

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

Respondent.

Docket 73674 Document 2018-16721

INDEX
MELVYN SPROWSON
Case No. 73674

	<u>PAGE NO.</u>
Affidavit of Defense's Investigator filed 03/21/17.....	1118-1119
Affidavit of The Honorable Stefany A. Miley filed 01/23/17	1005-1010
Affidavit to Disqualify Judge Stefany A. Miley for Bias and Misconduct filed 01/31/17	993-997
Affidavit to Disqualify Judge Stefany A. Miley for Bias and Misconduct filed 02/07/17	998-1004
Affidavit to Reconsider Disqualifying Judge Stefany A. Miley for Bias and Misconduct Date of Hrg: 02/24/17	1016-1022
Affidavit to Reconsider Disqualifying Judge Stefany A. Miley for Bias and Misconduct filed 02/28/17	1023-1028
Amended Criminal Complaint filed 12/09/13	3-4
Application for Ex Parte Order to Extend Time in which to File the Pre-Trial Writ of Habeas Corpus filed 02/18/14	257-263
Bail Bond filed 05/05/14	360-364
Clerk's Certificate and Order Dismissing Appeal filed 12/02/15	751-754
Criminal Complaint filed 11/05/13.....	1-2
Decision and Order filed 08/28/15	597-610
Defendant's Motion to Continue Jury Trial Date of Hrg: 06/02/14.....	387-390
Defendant's Motion to Continue Trial Date filed 09/08/14	515-518
Defendant's Motion to Continue Trial Date filed 07/06/15	611-615
Defendant's Motion to Continue Trial Date Date of Hrg:: 06/06/16.....	844-849
Defendant's Proposed Jury Instructions Not Used at Trial filed 03/30/17.....	1124-1127
Defendant's Second Pro Se Motion to Continue Trial Date of Hrg: 04/10/17	1087-1095
District Court Minutes from 01/15/14 through 06/26/17	1175-1250
Ex Parte Application for Court Approval of Payment of Specific Categories of Ancillary Defense Costs Date of Hrg: 06/01/15.....	568-575

1	Ex Parte Application for Expert Witness and	
2	Investigator And Funding Therefor filed 12/09/16	964a-964f
3	Ex Parte Motion and Order for Release of Records filed 05/22/14.....	381-383
4	Ex Parte Motion and Order for Release of Records filed 05/22/14.....	384-386
5	Ex Parte Motion and Order for Release of Records filed 09/10/14.....	519-520
6	Ex Parte Motion and Order for Release of Records filed 09/10/14.....	521-522
7	Ex Parte Motion and Order for Release of Records filed 11/17/14.....	525-526
8	Ex Parte Motion and Order for Release of Records filed 11/17/14.....	527-528
9	Ex Parte Motion and Order for Release of Records filed 11/17/14.....	529-530
10	Ex Parte Motion and Order for Release of Records filed 11/17/14.....	531-532
11	Ex Parte Motion and Order for Release of Records filed 11/17/14.....	533-534
12	Ex Parte Motion and Order for Release of Records filed 09/17/15.....	663-664
13	Fifth Supplemental Notice of Witnesses and/or Expert Witnesses filed 02/27/17.....	1081-1086
14	Fourth Supplemental Notice of Witnesses and/or Expert Witnesses filed 05/09/16.....	831-843
15	Information filed 01/13/14.....	251-254
16	Instructions to the Jury filed 03/31/17	1130-1161
17	Judgment of Conviction (Jury Trial) filed 07/05/17.....	1167-1169
18	Jury List filed 03/23/17.....	1123
19	Jury List filed 03/30/17.....	1129
20	Justice Court Minutes from 11/06/13 through 01/08/14	9-20
21	Media Request & Order Allowing Camera	
22	Access to Court Proceedings filed 11/05/13.....	21-35
23	Media Request & Order Allowing Camera	
24	Access to Court Proceedings filed 01/30/14.....	255-256
25	Media Request & Order Allowing Camera	
26	Access to Court Proceedings filed 02/18/14.....	264-266
27	Media Request & Order Allowing Camera	
28	Access to Court Proceedings filed 02/18/14.....	267-269
	Media Request & Order Allowing Camera	
	Access to Court Proceedings filed 08/13/15.....	627-628

1	Media Request & Order Allowing Camera Access to Court Proceedings filed 10/07/15.....	701-702
2		
3	Media Request & Order Allowing Camera Access to Court Proceedings filed 03/21/17.....	1103-1104
4	Minute Order filed 05/27/15.....	576-577
5	Motion for Bail Reduction Date of Hrg: 11/14/13.....	48-54
6		
7	Motion for Bail Reduction Date of Hrg: 04/14/14.....	322-344
8	Motion for Disclosure of Non-Public Information filed 11/05/13	36-39
9	Motion for Disclosure of Non-Public Information filed 11/08/13	40-43
10	Motion for Disclosure of Non-Public Information filed 11/14/13	44-45
11	Motion for Disclosure of Non-Public Information filed 12/06/13	59-60
12	Motion for Disclosure of Non-Public Information filed 12/09/13	92-95
13	Motion for Disclosure of Non-Public Information filed 12/23/13	96-97
14	Motion for Discovery filed 12/12/13.....	62-91
15	Motion for Discovery filed 08/26/14.....	391-420
16	Motion for Discovery filed 09/20/16.....	859-871
17	Motion to Dismiss Misdemeanor Charges for Lack of Original Jurisdiction Date of Hrg: 11/28/16.....	896-903
18		
19	Motion to Proceed on Appeal in Forma Pauperis Date of Hrg: 10/12/15.....	658-662
20	Motion to Proceed Pro Se filed 08/19/15	629-634
21	Motion to Suppress Evidence Date of Hrg: 06/01/15.....	548-567
22		
23	Motion to Suppress Evidence Date of Hrg: 10/05/15.....	638-644
24	Motion to Withdraw as Counsel of Record filed 07/21/15	622-626
25	Motion to Withdraw the Original Record of Search and Seizure Warrants on File with the District Court	
26	Date of Hrg: 01/04/17.....	912-964
27	Notice of Appeal filed 09/08/15	635-637
28	Notice of Appeal filed 08/01/17	1171-1174

1	Notice of Change of Hearing filed 04/07/14	321
2	Notice of Change of Hearing filed 09/05/14	491
3	Notice of Change of Hearing filed 09/18/14	523
4	Notice of Change of Hearing filed 10/14/14	524
5	Notice of Change of Hearing filed 10/02/15	700
6	Notice of Change of Hearing filed 10/11/16	895
7	Notice of Contempt of Court and Brady Violation filed 03/21/17	1105-1117
8	Notice of Motion and Motion for Clarification Regarding	
9	State's Previously Filed Motion in Limine to Preclude	
10	Evidence of Victim's Prior Sexual Abuse at Trial	
11	Date of Hrg: 10/05/15	671-699
12	Notice of Motion and Motion for Independent	
13	Psychological/Psychiatric Examination of the Complaining Witness	
14	Date of Hrg: 09/08/14	438-460
15	Notice of Motion and Motion in Limine to Preclude	
16	Evidence of Victim's Prior Sexual Abuse at Trial	
17	Date of Hrg: 09/15/14	492-506
18	Notice of Motion and Motion to Admit Evidence of Other Bad Acts	
19	Date of Hrg: 10/26/15	
20	Notice of Motion and Motion to Continue	
21	Date of Hrg: 11/21/13	55-58
22	Notice of Motion and Motion to Set Conditions of	
23	Defendant's Release Upon Defendant Posting Bail	
24	Date of Hrg: 05/12/14	365-380
25	Notice of Motion and State's Motion to Revoke Defendant's Bail	
26	Date of Hrg: 02/04/15	535-543
27	Notice of Request to Withdraw Original Record	
28	of Search and Seizure Warrants filed 12/09/16	909-911
	Notice of Witnesses and/or Expert Witnesses filed 10/08/15	703-714
	Notice Resetting Date and Time of Hearing filed 05/19/17	1165
	Notice Resetting Time of Hearing filed 03/27/14	320
	Opposition to Defendant's Motion for Defendant's Motion for Bail Reduction	
	Date of Hrg: 04/14/14	345-359
	Opposition to State's Motion in Limine to Preclude	
	Evidence of Victim's Prior Sexual Abuse at Trial filed 10/14/14	507-514

1	Order filed 03/13/14	305
2	Order filed 03/22/17	1120-1122
3	Order filed 06/19/17	1166
4	Order filed 07/05/17	1170
5	Order Denying Defendant's Third Motion to Suppress Evidence Date of Hrg: 04/13/16.....	829-830
6	Order Denying Motion to Disqualify filed 01/24/17	1011-1015
7	Order Granting State's Motion to Admit Evidence of Other Bad Acts Date of Hrg: 12/10/15.....	727-729
8	Order Scheduling Status Check RE: Trial Readiness filed 11/23/16	908
9	Petition for Writ of Habeas Corpus, Motion to Dismiss, and Memorandum of Points and Authorities Date of Hrg: 03/24/14.....	270-304
10	Receipt of Copy of Documents Pertaining to Protected Information and Records from Wells Fargo Bank filed 12/11/15	756-757
11	Receipt of Copy of Protected Information and Records from Montevista Hospital, Willow Springs Center, Hope Counseling, Desert Behavioral Health, Doctor Robin Donaldson, and Doctor Eugene Ronsenman filed 07/13/15	616-617
12	Receipt of Copy of Protected Information and Records from Montevista Hospital, Willow Springs Center, Hope Counseling, Desert Behavioral Health, Doctor Robin Donaldson, and Doctor Eugene Ronsenman filed 07/14/15	618-619
13	Receipt of Copy of Protected Information and Records from Montevista Hospital, Willow Springs Center, Hope Counseling, Desert Behavioral Health, Doctor Robin Donaldson, and Doctor Eugene Ronsenman (Amended) filed 07/17/15.....	620-621
14	Receipt of Copy of Protected Information and Records from Vena M. Davis, Mojave Adult, Child & Family Services filed 11/05/15	749-750
15	Remittitur filed 12/02/15	755
16	Reply to Return to Writ of Habeas Corpus and Opposition to Motion to Dismiss Date of Hrg: 04/30/14.....	309-319
17	Reply to State's Opposition to Defendant's Motion for Independent Psychological/Psychiatric Examination of the Complaining Witness and Discovery Request for Her Medical/Mental Health Treatment Records filed 10/13/14.....	481-490
18	Response to State's Motion to Revoke Defendant's Bail Date of Hrg: 02/04/15.....	544-547
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		

1	Response to State's Opposition to Defendant's Motion for Discovery Date of Hrg: 11/02/16.....	884-894
2		
3	Response to State's Opposition to Defendant's Motion to Withdraw the Original Record of Search and Seizure Warrants in the District Court Date of Hrg: 01/04/17	972-986
4		
5	Response to State's Opposition to Defendant's Third Motion to Suppress Evidence Date of Hrg: 04/13/16.....	828i-828bb
6	Request for Rough Draft Transcript filed 09/23/15.....	667-670
7	Second Amended Criminal Complaint filed 12/19/13	5-8
8	Second Request for Rough Draft Transcript filed 02/26/16.....	758-760
9	Second Supplemental Notice of Witnesses and/or Expert Witnesses filed 10/26/15.....	735-742
10	State's Opposition to Defendant's Motion for Discovery Date of Hrg: 09/22/14.....	421-437
11		
12	State's Opposition to Defendant's Motion for Discovery Date of Hrg: 11/02/16.....	872-883
13	State's Opposition to Defendant's Motion for Independent Psychological/Psychiatric Examination of the Complaining Witness Date of Hrg: 09/10/14.....	461-480
14		
15	State's Opposition to Defendant's Motion to Dismiss Misdemeanor Charges for Lack of Jurisdiction Date of Hrg: 11/28/16.....	904-907
16		
17	State's Opposition to Defendant's Motion to Suppress Evidence Date of Hrg: 07/01/15.....	578-596
18		
19	State's Opposition to Defendant's Notice of Request to Withdraw Original Record of Search and Seizure Warrants and Defendant's Ex-Parte Application for Expert Witness and Funding Therefor Date of Hrg: 01/04/17	965-971
20		
21	State's Opposition to Defendant's Second Motion to Suppress Evidence Date of Hrg: 10/05/15.....	645-657
22		
23	State's Opposition to Defendant's Sixth Motion to Continue Trial Date of Hrg: 05/16/16.....	850-858
24	State's Opposition to Defendant's Seventh Motion to Continue Trial Date of Hrg: 03/21/17	1096-1102
25		
26	State's Opposition to Defendant's Third Motion to Suppress Evidence Date of Hrg: 04/06/16.....	828a-828h
27	State's Proposed Jury Instructions Not Used at Trial filed 03/30/17	1127-1128
28		

1	Stipulation and Order Regarding Discovery of Child Pornographic Materials filed 09/21/15	665-666
2	Substitution of Attorneys filed 11/08/13	46-47
3	Supplemental Affidavit of The Honorable Stefany A. Miley filed 02/17/17	1070-1080
4	Supplemental Motion to Affidavit to Reconsider Disqualifying Judge Stefany A. Miley for Bias and Misconduct filed 03/06/17	1029-1069
5	Supplemental Notice of Witnesses and/or Expert Witnesses filed 10/19/15	730-734
6	Third Motion to Suppress Evidence Date of Hrg: 04/06/16.....	761-828
7	Third Supplemental Notice of Witnesses and/or Expert Witnesses filed 10/23/15	743-748
8	Verdict filed 03/31/17.....	1162-1164
9	Writ of Habeas Corpus filed 03/14/14.....	306-307
10	Writ of Habeas Corpus filed 03/17/14.....	308
11		
12		

TRANSCRIPTS

13		
14	Recorder's Transcript JURY TRIAL DAY 1	
15	Date of Hrg: 03/21/17.....	1646-1841
16	Recorder's Transcript JURY TRIAL DAY 2	
17	Date of Hrg: 03/22/17.....	1842-2005
18	Recorder's Transcript JURY TRIAL DAY 3	
19	Date of Hrg: 03/23/17.....	2006-2109
20	Recorder's Transcript JURY TRIAL DAY 4	
21	Date of Hrg: 03/24/17.....	2110-2442
22	Recorder's Transcript JURY TRIAL DAY 5	
23	Date of Hrg: 03/27/17.....	2443-2626
24	Recorder's Transcript JURY TRIAL DAY 6	
25	Date of Hrg: 03/28/17.....	2627-2770
26	Recorder's Transcript JURY TRIAL DAY 7	
27	Date of Hrg: 03/29/17.....	2771-2981
28		

1	Recorder's Transcript JURY TRIAL DAY 8	
2	Date of Hrg: 03/30/17	2982-3111
3	Recorder's Transcript JURY TRIAL DAY 9	
4	Date of Hrg: 03/31/17	3112-3117
5	Recorder's Transcript Arraignment Continued	
6	Date of Hrg: 01/29/14	1253-1255
7	Recorder's Transcript Calendar Call	
8	Date of Hrg: 03/19/14	1256-1260
9	Recorder's Transcript Calendar Call	
10	Date of Hrg: 10/28/15	1428-1439
11	Recorder's Transcript Calendar Call	
12	Date of Hrg: 03/08/17	1605-1608
13	Recorder's Transcript Calendar Call	
14	Date of Hrg: 03/15/17	1609-1612
15	Recorder's Transcript Defendant's Motion for Discovery...Defendant's Motion for Independent	
16	Psychological/Psychiatric Examination of the Complaining Witness	
17	Date of Hrg: 09/10/14	1314-1323
18	Recorder's Transcript Defendant's Motion to Continue Jury Trial	
19	Date of Hrg: 05/28/14	1311-1313
20	Recorder's Transcript Defendant's Motion to Continue Jury Trial Date	
21	Date of Hrg: 07/20/15	1349-1358
22	Recorder's Transcript Defendant's Proper Person Motion for Discovery	
23	Date of Hrg: 11/16/16	1543-1569
24	Recorder's Transcript Defendant's Pro Per Motion to Withdraw the Original Record of	
25	Search and Seizure Warrants on File with the District Court	
26	Date of Hrg: 01/04/17	1579-1582
27	Recorder's Transcript Defendant's Pro Se Motion for Discovery	
28	Date of Hrg: 11/02/16	1527-1542

1	Recorder's Transcript	
2	Defendant's Pro Se Motion to Proceed on Appeal in Forma Pauperis...	
3	Defendant's Pro Se Motion to Suppress Evidence... State's Motion for	
4	Clarification Regarding State's Previously Filed Motion in Limine to	
5	Preclude Evidence of Victim's Prior Sexual Abuse at Trial... Status Check	
6	Date of Hrg: 10/12/15.....	1395-1403
7	Recorder's Transcript	
8	Defendant's Pro Se Motion to Proceed on Appeal in Forma Pauperis...	
9	Defendant's Pro Se Motion to Suppress Evidence... State's Motion for	
10	Clarification Regarding State's Previously Filed Motion in Limine to	
11	Preclude Evidence of Victim's Prior Sexual Abuse at Trial... Status Check	
12	Date of Hrg: 10/19/15.....	1404-1427
13	Recorder's Transcript	
14	Defendant's Second Pro Se Motion to Continue Trial	
15	Date of Hrg: 03/21/17.....	1613-1645
16	Recorder's Transcript	
17	Evidentiary Hearing; Defendant's Motion to Suppress Evidence	
18	Date of Hrg: 07/01/15.....	3156-3257
19	Recorder's Transcript	
20	Initial Arraignment	
21	Date of Hrg: 01/15/14.....	1251-1252
22	Recorder's Transcript	
23	Motion	
24	Date of Hrg: 04/13/16.....	1504-1518
25	Recorder's Transcript	
26	Motion for Bail Reduction	
27	Date of Hrg: 04/14/14.....	1261-1263
28	Recorder's Transcript	
29	Motion for Bail Reduction	
30	Date of Hrg: 04/21/14.....	1264-1274
31	Recorder's Transcript	
32	Petition for Writ of Habeas Corpus	
33	Date of Hrg: 04/30/14.....	1275-1301
34	Recorder's Transcript	
35	Petrocelli Hearing	
36	State's Motion to Admit Evidence of Other Bad Acts	
37	Date of Hrg: 12/10/15.....	1443-1503
38	Recorder's Transcript	
39	Sentencing	
40	Date of Hrg: 05/24/17.....	3118-3125
41	Recorder's Transcript	
42	Sentencing	
43	Date of Hrg: 06/26/17.....	3134-3155

1	Recorder's Transcript	
2	State's Motion in Limine to Preclude Evidence of Victim's Prior Sexual Abuse at Trial;	
3	Defendant's Motion for Discovery; Defendant's Motion for Independent	
	Psychological/Psychiatric Examination of the Complaining Witness	
3	Date of Hrg: 11/05/14.....	1324-1342
4	Recorder's Transcript	
5	State's Motion to Revoke Defendant's Bail	
5	Date of Hrg: 02/04/15.....	1343-1348
6	Recorder's Transcript	
7	State's Motion to Set Conditions of Defendant's	
7	Release upon Defendant Posting Bail	
8	Date of Hrg: 05/12/14.....	1302-1310
9	Recorder's Transcript	
9	State's Opposition to Defendant's Sixth Motion to Continue Trial	
10	Date of Hrg: 05/16/16.....	1519-1526
11	Recorder's Transcript	
11	Status Check: Discovery	
12	Date of Hrg: 08/31/15.....	1380-1384
13	Recorder's Transcript	
13	Status Check: Discovery	
14	Date of Hrg: 09/21/15.....	1385-1394
15	Recorder's Transcript	
15	Status Check: Faretta Canvass, Resetting of Trial	
16	and Defendant's Motion to Proceed Pro Se	
16	Date of Hrg: 08/24/15.....	1367-1379
17	Recorder's Transcript	
17	Status Check: New Counsel/Resetting of Trial	
18	Date of Hrg: 08/19/15.....	1364-1366
19	Recorder's Transcript	
19	Status Check: PSI Corrections	
20	Date of Hrg: 05/31/17.....	3126-3133
21	Recorder's Transcript	
21	Status Check: Resetting of Trial	
22	Date of Hrg: 07/22/15.....	1359-1363
23	Recorder's Transcript	
23	Status Check: Resetting of Trial	
24	Date of Hrg: 11/02/15.....	1440-1442
25	Recorder's Transcript	
25	Status Check: Trial Readiness	
26	Date of Hrg: 11/28/16.....	1570-1578
27	Recorder's Transcript	
27	Status Check: Trial Readiness	
28	Date of Hrg: 02/06/17.....	1598-1604

1	Recorder's Transcript	
	Status Check: Trial Readiness	
2	Status Check: Investigator	
	Defendant's Pro Per Motion to Withdraw the Original Record of	
3	Search and Seizure Warrants on File with District Court	
	Date of Hrg: 01/09/17	1583-1597
4	Reporter's Transcript	
5	Motion to Continue Preliminary Hearing	
	Date of Hrg: 11/21/13	98-107
6	Reporter's Transcript	
7	Preliminary Hearing	
	Date of Hrg: 12/30/13	108-197
8	Reporter's Transcript	
9	Preliminary Hearing Volume II	
	Date of Hrg: 01/08/14	198-250
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		

DISTRICT COURT
CLARK COUNTY, NEVADA

CASE #: C-14-295158-1
DEPT. XXIII

MELVYN PERRY SPROWSON, JR.,
Defendant.

MONDAY, OCTOBER 19, 2015

**DEFENDANT'S PRO SE MOTION TO PROCEED ON APPEAL IN FORMA
PAUPERIS; DEFENDANT'S PRO SE MOTION TO SUPPRESS EVIDENCE;
STATE'S MOTION FOR CLARIFICATION REGARDING STATE'S PREVIOUS
FILED MOTION IN LIMINE TO PRECLUDE EVIDENCE OF VICTIM'S SEXUAL
ABUSE AT TRIAL; STATUS CHECK**

JACQUELINE M. BLUTH, ESQ.
JAMES R. SWEETIN, ESQ.
Chief Deputies District Attorney

In Pro Person
MICHAEL R. YOHAY, ESQ.
Deputy Public Defender
Standby Counsel

Case Number: C-14-295158-1

1 MONDAY, OCTOBER 19, 2015 AT 9:43 A.M.

2
3 THE COURT: Hi; Good morning.

4 MS. BLUTH: Good morning, Your Honor. Jacqueline Bluth and Jim Sweetin
5 on behalf on the State.

6 THE COURT: Okay. We have a couple motions on calendar today.

7 Let's start with a motion to suppress. So, Mr. Sprowson filed a motion
8 to suppress, and essentially your position was when you looked at the Court record
9 there was no indication there was ever a warrant in your particular case.

10 THE DEFENDANT: Well -- yeah, go ahead. Sorry.

11 THE COURT: Yes, that's basically it. And I kind of want to make a record of
12 everything that transpired.

13 The State did provide us with a copy of the warrant and the warrant did
14 clearly indicate the warrant had been filed. The question was why wasn't -- it's
15 showing in our Court system in your case. What we determined had happened is
16 there was a warrant, the warrant was filed like it was supposed to be, but due to an
17 error in the clerk's office it was filed in a different case. So, the error was entirely in
18 the clerk's office. It had nothing to do with anything the State may or may not have
19 done. They're pretty much done once they file that warrant.

20 So, now though the warrant has been properly filed in this case, and I
21 believe a copy has also been provided to you, Mr. Sprowson.

22 THE DEFENDANT: Yes, Your Honor. And if I may, if I could have the Court's
23 indulgence. According to 179.085, number one at the bottom, it says the judge shall
24 receive evidence on any issue of fact necessary to the decision of the motion.

1 Now I understand that the issue -- the main issue that I had with the
2 search warrant -- there are actually two, not one. There's a misstatement of facts
3 and I have evidence to show that there's a misstatement of facts in relation to the
4 State's response, and I'd like to show that evidence today when I argue my motion.

5 THE COURT: I don't understand. A statement of facts as to what issue?

6 THE DEFENDANT: Well let me quote the State.

7 Okay. It says on December 5th 2013 CCSPD Detective Jeff Schell was
8 contacted by Chief Deputy District Jacqueline Bluth who informed him that JT's
9 mother had contacted her and advised that JT had recently disclosed to her that
10 Defendant asked her to send him nude photos and told her how to pose in the
11 photos. DDA Bluth spoke to JT who confirmed all the information. JT further stated
12 that the photos could be found on Defendant's computer. Based upon the fact that
13 JT had told CCSPD that she had met Defendant on line through Craig'sList.com
14 which would be access via computer and Smartphone and the fact that the victim
15 had already disclosed to her mother the existence of new photos on her -- of her on
16 Defendant's computer, and the fact that only she and Defendant were the only two
17 occupants of the apartment prior to her being recovered and his arrest, a search
18 warrant was applied for and obtained for Defendant's residence to recover any and
19 all computers or devices capable of accessing the internet or sending and receiving
20 messages or downloading and storing data; any articles of personal property which
21 would tend to establish the identify of persons in control of said premises -- bear
22 with me, Your Honor -- which items of property which consist and include but not
23 limit to papers, documents, and effects which would tend to show possession and
24 dominion control over said premises including but not limited to keys, cancelled mail,
25 and rental agreements received to utility, telephone bills, prescription bottles, vehicle

1 registration, vehicle repairs, gas receipts, items which tend to show evidence of
2 motive and identity of the perpetrator such as photographs, [indiscernible] insurance
3 policies, letters of address, telephone records, diaries, governmental notices,
4 whether such items are written, typed or stored on computer disk objects which bear
5 a person's name, phone number, address. That was number two. Number three.
6 Any and all female clothing or personal hygiene products.

7 Now I'd like to point out, Your Honor, I have marked Exhibit A and
8 Exhibit B, the documents in question. It has, as you say, the Court's stamps on
9 here, it has a certification on here, but there's nothing in here that indicates to me
10 anything about photographs. Not only that, Your Honor --

11 THE COURT: What are you holding in your hand, sir? I can't see that far.

12 THE DEFENDANT: Oh -- let me, if I may, present to the Court, I have a copy.
13 Let me give you copies of everything I have. I have made copies for the Court. I
14 have actually four exhibits, Your Honor, two of them I would like to have the State
15 verify for me so I could lay a foundation for my argument, if I may, Exhibit A and
16 Exhibit B.

17 MS. BLUTH: I'm not going to be verifying anything.

18 THE COURT: I don't know what they are and may I see? Can I see them,
19 please? Does the State have a copy to look at?

20 THE DEFENDANT: Yes, Exhibit A and Exhibit B. I'd like to have the State
21 verify that these are the documents they gave me, this is what they gave me.

22 THE COURT: Well was this in your discovery packet?

23 THE DEFENDANT: Yes.

24 THE COURT: And it would have come from the State.

25 THE DEFENDANT: Right; exactly.

1 THE COURT: So, what you've handed me is Exhibit A, is application and
2 affidavit for search warrant and I have a search warrant, and then I have search and
3 seizure return. Exhibit B is application affidavit for search warrant. Application
4 Exhibit C is a Clark County School District Police Department property report.
5 Exhibit C, number three, is a property report, and Exhibit D is Clark County School
6 District Police Department statement report.

7 All right. So, how do these tie into the motion you filed?

8 THE DEFENDANT: Well the issue is the validity of the search -- well the
9 State is claiming a valid search warrant. I'm not sure how they're spinning this, but
10 there's actually two search warrants, one for the phone and one for what I've just
11 read. Okay.

12 THE COURT: Okay.

13 THE DEFENDANT: Now I have a couple of issues with the first one even
14 though it's on file, Your Honor, the Constitution of the United States Fourth
15 Amendment clearly says, clearly says that no warrant shall issue but upon probable
16 cause supported by oath or affirmative and any items to be seized or searched or
17 property to be searched must be described with particularity -- and I've kind of just
18 quoted --

19 THE COURT: Here's the thing. Let me stop you for a second.

20 Your motion regarding the search warrant was pretty narrow. Okay.
21 Your issue was that pursuant to statute that was no search warrant and the search
22 warrant was not properly filed like the statute requires. And that's really the entirety
23 of what's in your motion. What you're getting in now it sounds like --

24 THE DEFENDANT: Well it's the validity. I actually questioned the validity of
25 the search warrant itself. I still question the validity of the search warrant itself, Your

1 Honor.

2 MS. BLUTH: And so pursuant to statute I just ask that those -- that be done in
3 writing, Your Honor, because I haven't had a --

4 THE COURT: What I was getting to --

5 MS. BLUTH: I know you were.

6 THE COURT: -- the reason --

7 THE DEFENDANT: Your Honor --

8 THE COURT: Okay. Hold on a second.

9 THE DEFENDANT: -- I have a statutory, statutory search warrant --

10 THE COURT: Hold on --

11 THE DEFENDANT: -- this search warrant is not valid.

12 THE COURT: Okay. Hold on. Okay. The reason I'm telling you this.

13 We're real limited what we can do in any given Court proceeding
14 because the other side has to have notice of what's going to happen during the
15 Court proceedings -- hold. Your motion to suppress again was a very narrow issue
16 and that's been basically ruled upon. It's going to -- the narrow issue set forth in
17 your motion to suppress filed on September 11, 2015, that's going to be denied, and
18 the reason is is that dealt with whether or not the State complied with the
19 requirements to file -- to have a search warrant, number one, and to file the search
20 warrant. And as I previously I indicated, the search warrant was filed, but due to a
21 clerical error not of any doing by the State but by -- down in the clerk's office it was
22 filed in the incorrect case. That has since been rectified.

23 Now it sounds like you're challenging the probable cause in the search
24 warrant and you got to put that in writing. The reason is is they have to have a
25 chance to sit down and go through their file and respond because these arguments

1 are new that you're making today. They're not what you previously filed. I mean, I
2 understand you're saying I challenge the validity but you got to give a little bit more.
3 You're challenging it on other bases.

4 THE DEFENDANT: Your Honor, if I may. 179.085, the Judge shall receive
5 evidence on any issue of fact necessary to the decision of the motion. I have
6 necessary evidence in regards to the validity of the search warrant. That was my
7 main concern. The filing -- when I said it wasn't on file --

8 THE COURT: But you got to put that --

9 THE DEFENDANT: It wasn't on file was part of the fact that the search
10 warrant wasn't valid. That's what made part of it invalid.

11 THE COURT: But you got to put all of this information in writing. That's what
12 I'm trying to tell you. I'm not saying that I'm not going to hear it. You just have to do
13 it procedurally correct which means you have to put it in writing. Again, the only
14 issue you raised previously which the State responded to that's been ruled upon,
15 and I gave you the reason for that. Now this, you got to put this, if you're
16 challenging the validity of the probable cause in the search warrant, you got to put
17 that in writing because --

18 THE DEFENDANT: Your Honor --

19 THE COURT: -- they -- I understand you're representing yourself, but they
20 have a right --

21 THE DEFENDANT: -- they're withholding facts.

22 THE COURT: -- to be able to get the information and prepare for the hearing.
23 So, all you have to do is put all this writing.

24 THE DEFENDANT: May I comment on that, Your Honor? I understand that
25 and I will do that with your permission.

1 THE COURT: Okay.

2 THE DEFENDANT: Because I have not -- this trial is coming up and I don't
3 want to push a trial -- I could write it up tonight and I could have it filed by tomorrow.

4 THE COURT: Okay.

5 THE DEFENDANT: But my question is, Your Honor, is the fact that the State
6 intentionally misquoted facts because they're trying to charge me with four felonies.
7 They actually got the search warrant, Your Honor, which I can argue effectively but
8 --

9 THE COURT: And this is all important. It just needs to be in writing which is
10 the procedural vehicle, and Mr. Yohay can help you out if you have a question
11 regarding the procedure. I mean, he's standby counsel.

12 THE DEFENDANT: Your Honor. Okay.

13 THE COURT: But --

14 THE DEFENDANT: One last thing, Your Honor, in regards to the search
15 warrant. If you go by the Eighth District Court rules --

16 THE COURT: Mm-hmm.

17 THE DEFENDANT: -- okay. I filed the motion on September 11. Eighth
18 District Court Rule 3.20 specifically says they have seven days, seven days to file
19 opposition. Now I actually sent them a copy. They had a copy on the 4th. It wasn't
20 filed for some reason until the 11th. Okay. They didn't file their motion until ten days
21 later. Now if the question is well they have ten days. That is in a civil matter.
22 Criminal matter is seven days. That specifically is what Eighth District Court rule
23 says. Now -- but that's an issue I can bring into here as far as when things were
24 filed. They're already three days. So, according to that, my motion should have
25 been granted based upon the fact that they were three days late filing the motion

1 itself. According to Eighth District Judicial Court Rules 3.20 --

2 THE COURT: All right. So, sir, you can bring that up but I don't know that it's
3 going to have much merit. I mean, I do recognize the rules need to be followed,
4 however, I don't believe --

5 THE DEFENDANT: See, that's my problem is I'm being held to the rules but
6 they're not.

7 THE COURT: Look, here's the thing. Your other motion had no merit. Okay.
8 And I really don't see where the prejudice is to you. I am not saying that what you're
9 bringing up in Court today does not have merit; I'm not saying that the Court is not
10 going to entertain it. You just have to put it in writing so, number one, that I can go
11 back and look at everything to prepare and, number two, the State can go ahead
12 and prepare as well. That is all I'm telling you. So, if you file it immediately we can
13 get it on calendar quickly, probably it would be this -- when is he set to start trial?

14 THE DEFENDANT: Monday. I have another motion to be heard this Monday.

15 [Colloquy between the Court and the Court Clerk]

16 THE COURT: So, it would probably be heard next week.

17 MS. BLUTH: And, Your Honor, I do have a motion on Monday, the motion to
18 admit evidence of other bad acts. I was hoping that we could hear those all on
19 Wednesday because my capital case that I'm currently in is supposed to wrap up
20 hopefully Tuesday, and that way I will not be shuffling in between two courtrooms in
21 the morning and being subject to be somewhere else by 10 a.m.

22 THE COURT: We can do everything on the 20th. That would give us time
23 before the trial date of November 2nd. And that would give Mr. Sprowson time to get
24 everything in writing and the State to give me a response.

25 THE DEFENDANT: Can you give me that date again? What was it?

1 THE COURT: The 28th is when she's asking that we move it. In fact, that's
2 your calendar call date.

3 THE DEFENDANT: Calendar call; right?

4 THE COURT: Mm-hmm. And I want to give you these copies back. I don't
5 know how to send copies in the jail. This way you have them for your motion. Can
6 you give this back to Mr. Sprowson, please. Okay. So, just make the same
7 arguments; just put it in writing, please. And we'll make sure that we get it on
8 calendar. Okay. So, as soon as you file the motion it will prompt a date, and we'll
9 be on the look for it so we can make sure that we get it on calendar on the 28th.

10 THE DEFENDANT: And see that's the other thing too, Your Honor, is that my
11 stuff is getting held up like six days. I mean, I put in -- and I have given it to the
12 officer, the CO, and for some reason it goes to the mailroom and I have proof that
13 the mailroom it gets mailed out the very next day, but for some reason when it
14 comes to getting filed and stuff, it takes a total of six days turnaround time, not
15 coming back, it's six days to actually get filed. I'm having problems with that. And
16 not only that, I don't know if the Court is aware as far as I -- because we're getting
17 ready to hear two other motions. Your Honor, the past two weeks I've gone through
18 some serious issues with being shuffled around from location to location and I don't
19 know why.

20 THE COURT: You mean in the jail?

21 THE DEFENDANT: Yes. And the apparent reason is because I'm diabetic.
22 Now my numbers -- my -- I don't know if you know about diabetes --

23 THE COURT: I'm going to cut you off right here. It's not that I'm not
24 interested. I know nothing to do with the housing decisions.

25 THE DEFENDANT: Well the reason I think it's relevant to my situation, Your

1 Honor, is because the fact of the matter is if I'm being moving around and if I'm
2 having issues with mail, getting things filed on time and things like that for the Court
3 -- I'm already restricted, Your Honor, and I don't mind that. I understand the
4 disadvantages of being a pro se Defendant. But when I'm being unfairly, you know,
5 kept further back, you know, and things are being held up and I'm being shuffled
6 around which makes it much more difficult to file things and write things and
7 respond, according to the rules which I'm trying to abide by --

8 THE COURT: So, what is it that you're asking that I do, sir, because I cannot
9 do anything with respect to the housing.

10 THE DEFENDANT: I just want to bring it to the Court's attention. I just want
11 to bring it to the Court's attention just so that you are aware of these things. I think
12 these -- and you make decisions of you think I'm being negligent. I'm not. I'm just
13 trying to show you that there's certain factors that are out of my control --

14 THE COURT: Okay.

15 THE DEFENDANT: -- that I can't control that have stopped me from doing
16 certain things properly.

17 THE COURT: Okay.

18 THE DEFENDANT: And the other issue is, you know, there's an issue of --
19 last time in Court Judge Barker was here and I believe he made an order about me
20 having access to the law library. Now this is also relevant because I know for a fact
21 that the other location NBC has access to the law library. Where I'm located and
22 housed now there is an issue with a prescription not being paid or something like
23 that and I have no access to the law library. So, for the past four weeks I've had no
24 access to the law library, and I understand the law says that I have at least access
25 at a certain part of the day to have access to the law library so I can respond to --

1 just like the State has an opportunity to respond, I feel I'm not given an opportunity
2 to respond even in my limited capacity because of the fact that I don't have access
3 to a law library and things are being held up.

4 THE COURT: You think you will be ready --

5 THE DEFENDANT: I just want it to be fair.

6 THE COURT: Do you think you're going to be able to get ready for trial by
7 November 2nd?

8 THE DEFENDANT: And you know what? I'm going to trial either way. I will
9 be ready, I'll be ready, but my point is is the motions that have been filed which
10 pretty much is going to put me in a bad position if they are granted and I'm sure that
11 maybe you will grant them because the fact that I haven't been able to file a
12 response. This is my issue.

13 THE COURT: Just get your response done as quickly as you can and even if
14 it's late I'm going to read it. Okay. I recognize that there are some more limitations
15 being at the jail. I cannot do anything about your housing situation. I do honest not
16 know anything about any limitations you may have at the law library. You are
17 entitled to go the law library to prepare your defense, however.

18 THE DEFENDANT: Well the way that it works, I'm not sure you know, you
19 have a kiosk and the kiosk you access the law library, the law library you're able to
20 do research. Okay. When you do that now where I'm housed right now it says
21 subscription not paid. Now clearly, I guess, Clark County just hasn't paid their bill on
22 that particular thing because it says subscription not paid. Now I find that kind of
23 ironic since I actually need access to the law library.

24 THE COURT: Do you know who would know about --

25 THE DEFENDANT: And another location actually has access to the law

1 library.

2 THE COURT: I don't know. We'll ask around.

3 [Colloquy between the Court and the Corrections Officer]

4 All right. Mr. Sprowson -- anything that -- anything else on this
5 particular issue?

6 THE DEFENDANT: The search warrant issue. So, you are going to allow me

7 --

8 THE COURT: Yeah. So, you're clear what you're going to do. Yeah, you just
9 need to get it filed as soon as possible so both the State has a chance to respond
10 and I have a chance to look at it. Okay.

11 THE DEFENDANT: That's fair, Your Honor, and I appreciate that.

12 THE COURT: Okay. And what I was just asking the officer about was the
13 accessibility to the law library, the computers for the legal information. He says he's
14 not aware of any issues, but we can ask, we can ask further.

15 Does the State have anything to respond to this particular issue?

16 MS. BLUTH: I would just ask that it be put in writing like Your Honor ordered.

17 THE COURT: Okay. So, let's just skip on to the next motion. It's the State's
18 motion for clarification, and this dealt with the issue of the victim in this case as far
19 as prior medical records. And I think you're asking for clarification.

20 What I had ordered is the State has charged the Defendant with child
21 abuse and neglect with substantial mental harm. So, obviously the mental condition
22 of the victim is directly at issue, and it is relevant in this Court's opinion because the
23 State is claiming that all the mental harm occurred as a result of the incidents
24 involving the Defendant. So, it is relevant in this Court's opinion as to what her
25 mental condition was prior to these events; you know, whether or not that perhaps

1 some of the mental harm she's claiming from this incident predated this incident.

2 So, I was going to allow to get into that because it's directly at issue
3 with the charges. What I did not find relevant is the fact that she may have had
4 other cases in the system. I just don't see any exception where that would come in.

5 MS. BLUTH: And, Judge, for clarification purposes just so -- because I want
6 to be clear about my motion to clarify.

7 THE COURT: Okay.

8 MS. BLUTH: It wasn't just the medical records and the psych records; it was
9 the fact that she had been victimized before. And so my understanding in the
10 previous ruling which is what I think Your Honor is saying this morning was that
11 because the Defendant is charged with child abuse and neglect with substantial
12 mental harm and because her mental, you know, capacity or what she was suffering
13 from at the time is at issue, that the parties -- and I think it was even mentioned in
14 the minutes -- could perhaps stipulate or agree on a type of jury instruction that
15 stated that she -- and I don't want to be tied into the language I'm using right now --
16 but that she had gone through something before, she had been through two and a
17 half years of therapy, et cetera. So, then the jury is on notice that she had gone
18 through something previously, she had been seeking mental health care for about
19 two and a half years before this incident. But the fact that she was victimized before
20 by another adult male is not relevant and it is not probative.

21 The only thing that's probative is that she did have mental health issues
22 for a period of two and a half years before this incident but, I mean, if someone is
23 raped in 2007 and then someone is raped in 2009 -- and the trial in 2009 we don't
24 get to talk about the victim being raped in 2007 -- and I think that that logic is still
25 relevant in this type of situation as well. We have a minor while the previous case

1 was sexual assault, this case is first degree kidnapping, and under no
2 circumstances per the statute can she consent to that behavior.

3 So, I just been asking the Court -- and I would be happy to work with Mr
4 Sprowson and Mr. Yohay on if Your Honor thinks a jury instruction is proper. I
5 recognize the Court's ruling that you think it is relevant but she had previous mental
6 medical health history, and the State agrees with that. It's just how we inform the
7 jury of that fact is what the State was concerned about and that's why I did the
8 motion to clarify.

9 THE COURT: Okay. Mr. Sprowson, do you want to respond? This is just --
10 we've already talked about this before. The State just didn't fully understand.

11 THE DEFENDANT: Yeah, I read the minutes. And I just want to clarify some
12 things. The State has me attending that particular hearing. I was out of state. It
13 was Mr. Momot that represented me.

14 THE COURT: Okay.

15 THE DEFENDANT: I just wanted -- if we could have the record show that I
16 was not present during that, and just for administrative purposes --

17 THE COURT: The attorney can appear on your behalf. Whether or not you
18 choose to appear with him is a different issue.

19 THE DEFENDANT: Just in case it comes up later on during appeal or
20 something like that, if it becomes an issue, I just want to make sure it's clear
21 because I know how things are done as far as the record --

22 THE COURT: It indicates in Court minutes who is present.

23 THE DEFENDANT: Right. I just want to -- okay. So, anyways, in response
24 to what the State is saying, I really don't have an issue with what they're saying, but
25 there are certain things that do need to be said in relation to the David Schlomann

1 case because there's a confrontation -- and this is a matter the States argument
2 versus our argument, defense's argument. There's a confrontation between the
3 mother and the daughter as a direct result of the David Schlomann incident. Okay.

4 Now when I was reading their response, if I'm not mistaken, I could be
5 mistaken, a couple of things that they're trying to limit is the issue of sexual conduct,
6 and I don't know how far they want to limit that because here we have an individual
7 that is, first of all, sixteen, of legal age in relation to me. Okay. The situation prior to
8 that was illegal which the State has an issue of bringing that up because of the rape
9 shield law and things like that. I don't have a problem with that. The issue is for me
10 because kidnapping is a very serious charge and it's a specific intent on the mental
11 or the Mens rea. Specific intent has to be proven.

12 So, what I've read and what the State's argument is, is they're trying to
13 tie in, they're trying to tie in some kind of sexual conduct into this whole intent thing,
14 it was my intent to kidnap which is somehow commit these sexual acts which, to me,
15 is not even the situation. But the reason I'm bringing this up is because I would like
16 to -- and not only that because part of my argument I can't bring it into discussion
17 right now -- the issues with the sexual activity of this person, I should be able to get
18 into that to a limited sense because here you have a person who is sexually active.
19 Okay. And we're not just talking about David Schlomann. Okay. We're talking
20 about other individuals which I think is very pertinent to my case because otherwise
21 what you're doing is with the Mens Rea on the kidnapping, you are laying it all at my
22 doorstep which is unfair and highly prejudicial to me, okay, especially when it comes
23 to kidnapping.

24 MS. BLUTH: May I clarify something to Mr. Sprowson, Your Honor, or to Your
25 Honor so we can -- this isn't going to be an issue.

1 Under the first degree kidnapping statute, the State can prove
2 kidnapping in many ways. One of those ways is if someone, you know, keeps,
3 inveigles, [indiscernible], all of those words, takes a child with the intent to keep
4 them away from their parents. Okay. The second element, the second cause of
5 kidnapping under the statute, is if someone does those things with the intention to
6 commit sexual assault. That is not the way that that was pled in this case. It is only
7 under the first element or the first statutory requirement that Mr. Sprowson took her
8 with the intent to keep her away from her parents. So, there is no -- nothing about
9 Mens Rea, nothing about intent to commit sexual assault.

10 So, I just want to be clear about that because I understand where the
11 confusion is with Mr. Sprowson. That's not part of the element that I have to prove
12 and that's the theory of the State's case. And, again, it doesn't matter if she has sex
13 willingly or was raped by Mr. Schlomann or anybody else who Mr. Sprowson is
14 referring to because rape shield protects her from any of that. So, that evidence
15 wouldn't come in under rape shield or -- and because the State isn't pursuing the
16 theory that Mr. Sprowson is talking about. We just wanted to make sure he was on
17 the same page so there wasn't confusion in regards to that.

18 THE DEFENDANT: Okay. In response to that, when I say -- the thing is
19 because there's the issue of the photographs. I'm being charged with four felonies
20 as you're aware of 200.710, okay, which are very serious charges. Okay. Now
21 what I read in the State's response, okay, that the kidnapping was with the intention
22 to do this -- the 200.710 which is the direction of child pornography which is, again,
23 something else that we're going to argue at trial. But the point is, again, that right
24 there ties into the sexual aspect of what I'm getting at, okay, because here's they're
25 saying that I kidnapped with the intent to -- how can I say -- take photographs of her

1 or whatever the State is going to try to claim. It still has some sexual aspect
2 involved in this. Again, my only thing as far as the State's response is I just want to
3 able to be bring up the issue just in case it comes into their argument with the
4 aspect of the sexual conduct. I don't have to get into the David Schlomann stuff, but
5 in a limited sense going back to the confrontation between the mother and the
6 daughter, because of the David Schlomann stuff, this is the reason why she, again,
7 clearly states ran away from home.

8 THE COURT: Why do you need to get into the prior case? I mean, --

9 THE DEFENDANT: I don't need to get into the prior case. I just --

10 THE COURT: -- I don't think any dispute that there was a wacky relationship
11 for a period of time between the victim and the mother in this case and that may
12 have led to some of the acts that occurred. I don't think the State's ever disputed
13 that. I just don't see why you need to get into the fact that she had another case
14 where she was a victim and there was a criminal case filed.

15 THE DEFENDANT: I don't need to get into the aspect of the victim. What I'm
16 saying is there was a prior situation that actually occurred. Because here's the
17 thing. Okay. If I'm a juror, right, and I'm hearing the State argue -- if I'm hearing the
18 State argue certain aspects -- what I'm trying to avoid, Your Honor, I'm guess let me
19 just kind of cut to the chase on this --

20 THE COURT: Please.

21 THE DEFENDANT: What I'm trying to avoid is everything being laid at my
22 doorstep. Okay. What I'm trying to avoid is the mischaracterization that the State
23 has already done on me in the past and is continuing to do as far as like trying to
24 present me as this predator, okay, and this is where I'm trying to bring up the whole
25 sexual aspect of it because it is trying to make me -- they are trying to make me out

1 to be this predator --

2 THE COURT: Hold on. I need for you to focus. What does this have to do
3 with the fact that she was a victim in a prior criminal case?

4 THE DEFENDANT: The fact that that being a victim in a prior case led to the
5 confrontation between the mother and the daughter which also led to the fact that
6 she wanted to run away from home and that comes into my -- that's what actually
7 blends into my case.

8 THE COURT: You know, we've really already argued this motion.

9 THE DEFENDANT: Like I said, I wasn't here. So, I didn't get to hear what
10 happened. So, I'm just trying to make sure --

11 THE COURT: Then you should have shown up for the hearing with Mr.
12 Momot. You always have that option. You obviously chose not to --

13 THE DEFENDANT: I was in Oklahoma so I couldn't. And I wasn't informed, I
14 wasn't informed by Mr. Momot.

15 THE COURT: Well that's a totally different issue.

16 THE DEFENDANT: I understand that.

17 THE COURT: Obviously you have the right and ability to be present.

18 Look. Again, I think that the mental health issues are relevant given the
19 -- what the State's pled in this particular case. I don't think it's relevant that she was
20 a victim in another criminal case. I don't have any objection to you bringing up the
21 fact that there was a conflict between the mother and daughter which led to the
22 mother -- I mean the daughter leaving the house, however, I don't think that you
23 need to get into the prior criminal case. You can simply -- there can simply be --

24 THE DEFENDANT: I don't think I disagree with that.

25 THE COURT: -- the fact that there was a conflict.

1 THE DEFENDANT: I don't think I disagree with that. I don't want to limit
2 myself because I know that once you rule on this motion it's kind of final and I'm
3 going to be limited. I'm just trying to make sure that I understand everything --
4 excuse me, Your Honor. You know, I'm representing myself so I am kind of fairly
5 new at this. Excuse me for kind of hopping around on this. I just want to make sure
6 that I'm covering everything so that I don't get trapped in a corner, you understand,
7 so I get pushed in a corner to where something that may have been relevant as a
8 result of this motion that I could have brought up but now I can't bring up. That's all
9 I'm trying to make sure I cover everything and make sure I understand what the
10 State is trying to get at and what they're trying to prohibit, you know. It's a motion a
11 limine and they are trying to prohibit everything. But just the fact that she was a
12 victim, I have no problem with that.

13 THE COURT: You don't need to bring -- I'm not going to let you bring up the
14 prior criminal case. I'm not going to let you bring up the Defendant in the prior
15 criminal case. I don't think that it's relevant. Because if you start bringing up this
16 individual's name, the question for jury is going to be who is this individual. The fact
17 that there was mental health counseling prior, the fact that there was a conflict
18 between the mother, I think that's relevant as well because it leads you into why she
19 left the residence.

20 THE DEFENDANT: Absolutely.

21 THE COURT: But I don't think anything else regarding the prior case is
22 relevant. So, are we clear?

23 THE DEFENDANT: That's fine, that's fine. That's what I want.

24 MS. BLUTH: Okay. And just so we're all clear though. I had also mentioned
25 in the motion the rape shield. So, the things that Mr. Sprowson is discussing about

1 -- I believe the words he uses is that she had had sexual contact with Mr.
2 Schlomann and a host of other people. That's rape shield. I mean, if I need to do a
3 motion in limine to clearly spell everything out I will.

4 THE COURT: Well he disputes it's rape shield. And I don't think there's any
5 of those cases that would be an exception to bringing in a prior act.

6 MS. BLUTH: I know. But because he wants things so clear, I just want him to
7 be aware that that's not something that I believe -- you're saying that that is
8 inadmissible. I just want to make sure he's aware of that. But I can do a motion in
9 limine about all these things to make it more clear so we have a clean trial.

10 THE COURT: I don't -- I think it's clear but I don't know what the State wants
11 to do.

12 THE DEFENDANT: Well let me just kind of ask the question. Okay. I just
13 want to -- because the issue of the sexual conduct, I know that rape shield allegedly
14 takes care of covering that. The fact of the matter is there is certain things in my
15 defense that I may have to bring up in regards to sexual conduct. I'm not
16 necessarily getting into the victim --

17 THE COURT: With you or with other people?

18 THE DEFENDANT: Excuse me?

19 THE COURT: With you other people?

20 THE DEFENDANT: With other individuals. And it is relevant to my case.

21 THE COURT: You better look at that statute closely because there's very
22 limited circumstances when you can bring up the victim's prior sexual history.

23 THE DEFENDANT: Well see this is why I want to have clarification on what
24 the State's trying to get clarification because, again, I'm trying to avoid everything
25 being laid at my doorstep. Okay. It's unfair and highly prejudicial to me to have to

1 take the brunt for something that has been a result of someone else's activity. And
2 the reason why I keep coming back to the sexual conduct because this is what I'm
3 afraid of, I'll be quite frank and honest with you, Your Honor. I'm afraid that the
4 State is going to try to present her as this pristine virgin that has never been touched
5 by anybody and somehow this predator came along and took advantage of her.
6 That's what I'm trying to avoid.

7 THE COURT: Sir -- okay. I can't -- I'm not your lawyer and we've got to
8 move on; okay. We can't try the case right now.

9 THE DEFENDANT: I understand that, Your Honor.

10 THE COURT: The bottom is the State's going to have to prove certain
11 elements of the defense. Whether they prove them or not that's up to the State.
12 Okay. That's it.

13 THE DEFENDANT: So, I'm just --

14 THE COURT: If I were you I would go back and look at the elements of the
15 crime. I would probably look at the rape shield statute because it is going to
16 become relevant it sounds like during the course of the trial. But I'm not your
17 lawyer. I cannot give you this information. And everything that you've put on
18 calendar today has already been ruled upon with the exception of your motion to
19 proceed in forma pauperis which will be granted because you obviously are indigent
20 giving your status in the detention center.

21 So, as it stands now, Mr. Sprowson, I don't think there's anything else
22 on my calendar for today. Your motion, get it on file soon, and the State will get
23 their response on file, and we'll see you back next Wednesday for calendar call.
24 Okay. And we'll be on the lookout for your motion so we can make sure it's on
25 calendar next Wednesday.

1 THE DEFENDANT: Okay. Your Honor, I have one other thing --

2 THE COURT: Yes.

3 THE DEFENDANT: -- because you had me sit down in regards to the in
4 forma pauperis.

5 THE COURT: Yes.

6 THE DEFENDANT: Okay. Now I filed also request for transcripts. I was
7 denied that request for transcripts based upon the fact that I was not indigent and
8 there was no order for in forma pauperis. Can you please direct Ms. Garabay if I
9 could have that request granted. I requested for three transcripts for the motions to
10 suppress evidence hearing, the actual transcripts.

11 THE COURT: I don't know if there's going to be a basis.

12 THE COURT RECORDER: What happened is I don't have anything to direct
13 me to type the transcripts because I don't show anything in Odyssey that says that
14 he's indigent.

15 THE COURT: So now there's a ruling.

16 THE COURT RECORDER: I need a ruling.

17 THE COURT: Okay. So, the motion's granted. You've been indigent enough
18 for several months and I don't believe you have any other source of income. So,
19 now Maria has what she needs. And some of this is just kind of technical
20 proceedings. Anything else?

21 THE DEFENDANT: Well I just want to clarify and just make sure so that you
22 are directing Ms. Garabay to provide me with the transcripts and file it with the
23 Court, for the motion to suppress --

24 THE COURT RECORDER: Yes.

25 THE DEFENDANT: Okay. Thank you. And how soon can -- does that take;

1 may I ask? It's a rough draft, actually, it's a rough draft.

2 THE COURT: She'll try to get it as fast as she can with the understanding
3 that she's also in Court all day long. So, she has to do it in the other times.

4 THE DEFENDANT: No, I understand, I understand. It will be filed with the
5 Court and I will provide a copy.

6 THE COURT: Yeah. Okay. Thank you.

7 THE DEFENDANT: Okay. Thank you, Your Honor.

8 THE COURT: Thank you. Anything else? All right.

9
10 [Proceedings concluded at 10:18 a.m.]
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21 ATTEST: Pursuant to Rule 3(c)(d) of the Nevada Rules of Appellate Procedure, I
22 acknowledge that this is a rough draft transcript, expeditiously prepared, not
23 proofread, corrected, or certified to be an accurate transcript.

24 
25 PATRICIA SLATTERY
Court Transcriber

CLERK OF THE COURT
Albert B. Linn

RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA

Plaintiff,

VS.

MELVYN PERRY SPROWSON JR.,

Defendant.

CASE NO. C-295158-1

DEPT. XXIII

BEFORE THE HONORABLE STEFANY MILEY, DISTRICT COURT JUDGE

WEDNESDAY, OCTOBER 28, 2015

**RECORDER'S TRANSCRIPT OF PROCEEDING:
CALENDAR CALL**

APPEARANCES:

For the Plaintiff:

JACQUELINE M. BLUTH, ESQ.
JAMES SWEETIN, ESQ.
Chief Deputy District Attorneys

For the Defendant:

MICHAEL R. YOHAY, ESQ.
Deputy Public Defender

RECORDED BY: MARIA GARIBAY, COURT RECORDER

1 WEDNESDAY, OCTOBER 28, 2015 AT 9:34 A.M.

2
3 THE MARSHAL: Okay. Sprowson.

4 THE COURT: Is Mr. Sprowson over there? I didn't recognize you, sir,
5 good morning.

6 MS. BLUTH: Good morning, Your Honor, Jacqueline Bluth and James
7 Sweetin on behalf of the State.

8 THE COURT: Okay. So we need to address a matter. My law clerk was
9 indicating -- Mr. Yohay, maybe this came by way of you, that Mr. Sprowson
10 [radio talk heard] was discussing continuing the trial?

11 THE DEFENDANT: Yeah. No, I have several -- if I may, Your Honor,
12 discuss. There's a couple things with the State's late edition of these last two
13 motions. And one was clarified, obviously, but this last motion to include bad
14 acts, it's going to -- I'm going to need some time to address that. Also, there's
15 some additional discovery that I actually need. Now there's -- we've been
16 addressing the search warrant issue.

17 Now in the search warrants that I have, there's an issue of a
18 forensics report for the I-phone 4 and my computer. Now I still need those
19 forensics reports because I'm being charged with four counts -- or four felonies
20 based upon that, so I would like to have that discovery from the State. I do
21 have evidence in a preliminary hearing record that they do have a forensics
22 report.

23 In addition to that, any emails -- emails. I have absolutely no emails
24 in regards to conversations between the alleged victim and myself, so I would
25 need that as well. Let's see, what else do I have on here. Oh, and also --

1 MS. BLUTH: Just, just -- just so we can be clear, Judge, all of that
2 information -- all of those documents, emails -- everything that he's talking
3 about are on the CDs that I provided over 30 days ago.

4 THE COURT: Okay. Mr. Yohay was going to make arrangements for him
5 to be able to view the CDs, is that right?

6 MR. YOHAY: That's correct, Your Honor.

7 THE COURT: You haven't had a chance to do that?

8 MR. YOHAY: We -- we've met a couple different times for him to be able
9 to review, basically all the discovery, all of the, I guess, psychological records,
10 basically everything that we've gotten. So I can't speak specifically to
11 everything he's gone through. I mean, it looks like it's an awful lot of stuff, I'll
12 say that much, but I don't know specifically what's going on, to, or why.

13 THE DEFENDANT: We were only able to meet twice, Your Honor. And I
14 just want to make a side note here. I've been moved six times in the past
15 month which has made it very difficult for Mr. Yohi -- Yohay, excuse me, and I
16 to actually meet together to actually go over the discovery, and it's a pile of
17 stuff. I don't even know what's there.

18 But I do know, going back to that forensics report for the computer
19 and the I-phone, that's not stuff you would have on a cd. That's stuff that
20 should be attached to the search warrants that I have. And I would like a
21 certified copy of both those forensic report, if I may.

22 MS. BLUTH: Okay. Well, I can tell you that that is on the cd because I'm
23 the one who provided the CDs, and that information does go on a cd. There's
24 not a printed format from it because on the front there's a report there's
25 attachments, so you have to click on attachments that then open up.

1 THE COURT: Okay.

2 MS. BLUTH: So I don't have certified copies of those, they're on a cd.

3 THE COURT: And the entirety of the emails between the defendant and
4 the victim if they do, in fact, exist, would those be on the CDs as well?

5 MS. BLUTH: As well as the text messages, yes.

6 THE COURT: All right. So have you turned over everything in the State's
7 possession?

8 MS. BLUTH: Yes. And I've done a file review with the Clark County --
9 yeah, the Clark County Police Department and turned over all of their file as
10 well.

11 THE COURT: Okay. So you made sure that you had everything the
12 police had?

13 MS. BLUTH: Correct.

14 THE COURT: All right. So it sounds like you need more time to go
15 through the CDs.

16 THE DEFENDANT: Yeah, I, I haven't had a chance. We've only been
17 able to meet twice, Your Honor. And again, like I said, the circumstances -- I
18 don't know why I've been moved six times.

19 THE COURT: I don't know.

20 THE DEFENDANT: It's made it difficult for Mr. Yohay's schedule. And,
21 you know, I'm available because I'm there -- I'm here incarcerated but, you
22 know, like I said, "We haven't had the time to actually do what we need to do."

23 THE COURT: Okay. Well here's the thing. If you want to continue the
24 trial. I mean, I understand it's more difficult when you're representing yourself.
25 We went over that when we did the canvas, wherein you wanted to represent

1 yourself. The reality situation is, this is my last criminal stack of the year. We
2 probably will not be able to get this case set for trial until when? Because we
3 have a bunch of capital murder cases next year.

4 COURT CLERK: Well, it'll be June 13th to do this one.

5 THE COURT: June of 2016.

6 THE DEFENDANT: I'm fine with that, Your Honor, that'll give me plenty
7 of time to prepare.

8 THE COURT: All right. And Ms. Bluth, you'd be back from maternity
9 leave, wouldn't you?

10 MS. BLUTH: I would, Judge.

11 THE COURT: So would that work for the State?

12 MS. BLUTH: I just have a two week capital case December -- in DC 20
13 on June 6th, but I can do it right after that.

14 THE COURT: Put it on next year's calendar. So what would that be on
15 dates?

16 COURT CLERK: Actually -- I'm sorry, what week did you say you had the
17 trial?

18 MS. BLUTH: In June 6th, but Mr. Sweetin is saying he has a firm set in
19 here, Mr. Carl Gilford.

20 MR. SWEETIN: The Carl Gilford case --

21 COURT CLERK: Oh, okay.

22 MR. SWEETIN: -- I believe is June 16th. I believe that is going to go.

23 THE COURT: I think Gilford's older than Sprowson.

24 MR. SWEETIN: I think it is.

25 MS. BLUTH: Oh yeah.

1 MR. SWEETIN: Yeah.

2 COURT CLERK: It is.

3 MS. BLUTH: What is -- what, what are the weeks of the June stack?

4 COURT CLERK: Actually it begins -- it begins 8/23rd for that stack. We
5 have a 250 murder trial that will take about three weeks.

6 THE COURT: Which one -- oh, is it Randolph?

7 COURT CLERK: Randolph.

8 THE COURT: Oh. That's old.

9 COURT CLERK: So that runs into our June stack, right into Gilford so,
10 it's looking more --

11 [Colloquy between Court and Clerk]

12 COURT CLERK: We could do June 20th.

13 [Colloquy between Counsel]

14 MR. SWEETIN: I believe Gilford's probably going to go two, two weeks
15 and maybe a little longer than that would be my guess for Gilford.

16 [Colloquy between Court and Clerk]

17 MS. BLUTH: Are you in civil or criminal in April?

18 COURT CLERK: One second.

19 MS. BLUTH: Okay. Sorry.

20 COURT CLERK: That's okay. Criminal.

21 MS. BLUTH: Oh, but that's when you have it?

22 COURT CLERK: And we also have a 250 as well.

23 THE COURT: Which one?

24 COURT CLERK: Williamson.

25 [Colloquy between Court and Clerk]

1 THE COURT: Okay. So I don't know if you -- how much you can
2 overhear us. We're going to have to give you a summer setting. We will call
3 on the 250 case which is in our April stack --

4 MS. BLUTH: Okay.

5 THE COURT: -- and see what the likelihood of them going. It's only had
6 two prior settings, so I don't know if it'll really go.

7 MS. BLUTH: Okay.

8 COURT CLERK: How about April 11th?

9 THE COURT: You want to give that out right now?

10 MS. BLUTH: Yeah, can we do it tentatively and then we could also do an
11 August date or --

12 THE COURT: Why don't we just do a trial setting? Can we just do a trial
13 set -- I hate to bring you back, but a trial setting on Monday, that way I have a
14 chance to call from my April stack to see what cases are going to go?

15 MS. BLUTH: Sure.

16 THE COURT: Because if they're not going to go, then I can set you guys
17 in April --

18 MS. BLUTH: That's fine --

19 THE COURT: -- which makes it a little bit closer.

20 MS. BLUTH: -- with the State.

21 MR. YOHAY: Sounds agreeable.

22 THE COURT: Okay. So why don't we do that. We'll set it on for
23 Monday for a trial setting; again, let me see what I can do. Mr. Sprowson, Ms.
24 Bluth is representing that everything you said you need has been previously
25 provided to you. When you -- hold on, when you go through the documents if

1 there's something that you believe you're entitled to that you don't have I
2 would jot it down, and then, what you'll have to do is put it in a motion for
3 discovery. That way I will have notice of what you need and Ms. Bluth would
4 have notice as well so she can go and inquire whether or not it does, in fact,
5 exist.

6 THE DEFENDANT: But the main thrust of the evidence that I need, Your
7 Honor. Well there's, there's two parts. I want to come back to the search
8 warrant issue because it's a search and seizure return states on there,
9 "forensics report," it tells me absolutely nothing. Now I need -- now, according
10 to the search warrant laws, it would be attached with the search warrant and
11 it'd be certified by the clerk, this is what I need, otherwise, that forensic report
12 is going to be very questionable; and it's very crucial to my case.

13 I am requesting from the State -- and if I have to do a motion I'll do
14 a motion to have a certified copy of that forensics report, both for the iPhone 4
15 and my computers. The other thing is, I requested the motion to suppress
16 evidence hearing -- the evidentiary hearing -- the first one we had in June. I
17 also need that. It would be part of my evidence that I would need to present to
18 the Court.

19 THE COURT: Are you talking about the transcript from that?

20 THE DEFENDANT: I'm -- I'm waiting for the transcript. Yes.

21 THE COURT: Okay. And we talked about that, that at the last hearing.
22 Maria is going to try and get that done.

23 THE DEFENDANT: I just wanted to bring that to the Court's attention.

24 THE COURT: Yeah. We only talked about it a few days ago. Okay. So,
25 Ms. Bluth, did you hear the last thing? Again, is that's what's on the cd?

1 MS. BLUTH: The --

2 THE COURT: He wants whatever should be attached to the search
3 warrant, by law.

4 MS. BLUTH: Correct. Of the -- of the computer and the phone?

5 THE COURT: Correct.

6 MS. BLUTH: That [cough heard] forensic report has all the emails, all the
7 text messages, all the digital images, et cetera.

8 THE COURT: Okay. So again, go through that and make note of what
9 you believe you don't have so that we can do that in writing and the State can
10 go ahead and look. As far as the Motion to Admit Evidence of other Bad Acts,
11 how long are you going to need to file an opposition?

12 THE DEFENDANT: I didn't hear what you said, Your Honor.

13 THE COURT: How long do you need to file an opposition?

14 THE DEFENDANT: Probably at least a couple weeks.

15 THE COURT: Couple weeks? Are we going to need to set this for an
16 evidentiary hearing? Or is it something that could be done by way of
17 documentation? I know that there is documentation a long time ago when you
18 filed a motion to remand Mr. Sprowson, without bail, which had the IP
19 information.

20 MS. BLUTH: Right.

21 THE COURT: Were you anticipating utilizing any additional information?

22 MS. BLUTH: In, in regards to a hearing, Your Honor, or in regards to like
23 if you let it in for trial?

24 THE COURT: Well, as far as, you know, the ability to prove it by clear
25 and convincing evidence?

1 MS. BLUTH: Yeah, I, I -- we would -- we would have to have a hearing
2 because the witnesses are all out of state, because they're in Oklahoma where
3 he was residing at the time. So I would -- I would -- if, if Your Honor is going to
4 ask for a hearing then I would just need some time in order to get them here.

5 THE COURT: Yeah. We probably would need an evidentiary hearing.
6 Okay. When do you leave on maternity leave?

7 MS. BLUTH: Not till after the first of the year.

8 THE COURT: Do we even have time this year to set a *Petrocelli* hearing?

9 [Colloquy between Court and Clerk]

10 THE COURT: When are you coming back from maternity leave?

11 MS. BLUTH: Last week of March.

12 THE COURT: We need to do it before then. The only day I have is
13 December 10th in the morning.

14 MS. BLUTH: Okay.

15 THE COURT: Okay. So we'll set it for an evidentiary -- what is called a
16 *Petrocelli* Hearing which is, you know, an evidentiary hearing so they can
17 establish their burden of proof. That'll be December 10th at 9:30 in the
18 morning. That'll probably take most of the morning. The State will have to fly
19 in witnesses. When can you get me -- I need a deadline for you to get me the
20 opposition. You think you can do it in two weeks, three weeks?

21 THE DEFENDANT: Give me two weeks, Your Honor. I -- we just --

22 THE COURT: Well --

23 THE DEFENDANT: -- I just got access to the library -- law library
24 yesterday so.

25 THE COURT: All right. So today is the 28th. The 11th would be two

1 weeks and that's actually Nevada -- I'm sorry, Veteran's Day. So, can you
2 have it to me by, I don't know, say November 13th which is a Friday?

3 THE DEFENDANT: November 13th.

4 THE COURT: That's a little over two weeks, two weeks and two days?

5 THE DEFENDANT: Yeah, that seems reasonable, Your Honor.

6 THE COURT: Okay.

7 COURT CLERK: Okay. I was told it was a status check, correct?

8 THE COURT: Yeah we do, because we need to give him a trial date.

9 COURT CLERK: Okay. Status check on resetting the trial is
10 November 2nd, at 9:30. *Petrocelli* hearing and the Bad Acts Motion is December
11 10th at 9:30.

12 THE COURT: And that's an evidentiary hearing. And the Defendant will
13 have his opposition to the Bad Acts Motion by November 20th.

14 THE DEFENDANT: I just had one question, Your Honor --

15 THE COURT: I'm sorry, 13th.

16 THE DEFENDANT: -- if I may --

17 THE COURT: Yeah.

18 THE DEFENDANT: -- in regards to that. I was reading the motion of the
19 State, but I just need clarification. When they're referring to bad acts, are we
20 referring to just the remand stuff? Are they talking about bringing it to this
21 whole issue of California stuff that, that, that I already been investigated for
22 and I've already been cleared from? I understand how you guys define bad acts
23 here but I'm, I'm just -- I need clarification on what I'm actually defending
24 against. Is it just the remand stuff, or are they planning on including the stuff
25 from California?

1 THE COURT: I thought it was just the stuff that occurred in Oklahoma.

2 MS. BLUTH: The Bad Acts Motion is specifically for the, the stuff that
3 had occurred in Oklahoma. As we get closer to trial, I mean, the State does
4 have a position if the Defendant takes the stand and opens the door to the
5 California previous incidents, then that would be a different issue. But this OBA
6 is specifically just for the remand O/R revocation issue.

7 THE COURT: Okay. So that's what you need to focus on, sir.

8 THE DEFENDANT: Okay. Just the remand?

9 THE COURT: Uh-huh.

10 THE DEFENDANT: Okay. Thank you, Your Honor.

11 THE COURT: Uh-huh. All right. Thank you. See you on Monday.

12 MS. BLUTH: Thank you, Judge.

13 * * * * *

14 [Proceeding concluded at 9:47 a.m.]

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

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Kerry Esparza, Court Recorder/Transcriber
District Court, Department XXVI



1 RTRAN

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3
4 DISTRICT COURT
5 CLARK COUNTY, NEVADA
6

7 STATE OF NEVADA,

8 Plaintiff,

9 vs.
10

11 MELVYN PERRY SPROWSON, JR.,

12 Defendant.
13

)
) CASE NO. C295158-1
)

) DEPT. NO. XXIII
)

) **TRANSCRIPT OF PROCEEDINGS**
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14

15 BEFORE THE HONORABLE STEFANY A. MILEY, DISTRICT COURT JUDGE

16 MONDAY, NOVEMBER 2, 2015

17 **STATUS CHECK: RESETTING OF TRIAL**
18

19 APPEARANCES:

20 For the Plaintiff:

JACQUELINE M. BLUTH, ESQ.
Chief Deputy District Attorney

21 For the Defendant:

MICHAEL R. YOHAY, ESQ.
Deputy Public Defender
22
23
24

25 RECORDED BY: MARIA L. GARIBAY, COURT RECORDER

1 MONDAY, NOVEMBER 2, 2015, 9:39 A.M.

2
3 THE MARSHAL: Top of page 8, C295158, Sprowson.

4 [The Court and Court Clerk confer]

5 THE COURT: I'm sorry; we still don't know if we're going to be able to
6 put you soon. Do you want me to just give you a date in the summer that we
7 had talked about and we'll work on the April date?

8 MS. BLUTH: Yeah. And just for the record, Jacqueline Bluth on behalf of
9 the State. I did spoke to -- I did speak to Mr. Pesci who has the -- is it Williams
10 on April 4th? I can't remember the last name of it.

11 THE COURT: Is it Williams?

12 THE CLERK: Yes, Williams.

13 MS. BLUTH: Yeah, against Mr. Ericsson. And he was like it's the only
14 the second setting so I'm not positive, but Mr. Ericsson's been in the Mark
15 Harris strip shooting, the capital case for like three or four weeks, so no one's
16 really been able to get ahold of him, so I've tried but there wasn't really a --

17 THE COURT: And we'll continue the trial. We're on a murder trial right
18 now so we haven't had that ability. But let's give you a date in the summer so
19 you have it and we'll work on trying to get an earlier date.

20 THE DEFENDANT: Your Honor, can I ask for something a little bit later
21 than that? We were talking about a June date I think.

22 THE COURT: You want June instead?

23 THE DEFENDANT: I have some things that I need to get done. I don't
24 think that that's going to be enough time to really do what I need to get done.
25 June would be good for us.

1 THE COURT: It may not be June.

2 THE CLERK: Actually, June 13th looks like it'd be okay.

3 THE COURT: How many weeks does that give him?

4 THE CLERK: You have a murder trial the following week but it's only
5 [indiscernible].

6 THE COURT: Who is it?

7 MS. BLUTH: Which -- is that mine? Which one is it?

8 THE CLERK: Fritz.

9 MS. BLUTH: Yeah, that's mine. It's not going to go.

10 THE CLERK: Okay.

11 THE COURT: So why don't we set them then?

12 THE CLERK: Okay. All right. So calendar call -- excuse me, June 8th at
13 9:30; jury trial June 13th at 1:00 p.m.

14 THE COURT: All right. Thank you, Mr. Sprowson.

15 MS. BLUTH: Thank you.

16 PROCEEDINGS CONCLUDED AT 9:40 A.M.

17 * * * * *

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

20 
21 MARIA L. GARIBAY
22 Court Recorder/Transcriber
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- 24
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Case Number: C-14-295158-1

INDEX OF WITNESSES

STATE'S WITNESSES

PAGE

JAYSENIA TORRES

Direct Examination by Ms. Bluth

9

MATTHEW CALDWELL

Direct Examination by Ms. Bluth

27

BHARAT PATEL

Direct Examination by Ms. Bluth

40

Cross-Examination by the Defendant

48

Redirect Examination by Ms. Bluth

48

MARCO RAFALOVICH

Direct Examination by Mr. Sweetin

50

* * * * *

DEFENSE WITNESSES

PAGE

[None presented.]

* * * * *

1
2
3
4
5
6
7
8
9
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11
12
13
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21
22
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25

INDEX OF EXHIBITS

<u>STATE’S EXHIBITS</u>	<u>PAGE</u>
Exhibit 4	16
Exhibit 1	33
Exhibit 3	36
Exhibit 2	37
Exhibit 5	45
Exhibit 6	52

* * * * *

<u>DEFENSE EXHIBITS</u>	<u>PAGE</u>
[None offered.]	

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2
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THURSDAY, DECEMBER 10, 2015 AT 10:00 A.M.

THE COURT: All right. Good morning, everybody.

So this is the State's motion to admit evidence of other bad acts. The State is present. Good morning.

MS. BLUTH: Good morning, Your Honor.

THE COURT: Mr. Sprowson's here along with his standby counsel, Mr. Yohay.

THE MARSHAL: Judge, we're waiting [indiscernible].

THE COURT: Oh.

THE MARSHAL: She's making a copy.

THE COURT: Are we on the record at least, so I don't have to repeat it.

THE COURT RECORDER: Yes.

THE COURT: Okay.

So as soon as Kathy gets here we'll start.

MS. BLUTH: Judge, may I make a record about the media or do we need Kathy here for that?

THE COURT: About the media?

MS. BLUTH: That's outside.

THE COURT: There's media outside?

THE MARSHAL: There is.

MS. BLUTH: There is. And so I just would like to talk to Your Honor about that briefly --

THE COURT: Okay.

MS. BLUTH: -- on the record.

1 THE COURT RECORDER: You have to wait for Kathy.

2 MS. BLUTH: Oh, we do have to wait. Okay. Sorry. I didn't know that.

3 THE COURT: Who's here?

4 THE MARSHAL: I believe it's Channel 8.

5 THE COURT: Are you ready?

6 THE COURT CLERK: Yeah.

7 THE COURT: Okay. So what were you going to say, Ms. Bluth?

8 MS. BLUTH: Oh, what I was going to say is, you know, at the inception of this

9 case the victim was 16.

10 THE COURT: Uh-huh.

11 MS. BLUTH: She's now 18 which obviously makes her an adult for legal

12 purposes; however she's still in high school. Her identity has always been protected

13 throughout this case. Anytime anyone has taken video of her it's always been either

14 they blurred out her face or it's been, you know, shoulders and down, and they've

15 never been able to print or use her name in the media. I would just ask that that still

16 be the case. I mean, these cases take a long time. I don't think that the news will

17 be objecting to that anyways. They usually never do. I just want to make sure that

18 I'm doing my due diligence in protecting her. I mean, it's not her fault, you know,

19 that the case kind of takes until she gets to be an adult, so I still believe she's

20 entitled to those same protections and I doubt anyone would be objecting to that.

21 But I would just ask that when the media is let in that they be admonished, just like

22 they normally are with minors, that her name not be printed and that her face either

23 be blurred or that she be photographed from the neck down.

24 THE COURT: I think that's what we've done in other cases of this nature.

25 Anything from the defense?

1 THE DEFENDANT: I have no problem with that, Your Honor.

2 THE COURT: Okay. So let's bring them in and give them their marching
3 orders.

4 MS. BLUTH: And then the only other thing that I have is -- and this is in
5 speaking with the family. Just because of the nature of this situation, the Defendant
6 obviously has the right and is entitled to question the victim.

7 THE COURT: Uh-huh.

8 MS. BLUTH: I just -- is there -- can we develop some type of plan if he needs
9 to approach? She's -- she's just very fearful today. This is very difficult for her. And
10 if he needs to approach is that something that maybe Jay could do or Mr. Yohay
11 with documents so that there -- just don't have to be so close, if that's okay with
12 Your Honor.

13 THE COURT: I'm just thinking. Hold on. I'm just thinking kind of -- I'm
14 thinking through this.

15 MS. BLUTH: Sure.

16 THE COURT: In a lot of these cases with the media, obviously they come in
17 pretrial and they have photographs of the Defendant in custody. But I don't want it
18 so obvious that he's in custody.

19 MS. BLUTH: And I recognize the concern. I'm just not sure that there's -- I
20 think that that's just something we're going to have to deal with in voir dire, you
21 know.

22 THE COURT: Well -- I mean, he's not going to have limitations at trial. He's
23 going to -- as long as Mr. Sprowson behaves appropriately he's going to be treated
24 like a lawyer. I mean, I can't prevent him because he's representing himself from
25 approaching with documents and everything else.

1 MS. BLUTH: Well, it's -- I mean, it's within the Court's discretion. I just have
2 to --

3 THE COURT: I understand that, but I also have to, you know, weigh the
4 prejudice to the Defendant. And unless he gives me a reason to feel otherwise, I
5 mean, he's going to be treated just like a lawyer because that's basically what he's
6 acting -- well, it's not basically. It is what he is acting like in this regard. He's held to
7 the other requirements for a lawyer. I'm not going to --

8 MS. BLUTH: Right. I mean, I've been in this --

9 THE COURT: -- make it so obvious he's in custody.

10 MS. BLUTH: No, and I don't think -- I don't know if it's necessarily -- well, first
11 of all, I don't think we're prejudiced. I mean, there's no jury here. So I think --

12 THE COURT: No, no. Here's a --

13 MS. BLUTH: -- that that might be an issue down --

14 THE COURT: -- different thing of what -- is he still handcuffed?

15 THE MARSHAL: He is.

16 THE COURT: I just don't want him trying to get up here to the witness and
17 falling and getting hurt or anything --

18 THE DEFENDANT: Your Honor --

19 THE COURT: -- and on the news.

20 THE DEFENDANT: -- I may not even ask any questions. I might not even
21 object to this whole hearing. I might even just let them do what they got to do, to be
22 honest with you. If they want to introduce this evidence I have no problem with it, to
23 be honest with you. I don't even see it necessary for this hearing, but they feel that
24 they have to do it. I think it's actually to my advantage for them to actually enter this
25 because unless they can put me behind a computer or whatever device in regards

1 to this, you know, I think it's kind of unfair to me, but I'm willing to take that hit.

2 THE COURT: Well, they're going to have to lay the foundation for it. They
3 have to prove it by clear and convincing evidence.

4 Well, I guess -- for purpose of this hearing there is no jury. I mean, I
5 guess if you need documents up there Mr. Yohay can do it, Jason can do it,
6 whatever. Again, at the trial, I mean, he's obviously not going to be handcuffed and
7 he's going to be allowed to stand at the witness stand and approach the witness just
8 like any other lawyer.

9 Okay, media.

10 THE MARSHAL: Okay.

11 THE COURT: Is there anything else we need to address? Any opening
12 statements before we begin?

13 MS. BLUTH: Not on behalf of the State, Your Honor.

14 THE MARSHAL: Judge, we don't have a problem with the media. I guess he
15 got --

16 THE COURT: He left?

17 THE MARSHAL: -- discouraged and left.

18 THE COURT: Well, that's --

19 MS. BLUTH: Oh, okay.

20 THE COURT: -- fine with me.

21 THE MARSHAL: I told him it's going to be awhile.

22 MS. BLUTH: That's good. Then the State's first witness is Jaysenia Torres.

23 THE COURT: Okay.

24 THE COURT RECORDER: Ms. Bluth --

25 MS. BLUTH: Yes.

1 THE COURT RECORDER: -- do you want me to exclude her? You don't
2 want her to be in the video?

3 MS. BLUTH: Oh, I -- no, for JAVS purposes, yeah, that's fine. The public
4 doesn't have access to JAVS; right? Like they couldn't pull the JAVS?

5 THE COURT RECORDER: Yeah. Well, if somebody asks for the recording.

6 MS. BLUTH: But they would still have to get Court's permission; correct?

7 THE COURT RECORDER: No, it's not sealed.

8 MS. BLUTH: I want her in the JAVS, so --

9 THE COURT RECORDER: You do?

10 MS. BLUTH: Yes.

11 THE COURT RECORDER: Okay.

12 MS. BLUTH: Thank you for asking, Maria.

13 THE MARSHAL: Remain standing. Please raise your right hand to be sworn
14 in.

15 **JAYSENIA TORRES**

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

17 THE COURT CLERK: Please be seated. Would you please state and spell
18 your first and last name for the record.

19 THE WITNESS: J-A-Y-S-E-N-I-A T-O-R-R-E-S, Jaysenia Torres.

20 THE COURT: All right. Whenever you're ready.

21 MS. BLUTH: Thank you.

22 **DIRECT EXAMINATION**

23 BY MS. BLUTH:

24 Q Good morning, Jaysenia. I have a few questions for you. First of all,
25 what is your date of birth?

1 A [REDACTED].

2 Q Okay. And so my questions are really going to be limited, Jaysenia, to
3 the timeframe of January of 2015; okay? I just want to lay some background
4 information so we can speed up to January; all right?

5 So before January of 2015, because of, you know, the current case that
6 we're here for today, had you been in a treatment facility in Reno?

7 A Yes.

8 Q Okay. And how long were you in that treatment facility?

9 A About four, five months.

10 Q And when was it that you were released from that treatment facility?

11 A Around May.

12 Q Of --

13 A Like May. No.

14 Q I'm sorry. Did you say May?

15 A Yeah.

16 Q Okay.

17 A May.

18 Q So May of 2014?

19 A Yeah. Before, yeah.

20 Q Okay. And so from -- you know, during that time period, May through
21 January, were you still kind of emotionally working through these types of things and
22 dealing with that?

23 A Yeah, I was still like transitioning back into school and stuff.

24 Q Okay. And were you still going to therapy, et cetera?

25 A Yeah.

1 Q Okay. Now was it your understanding during that time period that there
2 was to be absolutely no contact from the Defendant, Melvyn Sprowson, to you?

3 A Yes.

4 Q Okay. Do you see Mr. Sprowson in the courtroom today?

5 A Yes.

6 Q Okay. Can you please point to him and describe an article of clothing
7 that he's wearing?

8 A [Pointing] and orange socks.

9 MS. BLUTH: Okay.

10 Your Honor, may the record reflect identification of the Defendant?

11 THE COURT: It will.

12 MS. BLUTH: Thank you.

13 BY MS. BLUTH:

14 Q So now I'd like to go back to January -- early January of 2015 on
15 January 2nd, if I could. During that time period, did you have a Instagram account?

16 A Yes.

17 Q Okay. And what was your user name, if you know?

18 A It was Jaysenia something.

19 Q Okay. And just so we can all kind of understand what Instagram is. So
20 basically people have, what, is it user names? Am I using --

21 A Yeah.

22 Q -- the proper terminology?

23 A Yeah.

24 Q And so you have a user name that is attributed to your account?

25 A Yeah.

1 Q Okay. So if I want to be friends with you or follow you how do I do that?

2 A Either you have someone who already is a friend with me or you search

3 my name.

4 Q Okay. So if I search your name Jaysenia and I want to follow you, I

5 enter it kind of to search for you --

6 A Yeah.

7 Q -- and then you'll come up and then I can like make a --

8 A Click the follow button. It's just like -- it's like a little button like if you like

9 something on Facebook.

10 Q Okay. And then I can follow you?

11 A Yeah.

12 Q Is that right?

13 A [No audible response.]

14 Q Okay. And I know that you're shaking your head. You just have to yes

15 for the record.

16 A Yeah.

17 Q Okay. So before we get into some other user names, I just have one

18 quick question. When you and the Defendant were living together, was there ever a

19 conversation between the two of you if you had a child what you would name that

20 child?

21 A Yes.

22 Q And what was that child's name?

23 A Audrey.

24 Q Audrey?

25 A Mm-hmm.

1 Q And is that A-U-D-R-E-Y?

2 A Yeah.

3 Q Okay. And that was something that the two of you had discussed
4 during that time period?

5 A Yeah.

6 Q Now when you were living with the Defendant, did you also know his
7 birthdate?

8 A Yes.

9 Q And he know your birthdate?

10 A Yes.

11 Q Okay. So -- now on January 2nd of 2015, I'm going to ask you some
12 questions about an Instagram conversation that you have. During that time period
13 where you are physically? Like what house? You don't have to give me the
14 address, but are you in Las Vegas, are you in Reno, where are you at?

15 A I'm in Henderson.

16 Q You're in Henderson.

17 A Yeah.

18 THE COURT: Are you saying July or January?

19 MS. BLUTH: I'm supposed to be saying January. If I said July I apologize.

20 THE COURT: I don't think you did. I just want to make sure I was correct in
21 my notes.

22 MS. BLUTH: Okay.

23 THE COURT: Thank you.

24 MS. BLUTH: Yes.

25 ///

1 BY MS. BLUTH:

2 Q So in January -- on January 2nd of 2015, when you start this Instagram
3 conversation, you're located here in Henderson --

4 A Yeah.

5 Q -- in Clark County, Las Vegas, Nevada?

6 A Yes.

7 Q Or Henderson, Nevada. And you -- does someone begin following
8 you?

9 A Yes.

10 Q And there's -- there's something interesting to you or kind of catches
11 your attention about that individual?

12 A Yes.

13 Q What -- tell the Court what it was that was kind of interesting to you?

14 A Well, the name was the name that we were supposed to name our
15 child.

16 Q Okay.

17 A And it was my birthday.

18 Q Okay. And you said that your birthday is [REDACTED] [REDACTED] [REDACTED]?

19 A Yeah.

20 Q Okay. Now we're going to go -- I'm going to have some questions for
21 you about the conversation that ensues, but let's skip forward for a second. After
22 you start receiving these messages, do you become alarmed that -- and believe that
23 the Defendant is contacting you?

24 A I thought it was someone playing a joke on me at first.

25 Q Okay. But ultimately as the conversation --

1 A Then I knew.

2 Q -- keeps going, do you believe it's the Defendant --

3 A Yes.

4 Q -- contacting you?

5 A Yes.

6 Q And so ultimately are the police contacted?

7 A Yes.

8 Q Okay. When the police come to your house, do they take what's called

9 kind of snapshots of your phone showing the messages that had been going on

10 between you and this person Audrey?

11 A Yes.

12 Q And not only did they take those photos, but did you also email them

13 screenshots?

14 A Yes.

15 Q And if I showed you those would you recognize them?

16 A Yes.

17 MS. BLUTH: May I approach, Judge?

18 THE COURT: Yeah.

19 BY MS. BLUTH:

20 Q I'm showing you what's been marked for purposes of identification as

21 State's proposed Exhibit Number 4. If you just want to thumb through those kind of

22 to yourself and let me know if you recognize them and then I'll have some

23 questions --

24 A Yeah.

25 Q -- for you; okay?

1 A Yeah.

2 Q Okay. So these -- it looks like there is -- okay. It looks like there's 11
3 pages of messages and then three pictures of screen names and pictures --

4 A Yeah, changing.

5 Q -- is that right?

6 A Yeah.

7 Q Okay. Now are these -- are these a fair and accurate copy of not only
8 the screenshots that you provided, but of the conversation that you were having with
9 this individual on January 2nd?

10 A Yes.

11 MS. BLUTH: Okay.

12 Your Honor, at this time I move to admit evidence State's proposed
13 Exhibit 4.

14 THE COURT: All right. Was the Defendant showed the copies?

15 MS. BLUTH: Yes. These were provided via a disc about 60 days ago.

16 THE COURT: All right.

17 MS. BLUTH: And he -- I also have a hard copy that I gave this morning too.

18 THE COURT: Any objections, Mr. Sprowson?

19 THE DEFENDANT: No, go ahead.

20 THE COURT: It will be admitted.

21 MS. BLUTH: Okay.

22 **[STATE'S EXHIBIT 4 ADMITTED]**

23 BY MS. BLUTH:

24 Q And so, Jaysenia, I'm going to ask you some questions regarding these
25 messages.

1 MS. BLUTH: May I have permission to publish, Your Honor?

2 THE COURT: Yes.

3 MS. BLUTH: Thank you.

4 BY MS. BLUTH:

5 Q Okay. So -- is that computer on in front of you -- or that TV screen?

6 A It's white. Oh, yeah.

7 Q Okay.

8 A Yeah.

9 Q So if I put this -- it says Jaysenia dash Malik; is that correct?

10 A Malik.

11 Q Malik.

12 A Yeah.

13 Q Okay. And is that the screen name you were using for your Instagram
14 account during that time period?

15 A Yes.

16 Q Okay. Now the individual who contacted you -- and I'm just going --
17 these are part of the record now, Jaysenia, so I'm just going to read the first one.
18 You -- so you received this friend request. And then how does the conversation -- I
19 say friend request, but you correct me. It's not a friend request. It's like they --

20 A It's like follow.

21 Q -- they request to follow?

22 A Yeah.

23 Q You accept that, and then you start a conversation with that individual;
24 is that correct?

25 A Yeah.

1 Q And you say, It's so weird. Your name is the name I wanted to name
2 my daughter and my birthday. Ha ha. Weird; right? Is that correct?

3 A Yeah.

4 Q And then Audrey dash [REDACTED] says, Is it or do we know someone in
5 common, with kind of a wink smiley face?

6 A Yes.

7 Q Now at that point you question the person asking like, Mel, question
8 mark. So at that -- what made you -- what was going through your mind at that
9 point? Why were you thinking to yourself uh-oh, is this Mel?

10 A Because we never told anyone else about the name of our child.

11 Q Okay. So you had never shared with anybody --

12 A No.

13 Q -- the name that you --

14 A You would name --

15 Q -- and the Defendant were -- would name your --

16 A Yeah.

17 Q -- future daughter?

18 A No, we never.

19 Q Okay. But you stated earlier when you were testifying that you actually
20 thought maybe it was like a --

21 A Yeah.

22 Q -- cruel joke?

23 A Yeah, because I didn't think he could've been able to contact me, so I
24 didn't think --

25 Q All right.

1 A -- that was possible.

2 Q And so at what point in time -- so you ask -- you know, you say, It's not
3 a cute joke, but then Audrey dash [REDACTED] says, It's me, and you ask, It's me who;
4 correct?

5 A Yes.

6 Q And then throughout the conversation then -- for a while Audrey dash
7 [REDACTED] she stays with this same picture. So on Instagram you have like a -- like a
8 main photo?

9 A Yeah, like Facebook.

10 Q Like Facebook. And Audrey [REDACTED] has a picture for the record of a
11 female -- somewhat younger female kind of with her hands on her face; right?

12 A Yes.

13 Q And that's the profile picture associated with Audrey dash [REDACTED]
14 correct?

15 A Yes.

16 Q And so throughout this conversation the individual you're speaking with
17 tells you that it's Mel and that he's living in Oklahoma?

18 A Yes.

19 Q Now what else does he -- or the person you're -- that you're speaking
20 with, do they ever talk to you about not telling anybody --

21 A Yes.

22 Q -- or how did the conversation go?

23 A Well, he says don't tell them if they find out. Don't -- they'll get in
24 trouble -- he'll get in trouble if they find out I'm talking to him and he doesn't want me
25 to tell anyone.

1 Q Okay. And he asks you in fact to not say anything to anybody?

2 A Yeah.

3 Q And how long would you say this conversation goes on for between the
4 two of you?

5 A A couple hours maybe. It wasn't more than a day.

6 Q Okay. And so are you -- at some point early on in the conversation are
7 you still kind of unclear whether or not it is that you're speaking to Mel --

8 A Yes.

9 Q -- meaning the Defendant?

10 A Yes.

11 Q And do you kind of express to him like, hey, that -- you know, that's not
12 possible because you thought he was in jail?

13 A Yeah.

14 Q And so Audrey [REDACTED] then sends you the birthdate of [REDACTED] Did
15 you recognize that number?

16 A Yeah.

17 Q And what did you recognize that to be?

18 A That's his birthday.

19 Q Now the conversation, like you said, continues for a couple hours and
20 the two of you continue to communicate within those hours. And at one point
21 Audrey [REDACTED] tells you that you don't understand the limitations on my freedom and
22 ability; is that right?

23 A Yes.

24 Q Audrey [REDACTED] after about -- it looks like on the right -- on the right side of
25 the pictures it kind of tells us the timeframe of which -- I believe how long the

1 conversation has been going on; is that right?

2 A Yeah.

3 Q And here it says two hours. And at the two hour's mark Audrey [REDACTED]
4 tells you that they will always love you?

5 A Yes.

6 Q That he or she will always love you.

7 A Yes.

8 Q At any point in the conversation does Audrey [REDACTED] ask you, you know,
9 if you -- are you going to tell your mom?

10 A I don't remember.

11 Q Okay. If you look at the two hour mark again under Audrey [REDACTED] at
12 the --

13 A Yes.

14 Q -- are you going to tell your mom? I don't mean any harm, just want
15 you to be happy; do you remember that?

16 A Yes.

17 Q Then somewhere along the lines the Audrey dash [REDACTED] keeps the
18 same picture, but then changes the user name; is that right?

19 A Yes.

20 Q And that user name is then changed to Lisa dash Thomas04?

21 A Yes.

22 Q And one of the first things Lisa Thomas asks you is whether or not you
23 have a phone?

24 A Yes.

25 Q And after -- she asked you if you have a phone, or the individual from

1 Lisa dash Thomas, what is your response?

2 A You shouldn't have contacted me because I can't keep secrets.

3 Q And then Lisa Thomas again asks you if you told your mom; correct?

4 A Yes.

5 Q Preceding that part of the conversation, Lisa Thomas then changes the

6 -- not only does the name get changed, but the profile picture gets changed as

7 well --

8 A Yes.

9 Q -- throughout the conversation; is that right?

10 A Yes.

11 Q And about two hours into the conversation Lisa Thomas says that if you

12 do tell that -- that person, he'll go back to jail?

13 A Yes.

14 Q Then further on in the conversation Lisa Thomas, Please be calm and

15 mature. I need you?

16 A Yes.

17 Q And then you respond by saying, Goodbye, Mel. And Lisa Thomas04

18 responds by asking you, are we breaking up?

19 A Yes.

20 Q Now during the conversation the -- there is three different, like I said,

21 names that are used; correct?

22 A Yes.

23 Q There is the first one of Lisa Thomas04. I apologize. The first one is

24 the Audrey --

25 A Is the -- yeah.

1 Q -- [REDACTED] And is that the photograph that was showing up?
2 A Yes. And they were only following me, no one else?
3 Q Oh. As in -- so when you set up a profile it discusses how many posts
4 you have, how many followers you have, and --
5 A How many people are following you.
6 Q Audrey [REDACTED] is only following one person and that's you?
7 A Yeah.
8 Q Okay. And then Audrey [REDACTED] turns into Lisa Thomas, which is 04, and
9 a different profile picture?
10 A Yeah. They kept the same profile picture, changed the name and then
11 changed the picture.
12 Q Okay. Now at any point in time did the -- the name ever go to
13 nowaydude555?
14 A Yeah, and then the picture was gone.
15 Q Okay. And that's what we're seeing here; is that correct?
16 A Yeah, and then they stopped following me.
17 Q Okay. So after the conversation, after -- like the conversation kind of
18 ended after Lisa Thomas asked, are we breaking up, and then after that the -- you
19 become unfollowed by this individual?
20 A Yeah.
21 Q Okay. So after you -- after this conversation, you know, you recognize
22 that you believe it to be Mel, what do you then do with that information?
23 A I tell my mom.
24 Q Do you tell your mom that night?
25 A Yeah.

1 Q And after telling your mom are the police ultimately called?

2 A Yes.

3 Q Okay. I already asked you the questions about, you know, turning over
4 the photographs of the snapshots --

5 A To the police and stuff, yeah.

6 Q -- and emailing them as well.

7 A Yes.

8 Q Did you also turnover your iPod?

9 A Yes.

10 Q Now can you explain to me because I'm a little bit unclear on it. Now
11 are you able to have Instagram conversations on an iPod?

12 A Yes.

13 Q So --

14 A Because it's an app.

15 Q It's an app; okay.

16 A Yeah.

17 Q So your iPod is almost like -- it's almost like a phone, but you don't have
18 phone privileges from it?

19 A Yes, you just can't text and call on it.

20 Q Okay. But you could have Facebook, or Instagram, things like that?

21 A Yes.

22 Q Anything with an app you can have?

23 A Yes.

24 Q Okay. The -- originally -- and I just want to go back to, you know, how
25 this -- this whole case started. And we're only going to talk about that for a split

1 second. Before the Defendant picked you up and took you over to his house in
2 August --

3 A Yes.

4 Q -- of 2013, you didn't have phone -- your phone had been taken away
5 during that time period as well; correct?

6 A What do you mean?

7 Q You didn't have phone privileges during that time period. You were
8 also using like --

9 A Like when -- I had my phone when I went with him, but I couldn't use it.
10 Like --

11 Q You couldn't use it.

12 A Yeah.

13 Q So did you have full phone privileges -- or on the night that you -- your
14 -- that you left with the Defendant, had your mom taken away your phone and
15 computer privileges?

16 A No, I took the phone and computer with me. I just -- like my phone was
17 off until I got found again.

18 Q Okay. I guess I'm asking though is that -- that night -- I know you went
19 back and got those items. But had she to -- you know, to kind of -- I don't want to
20 use the term punish you, but when she found out about the -- what was going on
21 between you and the Defendant did she take those away from you?

22 A I can't remember.

23 Q Okay. That's okay if you can't remember. And -- but my questions in
24 regard to the iPad that we were talking about previously, did you also hand that over
25 to --

1 A The iPod?

2 Q The iPod.

3 A Okay.

4 Q Did you also hand that over to the detectives?

5 A Yes.

6 Q Okay. So after this whole thing transpires, how did that affect you from
7 kind of that point forward?

8 A Like emotionally or --

9 Q Yeah. Mm-hmm.

10 A I was more paranoid after that because I didn't think it could happen in
11 the first place. So afterwards I kind of like had a little adjusting to do again.

12 Q When you say you were paranoid, what were you paranoid about?

13 A Like that he'd contact me again somehow or like come see me
14 somehow.

15 Q All right.

16 A Yeah.

17 Q And you were still seeing a therapist back then; right? So did you work
18 -- did you kind of talk to your therapist about that --

19 A Yes.

20 Q -- and work through that? And I should be clear. To this day are you
21 still seeing a therapist?

22 A Yes.

23 MS. BLUTH: Okay.

24 Could I have the Court's indulgence for a second, Your Honor?

25 THE COURT: Mm-hmm.

1 MS. BLUTH: Thank you, Jaysenia. I don't have any further questions and I'll
2 pass the witness, Your Honor.

3 THE COURT: Mr. Sprowson, do you have any questions of Ms. Torres?

4 THE DEFENDANT: No, I don't.

5 THE COURT: All right. Ms. Torres, if you'd like to step down. Thank you.

6 Next witness.

7 MS. BLUTH: Detective Matt Caldwell.

8 THE MARSHAL: Detective, please remain standing. Raise your right hand to
9 be sworn in by our clerk.

10 **MATTHEW CALDWELL**

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

12 THE COURT CLERK: Please be seated. Would you please state and spell
13 your first and last name for the record.

14 THE DEFENDANT: First name is Matthew, M-A-T-T-H-E-W, last of Caldwell,
15 C-A-L-D-W-E-L-L.

16 THE COURT: Whenever you're ready.

17 MS. BLUTH: Thank you.

18 **DIRECT EXAMINATION**

19 BY MS. BLUTH:

20 Q Detective Caldwell, how are you employed?

21 A I work for the Clark County School District Police Department as a
22 detective.

23 Q And how long have you been with the police department?

24 A Approximately nine years.

25 Q Were you one of the detectives on the original investigation involving

1 the first degree kidnapping case involving Defendant Sprowson and the victim,
2 Jaysenia Torres?

3 A Yes, ma'am.

4 Q Okay. Do you see Mr. Sprowson in the courtroom today?

5 A I do.

6 Q Okay. Can you please point to him and describe an article of clothing
7 that he's wearing.

8 A He's sitting right down behind that computer monitor wearing a blue
9 shirt and glasses.

10 MS. BLUTH: Okay. Thank you.

11 Your Honor, may the record reflect identification of the Defendant?

12 THE COURT: It will.

13 MS. BLUTH: Okay.

14 BY MS. BLUTH:

15 Q And in fact did your investigation continue, you know, throughout the
16 course -- really from the time period of the inception of the case to even today has it
17 been a continuing investigation?

18 A Yes, ma'am.

19 Q Okay. Sometime after this case had gone to the district court level,
20 were you made aware of the fact that the Defendant was no longer in custody?

21 A Yes, I was.

22 Q And were you also made aware of the fact that there would still be a no-
23 contact order between the Defendant and the victim and her family, Jaysenia
24 Torres?

25 A Yes, ma'am, I was.

1 Q All right. From that point forward, because of that situation and
2 because of the ongoing investigation, did you and members of your investigative
3 team keep track of, you know, where the Defendant was within the country?

4 A Yes, we did.

5 Q Okay. And did you know the address and city in which he was living
6 during that time period?

7 A Yes, we did.

8 Q And did you also know the -- keep tabs on the type of vehicle that was
9 registered to him?

10 A Yes, we knew that he still had the same vehicle.

11 Q Okay. Do you remember those two -- the address and the vehicle by
12 heart or would -- do you need your report to refresh your recollection?

13 A I know the vehicle was a bright red Mustang. I couldn't tell you the year
14 or license plate number --

15 Q Okay.

16 A -- or the actual physical address of the house.

17 Q All right. Would looking at your report help refresh your recollection?

18 A Yes, ma'am.

19 Q Okay. All right. If you could go ahead and read this silently to yourself,
20 and then when you're done with those specific sections I'll have some questions for
21 you.

22 A Okay.

23 Q After looking at your report does that help refresh your recollection as to
24 the physical address where you knew the Defendant to be staying?

25 A Yes, ma'am.

1 Q And where was that located at?

2 A It looks like it was 809 NW 68th Street, Lawton, Oklahoma 73505.

3 Q And the make and model of the vehicle?

4 A It was a Ford Mustang with Oklahoma license plate of 669 K as in king,
5 W as in William, C as in Charlie.

6 Q Okay. And did you -- just for the record, we're looking at the police
7 report that you in fact authored?

8 A Yes, ma'am.

9 Q And that obviously helped refresh your recollection in regards to those
10 things that were notated in your report; is that right?

11 A Yes, it did.

12 Q Okay. Now I'd like to turn your attention to January of 2015 -- early
13 January. During that time period were you made aware that there had been a
14 possible violation of the no-contact order by the Defendant in regards to Jaysenia
15 Torres?

16 A Yes, I was.

17 Q And how was it that you became aware of that information?

18 A I believe her mother called the Henderson Police Department. They
19 completed a report on the incident. That information was given to us. We reviewed
20 the report and also obtained screen captures that she had provided to the
21 Henderson Police Officer Malone, I believe.

22 Q Okay. And so basically Henderson Police Department arrives on
23 scene, does a full report?

24 A Yes, ma'am.

25 Q And also takes pictures -- or is provided pictures of some screenshots?

1 A Yes, ma'am.

2 Q And both of those two things are then forwarded to you?

3 A Yes, they were.

4 Q Okay. Now on the screenshots, if you could explain to the Court -- we
5 already have in evidence State's proposed Exhibit, I think it's one.

6 THE COURT CLERK: I believe it's four.

7 MS. BLUTH: Four. It's four; okay. I have them out of order, but I'll put them in
8 order.

9 BY MS. BLUTH:

10 Q We already have in evidence what's marked as --

11 A Yes --

12 Q -- in evidence as State's 4. Are -- is this -- the screenshots, are these
13 the screenshots that we're discussing?

14 A These are probably most of them. I don't know if he had -- I don't know
15 which ones Officer Malone had at the time because I'd obtained some later on from
16 her iPod myself.

17 Q Okay.

18 A So as far as if these are the ones he gave me, or the ones from the
19 iPod, I couldn't answer to that.

20 Q Sure.

21 A But they were similar in nature, oh, yes.

22 Q Okay. But -- and so now after doing a search warrant on the account,
23 as well as receiving the pictures from Officer Malone from Henderson, you have
24 basically a conversation between two users, Jaysenia Malik and another individual
25 who starts as Audrey dash [REDACTED] is that correct?

1 A Yes, ma'am.

2 Q And those are -- that's an Instagram account; is that correct?

3 A Yes, ma'am, it is.

4 Q Okay. So at any point in time did you then -- once you received the
5 screenshots, did you do what's called an administrative subpoena to Instagram,
6 which is also under the parent company of Facebook --

7 A Yes.

8 Q -- to get user information for this person identifying themselves as
9 Audrey dash [REDACTED]

10 A Yes, we did. And Facebook is not a very law enforcement friendly
11 company. They did not reply to our administrative subpoena, so we had to complete
12 a search warrant to them in order to get the information that we needed.

13 Q Okay. And then -- so after the administrative subpoena to Facebook
14 slash Instagram was unsuccessful, you then basically served them with a search
15 warrant?

16 A Yes, ma'am.

17 Q And did they then comply with that?

18 A Yes, they did.

19 Q Okay. And I am going to approach with State's proposed Exhibit 1. Did
20 they then send you certified -- basically a certification of authenticity regarding the
21 account information having to do with that Audrey dash [REDACTED] individual?

22 A Yes, they did.

23 Q And I'm showing you the Instagram certification of authenticity as well
24 as the user name -- business record information, is that what you were provided?

25 A Yes, ma'am, it was.

1 Q And is this a fair an accurate copy of that?

2 A Yes, it is.

3 MS. BLUTH: Okay.

4 And, Judge, at this time I move to admit into evidence State's proposed
5 Exhibit 1.

6 THE COURT: Any objections, Mr. Sprowson?

7 THE DEFENDANT: No.

8 THE COURT: All right. Admitted.

9 **[STATE'S EXHIBIT 1 ADMITTED]**

10 MS. BLUTH: And permission to publish, Your Honor.

11 THE COURT: Yes.

12 BY MS. BLUTH:

13 Q Okay. So I just want to ask you some questions in regard to the
14 business records that you were provided. So in that screen in front of you, and I'll
15 zoom in, in the information that was given to you from Instagram -- and I know that
16 Facebook and Instagram are for kind of all intents and purposes the same company.
17 I'm just going to use the term Instagram, if I can.

18 A Yes, Facebook purchased Instagram.

19 Q Okay. So basically you send in a search warrant for any and all
20 information having to do with the user name Audrey dash [REDACTED] but also as well as
21 the other user names that were associated with that conversation that are shown in
22 the screenshots which would be Lisa dash Thomas04 and nowaydude555; is that
23 correct?

24 A Yes, ma'am.

25 Q Okay. So when you receive these records, a registered email is

1 basically connected to those three screen names; is that correct?

2 A Yes, the sequence 580@hotmail.com.

3 Q Okay. So that was the registered email that is associated with the first
4 vanity name, which is nowaydude555; is that correct?

5 A Yes, ma'am.

6 Q And then it shows there to be what's called vanity changes, like name
7 changes?

8 A Yes, that would mean he just changes the name that appears on his
9 account, but it's not changing the account itself.

10 Q And that would be the Lisa dash Thomas04, Audrey dash [REDACTED] and
11 Lisa dash [REDACTED] correct?

12 A Yes, ma'am.

13 Q And it also discusses that those change -- the date those were changes
14 as being January 2nd and January 3rd?

15 A Yes, ma'am.

16 Q The -- and then also IP addresses are also -- the IP address associated
17 with that is also listed in the document; is that correct?

18 A Yes, ma'am.

19 Q Okay. So when you get the Instagram -- you get these business
20 records from Instagram, and then you're provided with the additional -- the IP
21 address as well as the email associated with that. What -- tell -- explain to the Court
22 what you do next with that information?

23 A What we do next with that is we subpoenaed the sequence -- Microsoft
24 actually for the sequence email address to find out who registered that email
25 address and also the IP address associated with the account.

1 Q Okay. So let's start with the information you just discussed about
2 Microsoft. So we have that sequence 580@hotmail.com.

3 A Yes.

4 Q Do you then send -- and I apologize. Did you say it was absent --
5 admin subpoena or a search warrant?

6 A It'd be an administrative subpoena because we're just looking for the
7 register user information.

8 Q Okay. And I'm showing you what's been marked for purposes of
9 identification as State's proposed Exhibit 3. Is this a declaration of authentication of
10 business records from Microsoft who owns MSN?

11 A Yes, ma'am, it is.

12 Q And behind that is that -- this the copy of the login information and the
13 user name associated with that count?

14 A Yes, ma'am, it is.

15 Q That account. I apologize.

16 A Yes, it is.

17 Q Okay. And is this a fair and accurate depiction of the records that you
18 were provided by MSN?

19 A Yes. And just for clarification, MSN owns and operates Hotmail, in case
20 that wasn't clear.

21 Q Okay. Yeah.

22 A Sorry.

23 Q No, that's a good point. Thank you.

24 A All right.

25 MS. BLUTH: And, Your Honor, at this time I move to admit into evidence

1 State's proposed Exhibit 3.

2 THE COURT: Any objection, Mr. Sprowson?

3 THE DEFENDANT: No.

4 THE COURT: All right.

5 **[STATE'S EXHIBIT 3 ADMITTED]**

6 MS. BLUTH: And permission to publish, Your Honor.

7 THE COURT: Yes.

8 BY MS. BLUTH:

9 Q Okay. And from the records from MSN slash Hotmail slash Microsoft,
10 the -- there are -- the records show the login information of sequence
11 580@hotmail.com. The first and last name appear to be Melvin Sprowson, the zip
12 code 73505, and then that same IP address of 24.49.210.230; correct?

13 A Yes, ma'am.

14 Q And also the date registered on that account, July 25th of 2014?

15 A Yes.

16 Q Lastly, you also stated that you sent a -- you researched that the IP
17 address was coming back to a company named Fidelity. Can you explain how that
18 worked and what you did with that information?

19 A Yes, we took the IP address and we checked it through an application
20 or website called WHOIS. And it tells you who the provider of that IP address is,
21 and it came back to Fidelity Communications which is I think based in Oklahoma.
22 From there we did an administrative subpoena to Fidelity Communications. The
23 information returned to a Deluxe Inn in Lawton, Oklahoma --

24 Q Okay. And so --

25 A -- as a registered owner of the IP address.

1 Q I'm approaching you with what's been marked for purposes of
2 identification as State's proposed Exhibit 2. The first page of this is an affidavit
3 showing these to be certified business records. And then the second page is a copy
4 of your admin subpoena; is that correct?

5 A Yes, ma'am.

6 Q And then the third page is the records provided to you by Chantel
7 Leeser [phonetic] with Fidelity, which provides the address of where that IP address
8 is associated with; is that correct?

9 A Yes, ma'am.

10 Q And are these fair and accurate copies --

11 A Yes, they are.

12 Q -- of what you provided to my office?

13 A Yes.

14 MS. BLUTH: Your Honor, at this time I move to admit into evidence State's
15 proposed Exhibit 2.

16 THE COURT: Objections?

17 THE DEFENDANT: No.

18 THE COURT: Admitted.

19 **[STATE'S EXHIBIT 2 ADMITTED]**

20 BY MS. BLUTH:

21 Q And you said -- you talked about the Deluxe Inn. That IP address was
22 then attached to this Deluxe Inn which is located at 1709 NW, I think it's Cache
23 Road, or -- Cache Road, Lawton, Oklahoma 73507. And then it has associated
24 telephone numbers; is that correct?

25 A Yes, ma'am.

1 Q And then the authorize users for that account are Bharat Patel and
2 Usha Patel; is that correct?

3 A I think that's how you say that, yes.

4 Q Okay. All right. Now after you received the information about that IP
5 address going back to a certain hotel -- I mean, obviously you're in Las Vegas,
6 those individuals are in Oklahoma, so what do you do from there?

7 A I called the hotel and I spoke with one of the Patels. I couldn't tell you
8 what the first name was, but it was somebody that identified themselves as a Patel
9 and said that they were manager slash owner of the business. I asked if their -- if
10 they had an open Wi-Fi which would mean you could just log on without a password.
11 And they were unsure and not able to answer the question very clearly. So we
12 actually made contact with a detective in Lawton, Oklahoma who went to the hotel
13 and actually spoke with the owners of the hotel because she's familiar with them, I
14 believe.

15 Q Okay.

16 A And --

17 Q Did you do any further research in regards to the physical location of
18 that hotel within Lawton -- Lawton, Oklahoma in regards to distance of the address
19 where you had the Defendant located living at?

20 A Yes, I did. I just -- I mapped his address to that address and I think it
21 was like 3.8 miles away or something in that ballpark. It was fairly close.

22 MS. BLUTH: Okay.

23 That concludes my questioning for Detective Caldwell, Your Honor.

24 THE COURT: Mr. Sprowson, do you have any questions of the detective?

25 THE DEFENDANT: No, I don't.

1 THE COURT: Thank you, Detective, for your time.

2 THE WITNESS: Thank you.

3 THE COURT: Have a nice day.

4 Next witness.

5 MS. BLUTH: Mr. Patel.

6 THE MARSHAL: Sir, can you please remain standing. Raise your right hand
7 to be sworn in by our clerk.

8 **BHARAT PATEL**

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

10 THE COURT CLERK: Please be seated. Would you please state and spell
11 your first and last name for the record.

12 THE WITNESS: Well, first name is Bharat Patel, last name Patel.

13 THE COURT: First name is --

14 THE WITNESS: I'm sorry. First name is Bharat, last name Patel.

15 THE COURT: How do you spell that, sir?

16 THE WITNESS: The first name is B-H-A-R-A-T.

17 THE COURT: B-H-A-R-A-T.

18 THE WITNESS: Yes.

19 THE COURT: Okay. Patel is -- how do you spell your last name, sir?

20 THE WITNESS: P-A-T-E-L.

21 THE COURT: P-A-T-E-L.

22 THE WITNESS: Mm-hmm.

23 THE COURT: Thank you.

24 All right. Whenever you're ready.

25 MS. BLUTH: Thank you.

DIRECT EXAMINATION

BY MS. BLUTH:

Q Mr. Patel, thank you so much for coming in today.

A Oh, you're welcome.

Q In front of you is a little black microphone.

A Mm-hmm.

Q If you could just scoot in just a little bit because you are so --

A Okay.

Q -- quiet when you speak.

A Okay.

Q And I just have a few questions for you; okay?

A Okay.

Q All right. Thank you. First of all, you don't live in Las Vegas; right?

A No.

Q You flew in here?

A Yes.

Q Where do you live?

A Lawton, Oklahoma.

Q And in Lawton, Oklahoma are you the owner of a hotel or a motel?

A Yes, ma'am.

Q And you own that with your wife?

A Yes.

Q And what is your wife's name for the record.

A Usha.

Q How do I spell that?

1 A U-S-H-A.

2 Q Okay. And you -- can I have the name of the hotel in which you own?

3 A Deluxe Inn.

4 Q Okay. And what's the physical address of the Deluxe Inn?

5 A 1709 NW Cache Road, Lawton, Oklahoma --

6 Q Okay.

7 A -- 73507.

8 Q And when you say Cache is that C-A-C-H-E?

9 A Yes.

10 Q Okay. Now within your hotel do you have Wi-Fi so that if someone

11 coming staying at your hotel they can access the internet?

12 A Yes.

13 Q When someone comes in to stay at your hotel, do they have to hand

14 over certain information so you know that they are who they say they are?

15 A Yes.

16 Q And what do they do? Walk me through that process of registration if

17 you can.

18 A When you walk in I give the registration card, fill out. They fill it out. I

19 ask them the driver's license. [Indiscernible] driver's license numbers.

20 Q Okay. So you give the person what's called a registration card?

21 A Yes.

22 Q And then they have to fill out that information?

23 A Yes.

24 Q And the information on that would be what? Their name I assume.

25 A Yeah.

1 Q And then you said that they have to -- do they write down their driver's
2 license number or --

3 A No, I do.

4 Q -- do you do?

5 A I do.

6 Q Okay. So in the process of registering that individual, do they have to
7 show you a photo ID?

8 A Yes, ma'am.

9 Q Or a driver's license?

10 A A driver's license, yes.

11 Q A driver's license. And then you write down that individual's driver's
12 license number?

13 A Yes.

14 Q Okay. So I'd like to turn your attention to sometime in January of 2015.
15 Do you remember receiving a phone call from a detective here in Las Vegas?

16 A Yes.

17 Q And was there kind of some issues with communicating between the
18 two of you?

19 A Yes.

20 Q Okay. So after that, did a detective from your town come and meet with
21 you?

22 A Yes.

23 Q And in speaking with them, did you provide them with registration
24 records for an individual named Melvin Sprowson?

25 A Oh, they -- the detective come to ask me the person [indiscernible]. I

1 said, yes, they stay here.

2 Q Okay.

3 A And do you have a record? I say, yes, I have records. So I show him
4 the registration card.

5 Q Okay. So you keep those registration records --

6 A Yes.

7 Q -- in a matter of ordinary course of your business as the owner of the
8 hotel?

9 A Yes, ma'am.

10 Q And you still had possession of those records?

11 A Yes.

12 Q Okay. I'm approaching you with what's been marked as State's
13 proposed Exhibit Number 5. The first page of this is a registration card.

14 A Mm-hmm.

15 Q And then the second page of this is a registration card and a receipt.
16 Do you recognize these?

17 A Yes.

18 Q Okay. And were these provided by you, not only to my office, but by
19 the detective?

20 A Okay.

21 Q Is that true?

22 A The detective at the Lawton Police Department they don't get this
23 information.

24 Q Okay.

25 A They just come to check this and just tell us -- me to the Las Vegas

1 Police Department call you to find out this guy stay.

2 Q Okay. And did you show these records --

3 A Yes.

4 Q -- to the police officer?

5 A Yes, ma'am.

6 Q And did you then provide myself, my office, a copy?

7 A No. That -- she didn't say nothing.

8 Q At some point though did you --

9 A Yeah.

10 Q -- did you turn --

11 A Yeah.

12 Q -- this over?

13 A Yes.

14 Q That's how I got a copy of it?

15 A Yes.

16 Q Okay. And these are the copy of the records we were just talking

17 about. The registration records that you keep in the normal and ordinary --

18 A Yes.

19 Q -- course of your business?

20 A Yes, ma'am.

21 Q And are these a fair and accurate copy of what you provided?

22 A The credit card.

23 Q Okay. And is this a fair copy -- is this an exact copy --

24 A Yes.

25 Q -- of what you provided my office?

1 A Yes, ma'am.

2 MS. BLUTH: Okay.

3 Your Honor, at this time I move to admit into evidence State's proposed
4 Exhibit 5.

5 THE COURT: Objections?

6 THE DEFENDANT: No.

7 THE COURT: All right. Admitted. And you can publish.

8 **[STATE'S EXHIBIT 5 ADMITTED]**

9 BY MS. BLUTH:

10 Q And so, Mr. Patel, I just have you -- wanted to ask some questions
11 regarding the information. So right now, is this what the registration card looks like
12 that --

13 A Yes.

14 Q -- that someone who stays at your hotel will come in and fill out?

15 A Yes, ma'am.

16 Q Okay. Now you said that the detective when she showed up -- it was a
17 female detective; is that right?

18 A Yes, female.

19 Q When she showed up in January of 2015, she was asking you
20 questions about a specific individual; right?

21 A Yes.

22 Q If a specific --

23 A Mm-hmm.

24 Q -- person --

25 A Yes.

1 Q -- was there. And that person she was asking you questions of is
2 Melvin Sprowson?

3 A No.

4 Q I'm sorry?

5 A No.

6 Q No what?

7 A The person -- the -- they asked me this guy just stay here; I said, yes.

8 Q Okay. And that's how you provided them these records?

9 A Yes.

10 Q Okay. So they asked you did this specific person stay there?

11 A Yes.

12 Q And you checked your records and got this?

13 A Yes.

14 Q Okay. So on here it has Mel Sprowson with an address of [REDACTED] [REDACTED]
15 [REDACTED] --

16 A Mm-hmm.

17 Q -- [REDACTED]

18 A Mm-hmm.

19 Q And then we have a driver's license number right here. Is this your
20 writing, sir?

21 A Yes. W --

22 Q And --

23 A -- [REDACTED]

24 Q Okay. And then you also have a car make -- the make of the car is a
25 Mustang, car license, and the state of Oklahoma?

1 A Yes.

2 Q And the amount of people registered to that room is just one?

3 A One.

4 Q And then you have the individual sign the document; is that right?

5 A Yes.

6 Q Okay. Now to the right of this card it shows the room number --

7 A Yes.

8 Q -- that Mr. Sprowson was staying in to be 107?

9 A Yes.

10 Q And the date that he checked in would've been December 28th of 2014?

11 A Yes.

12 Q And then he -- it shows he stayed a total of seven days?

13 A Yes.

14 Q And then on the back it's just another copy -- or the second page is --

15 it's a copy of that same document, but also a copy of the receipt --

16 A Yes.

17 Q -- is that correct?

18 A Yes, ma'am.

19 MS. BLUTH: Okay. Thank you so much, Mr. Patel. I appreciate it.

20 THE WITNESS: You're welcome.

21 MS. BLUTH: That concludes my direct examination, Your Honor.

22 THE COURT: All right. Do you have any questions for Mr. Patel, Mr.

23 Sprowson?

24 THE DEFENDANT: Yes, I do. May I stand, Your Honor.?

25 THE COURT: Yes.

1 **CROSS-EXAMINATION**

2 BY THE DEFENDANT:

3 Q Hi. How are you?

4 A Fine. How you doing?

5 Q I know you recognize me from the hotel. I just have one question from
6 you. When I was staying there at the hotel, did you ever see me on a computer or
7 anything like that?

8 A No. Well --

9 Q Okay.

10 A We had -- we had internet. There's --

11 Q The question is, did you ever see me personally --

12 A No, no.

13 Q -- on a computer?

14 A No, I never see you.

15 THE DEFENDANT: That's all, Your Honor.

16 THE WITNESS: We check --

17 THE COURT: That's all.

18 THE WITNESS: You check in --

19 THE COURT: Okay.

20 THE DEFENDANT: That's all the questions I have.

21 THE COURT: Any other questions by the State?

22 MS. BLUTH: I do, Your Honor.

23 **REDIRECT EXAMINATION**

24 BY MS. BLUTH:

25 Q Do you have computers that people actually sit at or --

1 A No.

2 Q Okay. So you don't have a -- it's not like you have a lobby where --

3 A No, no, no.

4 Q -- there's computers --

5 A No.

6 Q -- that people sit at?

7 A No, it's not lobby.

8 Q Okay.

9 A There's a small -- small office.

10 Q Okay. So if someone has a computer or something in their room then

11 you wouldn't see that?

12 A No, I don't see that -- what you log in on at all.

13 MS. BLUTH: Okay. All right. Thank you so much, Mr. Patel. Appreciate it.

14 THE WITNESS: You're welcome.

15 THE COURT: All right. Mr. Patel, thank you for your time. You're free to go,

16 sir. Have a wonderful day.

17 THE WITNESS: You too.

18 MS. BLUTH: And we just have one final witness, Your Honor.

19 MR. SWEETIN: Marco Rafalovich.

20 THE COURT: You know what? I'm sorry. I didn't get down the exact date in

21 January of these Instagram messages.

22 MS. BLUTH: January 2nd.

23 THE COURT: January 2nd. Thank you.

24 MR. SWEETIN: The State would call Marco Rafalovich.

25 THE MARSHAL: Please remain standing. Raise your right hand to be sworn

1 in by our clerk.

2 **MARCO RAFALOVICH**

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

4 THE COURT CLERK: Please be seated. Would you please state and spell
5 your first and last name for the record.

6 THE WITNESS: Marco Rafalovich, M-A-R-C-O R-A-F-A-L-O-V-I-C-H.

7 THE COURT: Whenever you're ready.

8 **DIRECT EXAMINATION**

9 BY MR. SWEETIN:

10 Q How are you currently employed?

11 A I'm a criminal investigator with the Clark County District Attorney's
12 Office.

13 Q In your duties in the Clark County -- Clark County DA's Office as an
14 investigator, would it be fair to say that you access to various investigative tools?

15 A Yes, sir.

16 Q And some of those investigative tools relate to information not only in
17 this jurisdiction but in other jurisdictions, would that be accurate?

18 A Yes, sir.

19 Q Some of that information would relate to driver's license, would that --
20 would you agree with me?

21 A Yes, sir.

22 Q Does Nevada have a database as other states do of driver's license
23 information?

24 A Yes, we do.

25 Q Were you asked to retrieve any information relevant to this case today?

1 A Yes, sir, I was.

2 Q And what were you asked to retrieve?

3 A A Oklahoma driver's license for Melvin Sprowson -- or Sprowson, Jr.

4 Q And were you able to search for that driver's license in the databases
5 that we've been referring to?

6 A Yes, I was.

7 Q And are those the same databases that are used by law enforcement,
8 both in the state of Nevada and in other states, to track drivers information across
9 the nation?

10 A Yes, sir, they are.

11 Q Were you able to find information relating to Melvin Sprowson and an
12 Oklahoma driver's license?

13 A Yes, I was.

14 Q I'm showing you what's marked as State's proposed Exhibit Number 6
15 and ask you if you recognize this?

16 A Yes, I do recognize it.

17 Q And what is that?

18 A It is a printout of the driver's license for Melvin Sprows [sic].

19 Q Okay. And is that a clear and accurate depiction of the information that
20 you observed on the law enforcement database relating to a driver's license in
21 Oklahoma?

22 A Yes, it's identical.

23 MR. SWEETIN: State would move for the admission of what's been marked
24 as State's proposed Exhibit Number 6.

25 THE COURT: Any objection, Mr. Sprowson?

1 THE DEFENDANT: No, I don't.

2 [STATE'S EXHIBIT 6 ADMITTED]

3 MR. SWEETIN: Permission to publish.

4 THE COURT: Yes.

5 BY MR. SWEETIN:

6 Q Now as we're looking at the information that you retrieved in regards to
7 this Oklahoma driver's license, does it include the driver's license number?

8 A Yes, sir, it does.

9 Q And if you could, for the record, could you read that driver's license
10 number?

11 A It is [REDACTED].

12 Q Thank you.

13 THE COURT: I'm sorry. What was the source of that printout?

14 THE WITNESS: J-Link.

15 THE COURT: J -- J-Lig?

16 THE WITNESS: Link.

17 THE COURT: J-Link; okay.

18 THE WITNESS: J hypen Link.

19 THE COURT: Okay. Thank you.

20 THE WITNESS: Yes.

21 MR. SWEETIN: Thanks. Nothing further.

22 THE COURT: Hold on.

23 Mr. Sprowson, do you have any questions of Mr. Rafalovich?

24 THE DEFENDANT: No, I don't have any questions, Your Honor.

25 THE COURT: All right, sir. Thank you for your time. You're free to go.

1 THE WITNESS: Thank you.

2 MS. BLUTH: Your Honor, that concludes the questioning of the State's
3 witnesses, so the State would rest for purposes of this hearing at this time.

4 THE COURT: Hold on. Hold on one second. I'm just taking notes.

5 MS. BLUTH: Yeah, of course.

6 THE COURT CLERK: Mr. Sweetin, I need Exhibit Number 6.

7 THE COURT: All right. Is there any argument by the State?

8 MS. BLUTH: In regards to the motion in itself, Your Honor?

9 THE COURT: Correct.

10 MS. BLUTH: Yes. I'm sorry, Your Honor. I just didn't know if the Defendant
11 wanted to present any evidence on his behalf --

12 THE COURT: I'm sorry.

13 MS. BLUTH: -- before I got started.

14 THE COURT: Did you have any witnesses, Mr. Sprowson?

15 THE DEFENDANT: No, go ahead.

16 MS. BLUTH: Oh. Thank you.

17 THE COURT: All right.

18 MS. BLUTH: Thank you.

19 Judge, I know that obviously the Court recognizes, you know, the three
20 prongs that the State needs to discuss when making this type of argument. It has to
21 be relevant, it has to be proven by clear and convincing evidence, and then there's
22 also the prong where we need to talk about the probative value versus the prejudice.

23 If we could, I'd just like to start with clear and convincing. You know, if
24 you look at the evidence we presented today, really what this comes down to, you
25 know, is this the Defendant sending these messages to her; have we proven that by

1 clear and convincing evidence. And so I ask you first to consider the testimony from
2 Jaysenia and the personal content of the information that is before Your Honor. I
3 didn't go through every single message between the two of them, but I would ask
4 the Court, before the Court makes a ruling, to be able to go through each of those.
5 This is personal info, like Jaysenia said, that only the two of them know. Especially
6 she had stated that she had never told anybody that they wanted to name their
7 daughter Audrey. Additionally, if you look at the screen name it's Audrey dash
8 [REDACTED] which is Jaysenia's birthdate. And they also -- the Defendant identifies
9 himself as -- well, he says that it's him, says where he is staying, and also says his
10 birthdate to prove to her.

11 I submit to the Court that there is a reason why the Defendant
12 continued to change vanity names and continued to change photos because he did
13 not want to get caught because he recognized there were -- would be
14 consequences if he got caught. He even says to her multiple times, please do not
15 tell anybody. Asks her, have you told your mom; have you told anybody?

16 In regards to the subsequent investigation. The IP address goes back,
17 you know -- we have IP addresses that go to the hotel, IP addresses that go to his
18 personal email. The MSN email shows it registered to his name. And that was used
19 -- that was registered six months previous, so it's not like someone just created that
20 email that day. We also have him staying at that hotel. And we have the number of
21 people staying at that hotel as one person. I know in previous hearings when the
22 Defendant discussed -- he stated that a girlfriend was live -- was with him at the
23 hotel and did this. But the hotel records show that only one individual checked in
24 and only one individual was staying at the room. Also on those records it has the
25 physical address where he is staying. It has the vehicle that is registered to him.

1 Those were things that the detective also talked about that he knew to be only
2 personal to the Defendant.

3 Obviously we would never be able to put someone behind -- it's not like
4 you ever have a photograph of someone behind a computer. But I think if you look
5 at all of these factors, the information in the records, the information that the
6 individual was sending to Jaysenia, as well as the IP addresses, the email, the hotel
7 he was staying at, that's far beyond clear and convincing evidence, so I believe the
8 State has met the prong in that regard.

9 So basically what we're left with is probative value versus the prejudicial
10 affect and relevance. In going to the probative value, I think this is incredibly
11 probative which is also why it's relevant. But if you look at the facts of this case -- I
12 mean, the State has to prove that for first degree kidnapping that the Defendant, I
13 believe the words are, you know, leads, takes, entices, inveigles, those types of
14 things. There has to be an intent here that he was doing those things on purpose
15 and that's why this becomes probative. It's probative because it shows his mindset.
16 It shows what he was trying to do, even knowing that she had been in a long-term
17 mental health facility. That there was no-contact order. That he was to have
18 absolutely no-contact order [sic] with her, yet he's still trying to talk to her, tell her he
19 loves her, asking her not to tell anybody. I mean, nothing could be more clear of
20 why this is motive and why this is intent.

21 But really if you want to talk about the prejudicial affect. You know, a lot
22 of the times when I come in here and I ask for this type of evidence to be admitted
23 it's, you know, previous sex acts with other children, or previous physical or sexual
24 abuse, that has a, you know, a certain likelihood of a prejudicial affect. We don't
25 have that here. That's just him contacting her when he wasn't supposed to. So I

1 don't believe that we have anywhere near the prejudice that we normally have when
2 we come in here and we discuss these things. So I think that because it's so
3 relevant in regards to his motive and his intent, and because of the way the statute
4 is charged that the State has to prove that he enticed, inveigled, took, lead away
5 from her, that becomes so relevant and becomes so probative.

6 Every time we've had a hearing with Mr. Sprowson, you know, he's
7 discussed the fact that he was just trying to be a good guy. That she hated her
8 mom. She had to get away from her mom, so he just kind of allowed her to stay.
9 This shows that that's not the case. He is driving this bus and she's merely a
10 participant, which is what the State has to prove, which is why it makes it's relevant
11 and why it makes it probative. So I'd submit it on those three prongs, but obviously
12 if the Court has any additional questions I'm happy to answer.

13 THE COURT: No.

14 Mr. Sprowson, anything you want to say?

15 THE DEFENDANT: May I stand, Your Honor?

16 THE COURT: Of course you may.

17 THE DEFENDANT: Yes. Well, the first thing I want to say is, yes,
18 circumstantially, yes, it does look highly probable that I was the person behind there,
19 and I want to start off by saying that. But again, the first thing that I've stated is --
20 first of all, they can't prove that I was behind a computer. And I've already stated to
21 this Court in writing that I didn't have someone there registered with me at the hotel.
22 I had somebody visiting me that I had met previously at a lounge. And I was already
23 venting that week because --

24 MS. BLUTH: Okay. Your Honor, I apologize. I'm going to object because we
25 have to be kept within the confines of the evidence presented. So if we have that

1 female, but without her being able -- here to testify, and the Defendant did not testify
2 himself, that's not something that can be argued in an argument.

3 THE COURT: She's right actually. I mean, unless you want to testify.

4 THE DEFENDANT: Well, all I'm gonna say is that I didn't communicate with
5 Jaysenia; I'll tell you that. And number two, I don't really care if the State admits this
6 because I think it's in my favor. What motive? What motive? I was reading through
7 this, what motive? What motive? I'm looking at this; you have somebody talking
8 with somebody trying to -- it seems to me make them feel better. I'm accused of
9 some awful things. And reading this I -- I can see in this -- is not somebody that is
10 trying to inveigle, entice. Where does it say anywhere in here, hey, let me come
11 pick you up, et cetera, et cetera, et cetera. There's none of that in here.

12 I see -- yes, there's some information in here that's personal to me that
13 -- like I've stated already, that I've relayed to another person. And this whole
14 conversation -- I don't even know if I have the entire conversation. Simply it's not
15 somebody who's trying to entice anybody to do anything. It seems to me that what
16 this person is trying to do is to relieve some stress of this person feeling it. They put
17 me in jail, okay. And that this person -- or actually that I hate -- that I hate her and --
18 and et cetera. Quite frankly, Your Honor, I don't see any of that in here as far as like
19 me trying to entice her or anything like that in this conversation. Like I've already
20 stated, this was not me in this conversation. I've already denied that. I've already
21 submitted in writing what actually I believe happened. I can't prove that either, but
22 it's just my speculation.

23 But again, as far as the State's claim, try to prove motive and intent.
24 Again, this is a problem that I think that I'm having with -- with their argument is
25 simply in this whole conversation you don't find anybody asking anybody to do

1 anything. And quite frankly, again, like I said, it seems to me this is a person who is
2 trying to maybe relieve this person of stress and again guilt.

3 And I don't know what else to really say, Your Honor. I mean, this
4 whole process is really, really just coming down at my doorstep and that's fine. If I
5 have to take responsibility for these things, that's fine. I don't really care at this
6 point. I've already been in jail for over a year and it seems like I'll probably be in jail
7 a lot longer until I get to the court of appeals. But anyways, that's another story. But
8 anyways, that's all I really have to say about it. Thank you.

9 THE COURT: Okay. Is there anything else?

10 MS. BLUTH: Not on behalf of the State, Your Honor.

11 THE COURT: So I am going to grant the Defendant's [sic] motion to admit
12 evidence of other bad acts. The Court does find that the State has demonstrated by
13 clear and convincing evidence that the events were done by the Defendant in this
14 particular case.

15 First, the Court found Detective Caldwell credible. There was an email;
16 there was three different Instagram names which were sent to the victim's iPod or
17 phone. And both of those three Instagram names were ultimately registered to an
18 email which listed Melvin Sprowser [sic] as the owner of that email.

19 Also, the evidence indicates that the IP address utilized in this case was
20 utilized from a location where Melvin Sprowson was registered as a hotel guest
21 during the time the victim was receiving the Instagram messages. So the Instagram
22 messages were coming from a hotel registered in Lawton, Oklahoma which
23 happened to be 3.8 miles from where the Defendant was listed as to be living.
24 Those messages from the IP address were also during the time that Jaysenia was
25 receiving the messages. There's also other indicia that it was Mr. Sprowson who

1 was sending those messages and that he was the only registered individual in the
2 room.

3 There was a driver's license number that Mr. Patel wrote down who the
4 Court found credible. That driver's license number was given to him by Mr.
5 Sprowson whom he identified. It was the same driver's license number that Mr.
6 Rafalovich was able to look up on J-Link and it came back to belonging to Mr.
7 Sprowson.

8 The Court also found that the victim was credible and that the
9 Instagram messages contained information only she and the Defendant would be
10 aware of. Specifically, one of the user names was Audrey, the name that the
11 Defendant and the victim had intended to give their first born daughter. Also, the
12 user name contained the victim's date of birth. Also when the victim attempted to
13 confirm who was sending her the Instagram messages, one of the responses back
14 was a date of birth which happens to be the same date of birth as Mr. Sprowson.

15 So the Court does find all this shows the activities did occur by Mr.
16 Sprowson by clear and convincing evidence. The Court does find that the evidence
17 is relevant to show motive and intent. It shows Defendant's intent that the victim
18 and the Defendant be together notwithstanding the court order and the current
19 criminal case pending against him.

20 And lastly, the Court does find that the probative value outweighs any
21 prejudicial effect. Again, it does show that Defendant continued in his attempts to
22 be with the victim, again, despite his own representations in court and the Court's
23 own admonishment that there be no contact between the victim and the Defendant.
24 Also, it also showed -- and again, the Court finds the messages indicate that the
25 Defendant wanted to be with the victim and that the messages indicate that the

1 person sending the messages loved the victim and asked if they were breaking up.
2 Any other questions?
3 MS. BLUTH: Not on behalf of the State, Your Honor.
4 THE COURT: All right. Thank you.
5 Do we have any future hearings for Mr. Sprowson on this case?
6 THE COURT CLERK: Just the trial date.
7 MS. BLUTH: I don't believe at this --
8 THE COURT: Just the trial date.
9 So, Mr. Sprowson, again, the trial is in June.
10 THE DEFENDANT: Thank you, Your Honor.
11 THE COURT: See you then.
12 MS. BLUTH: Judge -- Your Honor, does the State prepare the order? I
13 always get confused on how that --
14 THE COURT CLERK: Prevailing party.
15 MS. BLUTH: Okay.
16 THE COURT: The prevailing party, yeah.
17 MS. BLUTH: All right.
18 THE COURT: Usually I do it, but I did it in court today.
19 MS. BLUTH: Yeah. I will --
20 THE COURT: I only do it when I issue a written decision.
21 MS. BLUTH: Yes, ma'am.
22 THE COURT: Do you have any questions on the decision?
23 MS. BLUTH: I do not.
24 THE COURT: All right. Thank you.
25 MS. BLUTH: Thank you.

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THE COURT: Have a wonderful day to everybody.

[Proceedings concluded at 11:11 a.m.]

* * * * *

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


SANDRA PRUCHNIC
Court Transcriber



1 RTRAN

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3
4 DISTRICT COURT
5 CLARK COUNTY, NEVADA

6
7 THE STATE OF NEVADA,)

8 Plaintiff,)

9 v.)

10 MELVYN PERRY SPROWSON JR.,)

11 Defendant.)
12

CASE NO. C-295158-1

DEPT. XXIII

13 BEFORE THE HONORABLE STEFANY MILEY, DISTRICT COURT JUDGE

14
15 WEDNESDAY, APRIL 13, 2016

16 **RECORDER'S TRANSCRIPT OF PROCEEDING:**
17 **MOTION**

18
19 APPEARANCES:

20 For the Plaintiff:

JACQUELINE M. BLUTH, ESQ.
Chief Deputy District Attorney

22 For the Defendant:

MICHAEL R. YOHAY, ESQ.
Deputy Public Defender

24
25 RECORDED BY: MARIA GARIBAY, COURT RECORDER

1 MONDAY, APRIL 13, 2016 AT 10:42 A.M.

2
3 THE COURT: Morning. Hi, Ms. Bluth, good morning.

4 MS. BLUTH: Good morning, Judge.

5 THE COURT: All right.

6 MS. BLUTH: So this is Defendant's Motion to Suppress. I have an
7 opposition by the State as well as a Reply by the Defendant.

8 THE COURT: So Mr. Sprowson, is there anything you'd like to add?

9 THE DEFENDANT: Well, I just kind of wanted to point -- excuse me, Your
10 Honor, let me take my glasses off. I just wanted to point out, as far as the
11 affidavits in regard to the search warrants.

12 THE COURT: Uh-huh.

13 THE DEFENDANT: That both of the affidavits excluded absolute
14 necessary exculpatory evidence that the officers had available to them. And I
15 believe that if that exculpatory evidence would have been included in that
16 affidavit, both those affidavits, it would have been a different decision. And I
17 do believe that since the exculpatory evidence was -- I don't want to say
18 purposely left out, but it seems that way, that it does invalidate both of those
19 affidavits; therefore, it would be an unlawful search and seizure.

20 THE COURT: What exculpatory evidence particularly?

21 THE DEFENDANT: The exculpatory evidence in my response. I referred
22 to the fact that they had in their possession the alleged victim's phone and
23 computer, already, prior to seizing my phone. And I should say the defense's
24 phone and the defense's computers. And what my argument basically is is --
25 well, if we start with the, the phone itself.

1 My argument is simply this, that they already had in their
2 possession that the most reliable source of what they were looking for, the
3 alleged victim's phone and computer. And it, it didn't produce any evidence.
4 And -- matter of fact you can, you can assume that because there was nothing
5 in the affidavits. There's nothing in the police reports that indicated that there
6 was anything found on the alleged victim's phone or computer.

7 Now if we go to Exhibit A and B, again, that's the Exhibit A is in
8 reference to searching the phone itself, and then Exhibit B is -- okay now, let
9 me just verify it a second, Your Honor. Indulgence of the Court.

10 THE COURT: Uh-huh.

11 THE DEFENDANT: Exhibit A is actually for the computers.

12 THE COURT: Uh-huh.

13 THE DEFENDANT: Exhibit B is for the phone. What I'm referring to as far
14 as the affidavit, the exculpatory evidence, again, like I said is the actual devices
15 of the alleged victim herself, that's number one. Number two, is a testimony to
16 Michelle Fisher [phonetic], in regards to the intent of the Defense and why he
17 went to go pick her up.

18 And what I'm getting at with that, is that, the intent was not to --
19 and she repeated -- well, let me, let me put it this way. The State's argument
20 is basically this: Based upon the above information, probable cause existed that
21 there would be emails and other electronic evidence showing conversations
22 between the Defendant and the alleged victim in regards to their relationship,
23 illustrating their planning or enticing of the alleged victim to leave her home.

24 Now this is the problem that I have that -- this is why I believe it to
25 be exculpatory, is the fact that the testimony at the preliminary hearing, not

1 only that, but the testimony to Michelle Fisher of Child Haven where Officer
2 Abbott did witness this -- according to the police report -- did witness this
3 conversation that the alleged victim explicitly says that she was the one that
4 goaded the defense to pick her up. She was the one that was -- I don't want to
5 use the word enticing, but it is actually the one that actually -- after repeated
6 attempts, until finally she gets to the last statement like I already said is, "I'm
7 going to kill myself." Okay.

8 And the Judge in the Justice Court, actually in his summation of the
9 whole ordeal confirms that, and so, I believe that to be exculpatory evidence.
10 And this was left out of the affidavits. And if you look at that and you really
11 think about that because I'm -- the Defense is being charged with First Degree
12 Kidnapping, which is a specific intent crime. Well, intent, we're talking about
13 intent. What was the Defense's intent?

14 Now I know that the State is probably going to argue a different
15 story, but if you look at the record, if you look at the preliminary hearing
16 testimony. If you look at her own statement to Michelle Fisher of Child Haven,
17 it's the exact opposite of what the State is claiming, and that's why I believe it
18 to be exculpatory and in the Defense's favor.

19 THE COURT: Well, it sounds like we're getting a couple of things
20 intermingled which is really the issue that, at least my notes indicate from what
21 you raised was, whether or not there's probable cause for the, the warrant
22 and --

23 THE DEFENDANT: Exactly. Well, and that --

24 THE COURT: -- you know and --

25 THE DEFENDANT: -- that's part of it.

1 THE COURT: -- you've raised some things that sound like they may be
2 defenses at the time of trial. But, you know, as far as the probable cause, what
3 the State indicates that gave rise to the probable cause for the warrant by the
4 judge who ultimately signed off on the warrant, was that you had a victim
5 that's undisputed that had been missing for a number of weeks. The mother to
6 that victim did not know where she was. I mean, she's still a minor so the
7 mom has the --

8 THE DEFENDANT: Well, Your Honor --

9 THE COURT: -- hold on -- control over her because she's not either
10 emancipated or an adult. She was found at your apartment and she indicated
11 to police that she had communicated and started some kind of relationship with
12 you via cell phone and computer, and that she had communicated with you on
13 the day you picked her up and took her over to your residence.

14 So that's all the reasons for them searching the phone and the
15 computer is, because she told them she was utilizing that type of contact with
16 you.

17 THE DEFENDANT: They already had the best source of that information
18 in their possession, so here's what I -- let a reasonable person -- anybody in this
19 Court, if there were two people communicating, and you already had one of the
20 devices that -- and again you're alleging there's some kind of leading or enticing
21 to leave your home. And again, let me just kind of correct something here that,
22 at this point she's not a victim, she's a runaway, Your Honor. And I -- you
23 want to --

24 THE COURT: And that would --

25 THE DEFENDANT: -- characterize her as a victim --

1 THE COURT: -- go to

2 THE DEFENDANT: -- I mean the Court.

3 THE COURT: -- your defense, I'm sure.

4 THE DEFENDANT: You know she's, she's -- she's a runaway, and she's
5 a runaway having a life crisis. Okay. And so, I mean, without having to get
6 into aspects of what will come up in the trial, basically what I'm trying to argue
7 is that, if you look at those affidavits there's nothing in -- well, there's nothing
8 in there that -- what could I say? If you look at say, if you say text messages.
9 How is a text message -- just because two people have communication
10 between each other, how is that indicative of a crime?

11 You know, yes, the fact is, the Defense was being charged with
12 kidnapping, okay. Yes, the fact is that she was found there. Okay. And yes,
13 and the fact is that the alleged victim and the Defense communicated, but
14 that's all you can really conclude from that. You can't really jump from Point A
15 to Point B and say, "Well, this is evidence of Kidnapping." I think that's a far
16 stretch, Your Honor. That's a way far stretch.

17 THE COURT: Well, but in that -- but that's a different issue whether or
18 not there was probable cause for the warrant versus whether or not they'll be
19 able to meet their burden of proof at trial. Because it sounds like you do have
20 some defenses you, you may want to raise at the time of trial.

21 THE DEFENDANT: And the other issue, Your Honor, I, I -- what I really
22 raised in this whole thing was the issue of. Okay. Total -- okay we're talking
23 about probable cause, which is defined by the Court as the totality of
24 circumstances or the factual content. Okay. The four corners of the affidavit,
25 okay. Or what is fenced in by the affidavit. Okay. What is actually in the

1 affidavit? I'm being charged for items that were -- that were seized off my
2 computer without a search warrant. And according to the State, they also
3 searched my phone, and again, absent a search warrant for these particular
4 items.

5 Constitution -- the Nevada constitution -- both the U.S. and Nevada
6 Constitution describe what is probable cause supported by oath or affirmation.
7 Okay, this is the first part of it. Probable cause supported by oath or
8 affirmation, particularly describing the items to be seized and the place to be
9 searched. Okay. So the items to be seized, I guess in question, would be the
10 text messages. But again, Your Honor, how were those indicative of, of what
11 the State is trying to claim of, of, of leading or enticing what is in direct
12 contradiction to what the alleged victim said herself? That it was she who was
13 the one who prodded the Defendant to do what he did.

14 THE COURT: But again, some of these are mixing apples and oranges.
15 And some of these may be defenses at the time of trial but they're not
16 necessarily, you know, going to contest that there was probable cause to issue
17 the warrant.

18 THE DEFENDANT: Well, I still feel --

19 THE COURT: I mean, you have to focus on everything. I mean, what
20 were the facts known to the detectives or the officers when they presented the
21 warrant to the judge? What was contained in there to make them believe that
22 those items could have some evidence in this case?

23 THE DEFENDANT: Exactly my point.

24 THE COURT: You got to look at those. Hold on though, but it's different
25 than doing a whole analysis of potential exculpatory or arguments back and

1 forth that you may have at trial.

2 THE DEFENDANT: Well, see this is my point though.

3 THE COURT: You're kind of comparing apples and oranges.

4 THE DEFENDANT: But you may say that Your Honor and I know you're
5 the Judge, but again, may I just reiterate. When I talk about exculpatory
6 evidence, if you've got the best source of what you're seeking already in your
7 possession and you look in that phone, you look in that computer and you don't
8 find anything, what reasonable person in this Court -- I dare ask, what
9 reasonable person in this Court would say, "Hey, we're going to find that on
10 the alleged -- on the Defendant's phone or on the Defendant's computer." This
11 is my argument, Your Honor, and it's a good argument.

12 Because if you don't find it on the best source of that information,
13 what would lead a reasonable person to believe it would be on the other
14 devices? And this is why I say it lacked probable cause based on that, that
15 common sense approach.

16 THE COURT: Okay. Is there anything else, Mr. Sprowson, before the
17 State responds, sir?

18 THE DEFENDANT: I mean I have some other things that -- well, in
19 regards to the exculpatory evidence but, you know, like I said, I believe if that --
20 if you put that into the mix -- if you put that into the mix that it was not the
21 Defendant that, that led or enticed the alleged victim to run away from home,
22 but it was the exact opposite. And matter of fact the Defendant, and again, I
23 know this is -- you're saying is a trial issue, but we're talking about facts that
24 should have been included in the affidavit. This is what I'm trying to get at.

25 THE COURT: Such as?

1 THE DEFENDANT: The judge would not have made that same decision if
2 she'd have known that this was the facts.

3 THE COURT: If she had known that they had already looked at the
4 victim's devices?

5 THE DEFENDANT: Yes, yes.

6 THE COURT: Okay.

7 THE DEFENDANT: If -- that's what I'm trying to get at, is that you
8 already have the best source of the information in front of you. What
9 reasonable person would believe that it would be on the Defendant's or the
10 Defense's computer? Or I should say cell phone. That's, that's the whole
11 argument. If you don't have it on the, the best source of that evidence that
12 you see -- that you're seeking -- remember you're seeking evidence of a crime,
13 and so you had the best source already in your possession. Why would you
14 need to get the Defendant's computer? Why would you need to get the
15 Defendant's phone if you already have the best source in your possession, and
16 it proved to have no criminal evidence on it at all?

17 THE COURT: Okay. Is there anything else, sir?

18 THE DEFENDANT: Well, that's my argument, Your Honor.

19 THE COURT: Okay. Thank you. By the State?

20 MS. BLUTH: Thank you, Judge. Judge, what the police needed to do is
21 put in their affidavit the facts that they believed led to the probable cause to
22 show that they could potentially find incriminating evidence on Mr. Sprowson's
23 phone or his computer? I think the victim telling her mother and then ultimately
24 telling the District Attorney, "Hey, this is how we met, we met on Craig's List.
25 We communicated. We came up with a plan. He has nude pictures of me in

1 various positions that he told me to get into. All of those things will be on his
2 devices." I mean, that is more than probable cause that the police had. I know
3 Mr. Sprowson keeps talking about exculpatory evidence. I -- I just don't think
4 that that's the proper argument for a PC search warrant. I mean, I'm sure that
5 that's something he will bring up at trial.

6 But, in regards to the information that the police had that they
7 contained in their application for search warrant that the judge read, I think that
8 they had more than enough and they contained the proper information that the
9 judge needed on whether or not to make that judgment call. And I think that
10 that was done and I'll submit it on my pleadings. I think that we argued enough
11 in those.

12 THE COURT: All right. Is there anything else, sir?

13 THE DEFENDANT: Yes, Your Honor, again, what's in question, again, I
14 asked for a certain charge to be dismissed. Charges to be dismissed based
15 upon some evidence that they said that that was before the detectives. Now I
16 argue, and if you can see from the record that that evidence was not before the
17 detectives. And I'm referring to photographs, certain photographs that they
18 allege came off of the Defense's cell phone and allegedly came off the
19 Defense's computer.

20 What I'm getting at in that regard is: Where in the affidavit is there
21 a charge in relation to these items? Where in the affidavit -- again, which is
22 defense of the totality of circumstances before the judge, where does it say
23 anything about photographs? Where does it say anything about any charges in
24 relation to those photographs?

25 From my understanding, if you're going to search for items -- again,

1 according to the Constitution, particular description of items to be seized.

2 Okay. The items that were seized, did they have a search warrant for it? This
3 is my problem. Did they have a search warrant for those particular items that
4 they seized? And that's the problem that I have with both of the affidavits that
5 it's lacking, that those items that they said that the alleged victim said would be
6 there.

7 Again, if you look at the record, Your Honor, she specifically says
8 that how did you -- question by Judge Kephart -- if she knows how, how the
9 police found out about these pictures. And Judge Kephart, when he asked her
10 this, she explicitly replied, "They had his computer." Okay. So this is my
11 problem is that they, they have the computer already and they obviously had to
12 have searched it and obviously had to have seized those items, otherwise how
13 would they have found those alleged pictures? And I say it that way just
14 because of the trial issues.

15 Again, coming back to the phone, the same issue I already brought
16 up in my, my motion and my response. Again, we have also issues of what we
17 call forensics reports. If you look at the search and seizure return the, the --
18 what is it 179.095 requires that it be returned to the judge. And on the search
19 and seizure return there's a 10 day period. Okay. So we're talking about a
20 forensics report.

21 So again, the next issue that I have with this whole ordeal is there's
22 absent a forensics report which would say that, "Hey, we found -- this one has
23 to go before the judge." Look we found these items on the computer, okay.
24 These are the items we have. The words forensics report doesn't say anything.
25 And if that were to go before you, Your Honor, if it said "forensic report," what

1 would be the first thing that comes to your mind? What's in the -- forensics
2 report? And this must be attached to the, the, the paperwork, and it must be
3 sent back to the judge within 10 days and filed with the Clerk of the Court.

4 And so, again, that's my -- again, the other issue that I'm having is
5 that -- if you're going to have a search warrant you need to include all the items
6 that you're looking for, you know. And again, I think that's really all I have to
7 say about the, the, the items.

8 THE COURT: Okay. Anything else? All right. I do agree with the judge.
9 I think again there's some combining of apples and oranges. I think that there's
10 some things you brought up today that clearly might be your argument at the
11 time of trial as far as defenses to the State's claims; however, the issue is very
12 precise what we're looking at today. And it's whether there was probable
13 cause for the -- for the warrant for the, the phone and the computer.

14 I do agree that the lower court judge that signed the warrant, that
15 there was, in fact, probable cause. Again, as I previously indicated, they did
16 have information. They had a minor that was missing for several weeks. The
17 minor did not have the permission of the adult parent to be gone. The minor
18 was found at your residence and she told police that in the months leading up
19 to her disappearance she had commuted and started a relationship with you via
20 cell phone and computer.

21 She had also communicated to you on other dates via cell phone
22 and computer. There was information from the victim in this case that there
23 was photographs that were taken, and those photographs could be contained
24 on your cell phone or computer so.

25 THE DEFENDANT: There's not any affidavit, Your Honor. This is my, my

1 whole point, none of that information was in the affidavit. So why am I going
2 to be stuck with charges that they seized items that they were not entitled to
3 seize --

4 THE COURT: But --

5 THE DEFENDANT: -- based upon the affidavit in front of them?

6 THE COURT: It's more general than that. They have to give their
7 reasons as to why they believed that there was evidence, and those were all
8 reasons why they would believe the evidence. I mean, frankly they don't know
9 what's actually going to be on there until they get the warrant.

10 THE DEFENDANT: That's like putting the horse before the cart, Your
11 Honor. But here's the other argument, and I don't know if you looked at my,
12 my, my paperwork.

13 THE COURT: Uh-huh. I did.

14 THE DEFENDANT: But what I submitted to you, Your Honor. Another
15 issue that I have is, the items that they're actually looking for are text messages
16 and emails --

17 THE COURT: Uh-huh.

18 THE DEFENDANT: -- and particularly in reference to the computers.

19 THE COURT: Okay.

20 THE DEFENDANT: Now I, I have two computers. I also have a associate
21 of applied science degree in electronic engineering technology --

22 THE COURT: Uh-huh.

23 THE DEFENDANT: -- so I know a little bit about this stuff, okay. They're
24 referring to the items that they're seeking are emails. Okay. Emails are not
25 kept on a personal computer unless actually saved. Okay. And this is what I'm

1 getting at, is that the items that they're seeking on the Defense's computers
2 are on a database.

3 Now if you -- if you were so, so convinced that you have some kind
4 of evidence in the form of emails, the best way to remedy that -- and this
5 what's happened in my remand case as well, when I got remanded, is that, you
6 would get a subpoena when you say, "Hey, look, you know what, let's get this,
7 this -- get the email -- get the email records or let's get the text records from
8 the subpoena." Why would you need the devices when you can actually just
9 get a subpoena, get the actual text records and say, "Hey, look here's the items
10 that we're looking for."

11 The same with the emails. The emails aren't kept on the computer,
12 the emails are kept by the email service provider. So the best way to get the
13 information that you're seeking -- this is another problem that I'm having with
14 it, is that they didn't have a problem. You're looking for items that are not even
15 on the device that you're seeking to seize. Those items are --

16 THE COURT: Sir, okay.

17 THE DEFENDANT: -- are kept on a database.

18 THE COURT: At some point this hearing needs to end, okay. I, I
19 understand that you disagree with my ruling, all right, but my ruling is what he
20 is. And I've given you like five more minutes to sit there and talk a little bit
21 more. So I disagree with your position. I do agree with the fact that the lower
22 court judge found probable cause; I agree with that finding. So, at this point,
23 it's over for the day. And we'll see you back at the next hearing or the next
24 trial, or whenever the trial is, which is in June.

25 Is there anything else?

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MS. BLUTH: No, Your Honor.

THE COURT: Thank you.

[Proceeding concluded at 11:01 a.m.]

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


Kerry Esparza, Court Recorder/Transcriber
District Court, Department XXVI



1 RTRAN

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4 DISTRICT COURT
5 CLARK COUNTY, NEVADA
6

7 STATE OF NEVADA,

8 Plaintiff,

9 vs.
10

11 MELVYN PERRY SPROWSON, JR.,

12 Defendant.
13

)
) CASE NO. C295158-1
)

) DEPT. NO. XXIII
)

) **TRANSCRIPT OF PROCEEDINGS**
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)
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14

15 BEFORE THE HONORABLE STEFANY A. MILEY, DISTRICT COURT JUDGE

16 MONDAY, MAY 16, 2016

17 **STATE'S OPPOSITION TO DEFENDANT'S SIXTH MOTION**
18 **TO CONTINUE TRIAL**

19 APPEARANCES:

20 For the Plaintiff:

JACQUELINE M. BLUTH, ESQ.
Chief Deputy District Attorney

22 For the Defendant:

MICHAEL R. YOHAY, ESQ.
Deputy Public Defender

24
25 RECORDED BY: MARIA L. GARIBAY, COURT RECORDER

1 MONDAY, MAY 16, 2016, 9:59 A.M.

2
3 THE MARSHAL: Page 15, C295158.

4 THE COURT: There's Mr. Sprowson. Good morning.

5 THE MARSHAL: Sprowson.

6 THE DEFENDANT: Good morning, Your Honor.

7 THE COURT: Okay. So this is -- good morning, Mr. Sprowson. So this is
8 your motion to continue the trial and the State's opposition thereto.

9 MS. BLUTH: Good morning, Judge, Jacqueline Bluth on behalf of the
10 State.

11 THE COURT: Okay. So how far did you want to continue it?

12 THE DEFENDANT: I'm looking anywhere from 6 to 8 months. And I have
13 three points if I'm allowed. I just wanted to kind of reiterate in addition to what
14 I've already stated in the motion. My biggest issue, Your Honor, is trying to get
15 together with Mr. Yohay and go over the majority of this discovery. I know the
16 State has said that they've given the discovery to me, but Mr. Yohay has the
17 majority of the discovery. And what I'm talking about is the psychological
18 evaluations. Not only that, but the State has also stated they have discovery
19 on a CD. Well, Mr. Yohay has a CD, I don't. So the biggest problem that I'm
20 having is getting the discovery so that I can actually develop more of a defense.

21 Secondly, Your Honor, in regards to the expert witnesses, I would
22 like to have one for psychological evaluations and also for the forensics
23 evidence.

24 THE COURT: Okay.

25 THE DEFENDANT: Now, I've been trying to save the Court cost and

1 having to fund that, and I've been trying to find the resources myself. This has
2 been the biggest burden and I've been unsuccessful in that. And probably what
3 I'm going to have to do is petition the Court for funding for that as well. Now,
4 obviously it's going to take some time to do that. I'm incarcerated, I don't have
5 computers. I don't have access to the courts like everybody else. So, you
6 know, I'm not asking for any favors. You know, I'm at a disadvantage, but
7 obviously I should have a little bit slack since I have to submit my mail to
8 guards and it takes time to go through their process and then to get back to
9 me. I'm -- you know, it's a really long process and it takes a long time. So I'm
10 at a snail's pace. I'm happy to do it the old-fashion way.

11 Third, Your Honor, my last point is that in January, as far as -- well,
12 I just want to back up, sorry. The State in their opposition states that I don't
13 want to go to trial. Your Honor, I do want to go to trial, but I want to have a
14 fair trial. And obviously, I'm defending myself. I'm not a professional. But I
15 would like to at least to have the same opportunities that any professional
16 would have. And that is memory having the discovery. Now, I've tried to
17 negotiate with the State back in January. I haven't even received a counter
18 offer. Now, I sent a copy to this Court, and also I sent a letter to Mr. Sweetin
19 and it got to Ms. Bluth.

20 Now, if the State is trying to imply that I'm having a party in jail
21 enjoying myself, I -- and it's absolutely absurd. I would like nothing more than
22 to go to trial, but my bottom line is I want to be prepared and I want to be
23 adequately prepared and I want it to be fair. And that's the only thing I'm
24 asking. That's the main reason I'm asking for a continuance. I just barely
25 picked up my own defense back in August. Now, considering that I'm having

1 to move out of snail's pace, and I've been in contact with Mr. Yohay. I've tried
2 scheduling meetings with him, but that's also another difficulty for me trying to
3 get my discovery and go through. And this was a Court ordered process, not
4 mine. This was not my idea. So I'm going according to what the Court has
5 ordered to go through Mr. Yohay. And I've been trying to meet with him when
6 he's available, and that's been the biggest hurdle for me as well.

7 THE COURT: Okay.

8 THE DEFENDANT: Now, I submit to the Court, Your Honor.

9 THE COURT: Okay. And by the State. I mean there were some
10 continuances obviously, that because of your own personal situation.

11 MS. BLUTH: No, Judge, there wasn't. If you --

12 THE COURT: Well, no, he wanted to try this case a while ago and you
13 were having the baby. I mean, okay, look here's the --

14 MS. BLUTH: No, he -- wait, if I can make a clear record though. He
15 wanted to try it and Your Honor was going to continue it and I said I'll do it 9
16 months pregnant. We set it when I was 9 months pregnant and he asked for a
17 continuance.

18 THE COURT: Okay, so hold on a second. Here's the reality. It probably
19 is a lot more difficult being in jail and trying to get a case ready for trial than
20 being out. So tell me why we cannot move it 6 months?

21 MS. BLUTH: Well, because the time before in November when he said he
22 didn't want to continue it and I was willing to try it, we tried it. In November,
23 he said he needed 6 months, the Court gave him 7. The time before that, he
24 said he needed 6 months, we gave him 11 months. At some point, I have to
25 quit calling the victim's family and saying this is going to get continued again. I

1 mean she was a minor when this case started. She's now graduated from high
2 school and is an adult. I mean it is his choice to represent himself, I respect
3 that. It's part of the process, but he can't keep using that as a crutch. I'm in
4 constant communication with Mr. Yohay, who I believe is doing more than he
5 needs to as standby counsel in order to effectuate some type of assistance to
6 Mr. Sprowson, but at some point there has to be a firm set and that's what this
7 was. And he has done nothing. The same thing he's asking for continuance
8 now is the same thing he was asking 7 months ago.

9 So I feel like I understand what you're saying about my condition,
10 but that actually wasn't true. I had been willing -- I've announced ready every
11 single time and it's still never enough. So I'm just asking -- I mean I can tell
12 Your Honor is inclined to grant this continuance, but at some point it's got to
13 go. And I'm just asking that if you are inclined to grant his continuance, which
14 I'm obviously again in the opposing, the next time it's going. And I mean I'm
15 looking at my calendar and I know that from setting cases in here with Your
16 Honor that there aren't even any openings I don't think until 2017.

17 THE COURT: There's not.

18 MS. BLUTH: And so I don't know what -- I mean what else to say. At
19 some point he has to be ready to go to trial. And to say he doesn't have
20 experts, I don't know what the last 7 months he's been doing. We have
21 made -- we have literally made no progress. We've made none. And so I don't
22 know if we need to do every month status checks for trial readiness or every
23 60 days, but I would just like to get this case moving.

24 THE COURT: Okay.

25 THE DEFENDANT: Your Honor, may I say one --

1 THE COURT: You realize that you will be next year?

2 THE DEFENDANT: That's fine, Your Honor. And can I make my response
3 to the State? The next court date that we set, I will not have any excuses. I
4 will be ready to go.

5 THE COURT: Okay.

6 THE DEFENDANT: And, again, I would like to say and ask the Court for
7 one thing. If you can at least, since I have to go through Mr. Yohay and this
8 has been my biggest hurdle, can you place an order that I have firm dates with
9 Mr. Yohay to meet with him so that it's not something like I'm waiting, I'm
10 waiting, I'm waiting to get my discovery?

11 THE COURT: I can't 'cause, you know, I don't know what his schedule is
12 like.

13 THE DEFENDANT: I mean this has been the biggest problem. I can't go
14 to trial if I don't have my discovery.

15 MR. YOHAY: And I admit, Judge, part of the problem has been being
16 able to get over to Mr. Sprowson. I mean I have -- I mean obviously, I have a
17 lot of cases. And quite honestly, with him not being an actual client, he falls
18 lower on the priority order than my actual clients that have, you know, court
19 dates with prelims and everything else, so. I do have a lot of his discovery.
20 And I understand his frustration and I actually share his frustration. It's difficult
21 to get over there with, you know, I basically have a full banker's box worth of
22 documents for him to review. I will certainly make every effort to, you know,
23 to ensure that he has ample time to review his discovery.

24 THE COURT: Can you like -- since you have him here today, can you set
25 a date, an upcoming date to sit down with him?

1 MR. YOHAY: Sure, I'll do that as soon as the hearing is over, Judge.

2 THE COURT: Okay. So at least there's one day set.

3 MR. YOHAY: Sure.

4 THE COURT: 'Cause this was kind of weird because of the nature of a
5 lot of the records involved.

6 MR. YOHAY: Right.

7 THE COURT: All right. So I'll give you the continuance, but the State is
8 right to a certain extent. The case does need to move forward.

9 THE DEFENDANT: I agree, Your Honor.

10 THE COURT: I think you're already aware if you're going -- if you believe
11 that you need to have money appropriate for your case then you've got to file a
12 motion. So if that's what's going to happen, please get those on file as soon as
13 possible.

14 THE DEFENDANT: Thank you, Your Honor.

15 THE COURT: You are going to be next year for trial. I'm full this year.

16 THE DEFENDANT: I understand that.

17 THE COURT: Okay.

18 THE DEFENDANT: But, you know, like I said, I need the timing. Like I
19 said, I've already stated the things I need to do. And because I am incarcerated
20 it doesn't -- I can't do it in a day's time. It takes me time. As you see, I have
21 to handwrite.

22 THE COURT: I got it. You expressed that already.

23 THE DEFENDANT: I have to handwrite each motion.

24 THE COURT: I understand.

25 THE DEFENDANT: You know, it's a lot of work.

1 THE COURT: I understand, sir. You've got your motion granted. So let's
2 give you a date.

3 THE CLERK: They're looking at March. [Indiscernible].

4 THE COURT: Okay.

5 THE CLERK: Okay. Calendar call March 15th at 9:30; jury trial
6 March 20th at 1:00 p.m.

7 THE COURT: All right. See you then.

8 THE DEFENDANT: All right. Thank you, Your Honor.


9 THE COURT: Thank you.

10 THE DEFENDANT: And I'd like to thank the State for bearing with me.

11 PROCEEDINGS CONCLUDED AT 10:07 A.M.

12 * * * * *

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

15 
16 MARIA L. GARIBAY
17 Court Recorder/Transcriber
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Case Number: C-14-295158-1

1 WEDNESDAY, NOVEMBER 2, 2016 AT 10:27 A.M.

2
3 THE COURT: Hi, Mr. Sprowson, good morning.

4 MR. SPROWSON: Good morning, Your Honor.

5 THE COURT: Hi.

6 MR. SWEETIN: Hi, James Sweetin for the State.

7 THE COURT: All right. Good morning. So this is Defendant's Pro Per
8 Motion for Discovery. I do have an opposition by the State. All right. So let
9 me -- it looks like Defendant requests his aide be required to permit first
10 request. Defendant to inspect and copy the original search warrant applications
11 and affidavits and the search warrants themselves. I don't know that the State
12 would even have these. They should have been filed.

13 THE DEFENDANT: Your Honor, I did -- I did submit a response --

14 THE COURT: Uh-huh.

15 THE DEFENDANT: -- to the State's opposition. It was mailed out
16 yesterday because -- actually I mailed it out last Thursday, but because of the
17 Nevada State -- I guess Nevada Day on Friday --

18 THE COURT: Yes.

19 THE DEFENDANT: -- it didn't get to the Court until Monday.

20 THE COURT: Okay.

21 THE DEFENDANT: Or actually it didn't get to the Court till Tuesday. So I
22 did file a response. And in that response I quoted EDCR 7.28. And I did
23 graciously thank the State for reminding me that the documents that I'm
24 requesting should be in the District Court, but I have additional arguments in
25 regards to that.

1 And I am actually -- actually requesting from -- since this Court has
2 the authority to pull up those.

3 [Colloquy between Court and Clerk]

4 THE COURT: How many search warrants were there?

5 MR. SWEETIN: I'm sorry, Judge.

6 THE COURT: Was there more than one search warrant?

7 MR. SWEETIN: I believe there were three search warrants.

8 THE COURT: Okay. So particular -- specifically, which search warrant
9 are you wanting?

10 THE DEFENDANT: All three.

11 THE COURT: All three? So they should all be in the file. Okay.

12 [Colloquy between Court and Clerk]

13 THE COURT: Did you double check, are all three filed?

14 MR. SWEETIN: No, I didn't double check but --

15 THE COURT: I didn't double check either --

16 MR. SWEETIN: -- I believe.

17 THE COURT: -- and I probably should have. I'm sorry.

18 MR. SWEETIN: Yeah.

19 THE DEFENDANT: Your Honor, if I -- if I may just say something for a
20 moment.

21 MR. SWEETIN: Of course.

22 THE DEFENDANT: The Justice Court record reflects there were no search
23 warrants. Judge Saragosa certified, in the amended bindover, the record as
24 correct and true. There were no search warrants in that record. The State said
25 that it was lost in the bindover. In order for something to be lost, Your Honor,

1 it has to be there in the first place.

2 THE COURT: Okay. So tell me this, have you received -- it sounds like
3 you've received them because you're claiming there's discrepancies.

4 THE DEFENDANT: I have not received official copies. And two -- I have
5 a third search warrant that has no official markings on it. The first two --

6 THE COURT: Tell me what you want --

7 THE DEFENDANT: -- like I've already marked out.

8 THE COURT: -- specifically.

9 THE DEFENDANT: Excuse me.

10 THE COURT: You want the three copies of the three search warrants,
11 right?

12 THE DEFENDANT: I want -- I, I would like to see the originals of all three.

13 THE COURT: Those are going to be --

14 THE DEFENDANT: The reason why I would like to see the originals is
15 because there are questions of: How many papers in connection are actually of
16 it? For example, there's supposed to be a forensics report. I have not seen a
17 forensics report. There should be a chain of custody report attached to it.
18 There's no chain of custody report.

19 Other things such as exactly -- well, we say -- we're saying that
20 there's three search warrants. Okay. So I, I want to validate there were
21 actually three search warrants. I want to validate they were actually filed with
22 the Court as required by 179.095.

23 THE COURT: The State's not going to have the originals and we're not
24 going to be able to give you the originals.

25 THE DEFENDANT: Well, what, there's no documents?

1 THE COURT: I'm not saying there's no documents. Can you see the
2 search warrant?

3 COURT CLERK: I haven't been able to find anything yet.

4 THE DEFENDANT: Your Honor, according to NRS 52.260, the custodian
5 of records can certify, through a certificate of custodian of records, that the
6 record was made. If I could have that and have that filed with the Court that
7 the record was actually made on the dates that they were supposed to be
8 made, I would be satisfied.

9 THE COURT: What do you mean that they were actually filed with the
10 courts on the date they were filed?

11 THE DEFENDANT: Yeah. The actually -- that they were active filed with
12 the Court. That they were actually issued is my question. I, I question that.
13 The State, again, how can they -- if they're not -- if the State says that they
14 were lost in a binder, that's an implication that they were in the Justice Court
15 files. Well, the Justice Court files were certified as true and correct by Judge --
16 the Honorable Judge Saragosa, as true and correct, and there's nothing in those
17 files in regards to search warrants. This is why I, I keep being so incessant
18 about the actual --

19 THE COURT: Well, hold on.

20 THE DEFENDANT: -- search warrants themselves.

21 THE COURT: Did you ever receive -- okay. Let me just go back to my
22 original question. Did you receive copies of any search warrants?

23 THE DEFENDANT: I, I received -- I -- well I'm not going to call them
24 search warrants. I received copies -- documents of something. I'm not going
25 to admit that they're search warrants because that's my, my issue is that, I

1 don't believe they're search warrants. I believe that they, they are so
2 suspicious in nature, that I would actually rather see the originals to actually
3 validate that the record was even made.

4 THE COURT: I don't know -- you're not going to see the originals.

5 MR. SWEETIN: And he --

6 THE DEFENDANT: Well, how are we going to --

7 MR. SWEETIN: -- and he previously attached copies --

8 THE DEFENDANT: -- how are we going to confirm -- how are we going to
9 confirm that the actual record was made.

10 THE COURT: I don't even have access to the originals.

11 MR. SWEETIN: Yeah, I think he previously attached file stamp copies of
12 the --

13 THE COURT: In this --

14 MR. SWEETIN: -- search warrants to his previous documents.

15 THE DEFENDANT: Your Honor, there's no signatures on that.

16 THE COURT: Okay. Hold on.

17 THE DEFENDANT: There's no official --

18 THE COURT: Hold on, please.

19 THE DEFENDANT: -- put anything on that.

20 THE COURT: I can only listen to one at a time, okay. I don't even have
21 access to the originals. So by the State, Mr. Sprowson is saying there's three
22 search warrants, okay. Did you provide -- do you -- can you tell in your
23 discovery that was provided, whether he was given the three search warrants?

24 MR. SWEETIN: My understanding is -- and I believe in our opposition we
25 reference that, in fact, they were attached as exhibits to his Motion to

1 Suppress.

2 THE COURT: Well, I saw that and he's saying those are different, they've
3 been modified in some way, correct? What do you --

4 THE DEFENDANT: That's my, my issue.

5 THE COURT: -- what do you think it -- what are you using to compare to
6 say that they've been modified?

7 THE DEFENDANT: Well, I, I -- well, Mr. Momot is my attorney. I received
8 some copies from him, and then later on I received some copies from the State.
9 Then later on I received more copies from the State. Now these copies are --
10 the problems that I'm having -- Your Honor, it's so easy to forge a document. I
11 don't want to straight out say it. I don't trust the, the integrity of those
12 documents. That's the bottom line.

13 And I would just like some kind of way with this Court. I trust this
14 Court to validate that the record was even made. This is my problem. If you
15 have no record of it in Justice Court, if you have no record of it even in District
16 Court, then how can you validate that the record was made? Shall we just
17 believe the State?

18 I mean, anybody can make up a document. I can go home on my
19 computer and make up any document I want -- sign anything I want to it and
20 call it an original.

21 THE COURT: I guess you could, but I don't really know why they would,
22 and there's nothing to indicate that they did. So can you give him -- I'm not
23 sure if you -- did you give him a discovery packet separate and apart from what
24 Mr. Momot may have handed over?

25 MR. SWEETIN: I, I know there has been ongoing discovery in this case.

1 THE COURT: Yes.

2 MR. SWEETIN: And I know that he has everything that we have.

3 THE COURT: Did you provide it? Or, you know, I know defense
4 counsel's supposed to give everything over, but sometimes things get lost
5 when they get handed from person to person.

6 MR. SWEETIN: Uh-huh.

7 THE COURT: So, did you guys give it to him separately? Because if you
8 haven't, can you give him copies of the three search warrants?

9 MR. SWEETIN: Sure, I can do that.

10 THE COURT: So we make sure that he has exactly what the State has?

11 MR. SWEETIN: Yes.

12 THE COURT: Okay. So they're going to --

13 THE DEFENDANT: Your Honor, that, that does not satisfy the fact that --

14 THE COURT: Well, here's the deal. Well, I'm sorry if it doesn't -- I don't
15 even have access to the originals. And as far as them getting filed, the clerk
16 could care less what happens with this case. They merely take it, they file it,
17 they scan it into the system; that's all that happens with it.

18 THE DEFENDANT: How can you validate a search warrant, Your Honor?
19 That -- that's my question. I can go home and make up a search warrant and
20 search your home and legally do it according to the standard --

21 THE COURT: I agree with you --

22 THE DEFENDANT: -- that you just said before me.

23 THE COURT: -- you can make up anything. There is no evidence in this
24 case to say that anything's been fraudulent. I understand that perhaps you
25 don't have some --

1 THE DEFENDANT: Your Honor, there -- when you issue an order --

2 THE COURT: Okay, sir. There's no evidence presented other than what
3 your -- other than your conjecture that there's anything that's been --

4 THE DEFENDANT: Should I subpoena --

5 THE COURT: -- modified --

6 THE DEFENDANT: -- Judge Baucum --

7 THE COURT: -- in this case.

8 THE DEFENDANT: -- and have her come in here because she
9 supposedly's the one that --

10 THE COURT: You can do whatever the heck you want, sir; but I can tell
11 you that I don't even have access to the originals. The only thing I can do on --
12 to err on the side of caution is to make sure you have what the State has,
13 which is, so they're going to provide you, maybe for the first time, maybe
14 again, a copy of the three search warrants in this case. Okay. What else do
15 you want besides the search warrants?

16 Let's see you've put: Order requiring the State to subpoena the
17 custodian of records for the Las Vegas Justice Court to appear for Defendant's
18 direct examination, to submit an affidavit so Defendant can verify that his
19 documents were authentic and filed with the Justice Court's as they were
20 supposed to be.

21 The obligation to do your discovery is on you.

22 THE DEFENDANT: Your Honor, according to EDCR 7.28, you do have
23 access to those originals. You could pull them from the record. You have the
24 authority to do that. In my response which I filed --

25 THE COURT: Okay, so let's move on from this. The request for the

1 originals is denied, okay.

2 THE DEFENDANT: On what basis, Your Honor?

3 THE COURT: I don't have access to them. Sir, there's no evidence to
4 indicate, other than your conjecture and your allegations without support, that
5 anything's been modified in this case. There's nothing. Okay.

6 THE DEFENDANT: There is no --

7 THE COURT: I agree with you --

8 THE DEFENDANT: -- judge's stamp with a signature.

9 THE COURT: -- that for any document in existence, there could be a
10 modification at some point. There's just no proof of it in this case. There's
11 absolutely no evidence. I do think that you're entitled to receive them and --

12 THE DEFENDANT: And I'm going to get --

13 THE COURT: -- to make sure you have them.

14 UNIDENTIFIED SPEAKER: We're going to write --

15 THE COURT: I'm going to make sure the State give them to you, again,
16 but the request is denied, so let's move onto the next request because I've got
17 other cases this morning than just yours. So the next one is you want to
18 subpoena the custodian of records for the Justice Court.

19 In general, the discovery -- the obligations to conduct your
20 discovery is on you. And we went over that when you wanted to represent
21 yourself.

22 THE DEFENDANT: Your Honor, can I make one request?

23 THE COURT: If it's on the --

24 THE DEFENDANT: I filed --

25 THE COURT: -- first thing we discussed, no. If it's on the second thing,

1 yes.

2 THE DEFENDANT: No. I -- this is new.

3 THE COURT: Okay.

4 THE DEFENDANT: I filed a response, which I think should be part of this
5 hearing. I had filed a response and it was delayed by the mail. It was delayed
6 by the officers that I gave it to. I mailed it out on Thursday. It should have
7 been here by now in front of you. It has important issues in that response.
8 Can we continue this to next week, only because my response has not been
9 heard? Their -- their response was 31 days late to my -- to my original motion.
10 I think I should be at least granted the opportunity to have my response heard --

11 THE COURT: Is your response --

12 THE DEFENDANT: -- and on file.

13 THE COURT: -- on the same issues that are in your original motion?

14 THE DEFENDANT: They, they add to it. It's not -- it adds to -- there's
15 additional arguments that I have made --

16 THE COURT: Well, you can have additional argument, you just can't
17 expand the scope or it's a new motion.

18 THE DEFENDANT: Well, I responded to their -- I responded to their
19 opposition is what I did. It's a response to their opposition, and I think it should
20 be heard.

21 THE COURT: All right. Did you guys have a chance to review it? Did
22 you see it yet?

23 MR. SWEETIN: We haven't -- I haven't seen it.

24 THE COURT: Okay. So we can continue it out for the response. We've
25 already addressed number one though. It's going to -- the State's going to have

1 a chance to respond to that as well. They obviously have to read it, digest it,
2 review it, et cetera. So, could we have it a couple weeks out?

3 THE DEFENDANT: Well, the -- the other thing as far as today's issue,
4 Your Honor, if I may.

5 THE COURT: What -- on what, sir?

6 THE DEFENDANT: Just the certificate of custodian of records. If I could
7 have that, minimally, I would be satisfied. That's all I'm really asking for is to
8 certify that the record was actually made. That's, that's a custodian issue --

9 THE COURT: So you want to certify --

10 THE DEFENDANT: -- which would be the clerk of the court.

11 THE COURT: -- that someone actually received the search warrant and
12 filed it?

13 THE DEFENDANT: It's -- well, according to 52 point --

14 THE COURT: What is -- just tell me what you want.

15 THE DEFENDANT: The certificate of custodian of records. The custodian
16 of records --

17 THE COURT: One would have to be generated --

18 THE DEFENDANT: -- for District Court would be the clerk.

19 THE COURT: -- so that's what I need to know.

20 THE DEFENDANT: Excuse me?

21 THE COURT: What would have to be -- I'm not sure exactly what you
22 want.

23 THE DEFENDANT: What -- on NRS 52.260 it's an affidavit.

24 THE COURT: Uh-huh.

25 THE DEFENDANT: It's an affidavit and it has the legal format --

1 THE COURT: I understand --

2 THE DEFENDANT: -- on NRS --

3 THE COURT: -- what a custodian of record's affidavit is. Tell me what
4 you want it with regards -- what document do you want it --

5 THE DEFENDANT: The documents that I'm requesting that that record
6 was actually made; that's all I'm requesting. And, and --

7 THE COURT: You mean that an -- a search warrant was actually
8 generated?

9 THE DEFENDANT: From the custodian of records. It was actually filed
10 with the Court. This is the problem that -- there's no record with the Court that
11 the search warrant was filed. If, if there's no record with the Court, then what
12 comes into suspicion is that a judge actually authorized it. This is where you're
13 saying I have no legal grounds. Well, if you're not on file with the Court, how
14 are we going to know that the judge actually issued the warrant? How are we
15 going to know the judge actually authorized the warrant? It has to be returned
16 within 10 days so the judge can file it with the clerk of the court --

17 THE COURT: So --

18 THE DEFENDANT: -- 179.195.

19 THE COURT: -- hold on. You want to make sure it's been filed with --
20 and honestly sitting --

21 THE DEFENDANT: That's all I want, Your Honor, simply is just to validate
22 that the record was actually made. I think I, at minimum, I'm at least entitled
23 to that, that the clerk of the court which would be -- I mean, the clerk of the
24 court which is the custodian of records. Allegedly, it's supposed to be in the
25 District Court. I already know that it wasn't with the Justice Court, because

1 the Honorable Judge Saragosa certified that it wasn't. I have the record.

2 THE COURT: Okay, so --

3 THE DEFENDANT: I have the register of actions.

4 THE COURT: -- stop for a second. The one thing I can tell you is, sitting
5 here, there's a bunch of stuff on file. I don't have time to go back through and
6 look for it. I would have to sit there and look at it. And I can do --

7 THE DEFENDANT: Yeah, I know but I've already examined --

8 THE COURT: Can I finish a sentence --

9 THE DEFENDANT: -- I have the register of actions.

10 THE COURT: -- please? I, I try to give you that same respect, but we
11 can't make a record when we only have bits and pieces of sentences. What I
12 said is, "I don't have time right now in court because there's a lot of documents
13 filed in your case, so I will have to go back and look for the search warrant. I
14 know Kathy was quickly trying to go through it, but there's just too much for
15 her to be able to do that in court," okay? So I can look at that between now
16 and then. I just want to make sure that I'm clear on what you're asking for.
17 You want a custodian of records affidavit -- something to verify that it was in
18 fact, filed with the Court, correct?

19 THE DEFENDANT: Right. And in accordance with NRS 52.260. They
20 give a affidavit format -- the legal format on how it should be -- and all it says is
21 that the record was actually made on or in such and such a date, and so on so
22 for [sic].

23 THE COURT: Okay. So then let's continue it out for the State to look at
24 your reply, and also for the State to respond if they want.

25 COURT CLERK: That'll be November 16th, 9:30.

1 THE COURT: Okay. And then make a note we need to go back and look
2 for those to see where they're in in the record. All right.

3 COURT CLERK: Okay.

4 THE COURT: And Mr. Sweetin, thank you.

5 MR. SWEETIN: Thank you, Judge.

6 THE DEFENDANT: And Your Honor, I have one.

7 THE COURT: Yeah.

8 THE DEFENDANT: I filed another motion and that should have been filed
9 on Monday.

10 THE COURT: It didn't make calendar yet, so I don't know what hear --

11 THE DEFENDANT: Right, but it was indeed filed, right?

12 THE COURT: Can I finish a sentence?

13 THE DEFENDANT: Right.

14 THE COURT: The reason is is, again, you'll -- there'll be an inadequate
15 record in this case. I can't see that you filed a motion yet. When you get a
16 hearing date it'll come up on calendar, and I don't know what date it is unless
17 Kathy can see it right now.

18 COURT CLERK: Nothing else has been filed --

19 THE COURT: So she can't --

20 COURT CLERK: -- other than this motion.

21 THE COURT: She can't see it right now either, so it hasn't -- it takes a
22 little while between the time it's, it's filed, to when I can see it on the
23 computer. It's not instantaneous.

24 THE DEFENDANT: Okay. And so the actual court date that I have for the
25 continuance here is November -- what was that?

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COURT CLERK: 16th --

THE DEFENDANT: 16th?

COURT CLERK: -- at 9:30.

THE DEFENDANT: Oh.

THE COURT: And it would just be this, this motion that we had on today, okay, and then whatever reply you filed.

THE DEFENDANT: Yeah, the response, that's all I'm asking.

THE COURT: Yes.

THE DEFENDANT: Thank you, Your Honor.

THE COURT: Thank you.

MR. SWEETIN: Thank you, Judge.

[Proceeding concluded at 10:41 a.m.]

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



Kerry Esparza, Court Recorder/Transcriber
District Court, Department XXVI



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
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9
10 THE STATE OF NEVADA,) CASE NO: C-14-295158-1
11 Plaintiff,) DEPT. NO.: XXIII
12 vs.)
13 MELVYN PERRY SPROWSON, JR.,)
14 Defendant.)
15

16
17 BEFORE THE HONORABLE STEFANY MILEY, DISTRICT COURT JUDGE
18 WEDNESDAY, NOVEMBER 16, 2016

19 **RECORDER'S TRANSCRIPT OF PROCEEDINGS**
20 **DEFENDANT'S PROPER PERSON MOTION FOR DISCOVERY**

21 APPEARANCES:

22 For the State:

JACQUELINE M. BLUTH
Chief Deputy District Attorney

23 For the Defendant:

MELVYN PERRY SPROWSON, JR.
In Proper Person

24 Stand-By Counsel:

MICHAEL R. YOHAY
Deputy Public Defender

25 RECORDED BY: MARIA GARIBAY, COURT RECORDER

1 WEDNESDAY, NOVEMBER 16, 2016, AT 10:12 A.M.

2
3 THE MARSHAL: Page 3, C295158, Sprowson.

4 THE COURT: Good morning, Mr. Sprowson.

5 THE DEFENDANT: Good morning, Your Honor.

6 THE COURT: All right. Good morning, Mr. Sprowson.

7 All right; by the State. This is Mr. Sprowson's continued motion for discovery.

8 MS. BLUTH: I spoke to Mr. Sweetin, who was here last time, and he wanted
9 to give Mr. Pop -- excuse me, Mr. Sprowson certified copies of search warrants,
10 which I believe was his request, and so Mr. Sweetin went downstairs to the clerk's
11 office and got those copies made, and they are certified, so I could give those to Mr.
12 Yohay, and Mr. Sweetin just asked that they sign and acknowledge, but those are
13 certified copies that Mr. Sweetin personally received from the clerk's office, Judge.

14 THE DEFENDANT: Your Honor, I'd like to object, please, because I did not --
15 I asked for -- the statute is NRS 52.360 paragraph A. There is a statutory form that
16 is actually required -- my initial complaint is because this is what I have issues with.
17 Now, the thing is in my motion, I requested --

18 THE COURT: What exactly are you objecting to?

19 THE DEFENDANT: -- and I have it here for the Court the actual statute with
20 an example of what I've actually requested, if I may give this to the bailiff to show
21 you what I've actually requested in my motion. It's 52.260 -- 2-6-0, right.

22 THE COURT: Show Ms. Bluth first.

23 MS. BLUTH: You talking to me? Oh, yeah, the statute.

24 MR. YOHAY: Okay.

25 THE COURT: Where's Jason?

1 Okay. So you're showing me the statute. Why are you showing me the
2 statute?

3 THE DEFENDANT: Because I'm asking for certificates of custodian of
4 records which would be the clerk. Now, they keep giving me the certified copy thing,
5 which is fine and dandy, but what I'm requesting is that the record was actually
6 made, and this is the actual form -- statutory form that says certificate of custodian
7 of records that the EDCR designates the clerk of the court as the custodian of
8 records; so, simply what I'm asking for is in accordance to 52.260, I would like to
9 have this affidavit filled out by the clerk stating that the record was actually made,
10 attached to the actual document.

11 THE COURT: Have you read NRS 52.125, which indicates that certified
12 copies of public records are admissible, substantively?

13 THE DEFENDANT: I'm asking for an affidavit --

14 THE COURT: I understand what you want, but I mean here's the thing.
15 When we did the *Faretta* canvass, I understand there's certain limitations you have
16 being in the detention center, and I understand that it makes it a lot more difficult to
17 conduct discovery and everything else, but there's things that the State is required
18 to do and things that perhaps the Court is required to do, but this, whether you want
19 that custodian of records affidavit, that would be entirely up to you, and it's not
20 required under the statutes, because it is in fact a certified copy, which means it
21 would have -- be admissible on its own. So I don't understand what you want. It
22 sounds like you want to have the State go out and do the discovery you think needs
23 to be done, and that's just not going to happen; and so let me skip back.
24 You know, I understand there's been a lot of stuff, and we've had multiple hearings
25 about this, about the -- about the search warrants, and there's been three search

1 warrants, and you made some representations at the last hearing that, how do you
2 know Ms. Bluth didn't go home on her home computer and type up these search
3 warrants? I guess anything is possible in the world, but there's nothing to indicate
4 that that happened. What does -- what it does indicate -- the court records indicate
5 is that there was a search warrant, three search warrants that were issued. They
6 were, in fact, filed with the court in a timely manner. I understand that you've made
7 some concerns about the fact that at the very top right-hand corner in each of these
8 where it says the date it was filed, as well as it was filed in the Justice Court of Las
9 Vegas, Nevada, that there is no signature. In my experience and based upon
10 talking to the clerk's office, there is no requirement, and there's -- and you've cited
11 none in the statutes that indicate there has to be a corresponding signature on the
12 upper right-hand corner; but what there is in each of the three -- in each of the three
13 search warrants is all three of them are, in fact, signed by a judge. They're signed
14 by Susan -- Susan Baucum, who is a justice court judge, okay. All three of them are
15 certified. Albeit they may be copies of the original certified document, they are, in
16 fact, certified documents; so I'm not really sure what you're looking for. You made
17 representations that these are different than copies that you may have been
18 provided by the state. However, you haven't provided any copies of what you say is
19 different.

20 Well, we went back and looked. These are the only three search warrants,
21 and they appear to be the same three search warrants that were provided to you by
22 the State; and when I say the ones I'm holding up are ones that were obtained from
23 the vault. The ones in the vault are the exact ones the State has provided to you; so
24 quite frankly I don't know what you're talking about.

25 The only thing I can figure out, and all -- let me just say again, all these search

1 warrants are contained in the district court vault. Now where there may have been
2 some confusion, and we can only speculate as to what happened is they're not
3 contained in the justice court file, and the best I could figure is that perhaps they
4 were filed because there is evidence that they were filed, and there's no evidence
5 indicating this file stamp is fraudulent, and perhaps they were scanned into the
6 wrong case; but, ultimately, they are in the district court case. They are -- we have
7 copies in the vault, so I really don't know what you're talking about, honestly.

8 THE DEFENDANT: Well, I want to make two requests. First, Your Honor, I
9 would like to object to your initial ruling not to allow me to view the originals.

10 THE COURT: I don't even have the originals, sir.

11 THE DEFENDANT: Well, I have -- on the grounds --

12 THE COURT: I mean the problem is is once those are taken --

13 THE DEFENDANT: I haven't stated the grounds, Your Honor.

14 THE COURT: Once -- I know, but once those are taken in, I have no ability --
15 I cannot give you original documents. I don't have access to the originals. You
16 know what I have are copies of the originals.

17 THE DEFENDANT: Your Honor, this is what -- and I need to object. I object
18 on the grounds of EDCR 7.28, and I will go ahead and read it to you --

19 THE COURT: I don't need for you to read it to me. I need for you just to get
20 to the point.

21 THE DEFENDANT: Your Honor, this is an objection I'm making. I'm legally
22 entitled, for the record, to make an objection and the grounds of my objection, and I
23 would like to read it into the record.

24 THE COURT: I don't need for you to read the statute, okay?

25 THE DEFENDANT: But, Your Honor, I have a legal right to read it into the

1 record.

2 THE COURT: I understand, sir, but just tell me -- you don't have -- you don't
3 need to read the statute into the record. I have the statute, and you've provided in
4 your motions, okay; so tell me how the statutes apply to your argument, please.

5 THE DEFENDANT: Well, the bottom line is I'm requesting the originals, and
6 I've stated several reasons on why, that there are questions about anticity [sic].
7 Now I've raised those issues. Now, obviously, under your discretion, you have
8 reviewed them not -- there's questions --

9 THE COURT: You say there's questions as to authenticity, but I need
10 specifics, because you keep saying that the copies the State are providing to you
11 are different than copies you have. However, I don't have the copies you allegedly
12 have that are different from the State; so as I sit here, you've given me nothing in
13 order to be able to make an educated ruling, 'cause everything I have, the things
14 that are in the vault, are the same as what the State as provided you. There's just
15 nothing that you're giving as support for your arguments, other than just conjecture.

16 THE DEFENDANT: Your Honor, if I may read EDCR 7.28 --

17 THE COURT: I don't need for you to read it.

18 THE DEFENDANT: -- paragraph C.

19 THE COURT: I need for you to get to the point.

20 THE DEFENDANT: Your Honor, Your Honor, I have a right to --

21 THE COURT: I need -- no, stop --

22 THE DEFENDANT: -- state this.

23 THE COURT: You have a right to make a record.

24 THE DEFENDANT: By stipulation of the parties, I have stipulated and
25 requested the originals, Your Honor. It says it right here. That's the --

1 THE COURT: Well, your request for the originals is going to be denied --

2 THE DEFENDANT: That's what EDCR 7.28 --

3 THE COURT: -- because of what you've given me. Again, let me go back.
4 Your request for the original I'm assuming is premised on the fact that you believe
5 that what's in the vault is different than what the State's given you, but you've
6 provided nothing to indicate that there's two different documents, so if you have
7 these warrants that are supposedly different, absolutely that is important, but where
8 are they?

9 THE DEFENDANT: Your Honor, --

10 THE COURT: Where are they?

11 THE DEFENDANT: -- my objection stands on EDCR 7.28 paragraph C,
12 models, diagrams and exhibits of material forming part of the evidence taken in a
13 case may be withdrawn by order of the court in the following manner: By stipulation
14 of the parties, one. Number two, by motion made after notice to the adverse party.
15 Now I've done both of those, and I'm also requested -- this is not based upon my
16 initial argument of question about anticity [sic], I am questioning -- I want to see the
17 originals. I have a legal right to see the originals. Your Honor, you're limiting your
18 own power by not -- 'cause you have the -- like you stated, you have the authority to
19 issue a special order to call up that record. I've asked -- actually asked to actually
20 even directly examine the clerk of the court that the record was made. Now these
21 are not -- these are not difficult things to do. All I want to do is validate, because the
22 things that I have before me, sure the Court can say all they want about these, but I
23 want to see the actual, original documents so that I can view them and then also
24 have the affidavit which would attach -- the affidavit is supposed to be attached to
25 these actual documents that that way I know the clerk of the court is saying that

1 these documents I actually --

2 THE COURT: Then that's discovery you need to conduct, sir.

3 THE DEFENDANT: -- pulled up and copied.

4 THE COURT: It's not discovery for me to conduct for you, nor is it discovery
5 from the State, and where I keep going back to is --

6 THE DEFENDANT: I've requested --

7 THE COURT: Hold on. You're --

8 THE DEFENDANT: -- from the Court, and they keep telling me --

9 THE COURT: -- argument is of relevance to the extent of you say that the
10 warrants are different in some way. The ones that are contained in the vault as
11 originals versus what you've been given. That's what you've said at multiple
12 hearings that they're different, and that is a valid argument for someone to make.
13 However, it's nothing more than conjecture. You've given nothing to indicate that
14 what you're saying is in fact the case. You supposedly have something that's
15 different, so I don't understand where your inability is to provide what's different so
16 that there can be a comparison made. That's all I'm asking for. You have to give
17 more --

18 THE DEFENDANT: I understand that, Your Honor.

19 THE COURT: -- than just conjecture.

20 THE DEFENDANT: I understand that, Your Honor, but again, also, I'm still
21 referring to EDCR 7.28, where if I request from the Court, which I've requested from
22 the Court to view the documents based on EDCR, paragraph C, section 1 and 2,
23 and -- I'm asking --

24 THE COURT: Okay.

25 THE DEFENDANT: -- based upon that, because you have the power to issue

1 a special order for me to actually view the originals, and it doesn't have to be based
2 upon a question of authenticity in that case. This is EDCR 7.28. This is your own
3 power to issue a special order is to do that, and that's my request. I've actually
4 already filed a motion that I requested the originals to the State and this Court; so,
5 you know, my request is not a very difficult one. I simply just want to have the clerk
6 verify in an affidavit that one, that the document that that affidavit is attached to, that
7 this is the record, and that it was made on such-and-such date, according to the
8 statute, NRS 52.260. That is the request for a custodian of record.

9 THE COURT: And how -- how do you suppose --

10 THE DEFENDANT: This is my request based upon EDCR 7.28.

11 THE COURT: And how are you supposing to obtain the affidavit, 'cause
12 remember, I'm not an arm of your case. I mean, I'm not going down -- go out there
13 and do discovery.

14 THE DEFENDANT: I understand that, Your Honor. It says that it's done
15 through subpoena. Now since I am incarcerated, I have requested this Court to
16 subpoena the clerk on my behalf.

17 THE COURT: No, you have to issue the subpoena, sir.

18 THE DEFENDANT: Well the thing is I have to request through the district
19 court to actually issue the subpoena, so.

20 THE COURT: Okay. So, there are several other things. So you've asked for
21 the original. You've indicated why you want the original, but you've not really given -
22 - all right, and you've made a lot of other representations, so one of the things,
23 again, you set forth in your motion was defendant has copies of the warrants which
24 are different, and I've asked multiply different ways. Where are the copies that you
25 indicate are different?

1 THE DEFENDANT: I have -- I have them in my files.

2 THE COURT: Okay, so we've had multiply hearings at this point --

3 THE DEFENDANT: This is the second one.

4 THE COURT: -- and the State has denied that there is -- the State's position
5 is that there's three warrants. The warrants are what they are, and that there's no
6 other differing warrants stemming from this case. You indicate something different,
7 but today, no one's seen it; so I have no ability to compare anything to see if what
8 you have is perhaps different than what's in the court record.

9 THE DEFENDANT: Okay, so, basically, you want me to subpoena to get the
10 affidavit from the clerk. Now, I've tried that, and the clerk tells me -- keeps giving me
11 a round-around on all of that issue, so, you know, --

12 THE COURT: Okay, but again, on the warrant issue --

13 THE DEFENDANT: -- I just keep going in circles here.

14 THE COURT: -- you say you have it in your housing, so you have the
15 different one. Why haven't you just provided it, because it seems like it would be
16 easy? Attach it to everything, and we could compare, and I absolutely would if I had
17 the documents, but you haven't provided it.

18 THE DEFENDANT: Well, I'll probably have to follow up on that, Your Honor,
19 because I was -- like I said, I'm trying to go step-by-step. You know, like I said,
20 there's several reasons -- or several things that I actually stated in my motion in
21 regards to that. You know, I simple wanted to -- I listed several things. I wanted to
22 get -- first of all to be able to view the originals. According to the State, justice court
23 didn't have it. Well, these copies that they're giving me strangely enough came from
24 justice court. Now, when I originally asked for justice court, they said, well, it's in
25 district court.

1 THE COURT: They didn't come from justice court. My guess is they were
2 filed in the justice court, --

3 THE DEFENDANT: Right.

4 THE COURT: -- and I've already indicated to you what we've been able to
5 see is they're not in the justice court record, but they are in the district court vault,
6 which means they are in this case.

7 MS. BLUTH: May I explain something to Mr. Sprowson, on our jurament?

8 THE COURT: Yeah, no; that's fine.

9 MS. BLUTH: So -- and I'm happy to give him this set, because I think the
10 original that he received was a copy, but this actually has the embossment, and he
11 can feel it. This is what the clerk did. This is how he knows it's actually from the
12 clerk's office, and so, and we can explain to him, you know, the clerk's office, but
13 they went; they got the copies from the vault; they embossed it; so he knows it's a
14 certified copy from the exact clerk, and I'm happy to give him this original copy that I
15 have, --

16 THE COURT: That would be great, because that's more than what I have.

17 MS. BLUTH: -- and then maybe we can put this to rest, and every -- every
18 single one of the three, here's my -- my copy was the originals with the
19 embossment, but I'm happy to give them over so he knows these are absolutely
20 certified from the clerk herself.

21 THE COURT: They're certified copies?

22 MS. BLUTH: Yes; it's certified copy with the clerk's embossment, --

23 THE COURT: Okay.

24 MS. BLUTH: -- which is better than an affidavit. It's actually her signature
25 and the embossment. He can check them.

1 THE COURT: Well that's more than what I have. I just have copies.

2 Okay, so let's go through the other things. So, again, on the copies that are
3 different, you need to provide additional documentation. Now you have the certified
4 ones, so the -- basically they're indicating those were -- came directly from the
5 vault. The other thing we talked -- I talked about already, is you've represented
6 there's no judge's stamp. There is. There is a signature by Judge Baucum on each
7 of the three warrants. What additional issues are you having with that?

8 THE DEFENDANT: Okay, Your Honor, I'm satisfied for now, but I'm still --

9 THE COURT: Okay.

10 THE DEFENDANT: -- going to pursue this. I just want to say my original
11 objection still stands. I still would like to see, you know, the actual originals.

12 THE COURT: Okay, well let's --

13 THE DEFENDANT: You know, I had this problem because of this. I mean,
14 obviously, this is what you're going to provide to me, so I'll have to follow up on this.

15 THE COURT: All right. So you brought up a lot of sub-issues on this. Does
16 that mean they're moot, or do we need to go through them, because it was the
17 judge's stamp, which I -- as I indicated, if you look at those, on every single one of
18 them, there's a signature from Judge Baucum. The lack of clerk's signature, as I
19 indicated to you, that everyone of them does indicate that it was filed with the justice
20 court where it needed to be filed, and all those file dates indicate that they are
21 timely, so the only thing I can figure out is you're having an issue with the fact
22 there's no clerk's signature on the upper right-hand corner on the stamp, and there's
23 just not a requirement that they have to sign it, and ordinarily they don't. And then
24 the other one it's the lack of papers in connection what you're saying that there's
25 certain things were not contained within the warrant -- or contained within what was

1 filed on the warrant. However, it looks like what you're saying should be there is not
2 statutorily required to be there, which is the forensics report and a chain of custody
3 form, because everything else indicates that the statutory requirements, which are
4 the application, affidavit of warrant, and the page consisting of the warrant return
5 and the inventory, it looks like those are all attached to the warrant, so what
6 specifically are you looking for there?

7 THE DEFENDANT: Well, this says papers in connection -- papers in
8 connection, -- forensics report, it says that it's supposed to be there. The forensics
9 report is listed. This is -- if you look at a search and seizure return, you're the
10 Judge, I just suggest a -- a scenario. You're the Judge; you issue a search warrant;
11 you have a search and seizure return. It says these are the things that were actually
12 obtained in the search warrant, okay. In the warrants, it says forensics report. Now
13 that would tell you absolutely nothing, because if you look at the forensics report, it
14 doesn't really tell you what was actually seized, and so when you have a forensic
15 report, it is a paper in connection, and it should be attached to the search warrant,
16 because it tells you exactly what was seized, and this is how you're able to -- the
17 judge is able to say, okay, you know, this is what you requested; this is what you
18 wanted to look for the search; the search and seizure return shows what was
19 actually obtained, and a forensics report, that's why that should be attached to the
20 papers in connection. The chain of custody, obviously, if you've got evidence, and
21 you're saying, that look, I put it here, I put it here and to this person, I should also
22 have a chain of custody form that says who it went to from this person to this, this
23 person, and this person. See, the search issue of searching that they've actually
24 seized evidence, this evidence -- I know from a forensics report, that custody -- the
25 chain of custody I may -- I may not be correct about, but I would assume that that

1 would be something that would be included, simply because you have evidence
2 involved; and what you're saying is, look, I'm putting the evidence here. This person
3 handled it. This person handled it, and this person handled it, and in order to verify
4 that, that document should be at least with the search and seizure return, because
5 it's in regards to the evidence. Now, I may not be correct about that, but the forensic
6 report still should be before the judge, so that -- where the judge can actually see
7 what was actually seized.

8 THE COURT: Okay. So I'm going to let the State respond, because looking
9 at it, I'm looking at NRS 179.095, and it does appear that everything that is
10 statutorily required to be included is in fact included. Does the State have any
11 additional information?

12 THE DEFENDANT: Well, as a general statement -- oh, I'm sorry.

13 MS. BLUTH: Well, I'm just kind of confused at what forensic report he would
14 like attached, because at the time of the search warrant, there's obviously -- there is
15 no forensics done, right, so they just grab the things; they search and then they
16 seize; and then anything thereafter, they do forensic -- if they do like a cell phone
17 dump or a computer dump, then a report is generated, which has been done in this
18 case, and which was provided; but you would never be able to have a forensic
19 report attached with the return or attached with a search warrant, because none
20 would have even been able to have been done by that point.

21 THE COURT: I know that --

22 THE DEFENDANT: Well, it says forensics report.

23 THE COURT: It sounds like what you want's the inventory.

24 THE DEFENDANT: Well, it just -- I mean, let me go to the case so I can offer
25 these --

1 THE COURT: Sure.

2 THE DEFENDANT: -- make my point. Okay, it says the following is an
3 inventory of property taken pursuant to the warrant: I-Phone 4 forensics report.
4 Okay, now if a forensic report is the inventory, I should be able to see the forensics
5 report, because, look, if you're the judge, look, if I'm a judge, and I'm reading this: I-
6 Phone forensics report, I still have no idea of what you actually seized. I mean, he
7 says forensics report. It says the following is an inventory of property taken
8 pursuant to the warrant: a forensics report. It just seems awful odd to me, Your
9 Honor. You would at least have what is contained in a forensics report, because
10 this -- and it's not -- a search warrant is issued -- is issued and executed one day.
11 It's filed another, so there's a time period within that. You have enough time to
12 actually get a forensic -- well, of course, the way this is indicated, that it is -- a
13 forensic report was done and that's the inventory.

14 MS. BLUTH: No. So, I understand what the confusion is. So the search
15 warrant says that you can -- so it can search and seize, so we can grab the phone,
16 and then we can -- he doesn't have to do a piggy-back warrant to then search the
17 phone. So, this paper gives them authority to take the phone and then later run a
18 separate search on the phone and not have to do a second search warrant to
19 search it, so later a report will be generated; and, of course, at this point, it's already
20 been generated, and it's already been given to Mr. Sprowson, so I see what the
21 confusion is, because it does say the inventory would be taken would be the, like,
22 for instance, on the other one, which is the computer -- computer forensics reports.
23 That's just so they don't have to do a separate search warrant. This includes the
24 computer itself, seizing it, and then later searching it, and then we have an
25 obligation to turn that over, which we've done, so maybe that will clarify.

1 THE DEFENDANT: What has been turned over, Your Honor? I have not
2 received any forensic report at all. I have not received any chain of custody; and
3 then I may have to follow up with a discovery motion in regards to those. My main
4 issue is if I had the forensic report to begin with, I probably wouldn't have brought all
5 this to the Court in the first place, and --

6 THE COURT: Okay, so --

7 THE DEFENDANT: -- that's what the initial question was.

8 THE COURT: -- I don't have the discovery the State gives you, so the state
9 indicates that it was provided. Was it provided in the initial discovery that was given
10 to him?

11 MS. BLUTH: Correct, and Mr. Sprowson said he needed an expert. That's
12 why our trial was continued. He needed an expert to go through those reports with
13 him.

14 THE COURT: Do you perhaps have it?

15 THE DEFENDANT: I've -- I never received a forensics report. I never
16 received a chain of custody, either.

17 MS. BLUTH: Those are what's on those disks.

18 THE DEFENDANT: Yohay gave me nothing but pictures on it, and he said --

19 MS. BLUTH: So, because Mr. Sprowson is his own attorney, and because
20 he's incarcerated, and because those reports have images of a child in sexual
21 positions on them, he has to -- he can only do that with Mr. Yohay at the jail or
22 wherever the Court deems fit for them to do, and so that's what he has. He can't
23 give you those --

24 THE DEFENDANT: Your Honor, I'd like to object when she said sexual
25 positions.

1 MS. BLUTH: Those are the charges. I mean, he can't object to the charges.

2 THE DEFENDANT: I'm still objecting to her statement on sexual positions.

3 THE COURT: So is there -- other than --

4 THE DEFENDANT: That's -- that's for a trial -- a jury to decide.

5 THE COURT: Other than photographs -- okay; other than photographs that
6 may have been obtained, is there a separate report discussing anything that was
7 obtained off the computer and the phone that would be something that could be
8 printed out for him, because the disk, I'm guessing, Mr. Yohay's taking them back
9 and forth. He's not probably leaving them with the jail.

10 MS. BLUTH: Because it's so voluminous, it's on the disk. I can see how
11 many pages, and if I could print it, I'd have to remove the images.

12 THE COURT: Can you -- Okay, so --

13 THE DEFENDANT: Your Honor, the only thing indicated to me that's on that
14 CD, and Mr. Yohay is here -- we can ask him -- are the -- are images that were
15 taken of my apartment, and there are also some other images that are in regards to
16 the charges that I'm being charged with, which is what the State is talking about. I'm
17 talking about documentation, a forensics report --

18 THE COURT: I understand what you're talking about.

19 THE DEFENDANT: -- may I just say something for a second, Your Honor. I
20 just need --

21 THE COURT: No, please. You're taking up like my whole calendar, and I
22 think we can speed it along, --

23 THE DEFENDANT: I just have one other thing to say, Your Honor.

24 THE COURT: -- because you bring up the same thing at every hearing, sir.
25 Tell me exactly what you want. So there is photographs. I haven't seen the

1 discovery. There's photographs and it sounds like other items, or did you just see
2 photographs?

3 THE DEFENDANT: Photographs are not a forensics report is my point.

4 THE COURT: Okay. I get that, so I get that; so, obviously, the photographs
5 can't remain at the jail for a multitude of reasons, but it sounds like everything else
6 that may be on there probably could be printed out and given to you. That way you
7 can have custody of it at the jail, and you can look at it at your leisure. Is that what
8 you want?

9 THE DEFENDANT: Mr. Yohay has already provided that, and it's only
10 pictures.

11 THE COURT: Okay.

12 THE DEFENDANT: This is what I'm saying is I still do not have a forensic
13 report. Forensic report is not going to be a set of photographs. A forensic report --

14 THE COURT: She's saying she has it. She's saying there is a separate -- if
15 I'm hearing her correctly, she's saying there's photographs and there's a separate
16 forensic report. She's saying, though, it's all on the CDs, or that whatever you gave
17 him, zip drive. I don't know what you gave him.

18 MS. BLUTH: I'll print it. Let me see if I can print it. We're here on Monday.

19 THE COURT: Well, just print it.

20 MS. BLUTH: We're here on Monday, and I'll bring it.

21 THE COURT: How about -- would that work?

22 THE DEFENDANT: If I get -- if I get the forensics report, that will at least be
23 able to tell me what was actually seized, and that would have to be done by an
24 official forensic expert, obviously.

25 THE COURT: All I can say is at this point, 'cause I don't have the discovery,

1 is, Ms. Bluth --

2 MS. BLUTH: Yes, Judge.

3 THE COURT: -- is it possible to print everything separate and aside from the
4 photographs so that he can have them at the jail and look at them at his
5 convenience?

6 MS. BLUTH: I believe so. I just don't want to be caught in a statement when
7 then I'm later unable to do so. I'm going to go back and do this right now. Normally,
8 the forensics report, there's like a base to the report, and then there's all the
9 supporting documents. I'll see if I can just print the base, which I don't see why I
10 wouldn't be able to, and I'll bring that to Mr. --

11 THE COURT: Would the supporting documents be the photographs
12 themselves?

13 MS. BLUTH: So it just shows like all incoming text messages, all outgoing
14 text messages, all incoming pictures, all websites he ever searched. I mean it's like
15 -- it can be thousands and thousands of pages. That's why they always do it on
16 disks, but the actual report itself which talks about how extractions are done, that
17 can be printed, what type of software they use, the expert's information, and we
18 have noticed an experts in our expert notice, so I will get -- I will get that, and I'll be
19 here on Monday.

20 THE COURT: Okay.

21 MS. BLUTH: I believe we have a motion for jurisdiction on Monday on
22 calendar.

23 THE DEFENDANT: The 28th.

24 THE COURT: I don't think it's Monday.

25 MS. BLUTH: Oh, the 20th, okay, so two.

1 THE COURT: That's a holiday, mm-hmm. Okay, so do you want to start with
2 that so she can print out whatever she can print out, separate and aside from those
3 pictures?

4 THE DEFENDANT: Well, the State has said that they've already given this
5 information to Mr. Yohay. Now, I've seen no -- she's stating -- I don't know if I'm
6 correct -- that that report was not included in the CD?

7 THE COURT: I think she was saying it was on the CD --

8 THE DEFENDANT: That it's just the photographs? She's saying --

9 THE COURT: -- in addition to the photographs.

10 MR. YOHAY: And, Your Honor, if I could just make some representations.
11 What I did is when I received the CD, I gave them to our IT department, basically
12 told them print everything off the CD, and I took those; I went through; I separated
13 out the pictures that I believed that the Court would find inappropriate for him to
14 have at the jail. I separated those out, and I sent everything else to him, so I honest
15 -- I can't remember exactly what everything was. I know the majority of it was
16 pictures, but --

17 MS. BLUTH: In an effort to move it along, I'll be happy to do it.

18 THE COURT: Perfect. Okay, so can you get it to him? Well, you want to
19 give it to him at the next hearing, or --

20 MS. BLUTH: Mr. Yohay, what's the easiest way to do it?

21 MR. YOHAY: You can send it to me.

22 MS. BLUTH: Okay.

23 MR. YOHAY: You can just email it to me if that's easier.

24 THE COURT: Because that way, he has over the next week to look at it, and

25 --

1 MS. BLUTH: Sure.

2 THE COURT: -- then the next hearing we know what you have.

3 THE DEFENDANT: Your Honor, just because you're giving it to Mr. Yohay
4 doesn't mean that I'm going to get it. If Mr. Yohay --

5 MR. YOHAY: I'm going to probably go over and meet with him on Friday, so.

6 MR. BLUTH: That would be great.

7 THE DEFENDANT: Well, I mean if that's going to be solid and firm, because I
8 mean I have had representation that I'm going to meet -- I'm going to meet, going to
9 meet him, and I never meet him. Obviously, I'm already at a disadvantage, Your
10 Honor. I need this stuff so I can have my defense ready for trial.

11 THE COURT: I recognize that. I agree with you.

12 THE DEFENDANT: Okay, and I know this --

13 THE COURT: So, hold on. Get to the point. How would you like for it to be
14 brought to you, sir?

15 THE DEFENDANT: Well, if she wants to produce it to me or give it to me, it's
16 all right. Give it to me on the 28th, that would be fine, but --

17 THE COURT: Okay.

18 THE DEFENDANT: -- again, it may not be what I'm actually looking for, and
19 again, it may be subject to certain things, because, you know, forensic report, I have
20 some --

21 THE COURT: Got it. How do you want it? You want it delivered to you on
22 the 28th versus Mr. Yohay bringing it? Is that --

23 THE DEFENDANT: In court, 28th, at that hearing would be fine for me at this
24 point.

25 THE COURT: Okay, so she'll bring it to you then. Okay.

1 MS. BLUTH: Sounds good.

2 THE COURT: So, let's see, the last issue you brought up was the warrants
3 do not indicate inappropriate photos, and the State's response's basically is they're
4 kind of in a catchall in that they're searching everything on the computers and that
5 the photographs would have been something that would have come up while
6 executing the search warrant. So what exactly is your issue?

7 THE DEFENDANT: Well, is that the photographs?

8 THE COURT: Yeah. They're saying they were basically in plain view when
9 they were looking for everything else on there.

10 THE DEFENDANT: I'm not sure what you're saying, Your Honor.

11 THE COURT: Okay, so -- oh, this is your motion. You say none of the
12 warrants are for inappropriate pictures, specifically. Rather they are for data and
13 computers.

14 THE DEFENDANT: I guess that's on the State's opposition. That's not what I
15 did.

16 THE COURT: Well, we've had this a few times. Is there anything else? Let
17 me just say it like this. Let's see, you said there's a question of how many warrants
18 are on file. Is that still an issue? We show three.

19 THE DEFENDANT: Well, three; that's actually -- yeah, that satisfies that.

20 THE COURT: Okay. And then there was argument about the State's
21 opposition was late, and I don't recall whether it was or wasn't. This has been on a
22 few times, but assuming it was, where's the prejudice? We're trying to get you
23 everything that you believe you need.

24 THE DEFENDANT: Well, EDC -- it was based on EDCR 3.20, and they filed
25 their opposition 31 days after I filed -- I filed my motion September 20th.

1 THE COURT: Okay.

2 THE DEFENDANT: They filed their motion -- was it October 21st, if I recall
3 correctly. I have the dates actually in the motion.

4 THE COURT: So what remedy are you asking for?

5 THE DEFENDANT: The point is is that there's supposed to be a seven-day
6 return. That was the whole issue with my response, because they filed their
7 opposition so late. This is why I asked for the continuance is because I filed a
8 response. The response was delayed and I tried to get it to the Court in a timely
9 fashion, 'cause I wrote my response in a timely fashion, as well, --

10 THE COURT: Uh huh.

11 THE DEFENDANT: -- and because it was 31 days late, you know, I really
12 didn't have a turn-around, but you did give me a continuance, and I did receive
13 some relief from filing that, but my -- the statute, and I should say the court rule says
14 seven days, Your Honor. I just hope that they would respect -- would at least honor
15 that so that I can file whatever I need to in a timely fashion. You know, I also
16 requested several other things in that motion, Your Honor.

17 THE COURT: We're trying to go through everything.

18 THE DEFENDANT: I know, Your Honor.

19 THE COURT: So, really, what -- are you asking for any remedy?

20 THE DEFENDANT: As far as the -- well, you've already given me relief.

21 THE COURT: Okay.

22 THE DEFENDANT: I have my response before you. I'm hoping that you read
23 it. I did direct my request towards you, instead of the State.

24 THE COURT: I've read it.

25 THE DEFENDANT: I still would like to have a direct examination of the clerk

1 just in regards to these documentations. That hasn't been done, obviously.

2 THE COURT: Okay. Then let's move on to the next thing you brought up.
3 You said the district court docket does not list any search warrants, and as I started
4 with, you're right, and I can only surmise why, or I can only guess why, but the
5 bottom line is they are filed in the district court case. So is there anything else on
6 that issue?

7 THE DEFENDANT: You're going to confirm that for the record?

8 THE COURT: I know from looking at the court system, that it's not showing
9 up in the justice court case.

10 THE DEFENDANT: This is why I wanted --

11 THE COURT: It was filed -- you're right. It was filed in the justice court. We
12 could not find it in the justice court, but it is in the district court, and they are in the
13 vault.

14 THE DEFENDANT: And you're going to confirm that for the record?

15 THE COURT: I'm just telling you -- I'm not -- I'm just telling you what I could
16 see. Maybe the State has more information.

17 THE DEFENDANT: Well, see, this is why I wanted the -- wanted to be able to
18 talk to the clerk of the court custodian of records who directly examined them.
19 That's why I requested that and -- and pursuant to EDCR 7.28. That's why I
20 requested the originals, so that I could actually look at the originals and then find
21 that the record was actually made in that affidavit. This certified -- this certification
22 on here, this is all great, but this is not actually what I asked for, and I asked for --

23 MS. BLUTH: And I'll take those back, 'cause those were my copies. If he
24 doesn't want those, then I'll take them back, and he can sub the clerk. He does not
25 have a legal right to any of this. I understand that Your Honor has so much

1 patience, since we're trying so hard to work with him. I'm bending over beyond
2 backwards to help him, but at this point, he is out of control. He keeps saying he's
3 at a disadvantage. He chose that disadvantage. He chose to represent himself. If
4 he doesn't think that he can get the job done, then maybe Mr. Yohay needs to step
5 in, but we cannot continue to bend over backwards, over and over, and over again,
6 because Mr. Sprowson isn't an attorney, and he's asking this Court to do things that
7 I shouldn't be doing and that this Court shouldn't be doing.

8 THE COURT: All right.

9 THE DEFENDANT: I'm only asking for my rights, constitutional rights.

10 THE COURT: Okay, so here's the deal. Did you hand back the affidavits?

11 THE DEFENDANT: Yes, I did.

12 THE COURT: Most of -- okay, so --

13 MS. BLUTH: Thank you.

14 THE COURT: -- I think what we're leaving this hearing with is that the State,
15 in order to accommodate you, and she's right, they are not required to do so. We
16 went through all this when you desired to represent yourself. As they're going to --
17 it sounds like it's going to be duplicative, but so be it, of what Mr. Yohay's given you.
18 They're going to give you whatever was on those -- I don't -- again, I don't know if
19 it's a CD or a zip drive, but whatever was on those disks with the discovery, they're
20 going to give you a printout of everything, other than the photographs, okay; and the
21 photographs you should have been shown by Mr. Yohay or have had access to
22 through Mr. Yohay. They just can't stay at the jail because they do depict someone
23 who is still a minor, but they're going to provide you everything. At your request,
24 you're going to wait until our court hearing on November 28th in order to receive
25 those items from the State, so that the State can give them to you directly here in

1 court.

2 With respect to everything else that you've raised, the Court is going to deny
3 any relief at this point. It is your responsibility to issue any subpoenas. It's not my
4 responsibility, and it's not the State's. As far as your arguments again that the
5 warrants that you have are different from the warrants that are in the vault, again, as
6 we talked about ad nauseam, there's no evidence other than your own self-serving
7 statements. Everything we have indicates what's in the vault is the same as the
8 copies the State has provided you in the course of discovery. As I indicated, the
9 allegations of no judge's stamp, that's just belied by the record, in that every -- every
10 one of those three search warrants does have a signature from a judge, and that's
11 Judge Susan Baucum in the Las Vegas Justice Court.

12 Again, as I indicated, you brought the issue of the lack of the clerk's signature
13 on the stamp in the upper right-hand corner. There is no requirement either under
14 local court rules or under the statutes, to indicate that has to be signed by the clerk.
15 However, it does properly indicate that the warrants were filed in the appropriate
16 court, which is the Las Vegas Justice Court, and they were timely filed pursuant to
17 statute.

18 With respect to the lack of papers in connection, again the State is going to
19 provide you some additional documents as far as the catchall within that statute, but
20 as far as everything else that's required within the statute to be attached to the
21 warrant and filed with the court, those are all there.

22 With respect to the inappropriate photo issue, that's been decided and
23 discussed over and over again with the Court. It's been previously denied as having
24 -- not having any merit.

25 As far as the question of how many warrants are on file, I don't think there's

1 any dispute today that there were three warrants on file. That is consistent with
2 what the Court --

3 THE DEFENDANT: I'd like to object. I still --

4 THE COURT: Hold on, stop, 'cause I've got to wrap this up and move on.
5 That is consistent with everything that's in the court -- that's in the vault, that there
6 was only three warrants in this case.

7 As far as the State's opposition being late, you've indicated that you did
8 receive the relief you were requesting. You've received additional time to present
9 whatever evidence you needed to the Court.

10 As far as the request to view the originals of the search warrants, at this time
11 that's going to be denied. However, the State did offer to provide you certified
12 copies of the originals which would indicate that they were in fact the actual
13 documents that were coming from the vault.

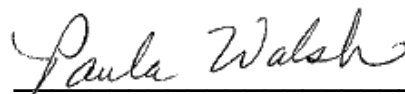
14 As far as the justice court docket does not list any search warrants, as I've
15 indicated, it appears that you're right, but really, there's no prejudice to you in that,
16 again, the warrants were filed in the proper court. They were timely filed, and they
17 are in the district court.

18 So, we'll see you for the next court date on the 28th. Thank you.

19 [Proceedings concluded at 10:48 a.m.]

20 * * * * *

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

23 

24 Paula Walsh
25 Court Recorder/Transcriber



1 RTRAN

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3
4 DISTRICT COURT
5 CLARK COUNTY, NEVADA
6

7 STATE OF NEVADA,

8 Plaintiff,

9 vs.
10

11 MELVYN PERRY SPROWSON, JR.,

12 Defendant.
13

)
) CASE NO. C295158-1
)

) DEPT. NO. XXIII
)

) **TRANSCRIPT OF PROCEEDINGS**
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)
)
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14

15 BEFORE THE HONORABLE STEFANY A. MILEY, DISTRICT COURT JUDGE

16 MONDAY, NOVEMBER 28, 2016

17 **STATUS CHECK: TRIAL READINESS**
18

19 **APPEARANCES:**

20 For the Plaintiff:

JACQUELINE M. BLUTH, ESQ.
Chief Deputy District Attorney

21 For the Defendant:

MICHAEL R. YOHAY, ESQ.
Deputy Public Defender
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23
24

25 RECORDED BY: MARIA L. GARIBAY, COURT RECORDER

1 MONDAY, NOVEMBER 28, 2016, 11:02 A.M.

2
3 THE MARSHAL: Page 4, C295158.

4 THE COURT: Mr. Sprowson, good morning.

5 THE DEFENDANT: Good morning, Your Honor.

6 THE COURT: All right. So we just set this to make sure -- I don't --
7 there's Ms. Bluth.

8 MS. BLUTH: Good morning, Your Honor, Jacqueline Bluth on behalf of
9 the State.

10 THE COURT: Hi. Just trial readiness to make sure that everything is
11 heading towards you being ready for trial in March.

12 THE DEFENDANT: I'm still working with Mr. Yohay on some things.

13 THE COURT: Mm-hmm.

14 THE DEFENDANT: And I'm still getting ready to file a couple motions as
15 far as the getting an investigator and the expert witnesses.

16 THE COURT: Mm-hmm.

17 THE DEFENDANT: So I'm working on that. And I'm still working on one
18 other discovery that I'm missing as far as -- as I'm going through my files and
19 stuff. I'm still going through some of the discovery with Mr. Yohay as well.

20 THE COURT: The -- hurry up and get those motions in because from the
21 ones it sounds like you're going to file, some of them take a little bit of time.

22 THE DEFENDANT: Yeah, I realize that, Your Honor. I am working on it.

23 THE COURT: Okay.

24 MS. BLUTH: Judge.

25 THE COURT: Anything else?

1 MS. BLUTH: Yes. This morning, if you remember last time we were
2 here, Mr. Sprowson asked for the, I don't know, the summary of the report that
3 was done on the forensic examination --

4 THE COURT: Mm-hmm.

5 MS. BLUTH: -- of the victim, so I provided this to Mr. Yohay. These are
6 the first documents that can be found on the CD that I turned over to the
7 defense on December 9th of 2015. So Mr. Sprowson should have access to
8 these pages of the report as well as all of the database that goes along with the
9 forensic dump that was done on it. It's my request, Your Honor, if you
10 remember we were set for trial in December of last year and the defense said
11 that he wouldn't be ready and he needed an expert, so we got a firm set for
12 June of 2015.

13 THE COURT: Mm-hmm.

14 MS. BLUTH: The Defendant then said he still hadn't done anything and
15 he needed to get an expert. And now we're getting close to December of 2016
16 and he's still saying the same thing. March was given to him as a firm set.
17 The victim is now an adult. She's now in college. And I mean I don't know
18 what else we can do. So at this point, I'm asking for 30-day or 45-day status
19 checks because at some point this has to go to trial. And so he's been given a
20 firm set for March and I don't see any reason why these things haven't been
21 done up to this point.

22 THE COURT: Okay.

23 THE DEFENDANT: Well, one of the reasons is I'm in the medical unit
24 right now. I'm actually restricted from accessing the law library, so I have to
25 do everything in handwritten form. I've requested to meet with Mr. Yohay.

1 Mr. Yohay has a busy schedule and that hasn't happened. I'm doing everything
2 I can to make things happen. March is a timeline that we have, and some of
3 the things that I have to do I'm working on at the best that I have available to
4 me. I am incarcerated and I understand the limitations of self-representation
5 and all of that.

6 THE COURT: And you still want to represent yourself?

7 THE DEFENDANT: But I am doing everything that I can considering the
8 factors that I am in the medical unit, that I am restricted from access to the law
9 library. I am restricted in a lot of ways. A lot of times my legal mail is being
10 held up. I don't get mail for two or three weeks when it was already -- for
11 example, a law library, I have a request, it was fulfilled the next day. I don't
12 get in for two weeks later. How can I file a motion when I need the case law
13 that I don't have access to where in if -- when I was in another unit, I could
14 simply go up to the kiosk, I can type it in and I can do my legal research, which
15 I'm legally entitled to do.

16 Now, if you want to talk about me doing things slow. I am really,
17 really restricted and I am doing the best I can. I think I'm actually doing pretty
18 good considering the factors that I'm going through CCDC's process of handing
19 in legal paperwork, waiting for the process to go through and then getting it
20 back. And then because they don't want to pick up the mail, I get it two or
21 three weeks later when it's fulfilled the next day.

22 THE COURT: Do you still feel it's in the best interest to represent
23 yourself, sir?

24 THE DEFENDANT: Yes, I do.

25 THE COURT: Okay. So we'll just set it for a status check. It'll be the

1 beginning of January. As far as the motion to appoint an investigator, get that
2 one in soon.

3 THE DEFENDANT: Yeah.

4 THE COURT: Because if it's granted --

5 THE DEFENDANT: 'Cause like I said, I'm working on --

6 THE COURT: -- it takes a period of time because I have to get funding
7 authorized, okay?

8 THE DEFENDANT: Yeah, I understand that. 'Cause like I said, you know,
9 I'm doing the best I can, Your Honor. I don't have access to information. And
10 like I said --

11 THE COURT: That's fine.

12 THE DEFENDANT: -- the [indiscernible] resource I have is filling out those
13 forms and I have to wait for CCDC to give it back to me and I'm waiting on
14 them.

15 THE COURT: Okay. So --

16 THE DEFENDANT: So a lot of the problem is it's the system, not me.

17 THE COURT: -- we'll see you in the beginning of January unless you
18 have a motion that prompts a court date before then, okay?

19 THE DEFENDANT: Okay. And I just have -- if I may make one comment
20 about this, Your Honor.

21 THE COURT: Yeah.

22 THE DEFENDANT: This is not what I asked for. This has to do with
23 when I was remanded, there was a forensic report supposedly done on that. I
24 asked for the forensics report that was done on my phone and on my computer.
25 That's what I asked for. This is -- this has nothing to do with what I asked for.

1 This has to do with the -- when I was remanded back in February of 2014.
2 They supposedly did -- and I don't know if they did, they supposedly did a
3 forensics report on the alleged victim's equipment and my email. I'm asking for
4 what's stipulated in the alleged or purported search warrants which is a
5 forensics report and I'd like to have the chain of custody report as well.

6 There's other outstanding discovery and I'm still working through as
7 I'm going through my files. And I may have to file another discovery motion in
8 fact in regards to those things.

9 MS. BLUTH: In regards to the -- so the forensics that have been done
10 were done on the victim's -- she had an iPod, so that pages -- or excuse me,
11 that, the discovery on that is tons and tons of pictures which obviously we
12 have said I can't bring to court.

13 THE COURT: Did you give Mr. Yohay copies?

14 MS. BLUTH: Yes, those are on a disk. And the Defendant, though, when
15 Mr. Yohay meets with him, they will be able to view those, everything on that
16 report including the pictures. I don't know where they can go to do that at the
17 jail or at your office. But all of the information he's talking about is all on that
18 disk and if you remember, we actually had a hearing about it with the
19 Defendant and the detective. We had a hearing about some of the search
20 warrants and some of the information found on that with the victim. And so
21 the Defendant should have access to all of those. If he feels like something is
22 missing, if he lets Mr. Yohay know. I just want to get this moving. I will
23 provide him anything and everything that I can. I just want this to keep going
24 forward.

25 THE COURT: Okay. When will you have a chance to bring the forensics

1 and the iPod to Mr. Sprowson?

2 MR. YOHAY: I have basically a banker's box full of everything. And I
3 can certainly come over there at some point probably this week and we'll go
4 through all of it together again.

5 THE COURT: Can you try and do it before the end of next week, please?

6 MR. YOHAY: Certainly.

7 THE DEFENDANT: Your Honor, so am I correct, to understand, that the
8 only forensic report that I'm going to be getting, and maybe she can correct
9 this, is from just when I was remanded? There's supposedly a forensics done
10 on my computer and a forensics report done on my phone when I was initially
11 arrested. This is what I've been asking for, not the one that they're -- just to
12 make sure that there's not a confusion, there's two different incidents. When I
13 was remanded there was a forensics report done on the alleged victim's iPod
14 because there was an issue of communication. What I'm asking for, again, of
15 the State, any maybe the State can clear this up for me, I guess the State is
16 saying it's on a CD. I don't know if that's what she's saying, but I'm asking for
17 the forensics report and the chain of custody form that was done on my phone
18 and my computer when it was initially booked into evidence and supposedly
19 searched way back in December of 2013.

20 MS. BLUTH: I -- okay. So it's my understanding and I was speaking to
21 Mr. Sweetin before court, the -- and I'm going to go back and double check
22 'cause I don't want to ever say something on the record that I'm not 100%
23 sure about. It was my understanding that when we were trying to get -- so the
24 stuff that we found on the victim's phone or iPod was part of a search warrant.
25 And then when we tried to cross reference them, we couldn't get into the

1 Defendant's cellphone I believe because of a password. At that time, we didn't
2 have the technology to break the code. And so I don't believe that there's a
3 forensics dump done on the Defendant's cellphone or computer. I will double
4 check. I don't believe so because I don't remember looking at a forensic report.
5 The forensic report I looked at was of the victim's phone and images, the
6 images that you know of.

7 THE DEFENDANT: Well, Your Honor, on the search warrant itself,
8 purported search warrant, it says a forensics report was done.

9 MS. BLUTH: No, it does not say that. It says that they have
10 reasonably --

11 THE DEFENDANT: I have it right here.

12 MS. BLUTH: They have probable cause to conduct. This is what I
13 explained last time. They have probable cause to conduct a forensic dump on
14 that, but it doesn't mean that it's always done. The search warrant says that I
15 can take your computer and I can do a search on your computer.

16 THE COURT: Okay. So can you do this?

17 MS. BLUTH: Sure.

18 THE COURT: Let's just do a status check before Christmas. And then
19 make it -- and go back and double check whether or not there was a forensics
20 report done on Mr. Sprowson's phone, I believe is what he's saying.

21 THE DEFENDANT: And computer.

22 THE COURT: And the computer.

23 THE DEFENDANT: There's two of them, Your Honor, two computers,
24 sorry.

25 THE COURT: And that way you can make a representation in court which

1 would become part of the record.

2 MS. BLUTH: Absolutely. If I could just -- if we could just do it in
3 January, Your Honor. Today I start a three-week capital trial in Judge Cadish
4 and we're going to be -- it's going to be hard for me to get done.

5 THE COURT: Okay. So why don't we do it the beginning of January
6 then?

7 MS. BLUTH: Yeah.

8 THE COURT: And so here's the deal. She's not making representation
9 today 'cause she wants to double check to make sure she's accurate, but if she
10 comes in here and makes representations one way or the other, she can be held
11 accountable for that representation. That's why she wants to make sure what
12 she's saying is true to the best of her knowledge, okay.

13 THE DEFENDANT: That's fine with me, Your Honor.

14 THE COURT: All right.

15 THE CLERK: January 9th, 9:30.

16 MS. BLUTH: Thank you.


17 THE COURT: Thank you.

18 THE DEFENDANT: Thank you, Your Honor.

19 PROCEEDINGS CONCLUDED AT 11:12 A.M.

20 * * * * *

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

23 
24 MARIA L. GARIBAY
25 Court Recorder/Transcriber



1 RTRAN

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3
4 DISTRICT COURT
5 CLARK COUNTY, NEVADA
6

7 STATE OF NEVADA,

8 Plaintiff,

9 vs.
10

11 MELVYN PERRY SPROWSON, JR.,

12 Defendant.
13

CASE NO. C295158-1

DEPT. NO. XXIII

TRANSCRIPT OF PROCEEDINGS

14
15 BEFORE THE HONORABLE STEFANY A. MILEY, DISTRICT COURT JUDGE

16 WEDNESDAY, JANUARY 4, 2017

17 **DEFENDANT'S PRO PER MOTION TO WITHDRAW THE ORIGINAL RECORD OF**
18 **SEARCH AND SEIZURE WARRANTS ON FILE WITH THE DISTRICT COURT**

19 APPEARANCES:

20 For the Plaintiff:

JACQUELINE M. BLUTH, ESQ.
Chief Deputy District Attorney

21
22 For the Defendant:

PRO SE

23
24
25 RECORDED BY: MARIA L. GARIBAY, COURT RECORDER

1 WEDNESDAY, JANUARY 4, 2017, 9:32 A.M.

2
3 THE MARSHAL: Page 13, C295158, Sprowson.

4 THE COURT: Hi, Mr. Sprowson. Good morning.

5 THE DEFENDANT: [Indiscernible].

6 THE COURT: Okay. All right. So, Mr. Sprowson, there's a couple
7 things. You have a couple requests on calendar. The first one deals with the
8 search warrant issue we talked about several times. The other one addresses
9 your request for an investigator and your request for a forensics expert on the
10 computer, cell phones, et cetera that were a part of the search warrant. I don't
11 have time today. I've got a huge calendar to really spend the time necessary on
12 the search warrant issue because as you're aware, that kind of goes a little bit
13 longer. So what I'm going to do is just the search warrant issue, I'm going to
14 move that to Monday. As far as the investigator and the other issue, we need
15 to address that today.

16 THE DEFENDANT: All right.

17 THE COURT: So the State's indicated in their paperwork they don't have
18 any objections. They really don't have a dog in that fight. Your request for an
19 investigator is going to be granted. This is what I'm going to do: There is a
20 person at the County who is the one responsible for paying investigators and
21 everything else. I'm going to notify him that you've been granted an
22 investigator. I'm going to set it for a status check. Well, I can do it next
23 Monday. He'll have the investigator come to court and make contact with you,
24 okay? And that will be your kind of a person to go to from that point forward.

25 The issue on the expert is a little bit more complex. I know what

1 you want in general, but I don't know if you've looked to see who you want or
2 any particular qualifications you want, so one of the thought processes was
3 when we get the investigator, that kind of gives you a liaison. Talk to the
4 investigator, tell him specifically what you're wanting the expert to do and
5 perhaps he can assist you in locating the names of a couple of individuals who
6 may be that type of expert. And once we do that then we can look to see if
7 we could get that paid for by the County, okay? I'm trying to stay out of it as
8 much as possible, okay? So all that is going to be granted. We'll bring you
9 back on Monday for the status check on those issues, okay? And then we'll do
10 the search warrant issue at that time as well.

11 THE DEFENDANT: Okay. I just have one question, Your Honor.

12 THE COURT: Yeah.

13 THE DEFENDANT: I also filed a response to the State's opposition. Did
14 you receive [indiscernible?

15 THE COURT: On the search warrant issue?

16 THE DEFENDANT: Well, they're different documents, but yeah, it's --

17 THE COURT: I received a lot of documents. I mean we've discussed the
18 search warrant issues multiple times. I don't know if I received your response.
19 I have your Pro Per motion; I have the State's response to the search warrant
20 issue, but I'll double check again if you say there's a response to it.

21 THE DEFENDANT: There's a response. I sent it in on the 21st. I have a
22 receipt here that I did send it in.

23 THE COURT: Okay. Well, then Adam will just double check to make sure
24 that we have it before Monday when you come back. So okay, so on Monday
25 we're moving the search warrant issue motion.

1 THE CLERK: Okay.

2 THE COURT: And then it's a status check on the investigator.

3 Adam, please make a notation to let Drew Christiansen know that
4 those two requests have been granted. And we'll see you on Monday, okay?

5 THE DEFENDANT: All right. Thank you, Your Honor.

6 THE COURT: Thank you.


7 MS. BLUTH: Thank you, Judge.

8 THE CLERK: January 9th, 9:30.

9 PROCEEDINGS CONCLUDED AT 9:35 A.M.

10 * * * * *

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

13 
14 MARIA L. GARIBAY
15 Court Recorder/Transcriber
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1 RTRAN

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4 DISTRICT COURT
5 CLARK COUNTY, NEVADA

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7 THE STATE OF NEVADA

8 Plaintiff,

9 vs.

10 MELVYN PERRY SPROWSON JR.,

11 Defendant.
12

CASE NO. C-295158-1

DEPT. XXIII

13 BEFORE THE HONORABLE STEFANY MILEY, DISTRICT COURT JUDGE
14 MONDAY, JANUARY 9, 2017

15 **RECORDER'S TRANSCRIPT OF PROCEEDING:**

16 **STATUS CHECK: TRIAL READINESS**

17 **STATUS CHECK: INVESTIGATOR**

18 **DEFENDANT'S PRO PER MOTION TO WITHDRAW THE ORIGINAL RECORD OF**
19 **SEARCH AND SEIZURE WARRANTS ON FILE WITH DISTRICT COURT**

20 APPEARANCES:

21 For the Plaintiff:

JACQUELINE M. BLUTH, ESQ.
Chief Deputy District Attorney

22 For the Defendant:

MICHAEL R. YOHAY, ESQ.
Deputy Public Defender

23 ALSO APPEARING:

RICHARD FRANKIE, INVESTIGATOR

24
25 RECORDED BY: MARIA GARIBAY, COURT RECORDER

1 MONDAY, JANUARY 9, 2017 AT 11:43 A.M.

2
3 THE COURT: Oh, do we have that investigator from --

4 THE MARSHAL: We do.

5 THE COURT: -- Sprowson?

6 THE MARSHAL: We do.

7 THE MARSHAL: Bottom of 3, C-295158, Sprowson.

8 THE COURT: Where's the investigator?

9 THE MARSHAL: He's out here.

10 THE COURT: All right. So your investigator's here, sir. He's going to be
11 appointed to represent you. We talked about this previously. So he's going to
12 kind of be your liaison, because I can't get to -- I don't want to get too much
13 involved in your case, obviously that's inappropriate. So the investigator's
14 going to be your liaison both for investigation and experts and everything else.
15 And he'll be dealing with the County as far as payment and stuff.

16 Hi, good morning, sir.

17 THE DEFENDANT: Good morning, Your Honor.

18 THE COURT: I don't think I've had the pleasure.

19 THE INVESTIGATOR: Richard Frankie, Nevada State License Number
20 797, Private Investigator.

21 THE COURT: All right. Thank you so much. So Mr. Christensen said he
22 has hired you to work with Mr. Sprowson, who's currently representing himself,
23 so we've got to do a motion. I don't know if you want to take a second to
24 introduce yourself to him in a moment.

25 THE INVESTIGATOR: I already did last night.

1 THE COURT: You already did?

2 THE INVESTIGATOR: Yes.

3 THE COURT: And does he -- you guys have a way to contact each other?

4 THE INVESTIGATOR: Yes, through Mr. Christensen. Basically he'll grant
5 me permission to enter the facility and have legal contacts with him.

6 THE COURT: Okay. Is there anything else we need to do?
7 Mr. Sprowson, anything else you want from this gentleman before he leaves?

8 THE INVESTIGATOR: From Mr. Frankie, no.

9 THE COURT: Okay. So the ball's in your court, sir. So he's going to be
10 working with you, okay? Thank you, sir.

11 MS. BLUTH: I was just explaining to Mr. Frankie that Mr. Sprowson was
12 all -- would also like a forensic expert too, which I'm sure he already told him,
13 so we could just get a move on that. Mr. Frankie and I --

14 THE COURT: And we talked about it a little bit last time. I only
15 conveyed that general request to Mr. Christensen because he's -- he's the one
16 at the County who approves the funding for all these things. So you talked to
17 Mr. Sprowson and figure out, specifically, what he's looking at, whether he
18 started to research individuals on his own. I mean, usually the -- I'm not going
19 to dictate who he uses, but there's obviously some parameters as far as County
20 funding.

21 So, I think, ordinarily they said what they do is, maybe you come up
22 with three names, which would be acceptable, that meets your criteria and then
23 they go from there but, you know, you're representing yourself, the ball's in
24 your court, sir. Okay. So actually you might want to stay, because I don't
25 know, from this hearing Mr. Sprowson might want something from you.

1 Okay, we're back on the search warrant issue. We kind of need to
2 lay this to rest at some point.

3 MS. BLUTH: Your Honor, before we do that, may I make a representation
4 while Mr. Frankie's here about some of that forensic stuff?

5 THE COURT: Sure.

6 MS. BLUTH: Because if you remember, the last time we were here, Mr.
7 Sprowson had asked some questions in -- regarding search warrants that were
8 done on various electronics in this case. And so, I went back and I, I made
9 sure -- like I said I would -- I made those representations in court. I spoke to
10 each of the detectives in this case to make sure I had search warrants, and the
11 forensics included with each of those search warrants and I double checked, I
12 do have it. And I also have given these to Mr. Sprowson. I believe it was in -- I
13 checked the dates. I believe it was in December of 2015, but I can check again
14 if you'd like a specific date.

15 And so, what I've done is, I made Mr. Sprowson another exact
16 copy of all of the forensics, and so it is the victim's laptop, defendant's hard --
17 or not hard drive but -- well, it is a hard drive, of his bigger computer. And then
18 the defendant's I-phone and then the victim's I-pod. So these I've already been
19 provided but I'm making a whole other copy.

20 Because of the issues we've talked about -- spoken about earlier
21 with the images on them, I have to hand them over to counsel, but I'm happy
22 to also make a copy for Mr. Frankie, because he would probably have to provide
23 them to the expert as well. So I can do that. So I'm going to hand these over
24 to Mr. Yohay. And there is also a mini kind of report and -- that I have printed
25 for Mr. Sprowson because he had requested those in regards to the I-phone and

1 the computer. So I have digital copies of those. There were some images on
2 these -- not digital copies I said -- I meant paper copies. There were some
3 images that I had to take out of one of them, so I'm providing those to Mr.
4 Yohay. These have also all been provided. But Mr. Sprowson just wanted an
5 idea of what was in the reports. And so these are all copies that I made off of
6 those cds. So he made those requests that he wanted. [Hands documents to
7 Mr. Yohay in court]. And then these can actually go to him, Mr. Yohay. And
8 so I just wanted to make a record but I --

9 THE COURT: [Coughs].

10 MS. BLUTH: You okay? I just wanted to just make clear that these are a
11 duplicate. I have already given to these -- to him about a year ago, and I know
12 that he can have access to these when he meets with Mr. Yohay.

13 THE COURT: Okay.

14 MS. BLUTH: All right. Thank you.

15 THE DEFENDANT: May I respond to that, Your Honor? First of all, I have
16 not seen anything, within a year, in regards to any documentation. She keeps
17 saying that she's given me all these things and yet I never get 'em. This is a
18 big problem. And Mr. Yohay is my stand-by counsel. I'm entitled to my
19 discovery, it's supposed to come to me. And giving it on a cd, to Mr. Yohay, to
20 what I never get to see it, is basically preventing me from having a fair trial.
21 This is, again, the reason why I keep bringing this issue up, Your Honor, is
22 because --

23 THE COURT: So what is it you want to see?

24 THE DEFENDANT: I want, I want --

25 THE COURT: And let's figure out how to do it.

1 THE DEFENDANT: -- I want printouts handed to me so that I can look at
2 them. I don't want to have to keep trying to meet with Mr. Yohay, which I
3 never get a chance to meet with him. And I keep getting these promises of
4 getting documents that I never get.

5 MS. BLUTH: Judge, just to be --

6 THE DEFENDANT: You know, at some point we have to go to trial. At
7 some point, I have to prepare. And if I don't have the documents in my hand I
8 can't prepare, Your Honor. This has been my biggest beef the whole time. You
9 know, and simply, you know, Ms. Bluth keeps saying, "Well, I'm giving it all to
10 Mr. Yohay, Mr. Yohay, it doesn't do me any good.

11 MS. BLUTH: Just to be clear, Your Honor, these are what are referred to
12 as forensic dumps. I can't print him copies of a forensic dump, you have to
13 access it by using a computer. It's called an HTML report. You hit the HTML
14 report and it's an image of the computer or the phone. I can't print those out,
15 they only come in disc form. I also can't print them out because they are
16 pictures of a minor.

17 MR. YOHAY: And Judge, if I can respond. What I did was with the discs
18 that Ms. Bluth has previously given, given to me, I gave them to our IT people,
19 they printed out everything that was on them. That's what they told me. It
20 was a print-out, copy of everything. I went through that. What I believed Mr.
21 Sprowson could have we mailed to him. The rest of it I've kept like, like the
22 photos of -- I've kept. I can tell you I have gone to meet with Mr. Sprowson. I
23 went December 30th, he refused to meet with me.

24 So that also helps make it more difficult. It's hard for me to get
25 over there. I set aside an entire afternoon, went over there, was informed by

1 the COs that he refused to meet with me, so I have not gone since then to
2 meet with him. I'm happy -- I will go through -- I'll have my IT department print
3 off everything they can off of these discs. I'm happy to go over there with a
4 computer to let him view them as well, to make as many combinations as
5 possible. But you -- he needs to agree to meet with me as well.

6 THE DEFENDANT: Well, I've, I've asked to meet with him several times
7 and, and he never shows up, that's the problem. He says, "I'm going to meet
8 with you this Friday," I'm waiting this Friday and nothing happens.

9 THE COURT: Okay. So when he -- when he's there, why don't you want
10 to meet with him?

11 THE DEFENDANT: I was sick that Friday because he never even let me
12 know he was coming. You know, professional courtesy, "Hey, you know, I'm
13 going to stop by this Friday" and I show up. You know, I can't plan when I'm
14 not going to be feeling well. He, he comes on a day that I don't even know
15 when he's going to show up.

16 THE COURT: Okay. Hold on a second. Mr. Yohay, when can you come
17 down there again so everyone knows?

18 MR. YOHAY: Let me check my schedule. The problem is, Judge, you
19 know, I have other clients that, that take priority because they're actually the
20 clients.

21 THE COURT: I understand.

22 MR. YOHAY: So -- I can go this Thursday afternoon. I have court in the
23 morning but then I'm free this Thursday afternoon.

24 THE COURT: Okay. So what about Thursday afternoon, Mr. Yohay?

25 THE DEFENDANT: And if it's firm, yes, if he will show up, yeah.

1 THE COURT: Okay. So Mr. Yohay will –

2 MR. YOHAY: I will.

3 THE COURT: -- print what he can print and he'll bring a computer so he
4 can show you whatever he's not able to print. Okay. So anything else on this
5 issue because we have to -- we've got to lay the search warrant issue to rest.

6 MS. BLUTH: And then on the big computer, on the Defendant's
7 computer, Your Honor, they were not able to gather any information from that.
8 So I just want to be clear in case they're looking for something from the
9 defendant's, not a laptop, but like a regular computer, like a desktop. There
10 was no information, they could not get anything from it, so don't go looking for
11 anything because there was nothing there. We haven't used anything on it.

12 THE COURT: Okay. So what's the issue now with the search warrant,
13 sir?

14 THE DEFENDANT: Well, I pretty much laid it out in both my motion and
15 my response.

16 THE COURT: Okay.

17 THE DEFENDANT: I brought this --

18 THE COURT: Because we kind of go over the same thing over and over
19 again.

20 THE DEFENDANT: No, we're not going over the same thing, Your Honor,
21 these are about the documents that were handed to me on November 16th,
22 2016. You ordered the, the State to provide for me certified copies, okay, on
23 November 2nd. November 16th I was handed, from Mr. Yohay, four copies of
24 four search warrants. Okay. I looked at them and then when I brought them
25 back to my cell and I examined them, I found them to be fraudulent. And that's

1 what I have in my motion.

2 Now, the thing is that, we argued previously in regards to where
3 the originals were. I've been requesting the originals because I want to lay this
4 to rest, Your Honor. Honestly. And seeing the originals for me would lay it to
5 rest. But my argument simply was this. When I looked at those
6 documentations, the State and this Court told me that Justice Court does not
7 have the originals. The documents --

8 THE COURT: Hold on, let's, let's -- let's clarify for a second. We've
9 spent more time on this issue, okay. So when they're filed they don't keep the
10 hard copy originals anymore. I mean we're going paperless on pretty much
11 everything. They get scanned into the system and then the digital certified or
12 the, you know, file copy, that becomes the original. They don't have paper
13 copies. And years ago they used to keep the paper copies but they don't
14 anymore. So whatever's on the computer is the original.

15 And this is what we have found. I think we've talked about this
16 before. When the -- okay, so everything was properly done. The warrant was
17 filed in Justice Court which you can see from the stamp, okay. When the
18 warrant's originally filed there's not necessarily a case open, so it doesn't go
19 into a case. What happens is the Justice Court files it, okay. The paper copy
20 gets destroyed. The original becomes the digital image, then they're filed in the
21 Justice Court computer system by the warrant number, which you now have
22 and the date. Okay.

23 The only reason ---and so, again, there's no case to put them in,
24 because when these warrants come into our, you know, the Justice Court,
25 there's not often the case. The reason they're in the District Court vault is

1 because the State provided us with certified copies and my clerk had them put
2 into the Justice Court vault, so there is a copy in the District Court vault. But
3 as far as what comes up in the bindover packet which is usually everything
4 that's down at the Justice Court when the case goes from Justice Court up to
5 District Court, they wouldn't necessarily be in the bindover packet. Okay.

6 I, I know you keep saying they're fraudulent. There's nothing to
7 indicate they're fraudulent. Everything, everything is how it should be
8 according to the statute.

9 THE DEFENDANT: So you can, you can -- you have the original? This is,
10 this is the beef that I have, Your Honor. I requested in my motion, in my
11 discovery motion, I wanted to subpoena the Justice Court custodian of records
12 to actually produce the original so that I could view it, okay.

13 THE COURT: The original would be whatever's in the computer system.
14 They would access it --

15 THE DEFENDANT: Yeah, I understand.

16 THE COURT: -- by warrant and date and they would print it out --

17 THE DEFENDANT: Can I finish what I --

18 THE COURT: -- and certify it. That would be an original.

19 THE DEFENDANT: I understand that. But what I'm saying is, okay, so
20 what I'm getting at is that the Justice Court -- when I asked for that -- when I
21 asked for that record or actually to see that record, the State argued that that
22 record was no longer in Justice Court but in District Court. This is what was
23 part of my argument, and this is the reason why I brought this motion to a head
24 was because that the certified copy stamp that is on the documents indicates
25 that it's an original in Justice Court.

1 Now I'm kind of confused here. If the State is telling me that the
2 original record is no longer in Justice Court, how can Justice Court issue a
3 certified copy? This is the point.

4 THE COURT: But sir, you're just -- I mean you're --

5 THE DEFENDANT: So either court can issue --

6 THE COURT: -- you're just fighting little -- you're nit picking this --
7 different things. You didn't want the copies, the State printed copies at one
8 hearing and gave you certified copies. You turned them back to the State
9 indicating you didn't want them.

10 THE DEFENDANT: Because I already have a set.

11 THE COURT: You have an investigator now. There's nothing -- you keep
12 saying it's fraudulent, fraudulent. There's nothing that's -- there's no evidence
13 that it's fraudulent. Okay. There perhaps is a misunderstanding or, or a lack of
14 knowledge about how it was filed in the Justice Court and everything else, but
15 we have spent so much time on this. I am telling you it should -- it's filed in the
16 Justice Court, it's filed under the warrant number, it's filed under the date. You
17 have an investigator. You can always ask your investigator to go down get
18 copies if you don't trust the copies that the State has attempted to provide to
19 you, but there's nothing else.

20 THE DEFENDANT: Well, how can you have two different certified copies
21 from the same original? If you have a certified copy of an original you're going
22 to have the same exact copy if it's a certified copy.

23 THE COURT: My suggestion again, sir, would be to do exactly what I
24 indicated. Have your investigator get those copies on his -- he works with you.
25 Have your investigator go get those documents from the Justice Court.

1 THE DEFENDANT: So if he had fraudulent documents --

2 THE COURT: It's not for me to do.

3 THE DEFENDANT: -- put into the District Court --

4 THE COURT: I'm sorry.

5 THE DEFENDANT: -- to back that up. So, so we have documents that
6 were missing, put into the District Court that came from somewhere, but we
7 don't know. But now we're in the District Court to validate a search warrant
8 that never existed.

9 THE COURT: Sir, there's just no merit to what you're saying. All I can
10 suggest at this point is, if you don't trust the copies the State gave you then
11 have your investigator go and obtain copies for you. It's not for me to do, I
12 don't, I'm not --

13 THE DEFENDANT: I understand that, Your Honor.

14 THE COURT: -- your investigator.

15 THE DEFENDANT: I will do that. I still believe that these documents are
16 fraudulent and I'm going to pursue it.

17 THE COURT: Okay. That's fine, but as of now there's no evidence
18 they're fraudulent. I've told you everything I know from how those documents
19 were filed and categorized and ended up in the District Court vault. I've told
20 you everything that I know, okay.

21 THE DEFENDANT: How can Justice Court issue a certified copy of an
22 original no longer in their possession?

23 THE COURT: I'm not a witness, I don't know. All I can tell you is the
24 representations that were made to us, again, how they're filed, how they're
25 kept. How it ended up in the District Court vault, I have no information for you.

1 THE DEFENDANT: So the State gets to walk on a criminal act?

2 THE COURT: Again, you don't have any evidence that there's fraud --

3 THE DEFENDANT: I do, I have plenty of evidence --

4 THE COURT: -- or anything else?

5 THE DEFENDANT: -- I've submitted it to the court.

6 THE COURT: Okay, but you haven't provided it. So at this point, I would
7 have your investigator do it; there's nothing else for us to do at this hearing.

8 MS. BLUTH: And Judge, if I could just supplement my argument with
9 just two things and then I'll, I'll be quick, because I know Your Honor has a trial
10 starting. Just for Ms. Sprowson's clarity, because I think at some point in his
11 pleadings he thinks that I have been able to touch the search warrants or
12 fraudulently do something with the search warrants? I don't have anything to
13 do with search warrants. I don't touch them. I don't sign them. It's
14 something that detectives do with judges. So nothing about me or Mr. Sweetin
15 ever had anything to do with search warrants. It's really --

16 THE DEFENDANT: Her signature is on every last one of them.

17 MS. BLUTH: Okay. And in regards to the -- oh, I can go right now and
18 Mr. Frankie can go right now and get certified copies form Justice Court. We
19 can order a thousand of them. Anybody can go. If there's an original in the
20 computer they are -- they print those out and they make them -- they emboss
21 them with the Justice Court signia [sic] and then they sign them. So there can
22 be more than one, there can be hundreds. I just think that I understand his right
23 to represent himself, but because he's not an attorney he doesn't understand
24 protocol and procedure that goes with this. And he thinks there's something
25 nefarious about, about search warrants that no one has anything to do with.

1 And I don't know what the State can possibly do to prove that to him. We've
2 tried everything.

3 THE COURT: I think the better course of action would be for him, if he so
4 desires, have his investigator obtain a copy.

5 MS. BLUTH: Okay.

6 THE COURT: The investigator works for him and that's all I can suggest.

7 MS. BLUTH: Okay.

8 THE COURT: All right. Bye.

9 MS. BLUTH: And that -- so that motion is denied?

10 THE COURT: It's denied. Thank you.

11 MS. BLUTH: Thank you. And then, Your Honor, is our next date
12 calendar call? Because I would just like a status check trial readiness in 30
13 days if that was okay with the Court, so we can keep this trial moving. Or
14 Court, yeah, trial moving.

15 COURT CLERK: That's what it was on for today as well.

16 THE COURT: How are you -- how are you going to get anything ready,
17 Mr. Sprowson, sir?

18 THE DEFENDANT: What was the question?

19 THE COURT: How are you doing getting this case ready for trial? You
20 have trial on the 20th of March.

21 THE DEFENDANT: Well, as soon as I'm, I'm given all the discovery that
22 I'm entitled to, and things that I'm entitled to, I could move a little bit faster.
23 We're looking at March, so I'm ready to go in March.

24 THE COURT: Okay.

25 MS. BLUTH: May I just have a status check in February, Your Honor, to

1 confirm?

2 THE COURT: Uh-huh.

3 MS. BLUTH: Thank you.

4 THE COURT: You guys are going to be able to try this in two weeks,
5 right? Because I'm gone the 3rd of April.

6 MS. BLUTH: Oh yeah, easily.

7 THE COURT: Okay.

8 MS. BLUTH: Easily.

9 COURT CLERK: February 6th, 9:30.

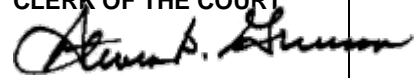
10 MS. BLUTH: Thank you.

11 THE COURT: Okay. We'll see you then, Mr. Sprowson.

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13 [Proceeding concluded at 12:00 p.m.]
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22 ATTEST: I do hereby certify that I have truly and correctly transcribed the
23 audio/visual recording in the above entitled case to the best of my ability.

24 
25 Kerry Esparza, Court Recorder/Transcriber
District Court, Department XXVI



1 RTRAN

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4 DISTRICT COURT
5 CLARK COUNTY, NEVADA
6

7 STATE OF NEVADA,

8 Plaintiff,

9 vs.
10

11 MELVYN PERRY SPROWSON, JR.,

12 Defendant.
13

)
) CASE NO. C295158-1
)

) DEPT. NO. XXIII
)

) **TRANSCRIPT OF PROCEEDINGS**
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14

15 BEFORE THE HONORABLE STEFANY A. MILEY, DISTRICT COURT JUDGE

16 MONDAY, FEBRUARY 6, 2017

17 **STATUS CHECK: TRIAL READINESS**
18

19 APPEARANCES:

20 For the Plaintiff:

JACQUELINE M. BLUTH, ESQ.
Chief Deputy District Attorney

21 For the Defendant:

MAXWELL A. BERKLEY, ESQ.
Deputy Public Defender
22
23
24

25 RECORDED BY: MARIA L. GARIBAY, COURT RECORDER

1 MONDAY, FEBRUARY 6, 2017, 9:35 A.M.

2
3 THE MARSHAL: Top of page 2, C295158, Sprowson.

4 THE COURT: Hi, Mr. Sprowson. Good morning.

5 Hi, Ms. Bluth. Good morning.

6 MS. BLUTH: Good morning, Your Honor.

7 THE COURT: Okay. So this is a status check on trial readiness and I
8 know my staff reached out to you guys as far as scheduling issues for me. And
9 I know Mr. Sprowson doesn't want to move the trial a week sooner. If we
10 don't move the trial a week sooner, it's going to be way earlier because I
11 simply -- I need to move it a week sooner.

12 MS. BLUTH: Yeah.

13 THE COURT: And it shouldn't really cause any undue prejudice to any of
14 you guys because it's just a few days later, but I really with my schedule, I
15 can't try it and get it tried unless we move it a week up, which would be -- let's
16 see, we're scheduled for the 20th of March.

17 MS. BLUTH: I think it's the 7th; is it the 7th?

18 THE COURT: It'd be the 13th; wouldn't it?

19 THE CLERK: Yes.

20 THE COURT: So it would be March 13th we'd start.

21 THE DEFENDANT: I can't do it earlier, Your Honor. [Indiscernible].

22 THE COURT: Well, then you're going to be several months later because
23 I cannot accommodate your trial.

24 THE DEFENDANT: It would have to be at this Court's discretion. That's
25 fine with me. I just can't go a week earlier 'cause I'm working with my

1 investigator on certain things right now and --

2 THE COURT: Why can't you go one week earlier because we would have
3 calendar call anyways on the 15th?

4 THE DEFENDANT: I'm looking on my expert witness list right now , I
5 believe a psychologist. As we discussed before, I'm going to talk to my
6 forensics expert, going through that as well. I also have other witnesses that I
7 may be calling that are out of state. So I need time to do all this stuff and I
8 have 21 days prior to the trial. So in order for me to get that witness list --
9 that's one of the things. There's other things as well, but in order --

10 THE COURT: Okay. Well, you don't have to tell me your theory of
11 defense. I'm not necessarily entitled to know that. I just -- let me -- I'll tell you
12 when our next setting is. I just can't try the number of cases I have unless I
13 move the trial one week.

14 THE DEFENDANT: When is your next date after that, Your Honor?

15 THE COURT: It's going to be a while. That's my concern.

16 THE DEFENDANT: Well, I'm already in custody, so I don't think the jail
17 will have a problem or the Court will have a problem.

18 MS. BLUTH: But the State has a problem. And I understand the Court's
19 scheduling, but I have literally been trying to try this case for --

20 THE COURT: I understand.

21 MS. BLUTH: -- three, four years. I mean the fact of the matter is
22 Mr. Sprowson is never going to go. He's never going to go to trial.

23 THE COURT: Here's my reality. I understand that. So let's see what we
24 have. Here's my reality: I can only do one trial at a time. I can't really just
25 dump this on overflow.

1 MS. BLUTH: I agree.

2 THE COURT: And the likelihood of someone picking up in all honesty a
3 Pro Per sex assault trial is pretty slim.

4 MS. BLUTH: I agree.

5 THE COURT: So -- I don't even know what I have next.

6 THE CLERK: Do you want to reset it October?

7 THE COURT: October would be it. I mean that --

8 MS. BLUTH: And at this point, Judge, I'm opposing his motion to
9 continue. This victim is now a sophomore in college.

10 THE COURT: It's not his motion. It would be mine. It's based with my
11 schedule, so.

12 MS. BLUTH: But no, because he was going to make a motion to continue
13 for that trial date, for the trial date we already had.

14 THE DEFENDANT: I wasn't going to [indiscernible] a continuance.

15 MS. BLUTH: So you can't -- he can't try it 5 days earlier? What's the
16 prejudice of 5 days earlier?

17 THE COURT: I don't think we can try it in October. We're going to have
18 to move it one week earlier. And if there's any problems --

19 THE DEFENDANT: I can't go one week earlier, Your Honor.
20 [Indiscernible].

21 THE COURT: So I have to try it one week earlier; I'm sorry. I can't get
22 your case tried.

23 THE DEFENDANT: I cannot go. Then you're going to violate my
24 constitutional rights is what you're going to do because I cannot go one week
25 earlier.

1 THE COURT: Well, then file a motion because I can't get it tried one
2 week earlier. I'm sorry; I can only be at one place at one time.

3 THE DEFENDANT: I understand that. I'm willing --

4 THE COURT: And I've -- as many times as I've tried to [indiscernible]
5 myself, I can't.

6 THE DEFENDANT: I'm willing to go the later date. That's why I'm
7 saying, I'm not really compromising on it. We had already set a firm date for
8 March 20th. This is what this Court nine months ago said, "Look, we're firm
9 March 20th." I've been getting ready and gearing up for March 20th. You
10 know, my timeline and my schedule, I'm on schedule for March 20th. I just
11 can't go a week early.

12 THE COURT: Okay. This is what we're going to have to do. I
13 understand that. But you know what, unfortunately for everyone, I have more
14 cases than just yours. And, again, as I explained, I have been unsuccessful to
15 trying being at two places at once.

16 THE DEFENDANT: I'm not ready to go a week earlier.

17 THE COURT: So I'm going to have to move it up one week sooner. If
18 there's -- you want to file a motion that I've violated your constitutional rights,
19 please do so. But I can't do it.

20 THE DEFENDANT: Can I have another judge?

21 THE COURT: Sir, I cannot find another judge to try this case.

22 THE DEFENDANT: [Indiscernible].

23 THE COURT: I cannot try two cases at once, which is my dilemma. I
24 cannot send you to overflow. So short of God sending another me down here, I
25 can't do it; I'm sorry. If there's something that you believe that is not -- you're

1 not going to have time to get done, let us know because if anything, the State
2 could probably waive certain deadlines in order for you to get things done even
3 if it's not entirely the timeframe in what you're supposed to have it. But I can
4 only do so much, so we're going to have to move it back one week, which is
5 going to be the March 13th date.

6 THE DEFENDANT: Well, make the record show that I object to that, Your
7 Honor. And make sure [indiscernible].

8 THE COURT: And if you need to file a motion, we have an Appeals Court
9 and the Supreme Court.

10 THE DEFENDANT: Yeah, I'm asking that you show in the record that I
11 object to this [indiscernible].

12 THE COURT: Absolutely. This is all recorded. Absolutely. I understand
13 that you object to it. And I'm sorry that I can't accommodate you, but there's
14 only so much I can do.

15 THE DEFENDANT: It's not accommodating me, Your Honor, it's your
16 calendar. I'm set for March 20th.

17 THE COURT: I understand.

18 THE DEFENDANT: I'm set for March 20th.

19 THE COURT: Okay. I have to move you back.

20 THE CLERK: So the new calendar call will be March 8th at 9:30.

21 THE DEFENDANT: I can't make it.

22 THE COURT: Well, that's the date it's going to be.

23 MS. BLUTH: He's in CCDC, where is he going to be?

24 THE DEFENDANT: Okay. That's fine, that's fine. There's other courts to
25 actually deal with this.

1 THE MARSHAL: Stand up.

2 THE DEFENDANT: Violating my rights.

3 THE COURT: Sir, there's an Appellate Court and the Supreme Court.

4 Please utilize them at your discretion.

5 THE DEFENDANT: There is, there is. And you're violating my rights and I
6 know why you're pushing this.

7 THE COURT: Okay. So give them the dates.

8 THE CLERK: Calendar call March 8th at 9:30; jury trial March 13th at
9 1:00 p.m.

10 THE COURT: Thank you.

11 PROCEEDINGS CONCLUDED AT 9:40 A.M.

12 * * * * *

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

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16 MARIA L. GARIBAY
17 Court Recorder/Transcriber
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1 RTRAN

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4 DISTRICT COURT
5 CLARK COUNTY, NEVADA
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7 STATE OF NEVADA,

8 Plaintiff,

9 vs.
10

11 MELVYN PERRY SPROWSON, JR.,

12 Defendant.
13

)
) CASE NO. C295158-1
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) DEPT. NO. XXIII
)

) **TRANSCRIPT OF PROCEEDINGS**
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15 BEFORE THE HONORABLE STEFANY A. MILEY, DISTRICT COURT JUDGE

16 WEDNESDAY, MARCH 8, 2017

17 **CALENDAR CALL**

18 APPEARANCES:
19

20 For the Plaintiff:

JAMES SWEETIN, ESQ.
Chief Deputy District Attorney

21 For the Defendant:
22

MICHAEL R. YOHAY, ESQ.
Deputy Public Defender
23
24

25 RECORDED BY: MARIA L. GARIBAY, COURT RECORDER

1 WEDNESDAY, MARCH 8, 2017, 9:50 A.M.

2
3 THE MARSHAL: Bottom of page 1, C295158, Sprowson.

4 THE COURT: Hi, Mr. Sprowson. Good morning.

5 MR. SWEETIN: Good morning, Judge.

6 THE COURT: Hi. Good morning. So this is the time set for calendar call.

7 MR. SWEETIN: Judge, this is Ms. Bluth's case for our office. As the
8 Court might be aware, Ms. Bluth is in another trial currently and it's expected
9 that trial is going to go through next week. Another issue in regards to the
10 case is that I know the Defendant has filed some motions to recuse the Court,
11 which have been denied, but there was some stoppage in regards to serving
12 some of the subpoenas in the course of those motions being filed. So we don't
13 have returns on everybody yet. I don't know that we would receive those
14 before Monday. But at any rate, that's the status of the case.

15 Ms. Bluth would be available to start. And I don't know that the
16 Court can do this; I've talked with your Clerk in regards to maybe moving this
17 to the 20th. And I don't know if that's possible or not. If we were to do that,
18 Ms. Bluth would be available for that.

19 THE COURT: That was the original date but I had -- you know, the
20 calendars are always rapidly changing. As of the time we moved it a week
21 earlier, actually against Mr. Sprowson's objections, I had something else I had
22 to try.

23 THE CLERK: I'm sorry; you said March 20th?

24 MR. SWEETIN: Yes.

25 THE COURT: Yeah, which was the original date. We've had some

1 changes on our calendar since then.

2 [The Court and Court Clerk confer]

3 THE COURT: Okay. So we've had some changes on our calendar. So
4 we can actually move it for jury trial starting the week of the 20th. That means
5 your calendar call would be next Wednesday. And I do have one other case
6 that might go that week, but you guys would have priority because you're the
7 lowest case number. Mr. Sprowson, how are you coming with your trial
8 preparations?

9 THE DEFENDANT: Pretty good.

10 THE COURT: You're ready?

11 THE DEFENDANT: Yeah.

12 THE COURT: Okay. So here's the deal. I mean we have to try this case
13 in two weeks because otherwise, I'll be gone for two weeks, the first two
14 weeks of April.

15 MR. SWEETIN: Okay. And I think that's doable, Judge.

16 THE CLERK: Okay. So calendar call March 15th at 9:30; jury trial
17 March 20th at 1:00 p.m.

18 THE COURT: Okay. Is there anything else we need to address at this
19 time?

20 THE DEFENDANT: [Indiscernible].

21 MR. SWEETIN: And that's fine, Judge. And the subpoenas were
22 originally issued for the 13th. Basically, we would just ask an order from the
23 Court that the subpoenas be continuing.

24 THE COURT: Yes. Thank you.

25 MR. SWEETIN: Thank you.


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THE COURT: Bye-bye.

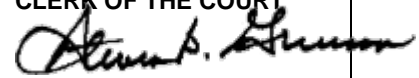
PROCEEDINGS CONCLUDED AT 9:54 A.M.

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



MARIA L. GARIBAY
Court Recorder/Transcriber



1 RTRAN

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4 DISTRICT COURT
5 CLARK COUNTY, NEVADA
6

7 STATE OF NEVADA,

8 Plaintiff,

9 vs.
10

11 MELVYN PERRY SPROWSON, JR.,

12 Defendant.
13

)
) CASE NO. C295158-1
)

) DEPT. NO. XXIII
)

) **TRANSCRIPT OF PROCEEDINGS**
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15 BEFORE THE HONORABLE STEFANY A. MILEY, DISTRICT COURT JUDGE

16 WEDNESDAY, MARCH 15, 2017

17 **CALENDAR CALL**

18 APPEARANCES:
19

20 For the Plaintiff:

JAMES SWEETIN, ESQ.
JACQUELINE M. BLUTH, ESQ.
Chief Deputy District Attorneys

22 For the Defendant:

PANDORA L. LEVEN, ESQ.
Deputy Public Defender
23
24
25

RECORDED BY: MARIA L. GARIBAY, COURT RECORDER

1
2 WEDNESDAY, MARCH 15, 2017, 9:43 A.M.

3
4 THE MARSHAL: Page 17, C295158, Sprowson.

5 THE COURT: You know what, we have to wait to hear for Colucci's
6 case.

7 Hi. We've got to hear from one other case first.

8 MS. BLUTH: Oh, okay.

9 THE COURT: Just sit down. We have one other case we have to handle
10 first.

11 THE DEFENDANT: Okay.

12 [Matter trailed and recalled]

13 THE MARSHAL: Recalling page 17, C295158, Sprowson.

14 THE COURT: So you guys, we're going to find you a new home. And --

15 MS. LEVEN: Your Honor, I apologize, this is Mr. Yohay's case -- or this is
16 the case --

17 THE COURT: Standby counsel.

18 MS. LEVEN: Correct.

19 THE COURT: And you guys are all ready; right?

20 MS. BLUTH: Yes.

21 THE COURT: You have to go 'cause you've got all your witnesses lined
22 up; right, for next week?

23 MS. BLUTH: Yes.

24 THE COURT: And you're ready to go as well.

25 MS. BLUTH: Judge, just so you know, I am in a trial right now and it's
supposed to be over hopefully Friday, Thursday or Friday. So I'm just going to

1 be asking whatever judge is for a Tuesday start. Some of our witnesses are
2 flying in from out of state. We'll still be able to get it tried within the two
3 weeks. I'm just letting the Court know.

4 THE COURT: Okay.

5 And, Mr. Sprowson, we're going to have to find another judge to
6 try your case, okay? It should be easily tried next week. I just have to find
7 someone else to do it, and I wasn't able to talk to -- catch anyone before I went
8 in court today. So should we set it on a status check or what should we do?

9 MS. BLUTH: If you -- you can just to email us.

10 THE COURT: You want us just email you?

11 MS. BLUTH: That's fine. And I'll let Mr. --

12 THE COURT: And we have to give notification to Mr. Sprowson, but we
13 can get notification to you in the jail just so you know what judge and
14 everything else and what times.

15 THE DEFENDANT: Okay. And will I have the guarantee, that way I can
16 prepare?

17 THE COURT: Absolutely, 'cause you'll need to know what days the trial
18 is going to be. So let me take care of that. And the -- and I'll tell whoever
19 takes it that it needs to start next Tuesday, but it does have to go next week.
20 And then we'll let each of you know. And we'll email you and we'll get
21 notification to you at the jail so you can plan your witnesses accordingly, sir,
22 okay?

23 THE DEFENDANT: Okay.

24 ///


25 ///

1 THE COURT: All right. See you. Well, I won't see you next week, but
2 someone will see you next week. Thank you.

3 PROCEEDINGS CONCLUDED AT 10:34 A.M.

4 * * * * *

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

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8 
9 MARIA L. GARIBAY
Court Recorder/Transcriber



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
7

8 THE STATE OF NEVADA,)

9 Plaintiff,)

10 vs.)

11 MELVYN SPROWSON, JR.,)

12 Defendant.)
13

CASE#: C-14-295158-1

DEPT. XXIII

14 BEFORE THE HONORABLE STEFANY MILEY, DISTRICT COURT JUDGE
15 TUESDAY, MARCH 21, 2017

16 **RECORDER'S TRANSCRIPT OF PROCEEDINGS**
17 **DEFENDANT'S SECOND PRO SE MOTION TO CONTINUE TRIAL**

18 APPEARANCES:

19 For the State:

JACQUELINE M. BLUTH, ESQ.
Chief Deputy District Attorney
JAMES R. SWEETIN, ESQ.
Chief Deputy District Attorney

22 For the Defendant:

MELVYN SPROWSON, JR.
Defendant in Proper Person
MICHAEL R. YOHAY, ESQ.
Deputy Public Defender

23 Standby Counsel:

24
25 RECORDED BY: MARIA GARIBAY, COURT RECORDER

1 TUESDAY, MARCH 21, 2017 AT 10:36 A.M.

2
3 THE COURT: Hi, Mr. Sprowson; good morning. Looks like you're back in
4 here, sir. All right sir, so yesterday --

5 THE COURT MARSHAL: Well, Judge, this is Sprow --

6 THE COURT: -- do you want to call it.

7 THE COURT MARSHAL: Page 1, on our 9:30 criminal C295158, Sprowson.

8 THE COURT: Hi, Mr. Sprowson; good morning.

9 THE DEFENDANT: Good morning.

10 THE COURT: Okay, so yesterday when we were getting ready for this trial it
11 came to our attention that you had filed a second pro se motion to continue the trial.
12 But it looks like it's the same thing you've been bringing up over and over again
13 throughout the course of the proceedings with the warrant and the chain of custody.

14 THE DEFENDANT: Right, and I haven't received either one of them. As you
15 know, Your Honor, the last time I -- first of all I just wanted to say that I anticipated
16 that I'd have this stuff prior to trial and that's why I said I was ready to go because,
17 as you know, I have an investigator, Mr. Franky and he issued subpoenas to the
18 Justice Court.

19 THE COURT: Mm-hmm.

20 THE DEFENDANT: So, I was -- I was like thrilled. I'd say, hey, we're finally
21 we're going to end this. I'll have those certified copies from the Justice Court and
22 come to find out that he -- he said that they couldn't give him the subpoenas. As
23 you know, they said that they were forwarded to you. Well, you also filed an affidavit
24 stating that you never received them. So, you didn't receive them, Mr. Franky didn't
25 receive them, ultimately I didn't receive them. And so, here we are at a standstill at

1 the same spot we were. And then of course, the issue of the chain of custody, I've
2 been requesting from the State the chain of custody. Their response is the same
3 every time, it's on the CD. Well, Mr. Yohay and I looked at the CDs, I looked at the
4 CDs with Mr. Franky as well and we didn't find any chain of custody forms. So,
5 we're right back where I was, so the problem is I'm requesting this stuff because it's
6 instrumental and it's material to my case. It's *Brady* material because if there's
7 some issues with the chain of custody obviously I can challenge their evidence. If
8 there's some issues with the search warrants, which I believe there is, I can also
9 challenge their evidence and this is necessary because if I don't have this stuff prior
10 to starting trial, obviously when we start jury selection the jury is going to be
11 prejudiced by this material.

12 You know, and not only that, but if I do have this material I would also be able
13 to file motions in limine and whatever else I'd have to do to actually limit their -- their
14 exposure to the potential jury. I mean, I have other points that I wanted to go
15 through today, if I'm allowed, but that's basically, you know, it was all anticipated
16 that I would have this material prior to trial and I was ready to go, and, you know,
17 like I said, I understand the State was in trial with War Machine. I was okay with
18 that. The other issue, Your Honor, if I may, is we were set for March 20th, and again
19 I was scheduled for March 20th, was getting ready to call my witnesses and get my
20 witness list ready and then we had moved it back to March 13th. Okay, so March
21 13th.

22 THE COURT: But you said you wouldn't be ready for, but you would be ready
23 for March 20th?

24 THE DEFENDANT: Right, well but March 20th but then March 13th -- March
25 13th, excuse me, March 13th came up and then that kind of caused me to forfeit a lot

1 of time because, here's the bottom line, Your Honor, and I'd just like to quote a case
2 here from the Ninth Circuit Court of Appeals in 2010. The case is *United States*
3 *versus Farias*, in this regards to just meaningful representation and in that case the
4 Court of Appeals stated: a criminal defendant does not simply have a right to
5 represent himself but rather he has a right to represent himself meaningfully and
6 obviously meaningful representation requires time to prepare.

7 Now also, I have to be humble in this regards. You know, I'm incarcerated,
8 I'm extremely limited, I'm not using that as an excuse but the bottom line is, you
9 know, in my inexperience, you know, thinking that I would have this material I went
10 ahead and said, you know what, let's go ahead and go to trial. I talked to my
11 standby counsel. Mr. Yohay, said well, you know, really that's not advisable. I
12 talked to my investigator, Mr. Franky. Mr. Franky said he -- no, hey we've only
13 been working together for two months. I usually on these kinds of charges I usually
14 spend six months and I said really? He said yeah, you know, there's still
15 outstanding stuff that he would like to get from me and -- and honestly, you know,
16 having a discussion with him and I'm realizing, like you know what, really am I
17 prepared for trial? I actually would be cutting myself short.

18 I mean, and again, like I said, I have to be humble in this regards, you know. I
19 mean the State thinks, you know, I read their opposition that I'm being proud in this,
20 no, I mean, honestly I've been here a long time. I do want to go to trial but, you
21 know, I have to be honest with myself. I have to be prepared for trial. This is
22 serious business.

23 THE COURT: Okay.

24 THE DEFENDANT: And I don't have the advantages of the State.

25 THE COURT: So, let's talk about a few things. The same warrants we've

1 talked about multiple hearings, okay and the State through discovery has offered or
2 tried and they gave you in Court certified copies of those warrants, which you
3 refused, and you gave back to the State. As far as your request for assistance in
4 this case, I do agree with the Ninth Circuit, absolutely you're entitled to a meaningful
5 defense and as far as possible the resources to have that meaningful defense. So,
6 once you requested for the first time that you receive assistance you were granted
7 funds for an investigator. You were likewise given the ability and the funds
8 depending on the amount of those funds to get money for any and all experts you
9 deemed appropriate for the case. So, you have been given the resources to
10 represent yourself even though you're within the detention center. Now, you've
11 been in custody for I don't remember how long but this case has been ongoing for
12 close to what --

13 MS. BLUTH: Four years.

14 THE COURT: Twenty-fourteen?

15 MS. BLUTH: No, thirteen.

16 THE COURT: This is twenty-thirteen, so four years. You know, and you
17 came in and there's been continuances, but I don't even know if there's been
18 continuances in a long time by the State. A lot of the continuances were by you and
19 you indicated that because of your limitations of being in custody it took you a longer
20 time to get ready. I recognize that and I gave you the continuances.

21 THE DEFENDANT: Your Honor, if I may --

22 THE COURT: But here's the problem.

23 THE DEFENDANT: -- let me finish this.

24 THE COURT: Is the reason we have calendar call is both sides get to come
25 into Court and say am I ready or not ready. And, once the representations are

1 made that you're ready absent something unforeseeable happening, the parties rely
2 upon that. The State as well as the defense if you so desire. They line up their
3 witnesses, they hire, they pay their experts, they make travel arrangements.
4 There's a lot of reliance that's gone into those representations made at calendar call
5 and everything you bring up today it's not new. You've had the ability to get those
6 warrants. They've been offered to you through discovery. The chains of custody I
7 need to hear from Mr. Yohay real quick, but it's been represented and I don't look at
8 the discovery ordinarily, but it's represented that they are in fact contained in the
9 discovery at which I know that you have to access, I believe with a computer. I don't
10 remember whether or not the State --

11 THE DEFENDANT: Are we referring to the chain of custody or the search
12 warrants?

13 THE COURT: The what?

14 MS. BLUTH: The chain of custody.

15 THE COURT: I'm talking about the chain of custody.

16 THE DEFENDANT: The chain of custody.

17 MS. BLUTH: I do need to make one correction, Your Honor, whenever
18 you're done making your representations as to the chain of custody reports.

19 THE COURT: Well, let me ask Mr. Yohay. Did you go through the discovery?

20 MR. YOHAY: Here's what I can tell you. The first time we received the discs
21 from the District Attorney's office I gave them to our IT people; said basically print
22 out everything on them and then I sent them -- sent everything they provided over to
23 Mr. Sprowson. Quite frankly, I didn't look through everything that there was, I just
24 sent them to him. He -- and then in speaking to him since then he indicated that this
25 chain of custody wasn't in there. I went through the discs that were -- I can tell you I

1 didn't see them. So, I brought my IT person a gentleman by the name of Peter
2 Eliason along with a computer, along with the discs. All three of us, Mr. Sprowson,
3 Mr. Eliason and myself went through them one afternoon. I'll tell you we didn't see
4 them in there. So, I don't know whether they're on the disc or not. I haven't taken
5 any independent time of my own volition to search through them. I can tell you
6 everything that's been handed over from the State I've handed to Mr. Sprowson. I
7 know, you know, he had brought up this chain of custody that's why -- first I had our
8 people print everything off and give it to him and then I had Mr. Eliason come over
9 with me and a computer with the discs and went, you know, the two of them
10 basically went through it. I kind of just sat there. They knew what they were looking
11 for and then it was my understanding that they didn't, you know, -- they didn't
12 quite -- I can tell you I've never seen anything that is headlined chain of custody or
13 anything.

14 MS. BLUTH: Right. They don't exist that's why I just didn't -- they -- there is
15 no such thing as a chain of custody report which is why I keep trying to explain this
16 and I've explained this before. There's a property impound report and then there's a
17 search warrant return. On the search warrant return which I've given to Mr.
18 Sprowson three times, the search warrant return shows everything that was taken
19 from his apartment which included paper items, which included his laptop, the
20 victim's laptop and his main computer like a desktop computer.

21 THE COURT: Uh-huh.

22 MS. BLUTH: Those are in the police reports that he has paper copies of.
23 Not only are they listed in the police reports they are listed on the back page of the
24 search warrants on the search warrant return and then there's property impound
25 reports that show what property was impounded. Those were provided to Mr.

1 Momot before prelim. Those were provided to the Defendant pursuant to a
2 discovery request and then those were also provided when I just handed him papers
3 in Court. I provided them three separate times. What Mr. Sprowson is requesting
4 does not exist. Chain of custody reports do not exist, that's not a thing whether it's
5 Clark County School District Police Department, Henderson Police Department or
6 Las Vegas Metropolitan Police Department. The only things that exist are search
7 warrant returns and property impound reports. Those have been provided to the
8 Defendant.

9 If the Defendant would like me to give them to him a fourth time, I am happy
10 to do so. But that does not change the posture of the case on either side. We both
11 know what items were taken we both know what items were impounded. So, as far
12 as Mr. Yohay's representations I completely agree they're not on the discs. I've
13 never made representations that they were on the discs. The only things that are on
14 the discs are the things that were taken off of the cell phones and the computer.
15 That's what the discs are. The rest of the discovery is paper discovery and Mr.
16 Sprowson can find those in his paper documents. But, I'm happy to give them -- him
17 another copy at one o'clock.

18 As for the Justice Court search warrants I don't know what else to do. I've
19 provided him with certified copies and he still thinks I've doctored the certified
20 copies. So, there's nothing else I can do to prove to him, I mean, I can go down
21 again and get another certified copy from the Justice Court which is not my job, but
22 we've been willing to do, but he won't accept them. So, at this point he's the
23 individual who's causing this. I completely disagree with everything he said today.
24 He didn't think I was going to be able to do this case and now he sees that I am fine
25 going right into this case even though I just got out yesterday. If I can be ready after

1 doing two back-to-back month-long trials I think that he can be ready after having
2 this case for four years.

3 THE DEFENDANT: May I -- may I do a rebuttal? A couple of things, Your
4 Honor, that I'd like to clarify for the Court. This Court seems to think that I've been
5 representing myself for four years. I have not, Momots been handling my case --

6 THE COURT: I don't think that, sir.

7 THE DEFENDANT: -- for the majority --

8 THE COURT: I've been on this case a long time.

9 THE DEFENDANT: -- majority part of the case.

10 THE COURT: The long story short is -- you've --

11 THE DEFENDANT: Can -- can I --

12 THE COURT: -- been representing yourself for a long period of time and what
13 you bring up today is nothing new.

14 THE DEFENDANT: -- well, can -- I still have to comment, please if I may,
15 Your Honor, on the chain of custody issue. What I'm referring to -- they're talking
16 about doesn't exist, does exist. Every police department when you handle property
17 when they hand it to another person if I have, say for example, Your Honor, my
18 glasses and I hand my glasses, let's say this is evidence, and I hand it to Mr. Dean,
19 okay, and then Mr. Dean hands it to someone else who puts it in the property and
20 then they put it in somewhere else or if they need to do a forensics on it and they
21 take it out that is what you call a chain of custody.

22 THE COURT: Are you talking about like the label that's on the bags and
23 stuff?

24 MS. BLUTH: He's not talking about that but that's what it is.

25 THE DEFENDANT: No, I'm talking about someone who has handled the

1 evidence it's -- so here's the problem that I have, Your Honor, and this is why I keep
2 making this a big issue. It's not just a matter of what property was taken. It's a
3 matter of who handled the property because as you know, Your Honor, in a defense
4 if someone takes my computer and they take it home and they're doing stuff on it,
5 you know, this -- this interrupts the chain of custody. And this is a very important
6 issue. Now there is a form that I know for a fact, there is a form that states which
7 officers handled the evidence from when it goes into the evidence vault -- say for
8 example, evidence was seized from my home, okay, what officer sees that
9 evidence. You have to say who it is. He signs the document. That document goes
10 to the next person. That person whatever they do with it, say they do a forensic
11 examination they say well we did this, they sign it, they date it, they put their officer
12 number on there then that goes to -- if they put it into, say you have, an evidence
13 what you call an evidence technician or whatever you want to call that title they
14 handle it, they put it in the vault or wherever they put it.

15 All of these things are very important to my case, Your Honor, this is *Brady*
16 material. Because what it does is if there's a break in that chain of custody, what I
17 just defined, that is a legitimate form, it is a realistic form that police departments
18 use; they have to, Your Honor. This is what when they talk about DNA. When
19 you're talking about --

20 THE COURT: What do you believe that form looks like? Because --

21 THE DEFENDANT: Well it would have the officer's names on it who --

22 THE COURT: Mm-hmm.

23 THE DEFENDANT: -- handled my evidence or the evidence that they seized,
24 mainly my computer and my phone. Because here's the issue, they seized pictures
25 and obviously they're saying other things that might be on there as well. So, if I

1 come to trial and I say, well look, they're saying well we got all this evidence and
2 blah-blah-blah-blah, you know what I'm saying, I should be able to challenge that
3 and say well who else handled this equipment because if I say that evidence wasn't
4 offered. For example, what if there's like thousands of pornographic pictures all of a
5 sudden on my phone. Thousands of pornographic pictures all of a sudden on my
6 computer and I know for a fact that I didn't put those on there now all of a sudden
7 we have a chain of custody issue because somebody who had handled my -- I'm not
8 saying this is has happened, I'm just saying this is a scenario that I should be able to
9 argue in open court.

10 MS. BLUTH: Well, I can alleviate --

11 THE DEFENDANT: And it is very important to my defense.

12 MS. BLUTH: I can alleviate your concerns Mr. Sprowson.

13 THE DEFENDANT: Well see, that's the thing you're the State, you're the
14 opposition. I need this form. I need --

15 MS. BLUTH: Okay, and I'm going to get you the form if you just listen.
16 When we bring the evidence into Court to be lodged with the Court there is a label
17 on the front of the envelope. So, let's say the computer comes in and it comes in an
18 envelope. On the front of that envelope it will say -- it won't say chain of -- I don't
19 know the exact words but it's an evidence sheet and everyone who touched that
20 piece of evidence or who looked at it signs their name and their P number, and then
21 if it goes to the lab technician for forensics; that person. So, that's not a sheet that I
22 can give you but when the evidence comes into Court on the first day of trial it will
23 have every person's name who ever touched it or opened it. I think that that's what
24 he's requesting and that will be here in Court on the first day of trial.

25 THE DEFENDANT: See, that's the second problem because what if I need to

1 file a motion in limine and there's an issue with it and I need to file a motion in
2 limine. I don't have any time for preparation. So, what they're suggesting is that on
3 the day of, I be excluded from having any preparation time.

4 See, this is the other problem that I was bringing up with wobbling the ping-
5 ponging of the trial dates, Your Honor, is that, you know, you know, I was set for
6 March 20th again anticipating certain evidence and I do want to comment on those
7 search warrants, just real quick, and I'm not trying to drag it out, but sticking with this
8 whole issue with the preparation time. Now, I've been robbed of preparation time to
9 file any motions in limine, to file any motions to suppress; if need be. The other
10 issue is, Your Honor, NRS 1.180, says that the search warrants have to have a seal
11 on them. Now, --

12 THE COURT: Okay, so hold on --

13 THE DEFENDANT: -- they've given me -- they've given me

14 THE COURT: -- a second, let me stop -- I've got to stop you at something or
15 we will go on about these search warrants forever. Right, wrong or otherwise,
16 whether you agree, disagree whatever there's been rulings made on these search
17 warrants, okay. And once a ruling is made it may be wrong but it is the -- you may
18 believe it is just wrong; it is the ruling of the Court. And really at this stage of the
19 game the only time you get to challenge those is if you get convicted and you seek
20 some kind of relief in the Nevada Supreme Court. But you're stuck with the rulings.
21 You don't get to bring them up over and over and over again, and on the search
22 warrants you've got to lay that to rest. I mean, at this point, the State has offered to
23 give you certified copies. I don't know what happened with your investigator but you
24 had the ability to have an investigator to go and get those copies. I don't know what
25 happened.

1 THE DEFENDANT: But, the search warrants --

2 THE COURT: I don't know what happened.

3 THE DEFENDANT: -- were denied to me, Your Honor.

4 THE COURT: I don't know what happened, sir.

5 THE DEFENDANT: Not only that I --

6 THE COURT: The only -- hold on; at some point there's got to be finality. So,
7 if you don't have the warrants, I don't know what happened with your investigator
8 and why your investigator was unable to obtain those warrants. There's a couple of
9 different ways that could happen. You've presented -- your argument is I don't want
10 to take them from the State because I think they're doctoring the warrants; fine. Fair
11 enough, you're entitled to have that defense or have that belief; okay. That's why
12 you had the investigator. But if you needed the warrants there's only a few ways to
13 get them at this point because we do have to go to trial. Everyone has relied upon
14 the representations of both the State and the Defense that this case is ready for trial,
15 and the warrant issue has gone on and on and on for years. So, the State has
16 offered and you can accept or deny their offer to get you certified copies; okay. And
17 the certification would have the seal of the Clerk of the Court saying that this is in
18 fact a legitimate thing. I don't know if Mr. Yohay's office has the ability to go down to
19 the Clerk's office and get a certified copy and frankly I don't know what's precluding
20 your investigator from going down and getting a certified copy. Because usually it's
21 not that hard to get certified copies from the Court. But if you need them, those are
22 three different ways you could potentially get them.

23 THE DEFENDANT: But --

24 THE COURT: As far as, I agree with Ms. Bluth in that -- I understand what
25 you're asking for and I think the State understands what you're asking for as far

1 those chain of custody but usually they are -- usually when evidence comes in it's
2 usually in some kind of bag usually like a brown bag. And, on that bag, just as Ms.
3 Bluth has represented there's information that would be what you would consider a
4 chain of custody. Which basically says, on this date Joe Blow had the property and
5 then their identification number of the Las Vegas Metropolitan Police Department
6 and whether it's a detective, it's an officer, it's someone in the crime scene labs,
7 every single person that's ever touched that should be represented on the bag.

8 Now, the State is going to be obligated and they always do, they're going to
9 have to go through that piece of evidence, whatever it is, to sit there and go through
10 and lay that whole foundation of everyone who had that property until it comes into
11 possession of the person who's sitting on the stand. And, you will have the
12 opportunity to do cross examination on that. But, what you're asking for does not
13 exist in the form you believe it exists. So, I mean, at this point, I just honestly don't
14 see any reason for this case not to go trial and again, you've been provided
15 everything you've --

16 THE DEFENDANT: If I can just make two more points, Your Honor, please.

17 THE COURT: -- requested.

18 THE DEFENDANT: Please, if I can make two more points. Number one, as
19 far as the search warrants the -- the tell all of that -- what I did and what I found out
20 in my research was that -- what those documents --

21 THE COURT: Are we rearguing the search warrant issue because --

22 THE DEFENDANT: No, no this is something new -- this is new, Your Honor.

23 THE COURT: -- because I respect --

24 THE DEFENDANT: It's new, Your Honor.

25 THE COURT: -- the fact that you disagree, I respect that --

1 THE DEFENDANT: Your Honor, it's new information.

2 THE COURT: -- you believe that the law was wrong.

3 THE DEFENDANT: Please, I beg of you, Your Honor.

4 THE COURT: Okay, if it's new, if it's new.

5 THE DEFENDANT: It's new.

6 THE COURT: Only.

7 THE DEFENDANT: It's new.

8 THE COURT: Okay.

9 THE DEFENDANT: During my research, because one of the issues, like I
10 said, they provided me what they called certified copies, la-di-da-di-da; whatever.
11 The issue then, I did my research and I was looking at the Court rules on electronic
12 filings, okay and I discussed this with my standby counsel, I discussed this with my
13 investigator.

14 THE COURT: Okay.

15 THE DEFENDANT: So, on Friday what we did -- well let me just kind of give
16 some background information. So, as I'm doing my research and I'm looking on the
17 law library I realize it starts talking about scan dates and the scan dates are what
18 happens when you get the document, you put a file stamp on it, and within a couple
19 of days, no later than that, these documents are scanned into the system.

20 THE COURT: Okay.

21 THE DEFENDANT: So, what I did on Friday and this is another reason why I
22 asked for this continuance because this was something that I just realized and
23 learned. This is the tell-all, the end of all discussion in regards to the search
24 warrants. That's why it's good for the State, it's good for me and it's good for the
25 Court because it establishes the integrity issue. The scan dates establish when

1 those documents were filed.

2 THE COURT: No, they don't.

3 THE DEFENDANT: And so -- well it has --

4 THE COURT: Filing and scanning are two different things.

5 THE DEFENDANT: -- well, I mean it has the scan --

6 THE COURT: And sometimes the day it's scanned depends on how backed
7 up they are.

8 THE DEFENDANT: Right, but the bottom line is that the scanned date shows
9 within a certain period of time. For example, if it's three or four months prior or three
10 or four months afterwards there's obviously going to be a discrepancy there. So, the
11 new information that I'm trying to present to the Court on this issue --

12 THE COURT: How can you scan it before it's filed? The scanning isn't going
13 to be --

14 THE DEFENDANT: That's my point -- that's my point, see if you -- here's the
15 argument.

16 THE COURT: You're not going to know really the scan date. I mean, the
17 scan date is --

18 THE DEFENDANT: Well, I subpoenaed the scan dates, Your Honor. This is
19 what I'm trying to get to is that on Friday --

20 THE COURT: Okay.

21 THE DEFENDANT: -- I -- what I did was I subpoenaed the custodian of
22 records to be here at one o'clock so I could do a voir dire examination and to
23 actually end this issue and to look at scan dates. I asked them to bring the scan
24 dates on those documents. The reason why it's important, Your Honor, is cause,
25 say for example, and this is why it's a very good point. If it's been scanned six

1 months prior to the documents being filed, will you agree that there's an issue with
2 that document?

3 THE COURT: I'm just trying to figure out how they're going to scan in a
4 document --

5 THE DEFENDANT: Well, exactly.

6 THE COURT: -- and not file it.

7 THE DEFENDANT: Exactly, it has a file stamp on it.

8 THE COURT: Unless it goes to like some kind of --

9 THE DEFENDANT: Exactly, that's my point. Is that you're going to have --
10 definitely there's going to be an issue. How can -- that's what I'm trying to talk
11 about. Is if -- if I have scan dates that are six months or if it's an antiquated scan
12 date on this particular document and well -- actually what I'm getting at, it may not
13 even be the very document because we're talking about document numbers. We're
14 talking about, for example, search warrants --

15 THE COURT: Okay, stop for a second, okay I need some clarification. So,
16 what do you think happens? Like, it gets scanned in and it sits in some abyss until
17 they take it out of the abyss and they file it?

18 THE DEFENDANT: No, that's not what I'm saying. What I'm saying --

19 THE COURT: And I don't understand, sir because --

20 THE DEFENDANT: What I'm saying is, okay say for example, I'll use an
21 example here, if I may --

22 THE COURT: Okay.

23 THE DEFENDANT: -- in my documentation. And by the way, I just want to
24 say I did bring some evidence. I have an affidavit from Mr. Franky stating that he
25 tried to get those and that they would not give them to him. If the Court would

1 indulge me just to even look at the affidavit.

2 THE COURT: Can I see that Jason? I don't know why he's unable to get
3 these documents.

4 THE DEFENDANT: This is an affidavit from my investigator stating that --

5 THE COURT: Do you know why he's unable to get them?

6 MR. YOHAY: I can tell you Judge. I got a phone call from someone in
7 Justice Court and they indicated to me -- I'm sorry I have their name back in the
8 notes I've been keeping on this case. They indicated to me that they were unwilling
9 to give them to Mr. Franky because he wasn't an attorney. They indicated they
10 would send them to me because I was as an attorney and acting as a standby
11 counsel. I told them that's fine send them to me and I'll --

12 THE COURT: Did you get them?

13 MR. YOHAY: No.

14 THE COURT: Obviously, I can't get them because I don't want to be able to
15 be called in as a witness on any of this.

16 MR. YOHAY: Right.

17 THE COURT: So, --

18 MR. YOHAY: I can --

19 THE COURT: -- can you guys go down and get them today and get them to
20 Mr. Sprowson.

21 THE DEFENDANT: Well, I subpoenaed the custodian of records to be here
22 with the scan dates and that material. So, this is what I was trying -- if I may I'll let
23 you look at that. I have some other stuff that I'd like to just present to the Court; if I
24 may.

25 THE COURT: Well, wouldn't -- why can't -- just tell me why Mr. Yohay can't

1 send a representative of his office to go --

2 THE DEFENDANT: Well, I subpoenaed --

3 THE COURT: -- get these for you.

4 THE DEFENDANT: -- the custodian of records. He's going to be here at one
5 o'clock. I have to be here at one anyways.

6 THE COURT: At one o'clock today the custodian of records -- we don't have
7 time for him to testify. We have a jury that's coming up.

8 THE DEFENDANT: Well, Your Honor, it's very important that it be
9 established when these documents -- what I'm getting at I have --

10 THE COURT: What do you -- hold on a sec, hold on please. So, you want
11 them to just show up at one o'clock with the subpoenaed -- the scanned --

12 THE DEFENDANT: Well, it would -- it would be search warrants.

13 THE COURT: -- I'm sorry the certified documents?

14 THE DEFENDANT: They're supposed to bring the actual search warrants,
15 certified copies; yes I requested that. Certified copies of the search warrants --

16 THE COURT: Okay.

17 THE DEFENDANT: -- and the scan dates. So, that, I mean, we don't even
18 really have to go into any detail with this custodian of records. You're talking about
19 having -- this would save him -- it's already on the way is what I'm getting at.

20 THE COURT: Assuming they come up with their search warrants -- the
21 certified copies of the search warrants, that's all you want; right?

22 THE DEFENDANT: Well, I want the scan dates and this is -- I'm trying to
23 present my argument here so you understand what I'm trying to say; all right.

24 THE COURT: Please.

25 THE DEFENDANT: If I may. Are you already done with the --

1 THE COURT: Yes, sir.

2 THE DEFENDANT: -- you done with the affidavit, or --

3 THE COURT: I'm looking at it but is this your copy; sir?

4 THE DEFENDANT: That's from Mr. Franky, yes.

5 THE COURT: Okay, I mean I believe you and I believe Mr. Franky. I don't
6 understand why they're giving him so much difficulty but your counsel confirms this
7 so that means there's -- I guess there's -- three ways; new ways we can get it. Mr.
8 Yohay can get it, the State can get it or if they show up pursuant to your subpoena
9 they can bring it with them when they come.

10 THE DEFENDANT: And if I may, just please indulge me this one last thing on
11 this, Your Honor.

12 THE COURT: Yes, sir.

13 THE DEFENDANT: Okay, I have here two copies of the same exact
14 document supposedly a certified copy; okay. Now, on one of these the stamp and
15 I'm not nit picking on this because we know that when we say a file stamp we're
16 talking about a file stamp. When they file stamp a document before it's scanned it
17 should be in the same spot. In other words, if I scan a document and it's on my
18 computer every time I print out a copy I should get the exact same copy. The issue
19 that I'm having is is that I have two purported copies that are supposed to be from
20 the same exact original. I've got one file stamp that is straight in relation to my
21 name and another file stamp that is crooked and it's not just -- it's more predominant
22 on the other two pages.

23 THE COURT: Okay, let me ask this. Is the substance of the document the
24 same in both of the --

25 THE DEFENDANT: Well, this is what I was leading --

1 THE COURT: -- I can't see what they are.

2 THE DEFENDANT: -- to the scan dates. This is why I was leading to the
3 scan dates on this. If I may, Your Honor.

4 THE COURT: In both of the items you're holding are the -- is the substance
5 of the document, assuming it's the same document; is it the same exactly?

6 THE DEFENDANT: For the most part, yes. And that's not what I have an
7 issue with.

8 THE COURT: When you say for the most part, what do you mean?

9 THE DEFENDANT: For the most part, yes I've got a label on this one. I've
10 got a defense exhibit A on this one. As far as what you're talking about, --

11 THE COURT: For the content.

12 THE DEFENDANT: -- the content -- the content is relatively the same. But
13 that's not the point that I'm trying to make, if I may, Your Honor, please, you know,
14 I'm facing life sentences here. This is very important, as you know, I mean, there's
15 a reason why I'm asking for this --

16 THE COURT: I agree that this is important but we need to -- it needs to be
17 new.

18 THE DEFENDANT: I want -- I want to end it that's why I subpoenaed the
19 scan dates.

20 THE COURT: Sure.

21 THE DEFENDANT: What -- this is what I'm trying to get at with -- okay, so
22 say for example, let's just look at two different scans real quick. Okay, this is a
23 legitimate document; it goes into the Court; they file it. We see that, all right. It's
24 filed. At some point it has to be filed into the system. It has to be scanned into the
25 system, that's what I'm talking about, that's the scan dates that I'm asking for; okay.

1 So, this date has December 20th, 1:37 p.m. thirteen. Now, they're backlogged with
2 other -- within a relatively short period of time give or take; we'll give it a week.

3 THE COURT: Okay.

4 THE DEFENDANT: Okay. Variation it should be relatively the same date.
5 Now, what I'm asking for on the scan dates, is if you have an antiquated scan date --
6 when I say antiquated, say this one says December 20th, 2013, and you've got a
7 date on the scan date that -- and let's -- that's how are we -- first of all let's establish
8 how are we even identifying this document.

9 THE COURT: What date is that warrant signed? I'm assuming that's a
10 warrant?

11 THE DEFENDANT: This is a warrant but the document number is
12 SW20132044. So, this is how we're identifying it. What I'm getting at when I say
13 antiquated scan date if the -- if the -- if the clerk is looking for, okay so they go in
14 there; they look for a search warrant 2013 the scan date for a 2044.

15 THE COURT: Yes.

16 THE DEFENDANT: So, the scan date gives a date of such and such I don't
17 know whatever it gives. On here it has a file stamp that says December 20th, 1:37
18 p.m. at 2013. Okay, now if that scan date is very, very, very, very far off then we've
19 definitely got a problem, cause we can see that this document --

20 THE COURT: What's the date of the warrant?

21 THE DEFENDANT: -- could be questionable, as far as even being filed.

22 THE COURT: What's the date of the warrant?

23 THE DEFENDANT: The date of this warrant is December 20th, 1:37 p.m.
24 2013.

25 THE COURT: Okay, and it's filed the same day?

1 MS. BLUTH: He's reading the file date, Judge.

2 THE DEFENDANT: I'm reading the file date --

3 THE COURT: Okay, go to the last page --

4 THE DEFENDANT: -- this is what I'm getting at.

5 THE COURT: -- the signature page and see when it's signed.

6 THE DEFENDANT: As far as the issue date. The issue date on this one -- let

7 me give you the issue date cause we're talking about file date and we're talking

8 about issue date. Okay. So, okay, the issue date on this one was the 10th of

9 December.

10 THE COURT: Okay, so ten days later it's filed.

11 THE DEFENDANT: Okay, so that's not the issue that I'm having because,

12 you know, we know that the ten days it has to be returned within ten days, that's not

13 what I'm talking about.

14 THE COURT: Mm-hmm.

15 THE DEFENDANT: What I'm talking about as the scan date, the scan date --

16 this obviously has to be put into the system. This is a hard copy. This has to be put

17 into the system and it's put under 2044 and then it has that file stamp. What I'm

18 getting at is the way that you can verify this document is the date on it -- that it's --

19 that the actual physical file stamp compared to the actual scan date. The scan date

20 should be within approximately, like we already -- like I've already stated within a

21 week. I wouldn't see -- if it's a month earlier, or two months earlier, a year earlier

22 what if I look at this -- and we look at -- this is my argument. If you look at 20132044

23 and we got a date on it of say November 10th in 2008, wouldn't you find that kind of

24 a --

25 THE COURT: Well, I would but --

1 THE DEFENDANT: -- a suspicious issue?

2 THE COURT: -- I don't know that in 2008 they suspected that you would do
3 something in 2013.

4 THE DEFENDANT: Well, that's my point is that these numbers on here 2044
5 if this is actually -- does this actually even belong to this document because -- this --
6 you can easily on a computer -- this is -- you know I'm not gonna go back to the
7 same old argument that I've already argued about cut and paste stuff. I'm not going
8 to repeat that.

9 THE COURT: Sure.

10 THE DEFENDANT: My argument is the scan dates. So, what is the scan
11 date actually establish? It establishes that this was actually filed on the date it was
12 or within approximately the same few days. That's what the scan date establishes.

13 THE COURT: Okay, let me just stop you for a second. Things should be
14 scanned in relatively quick in time but quite honestly sometimes the scan -- things
15 get scanned in a day or two after they're are filed. Sometimes they can be several
16 days before their filed and that's talking about District Court. I have no idea what the
17 backlog is as far as Justice Court. There was a period of time when it took, oh gosh,
18 weeks and weeks and weeks for something to get scanned in. But hopefully, both
19 Justice Court and District Court are beyond that. But, I don't really see the
20 relevance in the scan date. I mean, I don't think in 2008 they were sitting around
21 waiting for Melvyn Sprowson to commit some kind of crime in 2013.

22 THE DEFENDANT: That's my point. It's not under my name, it's under the --
23 it's under the search warrant number.

24 THE COURT: Sir, I think that your arguments are just so tenuous.

25 THE DEFENDANT: Your Honor, but see this is the thing is it wouldn't be

1 under my name. Your Honor, if you look in my -- we've already established this.
2 There's nothing in my Justice Court case. This is the problem I'm having. You can't
3 look under my name. I have another subpoena -- not subpoena but affidavit --

4 THE COURT: What is it exactly -- what is it -- just spit it out.

5 THE DEFENDANT: -- stated there's nothing in my Justice Court case.

6 THE COURT: What exactly do you think? I mean because --

7 THE DEFENDANT: There are no search warrants. There are no search
8 warrants and this is why I'm saying -- the State is saying well these are our search
9 warrants, you know, you've got a stamp here that says certified copy. That's up --
10 that should have a seal there. NRS 1.180 establishes that as the law. You should
11 have a seal there. How did I get this if this is a legitimate certified copy why doesn't
12 it have a seal on it; Your Honor? That's all I'm saying. I have a legitimate argument.
13 This is suspicious when you give me and I have on the record already in my motions
14 that I filed in the past and in the present when you've got this right here without a
15 seal and all of a sudden -- all of a sudden now I'm getting different copies where
16 you've got one -- this was the one that was supposedly when we had the hearing in
17 October 12th -- and then --

18 THE COURT: When you say it doesn't have a seal --

19 THE DEFENDANT: -- on October 21st --

20 THE COURT: -- are you talking about the raised portion?

21 THE DEFENDANT: Yes.

22 THE COURT: That's made with that little machine?

23 THE DEFENDANT: Yes, that is the seal. 1.180 says it has to have a seal on
24 it.

25 THE COURT: Okay, how -- because it's just a regular copy. If you didn't

1 certify --

2 THE DEFENDANT: That makes it authen -- excuse me, Your Honor, that
3 authenticis -- I can't even speak. That authenticates, excuse me, authenticates that it
4 is an official copy.

5 THE COURT: Okay, so hold on --

6 THE DEFENDANT: That safeguards the system.

7 THE COURT: -- we've got to stop. At some point Mr. Sprowson you've got to
8 stop. It's a photocopy; okay. Photocopies are made of things that's not going to
9 have that seal unless it's the certified copy; okay. So, what you have is simply a
10 photocopy. What the State offered to give you but you didn't want which is fair was
11 the certified copy which would have had the raised seal.

12 THE DEFENDANT: This one has a photocopy seal on -- this is what I'm
13 saying.

14 THE COURT: Of course, but not every time -- not every time that that
15 document is reproduced is it going to have the certified copy simply because you
16 usually have to pay or you've got to go through extra steps. But all you want right; is
17 a certified copy?

18 THE DEFENDANT: I want the scan date so I can establish an argument and
19 have an opportunity to file a motion in limine, Your Honor, I just -- your -- you know
20 I'm not -- look it -- here's my -- my point with -- with the continuation, Your Honor.

21 THE COURT: Yes sir.

22 THE DEFENDANT: I'm not asking for a lot of time. I'm only asking for two
23 months so that I can have time --

24 THE COURT: I can't give you two months, sir.

25 THE DEFENDANT: -- to get --

1 THE COURT: You're probably going to be --

2 THE DEFENDANT: I'm incarcerated. The State's not at a loss, the Court's
3 not at a loss. I'm incarcerated, Your Honor, I'm the one that's at a loss. I'm the one
4 that has to -- all I'm asking for is a fighting chance in this; Your Honor. You know,
5 like I said, I understood the responsibility of representing myself; you know. This is
6 only my second continuation. My other attorney Momot, he's the one that had all
7 those other continuances. The Court had to continue it and I didn't mind when the
8 State was pregnant, you know what I mean, and you know, why was it that Momot
9 withdrew in the first place was because I said I wanted to go to trial.

10 MS. BLUTH: Your Honor, we've gone far past today, so --

11 THE COURT: Okay, so we do -- I agree with the State in that we just got to
12 have some resolution on this issue. So, is there anything else? So, basically you
13 have the Clerk's office coming up here at one o'clock with hopefully a certified copy
14 and hopefully the scan dates which they can present to you, and if that's all they're
15 doing that's fine, we can delay the jury a little bit coming in here. But we have a jury
16 coming at one.

17 THE DEFENDANT: Your Honor, I submit to you this affidavit from Mr. Franky
18 that says there's nothing in my Justice Court case.

19 THE COURT: Didn't you just -- didn't you show one?

20 THE DEFENDANT: That's another --

21 THE COURT: Was it filed?

22 THE DEFENDANT: -- affidavit that we requested the search warrants that he
23 didn't get the search warrants. See, this is another issue is --

24 THE COURT: Okay, stay on point, stay on point. What is that?

25 THE DEFENDANT: This is an affidavit that Mr. Franky signed stating that

1 when he went and he asked for the documents in Justice Court they did not have
2 the documents, okay.

3 MS. BLUTH: I think that, Your Honor, already put that in evidence a long time
4 ago.

5 THE DEFENDANT: No, not this -- this -- I'm the only one that has this -- she

6 MS. BLUTH: No, we -- it's on the record that there wasn't anything in Justice
7 Court.

8 THE COURT: Go ahead and file it. We'll make a copy for the State so it's in
9 the record. Okay, so is there anything else -- so hopefully you'll get your certified
10 copies when the person comes up today. Is there anything else?

11 MS. BLUTH: Not on behalf of the State.

12 [Colloquy between the Court and Court Clerk]

13 THE COURT: File it as affidavit of investigator.

14 THE COURT MARSHAL: Judge, do you want the subpoena too?

15 THE DEFENDANT: That's for -- we subpoenaed and asked for any search
16 warrants under my name. That's under my name. There's nothing under my name
17 either. They couldn't find anything in Justice Court under my name.

18 THE COURT: We've already talked about this. How they file these. We've
19 had other hearings on this.

20 THE DEFENDANT: Well see, now we're going back that's why I asked for the
21 scan dates because if --

22 THE COURT: Look, Sir, these are --

23 THE DEFENDANT: -- it's not under --

24 THE COURT: -- all issues we discussed --

25 THE DEFENDANT: -- my name it would be under the search warrant

1 number.

2 THE COURT: -- before, okay. So, the affidavit of your investigator --

3 THE DEFENDANT: Thank you.

4 THE COURT: -- we're going to put a cover sheet on it and we're going to file
5 it as defense's affidavit of investigator. We'll make a copy for the State.

6 THE DEFENDANT: The other thing -- just one more thing; Your Honor. I -- I
7 here mailed into this Court a notice of contempt to the Justice Court because we
8 couldn't get these documentations.

9 THE COURT: Okay.

10 THE DEFENDANT: All I'm saying is that I could not get these search
11 warrants and the fact that I could not get these search warrants I did not have an
12 opportunity to prepare, and I was -- I was -- the thing is because I have Mr. Franky
13 my investigator, he's telling me they're on the way - they're on the way. So, I tell the
14 Court, yes I'm ready to go in anticipation of having this because I'm getting ready
15 to -- whatever I need to file any motions in limine. This is my argument, Your Honor,
16 is that I have been robbed of preparation time. Not only that, but the wobbling back
17 of the trial dates, you know, I mean it's not fair to me; Your Honor. Quite honestly,
18 with -- even if I'm ready or not ready to go on March 20th and it's moved back to
19 March 13th and it's moved back to March 20th and then it's moved to March 21st, how
20 am I going to do my planning? I'm already restricted in the facility that I'm in. I only
21 get two hours a day to access the law library. I have to order paper, I have to order
22 envelopes and I understand all these things, but this is why I quoted the case that I
23 did. Because I should be allowed meaningful preparation; and that's all I'm asking.
24 It's the only reason I even asked for this because in anticipation of having that
25 evidence that I was anticipating to be able to go ahead and file motions in limine and

1 challenge the State's evidence.

2 MS. BLUTH: Your Honor, may I make one point to Mr. Sprowson. At the last
3 time when we continued this case nine months for him to be ready he said I will not,
4 Your Honor, I promise you, I will not ask for another continuance. We gave him nine
5 months and for him to say that these aren't his continuances; it's been continued
6 seven times. He has all day every day for four years to prepare for this case. At
7 some point, it is time to go and that time is today. So, we would ask that he be
8 ready to go at one o'clock. We'll make sure, we'll go call the Clerk make sure that
9 somebody is here at one o'clock to provide him with these things. But at this point in
10 time there is no outstanding discovery.

11 THE COURT: Okay, and sir, at this point --

12 THE DEFENDANT: I disagree, Your Honor, and I object.

13 THE COURT: -- I understand but --

14 THE DEFENDANT: And for the record I just want to lay, okay --

15 THE COURT: -- there's got to be finality.

16 THE DEFENDANT: Obviously, if I'm going to trial, I have to object.

17 THE COURT MARSHAL: Hey, enough. Quit arguing with the Judge.

18 THE COURT: It's okay. Just one minute closing statement.

19 THE DEFENDANT: I just want to object for the record, Your Honor.

20 THE COURT: One minute to sum up what you want.

21 THE DEFENDANT: Okay.

22 THE COURT: And then I need to make a ruling; sir. Okay, at this point the
23 motion to continue trial is going to be denied and I kind of indicated already, I
24 believe that you've had adequate time to get ready and there has to be some
25 reliance upon the representations made at calendar call which are that both sides

1 were ready to proceed. I do recognize that occasionally something comes up post
2 calendar call which makes -- precludes a person from being ready for trial but in this
3 particular case nothing new has come up. The search warrant issue has been
4 ongoing for years. I understand that you don't want to take the search warrants
5 proffered by the State notwithstanding the fact that they're certified copies; okay.
6 But, we have also given you the resources notwithstanding the fact you're
7 representing yourself and you're detained in the detention center. We have still
8 given you resources so that you can represent yourself to the best of your ability.
9 Again, those resources would be the ability to have an expert -- I'm sorry an
10 investigator that you can utilize to do the leg work, which you've had for -- you've
11 had maybe only for a short period of time but you've had it shortly after you made
12 the first request for that investigator. We've also given you the ability, if you so
13 desire, to have financial resources for the hiring of an expert, and again, we gave
14 you that ability the first time you asked for it and shortly thereafter. Even if it may
15 have been late in the case, we gave it to you the first time you've asked. None of
16 these issues are new. As far as the search warrant if you don't want to take it from
17 the State and you don't want Mr. Yohay to get it, you've subpoenaed the Clerk,
18 hopefully the Clerk does in fact show up at one o'clock at that point you can get the
19 requested documents and you can prepare. But, the bottom line -- and you can also
20 have at that point a certified copy to compare with the photo copy that you keep
21 referencing.

22 But, there is no basis to continue this trial. As far as the chain of custody, I
23 understand what you want and I think the State understands what you want as well,
24 but it doesn't seem to -- it doesn't exist in the format that you believe it exists in.
25 However, there are going to be experts I'm assuming that will come in and they'll

1 testify regarding evidence that was taken as part of the investigation of this case and
2 the State will have to, they're mandated, to lay that foundation for that expert and
3 the introduction of that evidence, and you will have the opportunity, sir, if you want,
4 to spend whatever time you deem appropriate cross-examining the person who's
5 sitting on the stand about any chain of custody defects, but there quite simply is no
6 basis to continue this trial out anymore. We'll see you -- we need him up a little
7 sooner because we're having that person coming at one. So, Mr. Sprowson
8 probably what -- can you bring him up around twelve forty-five.

9 THE DEFENDANT: Well --

10 THE CORRECTIONS OFFICER: Twelve forty-five?

11 THE COURT: Yeah. Does he have clothing down there? Does he have
12 clothing?

13 THE DEFENDANT: I'm going to come like this. I'm not going to change I'm
14 going to be just like this.

15 THE COURT: That choice is up to you; sir.

16 THE DEFENDANT: That's what I'm saying.

17 THE COURT: You have a right to be dressed in civilian clothing if you so
18 desire. And if you want to be seen by the jury like this we'll have to make a record
19 because --

20 THE DEFENDANT: That's fine.

21 THE COURT: -- most people would --

22 THE DEFENDANT: I mean it's --

23 THE COURT: -- prefer to be in civilian clothing.

24 THE DEFENDANT: -- it's -- if I just may for the record, Your Honor, just make
25 a closing statement, I just -- again, Your Honor, I do believe that I have just cause

1 for this continuation, you know, the chain of custody -- what I'm talking about. I
2 understand what the State has represented. I understand what you have
3 represented --

4 THE COURT: Yes, sir.

5 THE DEFENDANT: -- as far as the chain of custody I have seen other
6 documents that list the police officers and I understand it's an issue that I can
7 address during the trial but see -- what that does is it again --

8 THE COURT: I know, sir, but we've brought all this up before. We have --

9 THE DEFENDANT: I know it shorts the preparation time. All I'm arguing for,
10 Your Honor, is that I've been -- because of the wobbling of the trial dates it really
11 has --

12 THE COURT: I understand we've brought --

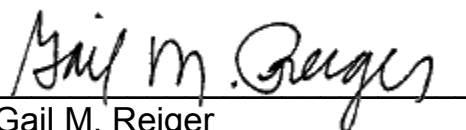
13 THE DEFENDANT: -- forfeit. I have forfeited preparation time.

14 THE COURT: -- this up. I respect that you disagree with me, I do, and but if
15 anything with the wobbling you've gotten that extra week you desire, but I do have
16 other cases, and sir, you need to go back down, get dressed in whatever you want
17 to wear and get ready for the trial because the jury will be here at one which is an
18 hour forty-five minutes approximately. Thank you, sir, we will see you soon.

19 [Proceedings concluded at 11:17 a.m.]

20 * * * * *

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

23 

24 Gail M. Reiger
25 Court Recorder/Transcriber

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

3
4 MELVYN SPROWSON,) No. 73674
5 Appellant,)
6 v.)
7 THE STATE OF NEVADA,)
8 Respondent.)
9)

10 **APPELLANT'S APPENDIX VOLUME VII PAGES 1404-1645**

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17 **CERTIFICATE OF SERVICE**

18 I hereby certify that this document was filed electronically with the Nevada
19 Supreme Court on the 2 day of May, 2018. Electronic Service of the foregoing document
20 shall be made in accordance with the Master Service List as follows:

21 ADAM LAXALT
22 STEVEN S. OWENS

DEBORAH L. WESTBROOK
HOWARD S. BROOKS

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

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27 BY /s/ Carrie M. Connolly
28 Employee, Clark County Public Defender's Office