

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA, IN
AND FOR THE COUNTY OF CLARK,
AND THE HONORABLE KERRY EARLY,
DISTRICT JUDGE

Respondents,

and

AARON WILLARD FRYE,
Real Party in Interest.

Electronically Filed
Jul 10 2018 08:19 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

CASE NO:

D.C. NO: C-18-331986-1

PETITIONER'S APPENDIX

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CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on July 9th, 2018. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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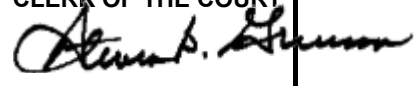
I further certify that service of the above and foregoing was made this 9th day of July, 2018, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

JUDGE KERRY EARLY
Eighth Judicial District Court, Dept. IV
Regional Justice Center, 16th Floor
200 Lewis Avenue
Las Vegas, Nevada 89101

BY /s/ J. Garcia
Employee, District Attorney's Office

KDB/Elizabeth Mercer/jg

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CLERK OF THE COURT



EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

BEFORE THE GRAND JURY IMPANELED BY THE AFORESAID
DISTRICT COURT

THE STATE OF NEVADA,)	
)	
Plaintiff,)	
)	
vs.)	GJ Case No. 17CGJ052X
)	DC Case No. C331986
AARON FRYE, aka Aaron Willard)	
Frye,)	
)	
)	
Defendant.)	

Taken at Las Vegas, Nevada
Thursday, May 10, 2018
10:31 a.m.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Reported by: Donna J. McCord, C.C.R. No. 337

1 GRAND JURORS PRESENT ON MAY 10, 2018:

2

3 PATTI HAYDEN, Foreperson

4 KEITH NELSON, Deputy Foreperson

5 JODI SHERROD, Secretary

6 GAIL ALCALAY, Assistant Secretary

7 MYRL-LEE BOYDEN

8 TAMA CLARK

9 ARTHUR ELLIOTT

10 CARLTON FOGG

11 TIM GRISWOLD

12 VERNA HALL

13 MARCUS KNICKERBOCKER

14 MARCIA LUKES

15 OLGA LYLES

16 SHELLEY MYSZ

17 SCOTT SEXTON

18 SHIRLEY RITZ

19

20

21

22 Also present at the request of the Grand Jury:

23 Elizabeth Mercer,
23 Chief Deputy District Attorney

24 Nima Afshar
24 Deputy District Attorney

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1 LAS VEGAS, NEVADA, MAY 10, 2018

2 * * * * *

3
4 DONNA J. McCORD,

5 having been first duly sworn to faithfully
6 and accurately transcribe the following
7 proceedings to the best of her ability.
8

9 MS. MERCER: Good morning, ladies and
10 gentlemen. My name is Chief Deputy District Attorney
11 Elizabeth Mercer. I'm here with Deputy District
12 Attorney Nima Afshar. We are presenting State of Nevada
13 versus Aaron Frye which is Grand Jury case number
14 17CGJ052X. The record should reflect that a copy of the
15 proposed Indictment has been marked as Grand Jury
16 Exhibit Number 1. And additionally I have marked the
17 instructions pertaining to the offenses charged in that
18 Indictment as Grand Jury Exhibit Number 2. I would just
19 ask that you all review those instructions before you
20 deliberate and let myself or Miss Afshar know if you
21 have any questions. We do have several witnesses today
22 but most of them will be pretty short. The first
23 witness is going to be Roland Miguel.

24 You're just going to stand in front of the
25 table and they're going to swear you in.

1 THE FOREPERSON: Please raise your right
2 hand.

3 You do solemnly swear that the testimony
4 that you're about to give upon the investigation now
5 pending before this Grand Jury shall be the truth, the
6 whole truth, and nothing but the truth, so help you God?

7 THE WITNESS: Yes.

8 THE FOREPERSON: Please be seated.

9 You're advised that you're here today to
10 give testimony in the investigation pertaining to the
11 offenses of burglary while in possession of a firearm,
12 robbery with use of a deadly weapon, carrying concealed
13 firearm or other deadly weapon, ownership or possession
14 of firearm by prohibited person involving Aaron Frye.

15 Do you understand this advisement?

16 THE WITNESS: Yes.

17 THE FOREPERSON: Please state your first
18 and last name and spell both slowly for the record.

19 THE WITNESS: Yes. Roland Miguel,
20 R-O-L-A-N-D, Miguel, M-I-G-U-E-L.

21

22 ROLAND MIGUEL,

23 having been first duly sworn by the Foreperson of the
24 Grand Jury to testify to the truth, the whole truth
25 and nothing but the truth, testified as follows:

EXAMINATION

BY MS. MERCER:

Q Good morning, sir. I want to direct your attention to April 11th of 2018. On that date where were you employed?

A Clark County Credit Union.

Q In what capacity? What were your job duties?

A Oh, it's considered an MSR which is a member service rep, but basically I was on the teller line doing teller duties.

Q Okay. So if somebody went into the bank to cash a check they would see you, correct?

A Correct.

Q And which location were you working at?

A Sunset branch, 9311 West Sunset Road.

Q Is that here in Las Vegas, Clark County, Nevada?

A Correct.

Q How late is your branch typically open?

A 5:00 o'clock.

Q Just prior to 5:00 p.m. on April 11th of 2018, did something happen at your business that caused you to come into contact with the police?

A Yes, a gentleman came in and basically came

1 to the window and demanded money.

2 Q He came to your window?

3 A I was the first contact, yes, correct.

4 Q And which window were you working that
5 evening?

6 A I was, if you are walking into the branch,
7 second from the right.

8 Q Was anyone at the first window at the time?

9 A At that moment, no.

10 Q Do you have a co-worker named Maryann?

11 A I have a co-worker named Maryann, yes.

12 Q Was she working that window that day?

13 A She was working that window that day but at
14 that time she was in the vault closing it up since we
15 were closing in like a minute or two.

16 Q And is Maryann's last name Valdez?

17 A Yes.

18 Q You said that she was at the vault at the
19 time?

20 A Yeah, in the vault area.

21 Q When he approached you or when you first
22 saw him walk in did you see any weapons in his hands?

23 A No, no. I called him over as if I was
24 assisting a regular member. I was just honestly trying
25 to get the transaction done so I can go home and watch

1 the playoffs.

2 Q You said he demanded money?

3 A Yes, he said give me all your hundreds and
4 fifties. Initially I was shocked because I'm pretty
5 laid back as is so when he said that I was, it's kind of
6 slang, but I was like, oh, for real, like things like
7 that, and then that's when he pulled up his shirt and
8 actually pulled out the gun. And then he said, yeah,
9 I'm serious type of thing.

10 Q What did the gun look like?

11 A It's more like a police officer's gun, not
12 with the little revolver type but like a --

13 Q So it was an semiautomatic firearm?

14 A Yes.

15 Q What color was it?

16 A It was darker. I want to say maybe black.
17 It's a dark gun, dark-colored gun.

18 Q Once he pulled the firearm out and
19 confirmed that he was serious, what happened at that
20 point?

21 A At that point I was telling him that I have
22 nothing for him, I have nothing -- because we use little
23 automated machines where it dispenses out the cash but
24 we're so late into the day that I've dispensed all my
25 cash or I already put all my cash into that machine to

1 where all I had left was the bait money and I wasn't
2 going to give that out unless I was instructed to.

3 Q What is bait money?

4 A Bait money is just anytime when we have a
5 situation like this and they do end up taking that
6 money, there's various types of bait money but in ours
7 for Clark County Credit Union we have it, with the
8 serial numbers we already have it premade on a piece of
9 paper or on a document showing what bills are the bait
10 money.

11 Q So you record the serial numbers on those
12 bills?

13 A Correct.

14 Q So they can be traced later?

15 A Yes, if a situation like this were to
16 happen.

17 Q So you explained to him you don't have any
18 cash?

19 A Yes.

20 Q That you've already put it into your
21 automated machine?

22 A Correct.

23 Q And then at that point what did he do?

24 A At that point he grew a little more
25 aggravated so he moved onto windows three and four to

1 see what they had.

2 Q Who was working those windows?

3 A Window three you had Mandy-Lynn and then
4 window four you had Rochelle.

5 Q And is Mandy-Lynn's last name Suyat?

6 A Yes.

7 Q S-U-Y-A-T?

8 A Uh-huh. Correct.

9 Q And Rochelle's last name is D-U-M-L-A-O?

10 A Yes.

11 Q Okay. Was he able to get any money from
12 them at that point?

13 A At that point, no. Honestly those two took
14 a step back. You can see they were a little shook as
15 well, also pleading that there's no money. And then at
16 that point that's where Maryann came out from the vault
17 area and was trying to explain to the gentleman same
18 thing, like we don't have any money, we don't have any
19 cash, we have these machines. Things are posted
20 everywhere saying that it's all in the machine so we
21 have nothing to just give out, yet he still grew more
22 aggravated because they were just going back and forth
23 to the point where Maryann basically just wanted him to
24 get out and said, hey, just give out the money, which
25 all we had left was the bait.

1 Q And so did you provide him with your bait
2 money?

3 A Yeah.

4 Q Did you put it on the counter and he picked
5 it up, how did that work?

6 A At that point I was a little ticked off too
7 because he's actually getting away with some money, so I
8 threw it on the counter and then he eventually swiped it
9 up.

10 Q And did he also get money from windows
11 three and four?

12 A Yes, so he got windows -- he got all our
13 windows.

14 Q All of the bait money?

15 A Yeah.

16 Q Did each station have a certain amount of
17 bait money?

18 A So each station has \$200, all twenties.

19 Q And did he also get money from Maryann's
20 station?

21 A Maryann, yes. It was in a bag. I don't
22 know if the money was in the bag or if it was separate
23 from the actual bag that she gave him.

24 Q But you saw her hand over a bag?

25 A Yes, uh-huh. Correct.

1 Q Okay. Once he had all the money what did
2 he do?

3 A Once he had all the money he stormed off.
4 That's when he basically pushed the door pretty loud.
5 That's when the assistant manager finally was like, oh,
6 what happened, and that's when we said, hey, we got
7 robbed, call the police, call who we need to call.

8 Q Call the police and call who?

9 A Who we need to call like our superiors, our
10 branch manager, our VP, HR to let them know what
11 happened?

12 Q Okay. And did the police respond while you
13 were still on the scene?

14 A Yes.

15 Q Did you speak to a detective at some point?

16 A Yes, Parra.

17 Q Detective Joe Parra?

18 A Parra, yeah.

19 Q Was that interviewed recorded?

20 A Yes.

21 Q During that interview did you provide a
22 description of the suspect to him?

23 A Correct, yes.

24 Q What description did you provide him?

25 A He was shorter, I want to say five-four to

1 five-six, may be skewed because I'm a little taller so
2 everyone's a little shorter to me but that's what I was
3 looking at. He was a little stocky so I'm looking at
4 150 to 160. I distinctly remember him wearing that
5 Arizona Cardinal's black hat with a red bill, still had
6 tags on it. He had that white short-sleeve button-down
7 shirt as well as black pants and black shoes.

8 Q Okay. And then a few days later were you
9 contacted by another detective, I guess it was the
10 following day, a detective by the name of Detective
11 Pandullo?

12 A Correct, yes. He contacted me. He met me
13 at my house.

14 Q And was the purpose of that contact what's
15 referred to as a photo line-up with you?

16 A Correct.

17 Q I'm showing you Grand Jury Exhibit
18 Number 5. Do you recognize this?

19 A Yes.

20 Q Is this the photo line-up?

21 A Yes.

22 Q And it's two pages?

23 A Correct.

24 Q Before he showed you the photos on the
25 second page, did he review these instructions with you

1 at the top of the photo line-up witness instructions?

2 A Yes.

3 Q And did you sign acknowledging that you
4 received those instructions and understood them?

5 A Yes.

6 Q And then you viewed the photos, correct?

7 A Correct.

8 Q Did you circle a photo?

9 A Yes.

10 Q Which photo?

11 A Number two.

12 Q And is that your signature on the line?

13 A Correct?

14 Q Number two?

15 A Yes.

16 Q After viewing the photos did you then
17 complete the statement on the first page?

18 A Yes.

19 Q What does the statement say?

20 A I chose number two because after seeing the
21 rest of the line-up he stood out. His facial features
22 and his skin tone resemble a hundred percent to the
23 suspect yesterday. In yesterday's robbery he wasn't
24 wearing glasses but it was easy still to identify him
25 with glasses.

1 Q Okay. And so in the photo line-up that you
2 were shown he was wearing glasses?

3 A Yes.

4 Q Showing you page 2. And you picked the
5 person in the number two position, correct?

6 A Correct.

7 Q And then after you completed that statement
8 that you wrote on the first page down here at the bottom
9 you also signed underneath there, correct?

10 A Yes.

11 Q Is your branch equipped with surveillance?

12 A Yes.

13 Q I'm going to ask you to look at Grand Jury
14 Exhibits 6 through 8 for me. Do you recognize what's
15 depicted in those exhibits?

16 A Yes.

17 Q Are these still photographs taken from the
18 surveillance video of this incident?

19 A Yes.

20 Q I'm going to publish them on the overhead
21 so that the Grand Jurors can see what we're talking
22 about. Grand Jury Exhibit Number 6 is him as he's
23 entering your business, correct?

24 A Correct.

25 Q And Grand Jury Exhibit Number 7 is him at

1 one of the teller stations?

2 A Yes. Looks like Rochelle's station.

3 Q And you can see a firearm in his right
4 hand?

5 A Correct.

6 Q And it appears black in color or dark gray?

7 A Yes.

8 Q And then showing you Grand Jury Exhibit
9 Number 8, is this a photo of him as he's leaving the
10 business?

11 A Yes.

12 Q And he's wearing an Arizona Cardinal's hat
13 with the Cardinal's symbol on the front and a red bill?

14 A Yes.

15 Q Is this the sticker that you were referring
16 to as having --

17 A Yes.

18 Q -- the tag being on it?

19 A Yes.

20 Q Okay. And he's also wearing the clothing
21 that you previously described, correct?

22 A Uh-huh.

23 Q The white button-up shirt and black jeans?

24 A Yes.

25 Q When he exited were you able to see which

1 direction he went?

2 A He went on foot, I guess exiting the branch
3 it would be to the left, but not much after that. It
4 was just kind of a, like a frantic type of thing.

5 Q Just to be clear, he departed the property
6 with everybody's bait money and the bag that Maryann
7 provided him? In other words, he didn't hand it back?

8 A Oh, yeah, no, he definitely did not hand it
9 back.

10 Q Okay.

11 Do any of the Grand Jurors have any
12 questions for this witness?

13 BY A JUROR:

14 Q In the picture where he's exiting you said
15 money was in a bag. He didn't have a bag in his hand.
16 Did he shove it in his pockets?

17 A He was walking away already so I wouldn't
18 know.

19 Q And also doesn't your bank have a silent
20 alarm? While you were distracted why couldn't you have
21 hit the silent alarm?

22 A Honestly we have ones that are portable so
23 I was looking for it, I just couldn't find it. The next
24 day I was looking for it and it was behind the tape
25 dispenser. So, yeah, I was pretty mad that night trying

1 to look for it.

2 THE FOREPERSON: By law these proceedings
3 are secret and you are prohibited from disclosing to
4 anyone anything that transpired before us including any
5 evidence presented to the Grand Jury, any event
6 occurring or a statement made in the presence of the
7 Grand Jury or any information obtained by the Grand
8 Jury.

9 Failure to comply with this admonition is a
10 gross misdemeanor punishable up to 364 days in the Clark
11 County Detention Center and a \$2,000 fine. In addition
12 you may be held in contempt of court punishable by an
13 additional \$500 fine and 25 days in the Clark County
14 Detention Center.

15 Do you understand this admonition?

16 THE WITNESS: Yes.

17 THE FOREPERSON: Thank you. You're
18 excused.

19 THE WITNESS: Thank you.

20 MS. MERCER: Thank you, sir.

21 THE WITNESS: Thank you.

22 MS. MERCER: State's next witness is going
23 to be Maryann Valdez.

24 Just stand in front of this table while
25 they swear you in.

1 THE FOREPERSON: Please raise your right
2 hand.

3 You do solemnly swear that the testimony
4 that you're about to give upon the investigation now
5 pending before this Grand Jury shall be the truth, the
6 whole truth, and nothing but the truth, so help you God?

7 THE WITNESS: Yes.

8 THE FOREPERSON: Please be seated.

9 You're advised that you're here today to
10 give testimony in the investigation pertaining to the
11 offenses of burglary while in possession of a firearm,
12 robbery with use of a deadly weapon, carrying concealed
13 firearm or other deadly weapon, ownership or possession
14 of firearm by prohibited person involving Aaron Frye.

15 Do you understand this advisement?

16 THE WITNESS: Yes.

17 THE FOREPERSON: Please state your first
18 and last name and spell both slowly for the record.

19 THE WITNESS: Maryann Valdez,
20 M-A-R-Y-A-N-N, last name Valdez, V-A-L-D-E-Z.

21

22 MARYANN VALDEZ,

23 having been first duly sworn by the Foreperson of the
24 Grand Jury to testify to the truth, the whole truth
25 and nothing but the truth, testified as follows:

EXAMINATION

BY MS. MERCER:

Q Ma'am, I want to direct your attention to April 11th of 2018. On that date were you working at the Clark County Credit Union?

A Yes.

Q As a teller?

A Yes.

Q And was that the location at 9311 West Sunset Road?

A Yes.

Q Were you working the first window?

A Yes.

Q And just prior to 5:00 p.m. you were in the vault, correct?

A Correct.

Q What were you doing back there?

A Getting ready to close so I was finishing balancing and --

Q I'm sorry, you were finishing balancing and what?

A And putting our sensitive information away.

Q Okay. And when you came out from the vault area back to where the windows would be what did you observe happening?

1 A I saw the gentleman pointing the gun at our
2 other teller.

3 Q Which teller?

4 A Her name was Rochelle.

5 Q Okay. What was Rochelle doing?

6 A Rochelle was just standing there staring at
7 him.

8 Q What did you do at that point?

9 A I came up behind her and I told him that we
10 don't keep hundreds in our drawer, we don't have any
11 money for him, and he just kept pointing it and
12 demanding money. So I just told her to give him
13 whatever she had because I knew that she had bait in her
14 drawer so I said just give him whatever you have and
15 then she proceeded to give him her bait.

16 Q And how much money did she have in her bait
17 money?

18 A Two hundred dollars in twenties.

19 Q Was everybody's bait money in \$20
20 denominations?

21 A Yes.

22 Q And did each teller have \$200 in bait
23 money?

24 A Yes.

25 Q When you told Rochelle to give him the bait

1 money, did he then move on to other employees and get
2 their bait money as well?

3 A Yeah. Then he proceeded to point the gun
4 at each of us and told us to give him everything that we
5 had.

6 Q And then when he got to you and asked for
7 your bait money what happened?

8 A My bait money was in my bank bag in the
9 drawer since I was getting ready to close so I went to
10 open up my bank bag to give him the bait money and he
11 said just give me that bag so I gave him what I had in
12 the bag.

13 Q What else was in the bag?

14 A I had some two dollar bills, some unfit and
15 coin.

16 Q You said unfit --

17 A Unfit or mutilated bills.

18 Q Okay. Meaning what?

19 A Money that we don't give back to members.
20 It's been written on or ripped.

21 Q You also said that you gave him coin?

22 A Uh-huh.

23 Q What kind of coins?

24 A Dollar coins.

25 Q How many were in the bag, do you recall?

1 A There were ten.

2 Q Okay. Did he ever ask you about the
3 contents of the vault?

4 A No.

5 Q Once he had everyone's bait money what
6 happened?

7 A Then he left.

8 Q Did you see which direction he headed?

9 A No, I just -- the way the branch is set up
10 I didn't see him go out the door.

11 Q Okay.

12 I don't believe I have any additional
13 questions for this witness. Do any of the Grand Jurors
14 have any questions for her?

15 THE FOREPERSON: By law these proceedings
16 are secret and you are prohibited from disclosing to
17 anyone anything that transpired before us including any
18 evidence presented to the Grand Jury, any event
19 occurring or a statement made in the presence of the
20 Grand Jury or any information obtained by the Grand
21 Jury.

22 Failure to comply with this admonition is a
23 gross misdemeanor punishable up to 364 days in the Clark
24 County Detention Center and a \$2,000 fine. In addition
25 you may be held in contempt of court punishable by an

1 additional \$500 fine and 25 days in the Clark County
2 Detention Center.

3 Do you understand this admonition?

4 THE WITNESS: Yes.

5 THE FOREPERSON: Thank you. You're
6 excused.

7 MS. MERCER: And the State's next witness
8 is Detective Ted Weirauch.

9 THE FOREPERSON: Please raise your right
10 hand.

11 You do solemnly swear that the testimony
12 that you're about to give upon the investigation now
13 pending before this Grand Jury shall be the truth, the
14 whole truth, and nothing but the truth, so help you God?

15 THE WITNESS: Yes, I do.

16 THE FOREPERSON: Please be seated.

17 You're advised that you're here today to
18 give testimony in the investigation pertaining to the
19 offenses of burglary while in possession of a firearm,
20 robbery with use of a deadly weapon, carrying concealed
21 firearm or other deadly weapon, ownership or possession
22 of firearm by prohibited person involving Aaron Frye.

23 Do you understand this advisement?

24 THE WITNESS: Yes, I do.

25 THE FOREPERSON: Please state your first

1 and last name and spell both slowly for the record.

2 THE WITNESS: My name is Theodore,
3 T-H-E-O-D-O-R-E, my last name is Weirauch,
4 W-E-I-R-A-U-C-H.

5
6 THEODORE WEIRAUCH,
7 having been first duly sworn by the Foreperson of the
8 Grand Jury to testify to the truth, the whole truth
9 and nothing but the truth, testified as follows:

10
11 EXAMINATION

12 BY MS. MERCER:

13 Q Sir, where are you currently employed?

14 A With the Las Vegas Metropolitan Police
15 Department as a robbery detective.

16 Q How long have you been assigned to the
17 robbery unit?

18 A Almost ten years.

19 Q And prior to being assigned to the robbery
20 unit where else did you work within Metro?

21 A I worked in patrol in southeast area
22 command.

23 Q For how many years?

24 A Six years.

25 Q So in total you've been with Metro for

1 approximately 17 years?

2 A That's true.

3 Q Okay. I want to direct your attention to
4 April 11th of 2018. On that date were you requested to
5 respond to a robbery that occurred at the Clark County
6 Credit Union on West Sunset Road?

7 A Yes, I was.

8 Q Did other detectives from your unit respond
9 with you?

10 A Yes, they did.

11 Q Which detectives?

12 A Detective Joe Parra.

13 Q And you actually entered the establishment,
14 correct?

15 A Yes.

16 Q When you were inside did you learn that the
17 business had surveillance?

18 A Yes, I did.

19 Q Surveillance equipment. And did you
20 request that surveillance equipment or the surveillance
21 video?

22 A Yes, I did.

23 Q I'm showing you Grand Jury Exhibits 6
24 through 8. Do you recognize those as stills from the
25 robbery?

1 A Yes, they are.

2 Q While you were at the business did you
3 notice that there were other businesses in the area that
4 could potentially have surveillance?

5 A Yes.

6 Q And did you request another detective in
7 your unit, Detective Hubbard, to obtain that
8 surveillance video?

9 A Yes, I did.

10 Q Where was the video obtained from?

11 A There was an office complex just west of
12 the bank and it had cameras mounted on top.

13 Q When you obtained that video did you watch
14 the video from the nearby businesses?

15 A I got still photos from Detective Hubbard.

16 Q Okay. And I'm showing you Grand Jury
17 Exhibits 9, 10, 11, 12 and 13.

18 A Yes.

19 Q With regards to Grand Jury Exhibit
20 Number 13, is this a still photo from that surveillance
21 video that Detective Hubbard provided to you?

22 A Yes, it is.

23 Q And he provided it to you why?

24 A In an attempt to see if the suspect fled in
25 a vehicle or to trace the suspect's direction of travel

1 after he left the bank.

2 Q In the video did the suspect arrive and
3 depart in this vehicle?

4 A Yes, he did.

5 Q And were you all able to get a license
6 plate number off of that?

7 A Yes.

8 Q When you're watching the actual video it's
9 clearer than this still photograph that is a little bit
10 pixelated, correct?

11 A That is correct.

12 Q And then you indicated that it was from the
13 business to the west of the bank?

14 A Yes.

15 Q Showing you what's been marked as Grand
16 Jury Exhibit Number 9, where is this located?

17 A So a camera sits on top of the building and
18 the building is to the west of the bank and it's
19 pointing into a parking lot that is west of that
20 building next to a Maverick gas station. There's an
21 alleyway that runs behind the Maverick gas station.

22 Q And does this appear to be the suspect
23 after he just parked the car?

24 A Yes.

25 Q Showing you Grand Jury Exhibit 10, where is

1 this?

2 A So when the suspect leaves the car he walks
3 northbound through that alleyway, gets onto the street
4 and now he's walking eastbound towards the bank through
5 the parking lot. He's up there by the big silver
6 RV-looking van.

7 Q Right here?

8 A Yeah.

9 Q And then that's as he's walking to the
10 bank?

11 A That's correct.

12 Q Showing you Grand Jury Exhibit 11, does
13 this appear to be a still image of him running away from
14 the bank after the robbery?

15 A Yes.

16 Q And then showing you Grand Jury Exhibit 12,
17 is this a still image with timestamp 1644:10 where he is
18 running back to that yellow sports car?

19 A Yes.

20 Q Was Detective Pandullo working with you on
21 this case as well?

22 A The next day he was working and did some
23 follow-up investigation on it.

24 Q And that follow-up investigation was with
25 regards to that vehicle, correct?

1 A That's correct.

2 Q Did he give you a potential suspect's name
3 of Aaron Frye?

4 A Yes, he did.

5 Q And when you obtained that name from him,
6 what did you do to try to confirm whether or not that
7 suspect matched the description of the suspect in your
8 robbery?

9 A I did some research on Aaron Frye, found a
10 photograph of him and compared his height and weight to
11 that of the suspect's.

12 Q Showing you Grand Jury Exhibit Number 3,
13 who is that?

14 A That's Aaron Frye.

15 Q When you pulled up that photograph and
16 looked at his physical descriptors and compared it to
17 the suspect's descriptors in your case did they appear
18 to match?

19 A Yes.

20 Q And the physical descriptors that you got
21 with regards to your robbery, where did those come from?

22 A I spoke with some of the victims the day of
23 the robbery.

24 Q And did Detective Parra also speak with
25 some of them?

1 A Yes, he did.

2 Q And did you review the video as well?

3 A Yes.

4 Q And Aaron Frye is approximately five feet
5 seven inches?

6 A Yes.

7 Q With a weight of 135 pounds, correct?

8 A I would say slightly heavier than 135 but
9 yeah.

10 Q Okay. At some point did you have occasion
11 to interview the defendant in this case after he was
12 arrested?

13 A Yes, I did.

14 Q And do you recall what date he was arrested
15 on?

16 A It was the following --

17 Q The following day?

18 A Yeah.

19 Q So April 12th?

20 A I believe so, yes.

21 Q When you interviewed him did you Mirandize
22 him prior to asking him any questions about the robbery?

23 A Yes, I did.

24 Q Was that from memory or from a card?

25 A From a card.

1 Q And when you finished reading those rights
2 to him did he indicate that he understood those rights?

3 A Yes, he did.

4 Q Did you question him about the robbery?

5 A Yes, I did.

6 Q What did he tell you about the robbery at
7 the bank on April 11th of 2018?

8 A I asked him specific questions about where
9 the firearm that he had would be located, where I would
10 find the clothing that he wore and he said he disposed
11 of both of those.

12 Q Did he indicate to you he did in fact
13 commit the robbery at the Clark County Credit Union on
14 April 11th of 2018?

15 A Yes, he did.

16 Q Did he tell you why he committed it?

17 A He said at one time or another he had a
18 settlement and he's gambled all that money away and also
19 lost his identification card so he couldn't get a job so
20 he felt that he was in a position where robbing a bank
21 was the best way for him to get money to get out of the
22 hole.

23 Q Did he tell you that he felt like the walls
24 were closing in on him?

25 A Yes.

1 Q Okay. And then just one last set of
2 questions for you. During the course of your
3 investigation you learned that the defendant was
4 prohibited from possessing a firearm, correct?

5 A Correct.

6 Q Did he admit to you that it was a real
7 firearm?

8 A He said it was real firearm, yes.

9 Q I'm showing you what's been marked as Grand
10 Jury Exhibit Number 14. Do you recognize this as a
11 Judgment of Conviction for case number YA085649-02 out
12 of the Superior Court of California, Los Angeles County?

13 A Yes.

14 Q And it shows a conviction for unlawful
15 driving or taking of a vehicle?

16 A Yes.

17 Q Actually two different convictions for the
18 same offense?

19 A Correct.

20 Q And it's dated May 17th, 2013?

21 A Correct.

22 Q Showing you another document which is Grand
23 Jury Exhibit Number 15, is this a Judgment of Conviction
24 for case number FVI1500741 out of the Superior Court of
25 California, San Bernardino County?

1 A Yes, it is.

2 Q And does it show another conviction for
3 taking a vehicle without owner's consent?

4 A Yes.

5 Q And it's dated June 11th of 2015?

6 A Yes.

7 Q And then showing you one last one, it's a
8 Judgment of Conviction in case number SA066075-01,
9 correct?

10 A Correct.

11 Q Also out of the Los Angeles Superior Court?

12 A Yes.

13 Q In Los Angeles County?

14 A Yes.

15 Q And it shows a conviction for second degree
16 commercial burglary?

17 A Yes.

18 Q And it's dated March 26th of 2018, correct?

19 A Yes.

20 MS. MERCER: And for the record those are
21 all certified Judgments of Conviction.

22 I don't believe I have any additional
23 questions for this witness. Do any of the Grand Jurors
24 have any questions for him?

25 THE FOREPERSON: By law these proceedings

1 are secret and you are prohibited from disclosing to
2 anyone anything that transpired before us including any
3 evidence presented to the Grand Jury, any event
4 occurring or a statement made in the presence of the
5 Grand Jury or any information obtained by the Grand
6 Jury.

7 Failure to comply with this admonition is a
8 gross misdemeanor punishable up to 364 days in the Clark
9 County Detention Center and a \$2,000 fine. In addition
10 you may be held in contempt of court punishable by an
11 additional \$500 fine and 25 days in the Clark County
12 Detention Center.

13 Do you understand this admonition?

14 THE WITNESS: Yes, I do.

15 THE FOREPERSON: Thank you. You're
16 excused.

17 THE WITNESS: Thanks.

18 MS. MERCER: The last witness is Detective
19 Pandullo.

20 THE FOREPERSON: Please raise your right
21 hand.

22 You do solemnly swear that the testimony
23 that you're about to give upon the investigation now
24 pending before this Grand Jury shall be the truth, the
25 whole truth, and nothing but the truth, so help you God?

1 THE WITNESS: Yes, ma'am.

2 THE FOREPERSON: Please be seated.

3 You're advised that you're here today to
4 give testimony in the investigation pertaining to the
5 offenses of burglary while in possession of a firearm,
6 robbery with use of a deadly weapon, carrying concealed
7 firearm or other deadly weapon and ownership or
8 possession of firearm by prohibited person involving
9 Aaron Frye.

10 Do you understand this advisement?

11 THE WITNESS: Yes, ma'am.

12 THE FOREPERSON: Please state your first
13 and last name and spell both slowly for the record.

14 THE WITNESS: First name is Tullio,
15 T-U-L-L-I-O, last name Pandullo, P-A-N-D, as in David,
16 U-L-L-O.

17

18 TULLIO PANDULLO,

19 having been first duly sworn by the Foreperson of the
20 Grand Jury to testify to the truth, the whole truth
21 and nothing but the truth, testified as follows:

22

23 EXAMINATION

24 BY MS. AFSHAR:

25 Q Detective, where do you work?

1 A Las Vegas Metropolitan Police Department.

2 Q And what do you do there?

3 A I'm a detective in the robbery, commercial
4 robbery section.

5 Q Were you working as a detective on May 12th
6 of 2018?

7 A Yes, ma'am.

8 Q And on that day did you undertake an
9 investigation in relation to event number 180411-3369?

10 A Yes.

11 Q As part of that investigation did you
12 receive a report or did you receive information about a
13 bank robbery at 9311 West Sunset?

14 A Yes.

15 Q Did you research a vehicle?

16 A Yes.

17 Q Or, I'm sorry, did you receive information
18 about a vehicle?

19 A Yes.

20 Q And did you research that vehicle?

21 A I did.

22 Q Was that an Enterprise rental vehicle?

23 A It was.

24 Q Did you contact Enterprise?

25 A I did.

1 Q Did you obtain any records related to the
2 vehicle from Enterprise?

3 A Yes.

4 Q I'm showing you what's been marked as Grand
5 Jury Exhibit Number 4. Do you recognize this?

6 A I do.

7 Q How do you recognize it?

8 A It's the email I got from Enterprise on the
9 leaser of the car.

10 Q Okay. And are these the records that
11 Enterprise sent you?

12 A Yes.

13 Q Do these records contain a name?

14 A Yes.

15 Q What is that name?

16 A Aaron Frye.

17 Q Based on getting these records what did you
18 do next?

19 A Shared the information with the lead
20 detective on the case and then used our system to try to
21 track down the vehicle.

22 Q On April 12th did you conduct a
23 photographic line-up in this case?

24 A I did.

25 Q And was that conducted with Roland Miguel?

1 A Yes, ma'am.

2 Q Were you the one who put together the
3 line-up?

4 A I was.

5 Q And how was the line-up conducted?

6 A In person.

7 Q I'm showing you Grand Jury Exhibit 5.

8 A Yes, ma'am.

9 Q Do you recognize this?

10 A I do.

11 Q What is it?

12 A Photo line-up witness instructions which
13 were read to Roland and the back page is the photo
14 line-up which I created.

15 Q Did you select these pictures yourself?

16 A I did.

17 Q Okay. And did you display the photographs
18 all at once?

19 A I did.

20 Q Did Roland Miguel pick a person from the
21 line-up?

22 A He did.

23 Q Who did he pick?

24 A Number two in this photo line-up.

25 Q And who was in position number two?

1 A That is Aaron Frye.

2 Q Thank you. When you showed Roland Miguel
3 the line-up, did you go through the instructions on the
4 first page with him?

5 A I did.

6 Q Did he acknowledge that he understood them?

7 A He did.

8 Q And then did he select someone from the six
9 photographs?

10 A Yes.

11 Q And then did he complete the statement on
12 the first page after that?

13 A Yes.

14 Q Now, at some point in this investigation
15 did you stop Aaron Frye?

16 A I conducted a vehicle stop where Aaron Frye
17 was a passenger in the vehicle, yes.

18 BY MS. MERCER:

19 Q How did you know he was a passenger in the
20 vehicle?

21 A One of my partners who was sitting
22 surveillance observed him get into the vehicle.

23 Q Is that Detective Jaffe?

24 A Yes, ma'am.

25 Q Jared Jaffe?

1 A Yes, ma'am.

2 BY MS. AFSHAR:

3 Q Were there \$20 bills that were found in
4 Aaron Frye's wallet as a result of that stop?

5 A Yes.

6 BY MS. MERCER:

7 Q And those were discovered search incident
8 to arrest, correct?

9 A Correct.

10 BY MS. AFSHAR:

11 Q Were you the one who impounded those \$20
12 bills?

13 A I was.

14 Q Were there 25 of them?

15 A I believe so, yes.

16 Q Did you compare the serial numbers on those
17 bills to the serial numbers of bills that were taken
18 from the bank in this case?

19 A Yes.

20 Q And all 25 of those serial numbers for the
21 bills that were found in Mr. Frye's wallet were on the
22 list of missing bills; is that correct?

23 A Correct.

24 BY MS. MERCER:

25 Q Did you photograph those bills and then

1 impound them as evidence in this case?

2 A Yes.

3 Q The vehicle that you researched and
4 discovered that it was a rental car belonging to
5 Enterprise, what made you -- why were you researching
6 that specific vehicle?

7 A Because I have an auto theft background and
8 I realized that researching the vehicle will oftentimes
9 lead you to who either owns or rents the vehicle, and
10 having dealt with Enterprise before I was aware I could
11 probably get the information of the renter.

12 Q Okay. And --

13 A And there was a picture of that plate from
14 surveillance at the bank.

15 Q Thank you. That's what I was getting at.
16 Showing you Grand Jury Exhibit Number 13, is this that
17 vehicle?

18 A Yes, ma'am.

19 Q And on the video you were actually able to
20 make out that plate number, correct?

21 A Correct.

22 Q And then when you researched that plate
23 number you learned it was an Enterprise rental vehicle?

24 A Yes.

25 Q And the records indicate that that vehicle

1 was in Aaron Frye's possession on the day of the
2 robbery, correct?

3 A Yes.

4 MS. MERCER: Do any of the Grand Jurors
5 have any questions for this witness?

6 THE FOREPERSON: By law these proceedings
7 are secret and you are prohibited from disclosing to
8 anyone anything that transpired before us including any
9 evidence presented to the Grand Jury, any event
10 occurring or a statement made in the presence of the
11 Grand Jury or any information obtained by the Grand
12 Jury.

13 Failure to comply with this admonition is a
14 gross misdemeanor punishable up to 364 days in the Clark
15 County Detention Center and a \$2,000 fine. In addition
16 you may be held in contempt of court punishable by an
17 additional \$500 fine and 25 days in the Clark County
18 Detention Center.

19 Do you understand this admonition?

20 THE WITNESS: Yes, ma'am.

21 THE FOREPERSON: Thank you. You're
22 excused.

23 BY MS. MERCER:

24 Q Actually, Detective, before I let you go I
25 do have one follow-up question. You're still under

1 oath. The basis for the vehicle stop was probable cause
2 to arrest him for the bank robbery, correct?

3 A Correct.

4 Q Okay.

5 Any other questions from the Grand Jurors?

6 THE FOREPERSON: Thank you. You're
7 excused.

8 THE WITNESS: Thank you.

9 MS. MERCER: Thank you, Detective.

10 THE WITNESS: Thank you.

11 MS. MERCER: Ladies and gentlemen, we went
12 through that case faster than I anticipated. Before I
13 leave you to deliberate though there are a couple of
14 corrections that need to be made, two spellings of the
15 victims' names on the Indictment.

16 With regards to Count 2 at line 6 it should
17 say Roland instead of Ronald. Same thing at line 7.
18 And then at line 21 it should be Maryann Valdez, not
19 Vasquez. And same thing at line 22.

20 And then we're going to leave you to
21 deliberate. If you have any questions about the
22 instructions just come grab us.

23 (At this time, all persons, except the
24 members of the Grand Jury, exited the room at 11:10 and
25 returned at 11:15.)

1 THE FOREPERSON: Madam District Attorney,
2 by a vote of 12 or more Grand Jurors a true bill has
3 been returned against Defendant Aaron Frye charging the
4 crimes of burglary while in possession of a firearm,
5 robbery with use of a deadly weapon, carrying concealed
6 firearm or other deadly weapon and ownership or
7 possession of firearm by prohibited person in Grand Jury
8 case number 17CGJ052X.

9 We instruct you to prepare an Indictment in
10 conformance with the proposed Indictment previously
11 submitted to us.

12 MS. MERCER: Thank you.

13 (Proceedings concluded.)

14 --oo0oo--
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STATE OF NEVADA)
 :
COUNTY OF CLARK) SS

I, Donna J. McCord, C.C.R. 337, do hereby certify that I took down in Shorthand (Stenotype) all of the proceedings had in the before-entitled matter at the time and place indicated and thereafter said shorthand notes were transcribed at and under my direction and supervision and that the foregoing transcript constitutes a full, true, and accurate record of the proceedings had.

Dated at Las Vegas, Nevada,
May 22, 2018.

/S/DONNA J. MCCORD
Donna J. McCord, CCR 337

1 AFFIRMATION

2 Pursuant to NRS 239B.030

3
4 The undersigned does hereby affirm that the preceding
5 TRANSCRIPT filed in GRAND JURY CASE NUMBER 17CGJ052X:
67
8 X Does not contain the social security number of any
9 person,

10 -OR-

11 ____ Contains the social security number of a person as
12 required by:13 A. A specific state or federal law, to-wit:
14 NRS 656.250.

-OR-

15 B. For the administration of a public program
16 or for an application for a federal or
17 state grant.18 /S/DONNA J. MCCORD
19 SignatureMAY 22, 2018
Date20 Donna J. McCord
21 Print Name22 Official Court Reporter
23 Title
24
25

BY A JUROR: [1] 18/12 BY MS. AFSHAR: [3] 37/23 42/1 42/9 BY MS. MERCER: [7] 7/1 21/1 26/11 41/17 42/5 42/23 44/22 MS. MERCER: [10] 5/7 19/19 19/21 25/6 35/19 36/17 44/3 45/8 45/10 46/11 THE FOREPERSON: [22] 5/25 6/7 6/16 19/1 19/16 19/25 20/7 20/16 24/14 25/4 25/8 25/15 25/24 35/24 36/14 36/19 37/1 37/11 44/5 44/20 45/5 45/25 THE WITNESS: [21] 6/6 6/15 6/18 19/15 19/18 19/20 20/6 20/15 20/18 25/3 25/14 25/23 26/1 36/13 36/16 36/25 37/10 37/13 44/19 45/7 45/9	4/19 160 [1] 14/4 1644:10 [1] 30/17 17 [1] 27/1 17CGJ052X [4] 1/9 5/14 46/8 48/5 17th [1] 34/20 180411-3369 [1] 38/9 2 2013 [1] 34/20 2015 [1] 35/5 2018 [13] 1/15 2/1 5/1 7/4 7/23 21/4 27/4 33/7 33/14 35/18 38/6 47/15 48/18 21 [2] 3/4 45/18 22 [3] 45/19 47/15 48/18 239B.030 [1] 48/2 25 [6] 19/13 25/1 36/11 42/14 42/20 44/17 26 [1] 3/5 26th [1] 35/18 28 [5] 4/12 4/13 4/14 4/15 4/16 3 31 [1] 4/6 3369 [1] 38/9 337 [3] 1/25 47/6 47/18 34 [2] 4/17 4/18 35 [1] 4/19 364 [4] 19/10 24/23 36/8 44/14 37 [1] 3/6 39 [1] 4/7 5 5:00 [3] 7/21 7/22 21/14 6 656.250 [1] 48/13 9 9311 [3] 7/16 21/9 38/13 A a.m [1] 1/16 AARON [18] 1/10 1/10 5/13 6/14 20/14 25/22 31/3 31/9 31/14 32/4 37/9 39/16 41/1 41/15 41/16 42/4 44/1 46/3 ability [1] 5/7 able [4] 11/11 17/25 29/5 43/19 about [13] 6/4 16/22 20/4 24/2 25/12 32/22 33/4 33/6 33/8 36/23 38/12 38/18 45/21 accurate [1] 47/12 accurately [1] 5/6 acknowledge [1] 41/6 acknowledging [1] 15/3	actual [2] 12/23 29/8 actually [6] 9/8 12/7 27/13 34/17 43/19 44/24 addition [4] 19/11 24/24 36/9 44/15 additional [6] 19/13 24/12 25/1 35/22 36/11 44/17 additionally [1] 5/16 administration [1] 48/15 admit [1] 34/6 admonition [8] 19/9 19/15 24/22 25/3 36/7 36/13 44/13 44/19 advised [4] 6/9 20/9 25/17 37/3 advisement [4] 6/15 20/15 25/23 37/10 affirm [1] 48/4 AFFIRMATION [1] 48/1 AFORESAID [1] 1/4 Afshar [3] 2/23 5/12 5/20 after [9] 15/16 15/20 16/7 18/3 29/1 29/23 30/14 32/11 41/12 against [1] 46/3 aggravated [2] 10/25 11/22 aka [1] 1/10 alarm [2] 18/20 18/21 ALCALAY [1] 2/6 all [19] 5/19 9/3 9/24 9/25 10/1 11/20 11/25 12/12 12/14 12/18 13/1 13/3 29/5 33/18 35/21 40/18 42/20 45/23 47/7 alleyway [2] 29/21 30/3 Almost [1] 26/18 already [4] 9/25 10/8 10/20 18/17 also [11] 2/22 11/15 12/10 12/19 16/9 17/20 18/19 23/21 31/24 33/18 35/11 amount [1] 12/16 Angeles [3] 34/12 35/11 35/13 another [5] 14/9 28/6 33/17 34/22 35/2 anticipated [1] 45/12 any [34] 5/21 8/22 10/17 11/11 11/18 11/18 18/11 18/11 19/4 19/5 19/7 22/10 24/12 24/13 24/14 24/17 24/18 24/20 32/22 35/22 35/23 35/24 36/2 36/3 36/5 39/1 44/4 44/5 44/8 44/9 44/11 45/5 45/21 48/8 anyone [5] 8/8 19/4 24/17 36/2 44/8 anything [4] 19/4 24/17 36/2 44/8 anytime [1] 10/4	appear [3] 29/22 30/13 31/17 appears [1] 17/6 application [1] 48/15 approached [1] 8/21 approximately [2] 27/1 32/4 April [8] 7/4 7/22 21/4 27/4 32/19 33/7 33/14 39/22 April 11th [6] 7/4 7/22 21/4 27/4 33/7 33/14 April 12th [2] 32/19 39/22 are [19] 5/12 8/6 10/9 11/19 16/17 18/22 19/3 19/3 24/16 24/16 26/13 28/1 35/20 36/1 36/1 39/10 44/7 44/7 45/13 area [5] 8/20 11/17 21/24 26/21 28/3 Arizona [2] 14/5 17/12 arrest [2] 42/8 45/2 arrested [2] 32/12 32/14 arrive [1] 29/2 ARTHUR [1] 2/9 as [32] 5/15 5/18 6/25 8/23 9/5 11/14 14/7 14/7 14/15 16/22 17/9 17/16 20/25 21/7 23/2 26/9 26/15 27/24 29/15 30/9 30/21 32/2 34/9 34/10 37/15 37/21 38/5 38/11 39/4 42/4 43/1 48/11 ask [3] 5/19 16/13 24/2 asked [2] 23/6 33/8 asking [1] 32/22 assigned [2] 26/16 26/19 assistant [2] 2/6 13/5 assisting [1] 8/24 attempt [1] 28/24 attention [3] 7/4 21/3 27/3 Attorney [5] 2/23 2/24 5/10 5/12 46/1 auto [1] 43/7 automated [2] 9/23 10/21 aware [1] 43/10 away [5] 12/7 18/17 21/22 30/13 33/18 B back [10] 9/5 11/14 11/22 18/7 18/9 21/17 21/24 23/19 30/18 40/13 background [1] 43/7 bag [13] 12/21 12/22 12/23 12/24 18/6 18/15 18/15 23/8 23/10 23/11 23/12 23/13 23/25 bait [21] 10/1 10/3 10/4 10/6 10/9 11/25 12/1 12/14 12/17 18/6 22/13	22/15 22/16 22/19 22/22 22/25 23/2 23/7 23/8 23/10 24/5 balancing [2] 21/19 21/20 balancing and [1] 21/19 bank [17] 7/12 18/19 23/8 23/10 28/12 29/1 29/13 29/18 30/4 30/10 30/14 33/7 33/20 38/13 42/18 43/14 45/2 Based [1] 39/17 basically [4] 7/10 7/25 11/23 13/4 basis [1] 45/1 be [25] 5/22 5/23 6/5 6/8 10/14 14/1 18/3 18/5 19/12 19/23 20/5 20/8 21/24 24/25 25/13 25/16 29/22 30/13 33/9 36/10 36/24 37/2 44/16 45/14 45/18 because [8] 9/4 9/22 11/22 12/7 14/1 15/20 22/13 43/7 been [13] 5/5 5/15 6/23 20/23 23/20 26/7 26/16 26/25 29/15 34/9 37/19 39/4 46/3 before [15] 1/4 5/19 6/5 14/24 19/4 20/5 24/17 25/13 36/2 36/24 43/10 44/8 44/24 45/12 47/8 before-entitled [1] 47/8 behind [3] 18/24 22/9 29/21 being [2] 17/18 26/19 believe [4] 24/12 32/20 35/22 42/15 belonging [1] 43/4 Bernardino [1] 34/25 best [2] 5/7 33/21 big [1] 30/5 bill [3] 14/5 17/13 46/2 bills [11] 10/9 10/12 23/14 23/17 42/3 42/12 42/17 42/17 42/21 42/22 42/25 bit [1] 29/9 black [6] 9/16 14/5 14/7 14/7 17/6 17/23 both [5] 6/18 20/18 26/1 33/11 37/13 bottom [1] 16/8 BOYDEN [1] 2/7 branch [7] 7/16 7/20 8/6 13/10 16/11 18/2 24/9 building [3] 29/17 29/18 29/20 burglary [6] 6/11 20/11 25/19 35/16 37/5 46/4 business [6] 7/23 16/23 17/10 27/17 28/2 29/13 PA000049
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45/13</p> <p>there's [3] 10/6 11/15 29/20</p> <p>thereafter [1] 47/9</p> <p>these [11] 11/19 14/25 16/17 19/2 24/15 35/25 39/10 39/13 39/17 40/15 44/6</p> <p>they [10] 7/13 10/5 10/14 11/1 11/14 11/22 19/25 27/10 28/1 31/17</p> <p>they're [1] 5/25</p> <p>thing [5] 9/9 11/18 18/4 45/17 45/19</p> <p>things [2] 9/6 11/19</p> <p>this [49]</p> <p>those [17] 5/19 10/11 11/2 11/13 15/4 16/15 27/24 31/21 33/1 33/2 33/11 35/20 42/7 42/11</p>	<p>42/16 42/20 42/25</p> <p>though [1] 45/13</p> <p>three [3] 10/25 11/3 12/11</p> <p>threw [1] 12/8</p> <p>through [6] 16/14 27/24 30/3 30/4 41/3 45/12</p> <p>Thursday [1] 1/15</p> <p>ticked [1] 12/6</p> <p>TIM [1] 2/11</p> <p>time [6] 8/8 8/14 8/19 33/17 45/23 47/9</p> <p>timestamp [1] 30/17</p> <p>Title [1] 48/22</p> <p>to-wit [1] 48/13</p> <p>today [5] 5/21 6/9 20/9 25/17 37/3</p> <p>together [1] 40/2</p> <p>told [4] 22/9 22/12 22/25 23/4</p> <p>tone [1] 15/22</p> <p>too [1] 12/6</p> <p>took [2] 11/13 47/7</p> <p>top [3] 15/1 28/12 29/17</p> <p>total [1] 26/25</p> <p>towards [1] 30/4</p> <p>trace [1] 28/25</p> <p>traced [1] 10/14</p> <p>track [1] 39/21</p> <p>transaction [1] 8/25</p> <p>transcribe [1] 5/6</p> <p>transcribed [1] 47/10</p> <p>transcript [3] 1/20 47/11 48/5</p> <p>transpired [4] 19/4 24/17 36/2 44/8</p> <p>travel [1] 28/25</p> <p>true [3] 27/2 46/2 47/12</p> <p>truth [24] 6/5 6/6 6/6 6/24 6/24 6/25 20/5 20/6 20/6 20/24 20/24 20/25 25/13 25/14 25/14 26/8 26/8 26/9 36/24 36/25 36/25 37/20 37/20 37/21</p> <p>try [2] 31/6 39/20</p> <p>trying [3] 8/24 11/17 18/25</p> <p>TULLIO [3] 3/6 37/14 37/18</p> <p>twenties [2] 12/18 22/18</p> <p>two [13] 8/15 11/13 14/22 15/11 15/14 15/20 16/5 22/18 23/14 34/17 40/24 40/25 45/14</p> <p>type [3] 9/9 9/12 18/4</p> <p>types [1] 10/6</p> <p>typically [1] 7/20</p> <p>U</p> <p>U-L-L-O [1] 37/16</p> <p>uh [4] 11/8 12/25 17/22 23/22</p> <p>uh-huh [4] 11/8 12/25</p>	<p>17/22 23/22</p> <p>under [2] 44/25 47/10</p> <p>underneath [1] 16/9</p> <p>undersigned [1] 48/4</p> <p>understand [8] 6/15 19/15 20/15 25/3 25/23 36/13 37/10 44/19</p> <p>understood [3] 15/4 33/2 41/6</p> <p>undertake [1] 38/8</p> <p>unfit [3] 23/14 23/16 23/17</p> <p>Union [5] 7/6 10/7 21/5 27/6 33/13</p> <p>unit [4] 26/17 26/20 27/8 28/7</p> <p>unlawful [1] 34/14</p> <p>unless [1] 10/2</p> <p>up [32] 4/8 8/14 9/7 10/5 12/5 12/9 14/15 14/20 15/1 15/21 16/1 17/23 19/10 22/9 23/10 24/9 24/23 30/5 30/23 30/24 31/15 36/8 39/23 40/3 40/5 40/12 40/14 40/21 40/24 41/3 44/14 44/25</p> <p>upon [4] 6/4 20/4 25/12 36/23</p> <p>us [8] 19/4 23/4 23/4 24/17 36/2 44/8 45/22 46/11</p> <p>use [6] 6/12 9/22 20/12 25/20 37/6 46/5</p> <p>used [1] 39/20</p> <p>V</p> <p>V-A-L-D-E-Z [1] 20/20</p> <p>VALDEZ [7] 3/4 8/16 19/23 20/19 20/20 20/22 45/18</p> <p>van [1] 30/6</p> <p>various [1] 10/6</p> <p>Vasquez [1] 45/19</p> <p>vault [7] 8/14 8/18 8/20 11/16 21/15 21/23 24/3</p> <p>Vegas [6] 1/14 5/1 7/17 26/14 38/1 47/14</p> <p>vehicle [23] 28/25 29/3 30/25 34/15 35/3 38/15 38/18 38/20 38/22 39/2 39/21 41/16 41/17 41/20 41/22 43/3 43/6 43/8 43/9 43/17 43/23 43/25 45/1</p> <p>VERNA [1] 2/12</p> <p>versus [1] 5/13</p> <p>victims [1] 31/22</p> <p>victims' [1] 45/15</p> <p>video [11] 16/18 27/21 28/8 28/10 28/13 28/14 28/21 29/2 29/8 32/2 43/19</p> <p>viewed [1] 15/6</p> <p>viewing [1] 15/16</p> <p>vote [1] 46/2</p> <p>VP [1] 13/10</p>	<p>W</p> <p>W-E-I-R-A-U-C-H [1] 26/4</p> <p>walk [1] 8/22</p> <p>walking [4] 8/6 18/17 30/4 30/9</p> <p>walks [1] 30/2</p> <p>wallet [2] 42/4 42/21</p> <p>walls [1] 33/23</p> <p>want [5] 7/3 9/16 13/25 21/3 27/3</p> <p>wanted [1] 11/23</p> <p>was [86]</p> <p>wasn't [2] 10/1 15/23</p> <p>watch [2] 8/25 28/13</p> <p>watching [1] 29/8</p> <p>way [2] 24/9 33/21</p> <p>we [23] 5/12 5/21 8/14 9/22 10/4 10/7 10/8 11/18 11/18 11/19 11/20 11/25 13/6 13/6 13/7 13/9 18/22 22/9 22/10 23/4 23/19 45/11 46/9</p> <p>we're [3] 9/24 16/21 45/20</p> <p>weapon [10] 6/12 6/13 20/12 20/13 25/20 25/21 37/6 37/7 46/5 46/6</p> <p>weapons [1] 8/22</p> <p>wearing [5] 14/4 15/24 16/2 17/12 17/20</p> <p>weight [2] 31/10 32/7</p> <p>WEIRAUCH [4] 3/5 25/8 26/3 26/6</p> <p>well [5] 11/15 14/7 23/2 30/21 32/2</p> <p>went [5] 7/12 18/1 18/2 23/9 45/11</p> <p>were [41] 7/5 7/7 7/15 8/4 8/15 10/15 11/14 11/22 13/13 14/8 16/2 17/15 17/25 18/20 21/4 21/12 21/14 21/17 21/20 23/25 24/1 27/4 27/16 28/2 28/3 29/5 33/24 38/5 40/2 40/13 42/3 42/3 42/7 42/11 42/14 42/17 42/21 42/21 43/5 43/19 47/10</p> <p>west [8] 7/16 21/9 27/6 28/11 29/13 29/18 29/19 38/13</p> <p>what [36] 7/7 7/7 9/10 9/15 9/19 10/3 10/9 10/23 11/1 13/1 13/6 13/10 13/24 14/2 15/19 16/21 21/17 21/21 21/24 22/5 22/8 23/7 23/11 23/13 23/18 23/23 24/5 31/6 32/14 33/6 38/2 39/15 39/17 40/11 43/5 43/15</p> <p>what's [5] 14/14 16/14 29/15 34/9 39/4</p> <p>whatever [2] 22/13</p>	<p>22/14</p> <p>when [22] 8/21 8/21 9/5 9/7 10/4 13/4 13/5 13/6 17/25 21/23 22/25 23/6 27/16 28/13 29/8 30/2 31/5 31/15 32/21 33/1 41/2 43/22</p> <p>where [19] 7/4 9/23 10/1 11/16 11/23 18/14 21/24 26/13 26/20 28/10 29/16 29/25 30/17 31/21 33/8 33/9 33/20 37/25 41/16</p> <p>whether [1] 31/6</p> <p>which [13] 5/13 7/9 7/15 8/4 11/24 15/10 17/25 22/3 24/8 27/11 34/22 40/12 40/14</p> <p>while [9] 6/11 13/12 18/20 19/24 20/11 25/19 28/2 37/5 46/4</p> <p>white [2] 14/6 17/23</p> <p>who [11] 11/2 13/7 13/8 13/9 31/3 40/2 40/23 40/25 41/21 42/11 43/9</p> <p>whole [8] 6/6 6/24 20/6 20/24 25/14 26/8 36/25 37/20</p> <p>why [4] 18/20 28/23 33/16 43/5</p> <p>will [2] 5/22 43/8</p> <p>Willard [1] 1/10</p> <p>window [9] 8/1 8/2 8/4 8/8 8/12 8/13 11/3 11/4 21/12</p> <p>windows [6] 10/25 11/2 12/10 12/12 12/13 21/24</p> <p>wit [1] 48/13</p> <p>within [1] 26/20</p> <p>without [1] 35/3</p> <p>witness [10] 5/23 15/1 18/12 19/22 24/13 25/7 35/23 36/18 40/12 44/5</p> <p>witnesses [2] 3/1 5/21</p> <p>words [1] 18/7</p> <p>wore [1] 33/10</p> <p>work [3] 12/5 26/20 37/25</p> <p>worked [1] 26/21</p> <p>worker [2] 8/10 8/11</p> <p>working [10] 7/15 8/4 8/12 8/13 11/2 21/4 21/12 30/20 30/22 38/5</p> <p>would [7] 5/18 7/13 18/3 21/24 32/8 33/9 33/9</p> <p>wouldn't [1] 18/17</p> <p>written [1] 23/20</p> <p>wrote [1] 16/8</p> <p>Y</p> <p>YA085649 [1] 34/11</p> <p>YA085649-02 [1] 34/11</p> <p>yeah [11] 8/20 9/8 12/3 12/15 13/18 18/8 18/25 23/3 30/8 32/9 32/18 PA000054</p>
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<p>Y</p> <p>years [4] 26/18 26/23 26/24 27/1</p> <p>yellow [1] 30/18</p> <p>yes [116]</p> <p>yesterday [1] 15/23</p> <p>yesterday's [1] 15/23</p> <p>yet [1] 11/21</p> <p>you [204]</p> <p>you're [20] 5/24 6/4 6/9 6/9 19/17 20/4 20/9 20/9 25/5 25/12 25/17 25/17 29/8 36/15 36/23 37/3 37/3 44/21 44/25 45/6</p> <p>you've [2] 10/20 26/25</p> <p>your [29] 6/1 6/17 7/3 7/7 7/20 7/23 8/2 9/3 10/20 12/1 15/12 16/11 16/23 18/19 20/1 20/17 21/3 23/7 25/9 25/25 27/3 27/8 28/7 31/7 31/17 31/21 34/2 36/20 37/12</p> <p>yourself [1] 40/15</p>				<p>PA000055</p>
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**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 17, 2018**

C-18-331986-1 State of Nevada
vs
Aaron Frye

May 17, 2018**9:00 AM****All Pending Motions**

**INITIAL
ARRAIGNMENT...I
NDICTMENT
WARRANT
RETURN**

HEARD BY: Hardcastle, Kathy**COURTROOM:** RJC Courtroom 16B**COURT CLERK:** Phyllis Irby**RECORDER:** Sharon Nichols**REPORTER:****PARTIES****PRESENT:**

Frye, Aaron
Leven, Pandora L.
State of Nevada
Turner, Robert B.

Defendant
Attorney for the Deft
Plaintiff
Attorney for the State

JOURNAL ENTRIES

- INITIAL ARRAIGNMENT...INDICTMENT WARRANT RETURN

DEFT. FRYE ARRAIGNED, PLED NOT GUILTY, and INVOKED the 60-DAY RULE. COURT ORDERED, matter set for trial. COURT ORDERED, counsel has 21 days after the filing of the Preliminary Hearing Transcript or today's date, whichever is later, to file the Writ. State reserves all procedural objections in relation to the filing of the Writ.

CUSTODY (COC)

PRINT DATE: 05/24/2018

Page 1 of 2

Minutes Date: May 17, 2018

C-18-331986-1

7-10-18 CALENDAR CALL (DEPT. IV)

7-16-18 10:30 AM JURY TRIAL (DEPT. IV)

HEARING REQUIRED
Steven D. Grierson
CLERK OF THE COURT

DATE: June 21, 2018
TIME: 9:00 AM

1 PHILIP J. KOHN, PUBLIC DEFENDER
2 NEVADA BAR NO. 0556
3 PANDORA L. LEVEN, DEPUTY PUBLIC DEFENDER
4 NEVADA BAR NO. 13525
5 **PUBLIC DEFENDERS OFFICE**
6 309 South Third Street, Suite 226
7 Las Vegas, Nevada 89155
8 Telephone: (702) 455-4685
9 Facsimile: (702) 455-5112
10 Pandora.Leven@clarkcountynv.gov
11 Attorneys for Defendant

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

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

12 AARON FRYE,

13 Defendant,

CASE NO. C-18-331986-1

DEPT. NO. IV

DATE: June 21, 2018
TIME: 9:00 a.m.

15 **MOTION FOR EXTENSION OF WRIT DEADLINE**

16 COMES NOW, the Defendant, AARON FRYE, by and through PANDORA L.
17 LEVEN, Deputy Public Defender and hereby requests this Honorable Court extend the deadline
18 for filing a pretrial writ of habeas corpus until June 27, 2018.

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

21 DATED this 11th day of June, 2018.

22 PHILIP J. KOHN
23 CLARK COUNTY PUBLIC DEFENDER

24
25 By: /s/Pandora L. Leven
26 PANDORA L. LEVEN, #13525
27 Deputy Public Defender
28

DECLARATION

PANDORA L. LEVEN makes the following declaration:

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 appointed to represent Defendant AARON FRYE in the present matter.
2. On May 17, 2018, Mr. Frye appeared at arraignment, pled not guilty, and invoked his right to a trial within 60 days.
3. At that time the Grand Jury Transcripts had not been prepared. Mr. Frye asked for 21 days from the filing of the transcripts to file a Writ of Habeas Corpus. The Court stated that was unnecessary, as that was granted pursuant to the statute.
4. This Court may extend the time for filing a Pretrial Writ of Habeas Corpus upon a finding of good cause. NRS 34.700.
5. In this case, the transcripts of the hearing were filed May 22, 2018. For some reasons, undersigned counsel was never given notice that the transcripts were filed or served with a copy of the transcripts.¹ On June 10, 2018 undersigned counsel checked Odyssey and discovered the transcripts had been filed.
6. The deadline for filing the Writ is tomorrow if the clock begins from the date the transcripts were filed as stated by the Court at Mr. Fry's Arraignment. Undersigned counsel is unable to complete a thorough review of the transcripts and write any necessary Writ in that time. Counsel is currently scheduled to be in an in custody invoked trial beginning June 18, 2018.
7. Therefore, Mr. Fry respectfully requests that this Honorable Court extend the deadline for filing a Pretrial Writ of Habeas Corpus to June 27, 2018.
8. 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

¹ That is not to say the office did not receive transcripts, but there are 120 attorneys in the Public Defender, and undersigned counsel has 194 open active cases.

1 allegations made by The State of Nevada. I also have personal knowledge of the facts
2 stated herein or I have been informed of these facts and believe them to be true.

3
4 I declare under penalty of perjury that the foregoing is true and correct. (NRS
5 53.045).

6 EXECUTED this 11th day of June, 2018.

7
8 /s/Pandora L. Leven
9 PANDORA L. LEVEN

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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 21st day of June, 2018, at
9:00 a.m.

DATED this 11th day of June, 2018.

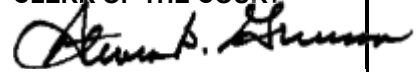
PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: /s/Pandora L. Leven
PANDORA L. LEVEN, #13525
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 11th day of June, 2018.

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



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

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

AARON FRYE, aka,
Aaron Willard Frye, #7019093
Defendant.

CASE NO: C-18-331986-1

DEPT NO: IV

**STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR EXTENSION OF TIME
TO FILE PRETRIAL PETITION FOR WRIT OF HABEAS CORPUS**

DATE OF HEARING: 6/21/18
TIME OF HEARING: 9:00 A.M.

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, District Attorney, through ELIZABETH MERCER, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in Opposition to Defendant's Motion for Extension of Time to File Pretrial Petition for Writ of Habeas Corpus.

This motion 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 **STATEMENT OF FACTS**

3 On 4/11/18 at approximately 1659 hours a black male entered the Clark County Credit
4 Union located at 9311 W. Sunset LV, NV. The male approached the counter and made contact
5 with employee Roland Miguel. The male pulled out a large frame semi-auto handgun from
6 the right side of his waistband, pointed it at Miguel and stated "give me your fifties and
7 hundreds." Miguel tried to explain that he didn't have anything. Then the male moved onto
8 Rochelle Dumlao and Mandy-Lynn Suyat who were working their own windows. Defendant
9 was repeatedly told that they didn't have anything. As Defendant was demanding money from
10 the employees, Maryann Valdez returned from the vault where she'd been completing tasks
11 necessary to close the business. Maryann instructed one of her female co-workers to give
12 Defendant the money. At that point, Defendant went to each of the four (4) tellers and obtained
13 \$200 in bait money (currency whose numbers were previously recorded by the bank). When
14 Valdez handed Defendant her money, she also handed him a bank bag which contained several
15 \$1 coins.

16 Det.T. Weirauch P # 7465 reviewed stills from the banks surveillance and observed that
17 the suspect was a black male adult, approximately 21-15 years old standing 5'7 - 5'9 with a
18 medium build. The suspect was wearing a white button-up short sleeve shirt, black pants,
19 black shoes with white around the soles, and a black Arizona Cardinals hat with a red bill.
20 There was also a black and gold sticker on the front part of the bill. The suspect was armed
21 with a large frame semi-auto handgun that he had concealed in his right waistband.

22 On 04/12/2018 additional video surveillance was recovered and showed the suspect
23 arriving and leaving in a Yellow Camaro with California plates 8AMX769

24 Det. Pandullo P# 7884 researched the suspect's vehicle and learned that it was an
25 Enterprise Rental vehicle and obtained the following information that the vehicle was rented
26 by Defendant Aaron Frye on March 8, 2018 at 11:33 a.m. from the location on West Sahara.
27 The vehicle rented was a 2018 Chevrolet Camaro, yellow in color bearing, California Plate
28 No. 8AMX769 and VIN No. 1G1FB1RS7J0139213.

1 A records check showed an Aaron Frye 06/16/77 with an ID # 7019093. Physical
2 descriptors were similar to the suspect's descriptors. When detectives made a comparison of
3 Frye's photograph to the suspect in the surveillance from the robbery, they noted that the
4 appearances were also similar. Furthermore, a records check also showed Frye had a
5 misdemeanor warrant out for his arrest.

6 Det. Pandullo prepared and showed a line up to victim Roland Miguel (Teller) on
7 04/12/2018 at 16:30 Hours. The victim picked out Aaron Frye as the suspect, 100 percent.

8 Det. D. Jappe P # 9992 located the suspect vehicle on 04/12/2018 at 17:00 hours
9 unoccupied parked at 6500 Vegas Dr. Las Vegas, Nevada on the street. He was able to conduct
10 surveillance on the vehicle. He observed a male, later identified as Arron Frye, enter the
11 vehicle by using a key, Frye appeared to move some items around, and then exit the vehicle.
12 Frye then got into a passenger seat of a 2002 Mercedes Benz. A vehicle stop was conducted
13 on this vehicle and Frye was taken into custody.

14 Det Pandullo was present when Frye was taken into custody and knew that the suspect
15 had taken bait money. Det. Pandullo had a list of the serial numbers that were taken and
16 compared those serial numbers to the twenty-five (25) \$20 bills that were located in Frye's
17 wallet. All twenty-five (25) were on the list that of the ones that were missing. These bills
18 were photographed and impounded as evidence.

19 On 04/12/2018 Aaron Frye was interviewed by Det. Weirauch at LVMPD
20 Headquarters. Prior to questioning, Det. Weirauch advised him of his *Miranda* rights and
21 Defendant indicated that he understood them. The interview was audio/video recorded. During
22 the interview Frye stated he robbed the bank because he had gambled away most of his money
23 and that he needed the money to pay bills. He said he tried to find employment but had lost
24 his identification and was unable to find work. He said he used a real gun, but does not know
25 where that gun is now. He also said he was sorry for what he did.

26 During follow-up investigation, the suspect vehicle was searched. During the search,
27 detectives located \$1 coins in the vehicle. Those coins matched those taken during the robbery.
28

1 Defendant was booked into the Clark County Detention Center and charged with various
2 crimes related to the robbery.

3 **STATEMENT OF THE CASE**

4 The Criminal Complaint in this case was filed on April 16, 2018. On April 17, 2018,
5 Defendant was arraigned in Justice Court and his preliminary hearing was scheduled for May
6 1, 2018. On May 1, 2018, the Preliminary Hearing was continued at defense counsel's request
7 to May 15, 2015.

8 Prior to the reset Preliminary Hearing, the State served *Marcum* notice and obtained an
9 Indictment against Defendant in District Court. Defendant was arraigned on the Indictment
10 on May 17, 2018 at which time Defendant invoked his right to a trial within 60 days. The
11 Court stated that counsel had 21 days from the filing of the transcripts or Defendant's
12 arraignment (whichever occurred last) to file any Pretrial Petition. The State reserved all
13 procedural objections to the Court's ruling.

14 The transcripts were filed on May 22, 2018. Thus, based upon the Court's ruling,
15 Defendant's deadline for filing the Writ would have been June 12, 2018.

16 **ARGUMENT**

17 **I.**

18 **THE STATUTORY DEADLINES FOR FILING A WRIT ARE JURISDICTIONAL.**

19 NRS 34.700, in pertinent part, provides:

20
21 1) Except as provided in subsection 3, a pretrial petition for writ of habeas corpus
22 based on alleged lack of probable cause or otherwise challenging the court's
23 right or jurisdiction to proceed to the trial of the criminal charge may not be
24 considered unless: (a) The petition and all supporting documents are filed within
25 twenty-one (21) days after the first appearance of the accused in the District
26 Court. . . .

27 3) The Court may extend, for good cause, the time to file a petition. Good
28 cause shall be deemed to exist if the transcript of the preliminary hearing or of
the proceedings before the grand jury is not available within 14 days after the
accused's initial appearance and the court shall grant an ex parte application to

1 extend the time for filing a petition. All other applications may be made only
2 after appropriate notice has been given to the prosecuting attorney.

3 Furthermore, NRS 34.710 specifically states,

4 A district court shall not consider any pretrial petition for habeas corpus:

5 (a) Based on alleged lack of probable cause or otherwise challenging the
6 court's right or jurisdiction to proceed to the trial of a criminal charge unless a
7 petition is filed in accordance with NRS 34.700.

8 Several decisions have interpreted this provision and have recognized that it must be
9 followed strictly. In Sheriff v. Jensen, 95 Nev. 595 (1979), the defendant was charged via
10 criminal complaint in Justice Court with one count of embezzlement. Jensen, 95 Nev. at 595.
11 The defendant failed to appear at his scheduled preliminary hearing. Id. The Justice of the
12 Peace treated the defendant's failure to appear as a waiver of the hearing. Id. The court then
13 ordered the defendant held to the charge in District Court based upon the attached affidavits.
14 Id. at 596. In District Court, the defendant then filed a pretrial writ of habeas corpus
15 challenging the lack of a preliminary hearing. The writ was filed 31 days after the defendant's
16 initial appearance in District Court. The District Court granted the writ due to the improper
17 procedure that occurred in the lower court. The State filed an opposition based upon the writ's
18 failure to be filed in a timely manner. Our Supreme Court then reversed the District Court
19 based upon the writ being untimely without even reaching the merits of the pretrial writ of
20 habeas corpus. The Court held that "[t]he requirements of the statute are mandatory, and
21 where, as here, the requirements are not complied with, the petition is neither cognizable below
22 nor reviewable here." Id. citing Sheriff v. Toston, 93 Nev. 394 (1977)(Court noted that it did
23 not reach merits of pretrial writ where the writ fails to follow mandatory filing requirements
24 so it was not "cognizable").

25 The Grand Jury transcripts in this case were filed on May 22, 2018. As such the time
26 for filing a Petition for Writ of Habeas Corpus began to run on that date. Thus, the time for
27 filing a Petition for Writ of Habeas Corpus expired June 12, 2018.¹ **Defense counsel did not**

28 ¹ Rule 1.14. Time; judicial days; service by mail.

1 even file the instant Motion until after her deadline for filing the Petition ran. As such,
2 this Court has lost jurisdiction over any pretrial petition. Furthermore, counsel has failed to
3 show good cause for her failure to file the Petition and/or Motion for Extension in a timely
4 fashion.

5 Defense counsel apparently urges this Court to extend her time for filing a Petition for
6 Writ of Habeas Corpus because good cause exists because she allegedly was not served with
7 the transcripts. However, that does not constitute good cause, nor does it relieve Ms. Levin of
8 her obligation to use due diligence in ascertaining the filing date and availability of the Grand
9 Jury transcripts. More specifically, Ms. Levin could have taken any number of steps to
10 determine whether the grand jury transcripts were filed such as: (1) calling chambers to
11 inquire; (2) checking Odyssey to see if the transcripts were filed; (3) going to the Court Clerk's
12 office to review the Court file; and, (4) calling the State and asking about the status of the
13 transcripts.

14 Ms. Levin should not be relieved of her obligations to comply with the strict
15 requirements of NRS 34.700 and NRS 34.710 simply because she allegedly was not served
16 with the transcripts. Defendant's time for filing a Pretrial Petition for Writ of Habeas Corpus
17 expired on June 12, 2018. Furthermore, no good cause exists warranting the extension of time
18 to file a Pretrial Petition for Writ of Habeas Corpus.

19 II.

20 THE COURT CANNOT RETROACTIVELY EXTEND THE WRIT DEADLINE

21 Moreover, the Court cannot retrospectively grant an extension for filing a writ. A
22 request to extend the period to file a writ must be requested prior to the Court losing
23 jurisdiction pursuant to NRS 34.700. Because the bar in NRS 34.700 is a jurisdictional bar,

24
25 (a) In computing any period of time prescribed or allowed by these rules, by order of court, or by any applicable
26 statute, **the day of the act, event or default from which the designated period of time begins to run must not be**
27 **included. The last day of the period so computed must be included**, unless it is a Saturday, a Sunday, or a non-
28 judicial day, in which event the period runs until the end of the next day which is not a Saturday, a Sunday or a non-
judicial day, or, when the act to be done is the filing of a paper in court, a day on which weather or other conditions have
made the office of the clerk of the district court inaccessible, in which event the period runs until the end of the next day
which is not one of the aforementioned days. The County Clerk shall memorialize and maintain in a written log all such
inaccessible days. When the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays,
and non-judicial days must be excluded in the computation.

1 the Court cannot retroactively retain jurisdiction over a petition, once that jurisdiction has
2 already been lost. This principle is supported by Eighth Judicial District Court Rule (EJDCR)
3 3.50, which states in part, “the court for cause shown may at any time in its discretion, with or
4 without motion or notice, order the period enlarged if request therefore is made *before the*
5 *expiration of the period originally prescribed* or as extended by a previous order. EJDCR
6 3.50(a) (emphasis added). The Court rules clearly require that any request to enlarge a period
7 should be requested before the expiration of the period has ended. Additionally, EJDCR
8 3.50(a) goes on to state that “[the court] may not extend the time for taking any action under
9 Rule 3.40, except to the extent and under the conditions stated therein.”

10 Rule 3.40 governs writs of habeas corpus and states that ex parte extensions on the 21
11 day period of limitation *will only be granted where the preliminary hearing or grand jury*
12 *transcript is not prepared within 14 days after the defendant’s initial appearance.* EJDCR
13 3.40(3). The rule goes on to state that the applications must seek only an additional 14 days
14 and that “further extensions of time will be granted only in extraordinary cases.” This
15 comports with NRS 34.700(3) which places similar requirements by statute. In the present
16 case, the transcript was filed within 7 days of Defendant’s arraignment. Thus, Defendant
17 would not have been entitled to an extension of time, even if it were requested at the time of
18 his first appearance in District Court as the request would have been premature, and the
19 granting of an extension is premised upon late filing of transcripts. Moreover, the fact that a
20 Court may not retrospectively extend a deadline once that deadline is passed, is also supported
21 by several Nevada Supreme Court cases.

22 In Riverside Casino Corporation v. J.W. Brewer Company, 80 Nev. 153, 390 P.2d 232
23 (1964), an appeal was raised, the deadline for filing of which was September 4. On September
24 9 the court ordered that the defendant could have up to and including September 9 in which to
25 docket its appeal and file its records on appeal. See id. at 157, 390 P.2d at 234. Although the
26 issue was not specifically addressed, the Court noted in a footnote that after September 4, the
27 court lost the jurisdiction to extend the time to file the appeal. See id. at n.2. Similarly, in
28 Landmark Plaza, Inc. v. Deligatti, 80 Nev. 48, 389 P.2d 81 (1964), the court noted that where

1 the appellant had 40 days from the filing of the notice of appeal to docket the record of appeal,
2 “the district court was empowered within the 40-day period to extend the time to no more than
3 90 days.” See id. at 50-51, 389 P.2d at 82. However, the Court went on to note that “*under*
4 *this provision the district court could have extended the time . . . but not having done so within*
5 *the 40-day period the lower court lost jurisdiction to extend the time.*” See id., 389 P.2d at 82-
6 83 (emphasis added).

7 The Court even more specifically addressed a similar issue in Craig v. Harrah, 65 Nev.
8 294, 195 P.2d 688 (1948), where the defendant filed a motion for an extension of time to file
9 the bill of exceptions more than four months after the expiration of the twenty day statutory
10 time period given to file the bill of exceptions. See id. at 299, 195 P.2d at 691. The Court
11 stated that, “This court, obviously, has no jurisdiction to grant such extension to operate
12 retroactively.” See id. The Court stated, “In the absence of any extension of time, either by
13 stipulation of the parties or by the court in which the action was tried, or a judge, referee or
14 judicial official thereof, or a justice of the supreme court, *before the time for filing had expired*,
15 any court or judicial officer . . . would have *lost jurisdiction and would have no power to*
16 *extend such time after the statutory time has expired.*” See id. at 300-301, 195 P.2d at 690-91
17 (emphasis added). The State recognizes of course that these are civil cases; however, although
18 these are civil cases, they specifically address jurisdictional issues based both on court rules
19 and statutes and finds that once the time has passed, the Court cannot retroactively extend
20 jurisdiction.

21 CONCLUSION

22 For the foregoing reasons, the State respectfully requests that this Court DENY
23 Defendant's Motion for Extension of Time to File a Pretrial Petition for Writ of Habeas Corpus.

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

26
27 BY /s/ELIZABETH MERCER
28 ELIZABETH MERCER
Chief Deputy District Attorney
Nevada Bar #010681

1 CERTIFICATE OF ELECTRONIC TRANSMISSION

2 I hereby certify that service of the above and foregoing was made this 20th day of June,
3 2018 by electronic transmission to:

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

6 PANDORA LEVEN, Deputy PD
7 Email: Pandora.leven@clarkcountynv.gov

8 BY: /s/ Deana Daniels
9 _____
10 Secretary for the District Attorney's Office