was a Motion to plead to the charge, Court believed the plea was going to be entered, and defense knew this would effect the penalty phase regarding the theories.

Ms. Craig argued this Court accepted Deft's guilty plea. Further arguments as to McConnell and Wilson. Mr. Pesci argued regarding fraud having been cited by defense counsel's own cases; and further argued as to no record on non-verbal communication having ever been made. Mr. Pesci added Deft. pled to all charges, State believes jeopardy is not attached here, and Deft. cannot get a

benefit after entry of plea. Ms. Craig stated she takes offense to State alleging fraud; and argued there was nothing intentional or sneaky done by her, and she will highly object to the fraud allegation. Additionally, there cannot be two trials done back to back, there was no fraud on the Court, and the guilty plea was valid, to which Court will have to make findings, and defense does not see anything here for Court to undo the plea.

COURT ORDERED, it will REJECT the guilty plea entered on Count 10 by Deft. Court made findings that Deft. has a statutory right to plead guilty, however, Deft. does not have the statutory right to plead guilty and carve out a theory State has alleged, and limit the State in the penalty hearing.

Ms. Craig requested the findings be reduced to writing in a written order; and COURT SO ORDERED. Court further noted for record this Court will not make a finding of fraud, and it can reject the plea to Count 10, pursuant to NRS 174.0351.

Ms. Craig disagreed; and argued this Court can reject the plea at the time of plea, and defense is not sure what the grounds are, after Court had accepted the plea and made findings this plea was valid, and State had accepted the plea. Court NOTED there is a right to plead guilty, there is no constitutional right, the only right is a statutory right; and there is nothing in the statute that allows Deft. to plead guilty and carve out a theory and limit the State in a penalty phase, to the type of evidence the State can put on.

Ms. Craig requested a stay, to appeal Court's decision, and take the case to Nevada Supreme Court. Ms. Fleck argued State's position on defense counsel's actions with the change of plea, is this was fraudulent, deceitful and dishonest, and only done by defense counsel to get a tactical advantage; and Ms. Craig had admitted to this tactic. Ms. Fleck added defense tried to manipulate the Court and State, to carve out the theory and gain tactical advantage; and in all her years of practicing, she herself has never seen anything so egregious or underhanded. Mr. Pesci asked if Court is not making fraud findings, will Court make a finding in part by fact there was non-verbal communication relayed to Court. Court stated it does not believe any of the parties, including Ms. Craig misrepresented anything to this Court, defense had cut the Court off during the plea canvass, however, Court is not sure it is fair to hold the State to the burden that the cold record does not reflect what Court believes happened in the Courtroom, and what Ms. Craig agrees happened in the Courtroom. Mr. Pesci stated he understood; and inquired that as part of ruling, analysis includes there was a non-verbal communication presented by defense to Court during colloquy. Ms. Craig stated she agreed, and Court understood what defense was going to do at that time. Ms. Craig also added she is offended, and believes it is insulting what State is alleging about any fraud.

Court stated it does not believe this case needs to be stayed, however, this Court will not have a problem staying the matter, if Nevada Supreme Court orders a stay. Ms. Craig requested a copy of the transcript from today; and COURT SO ORDERED.

State to prepare order from today's proceedings; defense to review prior to submission.

Parties confirmed on receiving the Court's written order regarding witness disclosure. Mr. Pesci advised State is going to try to work within the 15 day rule, and State may ask this Court for more time, as he does not know what State will be receiving.

CUSTODY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****September 06, 2016**

C-11-276713-1      State of Nevada  
                                 vs  
                                 Javier Righetti

**September 06, 2016      8:30 AM****All Pending Motions****HEARD BY:** Leavitt, Michelle**COURTROOM:** RJC Courtroom 14D**COURT CLERK:** Susan Jovanovich**RECORDER:** Kristine Santi**REPORTER:****PARTIES**

|                 |                         |           |
|-----------------|-------------------------|-----------|
| <b>PRESENT:</b> | Bashor, Ryan            | Attorney  |
|                 | Craig-Rohan, Christy L. | Attorney  |
|                 | Pesci, Giancarlo        | Attorney  |
|                 | Public Defender         | Attorney  |
|                 | Righetti, Javier        | Defendant |
|                 | State of Nevada         | Plaintiff |

**JOURNAL ENTRIES**

- DEFENDANT'S MOTION FOR ATKINS HEARING...DEFENDANT'S MOTION TO STAY TRIAL

Mr. Pesci advised the expert will not be available until October 17, 2016, and based on the ruling today, trial date may not go forward. COURT ORDERED, Motion for Atkins hearing is GRANTED IN PART as to having an Atkins hearing; the Court will allow State an opportunity to interview Deft, and to defend the pending motion to strike the notice of death penalty. Ms. Craig advised she filed with the Court the documents in support of the relief being sought by defense. Court noted the binder received in Chambers contains everything for Court to review. Mr. Pesci advised the State has seen all these documents. Court noted it appears parties will not be going forward with trial October 3, 2016. Mr. Pesci noted State will oppose the Deft's request to strike and have limitations on the interview. COURT ORDERED, that portion in Deft's Motion is DENIED, as the expert is not available yet. At request of State, COURT FURTHER ORDERED, matter SET for status check to have the matter date set for the Atkins hearing. Following discussions as to Deft's Motion for stay, Court

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noted it believes the Motion is moot at this point, as parties are not going forward with trial. Mr. Pesci advised State prepared the order from the last hearing and provided it to defense. Ms. Craig advised defense will review the order and make any notification if there is an error with the order. COURT ORDERED, the stay will be GRANTED pursuant to statute.

CUSTODY

10/27/16 8:30 A.M. STATUS CHECK: FURTHER PROCEEDINGS

CLERK'S NOTE: Minutes amended to correct grammar error. /// 9/29/16 sj

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****October 27, 2016**

C-11-276713-1      State of Nevada  
                                 vs  
                                 Javier Righetti

**October 27, 2016      8:30 AM      Status Check**

**HEARD BY:** Leavitt, Michelle**COURTROOM:** RJC Courtroom 14D**COURT CLERK:** Susan Jovanovich**RECORDER:** Debbie Winn**REPORTER:****PARTIES**

|                 |                         |           |
|-----------------|-------------------------|-----------|
| <b>PRESENT:</b> | Bashor, Ryan            | Attorney  |
|                 | Craig-Rohan, Christy L. | Attorney  |
|                 | Pesci, Giancarlo        | Attorney  |
|                 | Public Defender         | Attorney  |
|                 | Righetti, Javier        | Defendant |
|                 | State of Nevada         | Plaintiff |

**JOURNAL ENTRIES**

- Mr. Pesci informed Court State's expert interviewed Deft, and needs information on five items, further noting State passed along this information to defense, to which defense counsel has provided two out of the five requested items. Additionally, the expert will be available to appear between November 28, 2016 and December 2, 2016, except for November 29, 2016; in December, the expert will be available December 5, 2016 through December 9, 2016, and the availability is contingent upon the pending items needed. Ms. Craig advised defense filed 300 pages of documents the expert relied upon, and the expert had asked for raw data. Discussions as to the status of requests and Deft's interview from July, 2016. Ms. Craig stated she needs to talk to defense experts, and estimates 1-3 experts. COURT ORDERED, matter SET for status check.

**CUSTODY**

11/03/16 8:30 A.M. STATUS CHECK: SET ATKINS HEARING

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****November 08, 2016**

C-11-276713-1      State of Nevada  
                                 vs  
                                 Javier Righetti

**November 08, 2016      8:30 AM      Status Check**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Jovanovich

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

|                 |                         |           |
|-----------------|-------------------------|-----------|
| <b>PRESENT:</b> | Bashor, Ryan            | Attorney  |
|                 | Craig-Rohan, Christy L. | Attorney  |
|                 | Fleck, Michelle         | Attorney  |
|                 | Pesci, Giancarlo        | Attorney  |
|                 | Public Defender         | Attorney  |
|                 | Righetti, Javier        | Defendant |
|                 | State of Nevada         | Plaintiff |

**JOURNAL ENTRIES**

- Ms. Craig requested the Atkins hearing be set for February 22, 2017 and February 23, 2017, to allow time for the expert to fly in and be available. COURT SO ORDERED. Court advised both parties trial will be set today. Defense counsel hesitated. Court reminded defense the case has been going on for six years, having other trials will constantly be an issue here, and Court suggests that the attorneys figure it out, as to getting this case tried. Ms. Craig stated parties should be hearing from Nevada Supreme Court. Court advised parties if anything happens, the Supreme Court will let this Court know. COURT ORDERED, trial date SET. Mr. Pesci requested a Calendar Call date. Defense made no objection. COURT SO ORDERED.

**CUSTODY**

2/22/17 8:30 A.M. & 2/23/17 10:30 A.M. ATKINS HEARING

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2/28/17 8:30 A.M. CALENDAR CALL

3/06/17 1:30 P.M. TRIAL BY JURY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**February 22, 2017**

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C-11-276713-1      State of Nevada  
                                 vs  
                                 Javier Righetti

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**February 22, 2017      8:30 AM      All Pending Motions**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Jovanovich

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

|                 |                         |           |
|-----------------|-------------------------|-----------|
| <b>PRESENT:</b> | Bashor, Ryan            | Attorney  |
|                 | Craig-Rohan, Christy L. | Attorney  |
|                 | Fleck, Michelle         | Attorney  |
|                 | Pesci, Giancarlo        | Attorney  |
|                 | Public Defender         | Attorney  |
|                 | Righetti, Javier        | Defendant |
|                 | State of Nevada         | Plaintiff |

**JOURNAL ENTRIES**

- Upon Court's inquiry, both parties confirmed on receiving written decision from Nevada Supreme Court on Deft's Petition for writ of prohibition or mandamus.

DEFT'S MOTION TO CONTINUE ATKINS HEARING

Addendum To Atkins Motion FILED IN OPEN COURT.

Ms. Craig argued as to State's expert report provided by State, data reports, statutory requirements on timeliness with providing reports, fundamental fairness, correction having been made by defense expert on report, and defense believing 9-12 days not being a fair amount of time to review records provided for this Atkins hearing. Mr. Pesci addressed the statute regarding timeliness; and argued as to Dr. Woods having relied on expert report from 2012, addendum having been provided to State

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yesterday, numbers having been changed by expert, and State believing the case should proceed forward. Ms. Craig argued the doctor corrected an error on the figure number, the Constitution requires fairness and due process rights, and defense being given 9-12 days to prepare was not enough. COURT ORDERED, Motion DENIED.

#### DEFT'S MOTION FOR REVIEW OF JURY QUESTIONNAIRE

Discussions as to new questionnaire needing to be provided, due to facts needing to be altered, and based on decision from Nevada Supreme Court. Mr. Pesci argued State does not want a Jury questionnaire to be issued, as State is ready to proceed with trial in March, 2017, and does not want a continuance. Court stated it was not going to issue a jury questionnaire that will cause a trial continuance. Ms. Craig stated she believes this can get done before trial. COURT ORDERED, Motion GRANTED. Court noted it notified the Jury Commissioner to dismiss the current panel, in order for the new questionnaires to be issued to a new panel for trial.

#### DEFT'S MOTION IN LIMINE FOR A FAIR TRIAL...DEFT'S MOTION IN LIMINE

Arguments by parties regarding Nevada Supreme Court decision, defense counsel's concerns on how to proceed effectively with trial, due to Deft's plea of guilty to Counts 6 through 9, and State not seeking to present evidence to the Jury about Deft's entry of plea to the other charges. Court noted State has to prove their case. Mr. Pesci argued State is ready to go forward without bringing evidence that Deft. pled guilty to Counts 6 through 9, there are no negative consequences, and there is no harm, no foul. Ms. Craig argued Deft. cannot testify because he had pled guilty, defense is prevented from putting on a defense that this did not happen, there is no defense available, and the pleas on Counts 6 through 9 stand. Ms. Craig noted she is putting this Court on notice, and defense is seeking to have Attorney Andrea Luem, Esq., come in as an expert to testify on how the process works including the defense strategic decision, further noting defense is in a difficult place, as it has to let the Jury know why defense is putting on the defense it is putting on. Mr. Pesci argued State does not get to rely upon a statement made to police, the prior plea has no effect, and this is the same thing has a suppression. Further arguments by Ms. Craig as to ineffective assistance of counsel concerns if defense will not be talking during trial for one week. Mr. Pesci argued there is nothing that requires defense to tell the Jury that Deft. pled guilty. Ms. Craig argued Deft. pled in open Court, and saying he did not do it would be a lie. Court asked if Deft. is going to testify. Ms. Craig stated she is not saying that. Court noted the State still has to prove the element, and if Deft. takes the stand, he cannot lie. Further arguments as to the murder having been established on Deft's plea of guilty to Counts 6 through 9. Court asked defense counsel what are they seeking from Court. Ms. Craig stated this is an odd place, she has never done it this way before, as to the Counts, and she thought to put another defense attorney on the Stand to explain the tactical process, as there is no defense here. Mr. Pesci argued State would not be able to say Deft. pled to it, and there is an opportunity for Deft. to go to trial, further noting State will not introduce evidence of Judgment of Convictions for Counts 6-9. Additional arguments as to Supreme Court decision undoing the plea to the Murder charge. Mr. Pesci made arguments asking how a defense expert can come in and explain a process. Court stated it would be prejudicial to both sides.

COURT ORDERED, Deft's Motion in limine DENIED; and, there is nothing needed from the Court on Deft's other Motion, as Deft. is entitled to a fair trial.

#### ATKINS HEARING

Testimony presented (See Worksheets.).

\_\_\_\_\_ Court Clerk Present: Kathy Klein. \_\_\_\_\_

11:50 AM - 12:01 PM- Further testimony presented. (See worksheets). Lunch recess.

1:30 PM - Court Clerk Present: Susan Jovanovich

Further testimony presented (See Worksheets.)

Evening recess. Hearing CONTINUES.

#### CUSTODY

2/23/17 10:30 A.M. ATKINS HEARING

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****February 23, 2017**

C-11-276713-1      State of Nevada  
                                 vs  
                                 Javier Righetti

**February 23, 2017      10:30 AM      Hearing**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Jovanovich

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

|                 |                         |           |
|-----------------|-------------------------|-----------|
| <b>PRESENT:</b> | Bashor, Ryan            | Attorney  |
|                 | Craig-Rohan, Christy L. | Attorney  |
|                 | Fleck, Michelle         | Attorney  |
|                 | Pesci, Giancarlo        | Attorney  |
|                 | Public Defender         | Attorney  |
|                 | Righetti, Javier        | Defendant |
|                 | State of Nevada         | Plaintiff |

**JOURNAL ENTRIES**

- Court provided the written proposed statement of facts for the Jury Questionnaires to both sides at the Bench. CONFERENCE AT BENCH. COURT ORDERED, it will give the question as is to the Jury. Court's Exhibit presented (See Worksheets.).

Testimony and Exhibits presented (See Worksheets.). Ms. Craig argued in support of claim that Deft. is intellectually disabled; and further argued as to testimony provided by defense expert, report from Dr. Kern, behavior deficits having been found, IQ tests, Hall decision, page 37 of DSM V, assessment adaptive behavior deficits, Flynn effect, and Deft's failures at school. Mr. Pesci opposed the claim; and argued as to Hall case, statute from Florida, Deft's scores in Math, Deft. having capacity, Deft. having chosen not to perform when he was at Arbor View or Centennial high schools, slide shown by Dr. Mahaffey, and Deft. not being disabled, as he is average. Ms. Craig argued nothing in the records said Deft. chose not to do high school, and he was not doing great. Court stated an inference can be

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made from the records. Following further arguments by Ms. Craig, Court made findings, including that Deft. is not intellectually disabled pursuant to NRS 174.098 (7). State to prepare order.

Discussions as to status of jury questionnaire. Court stated it has concerns about the old questionnaires from the previous panel that was dismissed, as there may be private information in those questionnaires. Court advised parties if they brought the old copies of the questionnaires to Court, it will make sure those old questionnaires get shredded. Mr. Pesci advised State just had one copy. Ms. Craig advised defense shredded their copy of the old questionnaires already.

COURT ORDERED, trial will proceed forward. Discussions as to Ms. Craig's concerns about a witness traveling on a visa to appear and testify at trial during penalty phase. Upon inquiry by Mr. Bashor, Court advised parties to let Court know if anybody has to stop at 5:00 p.m. during trial.

CUSTODY

2/28/17 8:30 A.M. CALENDAR CALL

3/06/17 10:30 A.M. TRIAL BY JURY



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**February 27, 2017**

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C-11-276713-1      State of Nevada  
                                 vs  
                                 Javier Righetti

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**February 27, 2017      9:30 AM      At Request of Court**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Jovanovich

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:**      Pesci, Giancarlo      Attorney  
                                 State of Nevada      Plaintiff

**JOURNAL ENTRIES**

- At the hour of 9:30 a.m., the Court, Deputy Marshal, and Clerk appeared before the Jury panel on the Third Floor of the Regional Justice Center, for Court to administer the oath of service to the entire Jury panel members, who were summoned by the Jury Commissioner in this case. Following introductory statements made by Jury Commissioner and Court, the entire Jury panel was sworn in by Court.

This Court had notified and had invited both parties in this matter, to attend this morning at Jury Services at 9:30 a.m., however, the attorneys for Defendant Javier Righetti, were not present. Chief Deputy District Attorney Giancarlo Pesci, Esq., attended, and was present outside of Jury Services room, when Court administered the oath of service to the Jury.

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****February 28, 2017**

C-11-276713-1      State of Nevada  
                                 vs  
                                 Javier Righetti

**February 28, 2017      8:30 AM      Calendar Call**

**HEARD BY:** Leavitt, Michelle**COURTROOM:** RJC Courtroom 14D**COURT CLERK:** Susan Jovanovich**RECORDER:** Patti Slattery**REPORTER:****PARTIES**

|                 |                         |           |
|-----------------|-------------------------|-----------|
| <b>PRESENT:</b> | Bashor, Ryan            | Attorney  |
|                 | Craig-Rohan, Christy L. | Attorney  |
|                 | Pesci, Giancarlo        | Attorney  |
|                 | Public Defender         | Attorney  |
|                 | Righetti, Javier        | Defendant |
|                 | State of Nevada         | Plaintiff |

**JOURNAL ENTRIES**

- State announced ready and estimated 15-20 witnesses. Mr. Pesci noted in the guilt phase, trial will take us until the beginning of the second week. Ms. Craig announced ready, and stated defense does not have any main witnesses for the trial phase. Court stated it swore in 307 jurors yesterday, and today there were be additional jurors at 10:30 a.m., and both parties are welcome to attend down on the third floor of the Regional Justice Center. COURT ORDERED, trial date SET.

Mr. Pesci advised State has a proposed redaction of Deft's statement prepared, which will be provided to defense to see if they need anything added or subtracted, further noting this has to be resolved sooner than later, in order for State to work on the audio for a presentation. Additionally, defense has filed a motion late, and State will be filing a response tomorrow. Ms. Craig stated the motion can be heard midway during jury selection, as this is not really relevant until trial gets to a penalty phase. Discussions as to title of Deft's Motion. Mr. Pesci noted the Jury would be able to make the conclusion, State will oppose the motion, and there is something in the works which State

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will be filing by tomorrow. Ms. Craig presented two proposed orders to allow a barber to come to the jail to give Deft. a haircut, and to allow three suits to be dropped off to him as well. Orders were reviewed and SIGNED IN OPEN COURT.

CUSTODY

3/06/17 10:30 A.M. TRIAL BY JURY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**February 28, 2017**

---

C-11-276713-1      State of Nevada  
                                 vs  
                                 Javier Righetti

---

**February 28, 2017      10:30 AM      At Request of Court**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Jovanovich

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- At the hour of 10:30 a.m., the Court, Deputy Marshal, and Clerk appeared before the Jury panel on the Third Floor of the Regional Justice Center, for Court to administer the oath of service to the Jury panel members, who were summoned this morning by the Jury Commissioner in this case.

Following introductory statements made by Jury Commissioner and Court, the entire Jury panel was sworn in by Court.

This Court had notified and had invited both parties in this matter, to attend this morning at Jury Services at 10:30 a.m., however, the attorneys for State of Nevada and attorneys for Defendant Javier Righetti, were not present.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****March 06, 2017**

C-11-276713-1      State of Nevada  
                                 vs  
                                 Javier Righetti

**March 06, 2017      10:30 AM      Jury Trial**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Jovanovich

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

|                 |                         |           |
|-----------------|-------------------------|-----------|
| <b>PRESENT:</b> | Bashor, Ryan            | Attorney  |
|                 | Craig-Rohan, Christy L. | Attorney  |
|                 | Fleck, Michelle         | Attorney  |
|                 | Pesci, Giancarlo        | Attorney  |
|                 | Public Defender         | Attorney  |
|                 | Righetti, Javier        | Defendant |
|                 | State of Nevada         | Plaintiff |

**JOURNAL ENTRIES**

- Skylar Sullivan, law clerk from Public Defender's office is also present with defense counsel.

**OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL:** Parties stated their appearances. Ms. Craig advised defense filed a couple of motions that do not necessarily need to be heard right this morning. Ms. Craig requested clarification, and advised she is not sure how defense is proceeding at trial with regards to Counts 6 through 9, as defense is not sure if State is proving them beyond a reasonable doubt. Mr. Pesci clarified Counts 6 through 9 are pleas, and Defendant has already been adjudicated of them, however, State will not be introducing evidence of Defendant's pleas or adjudications or convictions for Counts 6 through 9 in the guilt phase in its case-in-chief, however, if this becomes relevant, State will approach the Court before it says anything about it, so Defendant is encumbered by the pleas when going to trial on Count 10. Discussions as to trial strategy during the guilt phase. Court stated the Jury will be instructed appropriately on felony murder. Ms. Craig asked if the Jury

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is going to be instructed on the robbery. Mr. Pesci clarified the Jury will be instructed on the predicate felonies, and they have to be in order for the State to pursue the felony murder theory, however, State is not going to tell the Jury about Defendant having already pled to those counts, nor talk about the adjudication. Ms. Craig stated she will ask more questions when the case gets closer to penalty. Thereafter, defense counsel moved to exclude discovery documents State provided this morning during trial; and argued regarding timeliness. Mr. Pesci argued this is information surrounding the knife tip recovered from the victim's skull during autopsy, and expert making findings that the tip matched the knife with victim's DNA on it, found in Defendant's home. Ms. Craig argued this was not available for her earlier this morning, Mr. Pesci meant 10 minutes ago when he said this morning, and she does not understand why Mr. Pesci didn't just make a copy of the photo and e-mail it to her. Mr. Pesci advised the information was too large to send over by e-mail. Upon Court's inquiry, Mr. Pesci confirmed State is going to use two photos from this discovery. COURT ORDERED, Defendant's Motion to exclude discovery of the knife tip report, DENIED WITHOUT PREJUDICE. Court advised Ms. Craig if defense want to renew this motion at a later date, after having an opportunity to review what is on the disk State provided, defense may do so.

Colloquy as to Defendant's recorded statement, and areas of the written transcribed statements having been objected to and agreed to. Ms. Craig advised defense has a law clerk present in Court this morning, who will be assisting defense counsel just for jury selection. Colloquy regarding department procedure for jury selection. Discussions between Court and media representatives sitting in the gallery. Mr. Pesci advised State will be providing only names of witnesses for the penalty hearing as well as this phase. Ms. Craig confirmed defense will be doing the same thing. CONFERENCE AT BENCH. Court provided list of jury panel members excused by Court, prior to this morning. Court reminded members of the media not to film any jurors.

Ms. Craig expressed concerns about cameras being in the Courtroom during jury selection; and stated she is worried about members being honest about feelings if they think they are being recorded for the evening news, and there may be an impact. Court stated the names and likeness cannot be used, and Court can ask whether this would interfere with their ability to serve, further noting the jury questionnaires are public record and Court had told the members of the jury panel this when the Court swore them in. Further discussions. Upon Court's inquiry, one member of the media indicated he will be present for twenty minutes, and he can turn the audio off. Court clarified the media can take video, however, the Court does not want the juror's faces or their names filmed. Court advised parties it just received an e-mail from Clerk about Badge No. 0110, and this member had indicated there was a death in her family. COURT ORDERED, Badge No. 0110 EXCUSED. Discussions as to three alternates to be used for trial, and number of challenges each party will have.

PROSPECTIVE JURY PANEL PRESENT (FIRST GROUP): Introductory statements by Court and by counsel. Clerk called roll. PROSPECTIVE JURY PANEL MEMBERS SWORN. Voir Dire commenced. Court admonished and excused panel for lunch until 2:00 p.m. Upon the panel exiting Court for lunch, prospective juror with Badge No. 0020 asked if Defendant is here today. Court stated it thought it made this clear; however, it will make sure some of the members know when they return from break.

OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL (FIRST GROUP): Mr. Pesci advised the Juror asked Ms. Fleck about whether the Defendant sitting at the table was the Defendant, and he had used the word "fricking". Thereafter, counsel stated she believes the prospective juror may have been surprised to see Defendant in the Courtroom. Court stated it will excuse Badge No. 0122 for cause. Ms. Fleck advised State will defer as to Badge No. 0020, due to his outspoken nature and clear hostility towards Defendant. COURT ORDERED, Badge No. 0020 and Badge No. 0122 EXCUSED.

Lunch recess.

PROSPECTIVE JURY PANEL PRESENT (FIRST GROUP): Voir Dire commenced further.

OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL (FIRST GROUP): Court provided list of 34 qualified jurors from this first group. Ms. Craig objected to the current trial process; and argued Defendant does not have a presumption of innocence with the felony murder, the robbery, the sexual assaults, and kidnapping and the State had indicated they were going to present evidence beyond a reasonable doubt so this can be used in the felony murder. Mr. Pesci advised he does not know what the requested remedy is, for him to be able to respond to the objection. Ms. Craig argued the Court had denied the remedies, and she will file a written objection. Discussions as to responses from prospective jury panel members during Voir Dire, panel members not having appeared for Jury Duty, and schedule for tomorrow. Court directed Marshal to admonish the First Group outside, and have this group return tomorrow afternoon at 12:45 p.m.

PROSPECTIVE JURY PANEL PRESENT (SECOND GROUP): Introductory statements by Court and by counsel. Clerk called roll. PROSPECTIVE JURY PANEL MEMBERS (SECOND GROUP) SWORN BY CLERK. Voir Dire commenced. Court excused panel members with the following Badge No's: 0127, 0133, 0134, 0119, 0143, 0144, 0154, 0160, 0162, and 0164. Court admonished and excused the remaining members for the evening to return tomorrow morning at 10:00 a.m.

OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL (SECOND GROUP): Court stated there are 17 members qualified by Court, there will be 35 members seated here tomorrow, and then there will be 17 members, further noting if the 17 members are all gone through, Court will have another panel brought up to the Courtroom for Voir Dire.

ADDITIONAL EXCUSALS BY COURT: Badge numbers as follows - 0011, 0014, 0024, 0041, 0051, 0061, 0070, 0071, 0086, 0094, 0099, 0100, 0101, 0119, and 0095.

Evening recess. TRIAL CONTINUES.

CUSTODY

3/07/17 10:00 A.M. TRIAL BY JURY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****March 07, 2017**

C-11-276713-1      State of Nevada  
                                 vs  
                                 Javier Righetti

**March 07, 2017      10:00 AM      Jury Trial**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Jovanovich

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

|                 |                         |           |
|-----------------|-------------------------|-----------|
| <b>PRESENT:</b> | Bashor, Ryan            | Attorney  |
|                 | Craig-Rohan, Christy L. | Attorney  |
|                 | Fleck, Michelle         | Attorney  |
|                 | Pesci, Giancarlo        | Attorney  |
|                 | Public Defender         | Attorney  |
|                 | Righetti, Javier        | Defendant |
|                 | State of Nevada         | Plaintiff |

**JOURNAL ENTRIES**

- Angel Getsor, and Sylar Sullivan, law clerks from Public Defender's office were present assisting defense counsel throughout today's trial proceedings.

Defendant's Motion For Sanction For Discovery Violation FILED IN OPEN COURT. Court's Exhibit ADMITTED (See Worksheets.).

PROSPECTIVE JURY PANEL PRESENT (FIRST & SECOND GROUP): Clerk seated the 35 qualified members in the Jury Box. Voir Dire commenced by State and by defense counsel. Court admonished and excused the prospective jury panel members for lunch recess.

OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL (FIRST & SECOND GROUP): Court stated there are 9 members left to use, and if these members are gone through, Court will have to bring up a

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new group, which are going to report this afternoon at 1:00 p.m.

Lunch recess.

PROSPECTIVE JURY PANEL PRESENT (FIRST & SECOND GROUP): Voir dire commenced further.

OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL (FIRST & SECOND GROUP): Court advised parties prospective jury panel member with Badge No. 0098, who is a police officer, is requesting to be exempt pursuant to NRS 6.020 Subsection 1 (c), and the Court usually lets a juror make the choice. Court further stated it will bring this juror in for further examination.

Prospective Juror Badge No. 0098 present in Court. Court canvassed this juror on his request; and the juror stated he has issues due to being in law enforcement, and having to sit in the box and judge Defendant, which he has a conflict with this. Upon Court's inquiry, the juror requested to be exempt. Court thanked and EXCUSED Badge No. 0098. Court replaced seat numbers 13 and 19 with the next members in line on the list. Discussions regarding trial schedule for tomorrow and status of third group scheduled to appear tomorrow for Jury Duty.

PROSPECTIVE JURY PANEL PRESENT (FIRST & SECOND GROUP): Voir dire commenced further. Court admonished and excused prospective jury panel members to return tomorrow morning at 2:00 P.M. Court excused jury panel members with the following Badge No's: 0140, 0141, 0145, 0150, 0151, 0158, 0104, 0074, 0087, 0075, 0074, 0072, 0031, 0007, 0173, and 0018.

Evening recess. TRIAL CONTINUES.

CUSTODY

3/08/17 12:30 P.M. TRIAL BY JURY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**March 08, 2017**

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C-11-276713-1      State of Nevada  
                                 vs  
                                 Javier Righetti

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**March 08, 2017      12:30 AM      Jury Trial**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Jovanovich

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

|                 |                         |           |
|-----------------|-------------------------|-----------|
| <b>PRESENT:</b> | Bashor, Ryan            | Attorney  |
|                 | Craig-Rohan, Christy L. | Attorney  |
|                 | Fleck, Michelle         | Attorney  |
|                 | Pesci, Giancarlo        | Attorney  |
|                 | Public Defender         | Attorney  |
|                 | Righetti, Javier        | Defendant |
|                 | State of Nevada         | Plaintiff |

**JOURNAL ENTRIES**

- Defendant's Objection To The Trial Phase Process And Offer Of Proof As To The Defense's Voir Dire FILED IN OPEN COURT.

**OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL (THIRD GROUP):** Court provided name of first prospective juror of this third group, who has Badge No. 0137; and stated this juror was from the first day who did not appear, but is now here. Thereafter, Court provided list of members on the jury list who did not appear with the following Badge No.'s: 0177, 0179 who was excused by Court for medical reasons, 0193, 0207, 0208, and 0262.

Court advised parties juror with Badge No. 0201, who was previously excused by Court yesterday, is now here, this Court had received a letter from this juror indicating her father is in hospice care, and Court had excused her. Following colloquy between Marshal and Court, Court directed Marshal to

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excuse the juror with Badge No. 0201.

Court noted the last person on this group will be the juror with Badge No. 0270, there are 29 people, Court will generally qualify this group, and let both sides know who Court will allow when the rest of the members are brought back for further Voir Dire.

PROSPECTIVE JURY PANEL PRESENT (THIRD GROUP): Introductory statements by Court and by counsel. Clerk called roll. PROSPECTIVE JURY PANEL SWORN. Voir dire commenced.

OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL (THIRD GROUP): Court qualified members from this third group, with exception of two panel members, being Badge No. 0188 and 0241. Parties made no objection.

PROSPECTIVE JURY PANEL PRESENT (FIRST, SECOND, & THIRD GROUP): Voir dire commenced further. Court admonished and excused the prospective jury panel members for a recess. While the members were exiting, juror with Badge No. 0265, attempted to speak to Defendant. Court asked what was wrong. Counsel and Defendant told Court this juror was asking if they both spoke Spanish. The juror exited the Courtroom, with other jurors.

OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL: Court stated it is concerned about this juror speaking to Defendant. Mr. Bashor advised this juror asked two or three times to Defendant if he spoke Spanish, and Defendant did not respond, but the situation was bizarre. At request of parties, Court directed the Marshal to bring the juror back into the Courtroom.

Juror with Badge No. 0265 is now present. Court addressed this juror about her talking to the Defendant. The juror apologized; and stated her English is weak. Upon Court's inquiry, the juror indicated she was looking for someone who spoke Spanish, because she does not understand English or the proceedings. Court canvassed the juror. Following discussion, the juror was unable to answer many questions. Court determined this juror does not understand the proceedings. Court apologized to the juror for not figuring this out earlier. The juror started to cry, and the Court told her it is okay, and she is excused. Juror thanked the Court. COURT ORDERED, Juror with Badge No. 0265 is EXCUSED for cause.

Juror not present. Court noted it genuinely believed this juror, being Badge no. 0265. Discussions regarding parties being concerned about juror with Badge No. 0102, due to his demeanor, hostility, and comments he had made to the parties and Court earlier during Voir Dire, about his employment and feelings about serving as a juror. Both parties expressed concerns about this juror's comments. Court stated there is no pecking order in jury selection. Parties stipulated to excusing the juror, and having him remain in the Courtroom until the conclusion of the day. Court agreed; and stated it does not want this juror to contaminate everybody either, as his hostility is now towards the Court. Court advised parties when trial concludes for the evening, it will speak to this juror about his level of importance. Parties made no objections.

PROSPECTIVE JURY PANEL PRESENT: Voir dire commenced further.

OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL: Discussions regarding scheduling for today and tomorrow, excusal of juror with Badge No. 0191, and witness availability for trial.

PROSPECTIVE JURY PANEL PRESENT: Voir Dire commended further. Court admonished and excused the jury panel members for the evening, to return tomorrow morning at 10:00 A.M. Court excused the remaining juror members seated in the Courtroom with the following Badge No.'s: 0091, 0174, 0093, 0093, 0171, 0183, and 0191. Court directed juror with Badge No. 0102 to remain in the Courtroom.

OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL: Juror Troy Hadley Badge No. 0102 is present at the podium, as directed by Court. Court advised juror he will be excused. Thereafter, Court addressed the juror due to his hostile behavior, and comments he made in a disrespectful manner earlier during Voir Dire. Court reminded this juror the importance of jury duty, including that no one is above jury duty. Court advised juror this Court was concerned and disappointed with his comments he made earlier, and it does not believe anybody's career would be destroyed after serving for two to three weeks; however, Court will excuse him. Court also told juror it hopes he understands importance of serving as a juror when he gets another summons, it hopes he will not give another judge a hard time, and if he had been somewhere else in this building with the behavior, this Court is not sure the outcome would be as good. Court added people need to respect each other and have common decency. Court thanked him for being present for three days; and stated the Court is not discounting this, and it is grateful for his service. Mr. Hadley apologized to the Court for his behavior; and stated this Court has given him a lot of perspective today, and if he showed up to this Court again, it would be an honor. Court thanked the juror. COURT ORDERED, Badge No. 0102 EXCUSED.

Evening recess. TRIAL CONTINUES.

CUSTODY

3/09/17 10:00 A.M. TRIAL BY JURY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**March 09, 2017**

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C-11-276713-1      State of Nevada  
                                 vs  
                                 Javier Righetti

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**March 09, 2017      10:00 AM      Jury Trial**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Jovanovich

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

|                 |                         |           |
|-----------------|-------------------------|-----------|
| <b>PRESENT:</b> | Bashor, Ryan            | Attorney  |
|                 | Craig-Rohan, Christy L. | Attorney  |
|                 | Fleck, Michelle         | Attorney  |
|                 | Pesci, Giancarlo        | Attorney  |
|                 | Public Defender         | Attorney  |
|                 | Righetti, Javier        | Defendant |
|                 | State of Nevada         | Plaintiff |

**JOURNAL ENTRIES**

- Law Clerk Mary Jo Nyitrai, law clerk from Public Defender's office was also present with defense counsel during Voir Dire.

Amended Indictment FILED IN OPEN COURT.

Defense Proposed Jury Instructions (Trial) FILED IN OPEN COURT.

PROSPECTIVE JURY PANEL PRESENT: Voir dire commenced further. Parties exercised the peremptory challenges.

OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL: Court read the 15 members of the Jury panel for this trial. Parties made no objection. Colloquy as to scheduling of witnesses.

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IN NEXT  
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# IN THE SUPREME COURT OF THE STATE OF NEVADA

JAVIER RIGHETTI,  
Appellant(s),

vs.

STATE OF NEVADA,  
Respondent(s),

Case No: C-11-276713-1

Docket No: 73015

**Death Penalty**

# RECORD ON APPEAL VOLUME 49

ATTORNEY FOR APPELLANT  
JAVIER RIGHETTI # 1177953,  
PROPER PERSON  
P.O. BOX 1989  
ELY, NV 89301

ATTORNEY FOR RESPONDENT  
STEVEN B. WOLFSON,  
DISTRICT ATTORNEY  
200 LEWIS AVE.  
LAS VEGAS, NV 89101

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JAVIER RIGHETTI,  
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vs.

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Respondent(s),

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Docket No: 73015

**Death Penalty**

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ATTORNEY FOR APPELLANT  
JAVIER RIGHETTI # 1177953,  
PROPER PERSON  
P.O. BOX 1989  
ELY, NV 89301

ATTORNEY FOR RESPONDENT  
STEVEN B. WOLFSON,  
DISTRICT ATTORNEY  
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LAS VEGAS, NV 89101

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State of Nevada  
vs  
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JAVIER RIGHETTI,  
Appellant(s),

vs.

STATE OF NEVADA,  
Respondent(s),

Case No: C-11-276713-1

Docket No: 73015

**Death Penalty**

# RECORD ON APPEAL VOLUME 47

ATTORNEY FOR APPELLANT  
JAVIER RIGHETTI # 1177953,  
PROPER PERSON  
P.O. BOX 1989  
ELY, NV 89301

ATTORNEY FOR RESPONDENT  
STEVEN B. WOLFSON,  
DISTRICT ATTORNEY  
200 LEWIS AVE.  
LAS VEGAS, NV 89101

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vs  
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# IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed  
Jun 07 2017 08:59 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

JAVIER RIGHETTI,  
Appellant(s),

vs.

STATE OF NEVADA,  
Respondent(s),

Case No: C-11-276713-1

Docket No: 73015

**Death Penalty**

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ATTORNEY FOR APPELLANT  
JAVIER RIGHETTI # 1177953,  
PROPER PERSON  
P.O. BOX 1989  
ELY, NV 89301

ATTORNEY FOR RESPONDENT  
STEVEN B. WOLFSON,  
DISTRICT ATTORNEY  
200 LEWIS AVE.  
LAS VEGAS, NV 89101

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State of Nevada  
vs  
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