

1 **GEIL, KATHY – LVMPD P#15650** (or designee): Expert in the area of
2 firearm/toolmark analysis, bullet trajectory comparison and will give opinions related thereto.
3 He is expected to testify regarding the collection, comparison and analysis of firearms,
4 ammunitions, ballistics and toolmark evidence as it relates to this case.

5 **HARDER (WANTA), RENEE - NLVPD P#1694** (or designee): Expert in the
6 identification, documentation, collection and preservation of evidence, including crime scene
7 analysis and latent print examination and comparison. She is expected to testify as an expert
8 to the identification, documentation, collection, preservation of evidence and the various latent
9 print comparisons performed in this case.

10 **KIM M.D., FNU** (or designee) – SUNRISE HOSPITAL: expected to testify regarding
11 the treatment of injuries sustained by the victim, ANSHANETTE MCNEIL as it relates to this
12 case.

13 **LUBKING, MICHAEL – NLVPD P#1984** (or designee): Expert in the identification,
14 documentation, collection and preservation of evidence, including crime scene analysis and is
15 expected to testify as an expert to the identification, documentation, collection and
16 preservation of evidence in this case.

17 **MARKS, DANA – NLVPD P#1726** (or designee): Expert in the identification,
18 documentation, collection and preservation of evidence, including crime scene analysis and is
19 expected to testify as an expert to the identification, documentation, collection and
20 preservation of evidence in this case.

21 **OLSON, DR. ALANE** (or designee): is a medical doctor employed by the Office of
22 the Clark County Medical Examiner. She is an expert in the area of forensic pathology and
23 will give scientific opinions related thereto. She is expected to testify regarding the cause and
24 manner of death of ANSHANETTE MCNEIL in this case.

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1 **RADKE, WENDY – NLVPD P#1915** (or designee): Expert in the identification,
2 documentation, collection and preservation of evidence, including crime scene analysis and
3 latent print examination and comparison. She is expected to testify as an expert to the
4 identification, documentation, collection, preservation of evidence and the various latent print
5 comparisons performed in this case.

6 **RUBINO, ALLISON – LVMPD P#14784** (or designee): Expert in the field of DNA
7 extractions, comparisons, analysis and the identification of bodily fluids and is expected to
8 testify thereto.

9 These witnesses are in addition to those witnesses endorsed on the Information or
10 Indictment and any other witness for which a separate Notice of Witnesses and/or Expert
11 Witnesses has been filed.

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

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

15
16 STEVEN B. WOLFSON
17 Clark County District Attorney
18 Nevada Bar #001565

19 BY /s/PAMELA WECKERLY
20 PAMELA WECKERLY
21 Chief Deputy District Attorney
22 Nevada Bar #6163
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1 CERTIFICATE OF ELECTRONIC TRANSMISSION

2 I hereby certify that service of the above and foregoing was made this 2nd day of
3 January, 2018, by electronic transmission to:

4 PUBLIC DEFENDER'S OFFICE
5 E-mail: pdclerk@clarkcountynv.gov

6 RYAN BASHOR, Deputy Public Defender
7 Email: bashorj@ClarkCountyNV.gov

8 SARA RUANO, Public Defender's Office
9 Email: ruanosg@clarkcountynv.gov

10 BY: /s/ Deana Daniels
11 _____
12 Secretary for the District Attorney's Office

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Curriculum Vitae
Patrick M. Fisher
North Las Vegas Police Department
1301 E. Lake Mead Blvd.
North Las Vegas, NV 89030
702-633-1802
Pager: 702-691-0614

QUALIFICATION SUMMARY

Crime scene investigator since 2000.
Extensive training and experience in the use of powders and chemicals to develop latent finger prints on a variety of surfaces in the field and in all situations.
Processed well over 1300 crime scenes from burglaries to homicides.
Over 15 years experience as a professional photographer with extensive detailed knowledge of ambient and strobe lighting, film formats from 35mm to 4x5 and digital cameras and programs.
Successfully completed detailed tasks and projects under deadline and high-pressure conditions.

EDUCATION/CERTIFICATIONS

B. A. Major: Advertising, Photography and Film Sequence. Minor: Marketing.
Texas Tech University, Lubbock, TX. 1984
Crime Scene Technician, International Association for Identification (IAI) February 2002.

TRAINING

Forensic Science 101, American Institute of Applied Science, February 2005.
Bloodstain Evidence Workshop II, Northwestern University, 40 Hrs. April 2004.
Bloodstain Evidence Workshop I, Northwestern University, 40 Hrs. March 2004
Crime Scene Technology Workshop III, Northwestern University, 40 Hrs. January 2004
Crime Scene Technology Workshop II, Northwestern University 40 Hrs. January 2004
Crime Scene Investigator Training & Evaluation Program, North Las Vegas Police Department, completed February 2004
Collection and Preservation of Biological Evidence, Tucson Police Department, 2 Hrs. April 2003
Arizona Post Tactical Driving Evaluation, Southern Arizona Law Enforcement Training Center, Tucson, AZ, 8 Hrs. November 2002

PATRICK M. FISCHER
Curriculum Vitae
Page 1 of 2

Forensic Fingerprint Classification and Identification, International
Association for Identification, Scottsdale, AZ, 40 Hrs. November 2001
Crime Scene Spanish, Tucson Police Department, Tucson, AZ. 16 Hrs.
July 2002

WORK HISTORY

11/03-present	Crime Scene Investigator On-scene latent fingerprint processing of evidence, evidence collection, transport, and booking; diagram scenes for use in court; photograph scenes and autopsies. Laboratory fingerprint processing with powders and chemicals. Make fingerprint comparisons of latent prints and known prints. Create reports of my actions and observations and provide testimony in various courts. North Las Vegas Police Department, North Las Vegas, NV
04/00-11/03	Crime Scene Specialist Document crime scenes with photography, on-scene processing for latent fingerprints with powders and chemicals; and evidence preservation and collection. Complete fingerprint comparisons. Write reports and provide courtroom testimony.
3/93-4/00	Freelance Photographer Produce illustrations and images for editorial and commercial use in magazines, books and calendars. Market stock photos, and services, negotiate contracts and pricing to editorial and commercial clients. Created a filing system to speed location and retrieval of images based on content that shortened response times to client's request. Partial List of Clients: Wescor Partners, Arizona Highways, Texas Highways, Browntrout Publishers and Southwestern Products, Inc. Patrick Fischer Photography, Tucson, AZ.

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT
FORENSIC LABORATORY
CURRICULUM VITAE**

Date: 05/23/17

Name: Kathy Geil P#: 15650 Classification: Forensic Scientist 2

Current Discipline of Assignment: Firearms Detail

EXPERIENCE IN THE FOLLOWING DISCIPLINE(S)			
Controlled Substances		Toxicology/Blood Alcohol	
Toolmarks	X	Toxicology/Breath Alcohol	
Trace Evidence	X	Toxicology/Drugs	
Arson Analysis		Firearms	X
Latent Prints		Crime Scene Investigations	X
Serology		Clandestine Laboratory Response Team	
Document Examination		DNA Analysis	
Quality Assurance		Technical Support / DNA	

EDUCATION			
Institution	Dates Attended	Major	Degree Completed
University of Washington, Seattle	6/92-12/96	Botany	MS
University of California, Davis	9/90-6/92	Genetics	BS

ADDITIONAL TRAINING / SEMINARS		
Course / Seminar	Location	Dates
AFTE Conference (23hrs)	Denver, Co	May 2017
Scientifically Defensible Criteria for the Identification of Striated Toolmarks (10hrs)	Denver, Co	05/14/2017
AFTE conference (30hrs)	New Orleans, LA	May 2016
ENFSI Distance Determination working group Final meeting	Dresden, Germany	April 2016
Glock Armorer's course (8 hrs)	Spokane, WA	June 2015
Fluid Dynamics of Bloodstain Pattern Analysis (40 hrs)	ESR, Seattle, WA	June 2015
AFTE conference (36hrs)	Dallas, TX	May 2015
Advanced Leica 3-D scanner training (36hr)	WSP Academy, Seattle, WA	Oct 2014
AFTE conference (36hrs)	Seattle, WA	May 2014

CURRICULUM VITAE -Name

ADDITIONAL TRAINING / SEMINARS		
Course / Seminar	Location	Dates
Leica 3-D scanner training (36hr)	WSP, Seattle, WA	Oct 2013
AFTE conference (36hrs)	Albuquerque, NM	June 2013
FBI Advanced photography (40hrs)	WSP Academy, Shelton, WA	December 2012
Subclass Characteristics Workshop (8hrs)	WSP, Vancouver, WA	October 2012
BRASSTRAX-3D and MATCHPOINT +	Forensic Technology WSP, Tacoma, WA	September 2012
AFTE conference (36hrs)	Buffalo, NY	June 2012
Crime Scene Analysis and Reconstruction (40hrs)	Green Forensics, WSP Academy, Shelton, WA	March 2012
H&K Armorer's (8 hrs)	WSP academy, Shelton WA	October 2011
AFTE conference (36hrs)	Chicago, IL	May 2011
Colt Armorer's course (24hrs),	WSP Academy, Shelton, WA	April 2011
AFTE conference (36hrs)	Henderson, NV	May 2010
FBI Tool Mark course (40hrs.)	Spokane, WA	August 2009
Pig Dig, CSRT training (24 hrs.)	WSP, Seattle, WA	August 2009
Crime Scene Latent Print Processing	WSP, Renton PD, Renton WA	June 2009
AFTE conference (36hrs)	Miami, FL	June 2009
Total Station Training introduction (8hrs)	WSP, Seattle, WA	May 2009
Noedel Trajectory course (20 hrs)	Mill Creek, WA	April 2009
Crash Zone training (40 hrs)	Washington State Patrol Shelton, WA	October 2008
FBI GSR school (40 hrs)	Spokane, WA	August 2008
Glock armorer's course (8 hrs)	Yakima, WA	July 2008
Advanced Bloodstain pattern analysis course (40 hrs)	Bevel & Associates, CJTC, Burien, WA	June 2008
Taser course (16 hrs)	Spokane, WA	March 2008
Sig Sauer Armorer's course (16 hrs)	Kent, WA	March 2008
Technical writing course (16 hrs)	Tacoma, WA	January 2008
Full auto weapons shoot and presentation (8 hrs)	Fernan Lake, ID	November 2007
Northwest association of Forensic Scientist Fall Conference (16 hrs)	Salt Lake City, UT	November 2007
Trace Symposium (32 hrs)	Clearwater Beach, FL	August 2007
Association of Crime Scene reconstruction conference (20 hrs)	Tacoma, WA	January 2007
Shooting reconstruction, Determination of contact with deployed automotive airbags, Polarizing Light Microscopy (32 hrs)	NWAFS/SWAFS meeting, Colorado Springs, CO	November 2006
Advanced Microscope training II (40hrs)	WSP, Seattle, WA	September 2006

CURRICULUM VITAE -Name

ADDITIONAL TRAINING / SEMINARS		
Course / Seminar	Location	Dates
Crime Scene II (40hrs)	CCI, Sacramento, CA	July 2006
Shooting reconstruction (24hrs)	WSP, Seattle, WA	July 2006
Crime Scene I (40hrs)	California Criminal Institute (CCI), Sacramento, CA	May 2006
Advanced Microscope training (40hrs)	WSP, Seattle, WA	June 2006
Crime Scene Reconstruction (40hrs)	WSP, Seattle, WA	May 2006
Recovery, Examination, and Evidence of Decomposed and Skeletonized Bodies (4hr)	American Academy of Forensic Scientists, AAFS meeting, Seattle, WA	February 2006
Collection, preservation, and documentation of footwear and tire track impression evidence (24 hr)	CJTC, Burien, WA	February 2006
Courtroom Testimony Techniques (16 hr),	WSP, Seattle, WA	January 2006
Instructor Development (40 hr)	WSP Training Academy, Shelton, WA	July 2005
Conceptual Tools for Impact-Based Decisions in Casework (8 hr)	Pacific Coast Forensic Science Institute, Seattle, WA	May 2005
Microchemical Tests and Color Tests (8 hr)	WSP Microanalysis Functional Area Meeting Workshop Tacoma, WA	May 2005
Scanning Electron Microscope Training (16hr),	WSP, Tacoma, WA	June 2004
Introduction to Hairs and Fibers (80 hr)	FBI Training Academy, Quantico, VA	March 2004
Small Particle Identification (40 hr)	MicroLab Northwest, Redmond, WA	December 2003
Blood Spatter Class (40 hr)	Washington Violent Crime Investigations Association, Bellingham, WA	November 2003
Risk Management/Ethics/Decision-Making in Law Enforcement (4 hr.)	Seattle Police Department, Seattle, WA	October 2003
Forensic Analysis of Paints and Polymers (40hr)	FBI Training Academy, Quantico, VA	June 2003
Unlocking Hidden Evidence Seminar (3 hr)	Everett Police Department, Everett, WA	March 2003
Collection and Preservation of Odontological, Entomological and Botanical Evidence at Crime Scenes (8hr)	Canadian Society of Forensic Sciences Conference, Vancouver, BC	March 2003
Court Room Testimony Techniques (16 hr),	Criminal Justice Training Seminar (CJTC), Burien, WA	January 2003
Michelin Tire Damage Seminar (8hr),	Washington State Patrol (WSP) Training Academy, Shelton, WA	July 2002
Forensic Color Determination (8 hr),	NWAFS Fall Training Conference , Coeur d'Alene, ID	July 2002
Wood and Wood Pulp Characterization and ID (8hr),	Northwest Association of Forensic Science (NWAFS) Spring Training Conference, Spokane, WA	April 2002

CURRICULUM VITAE -Name

ADDITIONAL TRAINING / SEMINARS		
Course / Seminar	Location	Dates
Diversity skills (8hr)	Pepsi Bottling group, Seattle WA	Summer 2001
Supervisory skills (16hr)	Pepsi Bottling group, Seattle WA	Summer 2001
Supervisory Skills (1 Qtr course)	South Seattle Community College, Seattle, WA	Fall 2001

COURTROOM EXPERIENCE		
Court	Discipline	Number of Times
King county superior court	Hair screening	2
King county superior court	Paint/polymer analysis	1
King county superior court	Impressions	1
Multi- county superior court	Crime Scene	6
Multi-county superior court, Kitsap county civil court, and Federal court	Firearms	85

EMPLOYMENT HISTORY		
Employer	Job Title	Date
Las Vegas Metropolitan Police Department Crime Laboratory	Forensic Scientist 2	2015- present
Washington State Patrol Crime Laboratory	Forensic Scientist 3	2002-2015
Eden Bioscience Corporation	Diagnostic Laboratory Associate	1996-2000
University of Washington	Research Associate/Associate	1993-1996

PROFESSIONAL AFFILIATIONS	
Organization	Date(s)
Association of Firearms and Tool mark Examiners (AFTE) – provisional member	2008-2014
Association of Firearms and Tool mark Examiners (AFTE) – distinguished member	2014-present

PUBLICATIONS / PRESENTATIONS:
Presented at the 2008 AFTE Meeting in Miami regarding Taser Probe analysis
R. T. Wyant, and K. M. Geil, <i>Examination of the Probe-Knot Junction to Estimate Duration of Electronic Control Device (TASER) Exposures</i> , <u>AFTE Journal</u> , 2010 Volume 42, Number 3 (Summer), Page 253 thru 258
Presented at the 2012 ASCR Meeting in Monterey, CA regarding crime scene and arson
Presented at the 2012 AFTE Meeting in Buffalo regarding chemical enhancement chemicals and GSR
Presented at the 2013 AFTE Meeting in Albuquerque regarding a homemade black powder firearm

CURRICULUM VITAE -Name

PUBLICATIONS / PRESENTATIONS:

Presented at the 2017 Pacific Northwest Fire Investigation Conference in Leavenworth, WA regarding Crime Scene recognition after an arson

OTHER QUALIFICATIONS:

Co-chair of the 2014 AFTE Meeting in Seattle, WA, member of the AFTE Bylaws committee, and member of the AFTE Ad-Hoc Forensic Education and Resouce committee, chair of the AFTE Science of Firearm & Toolmark Indentificaiton committee

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

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

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

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

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

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

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

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

International Association for Identification
Active Member
March 14, 2006

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

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

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

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

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

Renee Wanta P#1694
North Las Vegas Police Department

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

EMPLOYMENT:**Crime Scene Investigator
North Las Vegas Police Department****10/16/06 to present****Duties**

Investigate crime scenes and document them through photography and diagramming, locate, collect, and preserve evidence, develop and photograph latent fingerprints, compare and identify fingerprints, file fingerprint cards, enter fingerprints into the state Automated Fingerprint Identification System (A.F.I.S.) for identification, prepare investigative reports, duplicate photographs for attorneys, and give court testimony as to duties and findings.

**Technician / Latent Print Examiner
Greece Police Department
Greece, New York****1978 to 1986****Duties**

Investigate crime scenes and serious accidents and document them through photography and diagramming, locate, collect, and preserve evidence, develop and photograph latent fingerprints, compare and identify fingerprints, and give court testimony as to duties and findings

**Police Officer / Detective
Greece Police Department****1976 to 2001****EDUCATION:****American Institute of Applied Science Forensic Certification****October, 2007****NLVPD CSI Training / Evaluation Program****February, 2007****LVMPD Crime Scene Analyst Academy****November, 2006****JD degree-State University at Buffalo Law School****February, 2004****BS degree-Rochester Institute of Technology****June, 1974**

TRAINING:

Bloodstain Pattern Analysis
Advanced Latent Fingerprint
Basic Fingerprint Course

March, 2007
May, 1981
February, 1981

MAJOR CRIMES HANDLED AS PRIMARY CRIME SCENE INVESTIGATOR

*Homicides	1
*Death Investigations	5
*Shootings/Stabbings	2
*Robberies	2
*Burglaries	20
*Autopsies	12
*Sexual Assaults	1
*Child Abuse	3
*Stolen Vehicles (recovered)	3
*Suicides	4
*Fingerprint Comparisons	25
*Miscellaneous Calls	35

DANA M. MARKS

1301 East Lake Mead Blvd • North Las Vegas, NV 89030 • 702-633-1880

EMPLOYMENT

CRIME SCENE ANALYST
City of North Las Vegas
North Las Vegas Police Department

2004 - PRESENT
North Las Vegas, NV

Respond to Crime Scenes, identify, collect, document and preserve evidence, take photographs using digital and 35MM cameras, process scenes using various powders and chemicals. Complete diagrams, write reports, complete process requests and file fingerprint cards.

FORENSIC SPECIALIST VOLUNTEER
City of San Diego
San Diego Police Department Crime Lab

2002 - 2004
San Diego, CA

Respond to Major Crime Scenes, identify, collect, document and preserve evidence, take photographs using digital and 35MM cameras, process scenes using various powders and chemicals. Process items of evidence, vehicles and suspects, complete reports. Analysis and compare latent fingerprints and enter latent fingerprints into the Automated Latent Fingerprint System.

EDUCATION

ASSOCIATE OF SCIENCE - FORENSICS
Grossmont College

2002 - 2004
El Cajon, CA

Completed the following classes: Forensic Photography, Advanced Forensic Photography, Forensic Technology, Advanced Forensic Technology, Forensic Chemistry, Laws of Arrest and Firearms, Criminal Law, Criminal Evidence, Fingerprint Identification, Advanced Fingerprint Identification and Criminal Investigations.

CERTIFICATE
American Institute of Applied Science

2004 - 2005
Youngsville, NC

Completed the following classes: Fingerprint Classification and Identification, Modus Operandi, Criminal Investigation, Question Documents, Firearms Identification and Police Photography.

SKILLS

Certified in the following:

Forensic Photography - Grossmont College (108 hrs)
May 22nd 2001

DANA M. MARKS

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Recording, Classifying and AFIS Searching of Fingerprints - Grossmont College (68 hrs)
Aug 9th 2001

Advanced Latent Print Techniques and AFIS - Grossmont College (80 hrs)
Dec 5th 2001

Advanced Forensic Photography - Grossmont College (108 hrs)
Dec 12th 2002

Documenting Bloodstain Evidence Using Mapping - IAI (2hrs)
Aug 2004

The Use of Luminol - IAI (2hrs)
Aug 2002

Impact Pattern Reconstruction - IAI (2hrs)
Aug 2004

Examination of Bloodstained Clothing - IAI (4hrs)
Aug 2004

Firearms Qualification - Grossmont College (24 hrs)
Apr 17th 2004

Laws of Arrest w/Firearms - Grossmont College (48 hrs)
May 4th 2004

Techniques of Electrostatic Lifting at Crime Scenes - IAI (2hrs)
Aug 2004

The Preservation of Bloodstain Evidence - IAI (3hrs)
Aug 2004

Application of Light in Forensic Science - IAI (2hrs)
Aug 2004

Advanced Techniques for Photographing Shoeprints - IAI (3hrs)
Aug 2004

Ultraviolet Light Source - IAI (2hrs)
Aug 2004

Intermediate Dye Stains and Light Sources - IAI (2hrs)
Aug 2004

Nigh Time Imaging - IAI (3hrs)
Aug 2004

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Overview of Firearms - SDPD (4hrs)

Aug 4th 2004

Crime Scene Analyst Academy - LVMPD (160hrs)

Nov 1st - 30th 2004

Testifying in court - LVMPD (7hrs)

Dec 6th 2004

Concealed Firearm Permit Training - The Gun Store

Dec 4th 2004

Crime Scene Investigator Training and Evaluation Program - NLVPD

Jan 26th 2005

Crime Scene Technology 2 - Institute of Applied Forensic Technology (40hrs)

Mar 14th - 18th 2005

Forensic Science Program 101 - American Institute of Applied Science (230 hrs)

July 20th 2005

National Incident Management System - Emergency Management Institute

Sep 25th 2005

Death and Homicide - Public Agency Training Council (35 hrs)

Nov 28th - Dec 2nd 2005

Introduction to Forensic Video Examination - AVID

Feb 7th - 10th 2006

Ridgeology Science Workshop - Forensic Identification Training Seminars (40 hrs)

Oct 30th - Nov 3rd 2006

Latent Fingerprint Photography - U.S. Department of Justice/FBI

Feb 5th - 16th 2007

Advanced Palm Print Comparison Techniques - Ron Smith & Associates

Mar 5th - 7th 2007

Bloodstain Pattern Analysis - National Forensic Science Institute (40 hrs)

Mar 19th - 23rd 2007

Enhancing Digital Images in Photoshop CS - IAI (4 hrs)

July 22nd - 28th 2007

Preparation for Bloodstain Pattern Collection - IAI (4 hrs)

July 22nd - 28th 2007

Effective Expert Witness Testimony - IAI (3 hrs)

July 22nd - 28th 2007

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Preparing for Latent Print Certification - IAI (4 hrs)

July 22nd - 28th 2007

Forensic Computer Investigation -Public Agency Training Council (20 hrs)

Nov 26th - 28th 2007

Cell Phone Investigations -Public Agency Training Council (16 hrs)

Nov 29th - 30th 2007

Courtroom Testimony Techniques -Ron Smith & Associates (16 hrs)

Dec 17th -18th 2007

Curriculum Vitae
ALANE M. OLSON, M.D.
Clark County Coroner's Office
1704 Pinto Ln.
Las Vegas, NV 89106
702-455-1862
e-mail: alo@co.clark.nv.us

EMPLOYMENT

9/12/05	Clark County Coroner's Office
7/1/00-9/9/05	Ellen G.I. Clark, M.D., P.C., Washoe County Coroner/Medical Examiner's Office

EDUCATION

7/99-6/00	Forensic Pathology Fellowship: Milwaukee County Medical Examiner's Office/MCWAH
7/94-6/99	Residency in combined Anatomic and Clinical Pathology: Oregon Health Sciences University, Portland, OR
5/94	MD degree: University of Nevada School of Medicine, Reno, NV
6/87	Bachelor of Science: Microbiology, University of Idaho, Moscow

PROFESSIONAL ACTIVITIES

2001	Co-author, <u>Liquid Petroleum Explosion without Fire</u> , American Board of Medico legal Death Investigators Newsletter.
2000	Co-author, elder abuse presentation, given at September meeting of National Association of Medical Examiners, Indianapolis, IN
1999-2000	Team Teacher and laboratory instructor, MCW sophomore Pathology course
1995-1999	Laboratory instructor, Oregon health Sciences University Medical School sophomore Pathology course
1955-1999	Team teacher, Oregon Health Sciences University Medical Technologist School Pathophysiology course
1998-1998	Autopsy instructor, Oregon Health Sciences University Department of Pathology, incoming residents and student fellows
1997	Hematopathology in-service lecture, Kaiser Permanente Regional Laboratory

LICENSURE

1995-1999

State of Oregon

1999-present

State of Wisconsin

2000-present

State of Nevada

PROFESSIONAL BOARD CERTIFICATION

Anatomic and Clinical Pathology

Forensic Pathology

WENDY J. RADKE

10-12-2017

NORTH LAS VEGAS POLICE DEPARTMENT
CRIME SCENE INVESTIGATIONS BUREAU
CERTIFIED SENIOR CRIME SCENE ANALYST
1301 East Lake Mead Boulevard
North Las Vegas, Nevada 89030
702.633.1801 radkew@cityofnorthlasvegas.com

CERTIFICATION:

International Association for Identification, Certified Crime Scene Analyst
(Level Two) 06/2015

EDUCATION:

Las Vegas Metropolitan Police Department-Crime Scene Analyst Academy 03/2011
American Institute of Applied Science-Forensic Science 101 Certification 10/2010
NLVPD Crime Scene Investigations-Field Training Evaluation Program 07/2009
State of Nevada P.O.S.T. Academy (Category II) 04/1999
Bachelor of Science Degree, Law Enforcement 12/1996

TRAINING:

Forensic DNA Profiling 04/2009
Basic Forensic Photography 06/2009
Intermediate Photography for Police Personnel 06/2009
Advanced Homicide Investigations 11/2009
Basic Bloodstain Pattern Analysis Workshop 03/2010
Introduction to the Science of Friction Ridge Examination 08/2010
"The CAD Zone" Forensic Mapping and Diagramming 10/2010
"ODV" Certification Training (Presumptive Drug Testing) 11/2010
DNA Collection 12/2010
Basic Shooting Reconstruction 01/2011
Basic Courtroom Testimony 08/2011
Digital Evidence Collection Training 05/2012
Computer Forensic Investigation Training 05/2012
Tactical Communication 05/2012
Essential [Fingerprint] Ridgeology Concepts 09/2012
Bloodstain Pattern Recognition-Level One 09/2014
IAI Certification Test Preparation 06/2015
Smartphone Forensics & Cellular Technology Certification, +SMART 02/2016
Logical Latent Analysis 01/2017
Palm Print Comparison Techniques 05/2017
Officer-Involved Shooting & In-Custody Death Investigations 06/2017
Officer-Involved Shooting Investigations 08/2017

MEMBERSHIP(S):

International Association for Identification, Member #26279 02/2011

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT
FORENSIC LABORATORY
CURRICULUM VITAE**

Date: 5/2/17

Name: Allison Rubino P#: 14784 Classification: Forensic Scientist II

Current Discipline of Assignment: Biology/DNA Detail

EXPERIENCE IN THE FOLLOWING DISCIPLINE(S)			
Controlled Substances		Toxicology/Blood Alcohol	
Toolmarks		Toxicology/Breath Alcohol	
Trace Evidence		Toxicology/Drugs	
Arson Analysis		Firearms	
Latent Prints		Crime Scene Investigations	
Serology	x	Clandestine Laboratory Response Team	
Document Examination		DNA Analysis	x
Quality Assurance		Technical Support / DNA	

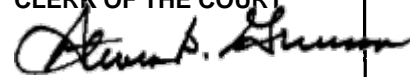
EDUCATION			
Institution	Dates Attended	Major	Degree Completed
University of Scranton	08/03-05/07	Biochemistry	B.S.
University of New Haven	08/07-05/09	Forensic Science (Criminalistics)	M.S.

ADDITIONAL TRAINING / SEMINARS		
Course / Seminar	Location	Dates
STRmix 5 day Training Workshop	Las Vegas, NV	April 2017
American Academy of Forensic Science Meeting Workshop: Considerations for Implementing Next Generation Sequencing Technologies into a Forensic Laboratory	Las Vegas, NV	February 2016
STRmix Training Workshop	Las Vegas, NV	September 2015
American Academy of Forensic Science Meeting Two Workshops - Obtaining Successful DNA profiles from Challenging Samples - Scientific Neutrality in Expert Witness Testimony	Orlando, FL	February 2015

ADDITIONAL TRAINING / SEMINARS		
<i>Course / Seminar</i>	<i>Location</i>	<i>Dates</i>
Moving Beyond Buccal Samples with the Rapid DNA Analysis System – Webinar	Las Vegas, NV	February 2015
The PowerPlex Fusion 6C System: A 6-dye Multiplex for evolving Global Standards – Webinar	Las Vegas, NV	October 2014
the NIST DNA Analyst Webinar Series: Validation concepts and Resources (Part 1) – Webinar	Las Vegas, NV	August 2014
The Fundamentals of CE-based DNA Analysis and Related Interpretation Issues – Webinar	Las Vegas, NV	July 2014
NIST DNA Analyst Webinar Series: Probabilistic Genotyping and Software Programs (Part 1) – Webinar	Las Vegas, NV	May 2014
Life Technologies Information Demonstration of Quantifiler Trio and Globalfiler (2 days)	Las Vegas, NV	May 2014
Informed Casework Sample Decisions for Downstream STR typing Using the PowerQuant System – Webinar	Las Vegas, NV	April 2014
Getting 'DNA Free'- The Quest for Forensic Grade Certification – Webinar	Las Vegas, NV	January 2014
Enhancing the Sexual Assault Workflow – Webinar	Las Vegas, NV	January 2014
More Ys in half the time. See Y: An Overview of the Global PPY23-YHRD Database Project – Webinar	Dover, DE	October 2013
Introducing TrueAllele Casework at the New York State Police – Webinar	Dover, DE	October 2013
Recovery of Human DNA Profiles from Poached Deer Remains/ Australian Centre for Ancient DNA	Dover, DE	February 2013
Lecture about Quant Duo	Dover, DE	January 2013
Y-STR History and Review	Dover, DE	January 2013
LCN Y-filer	Dover, DE	December 2012
Promega Fusion – Webinar	Dover, DE	December 2012
Globalfiler System – Webinar	Dover, DE	November 2012
Topics and Techniques for Forensic DNA Analysis	Dover, DE	April 2012
Forensic Ethics Training	Dover, DE	August 2011
Principles of Genetics	Farmingdale, NY	August – December 2011

ADDITIONAL TRAINING / SEMINARS		
Course / Seminar	Location	Dates
Forensic Relationship Training	Albany, NY	July 2011
Advanced DNA Training	Huntington, WV	June 2011
TrueAllele Casework Technology by Cybergenetics	Hauppauge, NY	April 2011
American Academy of Forensic Science Meeting	Chicago, IL	February 2011
Forensic Toxicology	Verona, Italy	November 2010
Advanced Analytical Techniques in Biomedical and Forensic Investigations	Verona, Italy	October 2010
19th Annual Markle Symposium Police Involved Shootings-Investigation of Critical Incidents and Issues	Ledyard, CT	September 2010
HID Future Trends in DNA Technology	New York, NY	August 2010
Statistics 110	Farmingdale, NY	July 2010
Forensic Scientist Criminal Trial Training	Westchester, NY	March 2010
18th Annual Markle Symposium Investigating International Crimes	Ledyard, CT	April 2009
American Academy of Forensic Science meeting	Denver, CO	February 2009
17th Annual Markle Symposium Conspiracies: Investigating Complex Cases	Ledyard, CT	March 2008
COURTROOM EXPERIENCE		
Court	Discipline	Number of Times
Clark County District Court	Biology/DNA	5
Clark County Grand Jury	Biology/DNA	3
Lincoln County Court (Pioche, NV)	Biology/DNA	1
EMPLOYMENT HISTORY		
Employer	Job Title	Date
Las Vegas Metropolitan Police Department	Forensic Scientist I	January 2013- Present
Armed Forces DNA Identification Laboratory (AFDIL)	Forensic Scientist I - Technician	June 2012 – December 2013
Lab Support, A Division of On Assignment/ Suffolk County Crime Laboratory	Research Associate/ Forensic Scientist I	April 2009 – June 2012

EMPLOYMENT HISTORY		
Employer	Job Title	Date
University of Verona/University of New Haven	Research Student	January – December 2010
University of New Haven	Graduate Assistant	August 2007 – May 2009
Suffolk County Crime Laboratory	Intern	August 2008
University of Verona	Intern	July 2008
PROFESSIONAL AFFILIATIONS		
Organization	Date(s)	
American Academy of Forensic Sciences	2009-Present	
PUBLICATIONS / PRESENTATIONS:		
American Academy of Forensic Sciences meeting in Chicago, Illinois February 2011; presented a poster in the Toxicology section		
OTHER QUALIFICATIONS:		
<i>Instrumental and Computer Skills:</i> Qiagen - EZ1 Robotics, Qiagility Applied Biosystems – 7500 RT-PCR and software, GeneAmp PCR System 9700, 3130 Genetic Analyzer and software, and GeneMapper ID software v3.2.1 and GeneMapper ID-X v1.3 Windows and Macintosh software - Microsoft Word, Excel and PowerPoint, Access TrueAllele Data Review System		



NWEW
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
PAMELA WECKERLY
Chief Deputy District Attorney
Nevada Bar #6163
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

VERNON NEWSON, JR.,
#1946426

Defendant.

CASE NO: C-16-313919-1

DEPT NO: XXI

STATE'S NOTICE OF WITNESSES
[NRS 174.234(1)(a)]

TO: VERNON NEWSON, JR., Defendant; and

TO: RYAN BASHOR, Deputy Public Defender, Counsel of Record:

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

<u>NAME</u>	<u>ADDRESS</u>
ACOSTA, JUAN	4735 E. Cincinnati Ave., LVN, 89104
AUGUSTA, FNU	MEDIC WEST, 9 W. Delhi Ave, NLV, NV 89032
BANEZ, SHERWYNNE	4775 Swenson St., LVN, 89119
BREMMER, NAKIEA	4775 Swenson St., LVN, 89119
BROOKS, D.	NL2380
BROWN, TIFFANY	CCME-INVESTIGATOR, 1704 Pinto Lane, LVN
BURGUENO, GERARDO	4336 Santa Clarita Ave., LV, NV 89081

1	CARRINGTON, OLIVER	3237 Edinboro Ridge Ave., NLV, NV 89081
2	CENTULO, HENRY	NLVPD P#1247
3	CHADDOCK, DAVID	NLVPD P#1805
4	CUSTODIAN OF RECORDS	GUN REGISTRATION
5	CUSTODIAN OF RECORDS	LVMPD RECORDS
6	CUSTODIAN OF RECORDS	CCDC
7	CUSTODIAN OF RECORDS	LVMPD COMMUNICATIONS
8	DINH, C.	LVMPD P#15084
9	FARGE, MICHAEL	NLVPD P#1669
10	GLAZIER, T.	NLVPD P#701
11	HAWKINS, RICK	Claremont Police Dept., 570 W. Bonita Ave., Claremont, CA 91711
12		
13	HOWE, BRIAN	NLVPD P#2376
14	HUDSON, JIM	NLVPD P#1272
15	JERRAN, NICHOLAS	NHP P#2330
16	REECE, WINSTON	4740 E. Cincinnati Ave., LVN, 89104
17	SANDERSON, PAUL	NLVPD P#1699
18	SCHWANITZ, IAN	NLVPD P#1237
19	TILLMAN, JACOB	Claremont Police Dept., 570 W. Bonita Ave., Claremont, CA 91711
20		
21	TING, JEFF	Claremont Police Dept., 570 W. Bonita Ave., Claremont, CA 91711
22		
23	WALTERS, JASON	Claremont Police Dept., 570 W. Bonita Ave., Claremont, CA 91711
24		
25	///	
26	///	
27	///	
28	///	

1 These witnesses are in addition to those witnesses endorsed on the Information or
2 Indictment and any other witness for which a separate Notice of Witnesses and/or Expert
3 Witnesses has been filed.

4
5 STEVEN B. WOLFSON
6 Clark County District Attorney
7 Nevada Bar #001565

8 BY /s/PAMELA WECKERLY
9 PAMELA WECKERLY
10 Chief Deputy District Attorney
11 Nevada Bar #6163

12
13
14 CERTIFICATE OF ELECTRONIC TRANSMISSION

15 I hereby certify that service of the above and foregoing was made this 2nd day of
16 January, 2018, by electronic transmission to:

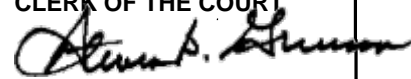
17 PUBLIC DEFENDER'S OFFICE
18 E-mail: pdclerk@clarkcountynv.gov

19 RYAN BASHOR, Deputy Public Defender
20 Email: bashorj@ClarkCountyNV.gov

21 SARA RUANO, Public Defender's Office
22 Email: ruanosg@clarkcountynv.gov

23 BY: /s/ Deana Daniels
24 Secretary for the District Attorney's Office

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28 dd-MVU



NWEW
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
PAMELA WECKERLY
Chief Deputy District Attorney
Nevada Bar #6163
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

VERNON NEWSON, JR.,
#1946426

Defendant.

CASE NO: C-16-313919-1

DEPT NO: XXI

SUPPLEMENTAL NOTICE OF EXPERT WITNESSES
[NRS 174.234(2)]

TO: VERNON NEWSON, JR., Defendant; and

TO: RYAN BASHOR, Deputy Public Defender, Counsel of Record:

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

***CORNEAL, JENNIFER** (or designee): is a medical doctor employed by the Office of the Clark County Medical Examiner. She is an expert in the area of forensic pathology and will give scientific opinions related thereto. She is expected to testify regarding the cause and manner of death of ANSHANETTE MCNEIL in this case.

FISHER, PATRICK – NLVPD P#1647 (or designee): Expert in the area of crime scene analysis and will give opinions related thereto. He is expected to testify regarding the processing of the various crime scenes in this case, as well as the collection and preservation of evidence.

1 **GARCIA, ERIC – NLVPD #1182** (or designee): Expert in the identification,
2 documentation, collection and preservation of evidence, including crime scene analysis and is
3 expected to testify as an expert to the identification, documentation, collection and
4 preservation of evidence in this case.

5 **GEIL, KATHY – LVMPD P#15650** (or designee): Expert in the area of
6 firearm/toolmark analysis, bullet trajectory comparison and will give opinions related thereto.
7 He is expected to testify regarding the collection, comparison and analysis of firearms,
8 ammunitions, ballistics and toolmark evidence as it relates to this case.

9 **HARDER (WANTA), RENEE - NLVPD P#1694** (or designee): Expert in the
10 identification, documentation, collection and preservation of evidence, including crime scene
11 analysis and latent print examination and comparison. She is expected to testify as an expert
12 to the identification, documentation, collection, preservation of evidence and the various latent
13 print comparisons performed in this case.

14 **KIM M.D., FNU** (or designee) – SUNRISE HOSPITAL: expected to testify regarding
15 the treatment of injuries sustained by the victim, ANSHANETTE MCNEIL as it relates to this
16 case.

17 **LUBKING, MICHAEL – NLVPD P#1984** (or designee): Expert in the identification,
18 documentation, collection and preservation of evidence, including crime scene analysis and is
19 expected to testify as an expert to the identification, documentation, collection and
20 preservation of evidence in this case.

21 **MARKS, DANA – NLVPD P#1726** (or designee): Expert in the identification,
22 documentation, collection and preservation of evidence, including crime scene analysis and is
23 expected to testify as an expert to the identification, documentation, collection and
24 preservation of evidence in this case.

25 **OLSON, DR. ALANE** (or designee): is a medical doctor employed by the Office of
26 the Clark County Medical Examiner. She is an expert in the area of forensic pathology and
27 will give scientific opinions related thereto. She is expected to testify regarding the cause and
28 manner of death of ANSHANETTE MCNEIL in this case.

1 **RADKE, WENDY – NLVPD P#1915** (or designee): Expert in the identification,
2 documentation, collection and preservation of evidence, including crime scene analysis and
3 latent print examination and comparison. She is expected to testify as an expert to the
4 identification, documentation, collection, preservation of evidence and the various latent print
5 comparisons performed in this case.

6 **RUBINO, ALLISON – LVMPD P#14784** (or designee): Expert in the field of DNA
7 extractions, comparisons, analysis and the identification of bodily fluids and is expected to
8 testify thereto.

9 These witnesses are in addition to those witnesses endorsed on the Information or
10 Indictment and any other witness for which a separate Notice of Witnesses and/or Expert
11 Witnesses has been filed.

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

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

15
16 STEVEN B. WOLFSON
17 Clark County District Attorney
18 Nevada Bar #001565

19 BY /s/PAMELA WECKERLY
20 PAMELA WECKERLY
21 Chief Deputy District Attorney
22 Nevada Bar #6163
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1 CERTIFICATE OF ELECTRONIC TRANSMISSION

2 I hereby certify that service of the above and foregoing was made this 25th day of
3 January, 2018, by electronic transmission to:

4 PUBLIC DEFENDER'S OFFICE
5 E-mail: pdclerk@clarkcountynv.gov

6 RYAN BASHOR, Deputy Public Defender
7 Email: bashorj@ClarkCountyNV.gov

8 SARA RUANO, Public Defender's Office
9 Email: ruanosg@clarkcountynv.gov

10 BY: /s/ Deana Daniels
11 Secretary for the District Attorney's Office

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28 dd-MVU

Jennifer Corneal

CONTACT

Clark County Coroner's Office
1704 Pinto Lane
Las Vegas, NV 89106
Work: 702-455-3210
Cell: 502-718-6667
Email: jennifer.corneal@clarkcountynv.gov

EDUCATION

University of Louisville School of Medicine	2010
MD	
Murray State University	2006
B.S., Chemistry	
University of New Haven	2003
M.S., Forensic Science	
Murray State University	2001
B.S., Criminal Justice	

GRADUATE TRAINING

Fellowship	2014 – 2015
Forensic Pathology	
San Diego County Medical Examiner	
Residency	2010 – 2014
Pathology	
University of South Alabama Medical Center, Mobile, AL	

LICENSURE AND CERTIFICATION

Nevada Medical License	2015
California Medical License	2014
American Board of Pathology, Anatomic Pathology	2014

HONORS AND AWARDS

Rural Honors Scholarship	2006 – 2007
Dean's Certificate of Recognition for research	2007
Chemistry Department Academic Scholarship	2005

RESEARCH EXPERIENCE

Summer Research Scholars Program	2007
“Complications of PICC lines in low birthweight infants”	
Supervisor Dr. Scott Duncan	
Poster Presentation at Neonatal Conference at Heuston Woods	2007

SCIENTIFIC PRESENTATIONS

Corneal J, Sosnowski J. Body Mass Index in Hospital Autopsy Cases: Younger Age at Death Associated with Increased BMI in the Southeast. College of American Pathologists Annual Meeting, 2012 September; San Diego, California.

Corneal J, Geli D, Sosnowski J. Amyloid Angiopathy: A Case Study. College of American Pathologists Annual Meeting, 2012 September; San Diego, California.

Corneal J, Sosnowski J. Nodular Myositis: A Case Study. College of American Pathologists Annual Meeting, 2012 September; San Diego, California.

Corneal J, Cordell C, Mancini E. Alpha-Fetoprotein Negative Papillary Yolk Sac Tumor in an Ovarian Mixed Germ Cell Tumor. College of American Pathologists Annual Meeting, 2012 September; San Diego, California.

Cordell C, Corneal J, Kahn A. Advanced Stage Medullary Carcinoma of the Colon. College of American Pathologists Annual Meeting, 2012 September; San Diego, California.

EXTRACURRICULAR AND LEADERSHIP ACTIVITIES

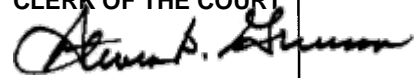
Team Member, CAP Self Inspection	March 2012
CAP Resident Delegate	2011 – 2013
Clinical Track Captain	2008
Benchmark Institutions Curricular team	2007

SERVICE ACTIVITIES

Volunteer, Healthcare Classic 5K	2007, 2008
Volunteer, Medical School Charity Auction	2008
Volunteer, Life Clinic (student service learning clinic)	2007

PROFESSIONAL MEMBERSHIPS

National Association of Medical Examiners	2012 – present
College of American Pathologists	2010 – present
United States & Canadian Academy of Pathology	2010 – present
American Society for Clinical Pathology	2010 – present
Medical Association of the State of Alabama	2010 – present
American College of Physicians	2006 – present
American Medical Association	2006 – present
Kentucky Medical Association	2006 – present
Southern Medical Association	2006 – present
Lambda Alpha (National Anthropology Honor Society)	2000 – present



PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
RYAN J. BASHOR, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 11914
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

v.

VERNON NEWSON,

Defendant,

CASE NO. C-16-313919-1

DEPT. NO. XXI

DATE: February 8, 2018
TIME: 9:30 a.m.

MOTION TO BIFURCATE COUNT 2

COMES NOW, the Defendant, VERNON NEWSON JR., by and through RYAN J. BASHOR, Deputy Public Defender and hereby moves this Honorable Court to bifurcate Count 2, Ownership or Possession of a Firearm by Prohibited Person from the remaining counts in the Information.

This Motion is made and based upon all the papers and pleadings on file herein, the attached Declaration of Counsel, and oral argument at the time set for hearing this Motion.

DATED this 25th day of January, 2018.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: 

RYAN J. BASHOR, #11914
Deputy Public Defender

STATEMENT OF FACTS

It is alleged that on December 13, 2015, the defendant, Vernon Newson, shot and killed Anshanette McNeil while she sat in a moving vehicle that Mr. Newson was driving in the area of I-15 and Lamb Blvd. (Count 1 – Open Murder with Use of a Deadly Weapon). It is further alleged that Mr. Newson was a felon at the time, and therefore he was illegally in possession of a firearm. (Count 2 – Ownership or Possession of a Firearm by Prohibited Person). Finally, it is alleged that Mr. Newson fired the weapon as Ms. McNeil sat next to two of her children, minors M.N. and B.B., thereby endangering them. (Counts 3 and 4 – Child Abuse, Neglect, or Endangerment).

ARGUMENT

A criminal defendant's fundamental right to a fair trial includes the presumption of innocence. *Hightower v. State*, 154 P.3d 639 (2007); U.S.C.A. VI; XIV; Nev. Const. Art. 1, Sect. 8. Evidence that allows a jury to infer that an accused has engaged in prior criminal activities destroys this presumption.¹ *Manning v. Warden*, 99 Nev. 82 (1983) (citing *Chapman v. California*, 386 U.S. 18, 24 (1967)). The Court in *Brown v. State*, 114 Nev. 1118 (Nev. 1998) recognized a particular danger of prejudice in a multi-count indictment where one of the counts is a charge of possession of a firearm by an ex-felon pursuant to NRS 202.360. The Court found that, despite the recognized value of judicial economy, Nevada courts should not allow joinder when fairness is compromised:

[T]he State must generally introduce evidence of a defendant's prior felony convictions in order to establish the elements of a violation of NRS 202.360 beyond a reasonable doubt. Concomitantly, the State's introduction of a defendant's prior felony convictions exposes the defendant to prejudice. We

¹ Admittedly, nearly a half century ago, the United States Supreme Court declined to find a Due Process violation in the introduction of a defendant's prior conviction(s) at his murder trial, where the priors were used to enhance his sentence under Texas law. *Spencer v. Texas*, 385 U.S. 554, 567-69 (1967). However, the trial court in that case instructed jurors that the prior conviction evidence could not be considered on the issue of guilt. *Id.* at 555-57. Additionally, in resolving whether the prior conviction evidence coupled with a limiting instruction implicated constitutional concerns, the *Spencer* Court noted: "... were the matter before us in a legislative or rule-making context," it "might well agree" with the suggestion of some commentators and courts that a "two stage jury trial... is probably the fairest." *Id.* at 576-68.

1 recognize that institutional values such as judicial economy, efficiency, and
2 fairness to criminal defendants often raise competing demands. Although the
joinder of all feasible counts in one trial no doubt maximizes scarce judicial and
public resources, we cannot allow such joinder when fairness is compromised.

3 See *id.* at 1126. Thus, *Brown* laid out a bright-line rule where, in cases involving multiple
4 counts including a count of Possession of Firearm by an Ex-Felon, this count must be severed
5 from any other pending charges and tried separately. See *id.*

6
7 The rule in *Brown*, though still binding, was augmented in 2006. See *Morales v. State*,
8 122 Nev. 966 (2006). In *Morales*, the Court modified the *Brown* rule to allow for bifurcation² -
9 rather than provide completely separate trials, after *Morales* the district court could bifurcate a
10 trial into two separate parts. In this regard, a jury is asked to deliberate the non-prejudicial
11 component of a charged crime before being asked to deliberate -- in an immediately following
12 proceeding -- a prejudicial element of a charged offense. For example, it is now appropriate for
13 the Court to allow the jury to decide whether or not a defendant possessed a prohibited item
14 before introducing evidence to prove that he satisfies the prejudicial "prohibited person"
15 requirement.

16
17 The Nevada Supreme Court made it clear in *Brown* and *Morales* that asking a jury to
18 deliberate on the "possession" and "ex-felon" requirements simultaneously is unduly prejudicial
19 to a defendant. While there are not multiple counts in this case, the rationale still applies. Mr.
20 Sanchez would be unduly prejudiced if his prior felonies were introduced in the State's case in
21 chief prior to the jury determining whether he "possessed" the firearm under Nevada law. Also,

22
23 ² In *Morales*, the district court ordered bifurcation of the trial so that the members of the jury would only
24 hear and determine the separate firearms charges if they first found *Morales* guilty of the burglary and robbery
25 charges implicating the use of a deadly weapon." *Id.* The Court reviewed the procedure utilized by the district court
26 and determined that the "bifurcation procedure accomplishes the policy reflected in the prospective severance
27 mandate declared in *Brown*. As with full severance, bifurcation prevents the State from discussing or producing
28 proof of prior felony convictions until after the jury has deliberated on the charges that are unrelated to the
defendant's status as an ex-felon. Bifurcation also promotes judicial economy by allowing for adjudication of all
charges in a single trial." *Id.* Based on this rationale, the Court concluded that "the district court may resort to
bifurcation ... rather than complete severance." *Id.*

1 the State could easily prove up the "ex-felon" prong with certified judgements of conviction after
2 satisfying the "possession" element, if appropriate. The bifurcation would not require additional
3 witnesses or, realistically, substantive jury deliberation. Therefore, bifurcating the charge in this
4 manner is in the best interests of judicial economy, and preserves Mr. Newson's constitutional
5 right of due process under the law.

6
7 **CONCLUSION**

8 Thus, based on the foregoing, Mr. Newson respectfully requests that this Honorable
9 Court bifurcate the "ex-felon" element, raising the question of possession of the firearm as a
10 predicate before a jury.

11
12 DATED this 25th day of January, 2018.

13
14 PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

15
16 By: 
17 RYAN J. BASHOR, #11914
18 Deputy Public Defender
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NOTICE OF MOTION

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the Public Defender's Office will bring the above and foregoing MOTION on for hearing before the Court on the 8th day of February, 2018, at 9:30 a.m.

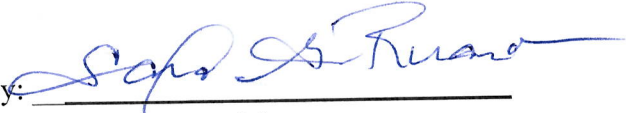
DATED this 25th day of January, 2018.

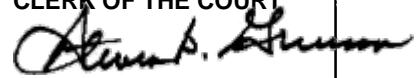
PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: 
RYAN J. BASHOR, #11914
Deputy Public Defender

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that service of the above and forgoing MOTION was served via electronic e-filing to the Clark County District Attorney's Office at motions@clarkcounttyda.com on this 25th day of January, 2018.

By: 
An employee of the
Clark County Public Defender's Office



MOT
PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
RYAN J. BASHOR, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 11914
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

v.

VERNON NEWSON,

Defendant,

CASE NO. C-16-313919-1

DEPT. NO. XXI

DATE: February 8, 2018
TIME: 9:30 a.m.

MOTION TO COMPEL PRODUCTION OF DISCOVERY & BRADY MATERIAL

Defendant, VERNON NEWSON JR., through counsel, RYAN J. BASHOR, Deputy Public Defender, hereby requests this Honorable Court to order the State of Nevada to produce the discovery and Brady material discussed herein pursuant to NRS 174.235; NRS 174.285; Kyles v. Whitley, 514 U.S. 419 (1995); Brady v. Maryland, 373 U.S. 83 (1963) (and their progeny).

This Motion is made and based upon all the papers and pleadings on file herein, the attached Declaration of Counsel and Memorandum of Points and Authorities, and oral argument at the time set for hearing this Motion.

DATED this 25th day of January, 2018.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: 

RYAN J. BASHOR, #11914
Deputy Public Defender

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1. I am an attorney licensed to practice law in the State of Nevada and I am a Deputy Public Defender for the Clark County Public Defender's Office, counsel of record for Defendant VERNON NEWSON JR., in the present matter;

3. I am more than 18 years of age and am competent to testify as to the matters stated herein. I am familiar with the procedural history of the case and the substantive allegations made by The State of Nevada. I also have personal knowledge of the facts stated herein or I have been informed of these facts and believe them to be true.

EXECUTED this 13 day of January, 2018.


RYAN J. BASHOR

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 **STATEMENT OF FACTS**

3 It is alleged that on December 13, 2015, the defendant, Vernon Newson, shot and killed
4 Anshanette McNeil while she sat in a moving vehicle that Mr. Newson was driving in the area of
5 I-15 and Lamb Blvd. (Count 1 – Open Murder with Use of a Deadly Weapon). It is further
6 alleged that Mr. Newson was a felon at the time, and therefore he was illegally in possession of a
7 firearm. (Count 2 – Ownership or Possession of a Firearm by Prohibited Person). Finally, it is
8 alleged that Mr. Newson fired the weapon as Ms. McNeil sat next to two of her children, minors
9 M.N. and B.B., thereby endangering them. (Counts 3 and 4 – Child Abuse, Neglect, or
10 Endangerment).

11 Both North Las Vegas Police Department and Nevada Highway Patrol responded to the
12 scene as initial reports from witnesses were that the victim had been run-over in some sort of
13 motor vehicle accident. The Las Vegas Metropolitan Police Department forensic lab has been
14 charged with conducting the forensic testing in the instant matter.

15 As far as the defense is aware, the State in this particular case has been very forthcoming
16 with discovery. A file review was held on January 12, 2018. The instant motion is simply filed
17 to preserve the defendant's constitutional and statutory rights to full discovery. Additionally,
18 this motion is filed to ensure that the discovery obligations of the State remain ongoing.

1 **ARGUMENT**

2 Prior to trial, prosecutors are required to disclose both inculpatory and exculpatory
3 information within their actual or constructive possession.

4 **I. Prosecutors must Disclose *Inculpatory* Evidence**

5 NRS 174.235 requires prosecutors to disclose evidence “within the possession,
6 custody or control of the state, the existence of which is known, or by the exercise of due
7 diligence may become known,” including:

- 8 • The defendant’s written or recorded statements or confessions,
- 9 • Any witness’s written or recorded statements the prosecuting attorney intends to
10 call during the witness during the State’s case in chief,
- 11 • Results or reports of physical or mental examinations, scientific tests or scientific
12 experiments made in connection with the particular case,¹ and
- 13 • Books, papers, documents, tangible objects, or copies thereof, which the
14 prosecuting attorney intends to introduce during the State’s case in chief.

15 NRS 174.235(1)(a)-(c).

16 A. Prosecutors must disclose all inculpatory evidence, regardless of whether the material is
17 intended for use in the government’s case in chief

18 Prosecutors may not lawfully withhold inculpatory information from the defense simply
19 because they do not intend to present the information in the government’s case-in-chief. State v.
20 Harrington, 9 Nev. 91, 94 (1873); People v. Carter, 312 P.2d 665, 675 (Cal.1957); People v.
21 Bunyard, 756 P.2d 795, 809 (Cal. 1988). Any holding to the contrary would allow prosecutors
22 to engage in unfair surprise by withholding inculpatory material from the government’s case-in-
23 chief, only to surprise the defense by using it in rebuttal. Thus, prosecutors must disclose all

24 ¹ This includes medical data, imaging, films, reports and slides, histological, colposcopic,
25 or otherwise. The right to counsel guaranteed by the Sixth Amendment obligates defense
26 counsel to conduct “an adequate pre-trial investigation into . . . medical evidence.” Gersten v.
27 Senkowski, 426 F.3d 588, 605 (2d Cir. 2005). This duty includes obtaining and reviewing
28 pertinent medical imaging even if the testing reveals no significant findings. Id. at 605, 607-10
(discussing the exculpatory nature of “normal” medical examinations in cases in which a
complainant alleges physical harm). Thus, the discovery obligations set forth in NRS 174.235(2)
require prosecutors to disclose physical imaging and testing.

1 inculpatory evidence of which they are actually or constructively aware, including material not
2 necessarily intended for introduction in the prosecution's case-in-chief.

3 B. Fundamental fairness requires that NRS 174.235 be interpreted to encompass all
4 statements made by a defendant, regardless of whether they are reduced to writing or
5 recorded

6 While NRS 174.235 obligates prosecutors to disclose a defendant's written or recorded
7 statements, fundamental fairness requires disclosure of unrecorded statements and statements for
8 which a defendant can be held vicariously liable.² Courts have recognized the fundamental
9 fairness involved in "granting the accused equal access to his own words, no matter how the
10 government came by them." U.S. v. Caldwell, 543 F.2d 1333, 1353 (D.D.C. 1974). This
11 includes allowing an accused access to his unrecorded words, including adoptive or vicarious
12 admissions. Since these admissions are admissible at trial whether recorded or not, NRS
13 174.235 must be construed to require pretrial disclosure of any unrecorded statements or
14 admissions, including those for which the defendant can be held vicariously liable.

15 **II. Prosecutors Must Disclose Exculpatory Evidence as Required by the U.S. and** 16 **Nevada Constitutions**

17 The United States and Nevada Constitutions require prosecutors to disclose all
18 exculpatory information of which they are actually or constructively aware. U.S. Const. Amend.
19 V, VI, XIV; Nev. Const. Art. 1, Sect. 8; Brady v. Maryland, 373 U.S. 83 (1963); Kyles v.
20 Whitley, 514 U.S. 419, (1995). A prosecutor's failure to disclose exculpatory evidence violates
21 the Due Process Clause. Jimenez v. State, 112 Nev. 610, 618 (1996). A due process violation
22 occurs when exculpatory evidence is withheld, regardless of the prosecution's motive. Jimenez,
23 112 Nev. 610.

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27 ² NRS 51.035(3)(a)-(e) provides that a defendant can be held vicariously liable for
28 statements made by third parties. See also Fields v. State, 129 Nev. 785 (2009) (finding
evidence of defendant's silence following wife's complaint that she was in jail because of his
conduct admissible as an adoptive admission).

1 A. Brady Places Broad Disclosure Obligations on Prosecutors, Questions About Which Must
2 Be Resolved In Favor Of Disclosure

3 Exculpatory evidence is information favorable to the defendant that is material to the
4 issue of guilt or punishment. U.S. v. Bagley, 473 U.S. 667, 675 (1985). Evidence is material
5 and favorable to the accused if its non-disclosure undermines confidence in the outcome of the
6 trial. Kyles, 514 U.S. at 434-35. This evidence must be disclosed even in the absence of a Brady
7 request.³ Bagley, 473 U.S. at 680-82.

8 Ultimately, prosecutors are tasked with a “broad duty of disclosure.” Strickler, 527 U.S.
9 at 281; cf. U.S. v. Agurs, 427 U.S. 97, 108 (1976) (holding that “the prudent prosecutor will
10 resolve doubtful questions in favor of disclosure”). As the Nevada Supreme Court has
11 explained:

12 Due process does not require simply the disclosure of “exculpatory” evidence.
13 Evidence also must be disclosed if it provides grounds for the defense to attack the
14 reliability, thoroughness, and good faith of the police investigation, to impeach the
15 credibility of the state’s witnesses, or to bolster the defense case against
 prosecutorial attacks. Furthermore, “discovery in a criminal case is not limited to
 investigative leads or reports that are admissible in evidence.” Evidence “need not
 have been independently admissible to have been material.”

16 Mazzan v. Warden, 116 Nev. 48, 67 (2000) (internal citations omitted). Thus, any question as to
17 whether certain material, information, or evidence falls within the purview of Brady should be
18 resolved in favor of disclosure. Agurs, 427 U.S. at 108; see also Kyles, 514 U.S. at 439 (“a
19 prosecutor anxious about tacking too close to the wind will disclose a favorable piece of
20 evidence.”).

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23

24 ³ However, a specific Brady request changes the standard of review on appeal. When a
25 defendant makes a specific request, a reversal is warranted when “there exists a reasonable
26 possibility that the claimed evidence would have affected the judgment of the trier of fact.”
27 Jimenez, 112 Nev. 619; State v. Bennett, 119 Nev. 589 (2003). However, absent a specific
28 request, reversal is warranted, “if there exists a reasonable *probability* that, had the evidence
 been disclosed, the result of the proceeding would have been different.” Bagley, 473 U.S. at
 667, 682, 685; Pennsylvania v. Ritchie, 480 U.S. 39, 57 (1986). A reasonable probability is a
 probability sufficient to undermine confidence in the outcome. Bagley, 473 U.S. at 678, 685;
 Ritchie, 480 U.S. at 57.

1 B. Favorable Evidence Includes Impeachment Information

2 The Due Process Clause of the Fifth and Fourteenth Amendments requires prosecutors to
3 disclose “any information about its witnesses that could cast doubt on their credibility.” U.S. v.
4 Jennings, 960 F.2d 1488, 1490 (9th Cir. 1992). A witness can be attacked by “revealing possible
5 biases, prejudices, or ulterior motives of the witnesses as they may relate directly to issues or
6 personalities in the case at hand. The partiality of a witness is . . . always relevant [to]
7 discrediting the witness and affecting the weight of his testimony.” Davis, 415 U.S. at 316; see
8 also Lobato v. State, 120 Nev. 512 (2004) (discussing the nine basic modes of impeachment).
9 Accordingly, favorable evidence includes impeachment information pertaining to all government
10 witnesses. Giglio v. U.S., 405 U.S. 150, 154 (1972); Youngblood v. West Virginia, 547 U.S.
11 867 (2006); U.S. v. Bagley, 473 U.S. at 676 (requiring disclosure of all impeachment evidence).

12 *1. Impeachment information includes cooperation agreements and benefits*

13 Impeachment information includes all cooperation agreements between a government
14 witness and prosecutors. Giglio v. U.S., 405 U.S. 150, 154 (1972) (requiring disclosure of
15 cooperation agreement between government witness and prosecutors). It also includes benefits
16 provided to a government witness, regardless of whether an explicit deal is outlined. Browning
17 v. State, 120 Nev. 347, 369 (2004). It is the witness’s own anticipation of reward, not the intent
18 of the prosecutor, which gives rise to the required disclosure. Moore v. Kemp, 809 F.2d 702,
19 726, 729-30 (11th Cir. 1987); Duggan v. State, 778 S.W.2d 465, 468 (Tex. Crim. App. 1989)
20 (noting that agreements need not be express or formal arrangements, and recognizing favorable
21 treatment that is merely implied, suggested, insinuated, or inferred to be of possible benefit to a
22 witness constitutes proper material for impeachment).

23 Notably, benefits are not limited to agreements made in relation to the case in which they
24 are sought. Jimenez, 112 Nev. at 622-23. Benefits include evidence that a witness acted as a
25 paid informant on one or more occasions. State v. Bennett, 119 Nev. 589, 603 (2003).
26 Additionally, benefits include travel and lodging compensation, immigration assistance of any
27 kind, whether actual or anticipatory, as well as counseling, treatment, or other assistance
28

1 provided to any witness. These benefits are relevant to issues regarding possible bias,
2 credibility, and motive to lie, all of which constitute impeachment evidence. Davis v. Alaska,
3 415 U.S. 308 (1974).

4 *2. A witness's criminal history constitutes impeachment information*

5 Impeachment information includes evidence relating to a witness's criminal history.
6 Briggs v. Raines, 652 F.2d 862, 865-66 (9th Cir. 1981). Under Brady, prosecutors must produce
7 criminal histories useful to demonstrating a witness's history of, or propensity for, a relevant
8 character trait. Id. Prosecutors must also produce criminal histories disclosing a witness's bias,
9 prejudice or motive to lie. Davis, 415 U.S. at 354.

10 A witness's entire criminal record should be disclosed, even if it is more than ten years
11 old. Moore, 809 F.2d 702. Prosecutors are often under the mistaken impression that they must
12 disclose only felony convictions within the last ten years that can be utilized for impeachment
13 under NRS 50.095. However, in Davis, the U.S. Supreme Court found that a witness can be
14 attacked by "revealing possible biases, prejudices, or ulterior motives The partiality of a
15 witness is . . . always relevant [to] discrediting the witness and affecting the weight of his
16 testimony." 415 U.S. at 354 (internal quotations omitted). The Davis Court found that the
17 policy interest in protecting offender records must yield to the defendant's right to cross-examine
18 as to bias. Id. at 356; see also Lobato v. State, 120 Nev. 512 (2004), discussing the "nine basic
19 modes of impeachment." Therefore, even juvenile records, misdemeanors, and older criminal
20 records may yield information relevant to many forms of impeachment other than that outlined in
21 NRS 50.095.

22 Prosecutors must also produce criminal history information maintained by law
23 enforcement agencies other than the North Las Vegas Police Department, such as the federal
24 government's National Crime Information Center ("NCIC") database.⁴ "[K]nowledge [of the

25 ⁴ Federal law permits disclosure of NCIC information under circumstances such as those
26 here. 28 C.F.R. Chapter 1 addresses the U.S. Dept. of Justice and Criminal Justice Information
27 Systems. 28 C.F.R. Sec. 20.33 sets forth the instances in which NCIC information may be
28 disclosed. It provides for NCIC disclosure "(1) To criminal justice agencies for criminal justice
purposes" 28 C.F.R. Sec. 20.3(g) defines criminal justice agencies as *inter alia* courts.
Additionally, 28 C.F.R. Sec. 20.3 defines the "[a]dministration of criminal justice" to include the

1 NCIC database] may be imputed to the prosecutor, or a duty to search may be imposed, in cases
2 where a search for readily available background information is routinely performed, such as
3 routine criminal background checks of witnesses.” Odle v. Calderon, 65 F. Supp. 2d 1065, 1072
4 (N.D. Cal. 1999), rev’d on other grounds by Odle v. Woodford, 238 F.3d 1084 (9th Cir. 2001).
5 A prosecutor’s lack of knowledge regarding a witness’s criminal history does not relieve the
6 prosecutorial obligation to obtain and produce that information. Martinez v. Wainwright, 621
7 F.2d 184, 187-89 (5th Cir. 1980) (defendant entitled to criminal records of state-government
8 witnesses, including data obtainable from the FBI; prosecutor’s lack of awareness of alleged
9 victim’s criminal history did not excuse duty to obtain and produce rap sheet).

10 Requiring prosecutors to run background checks on their witnesses is not a novel
11 proposition. See U.S. v. Perdomo, 929 F.2d 967 (3d Cir. 1991) (adopting 5th Circuit’s rationale
12 in requiring government to obtain complete criminal history on prosecution witnesses). It is the
13 prosecutor’s “obligation to make a thorough inquiry of all enforcement agencies that had a
14 potential connection with the witnesses” U.S. v. Thornton, 1 F.3d 149 (3d Cir. 1993). If the
15 witness has no criminal history, the prosecutor is not required to produce the NCIC printout, as it
16 need not disclose a lack of criminal history. U.S. v. Blood, 435 F.3d 612, 627 (6th Cir. 2006).
17 Thus, prosecutors must run a thorough background check on every witness they intend to call,
18 and produce all criminal history information to the defense.

19 *3. Impeachment information includes evidence contradicting a government witness’s*
20 *statement*

21 Impeachment evidence encompasses prior inconsistent statements and other evidence that
22 contradicts government witnesses. Accordingly, prosecutors must disclose prior inconsistent
23 statements by prosecution witnesses. Lay v. State, 116 Nev. 1185, 1199 (2000). Prosecutors
24 must also disclose other evidence contradicting the testimony of government witnesses. Rudin v.
25 State, 120 Nev. 121, 139 (2004).

26 “performance of any of the following activities . . . adjudication” Therefore, the C.F.R.
27 authorizes prosecutors to access and disclose NCIC data pursuant to Court order as part of a
28 criminal case adjudication.

1 4. *Confidential records must be disclosed if they contain impeachment information*

2 Impeachment evidence can derive from privileged or confidential material. When this
3 occurs, the privileged or confidential nature of the material at issue must yield to a defendant's
4 constitutionally secured right to confront and cross-examine those who testify against him.
5 Davis, 415 U.S. at 356 (finding the State's interest in maintaining confidentiality of juvenile
6 records must yield to defendant's right to cross-examine as to bias); see also U.S. v. Nixon, 418
7 U.S. 683, 713 (1974) (generalized assertion of privilege must yield to demonstrated, specific
8 need for evidence in a pending criminal case). Thus, prosecutors must obtain and disclose
9 privileged and confidential records when the records contain information bearing on witness
10 credibility.⁵

11 This includes mental health records. U.S. v. Lindstrom, 698 F.2d 1154, 1166-67 (11th
12 Cir. 1983); U.S. v. Robinson, 583 F.3d 1265, 1271-74 (10th Cir. 2009); Wyman v. State, 125
13 Nev. 592, 607-08 (2009). It also includes Child Protective Services (or the functional
14 equivalent) and school records. See Pennsylvania v. Ritchie, 480 U.S. 39, 60 (1987) (defendant
15 entitled to *in camera* review of Child and Youth Services records⁶); and State v. Cardall, 982
16 P.3d 79, 86 (Utah 1999) (defendant entitled to complainant's school psychological records
17 indicating she had propensity to lie and had fabricated prior rape allegations). It further includes
18 adult and juvenile parole, probation, jail, and prison records. U.S. v. Strifler, 851 F.2d 1197,
19 1201 (9th Cir. 1988); Carriger v. Stewart, 132 F.3d 463, 479-82 (9th Cir. 1997) (requiring
20 production of Department of Corrections file on principle government witness); Davis, 415 U.S.
21 at 356; see also Bennett, 119 Nev. at 603 (2003) (failure to disclose co-conspirator's juvenile
22 records in penalty hearing amounted to Brady violation). Thus, prosecutors cannot refuse
23

24 ⁵ At a minimum, otherwise confidential or privileged material must be submitted to the
25 Court for an *in camera* review to determine materiality. Pennsylvania v. Ritchie, 480 U.S. 39, 60
(1987).

26 ⁶ The Ritchie Court held that the State cannot claim privilege to refuse disclosure of CPS
27 records, unless there is a statutory scheme that forbids any use, including disclosure to a
28 prosecutor, of such records. Ritchie, 480 U.S. at 57-58. NRS 432B.290 allows for disclosure of
such records to the prosecutor and to the court for *in camera* review.

1 disclosure of impeachment information on the basis that the information is privileged or
2 confidential.

3 *5. Law enforcement personnel files may contain impeachment information*

4 Under U.S. v. Henthorn, 931 F.2d 29, 31 (9th Cir. 1991), prosecutors must examine law
5 enforcement personnel files upon defense request. See also U.S. v. Cadet, 727 F.2d 1453 (9th
6 Cir. 1984). A defendant is not required to make an initial showing of materiality before
7 prosecutors must examine the files—the examination obligation arises solely from the
8 defendant’s request. Henthorn, 931 F.2d at 31. “Absent such an examination, [the State] cannot
9 ordinarily determine whether it is obligated to turn over the files.” Id. Once examined,
10 prosecutors must “disclose information favorable to the defense that meets the appropriate
11 standard of materiality If the prosecution is uncertain about the materiality of the
12 information within its possession, it may submit the information to the trial court for an in
13 camera inspection and evaluation” Henthorn, 931 F.2d at 30-31 (quoting Cadet, 727 F.2d at
14 1467-68). Thus, if requested to do so by the defense, the prosecution must canvass relevant law
15 enforcement personnel files for information material to the case.

16 C. Favorable Evidence Includes Witnesses with Exculpatory Information

17 Prosecutors must disclose the identity of witnesses possessing exculpatory information,
18 as no legitimate interest is served by precluding the defense from calling such witnesses for trial.
19 U.S. v. Eley, 335 F.Supp. 353 (N.D. Ga. 1972); U.S. v. Houston, 339 F.Supp. 762 (N.D. GA
20 1972).

21 D. Favorable Evidence Includes Evidence of Third-Party Guilt

22 The U.S. Constitution guarantees a criminal defendant the right to present evidence of
23 third-party guilt. See Holmes v. South Carolina, 547 U.S. 319 (2006) (holding that refusal to
24 allow defendant to present evidence of third party guilt deprives him of a meaningful right to
25 present a complete defense under the Sixth and Fourteenth Amendments to the U.S.
26 Constitution). Under Brady, prosecutors must disclose all evidence suggesting another
27 perpetrator committed the charged crimes. Lay, 116 Nev. at 1195-96. This includes evidence
28

1 that another individual was arrested in connection with the charged crime. Banks v. Reynolds,
2 54 F.3d 1508, 1518 n.21 (10th Cir. 1995). It also includes evidence of investigative leads
3 pointing to other suspects. Jimenez, 112 Nev. at 622-23 (withholding evidence of investigative
4 leads to other suspects, regardless of admissibility, constitutes Brady violation).

5 Additionally, prosecutors must provide the actual documents, evidence, and reports
6 pertaining to evidence of third-party guilt; it is not enough for prosecutors to provide the defense
7 with a summary of the information relating to other suspects. Mazzan, 116 Nev. at 69 (summary
8 of prosecutor's perspective on written reports relating to potential suspects were constitutionally
9 inadequate; actual reports should have been disclosed pursuant to Brady); Bloodworth v. State,
10 512 A.2d 1056, 1059-60 (Md. 1986). Thus, prosecutors must disclose any information or
11 evidence indicating someone other than the instant defendant committed the charged crimes.

12 E. Favorable Evidence Includes All Evidence that May Mitigate a Defendant's Sentence

13 Favorable evidence also includes evidence which could serve to mitigate a defendant's
14 sentence upon conviction. Jimenez, 112 Nev. 610. Accordingly, prosecutors must disclose any
15 evidence tending to mitigate punishment in the instant matter.

16 **III. The Disclosure Obligations Set Forth Above Extend to All Material in the**
17 **Prosecutors Actual or Constructive Possession**

18 Prosecutors must turn over all material related to the case in the possession, control and
19 custody of any government agent or agency. See U.S. v. Blanco, 392 F.3d 382, 388 (9th Cir.
20 2004). Prosecutors are responsible for disclosing evidence in their possession as well as
21 evidence held or maintained by other government agents, as "it is appropriate to charge the State
22 with constructive knowledge" of evidence held by any investigating agency. Bennett, 119 Nev.
23 at 603.

24 This constructive possession rule applies to evidence that is *withheld* by other agencies.
25 Bennett, 119 Nev. at 603. Even if investigating officers withhold reports without the
26 prosecutor's knowledge, "the state attorney is *charged with constructive knowledge and*
27 *possession of evidence withheld by other state agents*, such as law enforcement officers." Id.

1 (internal quotations and citation omitted) (emphasis added). “Exculpatory evidence cannot be
2 kept out of the hands of the defense just because the prosecutor does not have it, where an
3 investigative agency does.” U.S. v. Zuno-Arce, 44 F.3d 1420, 1427 (9th Cir. 1995). “It is a
4 violation of due process for the prosecutor to withhold exculpatory evidence, and his motive for
5 doing so is immaterial.” Jimenez, 112 Nev. at 618.

6 In fact, a prosecutor has an *affirmative obligation* to obtain Brady material and provide it
7 to the defense, *even if the prosecutor is initially unaware of its existence*. “The prosecution’s
8 affirmative duty to disclose evidence favorable to a defendant can trace its origins to early 20th
9 century strictures against misrepresentation and is of course most prominently associated with
10 this Court’s decision in Brady” Kyles, 514 U.S. at 432. This obligation exists even where
11 the defense does not make a request for such evidence. Id. As the U.S. Supreme Court
12 explained:

13 This in turn means that the individual prosecutor *has a duty to learn* of any
14 favorable evidence known to the others acting on the government’s behalf in the
15 case, including the police. But whether the prosecutor succeeds or fails in meeting
16 this obligation (whether, that is, a failure to disclose is in good faith or bad faith),
17 the prosecution’s responsibility for failing to disclose known, favorable evidence
18 rising to a material level of importance is inescapable. . . . Since then, the
19 prosecutor has the means to discharge the government’s Brady responsibility if he
20 will, any argument for excusing a prosecutor from disclosing what he does not
21 happen to know about boils down to a plea to substitute the police for the
22 prosecutor, and even for the courts themselves, as the final arbiters of the
23 government’s obligation to ensure fair trials.

19 Kyles, 514 U.S. at 437-38 (emphasis added) (citations and footnotes omitted); see also Carriger,
20 132 F.3d at 479-82 (holding that “the prosecution has a duty to learn of any exculpatory evidence
21 known to others acting on the government’s behalf. *Because the prosecution is in a unique*
22 *position to obtain information known to other agents of the government, it may not be excused*
23 *from disclosing what it does not know but could have learned.*” (citations omitted) (emphasis
24 added). Thus, the disclosure obligations outlined above extend not only to material directly in
25 the possession of prosecutors, but material prosecutors constructively possess, as well.

26 //

27 //

1 **V. An “Open File” Policy Does Not Obviate the Disclosure Obligations Outlined Above**

2 Historically, the Clark County District Attorney’s Office (CCDA) has employed an open
3 file policy in which prosecutors allow defense counsel to review the discovery contained in the
4 government’s trial file. “If a prosecutor asserts that he complies with Brady through an open file
5 policy, defense counsel may reasonably rely on that file to contain all materials the State is
6 constitutionally obligated to disclose under Brady.” Strickler, 527 U.S. at 283, n.23.; see also
7 Amando v. Gonzalez, 758 F.3d 1119, 1136 (9th Cir. 2014); McKee v. State, 112 Nev. 642, 644
8 (1996) (reversing a judgment of conviction based on prosecutorial misconduct where the
9 prosecutor did not make available all relevant inculpatory and exculpatory evidence consistent
10 with the county district attorney’s open file policy); see also Furbay v. State, 116 Nev. 481
11 (2000) (discussing prosecution’s duty to provide all evidence in its possession where it has
12 promised to do so). Accordingly, if the defense relies on the government’s assurance of an open
13 file policy, the defense is not required to hunt down information otherwise obtained and
14 maintained pursuant to that policy.

15 **VI. Adjudication of the Instant Motion is Necessary for Preservation of Issues Relating**
16 **to Discovery Disclosures**

17 NRS 174.235 requires disclosure of (1) written and recorded statements of a defendant or
18 any witness the prosecutor intends to call in his case-in-chief; (2) results and reports of any
19 examinations or tests conducted in connection with the case at bar; and (3) any document or
20 tangible object the prosecutor intends to introduce in his case in chief—upon the request of the
21 defense. Additionally, constitutional jurisprudence requires disclosure of any evidence tending
22 to exculpate the accused. The instant Motion is brought, *inter alia*, to ensure the availability of
23 appropriate sanctions should later discovery issues arise. This requires a Court Order compelling
24 the production of the information and material sought herein. Donovan v. State, 94 Nev. 671
(Nev. 1978).

25 **A. Nevada Law Provides for Judicial Oversight of the State’s Discovery Obligations**

26 Eighth Judicial District Court Rule (EDCR) 3.24 governs discovery motions in local
27 criminal practice. It states:
28

1 (a) Any defendant seeking a court order for discovery pursuant to the provisions of
2 NRS 174.235 or NRS 174.245 may make an oral motion for discovery at the
3 time of initial arraignment. The relief granted for all oral motions for discovery
4 will be as follows:

5 (1) That the State of Nevada furnish copies of all written or recorded
6 statements or confessions made by the defendant which are within the
7 possession, custody or control of the State, the existence of which is
8 known or by the exercise of due diligence may become known to the
9 district attorney.

10 (2) That the State of Nevada furnish copies of all results or reports of
11 physical or mental examinations, and of scientific tests or experiments
12 made in connection with this case which are within the possession,
13 custody or control of the State, the existence of which is known or by
14 the exercise of due diligence may become known to the district
15 attorney.

16 (3) That the State of Nevada permit the defense to inspect and copy or
17 photograph books, papers, documents, tangible objects, buildings,
18 places, or copies or portions thereof, which are within the possession,
19 custody or control of the State, provided that the said items are material
20 to the preparation of the defendant's case at trial and constitute a
21 reasonable request.

22 (b) Pursuant to NRS 174.255, the court may condition a discovery order upon a
23 requirement that the defendant permit the State to inspect and copy or
24 photograph scientific or medical reports, books, papers, documents, tangible
25 objects, or copies or portions thereof, which the defendant intends to produce at
26 the trial and which are within the defendant's possession, custody or control
27 provided the said items are material to the preparation of the State's case at trial
28 and constitute a reasonable request.

Thus, EDCR 3.24 specifically provides for the discovery motion brought in the instant matter.

Not surprisingly, the Nevada Supreme Court has held that a discovery motion and
corresponding order is a prerequisite to obtaining relief under NRS 174.295⁷ for later discovery
violations:

Although NRS 174.295 provides relief for a prosecutor's failure to notify defense
counsel of all discoverable material, that statute is only operative in situations
where a previous defense motion has been made and a court order issued. That
provision is not applicable to any informal arrangements that are made, as here
between counsel without benefit of court sanction.

Donovan, 94 Nev. 671 (internal citations omitted).

⁷ NRS 174.295 sets forth sanctions for discovery violations, such as inspection of
material not properly disclosed, trial continuance, or exclusion of the undisclosed material.

1 This comports with other portions of NRS 174, which, by implication, suggests criminal
2 discovery is a matter that must be pursued by way of motion rather than a simple written or oral
3 request. For example, NRS 174.285 states that “a request made pursuant to NRS 174.235 or
4 174.245 may be made only within 30 days after arraignment or at such reasonable time *as the*
5 *court may permit*. A party shall comply with a request made pursuant to NRS 174.235 or
6 174.245 not less than 30 days before trial or at such reasonable later time *as the court may*
7 *permit*.” (Emphasis added). The judicial permission required for late discovery requests and late
8 compliance contemplates judicial oversight of discovery matters.

9 Similarly, NRS 174.125 contemplates discovery requests via written motion. NRS
10 174.125 requires that, any motion “which by [its] nature, if granted, delay[s] or postpone[s] the
11 time of trial must be made before trial, unless an opportunity to make such a motion before trial
12 did not exist or the moving party was not aware of the grounds for the motion before trial.” A
13 discovery request, depending on the timing and nature of the request, may necessarily cause a
14 trial delay. Accordingly, under NRS 174.125, discovery requests should be made via motion
15 prior to trial. Id.

16 Thus, the statutorily-based discovery requests set forth herein are properly brought before
17 this Honorable Court and must be adjudicated. Refusal to adjudicate the instant Motion obviates
18 Mr. Newson’s statutorily created liberty interest in (1) ensuring access to the discoverable
19 material covered by NRS 174 and (2) ensuring application of the enforcement and sanction
20 provisions outlined in NRS 174. Such an arbitrary deprivation of a state-created liberty interest
21 violates the Due Process Clause. See Hicks v. Oklahoma, 447 U.S. 343, 346 (1980) (arbitrary
22 deprivation of state-created liberty interest amounts to Due Process violation).

23 B. Brady Material and Relevant Authority

24 Brady and related authority also contemplate pre-trial regulation and adjudication of
25 prosecutorial disclosures. Brady is not a discovery rule but a rule of fairness and minimum
26 prosecutorial obligation. Curry v. U.S., 658 A.2d 193, 197 (D.C. 1995) (internal quotations and
27 citations omitted). It does not require the production of specific documents. It requires the
28

1 production of information. This prosecutorial obligation is non delegable—it is not contingent
2 on, nor is the defense required to make, specific Brady requests. See Strickler, 527 U.S. at 281-
3 82 (setting forth the elements of a Brady claim and clarifying that there is no requirement that
4 defense make request).⁸

5 However, to prevail on a Brady claim, should one arise, a defendant must establish that
6 (1) the prosecution was in actual or constructive possession of favorable information; (2) the
7 prosecution failed to disclose this information to the defense in a timely fashion or at all; and (3)
8 the withheld information was material to the outcome of the trial. Strickler, 527 U.S. at 281-82.
9 The standard for determining materiality depends upon whether defense counsel requested the
10 information at issue and, if a request was made, whether the request was specific or general in
11 nature. “If a defendant makes no request or only a general request for information, the evidence
12 is material when a reasonable *probability* exists that the result would have been different had it
13 been disclosed.” Bennett, 119 Nev. at 600 (emphasis added). Yet, “if the defense request is
14 specific, the evidence is material upon the lesser showing that a reasonable *possibility* exists of a
15 different result had there been disclosure.” Id. (emphasis added) Accordingly, the fact and
16 nature of a Brady request is critical to later adjudication of alleged Brady violations.

17 Defense counsel enjoys to the right to pursue Brady requests—and thereby construct the
18 record on them—in the manner counsel sees fit. The best way to ensure that the record
19 adequately reflects the nature and scope of a Brady request is via pre-trial discovery motion—a
20 motion, as set forth above, specifically provided for by Nevada law.⁹ See Myles v. State, 127
21 Nev. 1161 (2011) (unpublished) (no discovery violation where undisclosed photo not requested
22 as part of discovery motion).

23 ⁸ Any argument by prosecutors that “the defense is able to independently seek out any
24 discovery which they desire . . . it is not the State’s responsibility to perform investigations or
25 inquiries on behalf of the defense,”—common responses to defense discovery motions—is
26 patently wrong. Strickler, 527 U.S. at 281-82 (rejecting the argument that defense counsel
should have uncovered Brady information); Banks v. Dretke, 540 U.S. 668, 695-98 (2004) (“A
rule thus declaring ‘prosecutor may hide, defendant must seek’ is not tenable in a system
constitutionally bound to accord defendants due process.”).

27 ⁹ This is especially true given the absence of compelling Nevada or other authority
28 recognizing an informal Brady request as sufficient to preserve the record on this critical issue.

1 A cursory review of federal discovery jurisprudence reveals the broad authority with
2 which trial courts are vested to regulate pretrial Brady disclosures and thereby ensure that this
3 constitutional rule—which exists to prevent a miscarriage of justice—works as it should.
4 Bagley, 473 U.S. at 675; U.S. v. Odom, 930 A.2d 157, 158 (D.C. 2007); see also U.S. v. W.R.
5 Grace, 526 F.3d 499, 509 (9th Cir. 2008) (affirming trial court’s order requiring government to
6 disclose its finalized witness list a year prior to trial as an exercise of the court’s inherent
7 authority to manage its docket”); U.S. v. Coppa, 267 F.3d 132, 146 (2d Cir. 2001)
8 (acknowledging trial court’s discretion to order pretrial disclosures as a matter of sound case
9 management); U.S. v. Rigas, 779 F. Supp. 408, 414 (M.D. Pa. 2011 (recognizing authority of
10 trial court to order pretrial disclosure of Brady material to ensure effective administration of
11 criminal justice system); U.S. v. Cerna, 633 F. Supp. 2d 1053, 1057 (N.D. Cal. 2009) (exercising
12 power to issue Brady order); U.S. v. Thomas, 2006 WL 3095956 (D.N.J. 2006) (issuing pretrial
13 order regulating, *inter alia*, Brady disclosures).

14 Indeed, trial courts must, as a constitutional matter, exercise this oversight power. Boyd
15 v. U.S., 908 A.2d 39, 61 (D.C. 2006) (“courts have the obligation to assure that [prosecutorial
16 discretion] is exercised in a manner consistent with the right of the accused to a fair trial”); see
17 also Smith v. U.S., 665 A.2d 962 (D.C. 2008) (abuse of discretion for court to refuse to review a
18 transcript *in camera* where prosecution concede there were “minor inconsistencies in the
19 testimony as to how the shooting happened”). As such, judicial oversight of Brady disclosures is
20 commonplace in federal criminal prosecutions. See, e.g., U.S. v. Johnson, 2010 WL 322143
21 (W.D. Pa. 2010) (trial court ordering government to disclose all Brady material, including
22 impeachment material no later than ten days prior to trial); U.S. v. Lekhtman 2009 WL 5095379
23 at 1 (E.D.N.Y. 2009) (ordering disclosure of Brady material as it is discovered and Giglio
24 material two weeks before commencement of trial); U.S. v. Rodriguez, 2009 WL 2569116 at 12
25 S.D.N.Y. 2009) (ordering government to turn over Brady material as it is discovered and Giglio
26 material twenty-one days before trial); U.S. v. Libby, 432 F. Supp. 2d 81, 86-87 (D.D.C. 2006)
27 (ordering immediate production of all Brady material); U.S. v. Thomas, 2006 CR 553, 2006 WL

1 3095956 (D.N.J. 2006) (unpublished) (ordering disclosure of “[a]ny material evidence favorable
2 to the defense related to issues of guilt, lack of guilt, or punishment . . . within the purview of
3 Brady and its progeny” within ten days of order). Thus, the constitutionally-based Brady
4 requests set forth herein are properly brought before this Honorable Court and must be
5 adjudicated to preserve Mr. Newson’s rights.

6 **VII. The Court Must Adjudicate the Instant Motion Regardless of Whether a Discovery**
7 **Dispute Exists**

8 A dispute over the discoverability of certain material is not a prerequisite to compelling
9 production of discovery and exculpatory information. This is because such disputes rarely occur.
10 With the exception of records that are otherwise privileged (such as CPS or medical records),
11 prosecutors typically do not inform defense counsel of material they intend to withhold from the
12 defense. They simply keep the information hidden. The withheld information is later discovered
13 by the defense either through subsequent defense investigation, fortuitous circumstances, or
14 during the post-conviction discovery process.

15 Recognizing this, the U.S. Supreme Court has not required defense counsel to divine (and
16 bring to the Court’s attention) particular information within the government’s file that is being
17 shielded from defense view:

18 We rejected a similar argument in Strickler. There, the State contended that
19 examination of a witness’s trial testimony, alongside a letter the witness published
20 in a local newspaper, should have alerted the petitioner to the existence of
21 undisclosed interviews of the witness by the police. We found this contention
22 insubstantial. In light of the State’s open file policy, we noted, ‘it is especially
23 unlikely that counsel would have suspected that additional impeaching evidence
24 was being withheld. Our decisions lend no support to the notion that defendants
25 must scavenge for hints of undisclosed Brady material when the prosecution
26 represents that all such material has been disclosed. As we observed in Strickler,
27 defense counsel has no ‘procedural obligation to assert constitutional error on the
28 basis of mere suspicion that some prosecutorial misstep may have occurred.

24 Banks, 540 U.S. at 695-96 (internal citations omitted). Thus, a dispute need not exist over the
25 discoverability of a particular piece of information in order for this Court to entertain motions
26 such as that brought here and enforce the government’s discovery obligations. Accordingly, Mr.

1 Newson respectfully requests that this Honorable Court adjudicate his Motion to Compel
2 Production of Discovery.

3 **VIII. Prosecutors Must Oppose or Concede Each Discovery Request; and the Court Must**
4 **Adjudicate Each Request**

5 Prosecutors often respond to discovery requests some combination of the following: (1) the
6 government is aware of its discovery obligation and will act accordingly; (2) the government has
7 complied with the requests or will facilitate review of discovery as needed; or (3) the request is
8 objectionable as overbroad, immaterial, or not authorized by law. Only the last of these is
9 responsive to a particular request; the first two are not. Each request needs to be opposed or
10 conceded. Saying “we have complied” or “we are aware of our discovery obligations” or “we
11 will facilitate a review of detective notebooks” is nothing more than attempt to subvert a ruling
12 enforcing the discovery provisions mandated by state and federal law. It is a way to goad the
13 court into believing the issue is moot. Discovery is a continuing obligation. A criminal
14 defendant is entitled to an order enforcing the discovery provisions outlined by state and federal
15 law, regardless of whether the prosecutor has already provided certain requested material, is
16 aware of pertinent discovery rules, and is willing to facilitate further discovery review. The
17 prosecutor needs to oppose or concede each request. The Court needs to rule on each request,
18 accordingly.¹⁰

19 **IX. Defendant’s Specific Discovery Requests**

20 Based upon the foregoing, Mr. Newson requests that this Honorable Court enter an order
21 directing prosecutors to provide the following related to this case:¹¹

22 **General Discovery**

23 **1. Defendant’s Statements**

24
25 ¹⁰ Combination responses, which contain conciliatory language in conjunction with some
26 form of opposition, must be treated as an opposition to a particular request, thereby warranting
adjudication by this Honorable Court.

27 ¹¹ Significantly, this request is not in any way intended to be a substitute for the
28 generalized duties described above.

1 All statements made by the defendant, regardless of whether the statements were
2 written or recorded, including but not limited to:

- 3 • Comments made at the time of arrest or during transport to the detention center,
- 4 • All conversations, telephonic or otherwise, intercepted by any law enforcement
5 agencies, including federal authorities, and
- 6 • The substance of any statements, conversations, or correspondence overheard or
7 intercepted by any jail personnel or other inmates which have not been recorded
or memorialized.

8 **2. Potential Witnesses' Statements**

9 All written or recorded statements of witnesses and potential witnesses, including, but
10 not limited to:

- 11 • Audio and video recording in any form collected by investigating officers or any
12 other law enforcement agent as part of the investigation of this matter, as well as
any related matters,
- 13 • Notes of interviews, such as notes of patrol officers, or notes of phone calls made
14 to potential witnesses, or attempts to contact such witnesses, and
- 15 • Interviews of the following individuals: Juan Acosta, Tyra Atkins, Sherwynn
16 Banez, Brandon Berger, Nakiea Bremmer, Gerardo Burgueno, Oliver Carrington,
Gerardo Gurguerro, Bruce Hall, Janie Hall, Dr. Kim, Zarharia Marshall, Joshia
17 Newson, and Winston Reece, and any other witness or investigative official
involved in the instant matter and any related matter.

18 **3. Records Related to Investigation**

19 All records of the North Las Vegas Metropolitan Police Department and any other
20 law enforcement agencies involved in the investigation of this or any related matter,
21 including, but not limited to:

- 22 • Copies of handwritten or other notes,
- 23 • Investigative leads that were not followed up on,
- 24 • Any other matter bearing on the credibility of any State witness,
- 25 • Information pertaining to this case or any witnesses in this case, no matter what
26 the form or title of the report, including:
 - 27 ○ "Case Monitoring Forms,"

- Use of Force reports,
- 911 recordings,
- Dispatch logs, and
- Information regarding leads or tips provided to law enforcement or a crime tip organization such as Crime Stoppers, including any reward or benefit received for such tip.

4. Crime Scene Analysis, Evidence Collection, and Forensic Testing

All requests, results, reports, and bench notes pertaining to all crime scene analysis, evidence collection and forensic testing performed in this case,¹² including, but not limited to:

- Photographic, video, and audio recordings of evidence collection and testing,
- Fingerprint Evidence: All latent prints recovered in the instant matter, regardless of their value for identification, as well as exemplars compiled in connection with the investigation of this matter, including:
 - photographs, reports, and recordings related to collecting and testing of fingerprints,
 - Results of fingerprint collection and comparison, and
 - Automated Fingerprint Identification System (AFIS) searches and results,
- DNA Evidence: DNA testing, raw data and Combined DNA Index System (CODIS) searches and results,
- Scientific Evidence: toxicological, chemical, biochemical, laboratory, and other laboratory or forensic analyses, including trace evidence analyses, crime scene reconstruction or blood spatter analysis, and
- Forensic Analysis: reports and notes related to any forensic analysis and requests for forensic analysis, regardless of the outcome of such request.
- This request encompasses, but it not limited to, any work done by the following individuals: Patrick Fisher, Renee Harder, Michael Lubking, Dana Marks, and Wendy Radke.

5. Medical Records

All records, including photos, reports, imaging studies, test results, and notes pertaining to:

¹² This is required under NRS 171.1965(1)(b) and NRS 174.235(1)(b).

- Any alleged victim (including Anshanette McNeil, Minor: MN, and Minor: BB) generated pursuant to treatment provided in connection with the instant matter; including, without limitation, all emergency medical, fire department, hospital, or other medical care provider records, including all relevant prior medical records,
- All pathological, neuropathological, toxicological, or other medical evaluations of (Anshanette McNeil), including all relevant prior medical records and
- The name and badge number of any paramedics who responded to the scene, and all documentation, notes, reports, charts, conclusions, or other diagnostic, prognostic, or treatment information pertaining to any person evaluated, assessed, treated, or cleared by a paramedic at the scene, or transported to a hospital from the scene.

8. Law Enforcement Video or Audio Recordings

All video and audio recordings obtained by the Nevada Highway Patrol and/or North Las Police Department recording device, including but not limited to:

- Dashboard cameras,
- Body-mounted officer cameras,
- Any other recording equipment operational during the investigation of this case, and

10. Monitoring, Tracking, and Associated Warrants

All data, recordings, reports, and documentation of the following: voice monitoring devices, geographic tracking devices, pen registers, trap and trace devices installed pursuant to interception, warrant, or other means, obtained by law enforcement pertaining to the instant matter or any related matter.

11. 911 and 311 Calls

Any and all 911 and 311 recordings to include, but not limited to:

- Car-to-car audio communications,
- Car-to-dispatch radio communications, and
- Unit Log incident print out related to the event.

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1 **12. Chain of Custody**

2 All relevant chain of custody reports, including reports showing the destruction of
3 any evidence in the case.¹³

4 **13. Witness Contact Information**

5 All updated witness contact information, including last known addresses and phone
6 numbers. This includes the names and contact information for witnesses who may
7 have information tending to exculpate Mr. Newson.

8 **14. Information Obtained from Confidential Informants**

9 All information obtained from confidential informants for any aspect of the
10 investigation of this case. This includes, but is not limited to, informants who
11 purportedly obtained information about this case while incarcerated, whether the
12 information came from Mr. Newson, a co-defendant, unindicted co-conspirator, or
13 another source, regardless of whether prosecutors intend to use the informant-related
14 information at the upcoming trial of this matter.

15 **Exculpatory Evidence**

16 **15. Alternative Suspects**

17 All information which shows that Mr. Newson did not commit the crimes alleged, or
18 which shows the possibility of another perpetrator, co-conspirator, aider and abettor,
19 or accessory after the fact, including the names of those individuals. This includes,
20 but is not limited to, any information concerning the arrest of any other individual for
21 the charged crimes and any information suggesting that someone other than Mr.
22 Newson perpetrated one or more of the charged crimes.

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27 ¹³ Destruction of evidence can result in dismissal of the case or a jury instruction stating
28 such evidence is presumed favorable to the accused. Crockett v. State, 95 Nev. 859, 865 (1979);
 Sparks v. State, 104 Nev. 316, 319 (1988); Sanborn v. State, 107 Nev. 399, 409 (1991).

16. Identification and Mis-Identification

All statements of identification associated with this case, including any information concerning witnesses who did not identify Mr. Newson as the perpetrator of the alleged crimes. This request includes:

- Statements identifying another person as the perpetrator of this offense,
- Prior non-identifications by eyewitnesses now identifying Mr. Newson as the perpetrator, and
- Color copies of all photographic lineups shown to any witness (including lineups created without Mr. Newson) as well as any other identification procedures used to identify suspects including show-ups, lineups, photo-array lineups, single photo show-ups, photo compilations and composite drawings. This request includes:
 - The identification of each witness who was shown an identification procedure,
 - The date and time such procedures occurred,
 - The names of all persons who were present when the procedures took place,
 - Instructions given to the witnesses prior to the procedure,
 - The results of the procedure, including an accounting of each witness's statements before, during and after the identification procedure; the amount of time taken by each witness to make an identification; and any hesitancy or uncertainty of each witness in making an identification, and
 - Whether officers informed any witness that he identified the suspect officers believed committed the crime.

General Impeachment

18. Witness Benefits

Disclosure of all express or implied compensation, promises of favorable treatment or leniency, or any other benefit that any of the State's witnesses received in exchange for their cooperation with this or any related prosecution. This includes, but is not limited to:

- Records and notes from the CCDA Victim Witness Office, including records of any expectation of any benefit or assistance to be received, or already received by any witness in this case,
- Monetary benefits received as well as any express or implied promises made to any witness to provide counseling, treatment, or immigration assistance as a result of the witness's participation in this case,

- Names of all agencies, workers or other referrals that were given to any witness or his family member, relative, or guardian in connection with this case or any related matter, and
- Estimate of future benefits to be received by any witness during or after the trial, including travel expenses.

19. Prior Witness Statements

Disclosure of any and all statements, tangible or intangible, recorded or unrecorded, made by any witness that are in any manner inconsistent with the written or recorded statements previously provided to the defense. This includes oral statements made to an employee or representative of the CCDA or any other government employee, local or federal, during pre-trial conferences or other investigative meetings.

20. Law Enforcement Impeachment Information—Henthorn Request

Mr. Newson hereby requests the prosecutor review the personnel files of each officer involved in this case. After review, the prosecutor must disclose all impeachment information located in the personnel files of any police witness called to testify at trial or any pretrial hearing in this matter, including, but not limited to, any Statement of Complaint regarding the witness or this investigation, any Employee Notice of Internal Investigation, any Internal Affairs Investigative Report of Complaint, any witness statement, any Bureau Investigation Supervisory Intervention, and any other document maintained or generated by the Office of Internal Affairs, Critical Incident Review Panel, or other investigative agency.

21. Criminal History Information

Criminal history information on any actual or potential witness, showing specific instances of misconduct, instances from which untruthfulness may be inferred or instances which could lead to the discovery of admissible evidence. The defense further requests that the NCIC information be provided to defense counsel as soon as possible and that prosecutors identify those individuals for whom no NCIC information is found. While the defense is not insisting that prosecutors run NCICs on expert or law enforcement witnesses, the defense requests that the State be ordered

1 to comply with its Brady obligations with respect to these witnesses. The instant
2 criminal history request includes, but is not limited to:

- 3 • Juvenile records,
- 4 • Misdemeanors,
- 5 • Out-of-state arrests and convictions,
- 6 • Outstanding arrest warrants or bench warrants,
- 7 • Cases which were dismissed or not pursued by the prosecuting agency, and
- 8 • Any other information that would go to the issues of credibility or bias, or lead to
9 the discovery of information bearing on credibility or bias, regardless of whether
10 the information is directly admissible by the rules of evidence.

11 CONCLUSION

12 Based on the foregoing, Mr. Newson, respectfully requests that this Honorable Court
13 grant the instant motion, and order the timely disclosure of the material sought herein. NRS
14 174.235; Brady v. Maryland, 373 U.S. 83 (1963); U.S.C.A. V, VI, XIV; and Nev. Const. Art. 1 §
8.

15 DATED this 25th day of January, 2018.

16 PHILIP J. KOHN
17 CLARK COUNTY PUBLIC DEFENDER

18 By: 
19 RYAN J. BASHOR, #11914
20 Deputy Public Defender

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YOU WILL PLEASE TAKE NOTICE that the Public Defender's Office will bring the foregoing Motion on for hearing before the Court on the 8th day of ~~January~~ FEBRUARY, 2018 at 9:30 a.m.

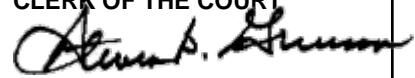
DATED this 25 day of January, 2018.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: RYAN J BASHOR, #11914
Deputy Public Defender

I hereby certify that service of the above and forgoing MOTION was served via electronic e-filing to the Clark County District Attorney's Office at motions@clarkcountydak.com on this 25th day of January, 2018.

By: Safa A. Brown
An employee of the
Clark County Public Defender's Office



OPPS

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
PAMELA WECKERLY
Chief Deputy District Attorney
Nevada Bar #006163
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

VERNON NEWSON, JR.,
#1946426

Defendant.

CASE NO: C-16-313919-1

DEPT NO: XXI

**STATE'S OPPOSITION TO DEFENDANT'S MOTION TO COMPEL
PRODUCTION OF DISCOVERY & BRADY MATERIAL**

DATE OF HEARING: 2/8/18
TIME OF HEARING: 9:30 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through PAMELA WECKERLY, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in Opposition to Defendant's Motion To Compel Production Of Discovery & Brady Material.

This Opposition is made and based upon all the papers and pleadings on file herein, the attached points and authorities in support hereof, and oral argument at the time of hearing, if deemed necessary by this Honorable Court.

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1 **POINTS AND AUTHORITIES**

2 **I. GENERAL LAW RELATED TO DISCOVERY**

3 **A. THE COURT CAN ONLY COMPEL “DISCOVERY” UNDER THE**
4 **NEVADA REVISED STATUTES**

5 Under Common Law, a defendant has no right of discovery. State v. Wallace, 399
6 P.2d 909, 97 Ariz. 296 (1965). This, of course, can be superseded by statutory enactment
7 and that is the case in Nevada. Regarding the law of discovery in the State of Nevada, NRS
8 174.235, *et. seq.* controls. The Nevada Supreme Court has held that even an accused’s
9 statement is not constitutionally compelled through pre-trial discovery. Mears v. State, 83
10 Nev. 3, 7, 422 P.2d 230, 232 (1967), Thompson v. State, 93 Nev. 342, 565 P.2d 1011 (1977).

11 In Franklin v. Eighth Judicial District Court, 85 Nev. 401, 455 P.2d 919 (1969), the
12 Nevada Supreme Court held that the lower court erred in granting defendant’s Motion to
13 Discovery, inspect and copy statements of all persons to be called by the prosecution as
14 witnesses at trial, since NRS 174.245 does not authorize discovery of inspection of
15 statements made by State witnesses or` perspective State witnesses to agents of the State.
16 Nor does the defendant enjoy a constitutional right to discover them. With regard to the
17 discovery statutes previously alluded to, the Court stated:

18 “Those provisions (NRS 174.235-174.295) represent the legislative
19 intent with respect to the scope of allowable pre-trial discovery and are not
lightly to be disregarded.”

20 From the aforementioned, it is clear that Nevada’s discovery statutes are to be strictly
21 construed and adhered to since no Common Law right of discovery existed. It should,
22 therefore, also be clear that the defendant’s motion, so far as it exceeds the requirements of
23 NRS 174.235, *et. seq.*, must be denied.

24 1. The State Must Allow the Defense to “Inspect” Inculpatory Evidence.

25 Initially, Defendant Newson attempts to mislead the Court with respect to applicable
26 discovery statutes by blending the requirements of a statute and constitutional obligations
27 into a generalized discovery request. In her motion, Defendant Newson states “NRS 174.235
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1 requires prosecutors to disclose” various items within the possession or which the State can
2 discover through due diligence. See Motion at 4.

3 To be clear, NRS 174.235 requires the State to disclose inculpatory evidence. The
4 method of disclosure prescribed by the statute is to allow the defense to “*inspect and to*
5 *copy, or photograph*” the following items:

6
7 1. Written or recorded statements or confessions made by the
8 defendant or any witness the State intends to call during the case in chief of
the State, within the custody of the State or which the State can obtain by an
exercise of due diligence. (1)(a).

9 2. Results or reports of physical or mental examinations,
10 scientific tests or scientific experiments made in connection to the case,
within the control of the State, or which the State may learn of by an exercise
11 of due diligence. (1)(b).

12 3. Books, papers, documents, tangible objects which the State
intends to introduce during its case in chief, within the possession of the
13 State, or which the State may find by an exercise of due diligence. (1)(c).

14 Defendant filed a motion to compel discovery prior to ever inspecting and copying
15 the information in the possession of the State. Thus, a motion to compel discovery is not
16 properly before the court. NRS 174.235 requires the State to allow the defense to inspect
17 and copy various pieces of information. NRS 174.295, allows for the defense to seek an
18 order to compel only upon the State’s failure to allow such an inspection.

19 Specifically, NRS 174.295(2) states:

20
21 If at any time during the course of the proceedings it is brought to the
22 attention of the court that a party **has failed to comply** with the provisions
23 of NRS 174.234 to 174.295, inclusive, the court may order the party to permit
the discovery or inspection of materials not previously disclosed, grant a
continuance, or prohibit the party from introducing in evidence the material
24 not disclosed, or it may enter such other order as it deems just under the
circumstances.

25 (Emphasis added). It is clear from the language of the statutes that a motion to compel is
26 only appropriate where the State refuses a defendant’s request to review the discoverable
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1 material in its possession.¹ As the State has complied with NRS 174.235, the Court must
2 deny the motion in its entirety.

3 2. The Statute Limits Disclosure.

4 Defendant Newson erroneously informs this Court that “disclosure” is required
5 “regardless of whether the material is intended for use in the government’s case in chief.”
6 Motion at 5.

7 Defendant Newson fails to properly cite the language of NRS 174.235 to this Court.

8 Section 1(a) specifically states that the State must allow the defense to inspect written
9 or recorded statements of the defendant or witnesses “the prosecuting attorney intends to call
10 during the case in chief of the State.” NRS 174.235. Similarly, Section 1(c) requires the
11 State to allow inspection of tangible items of evidence

12 Moreover, Defendant seeks to compel items which are not discovery. Defendant
13 predicates the Court’s authority on a line of cases beginning with Brady v. Maryland.
14 However, Brady and its progeny are not cases granting the Court the authority to compel
15 discovery, but cases defining remedies upon the failure of the State to fulfill its constitutional
16 obligations. Thus, the Court should not be in the business of usurping the constitutional
17 authority of the State in making Brady determinations. As such, the Court should deny the
18 motion in its entirety.

19 As of the filing of the defense motion, Defendant Newson has not made a request to
20 inspect anything.

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27 ¹ The fact that the Public Defender has a policy in violation of a State statute is troubling, to say the least. Moreover,
28 Defendant Newson’s citation to the Nevada case of State v. Harrington, 9 Nev. 91, 94 (1873) is as inapplicable as the out
of state cases to which she cites as the case predates the enactment of the criminal discovery statute. See Motion at 5,
Section A.

II. BRADY MATERIAL AND ITS PROGENY

A. BRADY AND ITS PROGENY DOES NOT AUTHORIZE THE COURT TO ORDER DISCOVERY. THEY ARE REMEDIES IF THE STATE FAILS TO DISCLOSE AN ITEM WHICH IS FOUND TO HAVE BEEN REQUIRED TO BE DISCLOSED POST TRIAL.

The State has an obligation to disclose exculpatory evidence pursuant to Brady v. Maryland, 373 U.S. 83, 83 S. Ct. 1194 (1963). Giglio v. United States, 405 U.S. 150, 92 S. Ct. 763 (1972), requires that certain impeaching material be disclosed as well. The rule of Brady v. Maryland, 373 U.S. 83 (1963), which requires the State to disclose to the defendant exculpatory evidence, is founded on the constitutional requirement of a fair trial. Brady is not a rule of discovery, however. As the Supreme Court held in Weatherford v. Bursy, 429 U.S. 545, 559, 97 S. Ct. 837, 846 (1977):

There is no general constitutional right to discovery in a criminal case, and Brady did not create one... ‘the Due Process Clause has little to say regarding the amount of discovery which the parties must be afforded....’ Wardius v. Oregon, 412 U.S. 470, 474, 93 S. Ct. 2208, 2212, 37 L.Ed.2d 82 (1973).

In addition, Brady does not require the State to conduct trial preparation and investigation on behalf of the defense. The obligation is to produce exculpatory information which the defense would not be able to obtain itself through an ordinary exercise of diligence.

While defense attorneys routinely claim they need to be provided the information in order to conduct the investigation to determine if there is any exculpatory information, that is simply not the law. In the Ninth Circuit, the obligation for the prosecution to examine information is triggered by a defense request with no requirement that the defense make a showing that the information is likely to contain helpful information. United States v. Henthorn, 931 F.2d 29, 31 (9th Cir. 1990) (holding that the “government is incorrect in its assertion it is the defendant’s burden to make an initial showing of materiality,” rather the “obligation to examine the files arises by virtue of making a demand for their production”); United States v. Santiago, 46 F.3d 885, 895 (9th Cir. 1995) (“[u]nder Henthorn, the

1 government has a duty, upon defendant's request for production, to inspect for material
2 information the personnel records of federal law enforcement officers who will testify at
3 trial, regardless of whether the defense has made a showing of materiality") accord Sonner
4 v. State, 112 Nev. 1328, 930 P.2d 707 (1996)(requiring materiality before a review of a
5 police officer's personnel file.).

6
7 **B. THE STATE MAKES THE DETERMINATION AT ITS OWN PERIL IF IT**
8 **WILL DISCLOSE THE INFORMATION, NOT THE DEFENSE OR THE COURT**
9

10 This, of course, does not mean that files are produced for the defense. Henthorn
11 explains that following that examination, "the files need not be furnished to the defendant or
12 the court unless they contain information that is or may be material to the defendant's case."
13 Id. Thus, the only time disclosure is required is if the State finds information that qualifies
14 as Brady material. If the prosecutor is unsure, the information should be provided to the
15 court for review. As the court explained:

16
17 We stated that the government must 'disclose information favorable to the
18 defense that meets the appropriate standard of materiality If the
19 prosecution is uncertain about the materiality of information within its
20 possession, it may submit the information to the trial court for an in camera
inspection and evaluation. . . .' As we noted in Cadet, the government has a
duty to examine personnel files upon a defendant's request for their
production.

21 Id. at 30-31 (internal citation omitted). Despite this procedure, Defendant's routinely request
22 the Court to order production of information to them, or to the Court. It is not the Court's
23 responsibility under the Constitution. It is the prosecution's responsibility.

24 Moreover, Brady and its progeny are remedies **post trial** for the prosecution's failure
25 to perform its responsibility. Brady does not support the defense's request to conduct an
26 investigation independent of the prosecution, or to ensure the prosecution completes its duty.

27 ///

28 ///

III. TIMING OF DISCLOSURES

A. TRUE BRADY MATERIAL

Traditionally, Brady material is information which indicates that Defendant did not commit the crime, or his sentence should be less based upon culpability. The State's duty under Brady is ongoing. When reviewing cases on appeal, however, courts decide allegations of tardy Brady disclosures according to the facts surrounding the disclosure and if the alleged Brady information was used in the trial. The Ninth Circuit has recognized that "Brady does not necessarily require that the prosecution turn over exculpatory material before trial. To escape the Brady sanction, disclosure 'must be made at a time when [the] disclosure would be of value to the accused.'" United States v. Gordon, 844 F.2d 1397, 1403 (9th Cir. 1988). With this precedent, the Ninth Circuit has typically found no prejudice when alleged Brady information was disclosed at some point before trial. Notwithstanding, whenever the State is in possession of true Brady material, it is the practice of the undersigned to immediately turn over such information.

B. IMPEACHMENT MATERIAL

From Brady, a line of cases related to the credibility of testifying witnesses, the Court established rules and requirements for impeachment material, or Giglio material. The right to impeach witnesses is based on the Confrontation Clause of the constitution. The United States Supreme Court has held that the Confrontation Clause is not "a constitutionally compelled right of pretrial discovery." Pennsylvania v. Ritchie, 480 U.S. 39, 52, 107 S. Ct. 989, 999 (1987). Instead, the right to confrontation is a trial right, "designed to prevent improper restrictions on the types of questions that defense counsel may ask during cross-examination." It "does not include the power to require the pretrial disclosure of any and all information that might be useful in contradicting unfavorable testimony." It guarantees the opportunity for effective cross-examination, "not cross-examination that is effective in

1 whatever way, and to whatever extent the defense might wish.” *Id.* at 53, 107 S. Ct. 999,
2 *citing Delaware v. Fensterer*, 474 U.S. 15, 20, 106 S. Ct. 292, 294 (1985).

3 Almost universally, courts have held that there is no Giglio obligation if the witness
4 does not testify.² *See United States v. Green*, 178 F.3d 1099, 1109 (10th Cir. 1999) (holding
5 that Giglio did not apply when the government “did not ever call” its confidential informant
6 as a witness); *United States v. Mullins*, 22 F.3d 1365, 1372 (6th Cir. 1994) (finding “no
7 authority that the government must disclose promises of immunity made to individuals the
8 government does not have testify at trial,” and holding that a grant of immunity could not be
9 “‘favorable to the accused’ as impeachment evidence because the government did not call
10 [the witness] and, thus, there was no one to impeach”); *see also United States v. Pena*, 949
11 F.2d 751, 758-59 (5th Cir. 1991) (impeachment evidence regarding a non-testifying witness
12 is an insufficient basis upon which to grant a new trial); *United States v. Storey*, 956 F.
13 Supp. 934, 942 (D. Kan. 1997) (holding that while impeachment evidence falls within the
14 Brady rule, “[s]uch evidence as it pertains to an informant, however is only discoverable if
15 the informant testifies”); *Kowalczyk v. United States*, 936 F. Supp. 1127, 1149 (E.D.N.Y.
16 1996) (holding that “[t]he Government was not obligated to produce the Janis arrest record,
17 assuming the prosecution was in possession of such information, as Janis was not a witness
18 at trial”); *United States v. Hill*, 799 F. Supp. 86, 90 (D. Kan. 1992), (denying defense request
19 for any information which could be used to impeach non-witnesses); *United States v.*
20 *Villareal*, 752 F. Supp. 851, 853 (N.D. Ill. 1991) (holding that “[a]s for statements by
21 government witnesses that qualify as impeachment materials, the government is under no
22 obligation to disclose this information before trial,” and that “the government is under no
23 obligation at any time to provide impeachment evidence for non-witnesses”); *United States*
24 *v. Coggs*, 752 F. Supp. 848, 849, (N.D. Ill. 1990) (holding that the government is not
25 required to produce impeachment evidence impacting non-witnesses, reasoning that
26 “[r]equiring that the government provide impeachment evidence for non-witnesses will not
27 further the interest sought to be served by Giglio-allowing for a meaningful determination of

28 ² The exception to this rule is where the witness will not testify, but the witness’ hearsay statement will be admitted, then the witness’ credibility may be in issue. *See United States v. Jackson*, 345 F.3d 59, 70-71 (2nd Cir. 2003).

witness credibility”). Finally, evidence of impeachment of a witness need not be disclosed until the witness testifies. United States v. Rinn, 586 F.2d 113 (9th Cir. 1978) (“[S]ince information concerning “favors or deals” merely goes to the credibility of the witness, it need not be disclosed prior to the witness testifying.”). Thus, unless the witness is going to testify, there is no basis to disclose any impeachment material.

Defendant and Co-Defendant Statements (Request 1)

The State objects to this request as being vague, overbroad, and compound. Additionally, portions of the request fall outside the scope of the State’s obligations under NRS 174.235, as well as Brady v. Maryland, 373 U.S. 83 (1963) and Giglio v. United States, 405 U.S. 150 (1972). To the extent that the request and its multiple subparts fall within the State’s obligations under 174.235, Brady and Giglio, they are not specific requests.

NRS 174.235 provides:

1. Except as otherwise provided in NRS 174.233 to 174.295, inclusive, at the request of a defendant, the prosecuting attorney shall permit the defendant to inspect and to copy or photograph any:

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

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

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

2. The defendant is not entitled, pursuant to the provisions of this section, to the discovery or inspection of:

(a) An internal report, document or memorandum that is prepared by or on behalf of the prosecuting attorney in connection with the investigation or prosecution of the case.

1 (b) A statement, report, book, paper, document, tangible object or any
2 other type of item or information that is privileged or protected from
3 disclosure or inspection pursuant to the Constitution or laws of this state or
4 the Constitution of the United States.

5 3. The provisions of this section are not intended to affect any obligation
6 placed upon the prosecuting attorney by the Constitution of this state or the
7 Constitution of the United States to disclose exculpatory evidence to the
8 defendant.

9 (Emphasis added).

10 Brady places upon the State an obligation to produce exculpatory evidence. Giglio
11 requires that the State disclose certain impeaching material as well.

12 In other words, even in the absence of a motion, the State is obligated to turn over the
13 information requested that falls within the State's obligations under 174.235, Brady and
14 Giglio. For example, non-exculpatory oral statements are not covered by the statutes nor
15 Brady and its progeny. Defendant has made many sub-requests within the instant request
16 without providing any indication that the defense has performed any investigation or
17 discovered that the material actually exists and the State has failed to turn it over. The State
18 asks that this request be clarified by the defense to address what specific discovery
19 Defendant believes he is missing. In the absence of such a clarification the State asks that the
20 request be denied as it fails to state a specific request. In addition, this case has no co-
21 defendants.

22 Witness Statements and Officer Notes (Request 2)

23 While the State usually voluntarily provides all written or recorded statements of
24 witnesses, except those protected as confidential, the State's decision to over include
25 discovery does not expand the nature of those items subject to mandatory disclosure by court
26 order based upon statutory or constitutional authority. The State objects to this request as
27 being vague, overbroad, and compound. Additionally, portions of the request fall outside the
28 scope of the State's obligations under NRS 174.235, as well as Brady v. Maryland, 373 U.S.
83 (1963) and Giglio v. United States, 405 U.S. 150 (1972). To the extent that the request
and its multiple subparts fall within the State's obligations under 174.235, Brady and Giglio,
they are not specific requests.

1 NRS 174.235 provides:

2 1. Except as otherwise provided in NRS 174.233 to 174.295, inclusive, at
3 the request of a defendant, the prosecuting attorney shall permit the
4 defendant to inspect and to copy or photograph any:

5 (a) Written or recorded statements or confessions made by the
6 defendant, or **any written or recorded statements made by a witness the
7 prosecuting attorney intends to call during the case in chief of the State,**
8 or copies thereof, within the possession, custody or control of the State, the
9 existence of which is known, or by the exercise of due diligence may become
10 known, to the prosecuting attorney;

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

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

21 2. The defendant is not entitled, pursuant to the provisions of this section,
22 to the discovery or inspection of:

23 (a) An internal report, document or memorandum that is prepared by or
24 on behalf of the prosecuting attorney in connection with the investigation or
25 prosecution of the case.

26 (b) A statement, report, book, paper, document, tangible object or any
27 other type of item or information that is privileged or protected from
28 disclosure or inspection pursuant to the Constitution or laws of this state or
the Constitution of the United States.

3 The provisions of this section are not intended to affect any obligation
placed upon the prosecuting attorney by the Constitution of this state or the
Constitution of the United States to disclose exculpatory evidence to the
defendant.

(Emphasis added).

Brady places upon the State an obligation to produce exculpatory evidence. Giglio
requires that the State disclose certain impeaching material as well.

In other words, even in the absence of a motion the State is obligated to turn over the
information requested that falls within the State's obligations under 174.235, Brady and
Giglio. Defendant has made many sub-requests within the instant request without providing
any indication that the defense has performed any investigation or discovered that the

1 material actually exists and the State has failed to turn it over. The State asks that this request
2 be clarified by the defense to address what specific discovery Defendant believes he is
3 missing. In the absence of such a clarification the State asks that the request be denied as it
4 fails to state a specific request.

5 There is no statute nor Nevada case law that compels production of notes from law
6 enforcement, so there is no basis for production. This request is not covered by a single line
7 of any discovery statute. If there is exculpatory information, the State obviously must
8 produce it. However, there is no requirement that the notes of all officers be produced and
9 the State requests that this Court not expand the statutory text to include imply such a
10 requirement exists.

11 Defendant Newson cites this Court to State v. Banks, 2104 WL 7004498 for the
12 proposition that “[r]aw notes made by any law enforcement officer or other prosecution
13 agent in connection with the investigation of the instant matter must be disclosed to the
14 defense.” Motion at 13. According to Newson, in Banks, the “court did not take issue with
15 lower court’s order requiring preservation and disclosure of police officer rough notes.”
16 Motion at 13. This depiction of the case is misleading. In Banks, the justice of the peace
17 ordered a homicide detective to preserve his notes. Instead of doing so, the officer
18 incorporated them into a report and destroyed them. Defendant Banks filed a motion to
19 dismiss which was granted by the trial court. The Nevada Supreme Court reversed the trial
20 court’s dismissal. The court offered no opinion or analysis regarding the propriety or
21 legality of the order to preserve notes. Moreover, the order that was issued by the justice of
22 the peace was to preserve notes, not produce them.

23 Courts have held that officer notes are not subject to discovery statutes. In State v.
24 Bray, 569 P.2d 688 (Ore. App. 1977), an officer arrested a suspect on a DUI charge. He
25 recorded observations in a booklet. He later prepared a report from his penciled notes and
26 erased the notes. The final report was furnished to the defense. At trial, the court ruled that
27 because the officer had taken notes while speaking to a witness and those notes had been
28 destroyed, the State would be precluded from calling the witness at trial. The issue on

1 appeal was whether the fragmentary notes of the officer constituted a statement within the
2 meaning of the state discovery statutes. The Appellate Court reversed the trial court:

3
4 We construe the statute to require production of any “statement” which is
5 intended by its maker as an account of an event or a declaration of a fact.
6 The statutory purposes of providing witness statements are to minimize
7 surprise, avoid unnecessary trial, provide adequate information for informed
8 pleas and to promote truthful testimony by allowing examination based on
9 prior inconsistent statements. . . Requiring preservation and availability of
10 fragmentary notes intended only as a touchstone for memory would be more
likely to discourage police officers from taking notes, with a consequent
reduction in accuracy, than to promote the statutory goals. Furthermore, it
would be unfair and misleading to allow cross-examination of a witness
based upon fragmentary or cryptic notes which were never intended to
express a complete statement. For these reasons, we hold that fragmentary
notes are not subject to production under discovery statutes.

11 Id. at 690; State v. Wrisley, 909 P.2d 877 (Ore. App. 1995) (noting that police notes are not
12 discoverable when their substance is incorporated into a report disclosed to the defendant);
13 see also State v. Jackson, 571 P.2d 523 (Ore. App. 1978) (holding that a rough draft of a
14 report an officer dictated to a stenographer was not discoverable).

15 Even the federal authority upon which Newson relies is more limited than Newson’s
16 motion. Defendant Newson offers this Court an imprecise and incomplete analysis
17 regarding when notes could possibly be discoverable. Defendant Newson cites to three cases
18 in her motion: United States v. Harrison, 524 F.2d 421 (D.C. Cir. 1975). The legal analysis
19 regarding why such notes are potentially discoverable is that they may contain a statement of
20 a witness. The cases do not discuss any other aspect of rough notes being discoverable.
21 Therefore, if notes do not contain a statement of a witness, they are not even potentially
22 discoverable. The legal mechanism by which they are potentially discoverable as statement
23 of a witness is due to the Jencks Act.

24 The Ninth Circuit explained this narrow exception to a general premise that notes are
25 not discoverable in United States v. Griffin, 659 F.2d 932 (9th Cir. 1981). First, the court
26 addressed what type of interview notes are potentially discoverable:

27 ///

28 ///

1 In general, the Jencks Act, [18 U.S.C. § 3500](#) prohibits the pre-trial discovery
2 of statements made by prospective government witnesses. [1](#) However, after
3 such a witness testifies at trial, the Act requires that the government produce
4 upon demand any available statement made by the witness which relates to
5 the subject matter of such witness's testimony at trial. The Act narrowly
6 defines "statements" as: (1) writings made by the witness and "signed or
7 otherwise approved or adopted" by him, or (2) accounts which are "a
8 substantially verbatim recital" of the witness's oral statements "recorded
9 contemporaneously with the making of such oral statement." [18 U.S.C. §](#)
10 [3500\(e\)](#)

11 Id. at 936. Thus, even if the notes concern an interview of a witness, they are not necessarily
12 discoverable.

13 Whether original notes can be considered "statements" under the Jencks Act
14 depends, first, on whose statement allegedly is contained therein; that is,
15 against whose testimony at trial they could be used as impeachment material.
16 Thus, on the one hand, the district court must determine whether the
17 investigator's rough notes should be considered a Jencks Act "statement" of
18 an interviewee, who at trial may testify as a government witness. If
19 Compliance Officer Logan's pretrial testimony, that her rough notes of the
20 interviews were neither read to each interviewee nor adopted or approved by
21 any of them, is not disputed, then her rough notes cannot be "statements" of
22 the interviewees under [§ 3500\(e\)\(1\)](#), which requires that a written statement
23 be "signed or otherwise approved." Likewise, if Officer Logan's testimony is
24 unrefuted, the rough notes could not be Jencks Act statements of the
25 interviewees under [§ 3500\(e\)\(2\)](#) since they are not verbatim recitals of the
26 interviewees' oral statements. See [United States v. Bernard, 623 F.2d 551,](#)
27 [558 n.21 \(9th Cir. 1980\)](#) (as revised). *In other words, unless one or more of*
28 *the interviewee-witnesses offered by the government at trial testifies*
*that [**10] his interview was transcribed verbatim into the compliance*
officers' rough notes or that the notes were read back and approved, the
rough notes, some of which were destroyed, would not be Jencks Act
"statements."

29 Id. at 937 (emphasis added).

30 Nor are notes necessarily considered to be a "statement" of the law enforcement
31 officer who drafted them. According to the Ninth Circuit, the circuit upon which Newson
32 relies, such rough notes rarely even constitute a statement of the law enforcement officer.

33 On the other hand, the district court also must determine whether the rough
34 notes should be considered as the agent's "statement" for Jencks Act purposes
35 should any of the officers become a government witness at trial. It is highly
36 unlikely that the agents' rough notes could be considered Jencks Act
37 statements. In the first place, with regard to that portion of an agent's notes
38 which records his thoughts and observations independent of the interviewee's
remarks, an agent's rough notes usually are considered too cryptic and
incomplete to constitute the full statement envisioned by the Jencks Act. As

1 we stated in [United States v. Spencer](#), 618 F.2d 605 (9th Cir. 1980), an agent's
2 rough notes will not be Jencks Act statements when they "are not complete,
3 are truncated in nature, or have become an unsiftable mix of witness
4 testimony, investigator's selections, interpretations, and interpolations. The
5 Congressional policy behind the Jencks Act was to protect witnesses from
6 being impeached with words that are not their own, or are an incomplete
7 version of their testimony." *Id.* at 606 (emphasis added), citing [Palermo v.](#)
8 [United States](#), 360 U.S. 343, 79 S. Ct. 1217, 3 L. Ed. 2d 1287 (1957); [United](#)
9 [States v. Augenblick](#), 393 U.S. 348, 354-56, 89 S. Ct. 528, 532-34, 21 L. Ed.
10 [2d 537](#) (1969); and [Wilke v. United States](#), 422 F.2d 1298, 1299 (9th Cir.
11 [1970](#)). Furthermore, if the agent later adopts or approves that portion of his
12 notes which does not simply record the remarks of the interviewee, his act of
13 approval is likely to attach more to his completed formal report than to the
14 "jottings" from which the agent drafts the report. In that event, it is the final
15 report which becomes the Jencks Act statement and not the rough notes.

16 Furthermore, that portion of the agent's rough interview notes which does
17 simply record, be it in either verbatim or paraphrased form, the interviewee's
18 remarks cannot be a "statement" for Jencks Act purposes when the agent
19 testifies as a government witness because it does not represent the agent's
20 own words. As the Supreme Court recognized when it reviewed the
21 legislative history of the Jencks Act in [Palermo v. United States](#), 360 U.S.
22 [343](#), 79 S. Ct. 1217, 3 L. Ed. 2d 1287 (1957), "It is clear that Congress was
23 concerned that only those statements which could properly be called the
24 witness' own words should be available to the defense for purposes of
25 impeachment." *Id.* at 353 (emphasis added, footnote omitted). Therefore,
26 except in the unlikely event that the civil compliance officers recorded their
27 own observations during the interviews in complete and full form in their
28 handwritten notes, the rough notes would not be Jencks Act statements
29 producible for the purpose of impeaching the testimony of any one of the
30 officers as a government witness at trial.

31 Finally, should the trial court determine, applying the foregoing analysis, that
32 the rough notes constituted Jencks Act statements for some purposes, before
33 it imposes sanctions for their destruction, it must determine further that the
34 notes "relate to the subject matter" of the testimony which would be offered
35 by the particular government witness, [18 U.S.C. § 3500\(b\)](#), whether that
36 witness be the agent herself or an interviewee.

37 *Id.* at 937-38.

38 Third, this Court should be aware that even though the requirement is quite limited,
39 the Ninth Circuit is in minority with regard to the issue of preservation of notes. In [United](#)
40 [States v. Hinton](#), 719 F.2d 711 (4th Cir. 1983), the Fourth Circuit explained that in:

41 [Killian v. United States](#), 368 U.S. 231, 242, 7 L. Ed. 2d 256, 82 S. Ct. 302
42 [\(1961\)](#), where the Court dealt with the specific question whether notes made
43 by a government agent "only for the purpose of transferring the data thereon"
44 to a more formal record later qualified for production as Jencks Act material.
45 It indicated that such interim notes need not be preserved for production in
46 the event the agent testified at the later trial. Thus, it said:

1 "If the agents' notes of [the witness's] oral reports of expenses were made
2 only for the purpose of transferring the data thereon to the receipts to be
3 signed by [the witness], and if, after having served that purpose, they were
4 destroyed by the agents in good faith and in accord with normal practice, it
would be clear that their destruction did not constitute an impermissible
destruction of evidence nor deprive [the defendant] of any right."

5 Later, in [United States v. Augenblick, 393 U.S. 348, 354-55, 21 L. Ed. 2d](#)
6 [537, 89 S. Ct. 528 \(1969\)](#), the Court considered the producibility under §
7 [3500](#) of the " 'rough pencil notes ' " jotted down by a Government agent in an
8 interview of one of the Government's witnesses in the case. These notes were
9 not sought for production as the statement of the Government agent himself
10 as in the case here, but for use in impeachment of the witness whose
statement was allegedly set forth in the " 'rough pencil notes. ' " The Court,
however, characterized the notes as a statement not of the "entire interview "
but only of "a truncated version." As incomplete statements of "the entire
interview," the Court sustained the refusal of the district judge to order
production of the rough notes, saying:

11 "Moreover, we said in [Palermo v. United States, supra](#), [360 U.S.] at 353,
12 that the administration of the Jencks Act must be entrusted to the 'good sense
and experience ' of the trial judges subject to 'appropriately limited review of
appellate courts. ' "

13 While not conclusive, these statements of the Supreme Court as set forth in
14 the case discussed, appear to intimate somewhat definitely that rough interim
15 notes of a government agent, when later incorporated in the agent's formal
interview report, are not "written statements" within the Act and need not be
preserved.

16 Id. at 716-17. The Fourth Circuit went on to conclude that notes need not be preserved,
17 noting that in so holding, it joined in the conclusion of the Second, Fifth, Sixth, Seventh,
18 Eighth and Tenth Circuits (holding that "rough notes" or "jottings" "not intended as a final
19 report" made during an investigation by a government agent to "serve only a limited and
20 temporary purpose" of providing a "guide" for the agent's subsequent formal interview report
21 in "transferring the information [on the notes]" to other data and "not intended as a final
22 report," lack that element of finality and completeness required to meet the test of an
23 "approved" statement of the agent under the precise and circumscribed definition stated in
24 the Act" and therefore "it is not impermissible to destroy the notes when they have been
25 transferred to the formal interview report since it is the formal report which becomes in such
26 circumstances the "approved" statement required under the Act to be preserved and to be
27 producible on demand") Id. at 717-18.

1 Case Monitoring Forms, Use of Force Report, Notes, Dispatch Logs, Crime Stoppers Tips

2 (Request 3)

3 The State needs clarification on this request. The State is unclear what Defendant
4 Newson is referring to with regard to a “Case Monitoring Form.” With regard to a Use of
5 Force Report, the State is unclear what use of force incident was related to this case.

6 911 Recordings can be obtained by Defendant Newson simply by issuing a subpoena
7 to the NLVPD.

8 The State has provided dispatch logs already. If the defense is requesting something
9 else, it needs to be identified with more specificity.

10 If a witness provided a tip to Crime Stoppers and that witness received a reward and
11 testifies at trial, the State has no objection to revealing that information to the defense.
12 However, as the State does not have access to that information, the Court must order the
13 release of that information from Crime Stoppers.

14 Crime Scene Analysis Evidence Collection and Forensic Testing (Request 4)

15 All reports by crime scene analysts involved in the processing of scenes and all
16 reports related to forensic analysis are part of the standard discovery provided in all cases,
17 which actually exceeds the requirements of NRS 174.235. If the defense wants the
18 underlying case files related to forensic testing, the State will request the forensic lab to
19 provide the underlying data and will produce that information to Defendant. If the defense
20 wants raw notes of the crime scene analyst, the State will request production of those notes,
21 if still in existence, from the crime lab. As it relates to the Las Vegas Metropolitan Police
22 Department, their photograph laboratory will honor a defendant’s request for the
23 photographs maintained under the event number.

24 Defendant Newson specifically references “work done by” Patrick Fisher, Renee
25 Harder, Michael Lubking, Dana Marks, and Wendy Radke. The State is unclear what work
26 information Newson is requesting.

27 To the extent that Defendant is seeking information broader than that which is
28 contained *supra*, the State objects to this request as being vague, overbroad, compound, and

1 duplicative. Additionally, portions of the request fall outside the scope of the State's
2 obligations under NRS 174.235, as well as Brady v. Maryland, 373 U.S. 83 (1963) and
3 Giglio v. United States, 405 U.S. 150 (1972). To the extent that the request and its multiple
4 subparts fall within the State's obligations under 174.235, Brady and Giglio, they are not
5 specific requests.

6 Once again, NRS 174.235 provides:

7
8 1. Except as otherwise provided in NRS 174.233 to 174.295, inclusive, at
9 the request of a defendant, the prosecuting attorney shall permit the
defendant to inspect and to copy or photograph any:

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

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

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

19 2. The defendant is not entitled, pursuant to the provisions of this section,
20 to the discovery or inspection of:

21 (a) An internal report, document or memorandum that is prepared by or
22 on behalf of the prosecuting attorney in connection with the investigation or
prosecution of the case.

23 (b) A statement, report, book, paper, document, tangible object or any
24 other type of item or information that is privileged or protected from
disclosure or inspection pursuant to the Constitution or laws of this state or
the Constitution of the United States.

25 3. The provisions of this section are not intended to affect any obligation
26 placed upon the prosecuting attorney by the Constitution of this state or the
27 Constitution of the United States to disclose exculpatory evidence to the
defendant.

28 (Emphasis added).

1 Brady places upon the State an obligation to produce exculpatory evidence. Giglio
2 requires that the State disclose certain impeaching material as well.

3 Again, even in the absence of a motion (and even if this Court denied this request) the
4 State is obligated to turn over the information requested that falls within the State's
5 obligations under NRS 174.235, Brady and Giglio. Defendant has made many sub-requests
6 within the instant request without providing any indication that the defense has performed
7 any investigation or discovered that the material actually exists and the State has failed to
8 turn it over. The State asks that this request be clarified by the defense to address what
9 specific discovery Defendant believes he is missing. In the absence of such a clarification the
10 State asks that the request be denied as it fails to state a specific request

11 Medical Records of Decedent (Request 5)

12 To the extent the State is in possession of these records, they will be provided.
13 However, if the State does not possess the records, the State is not under any obligation to
14 acquire them under statutory or constitutional authority. Finally, NRS 174.235(2)(b)
15 precludes this information from being the subject of discovery without a court order and
16 notice to the subject of the request or institution holding the record:

17 2. The defendant is not entitled, pursuant to the provisions of this section, to
18 the discovery or inspection of:

19 • (a) An internal report, document or memorandum that is prepared by
20 or on behalf of the prosecuting attorney in connection with the investigation
or prosecution of the case.

21 • (b) A statement, report, book, paper, document, tangible object or
22 any other type of item or **information that is privileged or protected from
disclosure or inspection pursuant to the constitution or laws of this state
or the Constitution of the United States.**

23 (emphasis added). Under NRS 49.225 provides as follows:

24 A patient has a privilege to refuse to disclose and to prevent
25 any other person from disclosing confidential communications
26 among himself, his *doctor* or persons who are participating in
the diagnosis or treatment under the direction of the doctor,
including members of the patient's family.

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1 Thus, should Defendant seek this information which is not in the possession of the State,
2 they should file a motion with the Court with notice to the subject or institution holding the
3 record so they can interpose their objections, if any.

4 Law Enforcement Video (Request 8, there is no Request number 6 or 7)

5 Body Cam footage is kept for a certain number of days. This crime occurred over
6 two years ago. The State will inquire if body cam video was collected and ask that it be
7 preserved. The State is unclear regarding what other evidence Defendant Newson is
8 requesting.

9 Trackers, Pens and Warrants (Request 10*, there is No Request number 9)

10 NRS 174.235 does not cover Trap and Trace, Cellular Site, Pen Registers and GPS
11 Trackers. However, if the State intends to utilize any information during the trial which was
12 acquired by way of a court order and/or search warrant, the State will provide a copy.

13 911 and 311 Calls (Request 11)

14 The Defense can subpoena 911 and 311 calls associated with this event and the
15 NLVPD will honor the subpoena.

16 Chain of Custody Reports (Request 12)

17 The Defense has the impound reports from various crime scene analysts. If the
18 Defense has a concern that evidence has been destroyed, that should be addressed in a
19 separate motion.

20 Witness Contact Information (Request 13)

21 NRS 174.234 provides the law regarding the notice of witnesses. It provides that both
22 sides must disclose witness names and addresses it intends to call in its case-in-chief not less
23 than 5 judicial days before trial. See NRS 174.234 (1) (a) (2).

24 Confidential Informants (Request 14)

25 Defendant requests all informant information, but cites no law for such a request. If a
26 witness, not simply a source of information, receives compensation in exchange for
27 testimony at trial, the compensation is discoverable under Giglio. However, if the individual
28 does not testify, the information is not discoverable.

1 Unless an informant offered exculpatory evidence or is a testifying witness, the State
2 has no obligation to produce such information. See United States v. Green, 178 F.3d 1099,
3 1109 (10th Cir. 1999) (holding that Giglio did not apply when the government “did not ever
4 call” its confidential informant as a witness); United States v. Mullins, 22 F.3d 1365, 1372
5 (6th Cir. 1994) (finding “no authority that the government must disclose promises of
6 immunity made to individuals the government does not have testify at trial,” and holding that
7 a grant of immunity could not be “‘favorable to the accused’ as impeachment evidence
8 because the government did not call [the witness] and, thus, there was no one to impeach”);
9 see also United States v. Pena, 949 F.2d 751, 758-59 (5th Cir. 1991) (impeachment evidence
10 regarding a non-testifying witness is an insufficient basis upon which to grant a new trial);
11 United States v. Storey, 956 F. Supp. 934, 942 (D. Kan. 1997) (holding that while
12 impeachment evidence falls within the Brady rule, “[s]uch evidence as it pertains to an
13 informant, however is only discoverable if the informant testifies”); Kowalczyk v. United
14 States, 936 F. Supp. 1127, 1149 (E.D.N.Y. 1996) (holding that “[t]he Government was not
15 obligated to produce the Janis arrest record, assuming the prosecution was in possession of
16 such information, as Janis was not a witness at trial”); United States v. Hill, 799 F. Supp. 86,
17 90 (D. Kan. 1992), (denying defense request for any information which could be used to
18 impeach non-witnesses).

19 Alternative Suspects (Request 15)

20 This is just a general request for exculpatory information. The State has an obligation
21 to disclose exculpatory information without such a request.

22 Identification and Misidentification (Request 16)

23 This request concerns eyewitnesses and photographic lineups shown to witnesses.
24 There were none in this case, so the State is unclear why it’s included in the motion.

25 General Exculpatory Request (Request 17)

26 This is another general discovery request for exculpatory information. Again, the
27 State has an obligation to provide exculpatory information regardless of a request.

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Witness Benefits (Request 18)

The State is aware that it must disclose any benefit given to a witness in exchange for an agreement to testify. Defendant also requests any benefit from any other state agency. The Office of the District Attorney is the only agency that can premise compensation on an agreement to testify in the instant case. A police agency could compensate an individual for information. If that witness testifies, the compensation would be potentially discoverable. The State has no opposition to the request to the extent mentioned. However, if the family of the victim received other donations or assistance because their family member was murdered by Defendant, the donation would not fall under Giglio.

NRS 50.225 provides, in pertinent part:

1. For attending the courts of this State in any criminal case, or civil suit or proceeding before a court of record, master, commissioner, justice of the peace, or before the grand jury, in obedience to a subpoena, each witness is entitled:

(a) To be paid a fee of \$25 for each day's attendance, including Sundays and holidays.

(b) Except as otherwise provided in this paragraph, to be paid for attending a court of the county in which the witness resides at the standard mileage reimbursement rate for which a deduction is allowed for the purposes of federal income tax for each mile necessarily and actually traveled from and returning to the place of residence by the shortest and most practical route. A board of county commissioners may provide that, for each mile so traveled to attend a court of the county in which the witness resides, each witness is entitled to be paid an amount equal to the allowance for travel by private conveyance established by the State Board of Examiners for state officers and employees generally. If the board of county commissioners so provides, each witness at any other hearing or proceeding held in that county who is entitled to receive the payment for mileage specified in this paragraph must be paid mileage in an amount equal to the allowance for travel by private conveyance established by the State Board of Examiners for state officers and employees generally.

2. In addition to the fee and payment for mileage specified in subsection 1, a board of county commissioners may provide that, for each day of attendance in a court of the county in which the witness resides, each witness is entitled to be paid the per diem allowance provided for state officers and employees generally. If the board of county commissioners so provides, each witness at any other hearing or proceeding held in that county who is a resident of that county and who is entitled to receive the fee specified in paragraph (a) of subsection 1 must be paid, in addition to that fee, the per diem allowance provided for state officers and employees generally.

3. If a witness is from without the county or, being a resident of another state, voluntarily appears as a witness at the request of the Attorney General or the district attorney and the board of county commissioners of the county in which the court is held, the witness is entitled to reimbursement for the actual and necessary expenses for going to and returning from the place where the court is held. The witness is also entitled to receive the same per diem allowance provided for state officers and employees generally.

4. Any person in attendance at a trial who is sworn as a witness is entitled to the fees, the per diem allowance, if any, travel expenses and any other reimbursement set forth in this section, irrespective of the service of a subpoena.

... [Sections 5 and 6 are specific to witnesses in civil cases].

The State may have provided a witness fee of \$25.00, mileage and/or transportation expenses to witnesses who testified at the preliminary hearing, assuming said witness followed the proper procedures to obtain the fees/reimbursements. Other than the possible witness fee and transportation expenses described above, the State has not provided any compensation or entered into any cooperation agreement with any State witness at the present time. The State is aware of this request by the defense and will supplement this response if necessary as the case progresses.

Prior Witness Statements (Request 19)

Giglio, governs what impeachment the State must provide. The State asks the Court to hold it to that constitutional standard. Defendant's request is worded in an overbroad manner to encompass immaterial statements about which the State has no knowledge. Newson requests "Disclosure of any all statements, tangible or intangible, recorded or unrecorded, made by any witness, that are in any manner inconsistent with the written or recorded statements previously provided to the defense. This includes oral statements made to an employee or representative of the CCDA or any other government employee, local or federal, during pretrial conferences or other investigative meetings." Motion at 29. As written, this request literally has no bounds and no limits as to materiality nor whether or not the witness will testify. The request for the statements of "any witness," regardless of whether the individual is a State witness, is so broad as to defy any possibility of identifying what an order granting such a request would require of the State. The State will comply with

1 NRS 174.235 and has provided “any written or recorded statements made by a witness the
2 prosecuting attorney intends to call during the case in chief of the State, or copies thereof,
3 within the possession, custody or control of the State, the existence of which is known, or by
4 the exercise of due diligence may become known, to the prosecuting attorney.” Further,
5 Brady does not impose upon the State an obligation “to disclose evidence which is available
6 to the defendant from other sources, including diligent investigation by the defense.” Steese
7 v. State, 114 Nev. 479, 495, 960 P.2d 321, 331 (1998). The defense is capable of conducting
8 its own pretrial conferences with witnesses, where the defense can inquire as to any change
9 to the witness’s expected testimony that differs from the statements given to police.

10 Henthorn (Request 20)

11 In the Ninth Circuit, the obligation for the prosecution to examine an officer’s file is
12 triggered by a defense request with no requirement that the defense make a showing that a
13 file is likely to contain helpful information. United States v. Henthorn, 931 F.2d 29, 31 (9th
14 Cir. 1990) (holding that the “government is incorrect in its assertion it is the defendant’s
15 burden to make an initial showing of materiality” and that the “obligation to examine the
16 files arises by virtue of making a demand for their production”); United States v. Santiago,
17 46 F.3d 885, 895 (9th Cir. 1995) (Under Henthorn, the government has a duty, upon
18 defendant’s request for production, to inspect for material information the personnel records
19 of federal law enforcement officers who will testify at trial, regardless of whether the
20 defense has made a showing of materiality).

21 This, of course, does not mean that files are produced for the defense. Henthorn
22 explains that following that examination, “the files need not be furnished to the defendant or
23 the court unless they contain information that is or may be material to the defendant’s case.”
24 Id. Thus, the only time disclosure is required is if the State finds information that qualifies
25 as Brady material. If the prosecutor is unsure, the information should be provided to the
26 court for review. As the court explained:

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1 We stated that the government must ‘disclose information favorable to the
2 defense that meets the appropriate standard of materiality If the
3 prosecution is uncertain about the materiality of information within its
4 possession, it may submit the information to the trial court for an in camera
inspection and evaluation. . . . As we noted in Cadet, the government has a
duty to examine personnel files upon a defendant’s request for their
production.

5 Id. at 30-31.

6 Different than Henthorn, the Nevada Supreme Court issued an opinion that requires
7 some showing of materiality on the part of the defense before it could gain access to a
8 personnel file. The file concerned an officer who was murdered and obviously would not be
9 testifying. Sonner v. State, 112 Nev. 1328, 930 P.2d 707 (1996). The defense made no
10 showing that there may have been favorable information in the file. Instead, the defense
11 asserted a general right to search the file. The court rejected this assertion of a right to a
12 generalized, unfocused search, but allowed for the possibility that a file could be accessible
13 under some circumstances. The court reasoned, “[i]f Sonner had presented a foundation for
14 believing that [the victim] had a reputation for being an ‘aggressive’ trooper who, consistent
15 with his reputation, provoked Sonner’s action, this might have been sufficient to warrant
16 discovery of corroborating evidence” in the file. Id. at 1341, 930 P.2d at 716. This
17 reasoning suggests that if that type of evidence had been in the file, the State would be
18 required to produce it.

19 Additionally, the NLVPD has serious concerns regarding the disclosure of material
20 from personnel files. Confidentiality is one of the chief requirements in maintaining the
21 effective ability to investigate complaints against officers. Confidentiality ensures that both
22 police officers and citizens will freely contact the department without fear. As one court has
23 stated:

24 It is clear a very real and very important need exists to maintain confidential
25 integrity of the internal investigation in the police division. To do otherwise
26 would seriously inhibit the chief in his control over the members of the
27 division and their wide-ranging duties and responsibilities. This stream of
28 information available to the chief and the persons within and without the
division would diminish to a bare trickle if the source or sources of this
information were stripped of its confidential character. That such an event
would serve to defeat the general public good is supported by a logic almost
tautological in its persuasiveness -- for the desirability of an efficient well
disciplined police force is manifest.

1 McMillan v. Ohio Civil Rights Comm'n, 315 N.E.2d 508, 515 (Ohio 1974).

2 Personnel files are confidential. All witnesses, including police officers, are assured
3 that the information provided by them will not be voluntarily disclosed and that all legal
4 means will be employed to protect this confidentiality. Police officers are compelled to
5 cooperate with internal affairs investigations. Failure to cooperate can result in termination.
6 Officers, knowing that their statements were subject to disclosure, would be less likely to
7 completely cooperate. The knowledge that statements compelled from officers could later
8 be disclosed to third parties for other cases would also act as disincentive for the department
9 to fully investigate. As one court noted:

10
11 The members of a police department must be able to rely on their confidential
12 records and notations being preserved for their internal use ... for if it were
13 otherwise, the knowledge that some of the confidential information recorded
might later be exposed to outside parties would have a certain and chilling
effect upon the internal use of such record-making.

14 City of Los Angeles v. Superior Court, 109 Cal. Rptr. 365, 369 (Ct. App. 1973).

15 Based on Nevada law, Defendant in the instant case is required to advance a
16 foundation that the Personnel File of the officer is likely to bear information material to the
17 defense. Defendant's motion is simply an attempt to fish for information. As a result, the
18 instant motion should be denied. Alternatively, the State asks the Court to order the State to
19 review the file and produce any information it deems discoverable.

20 Criminal History (Request 21)

21 Although a witness's criminal record may be material under some circumstances, it is
22 not always relevant. Hill v. Superior Court, 112 Cal Rptr. 257, 518 P.2d 1353 (1974). In
23 Hill the defense sought production of a witness's felony conviction record. Because the
24 witness was the only eyewitness other than the defendants, and the corroboration of his
25 report was not strong, the court found the requisite materiality and granted the defense
26 motion. However, the court concluded, "[w]e do not hold that good cause exists in every
27 case in which a defendant charged with a felony seeks discovery of any felony convictions
28 any "rap sheet" of prosecution witnesses." Id. at 1358.

1 In the present case, Defendant has requested that the State perform a National Crime
2 Information Center (NCIC) inquiry on all possible State witnesses and to provide that
3 inquiry to the Defendant. The State has not run an NCIC inquiry on all witnesses, nor does it
4 plan to do so in this matter. The State has no legitimate reason to make such an inquiry and
5 strenuously objects to defense requests that the State provide this information.

6 Although Defendant liberally touts Brady v. Maryland, 373 U.S. 83 (1963) as the
7 basis for his NCIC request, the defense has failed to establish that the requested NCIC
8 information falls within the scope of Brady, that is, that it might in some way be exculpatory
9 or that it might somehow constitute impeachment evidence. Moreover, Defendant has not
10 shown how such information might be "material." In other words, the defense has failed to
11 show that the lack of any State witnesses' NCIC information will somehow result in an
12 unfair trial or will produce a verdict that is not worthy of confidence. *See* Kyles v. Whitley,
13 514 U.S. 419, 434 (1995).

14 The Supreme Court has stated that information is considered material if there is a
15 "reasonable probability that, had the evidence been disclosed to the defense, the result of the
16 proceeding would have been different." U.S. v. Bagley, 473 U.S. 667, 682 (1985). The
17 Supreme Court defined reasonable probability as probability sufficient to "undermine
18 confidence in the outcome" of the trial. *Id.* In addition, the Court in Bagley, stated that
19 "[i]mpeachment evidence . . . as well as exculpatory evidence, falls within the Brady rule."
20 *Id.* at 675. The Court defined impeachment evidence as "evidence favorable to an accused . .
21 . so that, if disclosed and used effectively, it may make the difference between conviction
22 and acquittal." *Id.* (internal quotes omitted).

23 In the present case, Defendant has failed to articulate even an arguable use of the
24 witnesses' NCIC information that would comport with the requirements as outlined by the
25 Supreme Court in Brady, Kyles and Bagley. Defendant is simply looking for any
26 information that he can use to cloud the facts of the case at bar and to cast aspersions on
27 those witnesses.
28

A. The State Is Prohibited From Providing Information Contained In NCIC Reports To Anyone Other Than Legitimate Law Enforcement Personnel

In addition, pursuant to 28 C.F.R. §20.33(b) as codified under 28 U.S.C.A. § 534 (2002), criminal history information may only be disseminated to law enforcement agencies, those hired by law enforcement agencies and to those who have entered into signed agreements for the specific and authorized use of criminal background information.

Pursuant to 28 C.F.R. §20.25,

Any agency or individual violating subpart B of these regulations shall be subject to a civil penalty not to exceed \$10,000 for a violation occurring before September 29, 1999, and not to exceed \$11,000 for a violation occurring on after September 29, 1999.

In addition, pursuant to 28 C.F.R. §20.38, Access to systems managed or maintained by the FBI is subject to cancellation in regard to any agency or entity that fails to comply with the provisions of subpart C of this part.

If the State is forced to disseminate such information to the defense in this matter, the State and/or the individual who actually provides the NCIC information runs the risk of civil penalties and loss of future access to the NCIC system. In addition, the Multi-System Guide 4 (MSG4) published by the Las Vegas Metropolitan Police Department (NLVPD) states that “[d]ata stored in each of our criminal justice systems . . . must be protected to ensure correct, legal and efficient dissemination and use.” P. 21. The MSG4 further states that “[d]issemination of CHI [Criminal History Information] that does not belong to the NLVPD or is obtained through NCIC, NCJIS or NLETS is prohibited.” Id.

As a user of the National Crime Information Center (NCIC) database, the State is prohibited from disseminating criminal history information to non-criminal justice agencies as defined by Title 28 Code of Federal Regulations (CFR)§ 20.33, which describes a criminal justice agency as: (1) Courts; and (2) a government agency or any subunit thereof which performs the administration of criminal justice pursuant to a statute or executive order, and which allocates a substantial part of its annual budget to the administration of

1 criminal justice. Unless specifically authorized by federal law, access to the NCIC/III for
2 non-criminal justice purposes is prohibited.

3 A 1989 United States Supreme Court case looked at this issue from the standpoint of
4 an invasion of privacy and ruled accordingly:

5
6 Accordingly, we hold as a categorical matter that a third party's request for
7 law enforcement records or information about a private citizen can
8 reasonably be expected to invade that citizen's privacy, and that when the
request seeks no "official information" about a Government agency, but
merely records that the Government happens to be storing, the invasion of
privacy is "unwarranted."

9 United States Department of Justice v. the Reporters Committee for Freedom of the Press,
10 109 S.Ct. 1468, 1485 (1989).

11 Criminal defense attorneys, public or private, are not within the definition of
12 "criminal justice agency," nor is the criminal defense function considered a "criminal justice
13 purpose." Therefore, Defendant is not entitled to the criminal history information he seeks.

14 **B. NCIC Policy of the District Attorney's Office as of 6/11/08**

15 If the District Attorney runs an NCIC inquiry on a witness and that NCIC inquiry is in
16 our file, the FBI has NO policy prohibiting us from disclosing that NCIC inquiry. If, on the
17 other hand, we have not run the NCIC report already, it is a violation of FBI regulations to
18 run it on request of defense counsel, or court order.

19 In short, if the State already has it, the State will decide--pursuant to our obligations
20 under Brady and Giglio--whether or not to divulge any information contained in the NCIC
21 report. If the State doesn't have the NCIC report in our file, the defense has to follow FBI-
22 outlined procedures to get it.

23 The defense must obtain an order from the judge directed to the FBI requested
24 describing specifically what they need. The FBI then reviews the judge's order and almost
25 always complies with it, but the FBI sends the NCIC report to the judge, who then reviews
26 the information and decides on its admissibility before turning anything over to the defense.

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CONCLUSION

Based on the foregoing, the State respectfully asks this Court to order discovery to the extent required by statute and constitutional standards and deny the remainder of the requests.

DATED this 29th day of January, 2018.

Respectfully submitted,

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

BY /s/PAMELA WECKERLY
PAMELA WECKERLY
Chief Deputy District Attorney
Nevada Bar #006163

CERTIFICATE OF ELECTRONIC TRANSMISSION

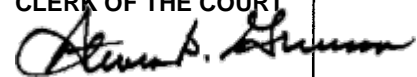
I hereby certify that service of the above and foregoing was made this 29th day of January, 2018, by electronic transmission to:

PUBLIC DEFENDER’S OFFICE
E-mail: pdclerk@clarkcountynv.gov

RYAN BASHOR, Deputy Public Defender
Email: bashorj@ClarkCountyNV.gov

SARA RUANO, Public Defender’s Office
Email: ruanosg@clarkcountynv.gov

BY: /s/ Deana Daniels
Secretary for the District Attorney's Office



0071
PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
RYAN J. BASHOR, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 11914
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

v.

VERNON NEWSON,

Defendant,

CASE NO. C-16-313919-1

DEPT. NO. XXI

DATE: February 8, 2018
TIME: 9:30 a.m.

MOTION IN LIMINE

COMES NOW, the Defendant, VERNON NEWSON JR., by and through RYAN J. BASHOR, Deputy Public Defender, and hereby moves this Court to preclude the State of introducing evidence of: (1) Defendant's alleged status as a gang member; (2) that the Defendant is a purported "drug dealer"; (3) that the Defendant used/possessed "sherm"; and (4) an alleged domestic violence charge dated February 26, 2015.

This Motion is made and based upon all the papers and pleadings on file herein, , Memorandum of Points and Authorities in support hereof, and oral argument at the time set for hearing this Motion.

DATED this 26th day of January, 2018.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: 
RYAN J. BASHOR, #11914
Deputy Public Defender

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POINTS AND AUTHORITIES

FACTS

It is alleged that on December 13, 2015, the defendant, Vernon Newson, shot and killed Anshanette McNeil while she sat in a moving vehicle that Mr. Newson was driving in the area of I-15 and Lamb Blvd. (Count 1 – Open Murder with Use of a Deadly Weapon). It is further alleged that Mr. Newson was a felon at the time, and therefore he was illegally in possession of a firearm. (Count 2 – Ownership or Possession of a Firearm by Prohibited Person). Finally, it is alleged that Mr. Newson fired the weapon as Ms. McNeil sat next to two of her children, minors M.N. and B.B., thereby endangering them. (Counts 3 and 4 – Child Abuse, Neglect, or Endangerment).

ARGUMENT

48.015 defines relevant evidence as, "...evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more or less probable than it would be without the evidence." NRS 48.025(2) makes clear that, "evidence which is not relevant is not admissible." Additionally, NRS 48.035(1) provides:

Relevant evidence is not admissible if its probative value is substantially outweighed by the danger of unfair prejudice, of confusion of the issues or of misleading the jury.

I. Alleged Gang Member

Witnesses, both professional and lay, have asserted that Mr. Newson is a member of the Altadena Blocc Crips. Whether this is a true assertion is of no consequence. The State has not sought a gang enhancement in this case and there does not appear to be evidence that this crime was gang related in any way. Any evidence introduced by the State that Mr. Newson is a gang member would have no probative value and would be substantially outweighed by undue prejudice. It is requested that the State be precluded from introducing this evidence and that the State's witnesses be formally admonished by the State not to make reference to Mr. Newson's alleged gang affiliation.

1 **II. Allegations that the Defendant is a Drug Dealer.**

2 Evidence or assertions that the defendant was a drug dealer is wholly irrelevant in this
3 case. There is no evidence that these assertions are true or that the crime was motivated, or
4 related, to being a drug dealer. Lay witnesses have made allegations that the defendant is a drug
5 dealer in the discovery. Nothing provided to date illustrates that these allegations are in any way
6 related to the crimes charged. For this reason, it is requested that the State be precluded from
7 permitting these witnesses to make these assertions at trial.

8 **III. Defendant used and/or possessed “sherm.”**

9 Lay witnesses in this case have alleged that the defendant uses “sherm.” Additionally, it
10 appears the defendant was arrested with “sherm” in California on an arrest warrant issued in this
11 case. Similar to above, the defendant’s use/possession of “sherm” is irrelevant to the allegations
12 made in this case, and any evidence introduced by the State related to “sherm” ought to be
13 excluded.

14 **IV. Domestic Violence – February 26, 2015**

15 “Absent certain exceptions, evidence of a person’s character or a trait of his character is
16 not admissible for the purpose of proving that he acted in conformity therewith on a particular
17 occasion. Further, evidence of other crime, wrongs or acts is not admissible to prove the
18 character of a person in order to show that he acted in conformity therewith.” Taylor v. State,
19 109 Nev. 849, 853, 858 P.2d 843 (1993). Moreover, if the State wishes to prove that the
20 evidence is admissible under NRS 48.045(2) for the purpose of establishing proof of motive,
21 opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident, the
22 State must prove how these exceptions to the general rule “specifically relate to the facts of this
23 case. A mere recitation of the statute is not sufficient justification for the admission of prior
24 acts.” Id. at 854. In addition, “the State may not present character evidence as rebuttal to a
25 defense which the accused has not yet presented.” Id.

26 “Before an issue can be said to be raised, which would permit the introduction of such
27 evidence so obviously prejudicial to the accused, it must have been raised in substance if not in
28

1 so many words, and the issue so raised must be one to which the prejudicial evidence is relevant.
2 The mere theory that a plea of not guilty puts everything material in issue is not enough for this
3 purpose. The prosecution cannot credit the accused with fancy defenses in order to rebut them at
4 the outset with some damning piece of prejudice.” *Id.* [quoting McCormick on Evidence §§ 190
5 at 452 n. 54 (Edward W. Cleary, 2d.Ed 1972) (quoting Lord Summer in Thompson v. The King,
6 App.Cas. 221, 232 (1918)].

7 The Nevada Supreme Court has recognized that the use of uncharged misconduct to
8 convict a defendant is extremely disfavored in our criminal justice system. Such evidence is
9 likely to be prejudicial and irrelevant and forces the accused to defend against vague and
10 unsubstantiated charges. Evidence of uncharged misconduct may improperly influence the jury
11 and may result in the accused’s conviction because the jury believes he is a bad person. The use
12 of such evidence to show a propensity to commit the crime charged is clearly prohibited by the
13 law of this State and is commonly regarded as sufficient ground for reversal on appeal. *Id.*
14 [citing Berner v. State, 104 Nev. 695, 696 - 97, 765 P.2d 1144, 1145 - 46 (1988)].

15 Within the discovery provided to date, police reports related to an instance of domestic
16 violence involving the decedent and the defendant in the instant matter have been provided. The
17 reports allege that the defendant struck the decedent at the Plaza Hotel on February 26, 2015. To
18 date, the State has not sought to introduce evidence of this encounter by way of motion. Absent
19 a formal motion, and a ruling by this Honorable Court, the defense requests that the State and its
20 witnesses be prevented from making mention of the encounter.

21 //

22 //

23 //

24 //

25 //


26 //

1 **CONCLUSION**

2 It is humbly requested that this Honorable Court grant the instant motion in all four parts.

3 DATED this 26th day of January, 2018.

4 PHILIP J. KOHN
5 CLARK COUNTY PUBLIC DEFENDER

6
7 By 
8 RYAN J. BASHOR, #11914
9 Deputy Public Defender

1 **NOTICE OF MOTION**

2 TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

3 YOU WILL PLEASE TAKE NOTICE that the foregoing MOTION IN LIMINE
4 will be heard on February 8, 2018, at 9:30 a.m. in District Court, Department XXI.


5 DATED this 26th day of January, 2018.

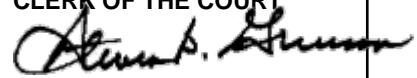
6 PHILIP J. KOHN
7 CLARK COUNTY PUBLIC DEFENDER

8
9 By 
10 RYAN J. BASHOR, #11914
11 Deputy Public Defender

12
13
14 **CERTIFICATE OF ELECTRONIC SERVICE**

15 I hereby certify that service of the above and forgoing MOTION was served via
16 electronic e-filing to the Clark County District Attorney's Office at motions@clarkcountydak.com
17 on this 26th day of January, 2018.

18 By 
19 An employee of the
20 Clark County Public Defender's Office
21
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27
28



NWEW
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
PAMELA WECKERLY
Chief Deputy District Attorney
Nevada Bar #6163
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

VERNON NEWSON, JR.,
#1946426

Defendant.

CASE NO: C-16-313919-1

DEPT NO: XXI

SUPPLEMENTAL NOTICE OF WITNESSES
[NRS 174.234(1)(a)]

TO: VERNON NEWSON, JR., Defendant; and
TO: RYAN BASHOR, Deputy Public Defender, Counsel of Record:
YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF
NEVADA intends to call the following witnesses in its case in chief:

<u>NAME</u>	<u>ADDRESS</u>
ACOSTA, JUAN	4735 E. Cincinnati Ave., LVN, 89104
BANEZ, SHERWYNNE	4775 Swenson St., LVN, 89119
BREMMER, NAKIEA	4775 Swenson St., LVN, 89119
BROOKS, D.	NL2380
BROWN, TIFFANY	CCME-INVESTIGATOR, 1704 Pinto Lane, LVN
BURGUENO, GERARDO	4336 Santa Clarita Ave., LV, NV 89081
CARRINGTON, OLIVER	3237 Edinboro Ridge Ave., NLV, NV 89081

1	CENTULO, HENRY	NLVPD P#1247
2	CHADDOCK, DAVID	NLVPD P#1805
3	*CORRALES, AUGUST	MEDIC WEST, 9 W. Delhi Ave, NLV, NV 89032
4	CUSTODIAN OF RECORDS	GUN REGISTRATION
5	CUSTODIAN OF RECORDS	LVMPD RECORDS
6	CUSTODIAN OF RECORDS	CCDC
7	CUSTODIAN OF RECORDS	LVMPD COMMUNICATIONS
8	DINH, C.	LVMPD P#15084
9	FARGE, MICHAEL	NLVPD P#1669
10	GLAZIER, T.	NLVPD P#701
11	HAWKINS, RICK	Claremont Police Dept., 570 W. Bonita Ave.,
12		Claremont, CA 91711
13	HOWE, BRIAN	NLVPD P#2376
14	HUDSON, JIM	NLVPD P#1272
15	JERRAN, NICHOLAS	NHP P#2330
16	REECE, WINSTON	4740 E. Cincinnati Ave., LVN, 89104
17	SANDERSON, PAUL	NLVPD P#1699
18	SCHWANITZ, IAN	NLVPD P#1237
19	TILLMAN, JACOB	Claremont Police Dept., 570 W. Bonita Ave.,
20		Claremont, CA 91711
21	TING, JEFF	Claremont Police Dept., 570 W. Bonita Ave.,
22		Claremont, CA 91711
23	WALTERS, JASON	Claremont Police Dept., 570 W. Bonita Ave.,
24		Claremont, CA 91711
25	///	
26	///	
27	///	
28	///	

1 These witnesses are in addition to those witnesses endorsed on the Information or
2 Indictment and any other witness for which a separate Notice of Witnesses and/or Expert
3 Witnesses has been filed.

4
5 STEVEN B. WOLFSON
Clark County District Attorney
6 Nevada Bar #001565

7
8 BY /s/PAMELA WECKERLY
PAMELA WECKERLY
9 Chief Deputy District Attorney
Nevada Bar #6163

10
11
12
13
14 CERTIFICATE OF ELECTRONIC TRANSMISSION

15 I hereby certify that service of the above and foregoing was made this 29th day of
16 January, 2018, by electronic transmission to:

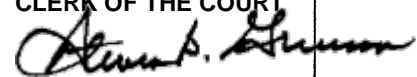
17 PUBLIC DEFENDER'S OFFICE
18 E-mail: pdclerk@clarkcountynv.gov

19 RYAN BASHOR, Deputy Public Defender
20 Email: bashorj@ClarkCountyNV.gov

21 SARA RUANO, Public Defender's Office
22 Email: ruanosg@clarkcountynv.gov

23 BY: /s/ Deana Daniels
24 Secretary for the District Attorney's Office

25
26
27
28 dd-MVU



NOTC
PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
RYAN J. BASHOR, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 11914
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

v.

VERNON NEWSON JR.,

Defendant,

CASE NO. C-16-313919-1

DEPT. NO. XXI

DEFENDANT'S NOTICE OF WITNESSES, PURSUANT TO NRS 174.234

TO: CLARK COUNTY DISTRICT ATTORNEY:

You, and each of you, will please take notice that the Defendant, VERNON NEWSON JR., intends to call, in addition to any witness noticed by the State in any notice of witnesses and/or expert witnesses filed to date, or hereafter, the following witness in his case in chief and/or a penalty phase should one ensue:

Janell Alexander

132 Painter Street
Pasadena, CA 91103

Chetu Davis

15660 Lassale St., Unit K
Moreno Valley, CA 92551-6308

Michelle Glover

7130 Fulton Avenue, Apt. 24
North Hollywood, CA 91605

Roger Hosford
Investigator

Clark County Public Defender's Office
309 S. Third St. #226
Las Vegas, NV 89155-2610

Demario Jones

7500 W. Lake Mead Blvd. Apt. 9221
Las Vegas, NV 89128-0297

1 **Diana Martirosyan**
Mitigation Specialist

Clark County Public Defender's Office
309 S. Third St. #226
Las Vegas, NV 89155-2610

3 **Talvin Moye**

3412 Beca Faith Drive
North Las Vegas, NV 89032

5 **Monique Newson**

37358 Golden Circle
Palmdale, CA 93550-2545

7 **Vernon Newson, Sr.**

132 Painter Street
Pasadena, CA 91103

9 **Bruce Oliver**

540 Horizon Ridge Parkway, #5902
Henderson, NV 89012

11 **Montoya Williams**

3412 Beca Faith
North Las Vegas, NV 89032-7956

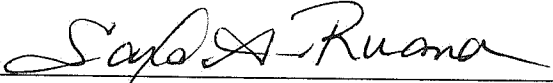
12 DATED this 5th day of February, 2018.

13 PHILIP J. KOHN
14 CLARK COUNTY PUBLIC DEFENDER

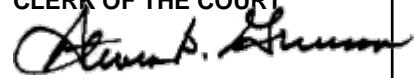
15 By: 
16 RYAN J. BASHOR, #11914
17 Deputy Public Defender
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CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that service of the above and forgoing NOTICE was served via electronic e-filing to the Clark County District Attorney's Office at motions@clarkcountyda.com on this 5th day of February, 2018.

By: 
An employee of the
Clark County Public Defender's Office

Case Name: Vernon Newson Jr.
Case No.: C-16-313919-1
Dept. No.: District Court, Department XXI



NWEW
PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
RYAN J. BASHOR, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 11914
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)	
)	
Plaintiff,)	CASE NO. C-16-313919-1
)	
v.)	DEPT. NO. XXI
)	
VERNON NEWSON JR.,)	
)	
Defendant,)	

DEFENDANT'S SUPPLEMENTAL NOTICE OF WITNESSES
PURSUANT TO NRS 174.234

TO: CLARK COUNTY DISTRICT ATTORNEY:

You, and each of you, will please take notice that the Defendant, VERNON NEWSON JR., intends to call, in addition to any witness noticed by the State in any notice of witnesses and/or expert witnesses filed to date, or hereafter, the following witness in his case in chief and/or a penalty phase should one ensue:

Janell Alexander	132 Painter Street Pasadena, CA 91103
Chetu Davis	15660 Lassale St., Unit K Moreno Valley, CA 92551-6308
Michelle Glover	7130 Fulton Avenue, Apt. 24 North Hollywood, CA 91605
Christina Hollis	9500 Zelzah Avenue Northridge, CA 91325
Roger Hosford Investigator	Clark County Public Defender's Office 309 S. Third St. #226 Las Vegas, NV 89155-2610

1 Demario Jones 7500 W. Lake Mead Blvd. Apt. 9221
2 Las Vegas, NV 89128-0297
3 Diana Martirosyan Clark County Public Defender's Office
4 Mitigation Specialist 309 S. Third St. #226
5 Las Vegas, NV 89155-2610
6 Talvin Moye 3412 Beca Faith Drive
7 North Las Vegas, NV 89032
8 Monique Newson 37358 Golden Circle
9 Palmdale, CA 93550-2545
10 Vernon Newson, Sr. 132 Painter Street
11 Pasadena, CA 91103
12 Bruce Oliver 540 Horizon Ridge Parkway, #5902
13 Henderson, NV 89012
14 **Diana Ramirez 680 Devirian Place**
15 **Altadena, CA 91001-4512**
16 Montoya Williams 3412 Beca Faith
17 North Las Vegas, NV 89032-7956

18 These witnesses are in addition to those witnesses endorsed and any other witness for
19 which a separate Notice of Witnesses and/or Expert Witnesses has been filed.
20

21 DATED this 8th_day of February, 2018.

22 PHILIP J. KOHN
23 CLARK COUNTY PUBLIC DEFENDER

24 By: /s/ RYAN J. BASHOR
25 RYAN J. BASHOR, #11914
26 Deputy Public Defender
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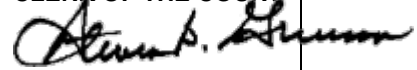
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DISTRICT COURT
CLARK COUNTY, NEVADA

State of Nevada
vs
Vernon Newson Jr

Case No.: C-16-313919-1

Department 3

NOTICE OF DEPARTMENT REASSIGNMENT

NOTICE IS HEREBY GIVEN that the above-entitled action has been reassigned to Judge Douglas W. Herndon.

☒ This reassignment is due to: Minute Order.

ANY TRIAL DATE AND ASSOCIATED TRIAL HEARINGS STAND BUT MAY BE RESET BY THE NEW DEPARTMENT.

Any motions or hearings presently scheduled in the FORMER department will be heard by the NEW department as set forth below.

Jury Trial, on 02/22/2018, at 10:30 AM.

PLEASE INCLUDE THE NEW DEPARTMENT NUMBER ON ALL FUTURE FILINGS.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Patricia Azucena
Patricia Azucena-Preza
Deputy Clerk of the Court

CERTIFICATE OF SERVICE

I hereby certify that this 21st day of February, 2018

☒ The foregoing Notice of Department Reassignment was electronically served to all registered parties for case number C-16-313919-1.

/s/ Patricia Azucena
Patricia Azucena-Preza
Deputy Clerk of the Court

ORIGINAL

1 **SAO**

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

5 PAMELA WECKERLY
6 Chief Deputy District Attorney
7 Nevada Bar #006163
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

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

FEB 22 2018

BY: 
DEBORAH MILLER, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

C-16-313919-1
SAO
Stipulation and Order
4722807



9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

CASE NO: C-16-313919-1

12 VERNON NEWSON, JR.,
13 #1946426

DEPT NO: III

14 Defendant.

15 **STIPULATION AND ORDER**

16 COMES NOW, the Defendant, VERNON NEWSON, JR., by and through his counsel,
17 RYAN J. BASHOR, ESQ., and the State of Nevada, by and through PAMELA WECKERLY,
18 Chief Deputy District Attorney, and pursuant to NRS 175.552(2), hereby agree and stipulate
19 to the following:

- 20 1. Should the jury in the above-captioned case return a verdict of guilty on
21 any offense, including First Degree Murder, the parties hereby waive the
22 penalty hearing before the jury as normally required under NRS
23 175.552(1)(a);
- 24 2. Pursuant to NRS 175.552(2), both parties agree that the sentence on any
25 charge for which the Defendant may be convicted shall be imposed by
26 this Honorable Court after a pre-sentence investigation is conducted by
27 the Department of Parole and Probation;
- 28 3. That as a result of the foregoing, counsel shall not discuss or mention the
issue of penalty or punishment in the voir dire, opening statements or
closing arguments, or otherwise discuss the nature of penalty or
punishment at any time before the jury.

DATED this 22ND day of FEBRUARY 2018.

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ATTORNEY FOR DEFENDANT

BY:



RYAN J. BASHOR, ESQ.
Attorney for Defendant
Nevada Bar #11914

CLARK COUNTY DISTRICT
ATTORNEY

BY:



PAMELA WECKERLY
Chief Deputy District Attorney
Nevada Bar #006163



VERNON NEWSON, JR.

IT IS SO ORDERED.


DISTRICT JUDGE

a/mvu

ORIGINAL

1 AINF
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 PAMELA WECKERLY
6 Chief Deputy District Attorney
7 Nevada Bar #006163
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

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

FEB 22 2018

BY Deborah Miller
DEBORAH MILLER, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

C-16-313919-1
AINF
Amended Information
4722808



9 THE STATE OF NEVADA,
10 Plaintiff,

CASE NO: C-16-313919-1

11 -vs-

DEPT NO: III

12 VERNON NEWSON, JR.,
13 #1946426
14 Defendant.

AMENDED
INFORMATION

15 STATE OF NEVADA }
16 COUNTY OF CLARK } ss.

17 STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State
18 of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

19 That VERNON NEWSON, JR., the Defendant(s) above named, having committed the
20 crimes of MURDER WITH USE OF A DEADLY WEAPON (Category A Felony - NRS
21 200.010, 200.030, 193.165 - NOC 50001); CHILD ABUSE, NEGLECT, OR
22 ENDANGERMENT (Category B Felony - NRS 200.508(1) - NOC 55226), on or about the
23 13th day of December, 2015, within the County of Clark, State of Nevada, contrary to the
24 form, force and effect of statutes in such cases made and provided, and against the peace and
25 dignity of the State of Nevada,

26 COUNT 1 - MURDER WITH USE OF A DEADLY WEAPON

27 did willfully, unlawfully, feloniously and with malice aforethought, kill
28 ANSHANETTE MCNEIL, a human being, with use of a deadly weapon, to-wit: a firearm, by

1 the Defendant shooting at and into the body of the said ANSHANETTE MCNEIL, the said
2 killing having been willful, deliberate and premeditated; the Defendant being criminally liable
3 under one or more of the following principles of criminal liability, to-wit: (1) by directly
4 committing this crime; and/or (2) by aiding or abetting in the commission of this crime with
5 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,
6 inducing and/or otherwise procuring the other to commit the crime.

7 COUNT 2 – CHILD ABUSE, NEGLECT OR ENDANGERMENT

8 did willfully cause a child who is less than 18 years of age to be placed in a situation
9 where the child may suffer physical pain or mental suffering as a result of abuse or neglect, by
10 shooting at or into the body of ASHANETTE MCNEIL, the mother of MAJOR NEWSON, a
11 child under the age of 18, while the said MAJOR NEWSON was seated next to and in close
12 proximity to ASHANETTE MCNEIL; the Defendant being criminally liable under one or
13 more of the following principles of criminal liability, to-wit: (1) by directly committing this
14 crime; and/or (2) by aiding or abetting in the commission of this crime with the intent that this
15 crime be committed, by counseling, encouraging, hiring, commanding, inducing and/or
16 otherwise procuring the other to commit the crime..

17 COUNT 3 – CHILD ABUSE, NEGLECT OR ENDANGERMENT

18 did willfully cause a child who is less than 18 years of age to be placed in a situation
19 where the child may suffer physical pain or mental suffering as a result of abuse or neglect, by
20 shooting at or into the body of ASHANETTE MCNEIL, the mother of BRANDON BERGER
21 JR., a child under the age of 18, while the said BRANDON BERGER JR. was seated next to
22 and in close proximity to ASHANETTE MCNEIL; the Defendant being criminally liable
23 under one or more of the following principles of criminal liability, to-wit: (1) by directly

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1 committing this crime; and/or (2) by aiding or abetting in the commission of this crime with
2 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,
3 inducing and/or otherwise procuring the other to commit the crime.

4 STEVEN B. WOLFSON
5 Clark County District Attorney
6 Nevada Bar #001565

7 BY

Pamela Weckerly

8 PAMELA WECKERLY
9 Chief Deputy District Attorney
10 Nevada Bar #006163

11 Names of witnesses known to the District Attorney's Office at the time of filing this
12 Information are as follows:

13 NAME

ADDRESS

14 ACUNA, RON	Investigator, CCDA's Office
15 ATKINS, TYRA	2433 St. George St., NLV, NV 89030
16 BERGER, BRANDON	4215 Pasternak Dr., LV, NV 89115
17 CUSTODIAN OF RECORDS	Clark County Fire Department Rescue #23
18 CUSTODIAN OF RECORDS	NLVPD Communications
19 CUSTODIAN OF RECORDS	Sunrise Hospital
20 FRANCIS, DANIEL	LVMPD P#8434
21 GURGUERRO, GERARDO	4336 Santa Clarita Ave., LV, NV 89115
22 HALL, BRUCE	5260 Grandmother Hat St., NLV, NV 89081
23 HALL, JANIE	5260 Grandmother Hat St., NLV, NV 89081
24 HARDER, R.	NLVPD P#1694
25 JOHNS, MATT	Investigator, CCDA's Office
26 LUBKING, M.	NLVPD P#1984
27 MARKS, D.	NLVPD P#1726
28 MARSHALL, ZARHARIA	3613 Saint Bar St., LV, NV 89115

1	NEWSON, JOSHIA	4215 Pasternak Dr., LV, NV 89115
2	OLIVEIRA, F.	NLVPD P#2413
3	OLSON, DR. ALANE	Clark County Coroner's Office
4	OWENS, BENJAMIN	NLVPD P#1173
5	RADKE, W.	NLVPD P#1915
6	SANTANA, B.	NLVPD P#2410
7	STUCKY, F.	NLVPD P#1274

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VERNON NEWSON JR.,
Appellant,
v.
THE STATE OF NEVADA,
Respondent.

No. 75932

10

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

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

Attorney for Appellant

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

Counsel for Respondent

17

I hereby certify that this document was filed electronically with the Nevada Supreme Court 24 on the day of October, 2018. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

ADAM LAXALT

WILLIAM M. WATERS

STEVEN S. OWENS

HOWARD S. BROOKS

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

VERNON NEWSON, #1051868
ELY STATE PRISON
P.O. BOX 1989
ELY, NV 89301

BY /s/ Rachel Howard
Employee, Clark County Public Defender's Office

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Electronically Filed
Oct 25 2018 09:44 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

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

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

Counsel for Respondent

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VERNON NEWSON JR.,
Case No. 75932

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20	Date of Hrg: 01/11/18.....	359-361
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JUSTICE COURT, NORTH LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

FILED
DEC 22 2015

THE STATE OF NEVADA,

Plaintiff

-VS-

VERNON NEWSON, JR. #1946426,

Defendant.

BY: KZ

15 CR/02298-0000
CASE NO: 15FN2243X

DEPT NO: 1

CRIMINAL COMPLAINT

The Defendant above named having committed the crimes of MURDER WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030, 193.165 - NOC 50001); and OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON (Category B Felony - NRS 202.360 - NOC 51460), in the manner following, to-wit: That the said Defendant, on or about the 13th day of December, 2015, at and within the County of Clark, State of Nevada,

COUNT 1 - MURDER WITH USE OF A DEADLY WEAPON

did willfully, unlawfully, feloniously and with malice aforethought, kill ANSHANETTE MCNEIL, a human being, with use of a deadly weapon, to-wit: a firearm, by the Defendant shooting at and into the body of the said ANSHANETTE MCNEIL, the said killing having been willful, deliberate and premeditated.

COUNT 2 - OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON

did willfully, unlawfully, and feloniously own, or have in his possession and/or under his custody or control, a firearm, the defendant being a convicted felon, having in 2009, been convicted of Forgery, in Case No. C258156, in the Eighth Judicial District Court, Clark County, a felony under the laws of the State of Nevada.

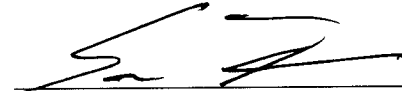
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1 All of which is contrary to the form, force and effect of Statutes in such cases made and
2 provided and against the peace and dignity of the State of Nevada. Said Complainant makes
3 this declaration subject to the penalty of perjury.

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28 NLVPD EV# 1520532
(TK)

1 State of NEVADA }
2 County of Clark } ss:

3 BENJAMIN OWENS, being first duly sworn, deposes and says:

4 That he is a Police Detective with the North Las Vegas Police Department, City of North
5 Las Vegas, County of Clark, State of Nevada, being so employed for a period of 18 years,
6 assigned to investigate the crimes of **1ST DEGREE MURDER-WDW/CHILD**
7 **ENDANGERMENT-2 CTS/CONVICTED FELON IN POSSESSION OF A FIREARM,**
8 committed on or about 12/13/2015, which investigation has developed **VERNON NEWSON,**
9 **JR, ID# 1946426** as the perpetrator thereof.

10 That Affiant developed the following facts in the course of the investigation of said crime,
11 to wit:

12 On 12/13/2015, at about 2309 hours, Detective Stucky and I were called out to respond
13 to the area of Interstate 15 (I-15) and Lamb Blvd in regards to a shooting investigation. Upon
14 my arrival, I could see several marked NLVPD vehicles had established a crime scene
15 perimeter blocking access to the south bound on ramp to I-15 from Lamb. I made contact with
16 NLVPD Officer B. Santana and was advised of the following:

17 On 12/13/ 2015, at approximately **2237 hours**, Officer Santana and Officer Sanderson
18 were working as a two person unit. They, along with Officers Centuolo and Schwanitz were
19 dispatched to the I-15 Southbound on ramp at Lamb in reference to a shooting victim. Officer
20 Schwanitz, the first NLVPD unit on scene, told Officer Santana that the victim was transported
21 to Sunrise Hospital by Clark County Fire Department Rescue (CCFD) #23.

22 As Officer Santana walked up the on ramp, he saw four vehicles parked on the right
23 side shoulder of the on ramp with their hazard lights on. It was later determined that all four of
24 these vehicles were citizen witnesses that had stopped to render aid to the victim prior to the
25 arrival of emergency personnel. Officer Santana saw a small pool of apparent blood on the on
26 ramp. Within the pool of blood, he saw four small holes in the pavement consistent with bullet
27 strikes. Inside one of the holes he saw a partial bullet fragment with copper jacketing. Close by
28 the pool of blood he saw six cartridge cases.

1 Also near the blood pool, Officer Santana saw a cell phone with a purple back and
2 orange trim. The phone was damaged and the orange edge was separated from the back of
3 the phone. He also noticed that the phone had a circular indentation on the outer right edge
4 which was consistent to a bullet strike. About 30 feet northeast of the cell phone in the number
5 one travel lane, he saw another bullet fragment with copper jacketing.

6 I surveyed the crime scene and saw all of the same items of evidence described to me
7 by Officer Santana. All of the six cartridge cases were **9mm**. One of the six cartridge cases
8 was head stamped "**S&B 9X19**".

9 I contacted the citizen witnesses at the scene. I spoke with Bruce Hall, the driver of a
10 blue Dodge Charger. Hall stated the following: He was at the red traffic light southbound on
11 Lamb at I-15 south. Hall looked to the on ramp and **saw a female being thrown** from a white
12 "Crossover style" vehicle. He saw what he believed was a black male adult (BMA) **shoot**
13 **multiple times** at the female, who was still laying on the ground. The suspect got into the
14 vehicle as it drove off southbound on I-15 south. Hall drove southbound on Lamb, made a
15 u-turn and parked his vehicle on the southbound on ramp to I-15. He spoke to another witness
16 who was already on the phone with police.

17 I spoke with Hall's passenger and wife, Janei Hall, who corroborated Bruce's version
18 of events and added the following: Janei told me, she saw the suspect exit the rear left
19 passenger door and walk around the back of the vehicle. The suspect then started shooting
20 at the female, who was laying on the ground. Janei believed there were other people in the
21 suspect vehicle due to the fact that it was driving off as the shooter got into the rear passenger
22 door of the vehicle.

23 I spoke with the person that initially called the police, Gerardo Burgueno. Gerardo was
24 the driver of a white Honda Accord. He was driving southbound on Lamb onto the I-15
25 southbound on ramp. He saw a **dark four door sedan** parked on the right shoulder of the on
26 ramp. He saw a black male step into the rear passenger door of the dark sedan as it sped
27 away. As the dark sedan sped off in front of his car, he saw a body lying in the roadway. He
28 swerved to avoid the body. He pulled to the side of the on ramp and called 911 to report what

1 he thought was a person that had been ran over. As he spoke to the 911 dispatcher, he saw
2 several spent cartridge cases lying on the ground. Another motorist pulled over in front of him
3 and told him he was an off-duty officer. Gerardo spoke to 911 as the off duty officer conducted
4 CPR on the victim.

5 I spoke with off duty LVMPD Corrections Officer Francis (P#8434) who told me the
6 following: He was driving southbound on the I-15 south on ramp when he saw a body lying on
7 the ground. He pulled his vehicle over to provide medical assistance. He called 911 and began
8 to conduct CPR on the victim. As he provided CPR, he saw what appeared to be two gunshots
9 to the victim's neck. He continued CPR until relieved by Fire Department personnel.

10 I spoke with NHP Trooper Jerran (P#2330), the first police unit on scene. He told me
11 the following: He arrived and paramedics from Clark County Fire Department (CCFD) and
12 Medic West Ambulance were rendering medical aid to a black female adult. The victim was
13 transported to Sunrise Hospital Trauma Center.

14 I learned that NLVPD Officer Oliveira was dispatched to Sunrise Hospital to get a status
15 on the victim. The victim was transported via ambulance by Medic West # 619 to Sunrise
16 Hospital. Officer Oliveira determined that the victim did not have any identification and was
17 pronounced dead at 2306 hours by hospital ER staff. The victim was described as a black
18 female adult, early 20's, about 150 pounds. The victim had a tattoo on the back of the left hand
19 with the word "Loyalty". Above the tattoo there was a second tattoo of the outline of the state
20 of California. A third tattoo on the back of the victim's left hand had the word "Brandon".

21 While still at the scene at I-15/Lamb, I was advised by NLVPD dispatch that the LVMPD
22 was at 3613 Saint Bar Ct in regards to a missing person report that appeared to be related to
23 our investigation. Detective Stucky and I responded to that address and interviewed the
24 resident, Zarharia Marshall. Zarharia stated that she is the friend of Anshanette McNeil, and
25 helps babysit her children.

26 The last time she saw Anshanette was Thursday, 12/10/2015, at Zarharia's house.
27 Anshanette arrived with **VERNON NEWSON, JR**, to pickup their 5 month old son, Major
28 Newson. Zarharia stated that Anshanette and Newson are in a dating relationship, but they

1 fight all the time and have a history of domestic violence. Zarharia noticed that Anshanette was
2 wearing sunglasses and had a black eye that she believed was given to her by Newson.
3 Zarharia stated that Newson is an Altadena Blocc Crip gang member, a drug dealer, and often
4 carries a handgun. Newson was driving a **dark colored four door compact SUV type vehicle**
5 that day and she believed it was a rental car.

6 Zarharia stated that on **12/13/2015, at 2117 hours**, she received a phone call from
7 Anshanette. Anshanette asked if she could come over to drop off her son Major and her son
8 from a different father, Brandon Berger, Jr. At about **2245 hours**, Zarharia was outside when
9 the same dark four door SUV vehicle driven by Newson the day before arrived on her street
10 and parked in her driveway. Newson was driving the vehicle, and Zarharia was surprised that
11 Anshanette wasn't in the car. Zarharia saw that Mason was in the middle rear in a baby car
12 seat, and Brandon Jr was right rear seat. No one else was in the vehicle. **She also saw**
13 **Anshanette's shoes and purse** on the **left** rear floor board.

14 Newson removed the car seat with Mason in it and handed him off to Zarharia. He
15 removed the baby bag from the rear of the vehicle. He then took Brandon out of the car and
16 handed Anshanette's purse to Zarharia. Zarharia briefly went inside with both babies. Vernon
17 followed them inside and kissed Mason on the head. He then asked Zarharia to come back
18 outside. Once outside, Vernon told Zarharia, "tell my son that I am always going to love him".

19 As Vernon told Zarharia this, she **saw him loading ammunition into a pistol**
20 **magazine**. Vernon appeared to be in a rush and dropped several live cartridges on the ground
21 as he was loading the magazine. He then left in the same vehicle he arrived in. Zarharia felt
22 this behavior was unusual and felt as though it was a final farewell to his son. She was also
23 concerned that Anshanette wasn't in the car with her son, yet her purse and shoes were. She
24 got worried for Anshanette and called the police and Anshanette's mother, Tyra Atkins. Tyra
25 arrived and after Zarharia explained the encounter with Vernon, **both saw** what appeared to
26 be **blood** on Mason's clothing, blanket, and the car seat. They picked up the three unfired
27 cartridges dropped by Vernon and awaited the arrival of the police.

28 I spoke with Anshanette's mother, Tyra Atkins. She corroborated that her daughter is

1 in a relationship with Vernon and that Vernon is violent, known to carry a firearm, and that her
2 daughter had a recent black eye from Vernon. Tyra also told me that Anshanette owns a 9mm
3 pistol, and that the blue gun registration card should be in her purse. Tyra described
4 Anshanette's **tattoos**, all of which were a **match** for the BFA shooting victim from I-15/Lamb
5 that was transported to Sunrise Hospital.

6 I saw the baby blanket and clothing worn by Major, and observed apparent blood stains.
7 I saw the car seat and observed apparent blood stains on the cloth liner and handle. I saw the
8 three 9mm cartridges dropped by Vernon. All three of the cartridges were head stamped "**S&B**
9 **9X19**". The 'S&B' head stamp is consistent with the Sellier & Bellot brand of ammunition, and
10 is the same brand head stamp as one of the cartridge cases I observed at the shooting scene.
11 I saw Anshanette's purse and it's contents. Among the items in her purse was a blue
12 registration card in her name for a Ruger 9mm handgun. Anshanette's handgun is currently
13 missing, and believed to be in the possession of Newson.

14 I conducted a records check on Newson. He has an active arrest warrant out of Las
15 Vegas Municipal Court for DOMESTIC BATTERY (1ST), under LVMC case #C1133376A, dated
16 7/08/2015. This active warrant is related to a domestic battery report under LVMPD event #
17 150226-3606, dated 2/26/2015, in which Anshanette McNeil is the victim. Newson's SCOPE
18 record also shows he is a **convicted felon** for LEWDNESS W/ A MINOR UNDER 14-2CTS,
19 and for FORGERY.

20 On 12/14/2015, I responded to the Clark County Coroner's Office to attend the autopsy
21 of the victim. The Coroner's Office confirmed the identity of the victim as Anshanette McNeil.
22 Dr. Olson determined the cause of McNeil's death was multiple gunshot wounds, and the
23 manner of death was homicide.

24 I conducted a Google Maps search from the I-15/Lamb shooting scene to 3613 St. Bar
25 Ct which shows it is 3.7 miles away.

26 Based on the facts of this investigation, I believe that Vernon Newson was in the suspect
27 vehicle with Anshanette McNeil, as well as Anshanette's children Major Newson and Brandon
28 Berger, Jr. Based on the fact there was blood on the car seat and clothing of Major, I believe

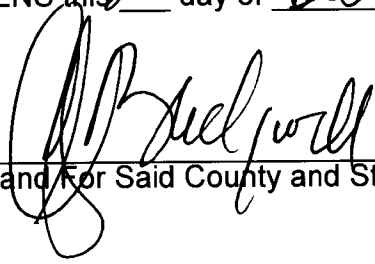
1 Newson shot McNeil at least one time in the vehicle while she was in close proximity to both
2 children. I believe Newson then forcibly threw or pulled Anshanette out of the car, then shot
3 her several more times which caused her death, then left her body on the side of the road. I
4 believe Newson then re-entered the vehicle and fled the scene, driving directly to 3613 St. Bar
5 Ct a short distance away. The current whereabouts of Newson and the vehicle he was driving
6 are unknown.

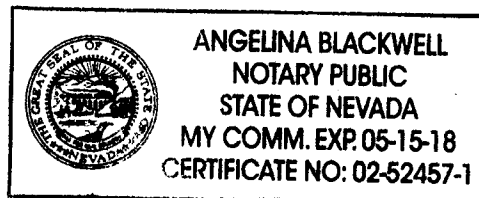
7 Affiant believes that at the conclusion of this investigation, there are sufficient facts to
8 show that **VERNON NEWSON, JR, ID# 1946426** did commit the offenses of **1ST DEGREE**
9 **MURDER-WDW/CHILD ENDANGERMENT-2 CTS/CONVICTED FELON IN POSSESSION**
10 **OF A FIREARM**, as defined in Nevada Revised Statutes 200.010, 200.030, 200.508, and
11 202.360.

12 WHEREFORE, Affiant prays that a Warrant of Arrest be issued for **VERNON NEWSON,**
13 **JR, ID# 1946426** on the charges of **1ST DEGREE MURDER-WDW/CHILD ENDANGERMENT-**
14 **2 CTS/CONVICTED FELON IN POSSESSION OF A FIREARM.**

15
16  #173
17 BENJAMIN OWENS, Affiant

18
19
20 SUBSCRIBED and SWORN to before me by
21 BENJAMIN OWENS this 21st day of December, 2015.

22
23 
24 Notary Public In and For Said County and State



JUSTICE COURT, NORTH LAS VEGAS TOWNSHIP

CLARK COUNTY, NEVADA

CASE NO. 15CRN002298-0000
15FN2243X

STATE OF NEVADA,

Plaintiff

-vs-

VERNON NEWSON JR,
ID #: 1946426

Defendant(s)

COMMITMENT

and

ORDER TO APPEAR

An Order having been made this day by me, that VERNON NEWSON JR be held to answer upon the charge(s) of:

MURDER WITH USE OF A DEADLY WEAPON; OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON; CHILD ENDANGERMENT – 2 COUNTS

committed in said County, on or about the 13th day of December, 2015.

IT IS FURTHER ORDERED that unless the Defendant(s) have/has been previously released on bail or by order of the Court, that the Sheriff of the County of Clark receive the above named Defendant(s) into custody, and detain such Defendant(s) until such Defendant(s) be legally discharged, and that such Defendant(s) be admitted to bail in the sum of \$1,025,000 Cash or Surety Bond; and

IT IS FURTHER ORDERED that said Defendant(s) is/are commanded to appear in the Eighth Judicial District Court, Clark County Courthouse, Las Vegas, Nevada at 10:00 am on the 11th day of April, 2016 for arraignment and further proceedings on the within charge.

Dated: April 1, 2016



JUSTICE OF THE PEACE FOR NORTH LAS VEGAS TOWNSHIP

JUSTICE COURT. NORTH LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA
DOCKET SHEET...CRIMINAL

CASE #	15CRN002298-0000	15FN2243X	
State	NEWSON, VERNON		1946426 (SCOPE)
Charge(s)	OPEN MURDER - DEADLY WEAPON BOUND OVER ENHANCEMENT OWN OR POSSESS FIREARM BY PROHIBITED BOUND OVER PERSON ALLOW CHILD ABUSE OR NEGLECT BOUND OVER (2 counts) (ENDANGERMENT), 1ST		

Conditions

Description	Required Amount	Bal Due	Due Dt	Notes

LINKED CASES FOR: 15CRN002298-0000

CASE #	STATUS	EVENT DATE	EVENT DESCRIPTION
NO FUTURE EVENTS			

DATE, JUDGE, OFFICERS OF COURT PRESENT	PROCEEDINGS APPEARANCES - HEARING	EVENTS
December 22, 2015	ARREST WARRANT - CRIMINAL created on: 12/22/2015 ISSUED BY JUDGE LEE FOR JUDGE HOO For: NEWSON JR, VERNON Bond Amt: \$ 1,025,000.00 (\$1,000,000; \$25,000) COMPLAINT SWORN TO AND FILED: WARRANT OF ARREST ISSUED BY JUDGE LEE FOR JUDGE HOO BAIL SET: 1,025,000.00 (\$1,000,000; \$25,000)	
January 14, 2016	ALERT INFORMATION ARREST WARRANT - CRIMINAL served on: 01/14/2016 For: NEWSON JR, VERNON SET FOR COURT APPEARANCE Event: FELONY ARRAIGNMENT NLV Date: 01/15/2016 Time: 8:30 am Judge: HOO, KALANI Location: DEPARTMENT 1 Result: ARRAIGNMENT HEARING HELD	

JUSTICE COURT. NORTH LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA
DOCKET SHEET...CRIMINAL

CASE # 15CRN002298-0000 15FN2243X
State **NEWSON, VERNON** 1946426 (SCOPE)

DATE, JUDGE, OFFICERS OF COURT PRESENT	PROCEEDINGS APPEARANCES - HEARING	EVENTS
January 15, 2016 K. HOO, JP V. VILLEGAS, DDA R. DAMI, CLK (RECORDED JAVS) R. PAULSON, DPD	ARRAIGNMENT HEARING HELD INITIAL ARRAIGNMENT DEFENDANT PRESENT IN NLV CUSTODY COMPLAINT PRESENTED, ADVISED, WAIVES PUBLIC DEFENDER APPOINTED INDIGENT DEFENSE FEE WAIVED PASSED FOR MURDER TEAM DEPUTY TO BE PRESENT, CONFLICT CHECK TO BE DONE BY PD'S OFFICE & SET PRELIM DATE NLV/1,025,0000 <hr/> SET FOR COURT APPEARANCE Event: COURT APPEARANCE NLV Date: 01/20/2016 Time: 8:30 am Judge: HOO, KALANI Location: DEPARTMENT 1	
January 20, 2016 K. HOO, JP C. CAMPBELL, DDA K. ZICHA, CLK (RECORDED JAVS) R. BASHOR, DPD	HEARING HELD DEFENDANT PRESENT IN CUSTODY CCDC DEPUTY PD R. BASHOR CONFIRMS AND WAIVES 15 DAY RULE MR. BASHOR STATES HE NEEDS TO SPEAK TO STATE REGARDING A POSSIBLE CONFLICT ISSUE BUT WILL CONFIRM FOR NOW PH SET CCDC/1,025,000 <hr/> SET FOR COURT APPEARANCE Event: PRELIMINARY HEARING NLV Date: 02/19/2016 Time: 9:30 am Judge: HOO, KALANI Location: DEPARTMENT 1	
January 21, 2016	MEDIA REQUEST GRANTED <hr/> CALLED CHANNEL 8 REGARDING MEDIA REQUEST GRANTED.	
January 28, 2016	MEDIA REQUEST GRANTED FOR FOX 5 NEWS. GRANTED REQUEST WAS FAXED AT 702-436-2507	

JUSTICE COURT. NORTH LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA
DOCKET SHEET...CRIMINAL

CASE # 15CRN002298-0000 15FN2243X
 State **NEWSON, VERNON** 1946426 (SCOPE)

DATE, JUDGE, OFFICERS OF COURT PRESENT	PROCEEDINGS APPEARANCES - HEARING	EVENTS
February 19, 2016 K. HOO, JP K. BARRIE, DDA R. DAMI, CLK (RECORDED JAVS) D. JENKINS, DPD	HEARING HELD THIS IS THE TIME SET FOR PRELIMINARY HEARING DEFENDANT PRESENT IN CCDC CUSTODY DEP PD STATES THAT PARTIES AGREED TO RESET PRELIM P/H RESET CCDC/1,025,000 <hr/> SET FOR COURT APPEARANCE Event: PRELIMINARY HEARING NLV Date: 03/11/2016 Time: 9:30 am Judge: HOO, KALANI Location: DEPARTMENT 1	
March 11, 2016 K. HOO, JP C. CAMPBELL, DDA R. DAMI, CLK (RECORDED JAVS) R. BASHOR, DPD	PRELIMINARY HEARING CONTINUED - DEFENSE ESQ REQUEST THIS IS THE TIME SET FOR PRELIMINARY HEARING DEFENDANT PRESENT IN CCDC CUSTODY DEFENSE MOTION TO CONTINUE - NO OBJECTION BY DEP DA, MATTER WAS CALLED OFF P/H RESET CCDC/1,025,000 <hr/> SET FOR COURT APPEARANCE Event: PRELIMINARY HEARING NLV Date: 04/01/2016 Time: 9:30 am Judge: HOO, KALANI Location: DEPARTMENT 1	

JUSTICE COURT. NORTH LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA
DOCKET SHEET...CRIMINAL

CASE # 15CRN002298-0000 15FN2243X
 State NEWSON, VERNON 1946426 (SCOPE)

DATE, JUDGE, OFFICERS OF COURT PRESENT	PROCEEDINGS APPEARANCES - HEARING	EVENTS
April 01, 2016 K. HOO, JP PAMELA WECKERLY, DDA KENNETH N. PORTZ, DDA R. DAMI, CLK (RECORDED JAVS) KAMBIZ SAHYGAN-FATEMI, DPD RYAN BASHOR, DPD TRACK 12	THIS IS THE TIME SET FOR PRELIMINARY HEARING DEFENDANT PRESENT IN CCDC CUSTODY STATE FILES AMENDED CRIMINAL COMPLAINT IN OPEN COURT ADDING AIDING & ABETTING LANGUAGE TO COUNT 1, ADDING 2 COUNTS OF CHILD ENDANGERMENT PARTIES ADVISE COURT THAT DEFENSE WILL STIPULATE TO CAUSE & MANNER OF DEATH, DEFENDANT'S PRIOR CONVICTION DEFENSE MOTION TO EXCLUDE WITNESSES GRANTED STATE'S WITNESSES: BRUCE HALL, ZARHARIA MARSHALL, NLV DETECTIVE BENJAMIN OWENS STATE'S EXHIBIT 1 - COPY AUTOPSY REPORT - ADMITTED STATE'S EXHIBIT 2 - CERTIFIED COPY JUDGEMENT OF CONVICTION C258156 - ADMITTED STATE'S EXHIBIT 3 - 41 PHOTOS - ADMITTED STATE'S MOTION TO AMEND COUNT 4 LINE 15 TO ADD NAME "MCNEIL" GRANTED STATE RESTS DEFENDANT WAIVES RIGHT TO TESTIFY/PRESENT EVIDENCE DEFENSE RESTS STATE WAIVES OPENING ARGUMENT DEFENSE MOTION TO DISMISS COUNTS 3 & 4 ARGUMENT AGAINST MOTION BY STATE MOTION TO DISMISS DENIED THEREUPON THE COURT ORDERED DEFENDANT HELD TO ANSWER TO SAID CHARGES IN THE EIGHTH JUDICIAL DISTRICT COURT AS AMENDED CCDC/1,025,000 TOTAL BAIL (RESET BY COURT) SET FOR COURT APPEARANCE Event: DISTRICT COURT ARRAIGNMENT NLV Date: 04/11/2016 Time: 10:00 am Judge: Location: DISTRICT COURT ARRAIGNMENT CASE CLOSED	DISTRICT COURT ARRAIGNMENT NLV Date: April 11, 2016 Time: 10:00 am Location: DISTRICT COURT ARRAIGNMENT

JUSTICE COURT, NORTH LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

FILED

APR - 1 2016

ORIGINAL

THE STATE OF NEVADA,

Plaintiff,

-vs-

VERNON NEWSON, JR. #1946426,

Defendant.

BY:

CASE NO: 15FN2243X

DEPT NO:

Amended
CRIMINAL COMPLAINT

The Defendant above named having committed the crimes of MURDER WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030, 193.165 - NOC 50001); OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON (Category B Felony - NRS 202.360 - NOC 51460); and CHILD ENDANGERMENT (NRS 200.508), in the manner following, to-wit: That the said Defendant, on or about the 13th day of December, 2015, at and within the County of Clark, State of Nevada,

COUNT 1 - MURDER WITH USE OF A DEADLY WEAPON

did willfully, unlawfully, feloniously and with malice aforethought, kill ANSHANETTE MCNEIL, a human being, with use of a deadly weapon, to-wit: a firearm, by the Defendant shooting at and into the body of the said ANSHANETTE MCNEIL, the said killing having been willful, deliberate and premeditated; the Defendant being criminally liable under one or more of the following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by aiding or abetting in the commission of this crime with the intent that this crime be committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise procuring the other to commit the crime.

COUNT 2 - OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON

did willfully, unlawfully, and feloniously own, or have in his possession and/or under his custody or control, a firearm, the defendant being a convicted felon, having in 2009, been convicted of Forgery, in Case No. C258156, in the Eighth Judicial District Court, Clark County, a felony under the laws of the State of Nevada.

1 COUNT 3 – CHILD ENDANGERMENT

2 Did willfully cause a child who is less than 18 years of age to be placed in a situation
3 where the child may suffer physical pain or mental suffering as a result of abuse or neglect, by
4 shooting at or into the body of ASHANETTE MCNEIL, the mother of MAJOR NEWSON, a
5 child under the age of 18, while the said MAJOR NEWSON was seated next to and in close
6 proximity to ASHANETTE MCNEIL; ; the Defendant being criminally liable under one or
7 more of the following principles of criminal liability, to-wit: (1) by directly committing this
8 crime; and/or (2) by aiding or abetting in the commission of this crime with the intent that this
9 crime be committed, by counseling, encouraging, hiring, commanding, inducing and/or
10 otherwise procuring the other to commit the crime..

11 COUNT 4 – CHILD ENDANGERMENT

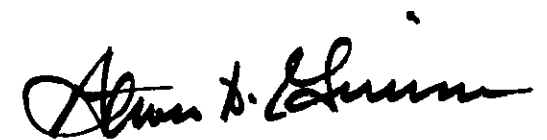
12 Did willfully cause a child who is less than 18 years of age to be placed in a situation
13 where the child may suffer physical pain or mental suffering as a result of abuse or neglect, by
14 shooting at or into the body of ASHANETTE MCNEIL, the mother of BRANDON BERGER
15 JR., a child under the age of 18, while the said BRANDON BERGER JR. was seated next to
16 and in close proximity to ASHANETTE MCNEIL; ; the Defendant being criminally liable
17 under one or more of the following principles of criminal liability, to-wit: (1) by directly
18 committing this crime; and/or (2) by aiding or abetting in the commission of this crime with
19 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,
20 inducing and/or otherwise procuring the other to commit the crime..

21 All of which is contrary to the form, force and effect of Statutes in such cases made and
22 provided and against the peace and dignity of the State of Nevada. Said Complainant makes
23 this declaration subject to the penalty of perjury.

24 

25 _____
26 12/21/15

27 15FN2243X/cas
28 NLVPD EV# 1520532
(TK)



CLERK OF THE COURT

DISTRICT COURT NO. C-16-313919-1

IN THE JUSTICE COURT OF NORTH LAS VEGAS TOWNSHIP
COUNTY OF CLARK, STATE OF NEVADA

* * * * *

THE STATE OF NEVADA,

Plaintiff,

vs.

VERNON NEWSON,

Defendant.

DEPARTMENT 1

CASE NO. 15CRN002298-0000

15FN2243X

**RECORDED TRANSCRIPT
OF
PRELIMINARY HEARING**

BEFORE THE HONORABLE KALANI HOO
JUSTICE OF THE PEACE
APRIL 1, 2016, 9:30 A.M.

APPEARANCES:

For the Plaintiff:

PAMELA WECKERLY, ESQ.
KENNETH PORTZ, ESQ.
Deputy District Attorneys

For the Defendant:

RYAN BASHOR, ESQ.
KAMBIZ SHAYGAN-FATEMI, ESQ.
Deputy Public Defenders

TRANSCRIBED BY: SHARON EULIANO, COURT RECORDER-TRANSCRIBER

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I N D E X

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WITNESSES FOR THE DEFENDANT:

None

1 NORTH LAS VEGAS, CLARK COUNTY, NEVADA

2 APRIL 1, 2016, 9:30 A.M.

3 P R O C E E D I N G S

4
5 THE COURT: Vernon Newson, Jr., 15FN2243X. This is the time
6 set for preliminary hearing. He's present in custody.

7 Ms. Weckerly, Mr. Bashor, and we have --

8 MR. PORTZ: Nick Portz for the State, your Honor.

9 THE COURT: Good morning.

10 MR. PORTZ: Good morning.

11 MR. SHAYGAN: Kambiz Shaygan for the public defender's office.

12 THE COURT: Mr. Shaygan.

13 MR. SHAYGAN: Good morning, your Honor.

14 THE COURT: Mr. Scow's hogging up all the table space.

15 MR. SCOW: Richard Scow for the State, now leaving.

16 THE COURT: He's now leaving the building.

17 I'm sorry. What was your last name, again, Counsel?

18 MR. PORTZ: It's Portz, P-o-r-t-z.

19 THE COURT: Portz.

20 Okay, so this matter is unresolved, correct?

21 MS. WECKERLY: That's correct, your Honor. The State has three
22 witnesses that we'll be calling this morning.

23 THE COURT: Okay. So, Mr. Newson, why don't you come on and
24 join your attorneys over at the counsel table here. There was an amended --

25 THE CLERK: (Indiscernible) amended. It was filed this morning. It

1 adds Counts 3 and 4.

2 MS. WECKERLY: That is correct, your Honor.

3 THE COURT: Okay.

4 MS. WECKERLY: And I did provide that to Defense counsel
5 probably -- probably about 10 days ago, I think.

6 MR. BASHOR: Maybe even more.

7 THE COURT: It's just not -- it's just not styled as an amended
8 criminal complaint. That's why --

9 MS. WECKERLY: That's correct.

10 THE COURT: -- they didn't know, okay.

11 MS. WECKERLY: That's my error.

12 THE COURT: Okay, that's fine.

13 All right, so you have received that, Mr. Bashor?

14 MR. BASHOR: (Indiscernible) received. My client has (indiscernible)
15 and we have no objection.

16 THE COURT: All right, so three witnesses. Any preliminary matters
17 before? I see there's a number of folks in the audience.

18 MS. WECKERLY: I think there are, your Honor. One preliminary
19 matter is for prelim purposes only. I believe the Defense will stipulate to the
20 cause and manner of death of the victim in this case. Pursuant to that, with
21 the agreement of counsel, we're going to admit the autopsy report as an
22 exhibit, which we can provide the court.

23 THE COURT: Okay.

24 MS. WECKERLY: And then the other, probably, housekeeping
25 exhibit we can admit -- Defense counsel has had time to review it -- is a

1 certified copy of Judgment of Conviction for case C258156, which the Defense
2 reviewed this morning, and that pertains to Count 2.

3 THE COURT: Okay.

4 MR. BASHOR: The forgery conviction, yes, your Honor, we
5 stipulate to the admission for purposes of preliminary hearing --

6 THE COURT: (Indiscernible).

7 MR. BASHOR: -- judgment of -- Certified Judgment of
8 Conviction.

9 MS. WECKERLY: Those are the two I think we could admit now.
10 We do have other exhibits but we'll admit them through witnesses.

11 THE COURT: Okay, very well.

12 MR. PORTZ: And I have those exhibits, your Honor. May I
13 approach the clerk --

14 THE COURT: Oh, sure, please.

15 MR. PORTZ: -- and have them marked.

16 MR. BASHOR: And, Judge, I don't see a problem presently but,
17 obviously, we would invoke the exclusionary rule.

18 MR. BASHOR: And, your Honor, all the -- the witnesses that
19 we're calling this morning are outside the courtroom.

20 THE COURT: All right. For everyone here in the audience, for any
21 witnesses or anyone that's been subpoenaed to testify or anticipated to testify
22 in this matter, you'll need to remain outside for the duration of the hearing.

23 All right, anything else?

24 MR. PORTZ: I don't think so.

25 MS. WECKERLY: I think that's it.

1 THE COURT: State, whenever you are ready.

2 MR. PORTZ: Your Honor, the State's first witness will be Bruce
3 Hall.

4 THE BAILIFF: Bruce Hall.

5 MR. PORTZ: Yes.

6

7

BRUCE HALL,

8

having been first duly sworn

9

was examined and testified as follows:

10

11 THE BAILIFF: Go ahead and have a seat. (Indiscernible)?

12

THE WITNESS: Yes, (indiscernible).

13

THE BAILIFF: State your name for the record.

14

THE WITNESS: Bruce Hall.

15

THE BAILIFF: That's your microphone.

16

THE WITNESS: Yes.

17

THE BAILIFF: Okay.

18

MR. PORTZ: May I proceed, your Honor.

19

THE COURT: Please.

20

MR. PORTZ: Thank you.

21

22

DIRECT EXAMINATION

23

BY MR. PORTZ:

24

Q. Good morning, Mr. Hall.

25

Sir, I'm gonna direct your attention to February 13th of 2015

1 between the hours of 10 and 11 p.m. that evening. Do you recall what you
2 were doing around that time?

3 A. December?

4 MS. WECKERLY: I'm sorry. You're right. I'm sorry.

5 MR. BASHOR: (Indiscernible).

6 MR. PORTZ: December 13th of 2015.

7 MR. BASHOR: Oh, I'm sorry. (Indiscernible).

8 THE WITNESS: Oh, yes.

9 BY MR. PORTZ:

10 Q. I apologize if I misstated that.

11 A. Around that time I was driving down Lamb going towards the I-15
12 at the stop light and that's when I was in the car with my wife.

13 Q. You said you were in the car with your wife?

14 A. Yes.

15 Q. And what's her name, sir?

16 A. Janaie Hall.

17 Q. And where were you two coming from at that point?

18 A. We was coming from the house and we was heading to go grab a
19 bite to eat.

20 Q. You were headed where? I'm sorry.

21 A. We were headed from our house and we was headed down to get
22 something to eat.

23 Q. And you testified that you stopped at the light at Lamb and the I-15
24 southbound ramp, is that correct?

25 A. Yes, sir.

1 Q. Sir, at that point in time did you notice anything out of the ordinary?

2 A. When I got there -- I always look around. So when I got to the red
3 light, I look over to my right and that's when I seen the vehicle pull up to the --
4 the entryway to the interstate, pull over and that's when I seen everything
5 happen.

6 Q. Before I get to that, were you planning on turning onto the
7 southbound ramp or were you -- are you heading straight --

8 A. No, I was in -- I was in the lane to keep straight.

9 Q. And this corner of Lamb and the 15 southbound ramp where you
10 were stopped, that's located here in Las Vegas, Clark County, Nevada, correct?

11 A. Yes.

12 Q. So you said you looked over to the ramp and that's when you saw
13 a vehicle?

14 A. Yes.

15 Q. About how far away from this -- and this vehicle was stopped, is
16 that correct?

17 A. It -- it drove and then it stopped.

18 Q. About how far away were you from the vehicle?

19 A. I'd say about 30 feet, maybe.

20 Q. What were the lighting conditions at this point?

21 A. At the -- at that intersection -- well, going into the intersection
22 gets mostly dark. You can't really see too much.

23 Q. Fair to say there's -- are there street lights on Lamb?

24 A. Yes. Yes, sir.

25 Q. But on the on-ramp itself, do you know if there are any lights --

1 A. No.

2 Q. -- in that area?

3 A. No.

4 Q. What do you see when you look over and that vehicle stops?

5 A. When I looked -- I looked over, I saw a woman getting pulled out

6 of the vehicle and that's when I was looking over and that's when I heard the

7 sound, I seen the flash.

8 Q. You said there was a woman being pulled out of a vehicle, correct?

9 A. Yes.

10 Q. First let's talk about the person who was pulling this woman out of

11 the vehicle. Could you -- did you see that person exit the vehicle?

12 A. Yes.

13 Q. Okay. Did you see where they exited the vehicle from?

14 A. Driver's side.

15 Q. And could you make out anything, any description of that person?

16 A. Yes, I could tell it was a male, black male. I can't really tell -- I

17 couldn't see his face, facial features or whatever. And I knew he was like

18 between like five eight, five ten.

19 Q. And was it this black male that was pulling the woman out of the

20 vehicle?

21 A. Yes.

22 Q. What location in the vehicle was the woman who was being pulled

23 out of the car?

24 A. She was in the back -- back passenger's seat behind the driver.

25 Q. So the driver's side rear seat?

1 A. Passenger's seat, rear passenger's seat.

2 Q. Could you tell whether or not there was anyone else inside the
3 vehicle?

4 A. No, I couldn't tell.

5 Q. Now what happened as this individual pulled the woman out of the
6 vehicle?

7 A. Well, I seen when he pulled out, that's when -- that's when they
8 really caught my attention. And next thing you know that's when I was looking
9 the whole time, that's when I heard a sound and the flash caught. That's when
10 my wife was like, "Hey, what was that?" That's when it was just repeat.

11 Q. So let's -- let's talk a little more detail about that.

12 When -- when this male pulls the woman out of the vehicle --

13 A. Yes.

14 Q. -- where does that woman end up?

15 A. On the ground.

16 Q. And where is the male --

17 A. Above her.

18 Q. -- before you hear these flashes and sounds?

19 A. Above her.

20 Q. Do you see anything inside the male's hand?

21 A. I couldn't see it. That's when I was looking 'cause I was like --
22 like he's pointing to her, sir, and that's when I seen the flash and heard the
23 shot.

24 Q. So it appeared as though one of his hands was pointing towards the
25 woman on the ground?

1 A. She -- yeah, he was pointing towards her, yes, sir.

2 Q. And what did the flashes and the sound indicate to you?

3 A. I knew it was a gun right off the bat. I shoot guns. Actually,
4 (indiscernible) my job, so I knew what it was off the bat.

5 Q. What is your job, sir?

6 A. I work for the air force.

7 Q. So you're familiar with firearms?

8 A. Yes.

9 Q. Okay. At this point about how many times do you believe you see
10 this individual, the male, shoot this woman?

11 A. It was around seven, eight times.

12 Q. Was he standing over her?

13 A. Yes.

14 Q. And what happens after that?

15 A. Well, after that, that's when the light turned green and I put the
16 foot on pedal to the metal and I got so I could do a U-turn. And as I was
17 looking back the whole time, I seen another car pull up and that's when I knew
18 it was a person 'cause I saw her.

19 Q. So you weren't in a position where you could actually turn onto the
20 on-ramp at that point?

21 A. No, 'cause it's like a turn on the side, so no way I could have made
22 a right. That's why I hit a U-turn and came back.

23 Q. Your plan was to return to the scene where you had just seen
24 this --

25 A. Yes, 'cause I knew it was somebody needed some help, so that's

1 why I went back.

2 Q. Before the light turned to green, before you drive off, that
3 individual, the male, the black male who shot the woman on the ground, did
4 you see what he did after he shot her?

5 A. He got in the car and took off.

6 Q. Did he get in the driver's seat?

7 A. Driver's seat.

8 Q. Now you said as you were approaching, you witnessed another car
9 pulling up behind?

10 A. As I was driving off, I saw another car pull up behind. When the
11 headlights show, that's when I knew it was -- it was a female definitely, the
12 person that was shot.

13 Q. So the headlights actually illuminated this person on the ground?

14 A. (No audible response).

15 Q. What was that person doing when you saw the headlights hit her?

16 A. That person leg moved a tad bit and the person was like -- I
17 couldn't really see what she was doing, but she had like one hand over her
18 chest and her leg was like moving a little bit in the air. That's why I was like I
19 gotta get back to her.

20 Q. So at that point you drive, make a U-turn and get onto
21 (indiscernible)?

22 A. Yes, sir.

23 Q. Where do you stop your car, sir? Where do you stop your car when
24 you approach?

25 A. I stopped my car to the side of the road behind her 'cause I didn't

1 want to go anywhere around the crime scene.

2 Q. And when you stop your car, is that second vehicle that you said
3 you saw approaching still there?

4 A. Yes.

5 Q. Is -- is anyone outside of that vehicle?

6 A. Yes, it was a male outside of the vehicle. He was outside on the
7 phone to the police at that time.

8 Q. Did you exit your vehicle?

9 A. Yes.

10 Q. And what did you do when you exited?

11 A. I went to her and then I -- I was talking to him and he was telling
12 me -- asking me what happened. He was telling me he was on the phone with
13 the police and that's when I went to her and I looked at her and I looked and
14 seen that she was like at her last point of breathing. I pull over at her and I
15 seen -- that's when I saw the other bullet holes on the side of her neck and
16 chest and that's when I saw her take her last breath.

17 Q. So just to recap because you gave us a lot of information, you
18 pulled up and there was an individual who was on the phone, is that correct?

19 A. Yes, sir.

20 Q. So you asked that person or you discussed with that person what
21 you think happened and then you approached the female who was laying on the
22 ground?

23 A. (No audible response).

24 Q. Was that a yes?

25 A. Yes, sir.

1 Q. And just describe your interaction, if any, with this female.

2 A. I was trying to -- I was trying to -- ask if she was okay. There
3 was no response. And that's when I -- I was like, okay. I looked over and
4 that's when, okay, that's why she's not responding 'cause, you know, she was
5 shot in the neck. One -- one round -- one of the rounds was in her neck.

6 Q. Did you in any way attempt to assist her or physically touch --
7 touch her at this point?

8 A. Yes, that's why I touched -- I touched her face to like to move
9 over 'cause her head was to the side. And when I turned her head straight,
10 that's when I noticed the rounds and that's when like her hands went down,
11 she took her last breath. And that's that moment, that's when another car
12 pulled up and, uh, they performed CPR on . . .

13 Q. And so you testified that you noticed multiple wounds around her,
14 is that correct?

15 A. Yes, that's correct, chest wounds and also neck wounds and one
16 facial wound.

17 Q. So what was your wife doing while you were with this woman?

18 A. My wife was -- my wife was by the car. She never approach- -- I
19 didn't let her come towards the body 'cause I know what type person she is
20 and I didn't want her to see that.

21 Q. Can you give a brief description of the woman who had been shot?

22 A. Yes. She was a black -- black female that was, say, late 20s, like
23 mid-30s. Um, she had long hair. She was (indiscernible) five nine -- five eight
24 to five ten, maybe. I really didn't like notice too much. She had on a jacket. It
25 was kind of -- like she had kind of like tears in the jacket and then like further

1 on down you saw the cell phone, and the cell phone had a round in it also. So I
2 could tell she probably had a cell phone like maybe in her bra, whatever so.

3 Q. But the cell phone wasn't -- you didn't see a cell phone in her bra,
4 it was on the street?

5 A. It was on the street, yeah.

6 Q. Now you said while you were with her another individual pulled
7 up --

8 A. Yes.

9 Q. -- in a vehicle?

10 A. Yes.

11 Q. And that individual you testified began doing --

12 A. He performed CPR.

13 Q. -- performing CPR.

14 What happens at this point?

15 A. At that -- at that point he -- that person was an undercover
16 police officer, so he told me to sit back, and I'd say about two minutes later
17 that's when the cop car start pulling up and that's when the cops basically
18 asked me to stand to the side and -- and then eventually they told me to sit in
19 the vehicle until the investigation team come by and ask me questions and I
20 write my statement.

21 MR. PORTZ: The court's indulgence.

22 BY MR. PORTZ:

23 Q. Sir, just going back to the car, what -- what was the vehicle that
24 you saw the woman being pulled out of, what style vehicle? Was it a sedan,
25 SUV? How would you describe it?

1 A. I would -- I mean, it was kind of quick. I thought it was kind of
2 like maybe like a crossover, maybe. That's what I was thinking.

3 Q. And by crossover, do you mean a crossover between a SUV and a
4 sedan?

5 A. Yes, yeah.

6 Q. And I think it could be implied from what you've already told us
7 about where the different people inside that car were, but was this a two-door
8 or four-door car?

9 A. It was a four-door.

10 Q. And could you make out a color of the vehicle?

11 A. I think it was white.

12 Q. But to be clear, you testified that the lighting conditions were not
13 exactly perfect, correct?

14 A. Mm-hmm, mm-hmm, mm-hmm.

15 Q. Was that a yes?

16 A. Yes. Yes. Sorry.

17 MR. PORTZ: Thank you very much, Mr. Hall.

18 THE WITNESS: No problem.

19 THE COURT: All right, cross.

20 MR. BASHOR: The court's indulgence.

21 No questions, your Honor.

22 And thank you for your service.

23 THE COURT: All right. Anything else further for this witness?

24 MR. PORTZ: No, your Honor. Thank you.

25 THE COURT: All right. Thank you for your testimony. You may

1 stand down. Please do not discuss your testimony with anyone else
2 subpoenaed to be here this morning.

3 MS. WECKERLY: Zarharia Marshall.

4
5 **ZARHARIA MARSHALL,**

6 having been first duly sworn
7 was examined and testified as follows:

8
9 THE BAILIFF: That's your microphone. State your name for the
10 record, please.

11 THE WITNESS: Zarharia Marshall.

12 THE BAILIFF: (Indiscernible).

13 THE WITNESS: Zarharia Marshall.

14 MS. WECKERLY: May I proceed, your Honor.

15 THE COURT: Yes.

16
17 **DIRECT EXAMINATION**

18 BY MS. WECKERLY:

19 Q. Can you spell your first and last name for the record, please.

20 A. Z-a-r-h-a-r-i-a, Marshall, M-a-r-s-h-a-l-l.

21 Q. And, Zarharia, can I call you by your first name?

22 A. Yes.

23 Q. Okay. You have a really soft voice, so I may ask you to kind of
24 scoot in and keep your voice up a little bit, okay?

25 A. Okay.

1 Q. Okay. How old are you?

2 A. Eighteen.

3 Q. And you -- did you know someone by the name of Anshanette?

4 A. Yes, that was my godsister.

5 Q. And when you say that that was your godsister, how often would
6 you see her?

7 A. Every day.

8 Q. Every day?

9 A. Kind of sort of, yeah.

10 Q. Okay. Do you know whether or not she had a boyfriend or a
11 significant other in her life?

12 A. Yeah, she did.

13 Q. Who was that?

14 A. Vernon.

15 Q. And do you know Vernon's last name?

16 A. New son.

17 Q. New son?

18 A. Yes.

19 Q. And do you see him in the courtroom today?

20 A. Yes.

21 Q. Could you point to him and describe what he's wearing today?

22 A. He's wearing black.

23 MS. WECKERLY: Your Honor, may the record reflect identification
24 of the defendant.

25 THE COURT: It shall.

1 BY MS. WECKERLY:

2 Q. How many kids did your -- did Anshanette have?

3 A. She had six kids.

4 Q. Six kids?

5 A. Mm-hmm.

6 Q. And did you know all of those children?

7 A. Yes.

8 Q. Can you -- can you give us their name and their age?

9 A. She has Lazavia. Lazavia's 15. She has Josh; he's 13. She has
10 Riedell, Jr.; he's 10 or 11. And she has Chuck; he's five. She has Brandon;
11 he's two. And Major, he's eight months.

12 Q. And were any of those children -- was Vernon the father of any of
13 them?

14 A. Just Major.

15 Q. Just Major who is the baby?

16 A. Yeah, the eight-month-old.

17 Q. Eight months old.

18 And then the next oldest child is who?

19 A. Brandon.

20 Q. Brandon?

21 A. Yeah.

22 Q. And how old is he?

23 A. Two.

24 Q. Two.

25 And is there a reason why you know all of these children and their

1 ages so well?

2 A. Yeah.

3 Q. What's that reason?

4 A. Because they're family to me.

5 Q. And did you ever babysit and help out Anshanette?

6 A. Yes.

7 Q. And when you were doing babysitting, who was it -- of those kids,
8 who was it that you were watching mostly?

9 A. Major.

10 Q. The baby?

11 A. The baby, yes.

12 Q. Okay. How often do you think that you would watch Major for
13 Anshanette?

14 A. Um, every day except for the weekends.

15 Q. Okay. So quite often?

16 A. Yes.

17 Q. And when you were babysitting for her and Vernon, where would
18 you be watching Major?

19 A. Um, at my house.

20 Q. At your house?

21 A. Mm-hmm.

22 Q. Okay. Now I don't need to know the exact address, but where
23 were you living back in December of 2015?

24 A. On Saint Bar.

25 Q. On?

1 A. Saint Bar.

2 Q. Okay. And where was Anshanette living?

3 A. She lived on Pasternak.

4 Q. Did you know who she was living with?

5 A. It was just her and a friend of hers.

6 Q. Okay. Do you know whether or not Vernon lived there?

7 A. Uh, he -- I think he did but he wasn't never there.

8 Q. Okay. Now I want to move to the 13th of December, okay?

9 A. Mm-hmm.

10 Q. Do you remember whether or not you got a phone call from

11 Anshanette on that day?

12 A. Yes, I did.

13 Q. Yes, you did?

14 A. Yeah.

15 Q. Do you remember what time it was?

16 A. Around eight or nine.

17 Q. In the morning or at night?

18 A. At night.

19 Q. And was that phone call -- did it come in to like a landline or a cell

20 phone?

21 A. A cell phone.

22 Q. Was she in your phone where like she would be a contact that

23 would come up?

24 A. Uh-huh.

25 Q. Is that yes?

1 A. Yes.

2 Q. Okay. And so her -- she calls in to you, is that how it works, at
3 eight?

4 A. Yes.

5 Q. And you answer the phone?

6 A. Mm-hmm.

7 Q. Is that yes?

8 A. Yes.

9 Q. Sorry. It's just we're taking down a record and it's just a little bit
10 clearer if it's a yes or no --

11 A. Okay.

12 Q. -- okay?

13 So do you actually speak to her at that phone call?

14 A. Yes, I do.

15 Q. And during that phone call, can you describe how she sounded,
16 whether she was just normal or upset or anything?

17 A. She sounded calm, normal to me.

18 Q. And what was -- what was the conversation?

19 A. The conversation was about her bringing Major home to me.

20 Q. For babysitting?

21 A. Yeah.

22 Q. Okay. Did you agree to babysit?

23 A. Yes, I did.

24 Q. And so were you expecting her to arrive with Major to drop Major
25 off?

1 A. Yes.

2 Q. Okay. Did she arrive at your house to drop off Major so you could
3 babysit?

4 A. No, she did not.

5 Q. Did anyone arrive?

6 A. Yes, Vernon arrived.

7 Q. Vernon arrived?

8 A. Yeah, just Vernon and Major and Brandon.

9 Q. Okay. How much after that phone call that you had with
10 Anshanette did Vernon arrive?

11 A. He arrived 30 minutes after.

12 Q. About 30 minutes later, so that would be maybe 8:30?

13 A. Yeah.

14 Q. Is that yes? I'm sorry.

15 A. Yes.

16 Q. Okay. Tell me what happened when he arrived.

17 A. Um, when he arrived, he got out the car. I went to open the back
18 door. He opened it before I could and he tried to grab Major out but he couldn't
19 grab Major out 'cause Major was in the car seat buckled, like in the car seat
20 buckled. And Major started crying. He told Major not to cry. And then he
21 grabbed Major out. He gave me Major. Then he ran around to the back side of
22 the car. He opened the trunk. He grabbed out Major's swing and his backpack
23 fell, Vernon's backpack fell out with the swing.

24 And he went around to the other side. He let out Brandon and I
25 said, "Is Brandon staying with me?" He told me yes, that he was staying with

1 me, and I was like okay. Then I asked Brandon, I said, "Brandon, you staying
2 with me today? You're not gonna cry?" And Brandon looked at me. I told him
3 to go inside. So when Brandon went inside, I went inside behind Brandon and
4 -- to drop the baby in (indiscernible) house and I was standing by my TV.
5 Vernon came in behind me and he kissed Major on the head and he told me to
6 come outside. And when I came outside --

7 Q. Let me stop you right there. I want to ask you some questions
8 about what you said, okay?

9 A. Mm-hmm.

10 Q. You said Vernon arrives?

11 A. Mm-hmm.

12 Q. Is that yes?

13 A. Yes.

14 Q. Now are you outside when he pulls up?

15 A. Yes.

16 Q. Okay. When he pulls up, did you recognize the car?

17 A. Yes.

18 Q. What kind of car was it?

19 A. It was a -- it was kind of like a -- a family van but it wasn't a
20 van. It was like a -- the GMC car, one of the newer ones.

21 Q. And had you seen that car before?

22 A. Yes.

23 Q. Had you ever seen Anshanette in that car?

24 A. Yes.

25 Q. How much before do you think you would have seen her in the car,

1 like the day before or a couple --

2 A. I don't know.

3 Q. -- days before?

4 A. Yes, a couple days before.

5 Q. Okay.

6 A. Yeah.

7 Q. When he arrives, who is in the car with Vernon?

8 A. Nobody but the kids.

9 Q. Major and --

10 A. And --

11 Q. -- Brandon?

12 A. -- Brandon, yeah.

13 Q. And Vernon, obviously.

14 A. Yes.

15 Q. You said that the -- that you were standing outside and then he

16 tried, Vernon -- meaning Vernon -- tries to get Major, who's the baby out of

17 the car?

18 A. Yes.

19 Q. And what happens when he tries to do that?

20 A. He was trying to pull Major out, but Major wouldn't come out

21 because the seatbelt was buckled. And that's when he realized the seatbelt

22 was buckled and he unbuckled the seatbelt. He snatched Major out and gave

23 Major to me.

24 Q. Was there anything unusual about how Vernon was -- was acting?

25 Was he calm? Was he in a hurry? Was he upset? Anything?

1 A. He was in a hurry.

2 Q. He was in a hurry?

3 A. But I had just thought they had got into an argument, that's it.

4 Q. Okay. And, obviously, you don't see Anshanette there?

5 A. Yeah.

6 Q. Is that yes?

7 A. Yes.

8 Q. Okay. So first he gets the baby, Major -- and that's his son -- out

9 of the car?

10 A. Yes.

11 Q. Okay. And do you take Major at that point --

12 A. Yes.

13 Q. -- are you holding him?

14 A. I take Major at that point. I have his car seat in my hands.

15 Q. Where's the next place on the car, what's the next thing that

16 Vernon does?

17 A. He goes to the trunk of the car.

18 Q. He opens the trunk?

19 A. Uh-huh.

20 Q. Was that yes?

21 A. Yes.

22 Q. And what -- what does he take out of the trunk?

23 A. The swing, Major's swing.

24 Q. Like a baby swing?

25 A. Yeah.

1 Q. Anything else?

2 A. Uh, no, nothing else. The swing -- he took the swing out, but his

3 backpack fell out with the swing.

4 Q. And whose backpack is it?

5 A. Vernon's backpack.

6 Q. Okay. And what happens to the backpack as it falls out?

7 A. It hits the floor and some stuff fell out of it.

8 Q. Did you see what the stuff was?

9 A. Just like a bag, like a (indiscernible) bag and . . .

10 Q. What did he do once the backpack fell out?

11 A. I told him, I said, "Your backpack fell on the floor." He told me not

12 to worry about it and then he went around to the other side to let Brandon out.

13 Q. Does he put the backpack back in or . . . ?

14 A. After he let it -- after he let Brandon out, yes.

15 Q. Okay. And so, obviously, from your answer, the next thing he does

16 is he lets Brandon out. And Brandon's a toddler?

17 A. Brandon doesn't talk at all.

18 Q. No, he's a toddler. He's a little --

19 A. Yeah, he's a toddler.

20 Q. So he can walk?

21 A. Yes, he can walk.

22 Q. And he's about two?

23 A. Yeah.

24 Q. Brandon gets out. Does -- and how is -- what does Brandon do?

25 A. Brandon, he was just looking at me like -- like he was scared or

1 something.

2 Q. Now, do you normally babysit Brandon?

3 A. Not on a regular basis but sometimes.

4 Q. When -- after Anshanette's call, were you thinking you were
5 gonna be watching both children?

6 A. No, she had told me she was just dropping off Major. I didn't know
7 she had both children.

8 Q. But instead, Brandon gets out as well?

9 A. Yes.

10 Q. What happens after he gets out?

11 A. I asked Vernon was he gonna stay with me and he told me yes.

12 Q. Did you see anything else in the car?

13 A. I seen Anshanette's shoes and purse on the floor, and then on the
14 seat of the car where -- behind the driver's seat it was like dark spots on the
15 seat.

16 Q. When you say you saw her shoes and her purse in the car --

17 A. Mm-hmm.

18 Q. -- where did you see those inside the car?

19 A. On the floor behind the driver's seat.

20 Q. So in the backseat --

21 A. Yes.

22 Q. -- behind the driver's seat?

23 A. Yes.

24 Q. Okay. And do you see that as, I guess, Brandon's getting out of
25 the car or when do you notice that?

1 A. I didn't -- well, he went around to the other side after he opened
2 the trunk and let Brandon out. And then Brandon came around me. I told
3 Brandon to go inside and I followed behind Brandon inside to drop Major off
4 inside. And then I saw -- told my brother's friend to come outside and get the
5 swing from Vernon.

6 Q. And when you see the purse and the shoes, is it at this first point
7 when the kids are getting out of the car?

8 A. Yeah. It's when he opened the door to let Major out.

9 Q. Okay. So what happens -- you've got Major --

10 A. Mm-hmm.

11 Q. -- and Brandon's gone inside?

12 A. Mm-hmm.

13 Q. Was that yes?

14 A. Yes.

15 Q. Okay. What happens with Vernon and you then?

16 A. Um, Vernon came inside behind me. After I closed the door, he
17 kisses Major on the head and he tells me to come outside. And I went outside
18 with him and then he was like -- he had the clip of the gun in his hand and
19 some bullets and he was loading them inside to the clip of the gun. And I -- I
20 was like, "What's going on?"

21 And he was like, "Just let my son know I'll always love him."

22 And I was like, "Why? What's going on?"

23 And he told me, he said, "Just know motherfucker's pushed me too
24 far to where I can't take it no more."

25 And I looked and I was like, "Oh, okay." And then I turned my

1 head. (Indiscernible) I said, "Well, be careful." He told me okay and he drove
2 off.

3 Q. Okay. Let me ask you some questions about that. When he comes
4 in, it's Vernon who asks you to go back outside?

5 A. Yes.

6 Q. When you go back outside, who's there?

7 A. Vernon.

8 Q. And you?

9 A. Yes.

10 Q. Where is Major?

11 A. Inside.

12 Q. Okay, so you left him inside?

13 A. Yes.

14 Q. And you said that Vernon has something in his hand?

15 A. Yes.

16 Q. What does he have in his hand?

17 A. The clip of a gun and some bullets.

18 Q. Okay. Just the clip?

19 A. Yeah, just the clip.

20 Q. And had you ever seen that before?

21 A. Um, I seen the gun before but, no, he never used it.

22 Q. But in this instance, he only has the clip in his hand?

23 A. Yeah, just the clip and the bullets in his other hand.

24 Q. And what is he doing?

25 A. He's putting the bullets inside the clip of the gun.

1 Q. Okay. And he tells you to relay a message to Major?

2 A. Mm-hmm.

3 Q. Is that yes?

4 A. Yes.

5 Q. And what is the message?

6 A. To let his son know that he always loves him.

7 Q. And are you kind of wondering why he's saying that at this point?

8 A. Yeah, but I kind of figured like they had just got into an argument,
9 so I didn't really think much of it.

10 Q. Okay. And after he says that, what was your response?

11 A. I just said okay.

12 Q. And then does he say anything after that?

13 A. No. He just handed me her purse and then I -- after he got in the
14 car and drove off, I went inside to go call my sister.

15 Q. Okay. Now just a few minutes ago in your -- in your testimony --
16 and correct me if I've got it wrong -- he says something about being pushed
17 too far?

18 A. Yes.

19 Q. When does that happen?

20 A. That happens after he handed me her purse he said -- and I told
21 him, I said, "What's wrong?"

22 And he said, "Just know motherfucker's pushed me too far to
23 where I can't take it no more."

24 Q. And it's prior to that that he gives you Anshanette's purse?

25 A. Mm-hmm.

1 Q. Is that yes?

2 A. Yes.

3 Q. And was that from the backseat of the car where you had seen it?

4 A. Yes.

5 Q. You take the purse then?

6 A. Yes.

7 Q. He makes the statement about being pushed too far?

8 A. Mm-hmm.

9 Q. What does he do?

10 A. He gets in the car and then he drives off.

11 Q. Okay. What do you do?

12 A. After he drove off, I had seen some bullets on the floor, so I picked

13 the bullets up off the floor and I went inside. And when I went inside, I went to

14 go call my sister to see, you know, if she was gonna come get her purse and

15 she didn't answer the phone.

16 Q. Okay. Now you said you saw some bullets --

17 A. Mm-hmm --

18 Q. -- on the floor. You're outside, right --

19 A. Yeah.

20 Q. -- so this is like on the ground?

21 A. Yeah.

22 Q. Okay. Where did you see them?

23 A. They were on the driveway like -- like as if they were on his lap,

24 he got out and they fell and they rolled under the car. That's how they were,

25 they were under -- on the driveway like, like under the car. That's how I seen

1 them 'cause the lights off of the car reflected off the bullets on the floor.

2 Q. And it's nighttime so you weren't able to see them before?

3 A. Yeah, and the lights off the car reflected off the bullets on the floor.

4 Q. You picked those up?

5 A. Yes.

6 Q. Do you remember how many there were?

7 A. Three.

8 Q. And what do you do with them?

9 A. I put them in a bag and left them on my washing machine.

10 Q. You go back inside?

11 A. Yes.

12 Q. And so you've got the purse and then you've got the two babies?

13 A. Mm-hmm.

14 Q. Is that yes? I'm sorry.

15 A. Yes. I'm sorry.

16 Q. And what do you do at that point?

17 A. Uh, I went inside to go call my sister. She didn't answer, so I called
18 my mom. And then I told my mom, you know, that he dropped the babies off,
19 whatever. My mom said okay and then I called her mom and I told her that she
20 wasn't answering the phone, that he had dropped the babies off to me and that
21 she wasn't answering her phone. And she said okay, that she was gonna call
22 her and see what was going on, and she called me back and she told me that
23 she wasn't answering her phone.

24 Q. Okay. So you -- you try to call Anshanette?

25 A. Yes.

1 Q. And how many times do you think you tried to call her?

2 A. I called her three times.

3 Q. And what happened when you called?

4 A. They all just rang, rang and then went to voicemail.

5 Q. Did you -- did you ever try to call Vernon?

6 A. Yes, I tried to call him.

7 Q. And what happened when you tried to call him?

8 A. He wasn't answering.

9 Q. Okay. How many times do you think you tried to call him?

10 A. Mm, called him about five times.

11 Q. So neither one of them were answering?

12 A. No.

13 Q. And at some point in the evening you actually talked to

14 Anshanette's mom as well and say I can't reach her?

15 A. Yes.

16 Q. Okay. Now as that's going on, do you have any more interaction

17 with either Major or Brandon?

18 A. Yes, Major. I took him in my room to go change his diaper and

19 when I went to pull his pants off, I seen some red stuff on his pants. And then

20 I pulled his pants off and I told my brother to watch him and I walked into the

21 living room and I looked into his car seat and I was -- 'cause like, you know,

22 whatever's on his pants is in his car seat. So I went to go look inside his car

23 seat and there was just blood all over the car seat.

24 Q. There was blood on the car seat, and when you saw that, did you

25 do anything or move the car seat or . . . ?

1 A. Um, I was taking my finger and like touching the blood to see what
2 it was.

3 Q. How about with -- with Brandon, was there anything on his
4 clothes that you noticed?

5 A. No, there wasn't anything on him.

6 MR. SHAYGAN-FATEMI: No objection, your Honor.

7 THE COURT: All right, very well.

8 MS. WECKERLY: Your Honor, may I approach the witness.

9 THE COURT: Yes.

10 Mr. Shaygan, you've seen all the photos that are --

11 MR. SHAYGAN-FATEMI: Yes, your Honor.

12 THE COURT: Okay, very well.

13 MR. SHAYGAN-FATEMI: Thank you.

14 BY MS. WECKERLY:

15 Q. I'm gonna show you some photos, okay, and then you just tell me if
16 you recognize them at first, okay?

17 I'm showing you what's been marked as State's Proposed Exhibit 7.
18 Do you recognize that photograph?

19 A. Yeah, it's her purse.

20 Q. Okay. And when you say that's her purse, is that Anshanette's
21 purse?

22 A. Yes.

23 Q. Is this where her purse was that night after Vernon gave it to you?

24 A. Yes, inside my house.

25 MS. WECKERLY: Okay. State moves to admit 7.

1 THE COURT: Mr. SHAYGAN.

2 Mr. SHAYGAN-FATEMI: No objection, your Honor.

3 THE COURT: All right, 7 will be admitted.

4 (State's Exhibit 7 admitted)

5 BY MS. WECKERLY:

6 Q. And did you -- eventually after the police came, did you give that
7 purse to them?

8 A. Yes, I did.

9 Q. You showed them where it was?

10 A. Yes.

11 Q. Okay. Now I'm gonna show you a couple more photos. This is
12 State's Proposed 11. Do you recognize what's in that photo?

13 A. Yes.

14 Q. What's in that one?

15 A. The car seat cover --

16 Q. And --

17 A. -- and the blanket.

18 Q. And the blanket.

19 What -- what -- when we look at State's 11, what is the car seat
20 cover, what color is that?

21 A. Blue.

22 Q. And the blanket?

23 A. Blue.

24 Q. And is the car seat cover in State's 11 actually on a chair?

25 A. Yes.

1 Q. And then on the sort of back of the chair is a blanket?

2 A. Yes.

3 Q. And are those the items that Vernon gave you that were, obviously,
4 Major's car seat that night?

5 A. Yes.

6 MS. WECKERLY: State moves to admit 11.

7 MR. SHAYGAN-FATEMI: Your Honor, we don't object to any of the
8 photos --

9 THE COURT: Oh.

10 MR. SHAYGAN-FATEMI: -- Ms. Weckerly (indiscernible) show me.

11 MS. WECKERLY: Oh, okay. Thank you.

12 THE COURT: All right, so 11 will be admitted as well.

13 (State's Exhibit 11 admitted)

14 BY MS. WECKERLY:

15 Q. And I'm showing you State's 12. What is that?

16 A. Major's blanket.

17 Q. Okay. And it's sort of a close-up view of the blanket, is that fair?

18 A. (Nodding affirmatively).

19 Q. Is that yes?

20 A. Yes.

21 Q. Okay. And on the -- on the tag there, was that something that
22 you noticed that night, there's a red substance?

23 A. Yes.

24 Q. And then lastly I'm gonna show you State's 14. Is that the car seat
25 cover kind of closer up?

1 A. (Indiscernible).

2 MS. WECKERLY: Your Honor --

3 THE COURT: Oh, I'm sorry.

4 MS. WECKERLY: Do you need just a second?

5 THE WITNESS: (Nodding affirmatively).

6 MS. WECKERLY: If we could have just a short break --

7 THE COURT: Absolutely.

8 MS. WECKERLY: -- your Honor.

9 THE COURT: Oh, do you want a short break?

10 MS. WECKERLY: If we could just have a second, please.

11 (Recess taken)

12 THE COURT: All right, go ahead, State.

13 MS. WECKERLY: Thank you.

14 BY MS. WECKERLY:

15 Q. Just a couple more questions, okay?

16 A. Okay.

17 Q. Great.

18 So eventually the police come to your house where you were
19 watching the two -- two babies, right?

20 A. Yes.

21 Q. And at that point do you point out that -- the car seat cover and
22 the blanket and the bullets that you picked up?

23 A. Yes.

24 Q. And you showed them to the detectives that came there?

25 A. Yes.

1 Q. Okay. After you spoke to Vernon that night, did you ever talk to
2 him again?

3 A. No, I didn't.

4 Q. Okay. And my last question is, Brandon, what is his last name, do
5 you know?

6 A. McNeil. Brandon McNeil.

7 MS. WECKERLY: Okay, thank you.

8 Your Honor, I'll pass the witness.

9 THE COURT: All right, cross.

10 MR. BASHOR: Thank you, your Honor.

11 MS. WECKERLY: Oh, he's gonna ask you --

12 UNIDENTIFIED SPEAKER: One more.

13 THE BAILIFF: He's gonna ask some questions.

14

15 **CROSS-EXAMINATION**

16 BY MR. SHAYGAN-FATEMI:

17 Q. Ms. Marshall --

18 A. Yes.

19 Q. -- can I call you Zarharia?

20 A. Yeah.

21 Q. Zarharia, my name is Kambiz Shaygan. I'm one of Vernon's
22 lawyers. I'm gonna ask you some questions this morning. I want you to be
23 relaxed. No one's trying to play gotcha. If you have any questions, if you
24 don't understand what I'm saying, just let me know and I'll rephrase the
25 question.

1 A. Okay.

2 Q. Ms. Weckerly just asked you some questions, so I'm gonna follow
3 up on some of the things that she asked you, okay?

4 When Vernon came to the house, you would agree that his attitude
5 was not normal at that time?

6 A. Yeah, it wasn't normal.

7 Q. Okay. And it especially wasn't normal when he was loading the
8 bullets into the gun, right?

9 A. (No audible response).

10 Q. Okay. You would agree that he was scared?

11 A. Yes.

12 Q. Okay. Nervous?

13 A. Yes.

14 Q. Okay. Ms. Weckerly asked you about the police came and you
15 spoke with the police.

16 A. Yes.

17 Q. You had mentioned to the police that Vernon didn't smell like
18 sherm, right?

19 A. No, he didn't.

20 Q. Okay. And you know that smell because you've been round Vernon
21 and Anshanette?

22 A. (Indiscernible).

23 Q. Okay. And in those instances Vernon and Anshanette are smoking
24 Sherm?

25 MS. WECKERLY: Objection. Relevance.

1 A. No.

2 THE COURT: Overruled. (Indiscernible).

3 A. No.

4 BY MR. SHAYGAN-FATEMI:

5 Q. You've never seen Vernon and Anshanette smoke sherm?

6 A. No. I've seen Vernon smoking, but I never seen Anshanette. She
7 didn't like when he did it.

8 Q. Okay. Ms. Weckerly asked you in detail about each of the children
9 that you're close with and their names and their ages. As far as you
10 understand, Vernon is not the father of all the children, right?

11 A. Of all of them but Major.

12 Q. All of them --

13 A. But Major.

14 Q. But Major.

15 One of the fathers of the children, you know he's not around, he's
16 in prison, right?

17 A. Yes.

18 Q. Okay. Did you know Anshanette to hang out with people that were
19 in trouble generally?

20 MS. WECKERLY: Objection. Relevance.

21 A. No.

22 THE COURT: Sustained.

23 MR. SHAYGAN-FATEMI: Thank you, your Honor. I'll move on.

24 BY MR. SHAYGAN-FATEMI:

25 Q. The gun that you saw that Vernon had in his hand --

1 A. He didn't have a gun in his hand.

2 Q. He didn't have a gun in his hand?

3 A. No.

4 Q. Okay. Are you aware that Anshanette owned a gun?

5 A. Yes, I'm aware.

6 Q. Okay. Did she ever tell you why she owned a gun?

7 MS. WECKERLY: Objection. Calls for hearstay -- hearsay.

8 A. Yes, she told me why.

9 THE COURT: Hang on. Hang on, ma'am. When they say
10 "objection," just let them -- we'll let the lawyers discuss the reason and then
11 sometimes I'll allow you to answer, sometimes I won't, okay?

12 In this particular case, counsel . . .

13 MR. SHAYGAN-FATEMI: I'll submit it, Judge.

14 THE COURT: All right. Sustained.

15 BY MR. SHAYGAN-FATEMI:

16 Q. In terms of your experience with Anshanette and the people that
17 she hung out with, based on your knowledge, is there a reason why she would
18 need to own a gun?

19 MS. WECKERLY: Objection. Calls for speculation, hearsay, and it's
20 not relevant.

21 MR. SHAYGAN-FATEMI: It's not -- your Honor, it's not calling for
22 hearsay. I'm asking for her personal knowledge in terms of why there's gonna
23 be testimony as to Anshanette owned a gun, and I'm just asking if she knows
24 why she would need to own a gun.

25 THE COURT: I think you were asking about why Angenette

1 believed she owned a gun, right?

2 MR. SHAYGAN-FATEMI: Correct.

3 THE COURT: So in that regard, it is speculation so sustained.

4 MR. SHAYGAN-FATEMI: Thank you, your Honor.

5 BY MR. SHAYGAN-FATEMI:

6 Q. Ms. Weckerly asked you about speaking with Anshanette on the
7 late night of this incident. It was roughly 9:17 p.m., and do you remember
8 telling the police that?

9 A. No, I don't.

10 Q. If I told you it was about 9:00, would you agree with that, when
11 you spoke with her?

12 A. No.

13 Q. What time do you believe you talked to her that night?

14 A. Around 8, 8:00.

15 Q. Around 8:00, okay.

16 And she told you she was going to Centennial Hills to pick up her
17 14-year-old daughter?

18 A. No, she didn't.

19 Q. Okay. What did she tell you?

20 A. That she was gonna bring Major to me.

21 MR. SHAYGAN-FATEMI: Your Honor's brief indulgence.

22 THE COURT: Take your time.

23 BY MR. SHAYGAN-FATEMI:

24 Q. You had mentioned that after Vernon said something along the lines
25 of saying good-bye to his children, you thought that they had just gotten into a

1 fight?

2 A. Yes, into an argument.

3 Q. Into an argument.

4 And you're aware that they would argue all the time?

5 A. All the time, yes.

6 Q. Okay. In fact, they even argued in front of you?

7 A. Yes.

8 Q. And you would agree that they would even tone down the level of
9 arguing because you were present?

10 A. Yes.

11 Q. And the fighting was daily?

12 A. Only when he did something she didn't like.

13 Q. Oh, so if she didn't like something --

14 A. Or if he's --

15 Q. -- then they would argue?

16 A. If he said anything or did anything that, you know, would upset her,
17 she would say something about it.

18 Q. She would say something about it, okay.

19 And by fighting, she would get physical with Vernon?

20 A. No.

21 Q. Okay.

22 A. They would just have words to each other.

23 Q. Okay. About a week prior to the police arriving at your home, you
24 were aware of a fight between Vernon and Anshanette where they were
25 fighting for so long that you even fell asleep, correct?

1 A. Yes.

2 Q. Okay. Let me bring you to when Vernon came by the house. I
3 know Ms. Weckerly touched a lot on it, but I'm almost done but I just want to
4 touch a couple things.

5 He actually, Vernon actually gave you Anshanette's purse?

6 A. Yes.

7 Q. Okay. How are you doing? You all right?

8 A. (No audible response).

9 Q. (Indiscernible).

10 Just to clarify, he asked you to come outside with him?

11 A. Yes.

12 Q. Okay. And you saw him putting the bullets in the clip?

13 A. Of the gun, yes.

14 Q. Of the gun.

15 And he was nervous?

16 A. Yes.

17 Q. And scared?

18 A. Yes.

19 Q. And he even told you, "I was pushed into a situation where I had to
20 react"?

21 MS. WECKERLY: Objection. That misstates her testimony.

22 THE COURT: Sustained.

23 MR. SHAYGAN-FATEMI: Let me rephrase that.

24 BY MR. SHAYGAN-FATEMI:

25 Q. As he's putting the bullets in, he says something along the lines of,

1 "I can't take it no more" ?

2 A. Yes.

3 Q. Okay, thank you.

4 He says something along the lines of, "Tell my kids I'm always
5 gonna love them" ?

6 A. Yes.

7 MR. SHAYGAN-FATEMI: Your Honor's brief indulgence.

8 THE COURT: Take your time.

9 BY MR. SHAYGAN-FATEMI:

10 Q. You had testified earlier when Ms. Weckerly was asking you
11 questions, that two of the brother's friends came outside to grab the swing?

12 A. No, one of my brother's -- my brother's friend.

13 Q. One of your brother's friends?

14 A. Yeah.

15 Q. So how many people were at the house when he came?

16 A. It was me, my little brother, my two little brothers, my little sister
17 and my brother's friend.

18 Q. Okay. And your brother's friend actually came outside?

19 A. Yeah. He grabbed the -- the swing, yeah.

20 Q. Okay. And what's his name?

21 A. Marlin.

22 Q. Marlin?

23 A. Yeah.

24 Q. How old is Marlin?

25 A. Marlin's 17.

1 Q. Does Marlin have a -- do you know Marlin's last name?

2 A. No.

3 Q. Do you know -- did you see Marlin talking with the police?

4 A. No.

5 Q. Did Marlin leave before the police got there?

6 A. No, Marlin was still there.

7 Q. He was still there?

8 A. Yeah.

9 Q. Do you believe Marlin ever talked to the police?

10 MS. WECKERLY: Objection. Calls for speculation.

11 MR. SHAYGAN-FATEMI: I'm just asking, your Honor, her --

12 THE COURT: If you know, ma'am. I mean, you don't -- you don't
13 need to guess or speculate. If you know, you could answer.

14 Overruled.

15 A. (Indiscernible).

16 MR. SHAYGAN-FATEMI: Your Honor's brief indulgence.

17 BY MR. SHAYGAN-FATEMI:

18 Q. Just a couple more, okay? Let's go back to when the police
19 arrived. You had just mentioned there's some people in the house?

20 A. Mm-hmm.

21 Q. Can you tell me the names and the ages of everybody in the house
22 to your best of knowledge?

23 A. Yeah. Baryon, he's 17. Kavon, he's 13. Kanyia, she's 7.

24 Q. Baryon?

25 A. Baryon, B-a-r-y-o-n.

1 Q. He's 17?

2 A. Yes.

3 Q. And what's his relation to you?

4 A. That's my little brother.

5 Q. Little brother.

6 And then the next person?

7 A. Kavon.

8 Q. Okay. How old is Kavon?

9 A. Thirteen.

10 Q. What's his relation?

11 A. My little brother.

12 Q. Little brother, okay.

13 Keep going.

14 A. And Kanyia, she's seven.

15 Q. She's your sister?

16 A. Yes.

17 And then Marlin, that's my brother's friend. He's 17, too.

18 Q. Just lastly, can you tell me the color of the car that Vernon was in

19 when he arrived?

20 A. It was a dark color, like a dark -- dark -- dark blue kind of color.

21 MR. SHAYGAN-FATEMI: Zarharia, I appreciate your time. Okay,

22 thank you.

23 Your Honor, I have no further questions. Thank you for the court's

24 time.

25 MS. WECKERLY: There's no re- --

1 THE COURT: Any follow-up?

2 MS. WECKERLY: No, your Honor. Thank you.

3 THE COURT: Ma'am, thank you for your testimony. You may wait
4 in the hall. Please do not discuss your testimony with anyone else subpoenaed
5 to be here this morning. Thank you.

6 MR. PORTZ: Detective Ben Owens.

7 UNIDENTIFIED SPEAKER: Ben Owens.

8 MR. PORTZ: Your Honor, before we call our next witness, I just
9 want to put on the record I'm showing opposing counsel State's Proposed 3
10 through 41. They're all photographs related to this event. Some of them have
11 been admitted already. I don't believe there's any objection to their admission
12 at this point, so if I could just speed it along.

13 MR. BASHOR: That's correct. All of them can be admitted, your
14 Honor.

15 THE COURT: All right. Three through forty-one if not previously
16 admitted, will be admitted.

17 MR. PORTZ: Thank you, your Honor.

18 (State's Exhibits 3 through 41 admitted)

19

20 The State's next witness is Detective Ben Owens.

21

22 **BENJAMIN OWENS,**

23 having been first duly sworn

24 was examined and testified as follows:

25

1 THE BAILIFF: Have a seat.

2 State your name for the record (indiscernible).

3 THE WITNESS: My name is Benjamin Owens, O-w-e-n-s.

4 MR. PORTZ: May I proceed, your Honor.

5 THE COURT: Please.

6

7

DIRECT EXAMINATION

8 BY MR. PORTZ:

9 Q. Mr. Owens, where do you work, sir?

10 A. I'm a police detective with the North Las Vegas Police Department.

11 Q. I see you brought a notebook with you today, is that correct?

12 A. I did.

13 Q. Okay. If you wouldn't mind, just for the purposes of your
14 testimony -- is that related to this case that you're here to testify about today?

15 A. Yes. It is my case file.

16 Q. If you wouldn't mind, could we just keep that closed and if you
17 need to reference it at some point, we'll -- we'll make a request for that,
18 okay?

19 A. Yes.

20 Q. Thank you, Detective.

21 Now you said you work for North Las Vegas Metropolitan Police
22 Department, correct?

23 A. The North -- City of North Las Vegas Police Department, yes.

24 Q. All right, thank you for correcting me.

25 And what's your position with --

1 A. I'm a police detective assigned to the robbery, homicide detail.

2 Q. And how long have you been working on robbery, homicide?

3 A. I've been a police officer for eighteen and a half years. I've been a
4 detective for nine and a half assigned to our homicide for the majority of that
5 time.

6 Q. And on December 13, 2015, were you assigned to a homicide
7 related to a victim by the name of Anshanette McNeil?

8 A. Yes, I was.

9 Q. Can you describe how you were initially made aware of this
10 homicide?

11 A. I was called in to the scene. It occurred afterhours. And I
12 responded. I met with patrol officers that were already on-scene.

13 Q. Can you tell us where the scene was located?

14 A. Yes. It was in the area of Interstate 15 or 1-15 in the Lamb exit or
15 on-ramp to get onto I-15.

16 Q. To your knowledge, that location is here in Clark County, Nevada,
17 correct?

18 A. Yes, it is.

19 Q. So the scene itself, was it actually on that on-ramp on Lamb and
20 the 15?

21 A. Yes.

22 Q. And this is the southbound on-ramp, correct?

23 A. That's correct.

24 Q. Okay. Can you describe briefly about what -- well, first of all,
25 what time do you think you arrived on the scene?

1 A. It was afterhours. I could refer to my notes for the exact time.

2 Q. An estimate's fine.

3 A. 11:30 or something like that.

4 Q. When you arrived on-scene, was the victim still present?

5 A. No, she had already been transported to the hospital.

6 Q. Were you assigned the lead detective position in this case?

7 A. Yes, I was.

8 Q. Knowing that the victim was at the hospital, did you send anyone
9 to that location?

10 A. Yes. There was a patrol officer and a crime scene investigator that
11 responded to that location.

12 Q. And for purposes of your investigation, did they confirm to you
13 whether or not that victim had survived her injuries?

14 A. They advised me that she had succumbed to her injuries.

15 Q. Now, can you describe the scene when you arrived? What did you
16 see?

17 A. I saw several marked patrol vehicles from North Las Vegas police,
18 also from NHP. The area -- basically entire -- the entire area was contained
19 with crime scene tape. The lanes were blocked off so we -- it was contained
20 so there was no other vehicular or pedestrian traffic coming through.

21 Q. Beyond the officers present, were there lay witnesses as well that
22 you were made aware of?

23 A. Yes.

24 Q. So what do you do when you arrive on-scene? What are the first
25 preliminary steps to your investigation?

1 A. The first thing I do is brief -- get briefed-in by the first responding
2 patrol officers and supervisors on-scene as to the circumstances of what had
3 occurred. I'm advised if there's any evidence present and advised of any
4 witnesses that are present.

5 Q. You made contact with those witnesses?

6 A. I did.

7 Q. And do you call out or is there present a crime scene investigator?

8 A. Yes, there was -- we had evidence there that needed to be
9 documented and collected, so an additional crime scene investigator was --
10 was sent to that scene as well.

11 Q. And do you ultimately walk the crime scene with the investigator --

12 A. Yes.

13 Q. -- to look for evidence that you would find relevant to this case?

14 A. Yes, I do.

15 Q. I'm gonna show you State's Exhibit 3. It's been admitted by
16 stipulation. Is that a photograph of the crime scene?

17 A. Yes, it is.

18 Q. Okay. Now there's a series of orange cones in this photograph.
19 Can you explain the significance of the orange cones?

20 A. The cones are there to mark potential evidence or things that are
21 observed by the first responding officers that arrive there to -- you know, so
22 basic it's marked in evidence.

23 Q. And what evidence did you locate on the scene at that point in
24 time?

25 A. I noticed apparent bloodstains. I noticed that there were several

1 cartridge cases or shell cases. I noticed that there were defects in the asphalt
2 that were consistent with bullet strikes. I noticed that there was stitches of
3 fabric or some type of clothing or fabric on the ground. Um, there was a cell
4 phone.

5 Q. The fabric, do you recall whether they were of different textures or
6 materials or designs?

7 A. I just noticed that it was a multicolored type of fabric that appeared,
8 you know, just partial, whether it was ripped or torn or cut off there in the area
9 of the crime scene.

10 Q. Was there anything on the fabric to indicate that it might have
11 belonged to the victim or had been associated with the shooting?

12 A. I believe some of the fabric may have been -- had apparent
13 bloodstains on it.

14 Q. The cartridge casings, do you recall how many cartridge casings
15 you located?

16 A. I believe six cartridge cases on the scene on the road there.

17 Q. And a cartridge case is essentially indicative of what?

18 A. Basically, it's the ejected shell casing from a semi-automatic
19 firearm, and in this case they appeared to be consistent with a 9 millimeter,
20 which would indicate that it was a handgun, a semi-automatic handgun.

21 Q. And did you in your investigation observe these cartridge casings?

22 A. Yes, I did.

23 Q. In your understanding of firearms and ammunition, do cartridge
24 casings contain headstamps or something to indicate their make or model or
25 who produces the ammunition?

1 A. Yes. Typically they're headstamped with letters or markings that
2 are indicative of the brand name of the company that manufactured it. In this
3 case several of the cartridge cases were headstamped with the letters S&B,
4 which is indicative of the brand name Sellier and Bellot. It's a manufacturer of
5 firearms ammunition.

6 Q. While you are on-scene, are you made aware of a potential lead in
7 your case associated with your victim?

8 A. Yes. It was brought to my attention that the Las Vegas
9 Metropolitan Police Department was at an address in their jurisdiction, 3613
10 Saint Bar. They were there basically contacting the residence there in regards
11 to a potential missing persons case. And after comparing notes with them, it
12 appeared that -- that the person that they were reporting missing was -- was
13 more than likely our shooting victim that had been transported to the hospital.

14 Q. As a result of that, did you respond to that location, 3613 Saint Bar
15 Court?

16 A. Yes, I did.

17 Q. Before you leave do you -- is the scene, the crime scene on the
18 southbound ramp on Lamb and I-15, is that contained? Have you completed
19 your investigation there or do you have to leave instructions behind?

20 A. I left instructions. The patrol officers, several patrol officers that
21 were -- that were there stayed there. The crime scene investigator at that
22 scene was still processing the scene as per my instructions, so there was
23 enough officers there to contain it and have, you know, have done what I
24 needed to have done. And then I responded to Saint Bar.

25 Q. And who did you respond to Saint Bar with?

1 A. With my partner at the time, Detective Stuckey.

2 Q. Detective, how did you get from the location of the crime scene to
3 the house on Saint Bar?

4 A. Basically we, uh, drove south on I-15 and then got off on, I believe,
5 Craig to the -- basically it was -- it's -- it was a short distance away, less --

6 Q. Do you recall the distance approximately?

7 A. I would say it was later -- it was less than four miles, and I later
8 actually -- as part of this investigation I used the commercial program Google
9 Maps to map it out the most direct route, and it was 3.7 miles.

10 Q. When you arrived to this address, 3613 Saint Bar, who do you
11 meet with, sir?

12 A. I met with the resident there, Zarharia Marshall and a Tyra Akins,
13 who I later found out was the mother of the decedent.

14 Q. And you have a conversation with Ms. Marshall and Ms. Akins?

15 A. I did.

16 Q. And what do you -- for purposes of your investigation, what do
17 you come to learn, if anything, that might have been left behind with Ms.
18 Marshall that was relevant to this case?

19 A. Basically there was -- I'd learned from after speaking with Zarharia
20 that she was expecting the defendant, Vernon Newson, to arrive at that
21 location with Anshanette and their two babies or two children, that one in
22 common that they had together. Vernon Newson arrived. Anshanette was not
23 there. He dropped off the two kids and he left in a vehicle. He also dropped or
24 was seen loading -- first off, he was scene loading a pistol magazine and he
25 dropped several rounds of live ammunition during the course of that and that

1 was left there at the scene on Saint Bar.

2 Q. Was it your understanding that Ms. Marshall had collected that
3 ammunition?

4 A. Yes.

5 Q. And you reference that Ms. Marshall told you that the victim,
6 Anshanette, was -- she expected her to appear or to arrive at the house that
7 evening but only an individual by the name of Vernon New son arrived, is that
8 correct?

9 A. That's correct.

10 Q. Okay. As part of your investigation, do you ultimately come to
11 learn and come into contact with an individual named Vernon New son?

12 A. Yes.

13 Q. Do you see that person in the courtroom today?

14 A. I do.

15 Q. Could you point to him and identify an article of clothing for the
16 court?

17 A. He's seated at the Defense table to my right. He's wearing a dark
18 blue CCDC inmate jumpsuit.

19 MR. PORTZ: Your Honor, can the record reflect that the witness
20 has identified the defendant.

21 THE COURT: It shall.

22 MR. PORTZ: Thank you.

23 Your Honor, may I approach.

24 THE COURT: Yes.

25 BY MR. PORTZ:

1 Q. Detective, in reference to the items that you collected at the
2 address where Ms. Marshall was located, I'm showing you State's 4 through
3 16. State's 4, can you describe what that is for the court, please?

4 A. It's an overall view of the front of the house, 3613 Saint Bar.

5 Q. And this is State's 5, what are we looking at here?

6 A. This is inside the house on top of the washing machine. It is the
7 three rounds of 9 millimeter cartridges, which means they're unfired live rounds
8 of ammunition. And after inspecting those, I determined that they also bore the
9 S&B headstamp, which is the same brand name of the ammunition of the six, 9
10 millimeter cartridge cases at the shooting scene.

11 Q. And is this the ammunition that Ms. Marshall indicated to you she
12 had picked up after the defendant had dropped those bullets on the ground?

13 A. That's correct.

14 Q. And is State's 6 a photograph of that S&B headstamp?

15 A. Yes, it is.

16 Q. Showing you State's 7, Detective, what are we looking at here?

17 A. Basically it's a table with several items on it. In the center the most
18 prominent item is a purse that was -- Zarharia had recovered or was given to
19 her by Vernon Newson. It was in the back of the vehicle. Basically Zarharia
20 stated that that was Anshanette's purse and it had several of her personal
21 items inside of it.

22 Q. Amongst those items, I'm showing you State's 8, was that one of
23 the items located inside the purse?

24 A. Yes, it is.

25 Q. What is that, sir?

1 A. It is a Nevada driver license in the name of the decedent,
2 Anshanette McNeil.

3 Q. I'm showing you State's 9. Was that also located inside the
4 purse?

5 A. Yes.

6 Q. And what is that, sir?

7 A. This is a birth certificate from the State of California, City of
8 Pasadena in the name of the defendant, Vernon New son, Jr.

9 Q. And State's 10, was that also located inside the purse?

10 A. Yes. This is an addressed piece of mail to Vernon New son at the
11 address of 4215 Pasternak Drive in Las Vegas.

12 Q. Now were there -- you said there were items left behind that had
13 blood on them as well, is that correct?

14 A. Yes.

15 Q. I'm gonna show you State's 11. Can you tell us what we're
16 looking at here?

17 A. This is the car seat where Major New son, the two-month old child
18 in common between the decedent and the defendant and an article of, I believe,
19 the clothing that he was wearing with apparent bloodstains on them, on both.

20 Q. State's 12, is this a close-up of one of those items?

21 A. Yes, this is a close-up, I believe, of the blue one-piece child's
22 clothing item and there's bloodstained on -- on the clothing, bloodstains.

23 Q. Was it your understanding that the children had been wearing these
24 items and the clothing had been removed?

25 A. Yes.

1 Q. State's 13, can you describe what you see in that exhibit?

2 A. Yes. This is a pair of black pants with a white stripe that I believe
3 that Brandon Berger, Jr., the -- the two-year-old at the time -- that's
4 Anshanette's child from a different father -- with bloodstains on the pants.

5 Q. And then State's 14?

6 A. This is a -- part of the car seat lining with bloodstains on it, and I
7 believe this is -- this was the car seat that Major, the two-month old was --
8 was seated in.

9 Q. And, again, it was your understanding from Ms. Marshall that these,
10 all of these items were given to her by Mr. Newson, the defendant, when he
11 arrived at her house alone?

12 A. Yes, that's correct.

13 Q. State's 15?

14 A. This is the car seat that their child in common was seated in, Major
15 Newson.

16 Q. And then on State's 16, what are we looking at here?

17 A. This is a close-up of the handle of that car seat with bloodstain on
18 it.

19 MR. PORTZ: Would your Honor like to --

20 THE COURT: Yes, please. Thank you.

21 BY MR. PORTZ:

22 Q. Detective, the -- following your conversations with Ms. Marshall,
23 did you interview anyone else at that location?

24 A. I interviewed Anshanette's mother, Tyra Akins.

25 Q. And did you decide to -- some of the evidence that we've gone

1 through and perhaps there was (indiscernible) else or some other evidence, did
2 you decide to have that evidence impounded for your investigation?

3 A. Yes. Once CSA Harter, who was the primary crime scene
4 investigator at the shooting scene, completed her duties there, she responded
5 to my location to photograph and collect those items of evidence from Saint
6 Bar.

7 Q. Direct your attention, Detective, to the next morning, December
8 14th, 2015. Did you come into contact with the victim on that morning?

9 A. Yes. I responded to witness the autopsy at the Clark County
10 Coroner's office at 1704 Pinto Lane.

11 MR. PORTZ: And I'm going to show you a series of exhibits.

12 May I approach, your Honor.

13 THE COURT: Yes.

14 BY MR. PORTZ:

15 Q. Showing you State's 17 through 22, can you just, please, flip
16 briefly through those. Thank you.

17 Detective, do you recognize each of the images depicted in these
18 exhibits?

19 A. I do.

20 Q. Who is the individual depicted in each of those exhibits?

21 A. That is the decedent, Anshanette McNeil.

22 Q. And could you describe whether or not there were any apparent
23 injuries to her person that you had observed during the coroner's report?

24 A. Yes. She has several gunshot entrance and exits wound --
25 entrance and exit wounds.

1 Q. And where were these gunshot wounds located on her body?

2 A. In multiple places to include her face, neck, upper torso, and back,
3 and arm.

4 Q. And was there a conclusion as to the cause and manner of death
5 for Ms. McNeil?

6 A. Yes. The medical examiner, Dr. Olson, determined that the -- that
7 the cause of death was multiple gunshot wounds and the manner of death was
8 homicide.

9 Q. Detective, based on your investigation at this point, do you
10 determine or decide to generate an arrest warrant for Mr. New son, the
11 defendant?

12 A. Yes. As a result of my investigation at that time, I believed I had
13 probable cause to identify Vernon New son as the suspect. Since I did not know
14 of his whereabouts, I submitted for a warrant of arrest.

15 Q. Do you ultimately come to learn of the defendant being arrested?

16 A. Yes.

17 Q. When was that?

18 A. The evening of December the 22nd.

19 Q. And that's 2015?

20 A. 2015, that's correct.

21 Q. How were you made aware that the defendant's been arrested?

22 A. I received a phone call from my dispatch informing me that
23 Claremont Police Department in California had apprehended and arrested Vernon
24 New son in their jurisdiction.

25 Q. And with that information, what do you decide to do?

1 A. The morning of December 23rd, I responded, got approval and
2 responded to California, Claremont, California with Detective Stuckey to
3 attempt to interview Vernon Newson and also to recover items of evidence that
4 he was found with in California.

5 Q. And when you arrive, do you, in fact, recover evidence that he was
6 found with in California?

7 A. Yes.

8 Q. And is there, I guess, paperwork or something associated with the
9 change of hands for this evidence?

10 A. Yes. The Claremont Police Department impounded several items of
11 evidence and packaged it pursuant to their policy. I signed their chain of
12 custody, took custody of those items basically to preserve the chain of custody.

13 Q. And did you, in fact, bring those items back to Las Vegas?

14 A. I did.

15 Q. And can you tell the court what items in particular you brought
16 back to Las Vegas from Claremont? Excuse me.

17 Q. There was a total of 18, 9 millimeter cartridges, 17 of which were
18 in his possession, one of which was found nearby where he was apprehended.
19 All of these cartridges of 9 millimeter ammunition are unfired live rounds, and all
20 of them bore the S&B headstamp, which is consistent with the headstamp of
21 the cartridges that he dropped on Saint Bar and consistent with the expended
22 shell casings at the shooting scene.

23 Q. And you referenced a headstamp for the (indiscernible) 9 millimeter
24 (indiscernible)?

25 A. Yes. They were all 9 millimeter caliber, so it's, you know, the same

1 ammunition with the fire out of the same type of weapon.

2 Q. What other items did you bring back?

3 A. There was a duffle bag with several items of clothing, paperwork,
4 identification in his name, um, several cellular phones, and also a watch that he
5 was -- that he was physically wearing that had an apparent bloodstain on the
6 inside of the wristband.

7 Q. Now prior to acquiring these items or while you were in Claremont
8 (indiscernible), did you, in fact, come into contact with the defendant in the
9 custody of the Claremont Police Department?

10 A. I did.

11 MR. PORTZ: May I approach, your Honor.

12 THE COURT: Yes.

13 BY MR. PORTZ:

14 Q. Showing you State's 23, 24, and 25, can you let us know what
15 we're looking at in those three exhibits?

16 A. Twenty-three is the 17 rounds of 9 milli- -- 9 millimeter ammunition
17 that was on his person. You can see it is -- it has the evidence envelope from
18 Claremont Police Department, required us packaging it in North Las Vegas
19 evidence packaging.

20 Exhibit 24 is a single round of 9 millimeter ammunition that was
21 recovered nearby where he was apprehended in California.

22 Exhibit 25 is a close-up photograph of the headstamp showing the
23 S&B and the 9 by 19, which is 9 millimeter caliber consistent with the same
24 brand that was recovered at Saint Bar and at the shooting scene.

25 Q. Thank you.

1 You also testified that you had impounded and brought back a
2 watch with an apparent bloodstain on it, is that correct?

3 A. Yes.

4 Q. Showing you State's 26 and 27, is that a photograph of that watch
5 and then the apparent blood on the watchstrap?

6 A. Yes. I witnessed CSI Harter conduct a presumptive test for blood
7 and it was positive for human blood.

8 Q. And did you take the defendant back with you to Las Vegas when
9 you transported these items of evidence that you received from the Claremont
10 Police Department?

11 A. No, he's in Claremont custody and Claremont charges and he had to
12 go through the extradition process to get back to Nevada.

13 Q. While pending his extradition, did you conduct any additional
14 investigation into this -- this case?

15 A. I did.

16 Q. What specifically were you looking for at this point?

17 A. The vehicle that was being driven by the defendant that night that
18 the decedent was also inside as well as the two children was still outstanding.
19 On January the 8th that vehicle was found in Las Vegas in Metro's jurisdiction.
20 It was sealed and impounded and then brought to the North Las Vegas PD
21 evidence bay. I obtained a search warrant to search and process that vehicle.

22 Q. And were you present for the search of that vehicle during -- after
23 it's -- after it's being impounded?

24 A. Yes.

25 MR. PORTZ: Your Honor, may I approach.

1 THE COURT: Yes.

2 BY MR. PORTZ:

3 Q. Here I'm showing you State's Exhibit 28. Is that the suspect
4 vehicle that you'd been looking for in relation to this homicide investigation?

5 A. Yes.

6 Q. Okay. And what led you to believe that this was, in fact, the
7 vehicle that was driven by the suspect on the night in question?

8 A. A registration check showed that it was a rental car rented to the
9 decedent, Anshanette McNeil.

10 Q. And based on your conversations with Ms. Marshall, were you also
11 led to believe that this -- this matched the description and it was the same
12 vehicle as well?

13 A. She described it as a rental car, a four-door dark colored similar
14 body style to -- I can't remember the brand -- the make of vehicle she
15 described but basically a mid-size SUV dark colored four-door.

16 Q. Showing you State's 29, the interior front driver door, what of any
17 significance in this photograph?

18 A. There's apparent bloodstain on the -- on the door handle.

19 Q. And then State's 30?

20 A. That is a 9 millimeter cartridge case, which means it's been fired
21 and ejected.

22 Q. And this is located inside the vehicle?

23 A. Yes.

24 Q. State's 31, the rear driver's side passenger door.

25 A. Again, there's more apparent bloodstain on the door handle.

1 Q. State's 32, the floorboard behind the driver's seat.

2 A. Yes. There's several in this photograph. You can see four, 9
3 millimeter cartridge cases, which are spent fired shell casings. Actually, there's
4 five. There's one on the top there.

5 Q. Are you familiar with -- well, State's 33, what are we looking at
6 here?

7 A. This is a close-up of the headstamp of one of those recovered
8 cartridge cases. It's been fired. It's got the 9 millimeter caliber and the letters
9 W-I-N for WIN or Winchester. So it's a different brand name but it's the same
10 caliber.

11 Q. And by being the same caliber, it could still be fired by the same
12 firearm, is that correct?

13 A. That is correct. It's the same caliber of ammunition, 9 millimeter,
14 so it'd fire out of the same gun.

15 Q. And in your training and time and experience as an officer, have you
16 in certain occasions come into, I guess, observed magazines or clips loaded
17 with various brands of ammunition but of the same caliber?

18 A. Absolutely.

19 Q. Showing you State's 34, can you tell me what we're looking at
20 here?

21 A. This is a close-up of the unfired 9 millimeter cartridge that was
22 recovered out of that vehicle and it's -- it bears the same headstamp, S&B,
23 consistent with the live rounds that was in his possession consistent with the
24 live rounds that were dropped on Saint Bar, consistent with the fired cartridge
25 cases that were recovered at the shooting scene.

1 Q. Did you also locate paperwork that would tend to tie the victim,
2 Ms. McNeil, to the vehicle itself?

3 A. Yes.

4 Q. Showing you State's 35, can you describe briefly what that is?

5 A. This is a printout or some type of invoice or printout from a vendor,
6 E. Clinical Works, and it has some type of, you know, medical service or
7 whatever and it has the decedent's name and date and phone number and
8 address printed on it.

9 Q. Did you also find paperwork tying the defendant, Vernon New son,
10 to the vehicle?

11 A. I did. There was Bank of America paperwork with his name and
12 information on it.

13 Q. Is that what we see in State's 36?

14 A. Yes.

15 Q. Now I want to direct your attention to the passenger's seat directly
16 behind the driver's seat, so the rear driver's side seat.

17 A. Okay.

18 Q. I'm showing you State's 37. This is a picture of that seat, correct?

19 A. Yes.

20 Q. Okay. What of any significance is in that picture?

21 A. A large apparent bloodstain where the decedent was believed to
22 have been seated.

23 Q. Did you also notice any defects in that seat?

24 A. Yes, there were defects consistent with bullet holes or bullet
25 strikes.

1 Q. And do we see that here in State's 38?

2 A. Yes, you can see the three red colored rods are trajectory rods and
3 they're marked with the letters A, B, and C. Each one of those holes is
4 believed -- is consistent with a bullet strike.

5 Q. Do those holes in this -- and this is the front side of the rear
6 passenger's seat, correct?

7 A. That's correct.

8 Q. Do the -- do the -- is there actually an exit or do you find bullets
9 in the car?

10 A. Yes. Well, there was corresponding -- from the suspected
11 trajectory there were corresponding exit holes on the other side of the seat.

12 Q. Showing you State's 39, can you describe that?

13 A. Again, this is a -- just a different angle of the same seat and it
14 shows the entire length of the trajectory rods going -- entering the front side
15 of the seat and exiting the backside of the seat, so that would be consistent
16 with, you know, as suspected, the decedent was seated in the seat and this
17 would be consistent with the bullet strikes coming into the front of her body
18 through the chair and exiting out the backside of the seat.

19 Q. Okay. So in addition to exiting the backside of the seat, were there
20 other defects in the car consistent with a bullet strike in those three spots on
21 the rear driver's side seat?

22 A. Yes. One of the -- the trajectory of one of the fired shots
23 continued all the way through the seat and out the -- through the inside of the
24 rear hatch and outside the vehicle on the -- on the outside of that same door
25 or --

1 Q. So there's --

2 A. -- (indiscernible).

3 Q. -- actually a bullet hole exiting the rear side of the vehicle?

4 A. Yes.

5 Q. And that matched with the trajectory of one of the bullets fired
6 through the -- that backseat with the blood?

7 A. That's correct.

8 Q. Is that what we see in Exhibit 40?

9 A. Yes.

10 Q. And then finally Exhibit 41, sir, what is this?

11 A. This is a car seat that was in the vehicle. We -- I suspect that this
12 is the seat that Brandon Berger, Jr. was seated in, um, on the -- in the rear --
13 in the rear seat on the right side, I believe.

14 Q. Where was the car seat located?

15 A. In the rear on the right side.

16 Q. Approximately how far from where the bullet holes in the rear
17 driver's side seat?

18 A. Uh, close enough to where if he was seated he was in jeopardy. He
19 was within, basically, almost direct line of fire from the trajectory of those
20 rounds coming back.

21 Q. Was there anything else of evidentiary significance on the car seat
22 itself?

23 A. Uh, there's stains on it. I can't recall if those were -- there's
24 stains on it the same color as blood. I can't remember if those were tested or
25 not.

1 Q. Thank you.

2 THE COURT: Thank you.

3 BY MR. PORTZ:

4 Q. Detective, you collected -- we've discussed about a lot of evidence
5 you've collected, blood, firearm, ballistics, et cetera. Has all of that been
6 submitted for testing as part of your investigation?

7 A. Yes. The evidence from the original shooting scene, evidence from
8 -- that was collected at Saint Bar, and evidence that was collected from the
9 items in California that were in the defendant's possession and evidence that
10 was collected from inside the rental car were all submitted to the LVNPD
11 forensics lab for multiple tests.

12 MR. PORTZ: Thank you, your Honor. No further questions at this
13 point.

14 THE COURT: All right. Cross.

15

16 **CROSS-EXAMINATION**

17 BY MR. BASHOR:

18 Q. Since I don't know if it's morning or afternoon, I'll just say good
19 noon, would that do?

20 First of all I'd like to talk about your training and experience with
21 firearms. First of all, you've indicated that you're a police officer for about 18
22 years, 18 plus years, correct?

23 A. That's correct.

24 Q. And you were a detective in the homicide division for eight plus
25 years, is that correct?

1 A. Correct.

2 Q. So fair to say based on the questions you've answered from the
3 State that you have familiarity with firearms?

4 A. That's fair to say.

5 Q. And it's also -- it would seem that you have some familiarity with
6 ammunition, is that fair?

7 A. Also fair to say.

8 Q. And you would be familiar with the sizes of ammunition?

9 A. Fair to say.

10 Q. Fair to say you are familiar with the popular brands of ammunition?

11 A. Yes.

12 Q. You indicated that it was of significance that at the scene of the
13 shooting you found shell casings with the letters S&B, correct?

14 A. Yes.

15 Q. And that they were bullets, and by bullets I mean the entire bullet
16 itself with casing that were found at the -- at the residence, is that fair?

17 A. Yes. A complete unfired round is referred to as a cartridge.

18 Q. A cartridge, and those were also marked with S&B, right?

19 A. Some of them were, yes.

20 Q. And what does S&B stand for, again?

21 A. S&B is a brand name that's Sellier and Bellot. It's a manufacturer
22 of ammunition.

23 Q. Is it a common manufacturer?

24 A. Fairly common.

25 Q. Fairly common.

1 And I believe at one of the locations during your investigation you
2 found either a cartridge or a casing with the initials W-I-N, right?

3 A. Yes, one of the cartridge cases recovered from the rental car was
4 WIN for Winchester.

5 Q. And is that also a fairly common ammunition?

6 A. That's very common.

7 Q. And -- but you'd also indicated that it's fairly common in your 18
8 years' experience as a police officer that clips are often loaded with different
9 ammunitions?

10 A. Yeah, yes. Actually a magazine --

11 Q. Magazine, thank you.

12 A. -- would be what would -- that's the feeding device for a semi-
13 automatic firearm. As long as the caliber itself -- in this case 9 millimeter
14 Parabellum or 9 by 19 millimeter would fire out of a 9 millimeter firearm.

15 Q. And 9 millimeter stands for the width of the projectile?

16 A. That is the caliber measurement, which would be a cross-width
17 measurement, yes.

18 Q. And in your 18 years of experience with firearms and guns, is 9
19 millimeter a fairly common caliber for a semi-automatic handgun?

20 A. Extremely common.

21 Q. Now just understanding the timeline a little bit, you arrive on-scene,
22 you're assigned as lead detective, correct?

23 A. Yes.

24 Q. And the first thing you notice is that the scene presumably looks
25 secure, correct?

1 A. It -- it only contained police or emergency personnel and pertinent
2 witnesses at the time so it was secure.

3 Q. And that's how it's supposed to be?

4 A. Yes.

5 Q. And as part of the routine or the checklist of things that you do
6 when you respond to a homicide scene, would it be fair to say that's the first
7 thing you checked?

8 A. Yes.

9 Q. Okay. After you did that, one of two things happen, you can
10 correct me on the order. Apparently you walked the scene with a CSI, is that
11 correct?

12 A. That was -- that was done. It wasn't the first thing I'd done.

13 Q. Was the first thing then done, you interviewing some of the
14 eyewitnesses?

15 A. No, I was briefed by the -- one of the first responding patrol
16 officers.

17 Q. Okay. So it would be fair to say, is that usually step two, to be
18 briefed by the responding officer?

19 A. Yes.

20 Q. And then in this particular case, what was step three?

21 A. Uh, started getting brief statements from the witnesses that were
22 there.

23 Q. Okay. And by the witnesses, there were some individuals that
24 were present on-scene who actually witnessed the shooting itself, right?

25 A. Yes.

1 Q. And there were some witnesses who were there as good Samaritan
2 folks to help render aid?

3 A. Yes.

4 Q. And you interviewed both types?

5 A. Yes.

6 Q. And so then, I guess, then the next step would be a walk of the
7 scene with the CSI?

8 A. Yes.

9 Q. And during -- going through your normal checklist of investigation,
10 you're alerted there's a missing person report that kind of perks your interest
11 because it might match what's going on at your scene?

12 A. Yes.

13 Q. You then respond to that residence and I believe it's Saint Bar, is
14 that correct?

15 A. 3613 Saint Bar, yes.

16 Q. Thank you.

17 And you interview two individuals at that location, correct?

18 A. Yes.

19 Q. You interview Zarharia Marshall?

20 A. Yes.

21 Q. And you interview Ms. Atkins, is that correct?

22 A. Yes, Tyra Atkins.

23 Q. Where do you go after those interviews?

24 A. Um, after those were completed and the evidence was collected, it
25 was very late in the early morning of the 14th by that time and at that point we

1 knew that we did not have a full description of the vehicle, we did not know
2 the whereabouts of the suspect, we did know that we had to respond to the
3 autopsy that same morning, so I went home and tried to catch a couple hours
4 of sleep.

5 Q. Sounds fair.

6 So you wake up the next morning and do you -- the first step then
7 is you respond to the autopsy?

8 A. Yes.

9 Q. After the conclusion of the autopsy, what did you do?

10 A. Uh, at that time I may have went to the office to conduct some
11 background information on basically running up the -- what information from
12 data bases I could obtain on the defendant, Mr. New son, and other
13 administrative office-type work.

14 Q. At what point do you request or issue -- if you could tell me the
15 process -- the arrest warrant?

16 A. Um, after compiling all of the reports and getting my notes together
17 and then authoring a report, I got an arrest warrant on December the 22nd.

18 Q. And December the 22nd is obviously prior to locating Mr. New son,
19 right?

20 A. Yes.

21 Q. And prior to the discovery of a vehicle of interest in this case that
22 you ended up having inventoried, right?

23 A. Yes.

24 Q. Now going back to the interviews of the -- a witness that you
25 actually saw or witnessed the shooting, there were three in particular, is that

1 fair?

2 A. There were several witnesses that saw , described different things.

3 Q. Okay. Well, what about do you recall speaking to Bruce Hall and
4 Janaie Hall?

5 A. I do.

6 Q. Okay. And do you recall speaking with Gerardo Berguino?

7 A. Gerardo Berganio, yes, I do.

8 Q. Thank you for correcting my pronunciation.

9 For purposes of your investigation, you were given different
10 descriptions of the suspect vehicle, is that fair?

11 A. Yes. There was slight conflict on the color. One described it as
12 dark, the other described it as light colored.

13 Q. Okay. And in your investigation to date, have you located a car
14 that was light colored that you felt was of interest in this investigation?

15 A. No.

16 Q. In addition to differences in description for purposes of your
17 investigation of the vehicle itself, there was at least one witness who indicated
18 that there were multiple people, is that correct, in the suspect vehicle?

19 A. I believe that was actually a presumption based on they perceive
20 the shooter entering the passenger's side of the vehicle rather than the driver's
21 side and then it speeding off, so that would -- they did not -- if I recall, I
22 don't think they actually saw a person, a third person inside the vehicle, only
23 that the shooter got inside the passenger's side.

24 Q. And not just the passenger's side but the rear passenger's side,
25 correct?

1 A. Correct.

2 Q. During the course of your investigation, did you come across the
3 fact that the decedent had a registered 9 millimeter handgun?

4 A. I did.

5 Q. And you were present for a presumptive test of what appeared to
6 be blood on a watch wristband, is that correct?

7 A. Yes.

8 Q. And you were a witness that it was presumptive for blood meaning
9 that there was indication that the substance is blood?

10 A. Yes.

11 Q. And in your training and experience that's not a test that's 100
12 percent accurate, correct?

13 A. It's presumptively positive. I don't know the exact brand name of
14 the chemical or the process. The CSI's conducted the test. I merely witnessed
15 it.

16 Q. Okay, fair enough.

17 And it's my understanding that to date the items of evidence --
18 and you've indicated all three relevant locations that could have some forensic
19 value to them -- have been submitted, is that correct?

20 A. Yes.

21 MR. BASHOR: The court's indulgence.

22 Thank you very much, Detective. No further questions.

23 THE COURT: All right. State, any follow-up?

24 MR. PORTZ: No, your Honor. Thank you.

25 THE COURT: All right, Detective, thank you for your testimony.

1 You may stand down. Please do not discuss your testimony with anyone else
2 subpoenaed to be here this morning.

3 THE WITNESS: Yes, your Honor.

4 MS. WECKERLY: Your Honor, the State won't be calling any
5 additional witnesses. I would like to make one amendment to the complaint.
6 This will be on the second page, Counsel and the Court, Count 4, line 15. We'll
7 add in -- or, the State's requesting to add in after Brandon Berger, Jr., just also
8 the name McNeil because that's how he was identified by Ms. Marshall.

9 THE COURT: All right.

10 MR. BASHOR: No objection, your Honor.

11 THE COURT: All right. That amendment will be made on page 2,
12 line 15.

13 MS. WECKERLY: And then with that, the State has no additional
14 information to present this morning and we'd reserve for rebuttal.

15 THE COURT: Very well.

16 MR. BASHOR: And, your Honor, I've spoken and my colleague has
17 spoken to Mr. Newson about his right to testify at these proceedings. Pursuant
18 to our advice and given the nature that this is a preliminary hearing, he has
19 willfully decided not to testify. With that we rest and my understanding is the
20 State has reserved for rebuttal so if I could be heard.

21 THE COURT: Sure. Mr. Newson, that is the case?

22 THE DEFENDANT: (No audible response).

23 THE COURT: Very well.

24 All right. The State has rested. The Defense has rested.

25 And, Mr. Bashor.

1 MR. BASHOR: Your Honor, I -- I certainly don't mean to be a little
2 flippant. I would like to argue Counts 3 and 4. The reason being, Judge, is
3 that we have no direct testimony, first of all, that anyone saw the shooting
4 occur with the children in the vehicle itself. Secondly, while I understand the
5 State has presented bloodstains on clothing of the children, et cetera, and the
6 car seat, et cetera, there's been no evidence to establish how or when that
7 blood particularly got there.

8 I would say that (indiscernible) have not met their burden by slight
9 or marginal evidence and would ask you to consider dismissing Counts 3 and 4.

10 THE COURT: All right.

11 MS. WECKERLY: Your Honor, just --

12 THE COURT: Thank you, Mr., Bashor.

13 MS. WECKERLY: Thank you, your Honor. Just briefly.

14 With regard to those counts, I'm sure the court's aware that our
15 burden is slight or marginal evidence at this point in the proceedings. We're
16 talking about a confined area and also a confined timing between the time that
17 Ms. McNeal indicates that she's going to be dropping off a child and that the
18 two children ultimately show up.

19 Certainly an inference can be made without eyewitness testimony
20 that these children were in the car at the time of the shooting given the
21 ballistics evidence in the car combined with the apparent blood evidence that
22 the court has heard about this morning verbally from the witnesses and also
23 from the photographs that have been introduced into evidence.

24 There's certainly enough evidence at this point in the proceedings
25 given our burden to make the conclusion or the inference that the children were

1 in the car at the time of the shooting of their mother. In addition, it's such a
2 confined space and given the blood that actually got on their clothes and their
3 car seats, the State's position is that's sufficient evidence to bind over as to
4 those two counts.

5 THE COURT: All right. Mr. New son, based upon the complaint --
6 or, the amended criminal complaint that's on file as well as the evidence and
7 witness testimony presented today, I do find slight or marginal evidence to
8 support all four counts contained within the amended criminal complaint.

9 You'll be held to answer these charges in the Eighth Judicial District
10 Court on this next date and time.

11 THE CLERK: April 11th at 10 a.m., lower-level arraignment court.

12 THE COURT: All right. Anything further?

13 MS. WECKERLY: Not on behalf of the State. Thank you, your
14 Honor.

15 MR. BASHOR: Thank you, your Honor.

16 THE COURT: I think we have all the marked exhibits.

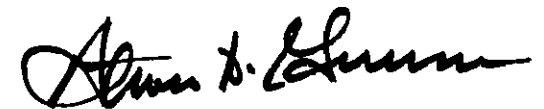
17 MS. WECKERLY: I think so. Okay, thank you.

18 THE COURT: All right.

19
20 * * * * *

21 ATTEST: I do hereby certify that I have truly and correctly transcribed the audio-
22 video recording of this proceeding in the above-entitled case to the best of my
23 ability.

24 
SHARON EULIANO
25 Court Recorder/Transcriber



CLERK OF THE COURT

1 **INFM**
2 **STEVEN B. WOLFSON**
3 **Clark County District Attorney**
4 **Nevada Bar #001565**
5 **PAMELA WECKERLY**
6 **Chief Deputy District Attorney**
7 **Nevada Bar #006163**
8 **200 Lewis Avenue**
9 **Las Vegas, Nevada 89155-2212**
10 **(702) 671-2500**
11 **Attorney for Plaintiff**

12 **I.A. 4/11/16**
13 **10:00 AM**
14 **PD**

DISTRICT COURT
CLARK COUNTY, NEVADA

15 **THE STATE OF NEVADA,**
16
17 **Plaintiff,**

18 **-vs-**

19 **VERNON NEWSON, JR.,**
20 **#1946426**

21 **Defendant.**

CASE NO: C-16-313919-1

DEPT NO: XXI

I N F O R M A T I O N

22 **STATE OF NEVADA** }
23 **COUNTY OF CLARK** } ss.

24 **STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State**
25 **of Nevada, in the name and by the authority of the State of Nevada, informs the Court:**

26 **That VERNON NEWSON, JR., the Defendant(s) above named, having committed the**
27 **crimes of MURDER WITH USE OF A DEADLY WEAPON (Category A Felony - NRS**
28 **200.010, 200.030, 193.165 - NOC 50001); OWNERSHIP OR POSSESSION OF FIREARM**
BY PROHIBITED PERSON (Category B Felony - NRS 202.360 - NOC 51460); and CHILD
ABUSE, NEGLECT, OR ENDANGERMENT (Category B Felony - NRS 200.508(1) - NOC
55226), on or about the 13th day of December, 2015, within the County of Clark, State of
Nevada, contrary to the form, force and effect of statutes in such cases made and provided,
and against the peace and dignity of the State of Nevada,

COUNT 1 - MURDER WITH USE OF A DEADLY WEAPON

did willfully, unlawfully, feloniously and with malice aforethought, kill

1 ANSHANETTE MCNEIL, a human being, with use of a deadly weapon, to-wit: a firearm, by
2 the Defendant shooting at and into the body of the said ANSHANETTE MCNEIL, the said
3 killing having been willful, deliberate and premeditated; the Defendant being criminally liable
4 under one or more of the following principles of criminal liability, to-wit: (1) by directly
5 committing this crime; and/or (2) by aiding or abetting in the commission of this crime with
6 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,
7 inducing and/or otherwise procuring the other to commit the crime.

8 COUNT 2 - OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON

9 did willfully, unlawfully, and feloniously own, or have in his possession and/or under
10 his custody or control, a firearm, the defendant being a convicted felon, having in 2009, been
11 convicted of Forgery, in Case No. C258156, in the Eighth Judicial District Court, Clark
12 County, a felony under the laws of the State of Nevada.

13 COUNT 3 – CHILD ABUSE, NEGLECT OR ENDANGERMENT


14 did willfully cause a child who is less than 18 years of age to be placed in a situation
15 where the child may suffer physical pain or mental suffering as a result of abuse or neglect, by
16 shooting at or into the body of ANSHANETTE MCNEIL, the mother of MAJOR NEWSON, a
17 child under the age of 18, while the said MAJOR NEWSON was seated next to and in close
18 proximity to ANSHANETTE MCNEIL; the Defendant being criminally liable under one or
19 more of the following principles of criminal liability, to-wit: (1) by directly committing this
20 crime; and/or (2) by aiding or abetting in the commission of this crime with the intent that this
21 crime be committed, by counseling, encouraging, hiring, commanding, inducing and/or
22 otherwise procuring the other to commit the crime..

23 COUNT 4 – CHILD ABUSE, NEGLECT OR ENDANGERMENT

24 did willfully cause a child who is less than 18 years of age to be placed in a situation
25 where the child may suffer physical pain or mental suffering as a result of abuse or neglect, by
26 shooting at or into the body of ANSHANETTE MCNEIL, the mother of BRANDON BERGER
27 JR., a child under the age of 18, while the said BRANDON BERGER JR. was seated next to
28 and in close proximity to ANSHANETTE MCNEIL; the Defendant being criminally liable

1 under one or more of the following principles of criminal liability, to-wit: (1) by directly
2 committing this crime; and/or (2) by aiding or abetting in the commission of this crime with
3 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,
4 inducing and/or otherwise procuring the other to commit the crime.

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

7 BY 
8 PAMELA WECKERLY
9 Chief Deputy District Attorney
Nevada Bar #006163

10
11
12 Names of witnesses known to the District Attorney's Office at the time of filing this
13 Information are as follows:

14 <u>NAME</u>	<u>ADDRESS</u>
15 ACUNA, RON	Investigator, CCDA's Office
16 ATKINS, TYRA	2433 St. George St., NLV, NV 89030
17 BERGER, BRANDON	4215 Pasternak Dr., LV, NV 89115
18 CUSTODIAN OF RECORDS	Clark County Fire Department Rescue #23
19 CUSTODIAN OF RECORDS	NLVPD Communications
20 CUSTODIAN OF RECORDS	Sunrise Hospital
21 FRANCIS, DANIEL	LVMPD P#8434
22 GURGUERRO, GERARDO	4336 Santa Clarita Ave., LV, NV 89115
23 HALL, BRUCE	5260 Grandmother Hat St., NLV, NV 89081
24 HALL, JANIE	5260 Grandmother Hat St., NLV, NV 89081
25 HARDER, R.	NLVPD P#1694
26 JOHNS, MATT	Investigator, CCDA's Office
27 LUBKING, M.	NLVPD P#1984
28 MARKS, D.	NLVPD P#1726

1	MARSHALL, ZARHARIA	3613 Saint Bar St., LV, NV 89115
2	NEWSON, JOSHIA	4215 Pasternak Dr., LV, NV 89115
3	OLIVEIRA, F.	NLVPD P#2413
4	OLSON, DR. ALANE	Clark County Coroner's Office
5	OWENS, BENJAMIN	NLVPD P#1173
6	RADKE, W.	NLVPD P#1915
7	SANTANA, B.	NLVPD P#2410
8	STUCKY, F.	NLVPD P#1274

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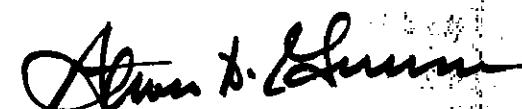
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DISTRICT COURT ADMIN

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

CLERK OF THE COURT

State of Nevada

PLAINTIFF

-VS-

Vernon Newson, Jr.

DEFENDANT

CASE NO: C-16-313919-1DEPT. NO: 21MEDIA REQUEST AND ORDER ALLOWING
CAMERA ACCESS TO COURT PROCEEDINGS* Please fax to (702) 671-4548 to ensure that
the request will be processed as quickly as possible.Guy DeMarco (name), of 8 News NOW (media organization),

hereby requests permission to broadcast, record, photograph or televise proceedings in the above-entitled case in

Dept. No. 21, the Honorable Judge Adair Presiding, on the 18 day of
August, 20 16

I hereby certify that I am familiar with, and will comply with Supreme Court Rules 229-246, inclusive. If this request is being submitted less than twenty-four (24) hours before the above-described proceedings commence, the following facts provide good cause for the Court to grant the request on such short notice:

It is further understood that any media camera pooling arrangements shall be the sole responsibility of the media and must be arranged prior to coverage, without asking for the Court to mediate disputes.

Dated this 5 day of April, 20 16SIGNATURE: PHONE: 702-792-8870

IT IS HEREBY ORDERED THAT:

☐ The media request is denied because it was submitted less than 24 hours before the scheduled proceeding was to commence, and no "good cause" has been shown to justify granting the request on shorter notice.☐ The media request is denied for the following reasons: _____☒ The media request is granted. The requested media access remains in effect for each and every hearing in the above-entitled case, at the discretion of the Court, and unless otherwise notified. This order is made in accordance with Supreme Court Rules 229-246, inclusive, at the discretion of the judge, and is subject to reconsideration upon motion of any party to the action. Media access may be revoked if it is shown that access is distracting the participants, impairing the dignity of the Court, or otherwise materially interfering with the administration of justice.☐ OTHER: _____

IT IS FURTHER ORDERED that this document shall be made a part of the record of the proceedings in this case.

Dated this 18th day of April, 20 16
DISTRICT COURT JUDGE

**EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

State of Nevada

PLAINTIFF

-VS-

Vernon Newson Jr

DEFENDANT

CASE NO: C-16-313919-1

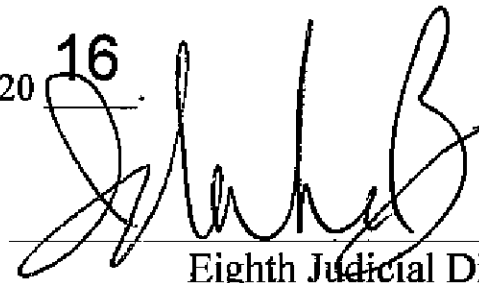
DEPT. NO: 21

**NOTIFICATION OF
MEDIA REQUEST**

TO: COUNSEL OF RECORD IN THE ABOVE-CAPTIONED CASE:

You are hereby notified pursuant to Supreme Court Rules 229-246, inclusive, that media representatives from KLAS have requested to obtain permission to broadcast, televise, record or take photographs of all hearings in this case. Any objection should be filed at least 24 hours prior to the subject hearing.

DATED this 12 day of April, 2016



Eighth Judicial District Court

CERTIFICATE OF SERVICE BY FACSIMILE TRANSMISSION

I hereby certify that on the 12 day of April, 2016, service of the foregoing was made by facsimile transmission only, pursuant to Nevada Supreme Court Rules 229-246, inclusive, this date by faxing a true and correct copy of the same to each Attorney of Record addressed as follows:

Plaintiff

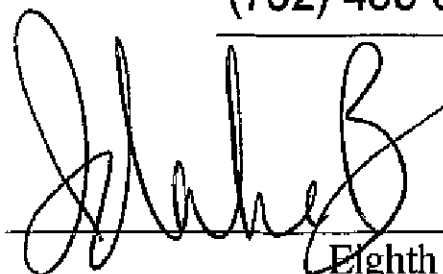
District Attorney

(702) 455-2294

Defendant

Public Defender

(702) 455-5112



Eighth Judicial District Court

RECEIVED

APR 11 2016

Electronically Filed
04/22/2016 12:28:35 PM

DISTRICT COURT ADMIN

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

Ann S. Quinn
CLERK OF THE COURT

State of Nevada

PLAINTIFF

-VS-

Vernon Newson

DEFENDANT

CASE NO: C-16-313919-1

DEPT. NO: 21

MEDIA REQUEST AND ORDER ALLOWING
CAMERA ACCESS TO COURT PROCEEDINGS

* Please fax to (702) 671-4548 to ensure that
the request will be processed as quickly as possible.

Brenda Yahn (name), of KVVU FOX (media organization),

hereby requests permission to broadcast, record, photograph or televise proceedings in the above-entitled case in

Dept. No. 21, the Honorable Judge Adair Presiding, on the 18 day of
August, 2016.

I hereby certify that I am familiar with, and will comply with Supreme Court Rules 229-246, inclusive. If this request is being
submitted less than twenty-four (24) hours before the above-described proceedings commence, the following facts provide good
cause for the Court to grant the request on such short notice:

It is further understood that any media camera pooling arrangements shall be the sole responsibility of the media and must be
arranged prior to coverage, without asking for the Court to mediate disputes.

Dated this 10 day of April, 2016.

SIGNATURE:

Brenda Yahn

PHONE: 702 436 2507

IT IS HEREBY ORDERED THAT:

[] The media request is denied because it was submitted less than 24 hours before the scheduled proceeding was to
commence, and no "good cause" has been shown to justify granting the request on shorter notice.

[] The media request is denied for the following reasons:

☒ The media request is granted. The requested media access remains in effect for each and every hearing in the above-
entitled case, at the discretion of the Court, and unless otherwise notified. This order is made in accordance with
Supreme Court Rules 229-246, inclusive, at the discretion of the judge, and is subject to reconsideration upon motion
of any party to the action. Media access may be revoked if it is shown that access is distracting the participants,
impairing the dignity of the Court, or otherwise materially interfering with the administration of justice.

[] OTHER:

IT IS FURTHER ORDERED that this document shall be made a part of the record of the proceedings in this case.

Dated this 18th day of April, 2016

Valerie Adair
DISTRICT COURT JUDGE

**EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

State of Nevada

PLAINTIFF

-VS-

Vernon Newson Jr

DEFENDANT

CASE NO: C-16-313919-1

DEPT. NO: 21

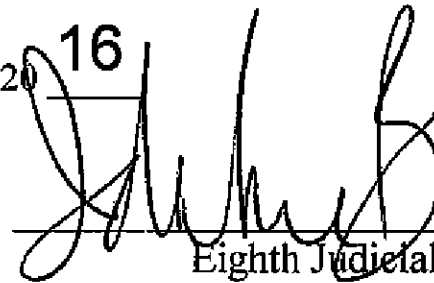
NOTIFICATION OF
MEDIA REQUEST

TO: COUNSEL OF RECORD IN THE ABOVE-CAPTIONED CASE:

You are hereby notified pursuant to Supreme Court Rules 229-246, inclusive, that media representatives from KVVU have requested to obtain permission to broadcast, televise, record or take photographs of all hearings in this case. Any objection should be filed at least 24 hours prior to the subject hearing.

DATED this 12 day of April

, 2016



Eighth Judicial District Court

CERTIFICATE OF SERVICE BY FACSIMILE TRANSMISSION

I hereby certify that on the 12 day of April, 2016, service of the foregoing was made by facsimile transmission only, pursuant to Nevada Supreme Court Rules 229-246, inclusive, this date by faxing a true and correct copy of the same to each Attorney of Record addressed as follows:

Plaintiff

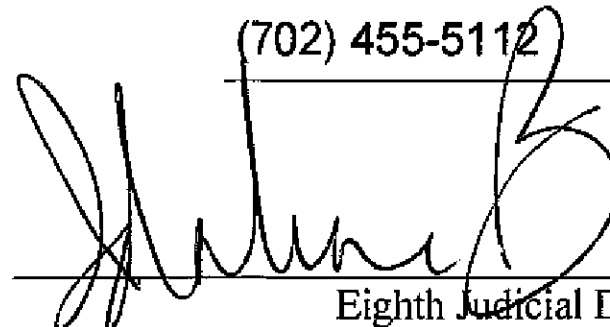
District Attorney

(702) 455-2294

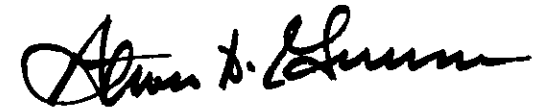
Defendant

Public Defender

(702) 455-5112



Eighth Judicial District Court



CLERK OF THE COURT

1 EPAP
2 PHILIP J. KOHN, PUBLIC DEFENDER
3 NEVADA BAR NO. 0556
4 RYAN J. BASHOR
5 Deputy Public Defender
6 Nevada Bar No. 11914
7 309 South Third Street, Suite 226
8 Las Vegas, Nevada 89155
9 (702) 455-4685
10 Attorney for Defendant

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

9 THE STATE OF NEVADA,

10 Plaintiff,

CASE NO. C-16-313919-1

DEPT. NO. XXI

12 VERNON NEWSON, JR.,

13 Defendant.

14
15 **EX PARTE APPLICATION AND ORDER TO EXTEND TIME TO FILE WRIT OF**
16 **HABEAS CORPUS**

17 Upon Ex Parte Application the above-named Defendant, by and through RYAN J.
18 BASHOR, Clark County Public Defender, and good cause appearing therefore request the
19 following:

- 20 1. I am the attorney appointed to represent the Defendant in the above-entitled case.
- 21 2. The pretrial Writ of Habeas Corpus is currently due Friday, June 10, 2016.
- 22 3. The trial is currently scheduled for August 22, 2016. The Defendant has waived his
23 right to a speedy trial.
- 24 4. The Defense needs additional time to review the Grand Jury transcript, consult with
25 the Defendant and perform legal research.
- 26 5. The prosecution does not object to an extension of time.
- 27 6. Counsel respectfully requests an extension to file the pretrial petition. That would
28 make the petition due on **Friday, June 24, 2016.**

1
2 7. This application is made in good faith and not for the purpose of delay or any other
3 dilatory reason.

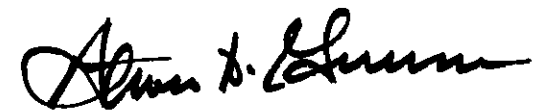
4 DATED this 9th day of June, 2016.

5
6 Submitted by:

7 PHILIP J. KOHN
8 CLARK COUNTY PUBLIC DEFENDER

9
10 By  _____

11 RYAN J. PASHOR, #11914
12 Deputy Public Defender
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CLERK OF THE COURT

1 ORDR
2 PHILIP J. KOHN, PUBLIC DEFENDER
3 NEVADA BAR NO. 0556
4 RYAN J. BASHOR
5 Deputy Public Defender
6 Nevada Bar No. 11914
7 309 South Third Street, Suite 226
8 Las Vegas, Nevada 89155
9 (702) 455-4685
10 Attorney for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

11 THE STATE OF NEVADA,

12 Plaintiff,

CASE NO. C-16-313919-1

DEPT. NO. XXI

13 VERNON NEWSON, JR.,


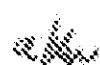
14 Defendant.

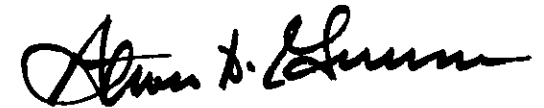
ORDER

15 Based on the attached Application and good cause appearing, the deadline for filing a pretrial
16 Petition for Writ of Habeas Corpus currently due June 10, 2016, be extended to June 24, 2016

17
18 DATED 16th day of June, 2016.

19
20 IT IS SO ORDERED

21
22 
23 DISTRICT COURT JUDGE 



CLERK OF THE COURT

0026
PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
RYAN J. BASHOR, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 11914
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
Attorneys for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

v.

VERNON NEWSON JR.,

Defendant,

CASE NO. C-16-313919-1

DEPT. NO. XXI

DATE: August 18, 2016
TIME: 9:30 a.m.

MOTION TO CONTINUE TRIAL DATE

COMES NOW the Defendant, VERNON NEWSON JR., by and through his attorneys, RYAN J. BASHOR, ESQ. and KAMBIZ SHAYGAN-FATEMI, ESQ., Deputy Public Defenders, and respectfully moves this court for an order vacating the August 22, 2016 trial date and requesting a new trial setting on a date convenient to the court.

This Motion is made based upon all the papers and pleadings on file herein, the attached Declaration of Counsel, Memorandum of Points and Authorities in support hereof, and oral argument at the time set for hearing this Motion.

DATED this 26th day of July, 2016.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By 
RYAN J. BASHOR, #11914
Deputy Public Defender

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DECLARATION

RYAN J. BASHOR makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; I am the Deputy Public Defender assigned to represent the Defendant in the instant matter, and I am familiar with the facts and circumstances of this case.

2. That on April 11, 2016 the Defendant was arraigned on an Indictment which charged him with among other crimes, Open Murder with Use of a Deadly Weapon. Defendant waived his right to be brought to trial within the statutory 60 days.

3. That the crime in which the Defendant is charged carries the possible punishment of life in prison without the possibility of parole. The crime, should he be convicted, requires a penalty hearing in front of the empaneled jury.

4. That the defense is continuing to conduct crucial investigation and is in the process of gathering mitigation material.

5. That on July 25, 2016, defense contacted the State to inform them of the instant motion and inquired whether they had an objection.

6. That the State has no objection to the instant Motion to Continue Trial.

7. That this motion is not made for the purposes of undue delay.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

EXECUTED this 26th day of July, 2016.



RYAN J. BASHOR

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NOTICE OF MOTION

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the foregoing MOTION TO CONTINUE TRIAL DATE will be heard on August 18, 2016, at 9:30 a.m. in District Court, Department XXI.

DATED this 26th day of July, 2016.

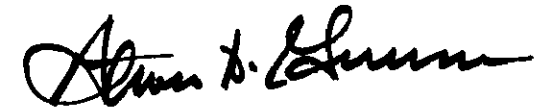
PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: 
RYAN J. BASHOR, #11914
Deputy Public Defender

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that service of the above and forgoing MOTION was served via electronic e-filing to the Clark County District Attorney's Office at motions@clarkcountydak.com on this 26th day of July, 2016

By: /s/ Ryan J. Bashor - PD
An employee of the
Clark County Public Defender's Office



CLERK OF THE COURT

0026
PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
RYAN J. BASHOR, CHIEF DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 11914
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
Attorneys for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

v.

VERNON NEWSON JR.,

Defendant,

CASE NO. C-16-313919-1

DEPT. NO. XXI

DATE: March 9, 2017
TIME: 9:30 a.m.

MOTION TO CONTINUE TRIAL DATE

COMES NOW the Defendant, VERNON NEWSON JR., by and through his attorney, RYAN J. BASHOR, Deputy Public Defender, and respectfully moves this court for an order vacating the March 23, 2017 trial date and requesting a new trial setting on a date convenient to the court.

This Motion is made based upon all the papers and pleadings on file herein, the attached Declaration of Counsel, Memorandum of Points and Authorities in support hereof, and oral argument at the time set for hearing this Motion.

DATED this 20th day of February, 2017.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By



RYAN J. BASHOR, #11914
Chief Deputy Public Defender

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DECLARATION

RYAN J. BASHOR makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; I am the Deputy Public Defender assigned to represent the Defendant in the instant matter, and I am familiar with the facts and circumstances of this case.

2. That investigation and mitigation gathering remain outstanding.

3. That defense counsel is beginning a death penalty case in Department XII on March 6, 2017 with an unknown length.

4. That the State has been contacted and has no objection to the instant motion.

5. That the instant motion was placed on calendar in advance of calendar call to apprise his Honorable Court of defense counsel's availability at the soonest possible time.

6. That the Defendant has been consulted and is aware of the need to continue the trial.

7. That this motion is not made for the purpose of unnecessary delay and is made with good cause.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

EXECUTED this 20th day of February, 2017.




RYAN J. BASHOR

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YOU WILL PLEASE TAKE NOTICE that the foregoing MOTION TO CONTINUE TRIAL DATE will be heard on March 9, 2017, at 9:30 a.m. in District Court, Department XXI.

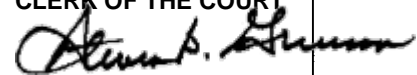
PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: 

 RYAN J. BASHOR, #11914
 Chief Deputy Public Defender

I hereby certify that service of the above and forgoing MOTION was served via electronic e-filing to the Clark County District Attorney's Office at motions@clarkcountydade.com on this 21st day of February, 2017.

113



0026
PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
RYAN J. BASHOR, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 11914
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

v.

VERNON NEWSON,

Defendant,

CASE NO. C-16-313919-1

DEPT. NO. XXI

DATE: October 12, 2017
TIME: 9:30 a.m.

MOTION TO CONTINUE TRIAL DATE

COMES NOW the Defendant, VERNON NEWSON JR., by and through his attorney, RYAN J. BASHOR, Deputy Public Defender, and respectfully moves this court for an order vacating the October 23, 2017 trial date and requesting a new trial setting on a date convenient to the court.

This Motion is made based upon all the papers and pleadings on file herein, the attached Declaration of Counsel, Memorandum of Points and Authorities in support hereof, and oral argument at the time set for hearing this Motion.

DATED this 28th day of September, 2017.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By 

RYAN J. BASHOR, #11914
Deputy Public Defender

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DECLARATION

RYAN J. BASHOR makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; I am the Deputy Public Defender assigned to represent the Defendant in the instant matter, and I am familiar with the facts and circumstances of this case.

2. That defense counsel will be in trial from October 11, 2017 to at least October 20, 2017 in State v. Randal McCray in Department XX (C-17-320548-1 -- Murder with Use of a Deadly Weapon).

3. That defense counsel has utilized the time preceding that case and obviously, during the trial of that case, to prepare/defend Mr. McCray.

4. That mitigate and investigation continue in the instant matter.

5. That attempts to negotiate the instant matter have been initiated.

6. That the State has been contacted and while they would have been prepared to proceed in the instant case, they have no objection to the continuance of this trial date.

7. That Mr. Newson has been contacted and understands the need to continue the trial and is willing to accommodate defense counsel.

8. That the instant motion is not made for purpose of unnecessary or undue delay.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

EXECUTED this 28th day of September, 2017.



RYAN J. BASHOR

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NOTICE OF MOTION

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the foregoing MOTION TO
CONTINUE TRIAL DATE will be heard on October 12, 2017, at 9:30 a.m. in District Court,
Department XXI.


DATED this 28th day of September, 2017.

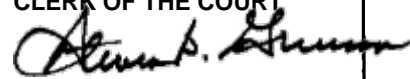
PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: 
RYAN J. BASHOR, #11914
Deputy Public Defender

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that service of the above and forgoing MOTION was served via
electronic e-filing to the Clark County District Attorney's Office at motions@clarkcounttyda.com
on this 28th day of September, 2017

By: 
An employee of the
Clark County Public Defender's Office



NWEW
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
PAMELA WECKERLY
Chief Deputy District Attorney
Nevada Bar #6163
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

VERNON NEWSON, JR.,
#1946426

Defendant.

CASE NO: C-16-313919-1

DEPT NO: XXI

STATE'S NOTICE OF EXPERT WITNESSES
[NRS 174.234(2)]

TO: VERNON NEWSON, JR., Defendant; and

TO: RYAN BASHOR, Deputy Public Defender, Counsel of Record:

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

FISHER, PATRICK – NLVPD P#1647 (or designee): Expert in the area of crime
scene analysis and will give opinions related thereto. He is expected to testify regarding the
processing of the various crime scenes in this case, as well as the collection and preservation
of evidence.

GARCIA, ERIC – NLVPD #1182 (or designee): Expert in the identification,
documentation, collection and preservation of evidence, including crime scene analysis and is
expected to testify as an expert to the identification, documentation, collection and
preservation of evidence in this case.