

Electronically Filed
Feb 07 2019 10:48 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

NOAS

RESCH LAW, PLLC d/b/a Conviction Solutions

By: Jamie J. Resch

Nevada Bar Number 7154

2620 Regatta Dr., Suite 102

Las Vegas, Nevada, 89128

Telephone (702) 483-7360

Facsimile (800) 481-7113

Jresch@convictionsolutions.com

Attorney for Petitioner

DISTRICT COURT

CLARK COUNTY, NEVADA

DEANGELO CARROLL,

Petitioner,

vs.

THE STATE OF NEVADA,

Respondent.

Case No.: 05C212667-4

Dept. No: XXI

NOTICE OF APPEAL

Date of Hearing: N/A

Time of Hearing: N/A

Defendant/Petitioner Deangelo Carroll hereby appeals to the Supreme Court of Nevada from the Findings of Fact, Conclusions of Law and Order Denying Petition/Supplemental Petition for Writ of Habeas Corpus (Post-Conviction) filed on January 18, 2019.

DATED this 31st day of January, 2019.

Submitted By:

RESCH LAW, PLLC d/b/a Conviction Solutions

By: 
JAMIE J. RESCH
Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Resch Law, PLLC d/b/a Conviction Solutions and that, pursuant to N.R.C.P. 5(b), on January 31, 2019, I served a true and correct copy of the foregoing Notice of Appeal via first class mail in envelopes addressed to:

Mr. Deangelo Carroll #1056956
High Desert State Prison
PO BOX 650
Indian Springs, NV 89070

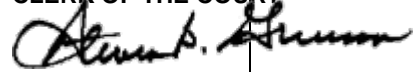
Clark County District Attorney
200 Lewis Ave.
Las Vegas, NV 89155

And electronic service was made this 31st day of January, 2019, by Electronic Filing

Service to:

Clark County District Attorney's Office
Motions@clarkcountyda.com
PDmotions@clarkcountyda.com


An Employee of Conviction Solutions



ASTA

RESCH LAW, PLLC d/b/a Conviction Solutions

By: Jamie J. Resch

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Las Vegas, Nevada, 89128

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Attorney for Petitioner

DISTRICT COURT

CLARK COUNTY, NEVADA

DEANGELO CARROLL,

Petitioner,

vs.

THE STATE OF NEVADA,

Respondent.

Case No.: 05C212667-4

Dept. No: XXI

CASE APPEAL STATEMENT

Date of Hearing: N/A

Time of Hearing: N/A

1. Name of appellant filing this case appeal statement: **Deangelo Carroll.**
2. Identify the judge issuing the decision, judgment, or order appealed from:

**Honorable Valerie Adair
Department XXI
Eighth Judicial District Court
200 Lewis Ave.
Las Vegas, NV 89155**
3. Identify each appellant and the name and address of counsel for each appellant:

Deangelo Carroll, Appellant, represented by:

Jamie J. Resch, Esq.

Nevada Bar No. 7154

Resch Law, PLLC d/b/a Conviction Solutions

2620 Regatta Dr., Suite 102

Las Vegas, NV 89128

- 1 4. Identify each respondent and the name and address of appellate counsel:
2
3 **The State of Nevada, Respondent, represented by:**
4 **Steven Wolfson, Esq.**
5 **Clark County District Attorney**
6 **200 Lewis Ave.**
7 **Las Vegas, NV 89155**
8
9 5. Indicate whether any attorney identified in response to question 3 or 4 is not licensed
10 to practice law in Nevada. **All counsel stated above are licensed in Nevada.**
11
12 6. Indicate whether appellant was represented by appointed or retained counsel in
13 district court: **Appointed.**
14
15 7. Indicate whether appellant is represented by appointed or retained counsel on
16 appeal: **Appointed.**
17
18 8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the
19 date of entry of the district court order granting such leave: **N/A.**
20
21 9. Indicate the date proceedings commenced in the district court: **Information filed**
22 **June 17, 2005.**
23
24 10. Provide a brief description of the nature of the action and the result in the district
25 court, including the type of judgment or order being appealed and the relief granted
26 by the district court: **On May 10, 2017, Carroll filed a proper person Petition for**
27 **Writ of Habeas Corpus (Post-Conviction). A counseled supplement was filed**
28 **August 31, 2018. On January 18, 2019, the district court filed an order denying**
relief on all claims in the petitions. Petitioner now appeals the district court's
decision to the Nevada Supreme Court.

1 11. Indicate whether the case has previously been the subject of an appeal to or original
2 writ proceeding in the Supreme Court and, if so, the caption and Supreme Court
3 docket number of the prior proceeding: **Carroll v. State, #64757, 63115, 50576.**
4

5 12. Indicate whether this appeal involves child custody or visitation: **N/A.**

6 13. If this is a civil case, indicate whether this appeal involves the possibility of
7 settlement: **N/A.**
8

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10
11 DATED this 31st day of January, 2019.
12

13 Submitted By:

14 RESCH LAW, PLLC d/b/a Conviction Solutions

15
16 By: 
17

JAMIE J. RESCH

18 Attorney for Petitioner
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CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that service of the foregoing Case Appeal Statement was made this 31st day of January, 2019, by Electronic Filing Service to:

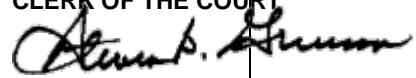
Clark County District Attorney's Office

Motions@clarkcountyda.com

PDmotions@clarkcountyda.com



An Employee of Conviction Solutions



1 **REQT**

2 RESCH LAW, PLLC d/b/a Conviction Solutions

3 By: Jamie J. Resch

4 Nevada Bar Number 7154

5 2620 Regatta Dr., Suite 102

6 Las Vegas, Nevada, 89128

7 Telephone (702) 483-7360

8 Facsimile (800) 481-7113

9 Jresch@convictionsolutions.com

10 Attorney for Petitioner

11 DISTRICT COURT

12 CLARK COUNTY, NEVADA

13 DEANGELO CARROLL,

14 Petitioner,

15 vs.

16 THE STATE OF NEVADA,

17 Respondent.

Case No.: 05C212667-4

Dept. No: XXI

**REQUEST FOR TRANSCRIPTS PURSUANT TO
NRAP 9(a)(3)**

Date of Hearing: N/A

Time of Hearing: N/A

18 TO: Susan Schofield, Court Recorder, Department 21:

19 Defendant/Petitioner Deangelo Carroll requests preparation of a transcript of the
20 proceedings before the district court, at State's expense, as follows:

21 Judge or officer hearing the proceeding: Judge Valerie Adair.

22 Date or dates of the proceeding: December 4, 2018.

23 Portions of transcript requested: All (complete transcripts of all arguments of counsel
24 and testimony).

25 Number of copies required: One plus electronic.

26 ///

1 I hereby certify that on the 31st day of January, 2019, I ordered the transcripts listed
2 above from the court recorder named above. No deposit was paid as this is an indigent
3 defendant appeal and transcripts are to be prepared at State's expense. See NRAP 24(a)(2), NRS
4 3.370.
5
6
7

8 DATED this 31st day of January, 2019.
9

10 Submitted By:

11 RESCH LAW, PLLC d/b/a Conviction Solutions

12
13 By: 
14 JAMIE J. RESCH
15 Attorney for Petitioner
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28

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Resch Law, PLLC d/b/a Conviction Solutions and that, pursuant to N.R.C.P. 5(b), on January 31, 2019, I served a true and correct copy of the foregoing Request for Transcript via first class mail in envelopes addressed to:

Susan Schofield, Court Recorder
District Court Dept. 21
200 Lewis Ave.
Las Vegas, NV 89155

And electronic service was made this 31st day of January, 2019, by Electronic Filing
Service to:

Clark County District Attorney's Office
Motions@clarkcountyda.com
PDmotions@clarkcountyda.com


An Employee of Conviction Solutions

CASE SUMMARY**CASE NO. 05C212667-4****The State of Nevada vs Deangelo R Carroll**§
§
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§

Location: **Department 21**
 Judicial Officer: **Adair, Valerie**
 Filed on: **06/17/2005**
 Case Number History:
 Cross-Reference Case Number: **C212667**
 Defendant's Scope ID #: **1678381**
 Lower Court Case # Root: **05FB00052**
 Lower Court Case Number: **05FB00052D**
 Supreme Court No.: **63115**
64757

CASE INFORMATION

Offense	Deg	Date	Case Type:	Felony/Gross Misdemeanor
1. CONSPIRACY TO COMMIT MURDER	F	01/01/1900		
2. MURDER WITH USE OF A DEADLY WEAPON	F	01/01/1900	Case Status:	08/28/2010 Closed

Related Cases

05C212667-1 (Multi-Defendant Case)
 05C212667-2 (Multi-Defendant Case)
 05C212667-3 (Multi-Defendant Case)
 05C212667-5 (Multi-Defendant Case)
 08C241394 (Consolidated)

Statistical Closures

05/31/2010 USJR Reporting Statistical Closure
 03/18/2010 USJR Reporting Statistical Closure
 12/21/2008 USJR Reporting Statistical Closure
 08/28/2010 Jury Trial - Conviction - Criminal



DATE**CASE ASSIGNMENT****Current Case Assignment**

Case Number	05C212667-4
Court	Department 21
Date Assigned	11/02/2006
Judicial Officer	Adair, Valerie

PARTY INFORMATION














		<i>Lead Attorneys</i>
Defendant	Carroll, Deangelo Reshawn	Resch, Jamie J. <i>Court Appointed</i> 7028809750(W)
Plaintiff	State of Nevada	Wolfson, Steven B 702-671-2700(W)

DATE**EVENTS & ORDERS OF THE COURT****INDEX****EVENTS**

06/17/2005	 Criminal Bindover <i>CRIMINAL BINDOVER Fee \$0.00</i>
06/17/2005	Hearing <i>INITIAL ARRAIGNMENT</i>
06/17/2005	 Criminal Bindover

CASE SUMMARY












CASE No. 05C212667-4

	<i>CRIMINAL BINDOVER FEE \$0.00</i>
06/17/2005	 Criminal Bindover <i>CRIMINAL BINDOVER FEE \$0.00</i>
06/17/2005	 Criminal Bindover <i>CRIMINAL BINDOVER FEE \$0.00</i>
06/20/2005	 Information <i>INFORMATION</i>
06/20/2005	 Application <i>EX PARTE APPLICATION FOR CONTACT VISIT - RELATED PARTYID: 05C212667_0003</i>
06/23/2005	 Order <i>ORDER GRANTING EX PARTE APPLICATION FOR CONTACT VISIT - RELATED PARTYID: 05C212667_0003</i>
07/01/2005	 Reporters Transcript <i>REPORTER'S TRANSCRIPT PRELIMINARY HEARING</i>
07/06/2005	Hearing <i>STATE'S REQUEST FOR APPOINTMENT OF COUNSEL / STATUS</i>
07/06/2005	 Notice of Intent to Seek Death Penalty <i>NOTICE OF INTENT TO SEEK DEATH PENALTY</i>
07/06/2005	 Notice of Intent to Seek Death Penalty <i>NOTICE OF INTENT TO SEEK DEATH PENALTY</i>
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07/06/2005	 Notice of Intent to Seek Death Penalty <i>NOTICE OF INTENT TO SEEK DEATH PENALTY</i>
07/11/2005	Hearing <i>STATE'S REQUEST FOR APPOINTMENT OF COUNSEL/STATUS</i>
07/11/2005	Hearing <i>STATE'S REQUEST FOR APPOINTMENT OF COUNSEL/STATUS</i>
07/11/2005	Hearing <i>STATUS CHECK: TRIAL</i>
07/12/2005	 Reporters Transcript <i>REPORTER'S TRANSCRIPT STATES REQUEST FOR APPOINTMENT OF COUNSEL/STATUS</i>
07/14/2005	Motion <i>ALL PENDING MOTIONS 7/14/05</i>
07/14/2005	 Order <i>ORDER FOR TRANSCRIPT</i>
07/15/2005	 Reporters Transcript

CASE SUMMARY

CASE No. 05C212667-4



REPORTER'S TRANSCRIPT STATUS CHECK TRIAL SETTING STATES REQUEST FOR APPOINTMENT OF COUNSEL APPOINTMENT OF COUNSEL

07/20/2005	Motion <i>STATE'S MTN TO COMPEL HANDWRITING EXAMPLES/10</i>
07/20/2005	 Motion <i>STATE'S MTN TO COMPEL HANDWRITING EXAMPLES/11</i>
07/21/2005	Motion <i>STATE'S MTN TO COMPEL HANDWRITING EXAMPLES/09</i>
08/01/2005	 Motion <i>DEFT'S MTN FOR REDUCTION IN BAIL OR FOR RELEASE ON HOUSE ARREST/12</i>
08/03/2005	Petition <i>DEFT'S PTN FOR WRIT OF HABEAS CORPUS /13</i>
08/03/2005	 Petition <i>DEFT'S PTN FOR WRIT OF HABEAS CORPUS /14</i>
08/04/2005	Motion <i>ALL PENDING MOTIONS 8/4/05</i>
08/04/2005	 Certificate <i>CERTIFICATE OF SERVICE</i>
08/09/2005	Conversion Case Event Type <i>ARGUMENT ON WRITS</i>
08/09/2005	 Opposition <i>OPPOSITION TO DEFENDANTS MOTION FOR REDUCTION IN BAIL OR IN THE ALTERNATIVE FOR RELEASE ON HOUSE ARREST ALTERNATIVE FOR RELEASE ON HOUSE ARREST</i>
08/10/2005	 Application <i>EX PARTE APPLICATION FOR CONTACT VISIT - RELATED PARTYID: 05C212667_0003</i>
08/10/2005	 Order <i>ORDER THAT WRIT OF HABEAS CORPUS ISSUE</i>
08/10/2005	 Order <i>ORDER GRANTING EX PARTE APPLICATION FOR CONTACT VISIT</i>
08/11/2005	 Petition <i>DEFT'S PTN FOR WRIT OF HABEAS CORPUS /17</i>
08/11/2005	 Receipt of Copy <i>RECEIPT OF COPY</i>
08/11/2005	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 05C212667_0001</i>
08/11/2005	 Supplement <i>SUPPLEMENT TO KENNETH COUNTS MOTION FOR A REDUCTION IN BAIL AND/OR HOUSE ARREST -</i>

CASE SUMMARY








CASE No. 05C212667-4

RELATED PARTYID: 05C212667_0001

08/12/2005	 Reporters Transcript <i>REPORTER'S TRANSCRIPT DEFENDANT COUNTS MOTION FOR REDUCTION IN BAIL OR IN THE ALTERNATIVE FOR RELEASE ON HOUSE ARREST ALTERNATIVE FOR RELEASE ON HOUSE ARREST</i>
08/16/2005	 Order <i>ORDER GRANTING MOTION TO COMPEL PRODUCTION OF HANDWRITING SAMPLES SAMPLES</i>
08/16/2005	 Order <i>ORDER DENYING DEFENANTS MOTION FOR REDUCTION IN BAIL OR IN THE ALTERNATIVE FOR RELEASE ON HOUSE ARREST ALTERNATIVE FOR RELEASE ON HOUSE ARREST</i>
08/19/2005	Petition <i>PETITION FOR WRIT OF HABEAS CORPUS - RELATED PARTYID: 05C212667_0002</i>
08/19/2005	 Petition <i>PETITION FOR WRIT OF HABEAS CORPUS - RELATED PARTYID: 05C212667_0002</i>
08/24/2005	 Writ <i>RETURN TO WRIT OF HABEAS CORPUS</i>
08/25/2005	 Order <i>ORDER</i>
08/25/2005	 Receipt of Copy <i>RECEIPT OF COPY</i>
08/25/2005	 Writ <i>WRIT OF HABEAS CORPUS</i>
08/30/2005	 Writ <i>RETURN TO WRIT OF HABEAS CORPUS</i>
08/31/2005	 Media Request and Order <i>MEDIA REQUEST AND ORDER</i>
08/31/2005	 Notice <i>NOTIFICATION OF MEDIA REQUEST</i>
08/31/2005	 Media Request and Order <i>MEDIA REQUEST AND ORDER FOR CAMERA ACCESS TO COURT PROCEEDINGS</i>
08/31/2005	 Media Request and Order <i>MEDIA REQUEST AND ORDER FOR CAMERA ACCESS TO COURT PROCEEDINGS</i>
09/16/2005	 Motion <i>DEFT'S MTN TO PLACE ON CALENDAR FOR THE PURPOSE OF BEIND APPOINTED AS CO-CNSL/18</i>
09/16/2005	 Order <i>NUNC PRO TUNC ORDER APPOINTING ATTORNEY DANIEL M BUNIN AND ATTORNEY DAYVID J FIGLER FIGLER- RELATED PARTYID: 05C212667_0004</i>

CASE SUMMARY

CASE No. 05C212667-4

09/22/2005	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF DEFENDANT'S MOTION FOR APPOINTMENT OF CO-COUNSEL DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS</i>
09/23/2005	 Reply <i>REPLY TO RETURN TO WRIT OF HABEAS CORPUS</i>
09/27/2005	Motion <i>ALL PENDING MOTIONS 9/27/05</i>
10/06/2005	Motion <i>ALL PENDING MOTIONS 10/6/05</i>
10/07/2005	 Order <i>ORDER FOR TRANSCRIPT</i>
10/07/2005	 Reporters Transcript <i>REPORTER'S TRANSCRIPT PETITION FOR WRIT OF HABEAS CORPUS</i>
10/13/2005	 Order <i>ORDER APPOINTING COUNSEL</i>
10/19/2005	 Order <i>ORDER DENYING DEFENDANTS PETITION FOR WRIT OF HABEAS CORPUS</i>
10/21/2005	 Order <i>ORDER GRANTING EX PARTE APPLICATION FOR CONTACT VISIT</i>
10/21/2005	 Order <i>ORDER GRANTING EX PARTE APPLICATION FOR CONTACT VISIT - RELATED PARTYID: 05C212667_0002</i>
10/24/2005	 Application <i>EX PARTE APPLICATION FOR CONTACT VISIT - RELATED PARTYID: 05C212667_0003</i>
10/26/2005	 Application <i>EX PARTE APPLICATION FOR CONTACT VISIT - RELATED PARTYID: 05C212667_0002</i>
11/09/2005	 Motion <i>STATE'S MTN TO FILE AMENDED NTC ALLEGING AN ADDITIONAL AGGRAVATION /23</i>
11/10/2005	 Application <i>EX PARTE APPLICATION FOR DEFENSE COUNSEL TO OBTAINCOPIES OF SCOPES FOR ALL CO DEFENDANTS ALL WITNESSES AND ALL UNINDICTED CO DEFENDANTS ALL CO DEFENDANTS ALL WITNESSES AND ALL UNINDICTED CO DEFENDANTS- RELATED PARTYID: 05C212667_0001</i>
11/10/2005	 Application <i>EX PARTE APPLICATION FOR APPOINTMENT OF INVESTIGATOR - RELATED PARTYID: 05C212667_0001</i>
11/14/2005	 Motion <i>DEFT'S MTN TO SEVER /24</i>
11/14/2005	 Ex Parte

CASE SUMMARY

CASE No. 05C212667-4

AMENDED EX PARTE APPLICATION FOR DEFENSE COUNSEL TO OBTAIN COPIES OF SCOPES FOR ALL CO DEFENDANTS ALL WITNESSES AND ALL UNINDICTED CO DEFENDANTS ALL CO DEFENDANTS ALL WITNESSES AND ALL UNINDICTED CO DEFENDANTS

11/23/2005



Opposition

STATES OPPOSITION TO DEFENDANTS COUNTS MOTION TO SEVER

11/23/2005



Response

STATES RESPONSE TO DEFENDANTS AMENDED EX PARTE APPLICATION FOR DEFENSECOUNSEL TO OBTAIN COPIES OF SCOPEN FOR ALL CO DEFENDANTS ALL WITNESSES AND ALL UNINDICTED CO DEFENDANTS COUNSEL TO OBTAIN COPIES OF SCOPEN FOR ALL CO DEFENDANTS ALL WITNESSES AND ALL UNINDICTED CO DEFENDANTS

11/28/2005

Motion

ALL PENDING MOTIONS 11/28/05

11/28/2005



Opposition

KENNETH COUNTS OPPOSITION TO MOTION TO FILE AMENDED NOTICE ALLEGING ANADDITIONAL AGGRAVATING CIRCUMSTANCE AND MOTION TO STRIKE AGGRAVATING CIRCUMSTANCES ADDITIONAL AGGRAVATING CIRCUMSTANCE AND MOTION TO STRIKE AGGRAVATING CIRCUMSTANCES- RELATED PARTYID: 05C212667_0001

12/07/2005



Reply

KENNETH COUNTS REPLY TO STATES OPPOSITION TO KENNETH COUNTS MOTION TO SEVER DEFENDANTS SEVER DEFENDANTS- RELATED PARTYID: 05C212667_0001

12/08/2005



Application

EX PARTE APPLICATION FOR CONTACT VISIT - RELATED PARTYID: 05C212667_0002

12/09/2005

Hearing

INITIAL ARRAIGNMENT

12/09/2005



Criminal Bindover

CRIMINAL BINDOVER

12/09/2005



Application

EX PARTE APPLICATION FOR CONTACT VISIT - RELATED PARTYID: 05C212667_0003

12/12/2005



Motion

DEFT'S MTN TO STRIKE /27

12/12/2005

Motion

ALL PENDING MOTIONS 12/12/05

12/12/2005



Information

INFORMATION

12/12/2005



Notice of Intent to Seek Death Penalty

AMENDED NOTICE OF INTENT TO SEEK DEATH PENALTY

12/13/2005



Receipt of Copy

RECEIPT OF COPY - RELATED PARTYID: 05C212667_0003

12/15/2005



Reporters Transcript

REPORTER'S TRANSCRIPT OF PROCEEDINGS


















CASE SUMMARY

CASE No. 05C212667-4

12/16/2005	 Order <i>ORDER TO ALLOW RICHARD FRANKY LPI AND/OR AN AGENT OF RDF INVESTIGATIVE AGENCY SPECIFICALLY INVESTIGATOR LIZA GRIPENTROG WHO ARE EMPLOYED AS THE INVESTIGATORS BY THE LAW OFFICES OF BUNIN & BUNIO LTD CONTACT VISITS IN THE CLARK COUNTY DETENTION CENTER AGENCY SPECIFICALLY INVESTIGATOR LIZA GRIPENTROG WHO ARE EMPLOYED AS THE INVESTIGATORS BY THE LAW OFFICES OF BUNIN & BUNIO LTD CONTACT VISITS IN THE CLARK COUNTY DETENTION CENTER- RELATED PARTYID: 05C212667_0004</i>
12/16/2005	 Order <i>ORDER - RELATED PARTYID: 05C212667_0004</i>
12/16/2005	 Ex Parte <i>EX PARTE APPLICATION TO APPOINT INVESTIGATOR</i>
12/19/2005	 Order <i>ORDER GRANTING THE STATES MOTION TO AMEND THE NOTICE OF INTENT TO SEEK THE DEATH PENALTY THE DEATH PENALTY</i>
12/19/2005	 Order <i>ORDER DENYING DEFENDANTS MOTION TO SEVER</i>
12/21/2005	 Opposition <i>STATES OPPOSITION TO DEFENDANTS HIDALGOS AND ESPINDOLAS MOTION TO STRIKE NOTICE OF INTENT TO SEEK DEATH PENALTY STRIKE NOTICE OF INTENT TO SEEK DEATH PENALTY</i>
12/22/2005	Motion <i>DEFT'S MTN TO STRIKE</i>
12/23/2005	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF DEFENDANTS MOTION TO STRIKE NOTICE OF INTENT TO SEEK DEATH PENALTY SEEK DEATH PENALTY</i>
01/05/2006	 Reply <i>REPLY TO STATES OPPOSITION TO MOTION TO STRIKE NOTICE OF INTENT TO SEEK DEATH PENALTY DEATH PENALTY</i>
01/11/2006	 Application <i>EX PARTE APPLICATION FOR APPOINTMENT OF INVESTIGATOR - RELATED PARTYID: 05C212667_0001</i>
01/19/2006	Motion <i>ALL PENDING MOTIONS 1/19/06</i>
01/26/2006	 Order <i>ORDER - RELATED PARTYID: 05C212667_0001</i>
01/26/2006	 Order <i>ORDER</i>
02/02/2006	Motion <i>ALL PENDING MOTIONS 2/2/06</i>
02/09/2006	 Order <i>ORDER - RELATED PARTYID: 05C212667_0001</i>

CASE SUMMARY

CASE NO. 05C212667-4

02/09/2006	 Application <i>EX PARTE APPLICATION FOR ORDER FOR CONTACT VISITS - RELATED PARTYID: 05C212667_0001</i>
02/10/2006	 Motion <i>DEFT'S MTN TO ALLOW THE DEFENSE TO ARGUE LAST AT PENALTY PHASE/34</i>
02/10/2006	 Motion <i>DEFT'S MTN TO FEDERALIZE ALL MTNS/35</i>
02/10/2006	 Motion <i>DEFT'S MTN FOR INDIVIDUAL VOIR DIRE/36</i>
02/10/2006	 Motion <i>DEFT'S MTN IN LIMINE TO INCLUDE AUTOPSY, CRIME SCENE & OTHER PHOTOGRAPHS/37</i>
02/10/2006	 Motion <i>DEFT'S MTN IN LIMINE TO PRECLUDE INTRODUCTION OF VICTIM IMPACT EVID/38</i>
02/10/2006	 Motion <i>DEFT'S MTN IN LIMINE TO PROHIBIT ANY REF TO FIRST PHRASE/39</i>
02/10/2006	 Motion <i>DEFT'S MTN TO BIFURCATE PENALTY PHASE/40</i>
02/10/2006	 Motion <i>DEFT'S MTN IN LIMINE TO BAR IMPROPER PROSEC ARGUMNT/41</i>
02/10/2006	 Motion <i>DEFT'S MTN IN LIMINE TO PRECLUDE ADMISSION OF GANG AFFILIATION/42</i>
02/10/2006	 Motion <i>DEFT'S MTN FOR DISCOVERY & EVID HEARING/43</i>
02/10/2006	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 05C212667_0001</i>
02/10/2006	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 05C212667_0001</i>
02/10/2006	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 05C212667_0001</i>
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02/10/2006	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 05C212667_0001</i>














CASE SUMMARY

CASE No. 05C212667-4

02/10/2006	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 05C212667_0001</i>
02/10/2006	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 05C212667_0001</i>
02/10/2006	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 05C212667_0001</i>
02/10/2006	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 05C212667_0001</i>
02/13/2006	 Motion <i>DEFT'S MTN FOR DISQUALIFICATION FROM THE JURY VENIRE/44</i>
02/13/2006	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 05C212667_0001</i>
02/15/2006	 Response <i>STATES RESPONSE TO DEFENDANTS MOTION TO PRECLUDE THE INTRODUCTION OF VICTIM IMPACT EVIDENCE IMPACT EVIDENCE</i>
02/15/2006	 Opposition <i>STATES OPPOSITION TO DEFENDANT COUNTS MOTION IN LIMINE TO PRECLUDE ADMISSION OF GANG AFFILIATION DRUG ACTIVITY HANDLING OF GUNS AND BATTERIES OF GANG AFFILIATION DRUG ACTIVITY HANDLING OF GUNS AND BATTERIES</i>
02/15/2006	 Opposition <i>STATES OPPOSITION TO DEFENDANT COUNTS MOTION TO FEDERALIZE ALL MOTIONSOBJECTIONS REQUESTS AND OTHER APPLICATIONS FOR THE PROCEEDINGS IN THE ABOVE ENTITLED CASE OBJECTIONS REQUESTS AND OTHER APPLICATIONS FOR THE PROCEEDINGS IN THE ABOVE ENTITLED CASE</i>
02/15/2006	 Response <i>STATES RESPONSE TO DEFENDANTS MOTION IN LIMINE TO PROHIBIT ANY REFERENCES TO THE FIRST PHASE AS THE GUILT PHASE THE FIRST PHASE AS THE GUILT PHASE</i>
02/15/2006	 Opposition <i>STATES OPPOSITION TO DEFENDANTS MOTION FOR INDIVIDUAL SEQUESTERED VOIR DIRE</i>
02/15/2006	 Opposition <i>STATES OPPOSITION TO DEFENDANTS MOTION IN LIMINE TO EXCLUDE AUTOPSY CRIME SCENE AND OTHER GRUESOME PHOTOGRAPHS SCENE AND OTHER GRUESOME PHOTOGRAPHS</i>
02/15/2006	 Opposition <i>OPPOSITION TO DEFENDANTS MOTION FOR DISQUALIFICATION FROM THE JURY VENIREOF ALL POTENTIAL JURORS WHO WOULD AUTOMATICALLY VOTE FOR THE DEATH PENALTY IF THEY FOUND KENNETH COUNTS GUILTY OF CAPITAL MURDER OF ALL POTENTIAL JURORS WHO WOULD AUTOMATICALLY VOTE FOR THE DEATH PENALTY IF THEY FOUND KENNETH COUNTS GUILTY OF CAPITAL MURDER</i>
02/15/2006	 Opposition <i>OPPOSITION TO DEFENDANTS MOTION TO BIFURCATE PENALTY PHASE</i>

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02/15/2006	 Opposition <i>OPPOSITION TO DEFENDANTS MOTION IN LIMINE TO BAR IMPROPER PROSECUTORIAL ARGUMENT ARGUMENT</i>
02/15/2006	 Opposition <i>STATES OPPOSITION TO DEFENDANTS MOTION FOR DISCOVERY AND EVIDENTIARY HEARING REGARDING THE MANNEER AND METHOD OF DETERMINING IN WHICH MURDER CASES THE DEATH PENALTY WILL BE SOUGHT REGARDING THE MANNEER AND METHOD OF DETERMINING IN WHICH MURDER CASES THE DEATH PENALTY WILL BE SOUGHT</i>
02/15/2006	 Opposition <i>OPPOSITION TO DEFENDANTS MOTION TO ARGUE LAST AT THE PENALTY PHASE</i>
02/22/2006	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PRELIMINARY HEARING</i>
02/28/2006	 Order <i>ORDER - RELATED PARTYID: 05C212667_0005</i>
03/03/2006	 Order <i>ORDER GRANTING EX PARTE APPLICATION FOR CONTACT VISIT - RELATED PARTYID: 05C212667_0003</i>
03/03/2006	 Order <i>ORDER GRANTING EX PARTE APPLICATION FOR CONTACT VISIT - RELATED PARTYID: 05C212667_0002</i>
03/10/2006	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 05C212667_0001</i>
03/10/2006	 Reply <i>KENNETH COUNTS REPLY TO STATES OPPOSITION TO DEFENDANT COUNTS MOTION IN LIMINE TO PRECLUDE ADMISSION OF GANG AFFILIATION DRUG ACTIVITY HANDLING OF GUNS AND BATTERIES IN LIMINE TO PRECLUDE ADMISSION OF GANG AFFILIATION DRUG ACTIVITY HANDLING OF GUNS AND BATTERIES- RELATED PARTYID: 05C212667_0001</i>
03/15/2006	 Motion <i>DEFT'S MTN FOR SEVERANCE/45</i>
03/15/2006	 Appearance <i>NOTICE OF APPEARANCE OF COUNSEL - RELATED PARTYID: 05C212667_0003</i>
03/15/2006	 Notice <i>NOTICE OF SUPPLEMENTAL AUTHORITY IN SUPPORT OF DEFENDANTS MOTION TO STRIKE NOTICE OF INTENT TO SEEK DEATH PENALTY NOTICE OF INTENT TO SEEK DEATH PENALTY- RELATED PARTYID: 05C212667_0003</i>
03/16/2006	 Motion <i>DEFT'S MTN TO SUPPRESS STATEMENT/46</i>
03/17/2006	Motion <i>ALL PENDING MOTIONS 3/17/06</i>
03/17/2006	Hearing <i>EVIDENTIARY HEARING</i>

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03/21/2006	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS</i>
03/27/2006	 Opposition <i>STATES OPPOSITION TO DEFENDANTS MOTION TO SUPPRESS STATEMENT</i>
04/05/2006	Hearing <i>STATE'S REQUEST FOR CLARIFICATION OF RULING</i>
04/20/2006	 Subpoena Duces Tecum <i>SUBPOENA - RELATED PARTYID: 05C212667_0005</i>
04/20/2006	 Subpoena Duces Tecum <i>SUBPOENA - RELATED PARTYID: 05C212667_0004</i>
04/20/2006	 Subpoena Duces Tecum <i>SUBPOENA - RELATED PARTYID: 05C212667_0005</i>
04/21/2006	 Application <i>EX PARTE APPLICATION FOR REQUEST OF FUNDS</i>
04/21/2006	 Order <i>ORDER FOR REQUEST FOR FUNDS - RELATED PARTYID: 05C212667_0001</i>
04/24/2006	 Reporters Transcript <i>REPORTER'S TRANSCRIPT EVIDENTIARY HEARING DEFENDANTS MOTION FOR SEVERANCE AND MOTION TO SUPPRESS STATEMENT SEVERANCE AND MOTION TO SUPPRESS STATEMENT</i>
05/01/2006	Motion <i>ALL PENDING MOTIONS 4/21/06</i>
05/19/2006	 Order <i>ORDER FOR EXCESS FEES - RELATED PARTYID: 05C212667_0001</i>
05/19/2006	 Application <i>EX PARTE APPLICATION FOR EXCESS FEES - RELATED PARTYID: 05C212667_0001</i>
06/15/2006	 Motion <i>DEFT'S MTN TO PRECLUDE USE OF PEREMPTORY CHALLENGES/51</i>
06/15/2006	Motion <i>DEFT'S MTN TO PRECLUDE USE OF PEREMPTORY CHALLENGE/52</i>
06/15/2006	 Motion <i>DEFT'S MTN TO PROHIBIT ARGUMENT ON DETERRENCE /53</i>
06/15/2006	Motion <i>DEFT'S MTN TO PROHIBIT ARGUMENT ON DETERRENCE/54</i>
06/15/2006	 Motion <i>DEFT'S MTN TO PROHIBIT USE OF IMPUTED AGGRAVATING CIRCUMSTANCES /55</i>
06/15/2006	Motion <i>DEFT'S MTN TO PROHIBIT USE OF IMPUTED AGGRAVATING CIRCUMSTANCES /56</i>









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06/15/2006	 Motion <i>DEFT'S MTN TO STRIKE DEATH PENALTY BASED UPON UNCONSTITUTIONALITY /57</i>
06/15/2006	Motion <i>DEFT'S MTN TO STRIKE DEATH PENALTY BASED UPON UNCONSTITUTIONALITY /58</i>
06/15/2006	 Motion <i>DEFT'S MTN TO PROHIBIT INTRO OF VICTIM IMPACT EVID DURING GUILT PHASE /59</i>
06/15/2006	Motion <i>DEFT'S MTN TO PROHIBIT INTRO OF VICTIM IMPACT EVID DURING GUILT PHASE /60</i>
06/15/2006	 Motion <i>DEFT'S MTN TO STRIKE NTC OF INTENT TO SEEK DEATH /61</i>
06/15/2006	Motion <i>DEFT'S MTN TO STRIKE NTC OF INTENT TO SEEK DEATH /62</i>
06/15/2006	 Motion <i>DEFT'S MTN TO CONDUCT VOIR DIRE ON POSSIBLE RACIAL BIAS & PREJUDICE /63</i>
06/15/2006	Motion <i>DEFT'S MTN TO CONDUCT VOIR DIRE ON POSSIBLE RACIAL BIAS & PREJUDICE /64</i>
06/15/2006	 Motion <i>DEFT'S MTN TO PRECLUDE COURT FROM PARTICIPATING IN REHAB OF JURORS /65</i>
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06/15/2006	 Motion <i>DEFT'S MTN TO STRIKE DEATH PENALTY AS UNCONSTITUTIONAL /67</i>
06/15/2006	Motion <i>DEFT'S MTN TO STRIKE DEATH PENALTY AS UNCONSTITUTIONAL /68</i>
06/15/2006	Motion <i>DEFT'S MTN FOR JURY QUESTIONNAIRE TO BE COMPLETED BY JURY VENIRE 1 WEEK PRIOR/69</i>
06/15/2006	 Motion <i>DEFT'S MTN FOR JURY QUESTIONNAIRE TO BE COMPLETED BY JURY VENIRE 1 WEEK PRIOR/70</i>
06/15/2006	 Motion <i>DEFT'S MTN TO DECLARE UNCONSTITUTIONAL THE DISCRETION TO SEEK DEATH PENALTY /71</i>
06/15/2006	Motion <i>DEFT'S MTN TO DECLARE UNCONSTITUTIONAL THE DISCRETION TO SEEK DEATH PENALTY /72</i>
06/15/2006	 Motion <i>DEFT'S MTN FOR PROCEDURES REGARDING BAILIFFS & OTHER COURT PERSONNEL /73</i>
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06/15/2006	 Motion <i>DEFT'S MTN FOR COURT TO ALLOW PRESENTATION OF EVID TO JURY /75</i>
06/15/2006	Motion <i>DEFT'S MTN FOR COURT TO ALLOW PRESENTATION OF EVID TO JURY /76</i>
06/15/2006	 Motion <i>DEFT'S MTN TO PRECLUDE INTRO OF HEARSAY DURING SENTENCING /77</i>
06/15/2006	Motion <i>DEFT'S MTN TO PRECLUDE INTRO OF HEARSAY DURING SENTENCING /78</i>
06/15/2006	 Motion <i>DEFT'S MTN TO BIFURCATE PENALTY PHASE PROCEEDINGS /79</i>
06/15/2006	Motion <i>DEFT'S MTN TO BIFURCATE PENALTY PHASE PROCEEDINGS /80</i>
06/15/2006	 Motion <i>DEFT'S MTN FOR EXCHANGE OF PROPOSED JURY INSTRUCTIONS AT CALENDAR CALL /81</i>
06/15/2006	Motion <i>DEFT'S MTN FOR EXCHANGE OF PROPOSED JURY INSTRUCTIONS AT CALENDAR CALL /82</i>
06/15/2006	 Motion <i>DEFT'S MTN TO DETERMINE ADMISSIBILITY OF STATE'S HEARSAY EVID BEFORE TRIAL /83</i>
06/15/2006	Motion <i>DEFT'S MTN TO DETERMINE ADMISSIBILITY OF STATE'S HEARSAY EVID BEFORE TRIAL /84</i>
06/15/2006	 Motion <i>DEFT'S MTN TO PROHIBIT EVID & ARGUMENT ON IRRELEVANT MITIGATING CIRCUMSTANCE/85</i>
06/15/2006	Motion <i>DEFT'S MTN TO PROHIBIT EVID & ARGUMENT ON IRRELEVANT MITIGATING CIRCUMSTANCE/86</i>
06/15/2006	 Motion <i>DEFT'S MTN TO DECLARE NRS 704.206 UNCONSTITUTIONAL /87</i>
06/15/2006	Motion <i>DEFT'S MTN TO DECLARD NRS 704.206 UNCONSTITUTIONAL /88</i>
06/15/2006	 Motion <i>DEFT'S MTN TO CONDUCT FULL VOIR DIRE ON JURORS' PERSONAL & PROF EXPERIENCE /89</i>
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06/15/2006	 Motion <i>DEFT'S MTN TO STRIKE NTC OF INTENT TO SEEK DEATH UPON UNCONSTITUTIONALITY /91</i>
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06/26/2006	Hearing <i>STATUS CHECK: TRIAL DATE</i>
06/26/2006	Hearing <i>STATUS CHECK: TRIAL DATE</i>
06/27/2006	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS</i>
06/28/2006	 Media Request and Order <i>MEDIA REQUEST AND ORDER</i>
06/29/2006	 Motion <i>DEFT'S MTN TO VACATE TRIAL DATE /104 (VJ 6/30/06)</i>
07/03/2006	 Expert Witness List <i>NOTICE OF WITNESSES</i>
07/03/2006	 Expert Witness List <i>NOTICE OF EXPERT WITNESSES</i>
07/05/2006	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS</i>
07/06/2006	Motion <i>ALL PENDING MOTIONS 6/30/06</i>
07/27/2006	 Motion <i>DEFT'S MTN IN LIMINE TO PRECLUDE ADMISSION OF EVID OF ARREST/FLIGHT /116</i>
07/27/2006	 Motion <i>DEFT'S MTN TO DISMISS DEATH PENALTY DUE TO FED DUE PROCESS VIOLATIONS /117</i>
07/27/2006	 Motion <i>DEFT'S MTN FOR REDUCTION OF BAIL / RELEASE ON HOUSE ARREST /118</i>
07/27/2006	 Motion <i>DEFT'S MTN IN LIMINE TO PRECLUDE ADMISSION OF PHONE/119</i>
07/27/2006	 Motion <i>DEFT'S MTN FOR RELEASE OF JUVENILE RECORDS /120</i>
07/27/2006	 Motion <i>DEFT'S MTN FOR DISCLOSURE OF EXCULPATORY EVID /121</i>
07/27/2006	 Motion <i>DEFT'S MTN FOR JURY QUESTIONNAIRE /122</i>
07/27/2006	 Motion <i>DEFT'S MTN FOR ORDER PERMITTING DISC OF RECORDS PERTAINING TO FAMILY LIFE /123</i>
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	 Motion <i>DEFT'S MTN IN LIMINE TO SUPPRESS EVID OF DEFT'S PRIOR FELONY CONVICTIONS /124</i>
07/27/2006	 Motion <i>DEFT'S JOINDER TO OTHER DEFTS' MTNS/125</i>
07/27/2006	 Request <i>KENNETH COUNTS RENEWED MOTION TO SEVER DEFENDANTS - RELATED PARTYID: 05C212667_0001</i>
07/28/2006	 Application <i>EX PARTE APPLICATION FOR REQUEST FOR FUNDS - RELATED PARTYID: 05C212667_0001</i>
07/28/2006	 Order <i>ORDER FOR FUNDS - RELATED PARTYID: 05C212667_0001</i>
08/01/2006	 Order <i>ORDER - RELATED PARTYID: 05C212667_0001</i>
08/09/2006	 Response <i>STATES RESPONSE TO DEFENDANTS HIDALGO AND ESPINDOLAS MOTION TO CONDUCT FULL VOIR DIRE ON POTENTIAL JURORS PERSONAL AND PROFESSIONAL EXPERIENCES VOIR DIRE ON POTENTIAL JURORS PERSONAL AND PROFESSIONAL EXPERIENCES</i>
08/09/2006	 Response <i>STATES RESPONSE TO DEFENDANTS MOTION FOR JURY QUESTIONNAIRE TO BE COMPLETED BY JURY VENIRE ONE WEEK PRIOR TO TRIAL BY JURY VENIRE ONE WEEK PRIOR TO TRIAL</i>
08/09/2006	 Opposition <i>STATES OPPOSITION TO DEFENDANT HIDALGO AND EXPINDOLAS MOTION FOR COURT TOALLOW PRESENTATIION OF EVIDENCE TO THE JURY OF THE DISPROPORTIONALITY AND ARBITRARINESS AND UNFAIRNESS OF A DEATH SENTENCE ALLOW PRESENTATIION OF EVIDENCE TO THE JURY OF THE DISPROPORTIONALITY AND ARBITRARINESS AND UNFAIRNESS OF A DEATH SENTENCE</i>
08/09/2006	 Opposition <i>STATES OPPOSITION TO DEFENDANT HIDALGOS AND ESPINDOLAS MOTION TO STRIKE DEATH PENALTY BASED UPON UNCONSTITUTIONALITY PENALTY BASED UPON UNCONSTITUTIONALITY</i>
08/09/2006	 Opposition <i>STATES OPPOSITION TO DEFENDANT HIDALGO AND ESPINDOLAS MOTION TO STRIKE NOTICEOF INTENT TO SEEK DEATH PENALTY BASED UPON UNCONSTITUTIONALITY OF LETHAL INJECTION OF INTENT TO SEEK DEATH PENALTY BASED UPON UNCONSTITUTIONALITY OF LETHAL INJECTION</i>
08/09/2006	 Opposition <i>STATES OPPOSITION TO DEFENDANTS MOTION TO DETERMINE ADMISSIBILITY OF STATES HEARSAY EVIDENCE BEFORE TRIAL HEARSAY EVIDENCE BEFORE TRIAL</i>
08/09/2006	 Response <i>STATES RESPONSE TO DEFENDANT HIDALGO AND ESPINDOLAS MOTION TO DECLARE NRS 704.206 UNCONSTITUTIONAL 704.206 UNCONSTITUTIONAL</i>
08/09/2006	 Response <i>STATES RESPONSE TO DEFENDANTS HIDALGO AND ESPINDOLAS MOTION TO CONDUCT VOIR DIRE ON POSSIBLE BIAS AND PREJUDICE DIRE ON POSSIBLE BIAS AND PREJUDICE</i>

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08/09/2006	 Response <i>STATES RESPONSE TO DEFENDANTS HIDALGO AND ESPINDOLAS MOTION TO PRECLUDE THE COUNT FROM PARTICIPATION IN REHABILITATION OF POTENTIAL JURORS COUNT FROM PARTICIPATION IN REHABILITATION OF POTENTIAL JURORS</i>
08/10/2006	 Opposition <i>STATES OPPOSITION TO DEFENDANT HIDALGOS AND ESPINDOLAS MOTION TO PRECLUDE THE INTRODUCTION OF HEARSAY DURING SENTENCING INTRODUCTION OF HEARSAY DURING SENTENCING</i>
08/10/2006	 Opposition <i>STATES OPPOSITION TO DEFENDANT HIDALGOS AND ESPINDOLAS MOTION TO DECLARE ASUNCONSTITUTIONAL THE UNBRIDLED DISCRETION OF PROSECUTION TO SEEK THE DEATH PENALTY UNCONSTITUTIONAL THE UNBRIDLED DISCRETION OF PROSECUTION TO SEEK THE DEATH PENALTY</i>
08/10/2006	 Opposition <i>STATES OPPOSITION TO DEFENDANT HIDALGO AND ESPINDOLAS MOTION TO PROHIBITARGUMENT ON DETERRENCE OR IN THE ALTERNATIVE TO PERMIT EVIDENCE OF LACK OF DETERRENCE ARGUMENT ON DETERRENCE OR IN THE ALTERNATIVE TO PERMIT EVIDENCE OF LACK OF DETERRENCE</i>
08/10/2006	 Opposition <i>STATES OPPOSITION TO DEFENDANT HIDALGO AND ESPINDOLAS MOTION TO PROHIBIT USE OF IMPUTED AGGRAVATING CIRCUMSTANCES OF IMPUTED AGGRAVATING CIRCUMSTANCES</i>
08/10/2006	 Opposition <i>STATES OPPOSITION TO DEFENDANTS HIDALGO AND ESPINDOLAS MOTION TO STRIKE THEDEATH PENALTY AS UNCONSTITUTIONAL BASED ON ITS ALLOWANCE OF INHERENTLY UNRELIABLE EVIDENCE DEATH PENALTY AS UNCONSTITUTIONAL BASED ON ITS ALLOWANCE OF INHERENTLY UNRELIABLE EVIDENCE</i>
08/10/2006	 Opposition <i>STATES OPPOSITION TO DEFENDANT COUNTS MOTION IN LIMINE TO SUPPRESS EVIDENCE OF THE DEFENDANTS PRIOR FELONY CONVICTIONS OF THE DEFENDANTS PRIOR FELONY CONVICTIONS</i>
08/10/2006	 Opposition <i>STATES OPPOSITION TO DEFENDANT COUNTS MOTION FOR DISCLOSURE OF EXCULPATORYFAMILY MEMBERS EVIDENCE PERTAINING TO TEH IMPACT OF THE DEFENDANTS EXECUTION UPON VICTIMS FAMILY MEMBERS EVIDENCE PERTAINING TO TEH IMPACT OF THE DEFENDANTS EXECUTION UPON VICTIMS</i>
08/10/2006	 Opposition <i>STATES OPPOSITION TO DEFENDANT COUNTS MOTION FOR AN ORDER PERMITTING DISCOVERY OF RECORDS PERTAINING TO FAMILY LIFE OF VICTIM DISCOVERY OF RECORDS PERTAINING TO FAMILY LIFE OF VICTIM</i>
08/10/2006	 Opposition <i>STATES OPPOSITION TO DEFENDANT COUNTS MOTION FOR REDUCTION IN BAIL OR IN THE ALTERNATIVE FOR RELEASE ON HOUSE ARREST ALTERNATIVE FOR RELEASE ON HOUSE ARREST</i>
08/10/2006	 Opposition <i>STATES OPPOSITION TO DEFENDANT COUNTS MOTION IN LIMINE TO PRECLUDE ADMISSION OF PHONE CONVERSATIONS OF PHONE CONVERSATIONS</i>
08/10/2006	 Opposition <i>STATES OPPOSITION TO DEFENDANT HIDALGO AND ESPINDOLAS MOTION TO PRECLUDE USE OF PEREMPTORY CHALLENGES OF PEREMPTORY CHALLENGES</i>












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08/10/2006	 Opposition <i>STATES OPPOSITION TO DEFENDANT HIDALGOS AND ESPINDOLAS MOTION TO STRIKE NOTICE OF INTENT TO SEEK DEATH BASED UPON UNCONSTITUTIONAL WEIGHING EQUATION OF INTENT TO SEEK DEATH BASED UPON UNCONSTITUTIONAL WEIGHING EQUATION</i>
08/10/2006	 Opposition <i>STATES OPPOSITION TO DEFENDANT COUNTS RENEWED MOTION TO SEVER</i>
08/10/2006	 Opposition <i>STATES OPPOSITION TO DEFENDANTS COUNTS MOTION TO DISMISS THE DEATH PENALTY DUE TO FEDERAL DUE PROCESS VIOLATIONS DUE TO FEDERAL DUE PROCESS VIOLATIONS</i>
08/10/2006	 Opposition <i>STATES OPPOSITION TO DEFENDANT COUNTS MOTION IN L LIMINE TO PRECLUDE ADMISSION OF EVIDENCE OF ARREST OR FLIGHT ADMISSION OF EVIDENCE OF ARREST OR FLIGHT</i>
08/10/2006	 Opposition <i>STATES OPPOSITION TO DEFENDANT COUNTS MOTION FOR RELEASE OF JUVENILE RECORDS</i>
08/10/2006	 Opposition <i>STATES OPPOSITION TO DEFENDANTS HIDALGOS AND ESPINDOLAS MOTION TO PROHIBIT EVIDENCE AND ARGUMENT ON IRRELEVANT MITIGATION CIRCUMSTANCES PROHIBIT EVIDENCE AND ARGUMENT ON IRRELEVANT MITIGATION CIRCUMSTANCES</i>
08/10/2006	 Opposition <i>OPPOSITION TO DEFENDANT HIDALGOS AND ESPINDOLAS MOTION TO BIFURCATE PENALTY PHASE PHASE</i>
08/10/2006	 Opposition <i>STATES OPPOSITION TO DEFENDANTS HIDALGOS AND ESPINDOLAS MOTION TO PROHIBIT INTRODUCTION OF VICTIM IMPACT EVIDENCE DURING THE GUILT PHASE PROHIBIT INTRODUCTION OF VICTIM IMPACT EVIDENCE DURING THE GUILT PHASE</i>
08/24/2006	 Reply <i>REPLY TO STATES OPPOSITION TO MOTION TO STRIKE THE DEATH PENALTY AS UNCONSTITUTIONAL BASED ON ITS ALLOWANCE OF INHERENTLY UNRELIABLE EVIDENCE UNCONSTITUTIONAL BASED ON ITS ALLOWANCE OF INHERENTLY UNRELIABLE EVIDENCE</i>
08/24/2006	 Reply <i>REPLY TO STATES OPPOSITION TO MOTION TO STRIKE NOTICE OF INTENT TO SEEK DEATH PENALTY BASED UPON UNCONSTITUTIONALITY OF LETHAL INJECTION DEATH PENALTY BASED UPON UNCONSTITUTIONALITY OF LETHAL INJECTION</i>
08/24/2006	 Reply <i>REPLY TO STATES RESPONSE TO MOTION TO PRECLUDE THE COURT FROM PARTICIPATING IN THE REHABILITATION OF POTENTIAL JURORS PARTICIPATING IN THE REHABILITATION OF POTENTIAL JURORS</i>
08/24/2006	 Reply <i>REPLY TO STATES RESPONSE TO MOTION FOR JURY QUESTIONNAIRE TO BE COMPLETED BY JURY VENIRE ONE WEEK PRIOR TO TRIAL BY JURY VENIRE ONE WEEK PRIOR TO TRIAL</i>
08/24/2006	 Reply <i>REPLY TO STATES RESPONSE TO MOTION TO CONDUCT FULL VOIR DIRE ON POTENTIAL JURORS PERSONAL AND PROFESSIONAL EXPERIENCES POTENTIAL JURORS PERSONAL AND PROFESSIONAL EXPERIENCES</i>










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08/24/2006	 Reply <i>REPLY TO STATES OPPOSITION TO MOTION TO STRIKE NOTICE OF INTENT TO SEEK DEATH BASED UPON UNCONSTITUTIONAL WEIGHING EQUATION SEEK DEATH BASED UPON UNCONSTITUTIONAL WEIGHING EQUATION</i>
08/24/2006	 Reply <i>REPLY TO STATES OPPOSITON TO MOTION TO BIFURCATE PENALTY PHASE PROCEEDINGS PROCEEDINGS</i>
08/24/2006	 Reply <i>REPLY TO STATES RESPONSE TO MOTION TO DECLARE NRS 704.206 UNCONDITIONAL</i>
08/24/2006	 Reply <i>REPLY TO STATES OPPOSITION TO MOTION TO PRECLUDE USE OF PEREMPTORY CHALLENGES CHALLENGES</i>
08/24/2006	 Reply <i>REPLY TO STATES OPPOSITION TO MOTION TO DETEREMINE ADMISSIBILTY OF STATES HEARSY EVIDENCE BEFORE TRIAL HEARSY EVIDENCE BEFORE TRIAL</i>
08/24/2006	 Reply <i>REPLY TO STATES OPPOSITION TO MOTION TO PROHIBIT USE OF IMPUTED AGGRAVATING CIRCUMSTANCES AGGRAVATING CIRCUMSTANCES</i>
08/24/2006	 Reply <i>REPLY TO STATES OPPOSITION TO MOTION TO PROHIBIT ARGUMENT ON DETERRENCE OR IN THE ALTERANTIVE TO PERMIT EVIDENCE OF LACK OF DETERRENCE DETERRENCE OR IN THE ALTERANTIVE TO PERMIT EVIDENCE OF LACK OF DETERRENCE</i>
08/24/2006	 Reply <i>REPLY TO STATES OPPOSITION TO MOTION TO PRECLUDE THE INTRODUCTION OF HEARSYA DURING SENTENCING HEARSYA DURING SENTENCING</i>
08/24/2006	 Reply <i>REPLY TO STATES OPPOSITION TO MOTION TO CONDUCT VOIR DIRE ON POSSIBLE RACIAL BIAS AND PREJUDICE RACIAL BIAS AND PREJUDICE</i>
08/24/2006	 Reply <i>REPLY STATES OPPOSITON TO MOTION TO STRIKE DEATH PENALTY BASED UPON UNCONSTITUTIONALITY UNCONSTITUTIONALITY</i>
08/24/2006	 Reply <i>REPLY TO STATES OPPOSITION TO MOTION FOR COURT OT ALLOW PRESENTATION OF UNFAIRNESS OF A DEATH SENTENCE EVIDENCE TO THE JURY OF THE DISPROPORTIONALITY AND ARBITRARINESS AND UNFAIRNESS OF A DEATH SENTENCE EVIDENCE TO THE JURY OF THE DISPROPORTIONALITY AND ARBITRARINESS AND</i>
08/24/2006	 Reply <i>REPLY TO STATES OPPOSITION TO MOTION TO PROHIBIT EVIDENCE AND ARGUMENT ON IRRELEVANT MITIGATING CIRCUMSTANCES IRRELEVANT MITIGATING CIRCUMSTANCES</i>
08/28/2006	 Reply <i>KENNETH COUNTS REPLY TO STATES OPPOSITION TO RENEWED MOTION TO SEVER - RELATED PARTYID: 05C212667_0001</i>

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08/28/2006	 Reply <i>KENNETH COUNTS REPLY TO STATES OPPOSITION TO MOTION IN LIMINE TO SUPPRESS EVIDENCE OF DEFENDANTS PRIOR FELONY CONVICTIONS SUPPRESS EVIDENCE OF DEFENDANTS PRIOR FELONY CONVICTIONS- RELATED PARTYID: 05C212667_0001</i>
08/28/2006	 Reply <i>KENNETH COUNTS REPLY TO STATES OPPOSITION TO MOTION IN LIMINE TO PRECLUDE ADMISSION OF PHONE CONVERSATIONS PRECLUDE ADMISSION OF PHONE CONVERSATIONS- RELATED PARTYID: 05C212667_0001</i>
08/28/2006	 Reply <i>KENNETH COUNTS REPLY TO STATES OPPOSITION TO MOTION FOR RELEASE OF JUVENILE RECORDS JUVENILE RECORDS- RELATED PARTYID: 05C212667_0001</i>
08/28/2006	 Reply <i>KENNETH COUNTS REPLY TO STATES OPPOSITION TO MOTION IN LIMINE TO PRECLUDE ADMISSION OF EVIDENCE OF ARREST OR FLIGHT PRECLUDE ADMISSION OF EVIDENCE OF ARREST OR FLIGHT- RELATED PARTYID: 05C212667_0001</i>
08/31/2006	Hearing <i>STATUS CHECK: STATUS CHECK: TRIAL</i>
09/01/2006	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF DEFENDANTS MOTIONS</i>
09/06/2006	 Reply <i>KENNETH COUNTS REPLY TO STATES OPPOSITION TO MOTION FOR REDUCTION IN BAIL OR IN THE ALTERNATIVE FOR RELEASE OF HOUSE ARREST IN BAIL OR IN THE ALTERNATIVE FOR RELEASE OF HOUSE ARREST</i>
09/08/2006	Motion <i>ALL PENDING MOTIONS 8/31/06</i>
09/08/2006	Motion <i>DEFT'S RENEWED MTN TO SEVER DEFENDANTS</i>
09/11/2006	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS</i>
09/11/2006	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS</i>
09/26/2006	Hearing <i>STATE'S REQUEST FOR STATUS CHECK</i>
09/30/2006	Motion <i>ALL PENDING MOTIONS 9/8/06</i>
10/03/2006	 Order <i>ORDER</i>
10/05/2006	 Reporters Transcript <i>REPORTER'S TRANSCRIPT STATES REQUEST FOR STATUS CHECK</i>
11/01/2006	Hearing

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MINUTE ORDER RE: RECUSAL- DEPT 14

11/02/2006	 Notice of Department Reassignment <i>NOTICE OF DEPARTMENT REASSIGNMENT 000854004264004349006275005825FC 005825006275004349004264000854 005825006275004349004264000854</i>
11/08/2006	 Order <i>ORDER FOR VISITATION - RELATED PARTYID: 05C212667_0001</i>
11/17/2006	 Order <i>EX PARTE APPLICATION AND ORDER FOR A CONTACT VISIT WITH A TAPE RECORDING DEVICE DEVICE- RELATED PARTYID: 05C212667_0001</i>
11/17/2006	 Order <i>EX PARTE APPLICATION AND ORDER FOR CONTACT VISITS - RELATED PARTYID: 05C212667_0001</i>
11/17/2006	 Media Request and Order <i>MEDIA REQUEST AND ORDER FOR CAMERA ACCESS TO COURT PROCEEDINGS</i>
11/29/2006	Hearing <i>TRIAL SETTING</i>
12/08/2006	 Order <i>KENNETH COUNTS EX PARTE APPLICATION AND ORDER FOR CONTACT VISITS - RELATED PARTYID: 05C212667_0001</i>
12/26/2006	 Substitution of Attorney <i>SUBSTITUTION OF ATTORNEY - RELATED PARTYID: 05C212667_0002</i>
01/19/2007	 Motion <i>DEFT'S MTN TO DISMISS /143</i>
01/25/2007	 Application <i>EX PARTE APPLICATION FOR EXCESS FEES FOR INVESTIGATOR - RELATED PARTYID: 05C212667_0001</i>
01/25/2007	 Order <i>ORDER FOR EXCESS FEES INVESTIGATOR - RELATED PARTYID: 05C212667_0001</i>
01/30/2007	Hearing <i>STATUS CHECK: DISCUSSION WITH WITNESS</i>
02/05/2007	 Conversion Case Event Type <i>EX PARTE ORDER TO TRANSPORT - RELATED PARTYID: 05C212667_0001</i>
02/27/2007	Motion <i>ALL PENDING MOTIONS 2/27/07</i>
04/09/2007	 Motion <i>DEFT'S MTN TO RECONSIDER /146</i>
04/09/2007	 Motion <i>DEFT'S MTN TO RECONSIDER TO ALLOW DEFENSE TO ARGUE/147</i>
04/09/2007	

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	 Motion <i>DEFT'S MTN TO RECONSIDER MTN IN LIMINE/148</i>
04/09/2007	 Motion <i>DEFT'S MTN TO RECONSIDER MTN TO DISMISS/149</i>
04/09/2007	 Motion <i>DEFT'S MTN TO RECONSIDER DISCLOSURE/150</i>
04/09/2007	 Motion <i>DEFT'S MTN TO RECONSIDER MTN IN LIMINE TO PRECLUDE/151</i>
04/09/2007	 Motion <i>DEFT'S MTN TO RECONSIDER MTN FOR DISCOVERY/152</i>
04/09/2007	 Motion <i>DEFT'S MTN TO RECONSIDER MTN TO STRIKE/153</i>
04/09/2007	 Motion <i>DEFT'S MTN TO RECONSIDER MTN FOR INDIVIDUAL VOIR DIRE/154</i>
04/09/2007	 Motion <i>DEFT'S MTN TO RECONSIDER TO BAR IMPROPER/155</i>
04/09/2007	 Motion <i>DEFT'S MTN TO RECONSIDER MTN TO FEDERALIZE/156</i>
04/09/2007	 Motion <i>DEFT'S MTN TO RECONSIDER MTN IN LIMINE/157</i>
04/09/2007	 Motion <i>DEFT'S MTN TO RECONSIDER MTN IN LIMINE/158</i>
04/10/2007	 Motion <i>DEFT'S MTN TO RECONSIDER MTN IN LIMINE/159</i>
04/10/2007	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 05C212667_0001</i>
04/10/2007	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 05C212667_0001</i>
04/10/2007	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 05C212667_0001</i>
04/10/2007	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 05C212667_0001</i>
04/10/2007	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 05C212667_0001</i>

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04/10/2007	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 05C212667_0001</i>
04/10/2007	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 05C212667_0001</i>
04/10/2007	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 05C212667_0001</i>
04/10/2007	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 05C212667_0001</i>
04/10/2007	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 05C212667_0001</i>
04/10/2007	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 05C212667_0001</i>
04/10/2007	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 05C212667_0001</i>
04/11/2007	 Request <i>KENNETH COUNTS MOTION TO RECONSIDER MOTION TO SEVER DEFENDANTS - RELATED PARTYID: 05C212667_0001</i>
04/12/2007	 Order <i>ORDER FOR CONTINUATION OF VISITATION - RELATED PARTYID: 05C212667_0001</i>
04/12/2007	 Application <i>EX PARTE APPLICATION FOR EXTENSION OF VISITATION - RELATED PARTYID: 05C212667_0001</i>
04/16/2007	 Application <i>EX PARTE APPLICATION FOR EXCESS FEES AND INTERIM COMPENSATION - RELATED PARTYID: 05C212667_0001</i>
04/16/2007	 Ex Parte Order <i>EX PARTE ORDER FOR EXCESS FEES AND INTERIM COMPENSATION - RELATED PARTYID: 05C212667_0001</i>
04/18/2007	 Application <i>EX PARTE APPLICATION FOR EXCESS FEES AND INTERIM COMPENSATION - RELATED PARTYID: 05C212667_0001</i>
04/18/2007	 Ex Parte Order <i>EX PARTE ORDER FOR EXCESS FEES AND INTERIM COMPENSATION - RELATED PARTYID: 05C212667_0001</i>
04/25/2007	 Expert Witness List <i>SUPPLEMENTAL NOTICE OF EXPERT WITNESSES</i>
04/26/2007	 Opposition <i>STATES OPPOSITION TO DEFENDANT COUNTS MOTION TO RECONSIDER TO DISMISS THE DEATH PENALTY DUE TO FEDERAL DUE PROCESS DEATH PENALTY DUE TO FEDERAL DUE PROCESS</i>

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04/26/2007	 Opposition <i>STATES OPPOSITION TO DEFENDANT COUNTS SECOND MOTION TO RECONSIDER HIS MOTION TO SEVER TO SEVER</i>
04/26/2007	 Opposition <i>STATES OPPOSITION TO DEFENDANTS MOTION TO RECONSIDER MOTION TO BIFURCATE PENALTY PHASE PENALTY PHASE</i>
04/26/2007	 Opposition <i>STATES OPPOSITION TO DEFENDANTS COUNTS MOTION TO RECONSIDER MOTION FORDISCLOSURE OF EXCULPATORY EVIDENCE PERTAINING TO THE IMPACT OF THE DEFENDANTS EXXECUTION UPON VICTIMS FAMILY MEMBERS DISCLOSURE OF EXCULPATORY EVIDENCE PERTAINING TO THE IMPACT OF THE DEFENDANTS EXXECUTION UPON VICTIMS FAMILY MEMBERS</i>
04/26/2007	 Opposition <i>STATES OPPOSITION TO DEFENDANTS MOTION TO RECONSIDER MOTION FOR INDIVIDUAL SEQUESTERED VOIR DIRE SEQUESTERED VOIR DIRE</i>
04/26/2007	 Opposition <i>STATES OPPOSITION TO DEFENDANT COUNTS MOTION TO RECONSIDER MOTION IN LIMINE TO PRECLUDE ADMISSION OF PHONE CONVERSATIONS TO PRECLUDE ADMISSION OF PHONE CONVERSATIONS</i>
04/26/2007	 Response <i>STATES RESPONSE TO DEFENDANTS MOTION TO RECONSIDER MOTION TO PRECLUDE THE INTRODUCTION VICTIM IMPACT EVIDENCE INTRODUCTION VICTIM IMPACT EVIDENCE</i>
04/26/2007	 Application <i>EX PARTE APPLICATION FOR REQUEST FOR FUNDS - RELATED PARTYID: 05C212667_0001</i>
04/26/2007	 Opposition <i>OPPOSITION TO DEFENDANTS MOTION TO RECONSIDER MOTION TO ARGUE LAST AT THE PENALTY PHASE PENALTY PHASE</i>
04/26/2007	 Opposition <i>STATES OPPOSITION TO DEFENDANTS MOTION TO RECONSIDER MOTION FOR DISCOVERY ANDEVIDENTIARY HEARING REGARDING THE MANNER AND METHOD OF DETERMINING IN WHICH MURDER CASES THE DEATH PENALTY WILL BE SOUGHT EVIDENTIARY HEARING REGARDING THE MANNER AND METHOD OF DETERMINING IN WHICH MURDER CASES THE DEATH PENALTY WILL BE SOUGHT</i>
04/26/2007	 Opposition <i>STATES OPPOSITION TO DEFENDANT COUNTS MOTION TO RECONSIDER MOTION IN LIMINE TO PRECLUDE ADMISSION OF EVIDENCE OF ARREST OR FLIGHT TO PRECLUDE ADMISSION OF EVIDENCE OF ARREST OR FLIGHT</i>
04/26/2007	 Opposition <i>STATES OPPOSITION TO DEFENDANT COUNTS MOTION TO RECONSIDER MOTION TO STRIKE NOTICE OF INTENT TO SEEK THE DEATH PENALTY NOTICE OF INTENT TO SEEK THE DEATH PENALTY</i>
04/26/2007	 Opposition <i>OPPOSITION TO DEFENDANTS MOTION TO RECONSIDER MOTION IN LIMINE TO BAR IMPROPER PROSECUTORIAL ARGUMENT IMPROPER PROSECUTORIAL ARGUMENT</i>
04/26/2007	 Opposition

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STATES OPPOSITION TO DEFENDANT COUNTS MOTION TO RECONSIDER MOTION IN LIMINE TO PRECLUDE ADMISSION OF GANG AFFILIATION DRUG ACTIVITY AND HANDLING OF GUNS TO PRECLUDE ADMISSION OF GANG AFFILIATION DRUG ACTIVITY AND HANDLING OF GUNS

04/26/2007	 Opposition <i>STATES OPPOSITION TO DEFENDANT COUNTS MOTION TO RECONSIDER MOTION TO FEDERALIZE ALL MOTIONS OBJECTIONS REQUESTS AND OTHER APPLICATIONS FOR THE PROCEEDINGS IN THE ABOVE ENTITLED CASE</i>
05/01/2007	 Notice <i>NOTICE OF EVIDENCE IN AGGRAVATION</i>
05/01/2007	 Expert Witness List <i>SUPPLEMENTAL NOTICE OF WITNESSES</i>
05/04/2007	 Motion <i>DEFT'S MTN TO CONTINUE /161</i>
05/04/2007	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 05C212667_0003</i>
05/08/2007	 Order <i>ORDER FOR FUNDS - RELATED PARTYID: 05C212667_0001</i>
05/08/2007	 Order <i>EX PARTE APPLICATION AND ORDER FOR A CONTACT VISIT WITH A TAPE RECORDING DEVICE DEVICE-RELATED PARTYID: 05C212667_0001</i>
05/08/2007	 Order <i>ORDER FOR CONTACT VISIT - RELATED PARTYID: 05C212667_0001</i>
05/11/2007	Hearing <i>AT THE REQUEST OF THE COURT TO ADDRESS DEFT'S CUSTODY STATUS IN THIS CASE</i>
05/14/2007	 Application <i>EX PARTE APPLICATION FOR REQUEST OF FUNDS - RELATED PARTYID: 05C212667_0001</i>
05/14/2007	 Application <i>EX PARTE APPLICATION FOR REQUEST FOR FUNDS - RELATED PARTYID: 05C212667_0001</i>
05/15/2007	Motion <i>ALL PENDING MOTIONS 05-15-07</i>
05/15/2007	 Motion <i>DEFT'S MTN TO CONTINUE TRIAL/164</i>
05/15/2007	Motion <i>ALL PENDING MOTIONS 05-15-07</i>
05/16/2007	 Motion <i>DEFT'S MTN TO DISMISS /165</i>
05/16/2007	 Receipt of Copy

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RECEIPT OF COPY - RELATED PARTYID: 05C212667_0001

05/17/2007	 Expert Witness List <i>NOTICE OF DEFENDANTS EXPERT WITNESSES - RELATED PARTYID: 05C212667_0001</i>
05/17/2007	 Notice <i>NOTICE OF EVIDENCE IN AGGRAVATION</i>
05/17/2007	 Notice <i>NOTICE OF EVIDENCE IN AGGRAVATION</i>
05/17/2007	 Expert Witness List <i>SUPPLEMENTAL NOTICE OF DEFENDANTS EXPERT WITNESSES - RELATED PARTYID: 05C212667_0001</i>
05/17/2007	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 05C212667_0001</i>
05/17/2007	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 05C212667_0001</i>
05/17/2007	 Notice <i>NOTICE OF EVIDENCE IN AGGRAVATION</i>
05/18/2007	Hearing <i>STATUS CHECK: TRIAL SETTING</i>
05/18/2007	Motion <i>ALL PENDING MOTIONS (05-17-07)</i>
05/18/2007	 Order <i>ORDER FOR REQUEST FOR FUNDS - RELATED PARTYID: 05C212667_0001</i>
05/18/2007	 Expert Witness List <i>SUPPLEMENTAL NOTICE OF WITNESSES</i>
05/18/2007	 Order <i>ORDER FOR FUNDS</i>
05/18/2007	 Expert Witness List <i>SUPPLEMENTAL NOTICE OF EXPERT WITNESSES</i>
05/18/2007	 Expert Witness List <i>NOTICE OF WITNESSES</i>
05/21/2007	Hearing <i>STATUS CHECK: TRIAL SETTING</i>
05/21/2007	 Expert Witness List <i>NOTICE OF EXPERT WITNESSES</i>
05/24/2007	Hearing <i>STATUS CHECK: JURY QUESTIONNAIRE</i>

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05/24/2007	 Notice <i>NOTICE OF ALIBI WITNESS - RELATED PARTYID: 05C212667_0001</i>
05/25/2007	 Order <i>ORDER FOR TRANSCRIPT</i>
05/25/2007	 Order <i>EX PARTE APPLICATION AND ORDER FOR A HAIRCUT BY A BARBER - RELATED PARTYID: 05C212667_0001</i>
05/25/2007	 Reporters Transcript <i>REPORTER'S TRANSCRIPT CALENDAR CALL</i>
05/29/2007	 Order <i>ORDER FOR FUNDS - RELATED PARTYID: 05C212667_0001</i>
05/29/2007	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 05C212667_0001</i>
05/29/2007	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 05C212667_0001</i>
05/29/2007	 Application <i>EX PARTE APPLICATION FOR REQUEST OF FUNDS - RELATED PARTYID: 05C212667_0001</i>
05/29/2007	 Expert Witness List <i>NOTICE OF WITNESSES - RELATED PARTYID: 05C212667_0001</i>
05/29/2007	 Notice <i>DISCLOSURE OF DEFENDANTS EVIDENCE - RELATED PARTYID: 05C212667_0001</i>
06/01/2007	 Order <i>NUNC PRO TUNC ORDER OF APPOINTMENT - RELATED PARTYID: 05C212667_0004</i>
06/01/2007	 Order <i>NUNC PRO TUNC ORDER OF APPOINTMENT - RELATED PARTYID: 05C212667_0004</i>
06/05/2007	Conversion Case Event Type <i>CHANGE OF PLEA</i>
06/06/2007	 Expert Witness List <i>NOTICE OF WITNESSES</i>
06/06/2007	 Reporters Transcript <i>REPORTER'S TRANSCRIPT RE HEARING TRIAL PROCEEDINGS DAY 1</i>
06/06/2007	 Information <i>AMENDED INFORMATION</i>
06/06/2007	 Filed Under Seal <i>FILED UNDER SEAL GUILTY PLEA AGREEMENT</i>
06/06/2007	 Memorandum

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GUILTY PLEA MEMORANDUM/AGREEMENT

06/08/2007	 Change of Address <i>NOTICE OF CHANGE OF ADDRESS TELEPHONE AND FACSIMILE NUMBERS - RELATED PARTYID: 05C212667_0005</i>
06/08/2007	 Order <i>ORDER</i>
06/18/2007	Hearing <i>AT REQUEST OF COURT: IN-COURT DEPOSITION</i>
06/18/2007	Hearing <i>AT REQUEST OF COURT: IN-COURT DEPOSITION</i>
06/18/2007	Hearing <i>AT REQUEST OF COURT: IN-COURT DEPOSITION</i>
06/19/2007	Conversion Case Event Type <i>SENTENCING</i>
06/19/2007	Hearing <i>STATUS CHECK</i>
06/25/2007	 Reporters Transcript <i>REPORTER'S TRANSCRIPT TRIAL BY JURY</i>
06/25/2007	 Reporters Transcript <i>REPORTER'S TRANSCRIPT STATUS CHECK JURY QUESTIONNAIRE</i>
06/25/2007	 Reporters Transcript <i>REPORTER'S TRANSCRIPT TRIAL SETTING ALL</i>
06/25/2007	 Reporters Transcript <i>REPORTER'S TRANSCRIPT DEFENDANTS MOTION FOR DISMISSAL ALL</i>
06/25/2007	 Reporters Transcript <i>REPORTER'S TRANSCRIPT MOTIONS</i>
06/25/2007	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF HEARING RE STATU CHECK TRIAL SETTING</i>
06/26/2007	Motion <i>ALL PENDING MOTIONS 6-26-07</i>
07/05/2007	 Motion <i>STATES MTN TO CONDUCT VIDEOTAPED TEST/192</i>
07/12/2007	 Opposition <i>LUIS HIDALGO IIIS OPPOSITION TO THE STATES MOTION TO CONDUCT VIDEO TAPED TESTIMONY OF A WITNESS TESTIMONY OF A WITNESS- RELATED PARTYID: 05C212667_0002</i>
07/13/2007	 Notice <i>NOTICE OF JOINDER IN DEFENDANTS LUIS HIDALGO IIIS OPPOSITION TO THE STATES MOTION TO CONDUCT VIDEOTAPED TESTIMONY OF A WITNESS MOTION TO CONDUCT VIDEOTAPED TESTIMONY</i>

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OF A WITNESS- RELATED PARTYID: 05C212667_0001

07/16/2007	 Receipt of Copy <i>RECEIPT OF COPY</i>
07/17/2007	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 05C212667_0002</i>
07/19/2007	 Ex Parte <i>EX PARTE APPLICAITON FOR INTERIM COMPENSATION - RELATED PARTYID: 05C212667_0001</i>
07/26/2007	Hearing <i>STATUS CHECK: OPEN/SEALED DEPOSITIONS</i>
07/26/2007	Hearing <i>DEPOSITIONS HEARING</i>
08/13/2007	 Notice <i>SUPPLEMENTAL NOTICE OF WITNESSES</i>
08/14/2007	 Notice <i>NOTICE OF CHANGE IN STATUS OF COUNSEL FOR PETITIONER - RELATED PARTYID: 05C212667_0003</i>
08/15/2007	 Expert Witness List <i>NOTICE OF WITNESSES AND OR EXPERT WITNESSES - RELATED PARTYID: 05C212667_0004</i>
08/16/2007	 Supplement <i>SUPPLEMENTAL NOTICE OF WITNESSES</i>
08/16/2007	 Request <i>MOTION TO STRIKE DEATH PENALTY AGGRAVATORS OR IN THE ALTERNATIVE MOTION FOR CONTINUANCE AND/OR MOTION FOR STAY MOTION FOR CONTINUANCE AND/OR MOTION FOR STAY-RELATED PARTYID: 05C212667_0004</i>
08/16/2007	Motion <i>DEFT CARROLL'S MOTION TO STRIKE DEATH PENALTY AGGRAVATORS/208</i>
08/20/2007	 Reporters Transcript <i>REPORTER'S TRANSCRIPT CALENDAR CALL</i>
08/21/2007	 Reporters Transcript <i>REPORTER'S TRANSCRIPT STATES MOTION TO CONDUCT VIDEOTAPED TEST</i>
08/21/2007	 Reporters Transcript <i>REPORTER'S TRANSCRIPT STATES MOTION TO CONDUCT VIDEOTAPED TEST</i>
08/23/2007	Hearing <i>STATUS CHECK: TRIAL STATUS</i>
08/23/2007	Hearing <i>STATUS CHECK: TRIAL STATUS</i>
08/23/2007	Hearing <i>STATUS CHECK: TRIAL STATUS</i>











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08/23/2007	Hearing <i>STATUS CHECK: TRIAL STATUS</i>
08/27/2007	 Reporters Transcript <i>REPORTER'S TRANSCRIPT CALENDAR CALL</i>
08/28/2007	Motion <i>ALL PENDING MOTIONS (8/28/07)</i>
08/29/2007	 Motion <i>DEFT'S MTN FOR DISCOVERY /209</i>
08/30/2007	 Reporters Transcript <i>REPORTER'S TRANSCRIPT STATUS CHECK TRIAL SETTING</i>
09/05/2007	 Order <i>ORDER APPOINTING PSYCHIATRIST FOR DEATH PENALTY MITIGATION</i>
09/11/2007	 Application <i>EX PARTE APPLICATION FOR EXCESS FEES AND INTERIM COMPENSATION - RELATED PARTYID: 05C212667_0001</i>
09/11/2007	 Ex Parte Order <i>EX PARTE ORDER FOR EXCESS FEES AND INTERIM COMPENSATION - RELATED PARTYID: 05C212667_0001</i>
09/11/2007	 Order <i>ORDER FOR EXCESS FEES - RELATED PARTYID: 05C212667_0001</i>
09/20/2007	 Order <i>ORDER FOR EXCESS FEES - RELATED PARTYID: 05C212667_0001</i>
09/20/2007	 Order <i>ORDER FOR REQUEST FOR INTERIM COMPENSATION - RELATED PARTYID: 05C212667_0001</i>
09/27/2007	 Reporters Transcript <i>REPORTER'S TRANSCRIPT DEFENDANT CARROLLS MOTION TO STRIKE DEATH PENALTY AGGRAVATORS AGGRAVATORS</i>
10/02/2007	 Substitution of Attorney <i>SUBSTITUTION OF ATTORNEY - RELATED PARTYID: 05C212667_0003</i>
10/04/2007	 Opposition <i>STATES OPPOSITION TODEFENDANT CARROLLS MOTION TO STRIKE DEATH PENALTY AGGRAVATORS AGGRAVATORS</i>
10/09/2007	 Application <i>EX PARTE APPLICATION FOR EXTENSION OF VISITATION - RELATED PARTYID: 05C212667_0001</i>
10/09/2007	 Order <i>ORDER FOR CONTINUATION OF VISITATION - RELATED PARTYID: 05C212667_0001</i>
10/24/2007	 Motion <i>DEFT'S PRO PER MTN ON PTN TO MARRY/210</i>

















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11/09/2007	 Expert Witness List <i>NOTICE OF EXPERT WITNESS - RELATED PARTYID: 05C212667_0004</i>
11/14/2007	 Notice <i>AMENDED NOTICE OF EVIDENCE IN AGGRAVATION</i>
11/20/2007	 Substitution of Attorney <i>SUBSTITUTION OF ATTORNEY - RELATED PARTYID: 05C212667_0002</i>
11/21/2007	 Certificate <i>CERTIFICATE OF SERVICE - RELATED PARTYID: 05C212667_0002</i>
11/21/2007	 Conversion Case Event Type <i>PROPOSED JURY QUESTIONNAIRE - RELATED PARTYID: 05C212667_0004</i>
11/21/2007	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 05C212667_0004</i>
11/26/2007	 Media Request and Order <i>MEDIA REQUEST AND ORDER</i>
11/27/2007	 Order <i>ORDER DENYING DEFENDANTS MOTION TO STRIKE DEATH PENALTY AGGRAVATORS</i>
11/27/2007	 Order <i>ORDER FOR DAILY TRANSCRIPTS</i>
12/07/2007	 Media Request and Order <i>MEDIA REQUEST AND ORDER</i>
01/02/2008	 Request <i>MOTION REQUESTING ADDITIONAL FUNDS FOR INVESTIGATION - RELATED PARTYID: 05C212667_0005</i>
01/05/2008	Hearing <i>STATE'S REQUEST STATUS CHECK - AGREED</i>
01/07/2008	 Motion <i>DEFT'S MTN FOR AUDIBILITY HEARING & TRANSCRIPT APPROVAL/213</i>
01/07/2008	 Motion <i>DFT'S MTN TO SUPPRESS CUSTODIAL STATEMENTS/214</i>
01/08/2008	 Motion <i>DFT'S MTN TO JOIN HIDALGO'S MTN FOR AUDIBILITY HEARING/215</i>
01/08/2008	 Motion <i>DFT'S MTN TO JOIN HIDALGO'S MTN FOR SEVERANCE/216</i>
01/08/2008	 Motion <i>DEFT'S MTN TO SET BAIL /217</i>

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01/08/2008	 Motion <i>DEFT'S MTN FOR SEVERANCE FROM CAPITL/218</i>
01/08/2008	 Motion <i>DEFT'S SECOND MTN TO RECONSIDER MTN TO STRIKE AGGRAVATING CIRCUMSTANCES</i>
01/09/2008	 Notice <i>AMENDED NOTICE OF EVIDENCE IN SUPPORT OF AGGRAVATION CIRCUMSTANCES</i>
01/09/2008	 Notice <i>AMENDED NOTICE OF EVIDENCE IN SUPPORT OF AGGRAVATING CIRCUMSTANCES</i>
01/09/2008	 Notice <i>AMENDED NOTICE OF EVIDENCE IN SUPPORT OF AGGRAVATING CIRCUMSTANCES</i>
01/09/2008	 Notice <i>AMENDED NOTICE OF EVIDENCE IN SUPPORT OF AGGRAVATING CIRCUMSTANCES</i>
01/10/2008	 Notice <i>SECOND AMENDED NOTICE OF EVIDENCE IN SUPPORT OF AGGRAVATING CIRCUMSTANCES</i>
01/10/2008	 Request <i>NOTICE OF MOTION AND MOTION TO FILE AMENDED NOTICE ALLEGING AN ADDITIONAL AGGRAVATING CIRCUMSTANCE AGGRAVATING CIRCUMSTANCE</i>
01/11/2008	 Motion <i>DEFT'S MTN TO JOIN IN MTN TO SET BAIL/220</i>
01/14/2008	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 05C212667_0003</i>
01/14/2008	 Expert Witness List <i>DEFENDANT LUIS A HIDALGO III'S NOTICE OF WITNESSES - RELATED PARTYID: 05C212667_0002</i>
01/15/2008	Motion <i>ALL PENDING MOTIONS 1/15/08</i>
01/17/2008	 Request <i>EX PARTE MOTION REQUESTING ADDITIONAL FUNDS FOR INVESTIGATION AND ORDER - RELATED PARTYID: 05C212667_0005</i>
01/18/2008	 Opposition <i>OPPOSITION TO DEFTS SECOND MOTION TO RECONSIDER MOTION TO STRIKE AGGRAVATING CIRCUMSTANCES AGGRAVATING CIRCUMSTANCES</i>
01/22/2008	 Expert Witness List <i>DEFENDANT LUIS A HIDALGO III S NOTICE OF EXPERT WITNESSES - RELATED PARTYID: 05C212667_0002</i>
01/22/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT CALENDAR CALL</i>
01/22/2008	 Reporters Transcript

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CASE No. 05C212667-4

REPORTER'S TRANSCRIPT DEFENDANT CARROLLS MOTION TO STRIKE DEATH PENALTY AGGRAVATORS
AGGRAVATORS

01/23/2008	 Order <i>ORDER DENYING MOTION TO STRIKE AGGRAVATING CIRCUMSTANCES - RELATED PARTYID: 05C212667_0001</i>
01/23/2008	 Order <i>ORDER FOR DAILY TRANSCRIPTS</i>
01/24/2008	Hearing <i>MINUTE ORDER RE: RE: BAIL FOR DEFTS. HILDALGO AND</i>
01/24/2008	 Expert Witness List <i>DEFENDANT LUIS A HIDALGO IIIS SUPPLEMENTAL NOTICE OF EXPERT WITNESSES - RELATED PARTYID: 05C212667_0002</i>
01/24/2008	 Opposition <i>STATES OPPOSITION TO DEFENDANTS MOTION TO SUPPRESS HIS CUSTODIAL STATEMENTS</i>
01/25/2008	 Motion <i>DEFT'S MTN IN LIMINE TO ALLOW STATEMENT/227</i>
01/25/2008	 Expert Witness List <i>SUPPLEMENTAL NOTICE OF WITNESSES - RELATED PARTYID: 05C212667_0001</i>
01/25/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT MOTIONS</i>
01/25/2008	 Order <i>EX PARTE APPLICATION AND ORDER FOR A HAIRCUT BY A BARBER - RELATED PARTYID: 05C212667_0001</i>
01/29/2008	 Information <i>SECOND AMENDED INFORMATION</i>
01/30/2008	Motion <i>ALL PENDING MOTIONS 1/29/08</i>
01/30/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT JURY TRIAL JURY VOIR DIRE DAY ONE</i>
01/30/2008	 Conversion Case Event Type <i>EX PARTE ORDER TO TRANSPORT - RELATED PARTYID: 05C212667_0001</i>
01/30/2008	 Conversion Case Event Type <i>EX PARTE ORDER TO TRANSPORT - RELATED PARTYID: 05C212667_0001</i>
01/30/2008	 Conversion Case Event Type <i>EX PARTE ORDER TO TRANSPORT - RELATED PARTYID: 05C212667_0001</i>
01/31/2008	 Proof <i>OFFER OF PROOF - RELATED PARTYID: 05C212667_0001</i>

CASE SUMMARY

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01/31/2008	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 05C212667_0001</i>
01/31/2008	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 05C212667_0001</i>
01/31/2008	 Expert Witness List <i>NOTICE OF WITNESS FOR PENALTY PHASE - RELATED PARTYID: 05C212667_0001</i>
01/31/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT JURY TRIAL JURY VOIR DIRE DAY TWO</i>
01/31/2008	 Expert Witness List <i>NOTICE OF DEFTS EXPERT WITNESS FOR PENALTY PHASE - RELATED PARTYID: 05C212667_0001</i>
01/31/2008	 Jury List <i>DISTRICT COURT JURY LIST</i>
02/01/2008	 Motion <i>DEFT'S MTN TO SET BAIL /229</i>
02/01/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT JURY TRIAL DAY THREE</i>
02/04/2008	Hearing <i>STATUS CHECK:SENTENCING</i>
02/04/2008	Conversion Case Event Type <i>CHANGE OF PLEA</i>
02/04/2008	 Expert Witness List <i>SUPPLEMTNTAL NOTICE OF WITNESSES</i>
02/04/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT EXCERPT OF PROCEEDINGS TESTIMONY OF RONTEA ZONE</i>
02/04/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT DEPOSITION OF OMAR MANOR</i>
02/04/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT JURY TRIAL DAY FOUR</i>
02/04/2008	 Information <i>THIRD AMENDED INFORMATION</i>
02/04/2008	 Memorandum <i>GUILTY PLEA MEMORANDUM/AGREEMENT</i>
02/04/2008	 Filed Under Seal <i>Document Filed</i>
02/05/2008	Motion <i>ALL PENDING MOTIONS 2/5/08</i>

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02/05/2008	 Expert Witness List <i>SUPPLEMENTAL NOTICE OF WITNESSES</i>
02/05/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT JURY TRIAL DAY FIVE</i>
02/05/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT JURY TRIAL DAY FIVE JAYSON TAOIPUS TESTIMONY</i>
02/05/2008	 Conversion Case Event Type <i>ORDER TO TRANSPORT</i>
02/05/2008	 Request <i>MOTION TO PRECLUDE TESTIMONY FROM DETECTIVES RE THEIR INTERPRETATION OF THIRD PHONE CONVERSATIONS THIRD PHONE CONVERSATIONS- RELATED PARTYID: 05C212667_0001</i>
02/05/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT JURY TRIAL DAY THREE</i>
02/06/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT HEARING RE JURY TRIAL DAY SIX</i>
02/07/2008	 Expert Witness List <i>DEFENDANT LUIS A HIDALGO III S SUPPLEMENTAL NOTICE OF WITNESSES - RELATED PARTYID: 05C212667_0002</i>
02/07/2008	 Expert Witness List <i>DEFENDANT LUIS A HIDALGO III S SUPPLEMENTAL NOTICE OF EXPERT WITNESSES</i>
02/07/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT JURY TRIAL DAY SEVEN</i>
02/07/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT ESPINDOLA PLEA</i>
02/08/2008	 Motion <i>DEFT'S MTN FOR DISCLOSURE/233</i>
02/08/2008	 Motion <i>DEFT'S MTN FOR DISCLOSURE OF THE EXISTENCE/234</i>
02/08/2008	 Motion <i>DEFT'S MTN TO COMPEL PRODUCTION OF HANDWRITTEN NOTES/235</i>
02/08/2008	Conversion Case Event Type <i>SENTENCING</i>
02/08/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT JURY TRIAL DAY EIGHT</i>
02/08/2008	 Conversion Case Event Type

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ORDER TO TRANSPORT - RELATED PARTYID: 05C212667_0002

02/08/2008	 Judgment <i>VERDICT (COUNT 1)</i>
02/08/2008	Judgment <i>VERDICT (COUNT 2) - RELATED PARTYID: 05C212667_0001</i>
02/08/2008	 Instructions to the Jury <i>INSTRUCTIONS TO THE JURY</i>
02/08/2008	 Proposed Verdict Forms Not Used at Trial <i>PROPOSED VERDICT FORMS NOT USED AT TRIAL</i>
02/11/2008	Hearing <i>HEARING:POTENTIAL CONFLICT</i>
02/11/2008	 Expert Witness List <i>DEFT LUIS A HIDALGO III'S SECOND SUPPLEMENTAL NTC OF WITNESSES - RELATED PARTYID: 05C212667_0002</i>
02/11/2008	 Notice <i>NOTICE OF HABITUAL CRIMINALITY</i>
02/12/2008	 Memorandum <i>MEMORANDUM OF LAW REGARDING JOINT REPRESENTATION OF CO DEFENDANTS</i>
02/12/2008	 Expert Witness List <i>DEFENDANT LUIS A HIDALGO III S THIRD SUPPLEMENTAL NOTICE OF WITNESSES - RELATED PARTYID: 05C212667_0002</i>
02/13/2008	Motion <i>ALL PENDING MOTIONS 2/7/08</i>
02/13/2008	 Response <i>RESPONSE TO STATE OF NEVADAS MEMORANDUM OF LAW REGARDING JOINT REPRESENTATION OF CO DEFENDANTS REPRESENTATION OF CO DEFENDANTS- RELATED PARTYID: 05C212667_0002</i>
02/14/2008	Motion <i>ALL PENDING MOTIONS 2/11/08</i>
02/15/2008	 Motion <i>DEFT'SMTN FOR NEW TRIAL AND REQUEST FOR AN EVIDENTIARY HEARING/242</i>
02/15/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT VERDICT</i>
02/20/2008	 Motion <i>DEFT'S MTN TO DISMISS OR MTN TO STRIKE/243 VJ 5/22 STAY BY NSC</i>
02/20/2008	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 05C212667_0001</i>
02/22/2008	 Opposition

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STATES OPPOSITION TO DEFENDANT COUNTS MOTION FOR NEW TRIAL

02/26/2008	Motion <i>ALL PENDING MOTIONS 2/26/08</i>
03/06/2008	 Notice of Intent to Seek Death Penalty <i>NOTICE OF INTENT TO SEEK DEATH PENALTY</i>
03/10/2008	Motion <i>ALL PENDING MOTIONS 2/14/08</i>
03/14/2008	 Order <i>ORDER DENYING DEFENDANTS MOTION FOR NEW TRIAL</i>
03/20/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT CHANGE OF PLEA</i>
03/28/2008	Conversion Case Event Type <i>SENTENCE TO RUN CONSECUTIVE TO CALIFORNIA TIME</i>
03/28/2008	 Order <i>ORDER - RELATED PARTYID: 05C212667_0001</i>
03/28/2008	 Order <i>ORDER - RELATED PARTYID: 05C212667_0001</i>
03/31/2008	 Judgment <i>JUDGMENT OF CONVICTION/ADMIN ASSESSMENT</i>
03/31/2008	Judgment <i>JUDGMENT OF CONVICTION/GENETIC TESTING</i>
03/31/2008	 Judgment <i>JUDGMENT OF CONVICTION/ADMIN ASSESSMENT</i>
03/31/2008	Judgment <i>JUDGMENT OF CONVICTION/GENETIC TESTING</i>
04/07/2008	 Ex Parte Order <i>EX PARTE ORDER FOR EXCESS FEES AND FINAL COMPENSATION - RELATED PARTYID: 05C212667_0001</i>
04/07/2008	 Application <i>EX PARTE APPLICATION FOR EXCESS FEES</i>
04/09/2008	 Motion <i>STATE'S MTN TO CONDUCT VIDEOTAPED TESTIMONY OF A COOPERATING WITNESS/250</i>
04/15/2008	Motion <i>ALL PENDING MOTIONS 4/15/08</i>
04/16/2008	 Opposition <i>OPPOSITION TO STATES MTN TO CONDUCT VIDEOTAPED TESTIMONY OF COOPERATING WITNESS WITNESS- RELATED PARTYID: 05C212667_0001</i>


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CASE NO. 05C212667-4

04/16/2008	 Filed Under Seal <i>FILED UNDER SEAL EXHIBIT 2 TO OPPOSITION TO STATE'S MTN TO CONDUCT VIDEOTAPED TESTIMONY - SEALED TESTIMONY - SEALED</i>
04/23/2008	 Order <i>EX PARTE APPLICTION AND ORDER FOR REQUEST FOR FUNDS - RELATED PARTYID: 05C212667_0001</i>
04/23/2008	 Order <i>ORDER FOR FUNDS - RELATED PARTYID: 05C212667_0001</i>
04/30/2008	 Notice of Appeal <i>NOTICE OF APPEAL (51549) - RELATED PARTYID: 05C212667_0001</i>
04/30/2008	 Request <i>REQUEST FOR ROUGH DRAFT TRANSCRIPT - RELATED PARTYID: 05C212667_0001</i>
04/30/2008	 Statement <i>CASE APPEAL STATEMENT - RELATED PARTYID: 05C212667_0001</i>
04/30/2008	 Request <i>REQUEST FOR ROUGH DRAFT TRANSCRIPT - RELATED PARTYID: 05C212667_0001</i>
05/05/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF MOTIONS</i>
05/08/2008	 Filed Under Seal <i>FILED UNDER SEAL ORDER SEALING AGREEMENT TO TESTIFY AND EXHIBIT 2 OF OPPOSITION TO STATES MOTION TO CONDUCT VIDEOTAPED TESTIMONY OF A COOPERATING WITNESS OPPOSITION TO STATES MOTION TO CONDUCT VIDEOTAPED TESTIMONY OF A COOPERATING WITNESS</i>
05/09/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT ALL PENDING MOTIONS</i>
05/09/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT ALL PENDING MOTIONS</i>
05/20/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS SENTENCING</i>
05/20/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF DEFENDANTS MOTION FOR NEW TRIAL AND REQUEST FOR EVIDENTIARY HEARING EVIDENTIARY HEARING</i>
05/29/2008	Hearing <i>STATUS CHECK: TRIAL SETTING</i>
06/05/2008	 Order <i>ORDER FOR FUNDS - RELATED PARTYID: 05C212667_0001</i>
06/18/2008	 Notice of Intent to Seek Death Penalty <i>AMENDED NOTICE OF INTENT TO SEEK DEATH PENALTY</i>
06/25/2008	


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	 Motion <i>STATES MTN TO CONSOLIDATE WITH C241394/256</i>
06/26/2008	 Application <i>EX PARTE APPLICATION FOR ADDITIONAL MITIGATION EXPERT INVESTIGATIVE FEES PURSUANT TO NRS 7.135 PURSUANT TO NRS 7.135- RELATED PARTYID: 05C212667_0004</i>
06/26/2008	 Order <i>ORDER - RELATED PARTYID: 05C212667_0004</i>
06/30/2008	 Motion <i>NOTICE OF INTENT REV OF PROB</i>
07/03/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT STATUS CHECK TRIAL SETTING/AFFIDAVIT DEFENDANTS MOTIONFOR DISCLOSURE OF EXISTENCE OF ELECTRONIC SURVEILLANCE DEFENDANTS MOTION FOR DISCLOSURE OF INTERCEPTED COMMUNICATIONS FOR DISCLOSURE OF EXISTENCE OF ELECTRONIC SURVEILLANCE DEFENDANTS MOTION FOR DISCLOSURE OF INTERCEPTED COMMUNICATIONS</i>
08/19/2008	 Order <i>ORDER ADMITTING DEFENDANT TO PROBATION AND FIXING THE TERMS THEREOF</i>
10/13/2008	 Filed Under Seal <i>FILED UNDER SEAL - EX PARTE APPLICATION FOR DEFT LUIS A HIDALGO III TO BE GORDON SILVER TRANSPORTED FROM THE CLARK COUNTY DETENTION CENTER TO THE LAW OFFICES OF GORDON SILVER TRANSPORTED FROM THE CLARK COUNTY DETENTION CENTER TO THE LAW OFFICES OF- RELATED PARTYID: 05C212667_0002</i>
10/14/2008	 Order <i>ORDER TO SEAL EX PARTE APPLICATION AND ORDER TO TRANSPORT - RELATED PARTYID: 05C212667_0002</i>
10/14/2008	 Filed Under Seal <i>FILED UNDER SEAL - DEFENDANT LUIS A HIDALGO IIIS EX PARTE ORDER TO TRANSPORT - RELATED PARTYID: 05C212667_0002</i>
10/20/2008	Hearing <i>TRIAL SETTING</i>
10/20/2008	 Notice of Intent to Seek Death Penalty <i>AMENDED NOTICE OF INTENT TO SEEK DEATH PENALTY</i>
10/28/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF HEARING RE TRIAL SETTING</i>
10/30/2008	 Filed Under Seal <i>FILED UNDER SEAL - RECORDERS TRANSCRIPT OF HEARING RE MOTIONS</i>
10/30/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF HEARING RE DEFTS MTN TO SET BAIL</i>
10/30/2008	 Order <i>ORDER TO SEAL</i>

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11/13/2008	Hearing <i>STATE'S REQUEST STATUS CHECK ON MTN TO CONSOLIDATE C241394</i>
11/21/2008	 Substitution of Attorney <i>SUBSTITUTION OF ATTORNEYS - RELATED PARTYID: 05C212667_0002</i>
12/08/2008	 Opposition <i>DEFTS LUIS HIDALGO JR AND LUIS HIDALGO IIIS OPPOSITION TO THE MTN TO CONSOLIDATE CASE NO C241394 INTO C212667 CONSOLIDATE CASE NO C241394 INTO C212667- RELATED PARTYID: 05C212667_0002</i>
12/08/2008	 Request <i>DEFT LUIS A HIDALGO IIIS MTN TO STRIKE THE AMENDED NOTICE TO SEEK DEATH PENALTY - RELATED PARTYID: 05C212667_0002</i>
12/15/2008	 Response <i>RESPONSE TO DEFT LUIS HIDALGO JR AND LUIS HIDALGO IIIS OPPOSITION TO CONSOLIDATE CASE NO C241394 INTO C212667 CONSOLIDATE CASE NO C241394 INTO C212667</i>
12/22/2008	 Notice <i>DEFT LUIS A HIDALGO IIIS AMENDED NOTICE TO STRIKE THE AMENDED NOTICE TO SEEK DEATH PENALTY DEATH PENALTY- RELATED PARTYID: 05C212667_0002</i>
12/29/2008	 Reporters Transcript <i>RECORDER'S TRANSCRIPT OF HEARING RE STATES REQUEST FOR STATUS CHECK ON MOTION TO CONSOLIDATE MOTION TO CONSOLIDATE</i>
12/29/2008	 Filed Under Seal <i>FILED UNDER SEAL - EX PARTE APPLICATION FOR LUIS HIDALGO III TO BE TRANSPORTED FROM THE CLARK COUNTY DETENTION CENTER TO THE LAW OFFICE OF GORDON SILVER FROM THE CLARK COUNTY DETENTION CENTER TO THE LAW OFFICE OF GORDON SILVER- RELATED PARTYID: 05C212667_0002</i>
12/29/2008	 Order <i>ORDER TO SEAL EX PARTE APPLICATION AND ORDER TO TRANSPORT - RELATED PARTYID: 05C212667_0002</i>
12/29/2008	 Filed Under Seal <i>FILED UNDER SEAL - DEFT LUIS A HIDALGO IIIS EX PARTE ORDER TO TRANSPORT - RELATED PARTYID: 05C212667_0002</i>
12/31/2008	 Opposition <i>STATES OPPOSITION TO DEFT LUIS A HIDALGO IIIS AMENDED NOTICE TO STRIKE THE AMENDED NOTICE TO SEEK DEATH PENALTY AMENDED NOTICE TO SEEK DEATH PENALTY</i>
01/05/2009	 Expert Witness List <i>DEFT LUIS A HIDALGO III'S 3RD SUPPLEMENTAL NOTICE OF EXPERT WITNESSES - RELATED PARTYID: 05C212667_0002</i>
01/06/2009	 Notice of Witnesses and/or Expert Witnesses <i>NOTICE OF EXPERT WITNESSES</i>
01/07/2009	 Motion <i>STATE'S MTN TO REMOVE MR GENTILE AS ATTORNEY OR TO REQ WAIVERS/262</i>

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01/07/2009	 Notice of Witnesses and/or Expert Witnesses <i>NOTICE OF WITNESSES AND/OR EXPERT WITNESSES</i>
01/08/2009	 Motion <i>DEFT'S MTN FOR FAIR & ADEQUATE VOIR DIRE/263</i>
01/09/2009	 Order <i>ORDER ADMITTING TO PRACTICE - RELATED PARTYID: 05C212667_0002</i>
01/12/2009	 Reporters Transcript <i>REPORTER'S TRANSCRIPT - STATES REQUEST - STATUS CHECK ON MTN TO CONSOLIDATE</i>
01/15/2009	 Filed Under Seal <i>DEFENDANT LUIS A HIDALGO IIIS EX PARTE ORDER TO TRANSPORT - RELATED PARTYID: 05C212667_0002</i>
01/15/2009	 Filed Under Seal <i>EX PARTE APPLICATION FOR DEFT LUIS A HIDALGO III TO BE TRANSPORTED FROM THE CLARK COUNTY DETENTION CENTER TO THE LAW OFFICES OF GORDON SILVER CLARK COUNTY DETENTION CENTER TO THE LAW OFFICES OF GORDON SILVER- RELATED PARTYID: 05C212667_0002</i>
01/15/2009	 Order <i>ORDER TO SEAL EX PARTE APPLICATION AND ORDER TO TRANSPORT - RELATED PARTYID: 05C212667_0002</i>
01/16/2009	Motion <i>ALL PENDING MOTIONS 1-16-09</i>
01/16/2009	 Waiver <i>WAIVER OF RIGHTS TO A DETERMINATION OF PENALTY BY THE TRIAL JURY</i>
01/16/2009	 Order <i>ORDER GRANTING THE STATES MOTION TO CONSOLIDATE C241394 INTO C212667</i>
01/16/2009	 Notice <i>SUPPLEMENTAL NOTICE OF WITNESSES</i>
01/20/2009	 Notice of Witnesses and/or Expert Witnesses <i>NOTICE OF WITNESSES AND/OR EXPERT WITNESSES - RELATED PARTYID: 05C212667_0002</i>
01/20/2009	 Opposition <i>OPPOSITION TO STATE OF NEVADAS MTN IN LIMINE TO EXCLUDE TESTIMONY OF VALERIE FRIDLAND FRIDLAND- RELATED PARTYID: 05C212667_0002</i>
01/20/2009	 Opposition <i>STATES OPPOSITION TO DEFT LUIS A HIDALGO JRS MTN TO SUPPRESS EVIDENCE</i>
01/20/2009	 Opposition <i>STATES OPPOSITION TO DEFT LUIS A HIDALGO JRS MTN TO SUPPRESS EVIDENCE</i>
01/23/2009	Hearing <i>DECISION:MATTERS ADDRESSED ON 1/22/09</i>
01/23/2009	

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	Hearing	
		<i>STATE'S REQUEST FOR CLARIFICATION</i>
01/26/2009	 Notice of Witnesses and/or Expert Witnesses	<i>DEFENDANTS SUPPLEMENTAL NOTICE OF WITNESSES - RELATED PARTYID: 05C212667_0002</i>
01/26/2009	 Information	<i>FOURTH AMENDED INFORMATION</i>
01/29/2009	 Subpoena Duces Tecum	<i>SUBPOENA - CRIMINAL - RELATED PARTYID: 05C212667_0002</i>
01/29/2009	 Memorandum	<i>LUIS A HIDALGO JRS TRIAL MEMORANDUM - REDACTED - RELATED PARTYID: 05C212667_0002</i>
02/02/2009	 Notice of Witnesses and/or Expert Witnesses	<i>SUPPLEMENTAL NOTICE OF WITNESSES AND/OR EXPERT WITNESSES - RELATED PARTYID: 05C212667_0002</i>
02/02/2009	 Jury List	<i>DISTRICT COURT JURY LIST</i>
02/03/2009	 Reporters Transcript	<i>RECORDER'S TRANSCRIPT OF HEARING RE EXCERPT OF PROCEEDINGS - EXCERPT OF PROCEEDINGS - STATES OPENING STATEMENT PROCEEDINGS - STATES OPENING STATEMENT</i>
02/04/2009	 Reporters Transcript	<i>RECORDER'S TRANSCRIPT OF HEARING RE EXCERPT OF PROCEEDINGS</i>
02/05/2009	 Reporters Transcript	<i>REPORTER'S TRANSCRIPT OF HEARING RE EXCERPT OF PROCEEDINGS</i>
02/09/2009	 Reporters Transcript	<i>RECORDER'S TRANSCRIPT OF HEARING RE EXCERPT OF PROCEEDINGS - HEARD 02-06-09 02-06-09</i>
02/10/2009	 Notice of Witnesses and/or Expert Witnesses	<i>DEFTS FIRST SUPPLEMENTAL NOTICE OF WITNESSES - RELATED PARTYID: 05C212667_0002</i>
02/10/2009	 Bench Warrant	<i>BENCH WARRANT ISSUED</i>
02/10/2009	 Reporters Transcript	<i>REPORTER'S TRANSCRIPT EXCERPT OF PROCEEDINGS OF ANABEL ESPINDOLAS TESTIMONY TESTIMONY</i>
02/11/2009	Conversion Case Event Type	<i>STATUS CHANGE: ACTIVE TO WARRANT</i>
02/12/2009	 Proposed Verdict Forms Not Used at Trial	<i>PROPOSED VERDICT FORMS NOT USED AT TRIAL</i>
02/13/2009	 Jury List	<i>AMENDED DISTRICT COURT JURY LIST</i>




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02/17/2009	 Judgment <i>VERDICT</i>
02/17/2009	 Instructions to the Jury <i>INSTRUCTIONS TO THE JURY - INSTRUCTION NO 1</i>
02/17/2009	 Proposed Verdict Forms Not Used at Trial <i>PROPOSED VERDICT FORMS NOT USED AT TRIAL</i>
02/18/2009	Conversion Case Event Type <i>SENTENCING VJ 5/1/09</i>
02/18/2009	Motion <i>O.R. RELEASE/BAIL REDUCTION VA 2/18/09</i>
02/18/2009	 Motion <i>DEFT'S MTN FIR O.R. RELEASE FOR HOUSE ARREST/271</i>
02/18/2009	 Request <i>MOTION FOR OWN RECOGNIZANCE RELEASE FOR HOUSE ARREST - RELATED PARTYID: 05C212667_0003</i>
02/24/2009	 Ex Parte <i>EX PARTE APPLICATION TO EXTEND TIME TO FILE MTN FOR NEW TRIAL - RELATED PARTYID: 05C212667_0002</i>
02/24/2009	 Ex Parte Order <i>DEFENDANTS LUI EX PARTE ORDER TO EXTEND TIME TO FILE MTN FOR NEW TRIAL - RELATED PARTYID: 05C212667_0002</i>
03/10/2009	 Motion <i>DEFT'S MTN FOR JUDGMENT OF ACQUITTAL/272</i>
03/10/2009	Motion <i>DEFT'S MTN FOR JUDGMENT OF ACQUITTAL/273</i>
03/11/2009	 Request <i>SUPPLEMENT TO LUIS A HIDALGO JRS MOTION FOR JUDGMENT OF ACQUITTAL OR IN THE ALTERNATIVE A NEW TRIAL ALTERNATIVE A NEW TRIAL- RELATED PARTYID: 05C212667_0002</i>
03/17/2009	 Opposition <i>STATES OPPOSITION TO DEFT LUIS HIDALGO IIIS MTN FOR JUDGMENT OF ACQUITTAL OR IN THE ALTERNATIVE A NEW TRIAL IN THE ALTERNATIVE A NEW TRIAL</i>
03/18/2009	 Order <i>ORDER FOR EXPEDITED TRANSCRIPT</i>
03/18/2009	 Reporters Transcript <i>RECORDER'S TRANSCRIPT OF DEFTS MTN FOR OR RELEASE FOR HOUSE ARREST</i>
03/20/2009	 Order <i>STIPULATION AND ORDER TO CONTINUE HEARING ON DEFTS LUIS A HIDALGO JRS ANDLUIS A HIDALGO IIIS MTNS FOR JUDGMENT OF ACQUITTAL OR IN THE ALTERNATIVE A NEW TRIAL LUIS A HIDALGO IIIS MTNS FOR JUDGMENT OF ACQUITTAL OR IN THE ALTERNATIVE A NEW TRIAL- RELATED PARTYID: 05C212667_0002</i>

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03/23/2009	 Notice <i>NOTICE OF ENTRY OF ORDER TO CONTINUE HEARING ON DEFTS LUIS A HIDALGO JRS AND LUIS A HIDALGO IIIS MTNS FOR JUDGMENT OF ACQUITTAL OR IN THE ALTERNATIVE A NEW TRIAL LUIS A HIDALGO IIIS MTNS FOR JUDGMENT OF ACQUITTAL OR IN THE ALTERNATIVE A NEW TRIAL- RELATED PARTYID: 05C212667_0002</i>
03/23/2009	 Stipulation <i>STIPULATION AS TO THE RELEASE OF UNITED STATES SAVINGS BONDS TO DEFT LUIS A HIDALGO III AND SUBSTITUTION OF EVIDENCE HIDALGO III AND SUBSTITUTION OF EVIDENCE- RELATED PARTYID: 05C212667_0002</i>
03/23/2009	 Order <i>ORDER TO RELEASE UNITED STATES SAVINGS BONDS TO LUIS A HIDALGO III OR JOHNARRASCADA AND SUBSTITUTE INTO EVIDENCE PHOTOCOPIES OR PHOTOGRAPHS OF THE UNITED STATES SAVINGS BONDS ARRASCADA AND SUBSTITUTE INTO EVIDENCE PHOTOCOPIES OR PHOTOGRAPHS OF THE UNITED STATES SAVINGS BONDS- RELATED PARTYID: 05C212667_0002</i>
03/23/2009	 Order <i>ORDER TO RELEASE UNITED STATES SAVINGS BONDS TO LUIS A HIDALGO III OR JOHNARRASCADA AND SUBSTITUTE INTO EVIDENCE PHOTOCOPIES OR PHOTOGRAPHS OF THE UNITED STATES SAVINGS BONDS ARRASCADA AND SUBSTITUTE INTO EVIDENCE PHOTOCOPIES OR PHOTOGRAPHS OF THE UNITED STATES SAVINGS BONDS- RELATED PARTYID: 05C212667_0002</i>
03/23/2009	 Stipulation <i>STIPULATION AS TO THE RELEASE OF UNITED STATES SAVINGS BONDS TO DEFT LUIS A HIDALGO III AND SUBSTITUTION OF EVIDENCE HIDALGO III AND SUBSTITUTION OF EVIDENCE- RELATED PARTYID: 05C212667_0002</i>
04/15/2009	 Reply <i>REPLY TO THE STATES OPPOSITION TO DEFT LUIS HIDALGO IIIS MTN FOR JUDGMENT OF ACQUITTAL OR IN THE ALTERNATIVE A NEW TRIAL ACQUITTAL OR IN THE ALTERNATIVE A NEW TRIAL- RELATED PARTYID: 05C212667_0002</i>
04/15/2009	 Reply <i>REPLY TO THE STATES OPPOSITION TO DEFT LUIS HIDALGO IIIS MTN FOR JUDGMENT OF ACQUITTAL OR IN THE ALTERNATIVE A NEW TRIAL ACQUITTAL OR IN THE ALTERNATIVE A NEW TRIAL- RELATED PARTYID: 05C212667_0002</i>
04/17/2009	 Reply <i>REPLY TO STATES OPPOSITION TO DEFT LUIS A HIDALGO JRS MTN FOR JUDGMENT OF ACQUITTAL OR IN THE ALTERNATIVE A NEW TRIAL ACQUITTAL OR IN THE ALTERNATIVE A NEW TRIAL- RELATED PARTYID: 05C212667_0002</i>
04/24/2009	 Judgment <i>CLERK'S CERTIFICATE JUDGMENT AFFIRMED</i>
04/27/2009	 Points and Authorities <i>SUPPLEMENTAL POINTS AND AUTHORITIES TO DEFT LUIS A HIDALGO JRS MTN FOR JUDGMENT OF ACQUITTAL OR IN THE ALTERNATIVE A NEW TRIAL OF ACQUITTAL OR IN THE ALTERNATIVE A NEW TRIAL- RELATED PARTYID: 05C212667_0002</i>
05/01/2009	Hearing <i>STATUS CHECK: SENTENCING</i>
05/05/2009	Conversion Case Event Type <i>STATUS CHANGE: WARRANT TO ACTIVE</i>

CASE SUMMARY

CASE No. 05C212667-4

05/05/2009	 Bench Warrant <i>BENCH WARRANT RETURN</i>
05/07/2009	Hearing <i>REVOCATION OF PROBATION</i>
05/28/2009	 Notice <i>AMENDED NOTICE OF EVIDENCE IN AGGRAVATION</i>
06/02/2009	Conversion Case Event Type <i>SENTENCING</i>
06/15/2009	Hearing <i>STATUS CHECK: APPOINTMENT OF DAN ALBREGTS/RESET TRIAL</i>
06/15/2009	 Order <i>ORDER FOR DAILY TRANSCRIPTS</i>
06/19/2009	 Objection <i>LUIS A HIDALGO JRS OBJECTIONS TO THE SUPPLEMENTAL PRESENTENCE INVESTIGATION REPORT REPORT- RELATED PARTYID: 05C212667_0002</i>
06/19/2009	 Memorandum <i>LUIS A HIDALGO JRS SENTENCING MEMORANDUM - RELATED PARTYID: 05C212667_0002</i>
06/19/2009	 Memorandum <i>LUIS A HIDALGO IIIS SENTENCING MEMORANDUM - RELATED PARTYID: 05C212667_0002</i>
06/19/2009	 Order <i>ORDER REGARDING PLAINTIFFS MOTION TO STAY PROCEEDINGS - RELATED PARTYID: 05C212667_0001</i>
06/19/2009	 Order <i>ORDER</i>
06/23/2009	 Reporters Transcript <i>RECORDER'S TRANSCRIPT OF HEARING RE JURY TRIAL - HEARD 06-15-09</i>
06/23/2009	 Order <i>ORDER DIRECTING THE DEPT OF PAROLE AND PROBATION TO MAKE THE FOLLOWINGCORRECTIONS TO THE PRESENTENCE INVESTIGATION REPORTS FOR THE ABOVE REFERENCED DEFENDANTS CORRECTIONS TO THE PRESENTENCE INVESTIGATION REPORTS FOR THE ABOVE REFERENCED DEFENDANTS</i>
06/23/2009	 Order <i>ORDER DIRECTING THE DEPARTMENT OF PAROLE AND PROBATION TO MAKE THE FOLLOWINGCORRECTIONS TO THE PRESENTENCE INVESTIGATION REPORTS FOR THE ABOVE REFERENCED DEFENDANTS CORRECTIONS TO THE PRESENTENCE INVESTIGATION REPORTS FOR THE ABOVE REFERENCED DEFENDANTS</i>
06/29/2009	 Order <i>ORDER FOR TRANSCRIPT</i>
07/06/2009	 Judgment

CASE SUMMARY










CASE No. 05C212667-4

AMENDED JUDGMENT OF CONVICTION

07/06/2009	 Ex Parte <i>EX PARTE APPLICATION REQUESTING THAT DEFT LUIS A HIDALGO IIIS EX PARTEAPPLICATION REQUESTING AN ORDER DECLARING HIM INDIGENT FOR PURPOSES OF APPOINTING APPELLATE COUNSEL BE SEALED APPLICATION REQUESTING AN ORDER DECLARING HIM INDIGENT FOR PURPOSES OF APPOINTING APPELLATE COUNSEL BE SEALED- RELATED PARTYID: 05C212667_0002</i>
07/06/2009	 Ex Parte Order <i>EX PARTE ORDER DECLARING LUIS A HIDALGO JR INDIGENT FOR PURPOSES OF APPOINTING APPELLATE COUNSEL APPELLATE COUNSEL- RELATED PARTYID: 05C212667_0002</i>
07/06/2009	 Ex Parte <i>EX PARTE APPLICATION REQUESTING THAT DEFTS LUIS A HIDALGO JRS EX-PARTEAPPLICATION REQUESTING AN ORDER DECLARING HIM INDIGENT FOR PURPOSES OF APPOINTING APPELLATE COUNSEL BE SEALED APPLICATION REQUESTING AN ORDER DECLARING HIM INDIGENT FOR PURPOSES OF APPOINTING APPELLATE COUNSEL BE SEALED- RELATED PARTYID: 05C212667_0002</i>
07/06/2009	 Ex Parte Order <i>EX PARTE ORDER TO SEAL EX-PARTE APPLICATION TO DECLARE LUIS A HIDALGO JR INDIGENT FOR PURPOSES OF APPOINTING APPELLATE COUNSEL INDIGENT FOR PURPOSES OF APPOINTING APPELLATE COUNSEL- RELATED PARTYID: 05C212667_0002</i>
07/06/2009	 Ex Parte <i>EX PARTE APPLICATION REQUESTING THAT DEFT LUIS A HIDALGO III BE DECLARED INDIGENT FOR PURPOSES OF APPOINTING APPELLATE COUNSEL INDIGENT FOR PURPOSES OF APPOINTING APPELLATE COUNSEL- RELATED PARTYID: 05C212667_0002</i>
07/06/2009	 Ex Parte Order <i>EX PARTE ORDER DECLARING LUIS A HIDALGO III INDIGENT FOR PURPOSES OF APPOINTING APPELLATE COUNSEL APPELLATE COUNSEL- RELATED PARTYID: 05C212667_0002</i>
07/06/2009	 Filed Under Seal <i>EX PARTE APPLICATION REQUESTING THAT DEFT LUIS A HIDALGO JR BE DECLARED INDIGENT FOR PURPOSES OF APPOINTING APPELLATE COUNSEL INDIGENT FOR PURPOSES OF APPOINTING APPELLATE COUNSEL- RELATED PARTYID: 05C212667_0002</i>
07/09/2009	 Order <i>ORDER FOR EXPEDITED TRANSCRIPTS</i>
07/10/2009	 Judgment <i>JUDGMENT OF CONVICTION/ADMIN ASSESSMENT</i>
07/10/2009	Judgment <i>JUDGMENT OF CONVICTION/GENETIC TESTING</i>
07/13/2009	 Reporters Transcript <i>RECORDER'S TRANSCRIPT OF HEARING RE SENTENCING - HEARD 6-23-09</i>
07/14/2009	 Reporters Transcript <i>RECORDER'S TRANSCRIPT OF HEARING RE STATUS CHECK - APPOINTMENTOF DAN ALBREGTS - RESET TRIAL - HEARD 06-18-09 ALBREGTS - RESET TRIAL - HEARD 06-18-09</i>
07/16/2009	 Notice of Appeal <i>LUIS A HIDALGO JRS NOTICE OF APPEAL (SC 54272) - RELATED PARTYID: 05C212667_0002</i>

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CASE No. 05C212667-4

07/16/2009	 Notice of Appeal <i>LUIS A HIDALGO IIIS NOTICE OF APPEAL (SC 54209) - RELATED PARTYID: 05C212667_0002</i>
07/29/2009	 Statement <i>CASE APPEAL STATEMENT - RELATED PARTYID: 05C212667_0002</i>
07/30/2009	 Statement <i>CASE APPEAL STATEMENT - RELATED PARTYID: 05C212667_0002</i>
07/30/2009	 Request <i>REQUEST FOR TRANSCRIPTS OF PROCEEDINGS - RELATED PARTYID: 05C212667_0002</i>
07/30/2009	 Statement <i>CASE APPEAL STATEMENT</i>
07/30/2009	 Request <i>REQUEST FOR TRANSCRITPS FO PROCEEDINGS - RELATED PARTYID: 05C212667_0002</i>
07/31/2009	 Request <i>REQUEST FOR TRANSCRIPTS OF PROCEEDINGS - RELATED PARTYID: 05C212667_0002</i>
08/11/2009	 Ex Parte <i>LUIS A HIDALGO JRS EX PARTE APPLICATION REQUESTING THE STATE OF NEVADA TO PAY FOR TRANSCRIPTS OF DISTRICT COURT PROCEEDINGS DUE TO HIS INDIGENCY FOR TRANSCRIPTS OF DISTRICT COURT PROCEEDINGS DUE TO HIS INDIGENCY- RELATED PARTYID: 05C212667_0002</i>
08/17/2009	 Notice <i>NOTICE OF ENTRY OF ORDER - RELATED PARTYID: 05C212667_0002</i>
08/18/2009	 Judgment <i>AMENDED JUDGMENT OF CONVICTION JURY TRIAL</i>
08/21/2009	 Ex Parte Order <i>EX PARTE ORDER ORDERING THE STATE OF NEVADA TO PAY FOR DISTRICT COURTTRANSCRIPTS OF PROCEEDINGS ON BEHALF OF LUIS A HIDALGO III DUE TO HIS INDIGENCY TRANSCRIPTS OF PROCEEDINGS ON BEHALF OF LUIS A HIDALGO III DUE TO HIS INDIGENCY- RELATED PARTYID: 05C212667_0002</i>
08/21/2009	 Ex Parte <i>LUIS A HIDALGO IIIS EX PARTE APPLICATION REQUESTING THE STATE OF NEVADA TO PAY FOR TRANSCRIPTS OF DISTRICT COURT PROCEEDINGS DUE TO HIS INDIGENCY FOR TRANSCRIPTS OF DISTRICT COURT PROCEEDINGS DUE TO HIS INDIGENCY- RELATED PARTYID: 05C212667_0002</i>
10/05/2009	 Receipt <i>RECEIPT OF EXHIBITS</i>
11/20/2009	 Reporters Transcript <i>RECORDER'S TRANSCRIPT OF HEARING RE MOTIONS - HEARD 01-16-09</i>
11/20/2009	 Reporters Transcript <i>RECORDER'S TRANSCRIPT OF HEARING RE DEFENDANTS MOTIONS - HEARD 02-11-08</i>
11/20/2009	 Reporters Transcript

CASE SUMMARY

CASE No. 05C212667-4

RECORDER'S TRANSCRIPT OF HEARING RE DEFTS MTN FOR AUDIBILITY HEARING AND TRANSCRIPT APPROVAL - HEARD 02-05-08 TRANSCRIPT APPROVAL - HEARD 02-05-08

11/20/2009	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS - CALENDAR CALL - STATES MTN IN LIMINETO EXCLUDE TESTIMONY OF VALERIE FRIDLAND - DEFT LUIS HIDALGO JRS MTN TO SUPPRESS EVIDENCE - HEARD 01-22-09 TO EXCLUDE TESTIMONY OF VALERIE FRIDLAND - DEFT LUIS HIDALGO JRS MTN TO SUPPRESS EVIDENCE - HEARD 01-22-09</i>
11/20/2009	 Reporters Transcript <i>RECORDER'S TRANSCRIPT OF HEARING RE STATES MTN TO CONSOLIDATE WITH C241394 - STATES MTN TO CONSOLIDATE WITH C212667 - STATES MTN TO CONSOLIDATE WITH C212667</i>
11/20/2009	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS - DEFT LUIS HIDALGO IIIS MTN FORHIDALGO JRS MTN FOR JUDGMENT OF ACQUITTAL - HEARD 05-01-09 JUDGMENT OF ACQUITTAL OR IN THE ALTERNATIVE FOR A NEW TRIAL - DEFT LUIS A HIDALGO JRS MTN FOR JUDGMENT OF ACQUITTAL - HEARD 05-01-09 JUDGMENT OF ACQUITTAL OR IN THE ALTERNATIVE FOR A NEW TRIAL - DEFT LUIS A</i>
11/20/2009	 Reporters Transcript <i>RECORDER'S TRANSCRIPT OF HEARING RE STATUS CHECK - HEARD 06-26-07</i>
11/24/2009	 Reporters Transcript <i>REPORTER'S TRANSCRIPT RE JURY TRIAL JANUARY 30 2009</i>
11/24/2009	 Reporters Transcript <i>REPORTER'S TRANSCRIPT RE JURY TRIAL FEBRUARY 11 2009</i>
11/24/2009	 Reporters Transcript <i>REPORTER'S TRANSCRIPT RE JURY TRIAL DAY 1 JURY VOIR DIRE JANUARY 27 2009</i>
11/24/2009	 Reporters Transcript <i>REPORTER'S TRANSCRIPT RE JURY TRIAL DAY 5 FEBRUARY 2 2009</i>
11/24/2009	 Reporters Transcript <i>REPORTER'S TRANSCRIPT RE JURY TRIAL DAY 6 FEBRUARY 3 2009</i>
11/24/2009	 Reporters Transcript <i>REPORTER'S TRANSCRIPT RE JURY TRIAL JANUARY 28 2009</i>
11/24/2009	 Reporters Transcript <i>REPORTER'S TRANSCRIPT RE JURY TRIAL JANUARY 29 2009</i>
11/24/2009	 Reporters Transcript <i>REPORTER'S TRANSCRIPT RE JURY TRIAL DAY 9 FEBRUARY 6 2009</i>
11/24/2009	 Reporters Transcript <i>REPORTER'S TRANSCRIPT RE JURY TRIAL DAY 8 FEBRUARY 5 2009</i>
11/24/2009	 Reporters Transcript <i>REPORTER'S TRANSCRIPT RE JURY TRIAL DAY 7 FEBRUARY 4 2009</i>
11/24/2009	 Reporters Transcript

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CASE No. 05C212667-4

REPORTER'S TRANSCRIPT RE JURY TRIAL DAY 11 FEBRUARY 10 2009

11/24/2009



Reporters Transcript

REPORTER'S TRANSCRIPT RE JURY TRIAL DAY 14 VERDICT FEBRUARY 17 2009

11/24/2009



Reporters Transcript

REPORTER'S TRANSCRIPT RE JURY TRIAL DAY 13 FEBRUARY 12 2009

11/24/2009



Reporters Transcript

REPORTER'S TRANSCRIPT RE JURY TRIAL DAY 10 FEBRUARY 9 2009

12/17/2009



Motion

DEFT'S PRO PER MTN TO WITHDRAW CNSL/283

12/17/2009



Request

MOTION TO WITHDRAW COUNSEL - RELATED PARTYID: 05C212667_0001

01/11/2010



Motion

DEFT'S PRO PER MTN FOR RELIEF FROM JUDGMENT/284

01/25/2010



Motion

DEFT'S PRO PER MTN FOR PRODCUTION OF DOCUMENTS PAPERS PLEADINGS AND TNGBL/285

02/04/2010



Opposition

STATES OPPOSITION TO DEFTS MTN FOR RELIEF FROM JUDGMENT

02/25/2010



Order

ORDER DENYING DEFENDANTS PRO PER MOTION FOR RELIEF FROM JUDGMENT

03/08/2010



Receipt of Copy

RECEIPT OF COPY - RELATED PARTYID: 05C212667_0001

03/08/2010



Notice of Appeal

NOTICE OF APPEAL (SC 55608) - RELATED PARTYID: 05C212667_0001

03/11/2010



Statement

CASE APPEAL STATEMENT

03/18/2010



Motion

DEFT'S PRO PER MTN TO DISMISS COUNSEL/286

03/30/2010



Order

ORDER TO ALLOW COURT APPOINTED EXPERT DAVID L SCHMIDT PHD AND OR ASSISTANT OF DAVID L SCHMIDT PHD SPECIFICALLY ROBYN DONALDSON AND LEA THALOR CONTACT VISITS IN THE CLARK COUNTY DETENTION CENTER DAVID L SCHMIDT PHD SPECIFICALLY ROBYN DONALDSON AND LEA THALOR CONTACT VISITS IN THE CLARK COUNTY DETENTION CENTER- RELATED PARTYID: 05C212667_0004

04/01/2010




















Reporters Transcript

RECORDER'S TRANSCRIPT OF HEARING RE DEFTS MTN TO DISMISS COUNSEL AND APPOINTMENT OF ALTERNATE COUNSEL - HEARD 03-30-10 APPOINTMENT OF ALTERNATE COUNSEL - HEARD 03-30-10

04/16/2010

CASE SUMMARY

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	 Petition <i>PTN FOR WRIT OF HABEAS CORPUS</i>
04/16/2010	 Points and Authorities <i>POINTS AND AUTHORITIES IN SUPPORT OF POST-CONVICTION WRIT - RELATED PARTYID: 05C212667_0001</i>
04/19/2010	 Notice of Witnesses and/or Expert Witnesses <i>SUPPLEMENTAL NOTICE OF EXPERT WITNESSES</i>
04/19/2010	 Notice <i>SECOND AMENDED NOTICE OF EVIDENCE IN AGGRAVATION</i>
04/22/2010	 Order <i>ORDER FOR PRODUCTION OF INMATE JAYSON TAOIPU BAC #1037733</i>
04/26/2010	 Notice of Witnesses and/or Expert Witnesses <i>NOTICE OF WITNESSES AND/OR EXPERT WITNESSES - RELATED PARTYID: 05C212667_0004</i>
04/26/2010	 Order for Petition for Writ of Habeas Corpus <i>ORDER THAT WRIT OF HABEAS CORPUS ISSUE</i>
04/28/2010	 Motion <i>STATE'S MTN FOR DISCOVERY RE: EXPERT TESTIMONY & MTN IN LIMINE RE: EXPRT/288</i>
04/30/2010	 Motion <i>DEFT'S MTN TO SUPPRESS /289</i>
04/30/2010	 Points and Authorities <i>ADDITIONAL POINTS AND AUTHORITIES IN SUPPORT OF POST-CONVICTION WRIT - RELATED PARTYID: 05C212667_0001</i>
05/04/2010	 Opposition <i>STATES OPPOSITION TO DEFTS MTN TO SUPPRESS</i>
05/05/2010	 Proof of Service <i>PROOF OF SERVICE - RELATED PARTYID: 05C212667_0001</i>
05/05/2010	 Affidavit <i>AFFIDAVIT OF SERVICE OF POST CONVICTION WRIT OF HABEAS CORPUS - RELATED PARTYID: 05C212667_0001</i>
05/05/2010	 Proof of Service <i>PROOF OF SERVICE - RELATED PARTYID: 05C212667_0001</i>
05/05/2010	 Writ <i>WRIT OF HABEAS CORPUS - RELATED PARTYID: 05C212667_0001</i>
05/10/2010	 Notice of Witnesses and/or Expert Witnesses <i>NOTICE OF WITNESSES AND/OR EXPERT WITNESSES - RELATED PARTYID: 05C212667_0004</i>
05/11/2010	 Order

CASE SUMMARY















CASE No. 05C212667-4

ORDER GRANTING THE STATES MOT FOR DISCOVERY RE EXPERT TESTIMONY

05/12/2010	Motion <i>ALL PENDING MOTIONS 5/11/10</i>
05/12/2010	 Reporters Transcript <i>RECORDER'S TRANSCRIPT OF HEARING RE STATES MOTION FOR DISCOVERY RE EXPERT TESTIMONY - DEFTS MOTION TO SUPPRESS - HEARD 05-11-10 EXPERT TESTIMONY - DEFTS MOTION TO SUPPRESS - HEARD 05-11-10</i>
05/18/2010	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS - JURY TRIAL DAY 1 - JURY VOIR DIRE - HEARD 05-17-10 HEARD 05-17-10</i>
05/19/2010	 Reporters Transcript <i>REPORTER'S TRANSCRIPT JURY TRIAL DAY 2 JURY VOIR DIRE 05-18-10</i>
05/20/2010	 Order <i>ORDER FOR DAILY TRANSCRIPTS</i>
05/20/2010	 Reporters Transcript <i>REPORTER'S TRANSCRIPT JURY TRIAL DAY 3 ON 05-19-10</i>
05/20/2010	 Subpoena Duces Tecum <i>CRIMINAL SUBPOENA - REGULAR - ANABEL ESPINDOLA LOCATED AT 1013 WOODBRIDGE DRIVE LAS VEGAS NV 89108 DRIVE LAS VEGAS NV 89108- RELATED PARTYID: 05C212667_0004</i>
05/21/2010	 Jury List <i>DISTRICT COURT JURY LIST</i>
05/21/2010	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS - JURY TRIAL DAY 4 - HEARD 05-20-10</i>
05/21/2010	 Proposed Jury Instructions Not Used At Trial <i>PROPOSED JURY INSTRUCTIONS NOT USED AT TRIAL</i>
05/21/2010	 Information <i>FIFTH AMENDED INFORMATION</i>
05/24/2010	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS - JURY TRIAL DAY 5 - HEARD 05-21-10</i>
05/25/2010	Motion <i>PENALTY HEARING</i>
05/25/2010	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS - JURY TRIAL DAY 6 - HEARD 05-24-10</i>
05/25/2010	 Judgment <i>VERDICT</i>
05/25/2010	 Instructions to the Jury <i>INSTRUCTIONS TO THE JURY - INSTRUCTION NO 1</i>





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CASE NO. 05C212667-4

05/27/2010	 Proposed Jury Instructions Not Used At Trial <i>PROPOSED JURY INSTRUCTIONS NOT USED AT TRIAL</i>
06/02/2010	 Media Request and Order <i>MEDIA REQUEST AND ORDER FOR CAMERA ACCESS TO COURT PROCEEDINGS</i>
06/02/2010	 Proposed Jury Instructions Not Used At Trial <i>PROPOSED JURY INSTRUCTIONS NOT USED AT TRIAL</i>
06/02/2010	 Proposed Jury Instructions Not Used At Trial <i>DEFTS PROPOSED JURY INSTRUCTIONS NOT USED AT TRIAL</i>
06/03/2010	Petition <i>PTN FOR WRIT OF HABEAS CORPUS (CONTINUED FROM 6/03/10)</i>
06/03/2010	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS PENALTY PHASE DAY 1</i>
06/04/2010	Conversion Case Event Type <i>SENTENCING</i>
06/04/2010	 Verdict Submitted to the Jury But Returned Unsigned <i>VERDICT(S) SUBMITTED TO JURY BUT RETURNED UNSIGNED</i>
06/04/2010	Judgment <i>ENTRY IN ERROR</i>
06/04/2010	 Verdict <i>VERDICT</i>
06/04/2010	 Verdict <i>SPECIAL VERDICT</i>
06/04/2010	 Verdict <i>SPECIAL VERDICT</i>
06/04/2010	 Instructions to the Jury <i>INSTRUCTIONS TO THE JURY - INSTRUCTION NO 1</i>
06/04/2010	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS - PENALTY PHASE DAY 2 - HEARD 06-03-10</i>
06/08/2010	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF HEARING RE PENALTY PHASE VERDICT 06-04-10</i>
06/11/2010	 Order <i>STIPULATION AND ORDER EXTENDING TIME</i>
06/23/2010	 Order <i>ORDER FOR PRODUCTION OF INMATE KENNETH JAY COUNTS BAC #1017559</i>
06/28/2010	

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	 Opposition <i>STATES OPPOSITION TO DEFTS PETITION FOR WRIT OF HABEAS CORPUS</i>
06/29/2010	 Request <i>EX PARTE MOTION FOR RELEASE OF EVIDENCE</i>
06/29/2010	 Order <i>ORDER RELEASING EVIDENCE</i>
07/01/2010	Motion <i>PTN FOR WRIT OF HABEAS CORPUS (CONT. 7/1/10)</i>
07/08/2010	 Receipt <i>RECEIPT OF EXHIBITS</i>
07/09/2010	 Reply <i>REPLY TO STATES OPPOSITION TO POINTS AND AUTHORITIES IN SUPPORT OF POST-CONVICTION WRIT POST-CONVICTION WRIT- RELATED PARTYID: 05C212667_0001</i>
07/15/2010	 Order <i>ORDER FOR PRODUCTION OF INMATE KENNETH COUNTS BAC #1017559</i>
08/25/2010	 Criminal Order to Statistically Close Case
09/08/2010	 Judgment of Conviction <i>(Jury Trial)</i>
12/17/2010	 Order Filed By: Defendant Carroll, Deangelo Reshawn <i>Order Appointing Counsel</i>
02/25/2011	 Reporters Transcript Filed By: Plaintiff State of Nevada <i>of Hearing Re: Sentencing - Heard 08/12/2010</i>
02/28/2011	 Receipt of Copy <i>Receipt of Copy</i>
03/01/2011	 Motion to Amend Judgment Filed By: Defendant Carroll, Deangelo Reshawn
03/01/2011	 Receipt of Copy Filed by: Defendant Carroll, Deangelo Reshawn
03/23/2011	 Amended Judgment of Conviction <i>Amended Judgment of Conviction (Jury Trial)</i>
06/07/2011	 Notice of Entry of Order Filed By: Defendant Carroll, Deangelo Reshawn
06/07/2011	 Stipulation and Order Filed by: Defendant Carroll, Deangelo Reshawn

CASE SUMMARY
















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Stipulation and Order to Continue Hearing and to Modify Briefing Schedule

07/06/2011	 Stipulation and Order Filed by: Defendant Carroll, Deangelo Reshawn <i>Stipulation and order to Continue Hearing and to Modify Briefing Schedule</i>
07/07/2011	 Notice of Entry of Order Filed By: Defendant Carroll, Deangelo Reshawn
08/26/2011	 Motion Filed By: Defendant Carroll, Deangelo Reshawn <i>Motion for an Extension of Time to File Opening Brief</i>
08/26/2011	 Receipt of Copy
11/07/2011	 Order for Production of Inmate
12/29/2011	 Petition for Writ of Habeas Corpus Filed by: Defendant Carroll, Deangelo Reshawn
01/19/2012	 Response <i>State's Response And Motion To Dismiss Defendant's Petition For Writ Of Habeas Corpus (Post-Conviction)</i>
02/17/2012	 Reply Filed by: Defendant Carroll, Deangelo Reshawn <i>Reply to State's Response and Motion to Dismiss Petition for Writ of Habeas Corpus (Post Conviction)</i>
07/30/2012	 Findings of Fact, Conclusions of Law and Order Filed By: Plaintiff State of Nevada
08/03/2012	 Notice of Entry of Order
03/14/2013	 Motion Filed By: Defendant Carroll, Deangelo Reshawn <i>Motion to Withdraw</i>
03/14/2013	 Certificate of Service Filed by: Defendant Carroll, Deangelo Reshawn <i>Certificate of Service</i>
05/01/2013	 Notice of Appeal (criminal) Party: Defendant Carroll, Deangelo Reshawn <i>Notice of Appeal</i>
05/01/2013	 Case Appeal Statement Filed By: Defendant Carroll, Deangelo Reshawn <i>Case Appeal Statement</i>
05/07/2013	 Recorders Transcript of Hearing <i>Recorder's Transcript of Proceedings Evidentiary Hearing June 4, 2012</i>
05/16/2013	 Order

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CASE NO. 05C212667-4

	Filed By: Plaintiff State of Nevada <i>Application and Order for Transcripts</i>
07/31/2013	 Order Filed By: Plaintiff State of Nevada <i>Order Setting Hearing Re: Supreme Court Order of Remand for Evidentiary Hearing</i>
08/23/2013	 Order for Production of Inmate Party: Plaintiff State of Nevada <i>Order for Production of Inmate</i>
08/23/2013	 NV Supreme Court Clerks Certificate/Judgment -Remanded <i>Nevada Supreme Court Clerk's Certificate Judgment - Remand</i>
10/16/2013	 Brief <i>Brief Regarding Issues To Be Addressed At The Evidentiary Hearing</i>
10/22/2013	 Request <i>Request for Transcript of Proceedings</i>
10/30/2013	 Order <i>Order Appointing Counsel</i>
10/30/2013	 Notice of Entry of Order <i>Notice of Entry of Order Appointing Counsel for Mr. Carroll</i>
11/13/2013	 Reporters Transcript <i>Recorder's Transcript of Hearing Re: Evidentiary Hearing - October 21, 2013</i>
01/03/2014	 Finding of Fact and Conclusions of Law <i>Findings of Fact, Conclusions of Law and Order</i>
01/06/2014	 Notice of Appeal (criminal) Party: Defendant Carroll, Deangelo Reshawn <i>Notice of Appeal</i>
01/06/2014	 Case Appeal Statement Filed By: Defendant Carroll, Deangelo Reshawn <i>Case Appeal Statement</i>
01/06/2014	 Notice of Entry of Order <i>Notice of Entry of Findings of Fact, Conclusions of Law and Order</i>
01/06/2014	 Notice of Entry Filed By: Plaintiff State of Nevada <i>Notice of Entry of Findings of Fact, Conclusions of Law and Order</i>
02/20/2014	 Request <i>Request for Transcripts of Proceedings</i>
02/20/2014	 Request <i>Request for Transcripts of Proceedings</i>

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02/20/2014	 Request <i>Request for Transcripts of Proceedings</i>
02/21/2014	 Request <i>Request for Transcript of Proceedings</i>
03/24/2014	 Reporters Transcript <i>Transcript of Hearing Re: Trial Setting (All) December 7, 2006</i>
03/24/2014	 Reporters Transcript <i>Transcript of Hearing Re: Defendant Carroll's Motion to Strike Death Penalty Aggravators, October 11, 2007</i>
03/24/2014	 Reporters Transcript <i>Transcript of Hearing Re: Calendar Call, June 11, 2009</i>
03/24/2014	 Reporters Transcript <i>Transcript of Hearing Re: Calendar Call, Thursday, May 13, 2010</i>
03/24/2014	 Reporters Transcript <i>Transcript of Hearing Re: Defendant's Request for Appointment of Appellate Counsel Re: Violation of Defendant's Lozano Rights December 16, 2010</i>
03/24/2014	 Reporters Transcript <i>Transcript of Hearing Re: Status Check, Thursday, February 17, 2011</i>
03/24/2014	 Reporters Transcript <i>Transcript of Hearing Re: Status Check, Tuesday, March 8, 2011</i>
03/24/2014	 Reporters Transcript <i>Transcript of Hearing Re: Defendant's Motion to Amend Judgment of Conviction March 15, 2011</i>
03/24/2014	 Reporters Transcript <i>Transcript of Hearing Re: Defendant's Motion for an Extension of Time to File Opening Brief, Tuesday, August 30, 2011</i>
03/24/2014	 Reporters Transcript <i>Transcript of Hearing Re: Defendant's Motion for an Extension of Time to File Opening Brief, Tuesday, September 13, 2011</i>
03/24/2014	 Reporters Transcript <i>Transcript of Hearing Re: Status Check: Set New Briefing Schedule and Hearing Date, Tuesday, November 1, 2011</i>
03/24/2014	 Reporters Transcript <i>Transcript of Hearing Re: Hearing, Defendant's Petition for Writ of Habeas Corpus May 10, 2012</i>
03/24/2014	 Reporters Transcript <i>Transcript of Hearing Re: Status Check: Appellate Counsel June 19, 2012</i>
03/24/2014	 Reporters Transcript <i>Transcript of Hearing Re: McDonald Adras, LLC's Motion to Withdraw as Counsel, Tuesday, March 26, 2013</i>
03/24/2014	 Reporters Transcript

CASE SUMMARY

CASE NO. 05C212667-4

Transcript of Hearing Re: Confirmation of Counsel - Appointment by Drew Christensen, Thursday, April 11, 2013

03/24/2014	 Reporters Transcript <i>Transcript of Hearing Re: Further Proceedings to Set Evidentiary Hearing Pursuant to Order of Remand from Supreme Court, Tuesday, August 20, 2013</i>
03/24/2014	 Reporters Transcript <i>Transcript of Hearing Re: Status Check: Reset Evidentiary Hearing, Tuesday, September 17, 2013</i>
04/21/2014	 Transcript of Proceedings <i>Reporter's Transcript of Initial Arraignment taken on June 27, 2005 at 9:00 a.m.</i>
05/07/2014	 Reporters Transcript <i>Recorder's Transcript of Hearing Re: Jury trial - Verdict, Tuesday, May 25, 2010</i>
10/27/2016	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>Nevada Supreme Court Clerk's Certificate Judgment - Affirmed; Rehearing Denied; Petition Denied</i>
02/28/2017	 Notice of Motion Filed By: Defendant Carroll, Deangelo Reshawn <i>Notice Of Motion</i>
02/28/2017	 Motion Filed By: Defendant Carroll, Deangelo Reshawn <i>Motion To Withdraw Counsel And Return All Documents NRS 7.055</i>
05/05/2017	 Order <i>Order Granting Defendant's Pro Per Motion to Withdraw Counsel and Return All Documents NRS 7.055</i>
05/10/2017	 Notice of Motion Filed By: Defendant Carroll, Deangelo Reshawn <i>Notice of Motion</i>
05/10/2017	 Motion Filed By: Defendant Carroll, Deangelo Reshawn <i>Motion for Appointment of Counsel for Investigation Purposes in Post Conviction NRS 171.188 NRS 178.397</i>
05/10/2017	 Petition for Writ of Habeas Corpus Filed by: Defendant Carroll, Deangelo Reshawn <i>Petition for Writ of Habeas Corpus (Post-Conviction)</i>
05/31/2017	 Order for Petition for Writ of Habeas Corpus
05/31/2017	 Notice of Hearing <i>Notice of Hearing</i>
07/13/2017	 Response Filed by: Plaintiff State of Nevada <i>State's Response to Petition for Writ of Habeas Corpus (Post-Conviction) and Opposition to Motion for the Appointment of Counsel</i>
08/07/2017	 Reply Filed by: Defendant Carroll, Deangelo Reshawn

CASE SUMMARY

CASE NO. 05C212667-4

Sur Reply to State's Response to Habeas Corpus Filed July 13 2017 NRS 34 et set FRCRP 8a NRCIUP 8a

04/18/2018  Ex Parte Order
Filed By: Defendant Carroll, Deangelo Reshawn
Ex Parte Order Approving Paralegal Expenses

08/31/2018  Supplemental
Filed by: Defendant Carroll, Deangelo Reshawn
Supplement to Petition for Writ of Habeas Corpus (Post-Conviction)

08/31/2018  Exhibits
Filed By: Defendant Carroll, Deangelo Reshawn
Petitioner's Exhibits in Support of Supplement to Post-Conviction Writ of Habeas Corpus

10/30/2018  Response
Filed by: Plaintiff State of Nevada
State's Response to Defendant's Supplement to Petition for Writ of Habeas Corpus

01/18/2019  Finding of Fact and Conclusions of Law
Filed By: Plaintiff State of Nevada

01/22/2019  Notice of Entry
Filed By: Plaintiff State of Nevada
Notice of Entry of Findings of Fact, Conclusions of Law and Order

01/23/2019  Amended Notice
Filed By: Plaintiff State of Nevada
Amended Notice of Entry of Findings of Fact, Conclusions of Law and Order

01/31/2019  Request
Filed by: Defendant Carroll, Deangelo Reshawn
Request for Transcripts Pursuant to NRAP 9(a)(3)

01/31/2019  Notice of Appeal (criminal)
Party: Defendant Carroll, Deangelo Reshawn
Notice of Appeal

01/31/2019  Case Appeal Statement
Filed By: Defendant Carroll, Deangelo Reshawn
Case Appeal Statement

DISPOSITIONS

01/01/1900 **Plea** (Judicial Officer: User, Conversion)
1. CONSPIRACY TO COMMIT MURDER
Not Guilty
PCN: Sequence:

01/01/1900 **Plea** (Judicial Officer: User, Conversion)
2. MURDER WITH USE OF A DEADLY WEAPON
Not Guilty
PCN: Sequence:

08/12/2010 **Disposition** (Judicial Officer: Adair, Valerie)

CASE SUMMARY

CASE NO. 05C212667-4

1. CONSPIRACY TO COMMIT MURDER

Guilty

PCN: Sequence:

2. MURDER WITH USE OF A DEADLY WEAPON

Guilty

PCN: Sequence:

08/12/2010 **Adult Adjudication** (Judicial Officer: Adair, Valerie)

1. CONSPIRACY TO COMMIT MURDER

01/01/1900 (F) 200.010 (200.010)

PCN: Sequence:

Sentenced to Nevada Dept. of Corrections

Term: Minimum:36 Months, Maximum:120 Months

08/12/2010 **Adult Adjudication** (Judicial Officer: Adair, Valerie)

2. MURDER WITH USE OF A DEADLY WEAPON

01/01/1900 (F) 200.010 (200.010)

PCN: Sequence:

Sentenced to Nevada Dept. of Corrections

Term: Life with the possibility of parole after:20 Years

Consecutive Enhancement:Use of a deadly weapon, Life with the possibility of parole after:20 Years

Consecutive: Charge 1

Credit for Time Served: 1904 Days

Fee Totals:

Administrative

Assessment Fee

25.00

\$25

DNA Analysis Fee

150.00

\$150

Fee Totals \$

175.00

HEARINGS

06/27/2005 **Initial Arraignment** (9:00 AM)

Events: 06/17/2005 Hearing

INITIAL ARRAIGNMENT Court Clerk: Linda Skinner Reporter/Recorder: Maureen Schorn Heard By: Donald Mosley

MINUTES

Hearing

INITIAL ARRAIGNMENT

Matter Heard; INITIAL ARRAIGNMENT Court Clerk: Linda Skinner Reporter/Recorder: Maureen Schorn Heard By: Donald Mosley

Journal Entry Details:

AS TO DEFT COUNTS: DEFENDANT ARRAIGNED, PLED NOT GUILTY AND INVOKED THE SIXTY (60) DAY

RULE. COURT ORDERED, matter set for trial within sixty days. AS TO DEFT HIDALGO: DEFENDANT

ARRAIGNED, PLED NOT GUILTY AND INVOKED THE SIXTY (60) DAY RULE. COURT ORDERED, matter set for

trial within sixty days. AS TO DEFT ESPINDOLAS: Mr. Draskovich appeared for Mr. Oram. DEFENDANT

ARRAIGNED, PLED NOT GUILTY AND INVOKED THE SIXTY (60) DAY RULE. COURT ORDERED, matter set for

trial within sixty days. AS TO DEFT CARROLL: DEFENDANT ARRAIGNED, PLED NOT GUILTY AND INVOKED

THE SIXTY (60) DAY RULE. COURT ORDERED, matter set for trial within sixty days. Counsel requested 21 days

from the filing of the Preliminary Hearing Transcript to file a writ. COURT ORDERED, Defendant's rights are

reserved. CUSTODY (ALL) 8/23/05 9:00 AM CALENDAR CALL (ALL) 8/29/05 1:30 PM JURY TRIAL (ALL) ;

07/11/2005 **Request** (9:00 AM)

Events: 07/06/2005 Hearing

STATE'S REQUEST FOR APPOINTMENT OF COUNSEL / STATUS Court Clerk: Linda Skinner Reporter/Recorder:

Maureen Schorn Heard By: Donald Mosley

Matter Heard; STATE'S REQUEST FOR APPOINTMENT OF COUNSEL / STATUS Court Clerk: Linda Skinner

Reporter/Recorder: Maureen Schorn Heard By: Donald Mosley

Journal Entry Details:

CASE SUMMARY

CASE No. 05C212667-4

Mr. Figler appeared for Ms. Wildeveld and advised the State has filed a Notice of Intent to Seek Death Penalty on all Defendants; he requested Mr. Bunin be appointed as his co-counsel. Court noted Mr. Draskovich was in chambers prior to calendar and would like Mr. Langford appointed as co-counsel. Mr. Whipple would like Ms. Wildeveld appointed. Mr. DiGiacomo advised Mr. Draskovich and Mr. Oram were retained and Rule 250 does not apply to retained counsel. COURT ORDERED, State's Request is GRANTED as to Defts Counts & Carroll. Mr. Figler requested a status check now that the State has filed a death notice to make sure everyone is on track. There being no objection, COURT SO ORDERED and matter CONTINUED as to Hidalgo and Espindolas. CUSTODY (ALL) 7/14/05 9:00 AM STATE'S REQUEST FOR APPOINTMENT OF COUNSEL/STATUS (HIDALGO & ESPINDOLAS)...STATUS CHECK: TRIAL (ALL) ;

07/14/2005 **Request (9:00 AM)**

Events: 07/11/2005 Hearing

STATE'S REQUEST FOR APPOINTMENT OF COUNSEL/STATUS Heard By: Donald Mosley

MINUTES

Hearing

STATE'S REQUEST FOR APPOINTMENT OF COUNSEL/STATUS

Matter Continued; STATE'S REQUEST FOR APPOINTMENT OF COUNSEL/STATUS Heard By: Donald Mosley

07/14/2005 **Request (9:00 AM)**

Events: 07/11/2005 Hearing

STATE'S REQUEST FOR APPOINTMENT OF COUNSEL/STATUS Heard By: Donald Mosley

07/14/2005 **Status Check (9:00 AM)**

Events: 07/11/2005 Hearing

STATUS CHECK: TRIAL

07/14/2005 **All Pending Motions (9:00 AM)**

ALL PENDING MOTIONS 7/14/05 Court Clerk: Linda Skinner Reporter/Recorder: Maureen Schorn Heard By: Donald Mosley

MINUTES

Motion

ALL PENDING MOTIONS 7/14/05

Matter Heard; ALL PENDING MOTIONS 7/14/05 Court Clerk: Linda Skinner Reporter/Recorder: Maureen Schorn Heard By: Donald Mosley

Journal Entry Details:

STATE'S REQUEST FOR APPOINTMENT OF COUNSEL/STATUS (HIDALGO & ESPINDOLAS)...STATUS CHECK; TRIAL SETTING (ALL) Mr. Kane advised they will need to continue the matter as to counsel. Further, as all counsel are not present, COURT ORDERED, matter CONTINUED and directed that counsel be noticed to be present next date. CUSTODY (ALL) ...CONTINUED 8/4/05 9:00 AM CLERK'S NOTE: Judicial Executive Assistant notified all counsel to be present next date. ls ;

08/04/2005 **Request (9:00 AM)**

STATE'S REQUEST FOR APPOINTMENT OF COUNSEL/STATUS Heard By: Donald Mosley

08/04/2005 **Request (9:00 AM)**

STATE'S REQUEST FOR APPOINTMENT OF COUNSEL/STATUS Heard By: Donald Mosley

08/04/2005 **Status Check (9:00 AM)**

STATUS CHECK: TRIAL

08/04/2005 **Motion to Compel (9:00 AM)**

Events: 07/21/2005 Motion

STATE'S MTN TO COMPEL HANDWRITING EXAMPLES/09 Heard By: Donald Mosley

08/04/2005 **Motion to Compel (9:00 AM)**

Events: 07/20/2005 Motion

STATE'S MTN TO COMPEL HANDWRITING EXAMPLES/10


08/04/2005 **Motion to Compel (9:00 AM)**

Events: 07/20/2005 Motion

STATE'S MTN TO COMPEL HANDWRITING EXAMPLES/11


CASE SUMMARY

CASE NO. 05C212667-4

08/04/2005	<p>Motion (9:00 AM) Events: 08/01/2005 Motion <i>DEFT'S MTN FOR REDUCTION IN BAIL OR FOR RELEASE ON HOUSE ARREST/12 Heard By: Donald Mosley</i></p>
08/04/2005	<p>All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS 8/4/05 Relief Clerk: Melissa Swinn Reporter/Recorder: Joe D'Amato Heard By: Donald Mosley</i></p> <p>MINUTES Motion <i>ALL PENDING MOTIONS 8/4/05</i> Matter Heard; ALL PENDING MOTIONS 8/4/05 Relief Clerk: Melissa Swinn Reporter/Recorder: Joe D'Amato Heard By: Donald Mosley Journal Entry Details: <i>STATE'S REQUEST FOR APPOINTMENT OF COUNSEL/STATUS (HIDALGO & ESPINDOLA) ... STATE'S MOTION TO COMPEL HANDWRITING EXAMPLES (HIDALGO, ESPINDOLA & CARROLL) ... DEFT COUNT'S MOTION FOR REDUCTION IN BAIL OR, IN THE ALTERNATIVE, FOR RELEASE ON HOUSE ARREST ... STATUS CHECK (ALL) As to Bail, O.R. or H.A. and Appointment of Counsel: Court stated that parties met in chambers, prior to court to discuss these issues. All parties agree that the matters need to be continued and COURT SO ORDERED. As to Motion to Compel Handwriting Examples: Mr. Figler stated he has no objection as long as it is not out of the scope. COURT ORDERED, motion GRANTED. As to Trial Setting: Court noted all parties have waived the 60 day rule. COURT ORDERED, trial date VACATED and this matter CONTINUED. Ms. Wildeveld stated she has not received the transcript and intends to file a writ. Further, Defendant Counts has a medical problem with his shoulder and needs to see a doctor. Court Services Officer stated he will make sure the Defendant is seen by a doctor. Colloquy regarding pending writs, supplements and replies. Counsel agreed upon two weeks for supplements and 30 days for the State to respond. CUSTODY (ALL) 8/11/05 9 AM DEFT COUNT'S MOTION FOR REDUCTION IN BAIL OR, IN THE ALTERNATIVE, FOR RELEASE ON HOUSE ARREST 9/27/05 9 AM STATE'S REQUEST FOR APPOINTMENT OF COUNSEL/STATUS (HIDALGO & ESPINDOLA) . . . DEFTS' WRIT OF HABEAS CORPUS (HIDALGO & ESPINDOLA) . . . ARGUMENT ON WRITS (ALL) . . . STATUS CHECK: TRIAL (ALL) ;</i></p>
08/11/2005	<p>Motion (9:00 AM) <i>DEFT'S MTN FOR REDUCTION IN BAIL OR FOR RELEASE ON HOUSE ARREST/12 Court Clerk: Linda Skinner Reporter/Recorder: Maureen Schorn Heard By: Donald Mosley</i> Denied; DEFT'S MTN FOR REDUCTION IN BAIL OR FOR RELEASE ON HOUSE ARREST/12 Court Clerk: Linda Skinner Reporter/Recorder: Maureen Schorn Heard By: Donald Mosley Journal Entry Details: <i>Mr. Whipple asked for a bail amount to be set, that Defendant has been in this community for over 10 years, has 4 children, has employment and coaches football. Further, Mr. Whipple advised they would be filing a writ. Court so noted. Mr. DiGiacomo provided Defendant's scope to Court and argued the co-defendants all testified this Defendant was the shooter and would object to the motion. Following additional colloquy, COURT ORDERED, Motion DENIED. CUSTODY ;</i></p>
08/18/2005	<p>Petition for Writ of Habeas Corpus (9:00 AM) Events: 08/03/2005 Petition <i>DEFT'S PTN FOR WRIT OF HABEAS CORPUS /13 Heard By: Donald Mosley</i></p> <p>MINUTES Petition <i>DEFT'S PTN FOR WRIT OF HABEAS CORPUS /13</i> Matter Continued; DEFT'S PTN FOR WRIT OF HABEAS CORPUS /13 Heard By: Donald Mosley</p>
08/18/2005	<p>Petition for Writ of Habeas Corpus (9:00 AM) Events: 08/03/2005 Petition <i>DEFT'S PTN FOR WRIT OF HABEAS CORPUS /14 Heard By: Donald Mosley</i></p> <p>MINUTES  Petition <i>DEFT'S PTN FOR WRIT OF HABEAS CORPUS /14</i> Matter Continued; DEFT'S PTN FOR WRIT OF HABEAS CORPUS /14 Heard By: Donald Mosley</p>
08/23/2005	<p>CANCELED Calendar Call (9:00 AM) <i>Vacated</i></p>

CASE SUMMARY

CASE NO. 05C212667-4

08/29/2005	CANCELED Jury Trial (1:30 PM) <i>Vacated</i>
09/21/2005	Motion (9:00 AM) Events: 09/16/2005 Motion <i>DEFT'S MTN TO PLACE ON CALENDAR FOR THE PURPOSE OF BEIND APPOINTED AS CO-CNSL/18 Court Clerk: Linda Skinner Reporter/Recorder: Maureen Schorn Heard By: Mosley, Donald M.</i> MINUTES  Motion <i>DEFT'S MTN TO PLACE ON CALENDAR FOR THE PURPOSE OF BEIND APPOINTED AS CO-CNSL/18</i> Matter Continued; DEFT'S MTN TO PLACE ON CALENDAR FOR THE PURPOSE OF BEIND APPOINTED AS CO-CNSL/18 Court Clerk: Linda Skinner Reporter/Recorder: Maureen Schorn Heard By: Mosley, Donald M. Journal Entry Details: <i>Court noted Mr. DiGiacomo, Mr. Pesci, Mr. Bunin, Mr. Oram, Mr. Draskovich and Mr. Hart were in chambers prior to calendar. Court inquired if Defendant knew him. Defendant indicated he did not. At request of Mr. Stein, who appeared in chambers after meeting but before calendar, COURT ORDERED, matter CONTINUED. CUSTODY ;</i>
09/27/2005	Request (9:00 AM) <i>STATE'S REQUEST FOR APPOINTMENT OF COUNSEL/STATUS Heard By: Donald Mosley</i>
09/27/2005	Request (9:00 AM) <i>STATE'S REQUEST FOR APPOINTMENT OF COUNSEL/STATUS Heard By: Donald Mosley</i>
09/27/2005	Status Check (9:00 AM) <i>STATUS CHECK: TRIAL</i>
09/27/2005	Petition for Writ of Habeas Corpus (9:00 AM) <i>DEFT'S PTN FOR WRIT OF HABEAS CORPUS /13 Heard By: Donald Mosley</i>
09/27/2005	Petition for Writ of Habeas Corpus (9:00 AM) <i>DEFT'S PTN FOR WRIT OF HABEAS CORPUS /14 Heard By: Donald Mosley</i>
09/27/2005	Hearing (9:00 AM) Events: 08/09/2005 Conversion Case Event Type <i>ARGUMENT ON WRITS Heard By: Donald Mosley</i>
09/27/2005	Petition for Writ of Habeas Corpus (9:00 AM) Events: 08/11/2005 Petition <i>DEFT'S PTN FOR WRIT OF HABEAS CORPUS /17</i>
09/27/2005	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS 9/27/05 Relief Clerk: Melissa Swinn Reporter/Recorder: Joe D'Amato Heard By: Donald Mosley</i> Matter Heard; ALL PENDING MOTIONS 9/27/05 Relief Clerk: Melissa Swinn Reporter/Recorder: Joe D'Amato Heard By: Donald Mosley Journal Entry Details: <i>STATE'S REQUEST FOR APPOINTMENT OF COUNSEL/STATUS (HIDALGO & ESPINDOLAS) . . . DEFTS HIDALGO AND ESPINDOLAS' PETITION FOR WRIT OF HABEAS CORPUS . . . DEFT COUNTS' PETITION FOR WRIT OF HABEAS CORPUS . . . ARGUMENTS ON WRITS . . . STATUS CHECK: TRIAL (ALL) Court indicated it met with interested parties prior to court and ORDERED, all matters as stated above as well as the matter on October 5, 2005 are CONTINUED to October 6, 2005. CUSTODY (ALL) CONTINUED TO: 10/6/05 9 AM ;</i>
10/05/2005	Motion (9:00 AM) <i>DEFT'S MTN TO PLACE ON CALENDAR FOR THE PURPOSE OF BEIND APPOINTED AS CO-CNSL/18 Heard By: Donald Mosley</i>
10/06/2005	Request (9:00 AM) <i>STATE'S REQUEST FOR APPOINTMENT OF COUNSEL/STATUS Heard By: Donald Mosley</i>
10/06/2005	Request (9:00 AM) <i>STATE'S REQUEST FOR APPOINTMENT OF COUNSEL/STATUS Heard By: Donald Mosley</i>

CASE SUMMARY

CASE NO. 05C212667-4

10/06/2005	<p>Status Check (9:00 AM) <i>STATUS CHECK: TRIAL</i></p>
10/06/2005	<p>Petition for Writ of Habeas Corpus (9:00 AM) <i>DEFT'S PTN FOR WRIT OF HABEAS CORPUS /13 Heard By: Donald Mosley</i></p>
10/06/2005	<p>Petition for Writ of Habeas Corpus (9:00 AM) <i>DEFT'S PTN FOR WRIT OF HABEAS CORPUS /14 Heard By: Donald Mosley</i></p>
10/06/2005	<p>Petition for Writ of Habeas Corpus (9:00 AM) <i>DEFT'S PTN FOR WRIT OF HABEAS CORPUS /17</i></p>
10/06/2005	<p>Motion (9:00 AM) <i>DEFT'S MTN TO PLACE ON CALENDAR FOR THE PURPOSE OF BEIND APPOINTED AS CO-CNSL/18 Heard By: Donald Mosley</i></p>
10/06/2005	<p>All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS 10/6/05 Court Clerk: Linda Skinner Reporter/Recorder: Maureen Schorn Heard By: Donald Mosley</i> Matter Heard; ALL PENDING MOTIONS 10/6/05 Court Clerk: Linda Skinner Reporter/Recorder: Maureen Schorn Heard By: Donald Mosley Journal Entry Details: <i>STATE'S REQUEST FOR APPOINTMENT OF COUNSEL/STATUS (HIDALGO & ESPINDOLAS)...DEFTS HIDALGO'S AND ESPINDOLAS' PETITION FOR WRIT OF HABEAS CORPUS...DEFT COUNTS' PETITION FOR WRIT OF HABEAS CORPUS...DEFT HIDALGO'S MOTION TO PLACE ON CALENDAR FOR THE PURPOSE OF BEING APPOINTED AS CO-COUNSEL BY THE COURT...STATUS CHECK: TRIAL (ALL) AS TO THE WRIT: Court noted the issue stems from the tape introduced at the Preliminary Hearing. Mr. Draskovich concurred and stated it is unclear who is actually speaking. Mr. DiGiacomo stated that was untrue, that the Detective that is familiar with their voices identified them. Arguments by Mr. Draskovich, Mr. Oram and Ms. Wildeveld regarding the tape, how it was obtained and the statements made and asking for the tape to be disallowed. Court noted there was a quantum of evidence produced at the Preliminary Hearing and he needs to evaluate if the Justice of the Peace had enough sufficient evidence to bind this over and this Court feels he did. Therefore, COURT ORDERED, Writ DENIED. As to Deft Hidalgo: Mr. Stein advised he is a friend of the family and they have asked that he join Mr. Draskovich in representation and provided the paperwork to the Court. COURT ORDERED, matter UNDER ADVISEMENT. As to Deft Espindolas: Mr. Oram advised he was retained and at this time because of her assets, co-counsel cannot be appointed. COURT ORDERED, matter set for trial in ordinary course. CUSTODY (ALL) 7/18/06 9:00 AM CALENDAR CALL (ALL) 7/24/06 1:30 PM JURY TRIAL (ALL) ;</i></p>
11/28/2005	<p>Motion (9:00 AM) Events: 11/09/2005 Motion <i>STATE'S MTN TO FILE AMENDED NTC ALLEGING AN ADDITIONAL AGGRAVATION /23 Heard By: Donald Mosley</i></p>
11/28/2005	<p>Motion to Sever (9:00 AM) Events: 11/14/2005 Motion <i>DEFT'S MTN TO SEVER /24 Heard By: Donald Mosley</i></p>
11/28/2005	<p>All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS 11/28/05 Court Clerk: Linda Skinner Reporter/Recorder: Joe D'Amato Heard By: Joseph Pavlikowski</i> Matter Heard; ALL PENDING MOTIONS 11/28/05 Court Clerk: Linda Skinner Reporter/Recorder: Joe D'Amato Heard By: Joseph Pavlikowski Journal Entry Details: <i>STATE'S MOTION TO FILE AMENDED NOTICE ALLEGING AN ADDITIONAL AGGRAVATING CIRCUMSTANCE...DEFT'S MOTION TO SEVER DEFENDANTS Mr. Whipple advised he did not receive the State's Opposition and requested matter be continued. Further, Mr. Whipple FILED IN OPEN COURT Kenneth Counts' Opposition to Motion to File Amended Notice Alleging an Additional Aggravating Circumstance and Motion to Strike Aggravating Circumstances. COURT ORDERED, both Motions CONTINUED. ...CONTINUED 12/12/05 9:00 AM ;</i></p>
12/12/2005	<p>Motion (9:00 AM) <i>STATE'S MTN TO FILE AMENDED NTC ALLEGING AN ADDITIONAL AGGRAVATION /23 Heard By: Donald Mosley</i></p>

CASE SUMMARY

CASE NO. 05C212667-4

12/12/2005	<p>Motion to Sever (9:00 AM) <i>DEFT'S MTN TO SEVER /24 Heard By: Donald Mosley</i></p>
12/12/2005	<p>All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS 12/12/05 Court Clerk: Linda Skinner Reporter/Recorder: Joe D'Amato Heard By: Donald Mosley</i> Matter Heard; ALL PENDING MOTIONS 12/12/05 Court Clerk: Linda Skinner Reporter/Recorder: Joe D'Amato Heard By: Donald Mosley Journal Entry Details: <i>STATE'S MOTION TO FILE AMENDED NOTICE ALLEGING AN ADDITIONAL AGGRAVATING CIRCUMSTANCE...DEFT'S MOTION TO SEVER DEFENDANTS AS TO AMENDED NOTICE: Mr. DiGiacomo stated Defendant was on parole at the time of this murder and that there is actually an active warrant out of California as he absconded. Ms. Wildeveld argued Defendant transferred his probation to Nevada, did what he was supposed to do and was unaware of the warrant. Mr. DiGiacomo advised the Investigator learned of the active warrant during his investigation and that Defendant was on parole/probation at the time of this incident; he filed this motion within the 15 day period. Following additional colloquy, COURT ORDERED, Motion GRANTED. State's Amended Notice of Intent to Seek Death Penalty FILED IN OPEN COURT. AS TO MOTION TO SEVER: Mr. DiGiacomo stated he had no objection and feels Deft Carroll should be severed. Mr. Figler stated he was unaware of this motion and Defendant should be present. Ms. Wildeveld stated this pertains to Deft. Counts. Court noted the allegations are that the Defendants hired Deft Counts to kill someone. Ms. Wildeveld argued that 5 people got together and formed a plan that Deft. Counts was not involved in; he was picked up by a van, driven to the scene and driven back. Arguments by Mr. DiGiacomo. Ms. Wildeveld stated the majority of evidence does not pertain to Deft. Counts. Mr. DiGiacomo stated there will be testimony that Defendant was paid \$6,000 after the murder. Following additional arguments, COURT ORDERED, Motion DENIED. Mr. Figler and Mr. Whipple advised they have submitted Ex-Parte Orders for Investigators that they have not received back from the Court. Court advised \$5,000 would be approved and will see if the Orders are in chambers. Mr. Whipple advised he has asked for scope on the other co-defendants. Mr. DiGiacomo advised some of what he wants is juvenile. Court requested counsel put this on calendar. CUSTODY ;</i></p>
12/21/2005	<p>Initial Arraignment (9:00 AM) Events: 12/09/2005 Hearing <i>INITIAL ARRAIGNMENT Court Clerk: Sandra Anderson/sa Relief Clerk: Kathleen Arnold Reporter/Recorder: Kiara Schmidt Heard By: J. CHARLES THOMPSON</i> Matter Heard; INITIAL ARRAIGNMENT Court Clerk: Sandra Anderson/sa Relief Clerk: Kathleen Arnold Reporter/Recorder: Kiara Schmidt Heard By: J. CHARLES THOMPSON Journal Entry Details: <i>DEFT. TAOIPU ARRAIGNED, PLED NOT GUILTY and WAIVED THE 60-DAY RULE. COURT ORDERED, matter set for trial. CUSTODY 07-18-06 9:00 AM CALENDAR CALL 07-24-06 1:30 PM JURY TRIAL ;</i></p>
12/22/2005	<p>Motion to Strike (9:00 AM) Events: 12/12/2005 Motion <i>DEFT'S MTN TO STRIKE /27 Heard By: Donald Mosley</i></p>
12/22/2005	<p>Motion to Strike (9:00 AM) <i>DEFT'S MTN TO STRIKE Court Clerk: Linda Skinner Reporter/Recorder: Maureen Schorn Heard By: Mosley, Donald M.</i> Matter Continued; DEFT'S MTN TO STRIKE Court Clerk: Linda Skinner Reporter/Recorder: Maureen Schorn Heard By: Mosley, Donald M. Journal Entry Details: <i>Court noted Ms. Weckerly and Mr. Draskovich appeared in chambers prior to calendar. At request of counsel, COURT ORDERED the following briefing schedule: Ms. Weckerly to reply by 1/5 and matter set for argument. CUSTODY CLERK'S NOTE: This motion also applies to Deft. Espindola and she should be added to calendar next date. ;</i></p>
01/19/2006	<p>Motion to Strike (9:00 AM) <i>DEFT'S MTN TO STRIKE /27 Heard By: Donald Mosley</i></p>
01/19/2006	<p>Motion to Strike (9:00 AM) <i>DEFT'S MTN TO STRIKE Heard By: Donald Mosley</i></p>
01/19/2006	<p>All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS 1/19/06 Court Clerk: Melissa Swinn Reporter/Recorder: Joe D'Amato Heard By: Donald Mosley</i></p>

CASE SUMMARY

CASE NO. 05C212667-4

Matter Heard; ALL PENDING MOTIONS 1/19/06 Court Clerk: Melissa Swinn Reporter/Recorder: Joe D'Amato

Heard By: Donald Mosley

Journal Entry Details:

DEFENDANTS HIDALGO AND ESPINDOLA'S MOTION TO STRIKE NOTICE OF INTENT TO SEEK DEATH PENALTY COURT ORDERED, matter CONTINUED TWO WEEKS. CUSTODY CONTINUED TO: 2/2/06 @ 9AM ;

02/02/2006 **Motion to Strike (9:00 AM)**

DEFT'S MTN TO STRIKE /27 Heard By: Donald Mosley

02/02/2006 **Motion to Strike (9:00 AM)**

DEFT'S MTN TO STRIKE Heard By: Donald Mosley

02/02/2006 **All Pending Motions (9:00 AM)**

ALL PENDING MOTIONS 2/2/06 Court Clerk: Linda Skinner Reporter/Recorder: Joe D'Amato Heard By: Donald Mosley

MINUTES

Motion

ALL PENDING MOTIONS 2/2/06

Matter Heard; ALL PENDING MOTIONS 2/2/06 Court Clerk: Linda Skinner Reporter/Recorder: Joe D'Amato Heard By: Donald Mosley

Journal Entry Details:

DEFTS' MOTION TO STRIKE NOTICE OF INTENT TO SEEK DEATH PENALTY (HIDALGO & ESPINDOLA) Court noted at request of Mr. Draskovich, COURT ORDERED, matter CONTINUED. CUSTODY (BOTH) ...CONTINUED 2/17/06 9:00 AM ;

02/17/2006 **Motion to Strike (9:00 AM)**

DEFT'S MTN TO STRIKE /27 Heard By: Donald Mosley

02/17/2006 **Motion to Strike (9:00 AM)**

DEFT'S MTN TO STRIKE Heard By: Donald Mosley

02/21/2006 **Motion (9:00 AM)**

Events: 02/10/2006 Motion

DEFT'S MTN TO ALLOW THE DEFENSE TO ARGUE LAST AT PENALTY PHASE/34 Heard By: Donald Mosley

02/21/2006 **Motion (9:00 AM)**

Events: 02/10/2006 Motion

DEFT'S MTN TO FEDERALIZE ALL MTNS/35 Heard By: Donald Mosley

02/21/2006 **Motion (9:00 AM)**

Events: 02/10/2006 Motion

DEFT'S MTN FOR INDIVIDUAL VOIR DIRE/36 Heard By: Donald Mosley

02/21/2006 **Motion in Limine (9:00 AM)**

Events: 02/10/2006 Motion

DEFT'S MTN IN LIMINE TO INCLUDE AUTOPSY, CRIME SCENE & OTHER PHOTOGRAPHS/37 Heard By: Donald Mosley

02/21/2006 **Motion in Limine (9:00 AM)**

Events: 02/10/2006 Motion

DEFT'S MTN IN LIMINE TO PRECLUDE INTRODUCTION OF VICTIM IMPACT EVID/38 Heard By: Donald Mosley

02/21/2006 **Motion in Limine (9:00 AM)**

Events: 02/10/2006 Motion

DEFT'S MTN IN LIMINE TO PROHIBIT ANY REFTO FIRST PHRASE/39 Heard By: Donald Mosley

02/21/2006 **Motion to Bifurcate (9:00 AM)**

Events: 02/10/2006 Motion

DEFT'S MTN TO BIFURCATE PENALTY PHASE/40 Heard By: Donald Mosley

CASE SUMMARY

CASE NO. 05C212667-4

02/21/2006	Motion in Limine (9:00 AM) Events: 02/10/2006 Motion <i>DEFT'S MTN IN LIMINE TO BAR IMPROPER PROSEC ARGUMNT/41 Heard By: Donald Mosley</i>
02/21/2006	Motion in Limine (9:00 AM) Events: 02/10/2006 Motion <i>DEFT'S MTN IN LIMINE TO PRECLUDE ADMISSION OF GANG AFFILIATION/42 Heard By: Donald Mosley</i>
02/21/2006	Motion for Discovery (9:00 AM) Events: 02/10/2006 Motion <i>DEFT'S MTN FOR DISCOVERY & EVID HEARING/43 Heard By: Donald Mosley</i>
02/27/2006	Motion (9:00 AM) Events: 02/13/2006 Motion <i>DEFT'S MTN FOR DISQUALIFICATION FROM THEJURY VENIRE/44 Heard By: Donald Mosley</i>
03/17/2006	Motion to Strike (9:00 AM) <i>DEFT'S MTN TO STRIKE /27 Heard By: Donald Mosley</i>
03/17/2006	Motion to Strike (9:00 AM) <i>DEFT'S MTN TO STRIKE Heard By: Donald Mosley</i>
03/17/2006	Motion (9:00 AM) <i>DEFT'S MTN TO ALLOW THE DEFENSE TO ARGUE LAST AT PENALTY PHASE/34 Heard By: Donald Mosley</i>
03/17/2006	Motion (9:00 AM) <i>DEFT'S MTN TO FEDERALIZE ALL MTNS/35 Heard By: Donald Mosley</i>
03/17/2006	Motion (9:00 AM) <i>DEFT'S MTN FOR INDIVIDUAL VOIR DIRE/36 Heard By: Donald Mosley</i>
03/17/2006	Motion in Limine (9:00 AM) <i>DEFT'S MTN IN LIMINE TO INCLUDE AUTOPSY, CRIME SCENE & OTHER PHOTOGRAPHS/37 Heard By: Donald Mosley</i>
03/17/2006	Motion in Limine (9:00 AM) <i>DEFT'S MTN IN LIMINE TO PRECLUDE INTRODUCTION OF VICTIM IMPACT EVID/38 Heard By: Donald Mosley</i>
03/17/2006	Motion in Limine (9:00 AM) <i>DEFT'S MTN IN LIMINE TO PROHIBIT ANY REFTO FIRST PHRASE/39 Heard By: Donald Mosley</i>
03/17/2006	Motion to Bifurcate (9:00 AM) <i>DEFT'S MTN TO BIFURCATE PENALTY PHASE/40 Heard By: Donald Mosley</i>
03/17/2006	Motion in Limine (9:00 AM) <i>DEFT'S MTN IN LIMINE TO BAR IMPROPER PROSEC ARGUMNT/41 Heard By: Donald Mosley</i>
03/17/2006	Motion in Limine (9:00 AM) <i>DEFT'S MTN IN LIMINE TO PRECLUDE ADMISSION OF GANG AFFILIATION/42 Heard By: Donald Mosley</i>
03/17/2006	Motion for Discovery (9:00 AM) <i>DEFT'S MTN FOR DISCOVERY & EVID HEARING/43 Heard By: Donald Mosley</i>
03/17/2006	Motion (9:00 AM) <i>DEFT'S MTN FOR DISQUALIFICATION FROM THEJURY VENIRE/44 Heard By: Donald Mosley</i>
03/17/2006	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS 3/17/06 Relief Clerk: Jennifer Lott Reporter/Recorder: Joe D'Amato Heard By: Donald Mosley</i> <i>Matter Heard; ALL PENDING MOTIONS 3/17/06 Relief Clerk: Jennifer Lott Reporter/Recorder: Joe D'Amato Heard</i>

CASE SUMMARY**CASE No. 05C212667-4**

By: Donald Mosley

Journal Entry Details:

DEFTS HIDALGO'S AND ESPINDOLA'S MOTION TO STRIKE NOTICE OF INTENT TO SEEK DEATH PENALTY.....DEFT COUNTS' MOTION TO ALLOW THE DEFENSE TO ARGUE LAST AT THE PENALTY PHASE...DEFT COUNTS' MTN TO FEDERALIZE ALL MOTIONS, OBJECTIONS, REQUESTS AND OTHER APPLICATIONS FOR THE PROCEEDINGS IN THE ABOVE ENTITLED CASE...DEFT COUNTS' MOTION FOR INDIVIDUAL VOIR DIRE.....DEFT COUNTS' MOTION IN LIMINE TO EXCLUDE AUTOPSY, CRIME SCENE, AND OTHER GRUESOME PHOTOGRAPHS..DEFT COUNTS' MOTION IN LIMINE TO PRECLUDE THE INTRODUCTION OF VICTIM IMPACT EVIDENCE.....DEFT COUNTS' MOTION IN LIMINE TO PROHIBIT ANY REFERENCES TO THE FIRST PHASE AS THE "GUILT PHASE".....DEFT COUNTS' MOTION TO BIFURCATE PENALTY PHASE...DEFT COUNTS' MOTION IN LIMINE TO BAR IMPROPER PROSECUTORIAL ARGUMENT.....DEFT COUNTS' MOTION IN LIMINE TO PRECLUDE ADMISSION OF GANG AFFILIATION, DRUG ACTIVITY, HANDLING OF GUNS AND BATTERIES....DEFT COUNTS' MOTION FOR DISCOVERY AND EVIDENTIARY HEARING REGARDING THE MANNER AND METHOD OF DETERMINING IN WHICH MURDER CASES THE DEATH PENALTY WILL BE SOUGHT.....DEFT COUNTS' MOTION FOR DISQUALIFICATION FROM THE JURY VENIRE OF ALL POTENTIAL JURORS WHO WOULD AUTOMATICALLY VOTE FOR THE DEATH PENALTY IF THEY FOUND KENNETH COUNTS GUILTY OF CAPITAL MURDER Mr. Figler requested to join Defendant Carroll in motions if necessary. Mr. Jackson stated Court's secretary told him to be present, his client Defendant Taoipu is not on calendar; however, counsel requested Court move 3/27/06 motions to accommodate his schedule. Mr. Di Giacomo stated Defendant Taoipu (Mr. Jackson's client) fled to California, was brought back through Boulder City, he was given the same case number, and Mr. Jackson filed a Motion to Sever Defendant Taoipu. COURT ORDERED, motions CONTINUED and Evidentiary Hearing SET 4/21/06 at 9:00 a.m. COURT ORDERED, all motions MUST BE ON CALENDAR FROM NOW ON. Mr. Figler will file his motions in short order. Ms. Wildeveld requested Defendant Counts' motions be separated from other defendants as Defendant Counts is not involved if other charges. COURT ORDERED, Request is DENIED. Ms. Wildeveld requested to Join in Motions in issues are related. Argument by Ms. Thomas, Mr. Draskovich, and Mr. Orme in support of Defs Hidalgo's and Espindola's Motion to Strike Notice of Intent to Seek Death Penalty. Ms. Thomas argued defendants did not intend to kill anyone, argument regarding pecuniary gain factor, and counsel requested all aggravators stricken. Mr. Draskovich stated baseball bats and garbage bags were not included in the taped conversations; argument by counsel in opposition to State's intent to seek the death penalty. Argument by Mr. Di Giacomo in opposition to motion. Mr. Orme read from the transcript to correct testimony (Page 4 after 844); counsel stated there is nothing in the tapes indicating Defendant Espindola intended to kill anyone, and the death penalty is not appropriate. Colloquy regarding if defendants were aware of surveillance. Mr. Draskovich argued this case cannot be raised to a death case. COURT ORDERED, motion is UNDER ADVISEMENT. DEFT COUNTS' MTN TO ALLOW THE DEFENSE TO ARGUE LAST AT THE PENALTY PHASE: Matter submitted by Ms. Wildeveld; Mr. Pesci argued this claim has no merit. COURT ORDERED, motion is DENIED. DEFT COUNTS' MTN TO FEDERALIZE ALL MOTIONS, OBJECTIONS, REQUESTS AND OTHER APPLICATIONS FOR THE PROCEEDINGS IN THE ABOVE ENTITLED CASE: Argument by Ms. Wildeveld. Mr. Di Giacomo argued motion does not solve the problems before the Federal Court, and this Court should be given the opportunity to address proper concerns. Ms. Wildeveld is not asking to be completely relieved of her obligation, and counsel will make every effort to make a full objection. COURT ORDERED, motion is DENIED WITHOUT PREJUDICE. DEFT COUNTS' MOTION FOR INDIVIDUAL VOIR DIRE: Matter submitted by counsel. COURT ORDERED, motion is DENIED. DEFT COUNTS' MOTION IN LIMINE TO EXCLUDE AUTOPSY, CRIME SCENE, AND OTHER GRUESOME PHOTOGRAPHS: COURT ORDERED, motion is PREMATURE and Court RESERVES RULING. DEFT COUNTS' MOTION IN LIMINE TO PRECLUDE THE INTRODUCTION OF VICTIM IMPACT EVIDENCE: Argument by Ms. Wildeveld in opposition to the jury hearing benevolent testimony regarding victim as he did participate in a drug deal. COURT ORDERED, Court WILL ALLOW testimony from victim's son and daughter; however, Court RESERVES RULING on this motion. DEFT COUNTS' MOTION IN LIMINE TO PROHIBIT ANY REFERENCES TO THE FIRST PHASE AS THE "GUILT PHASE": Matter submitted by counsel. COURT ORDERED, motion is DENIED. DEFT COUNTS' MOTION TO BIFURCATE PENALTY PHASE: Matter submitted by Ms. Wildeveld, and argument by Mr. Pesci. COURT ORDERED, motion is DENIED. DEFT COUNTS' MOTION IN LIMINE TO BAR IMPROPER PROSECUTORIAL ARGUMENT: Matter submitted by counsel. COURT ORDERED, motion is GRANTED. DEFT COUNTS' MOTION IN LIMINE TO PRECLUDE ADMISSION OF GANG AFFILIATION, DRUG ACTIVITY, HANDLING OF GUNS AND BATTERIES: Arguments by counsel. COURT ORDERED, GANG AFFILIATION and DRUG ACTIVITY WILL NOT BE DISCUSSED unless State brings a Motion for Bad Acts at trial; HOWEVER, information WILL BE ALLOWED AT THE PENALTY PHASE. Regarding issue of handguns, Ms. Wildeveld argued she does not have Defendant Counts' scope, Judicial Clearance document provided to the Court, and counsel argued another Kenneth Counts is located in California. Mr. Di Giacomo argued defendant does not dispute felony convictions for drugs or Ex-Felon in Possession of Firearm, and information will not be brought out at trial unless State brings a Motion for Bad Acts. COURT SO ORDERED, however, information WILL BE AVAILABLE DURING THE PENALTY PHASE. Arguments by counsel regarding viewing the State's information. COURT ORDERED, counsel to GET TOGETHER and SHARE CRIMINAL RECORDS, and fingerprints MUST BE MADE if necessary. For the record, Ms. Wildeveld stated she went to California Court, did extensive research on Defendant Counts' convictions, and counsel did not find anything except what was already discussed. COURT ORDERED, DEFT COUNTS' MOTION IN LIMINE TO PRECLUDE ADMISSION OF GANG AFFILIATION, DRUG ACTIVITY, HANDLING OF GUNS AND BATTERIES is GRANTED IN PART (as indicated above). DEFT COUNTS' MOTION FOR DISCOVERY AND EVIDENTIARY HEARING REGARDING THE MANNER AND METHOD OF DETERMINING IN WHICH MURDER CASES THE DEATH PENALTY WILL BE SOUGHT: Ms. Wildeveld argued for

CASE SUMMARY

CASE No. 05C212667-4

information on how State determines death penalty cases. Mr. Pesci argued the State follows criteria of the statute to determine aggravators, and the jury determines if aggregators exist. Argument by Mr. Di Giacomo regarding State's committee to review cases, and requests by defense counsel to offer a presentation to committee. Ms. Wildeveld was not aware that opportunity existed. COURT ORDERED, motion is DENIED. DEFT COUNTS' MOTION FOR DISQUALIFICATION FROM THE JURY VENIRE OF ALL POTENTIAL JURORS WHO WOULD AUTOMATICALLY VOTE FOR THE DEATH PENALTY IF THEY FOUND KENNETH COUNTS GUILTY OF CAPITAL MURDER: Arguments by Ms. Wildeveld and Mr. Di Giacomo. COURT ORDERED, motion is GRANTED. Ms. Wildeveld requested defendant's shoulder be examined at the jail as defendant has sent several kytes without success. COURT ORDERED, defendant MUST HAVE HIS SHOULDER EXAMINED at the jail. CUSTODY 4/21/06 9:00 A.M. DEFT TAOIPU'S MOTION FOR SEVERANCE.....DEFT TAOIPU'S MOTION TO SUPPRESS STATEMENT.....EVIDENTIARY HEARING ;

03/27/2006 **Motion (9:00 AM)**

Events: 03/15/2006 Motion

DEFT'S MTN FOR SEVERANCE/45 Heard By: Donald Mosley

03/27/2006 **Motion to Suppress (9:00 AM)**

Events: 03/16/2006 Motion

DEFT'S MTN TO SUPPRESS STATEMENT/46 Heard By: Donald Mosley

04/11/2006 **Request (9:00 AM)**

Events: 04/05/2006 Hearing

STATE'S REQUEST FOR CLARIFICATION OF RULING Court Clerk: Linda Skinner Reporter/Recorder: Joe

D'Amato Heard By: Donald Mosley

Matter Resolved; STATE'S REQUEST FOR CLARIFICATION OF RULING Court Clerk: Linda Skinner

Reporter/Recorder: Joe D'Amato Heard By: Donald Mosley

Journal Entry Details:

Court noted matter was resolved in chambers prior to calendar. COURT ORDERED, matter RESOLVED.

CUSTODY ;

04/21/2006 **Motion (9:00 AM)**

DEFT'S MTN FOR SEVERANCE/45 Heard By: Donald Mosley

04/21/2006 **Motion to Suppress (9:00 AM)**

DEFT'S MTN TO SUPPRESS STATEMENT/46 Heard By: Donald Mosley

04/21/2006 **Evidentiary Hearing (9:00 AM)**

Events: 03/17/2006 Hearing

EVIDENTIARY HEARING

04/21/2006 **All Pending Motions (9:00 AM)**

ALL PENDING MOTIONS 4/21/06 Court Clerk: Linda Skinner Reporter/Recorder: Maureen Schorn Heard By: Donald Mosley

Matter Heard; ALL PENDING MOTIONS 4/21/06 Court Clerk: Linda Skinner Reporter/Recorder: Maureen Schorn Heard By: Donald Mosley

Journal Entry Details:

DEFT'S MOTION FOR SEVERANCE...DEFT'S MOTION TO SUPPRESS STATEMENT...EVIDENTIARY HEARING

AS TO SEVERANCE: Mr. DiGiacomo advised he has no objection to the motion as this Defendant was arrested at a different time and has a different Information. COURT ORDERED, Motion GRANTED and this Defendant to receive a new case number. AS TO STATEMENT: Mr. DiGiacomo advised this entire issue was litigated at the Preliminary Hearing. Mr. Jackson requested to call witnesses and outlined his reasons why. Hearing commenced. Testimony and evidence presented. Mr. Jackson argued Defendant was not mirandized, was not allowed to leave, was held in a small locked room and was not able to call his parents. Mr. DiGiacomo stated there was no evidence of coercion.

Defendant's statement clearly indicates that he thought he was free to leave. Even if Defendant asked for his father, due to the charge, the father would not have been called. Court noted the reason Deft Carroll brought Defendant to the Police is of no consequence; as to the room, Defendant agreed he was free to leave and using video versus audio for interview is simply an investigative tool. Therefore, COURT ORDERED, Motion to Suppress Statement is DENIED. CUSTODY ;

06/26/2006 **Motion (9:00 AM)**

Events: 06/15/2006 Motion

DEFT'S MTN TO PRECLUDE USE OF PEREMPTORY CHALLENGES/51 Heard By: Donald Mosley

CASE SUMMARY

CASE NO. 05C212667-4

06/26/2006	Motion (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN TO PRECLUDE USE OF PEREMPTORY CHALLENGE/52 Heard By: Donald Mosley</i>
06/26/2006	Motion (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN TO PROHIBIT ARGUMENT ON DETERRENCE /53 Heard By: Donald Mosley</i>
06/26/2006	Motion (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN TO PROHIBIT ARGUMENT ON DETERRENCE/54 Heard By: Donald Mosley</i>
06/26/2006	Motion (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN TO PROHIBIT USE OF IMPUTED AGGRAVATING CIRCUMSTANCES /55 Heard By: Donald Mosley</i>
06/26/2006	Motion (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN TO PROHIBIT USE OF IMPUTED AGGRAVATING CIRCUMSTANCES /56 Heard By: Donald Mosley</i>
06/26/2006	Motion to Strike (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN TO STRIKE DEATH PENALTY BASEDUPON UNCONSTITUTIONALITY /57 Heard By: Donald Mosley</i>
06/26/2006	Motion to Strike (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN TO STRIKE DEATH PENALTY BASEDUPON UNCONSTITUTIONALITY /58 Heard By: Donald Mosley</i>
06/26/2006	Motion (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN TO PROHIBIT INTRO OF VICTIM IMPACT EVID DURING GUILT PHASE /59 Heard By: Donald Mosley</i>
06/26/2006	Motion (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN TO PROHIBIT INTRO OF VICTIM IMPACT EVID DURING GUILT PHASE /60 Heard By: Donald Mosley</i>
06/26/2006	Motion to Strike (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN TO STRIKE NTC OF INTENT TO SEEK DEATH /61 Heard By: Donald Mosley</i>
06/26/2006	Motion to Strike (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN TO STRIKE NTC OF INTENT TO SEEK DEATH /62 Heard By: Donald Mosley</i>
06/26/2006	Motion (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN TO CONDUCT VOIR DIRE ON POSSIBLE RACIAL BIAS & PREJUDICE /63 Heard By: Donald Mosley</i>
06/26/2006	Motion (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN TO CONDUCT VOIR DIRE ON POSSIBLE RACIAL BIAS & PREJUDICE /64 Heard By: Donald Mosley</i>
06/26/2006	Motion (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN TO PRECLUDE COURT FROM PARTICIPATING IN REHAB OF JURORS /65 Heard By: Donald Mosley</i>

CASE SUMMARY

CASE NO. 05C212667-4

06/26/2006	Motion (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN TO PRECLUDE COURT FROM PARTICIPATING IN REHAB OF JURORS /66 Heard By: Donald Mosley</i>
06/26/2006	Motion to Strike (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN TO STRIKE DEATH PENALTY AS UNCONSTITUTIONAL /67 Heard By: Donald Mosley</i>
06/26/2006	Motion to Strike (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN TO STRIKE DEATH PENALTY AS UNCONSTITUTIONAL /68 Heard By: Donald Mosley</i>
06/26/2006	Motion (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN FOR JURY QUESTIONNAIRE TO BE COMPLETED BY JURY VENIRE 1 WEEK PRIOR/69 Heard By: Donald Mosley</i>
06/26/2006	Motion (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN FOR JURY QUESTIONNAIRE TO BE COMPLETED BY JURY VENIRE 1 WEEK PRIOR/70 Heard By: Donald Mosley</i>
06/26/2006	Motion (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN TO DECLARE UNCONSTITUTIONAL THE DISCRETION TO SEEK DEATH PENALTY /71 Heard By: Donald Mosley</i>
06/26/2006	Motion (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN TO DECLARE UNCONSTITUTIONAL THE DISCRETION TO SEEK DEATH PENALTY /72 Heard By: Donald Mosley</i>
06/26/2006	Motion (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN FOR PROCEDURES REGARDING BAILIFFS & OTHER COURT PERSONNEL /73 Heard By: Donald Mosley</i>
06/26/2006	Motion (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN FOR PROCEDURES REGARDING BAILIFFS & OTHER COURT PERSONNEL /74 Heard By: Donald Mosley</i>
06/26/2006	Motion (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN FOR COURT TO ALLOW PRESENTATION OF EVID TO JURY /75 Heard By: Donald Mosley</i>
06/26/2006	Motion (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN FOR COURT TO ALLOW PRESENTATION OF EVID TO JURY /76 Heard By: Donald Mosley</i>
06/26/2006	Motion (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN TO PRECLUDE INTRO OF HEARSAY DURING SENTENCING /77 Heard By: Donald Mosley</i>
06/26/2006	Motion (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN TO PRECLUDE INTRO OF HEARSAY DURING SENTENCING /78 Heard By: Donald Mosley</i>
06/26/2006	Motion to Bifurcate (9:00 AM)

CASE SUMMARY

CASE NO. 05C212667-4

	Events: 06/15/2006 Motion <i>DEFT'S MTN TO BIFURCATE PENALTY PHASE PROCEEDINGS /79 Heard By: Donald Mosley</i>
06/26/2006	Motion to Bifurcate (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN TO BIFURCATE PENALTY PHASE PROCEEDINGS /80 Heard By: Donald Mosley</i>
06/26/2006	Motion (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN FOR EXCHANGE OF PROPOSED JURYINSTRUCTIONS AT CALENDAR CALL /81 Heard By: Donald Mosley</i>
06/26/2006	Motion (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN FOR EXCHANGE OF PROPOSED JURYINSTRUCTIONS AT CALENDAR CALL /82 Heard By: Donald Mosley</i>
06/26/2006	Motion (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN TO DETERMINE ADMISSIBILITY OFSTATE'S HEARSAY EVID BEFORE TRIAL /83 Heard By: Donald Mosley</i>
06/26/2006	Motion (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN TO DETERMINE ADMISSIBILITY OFSTATE'S HEARSAY EVID BEFORE TRIAL /84 Heard By: Donald Mosley</i>
06/26/2006	Motion (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN TO PROHIBIT EVID & ARGUMENT ON IRRELEVANT MITIGATING CIRCUMSTANCE/85 Heard By: Donald Mosley</i>
06/26/2006	Motion (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN TO PROHIBIT EVID & ARGUMENT ON IRRELEVANT MITIGATING CIRCUMSTANCE/86 Heard By: Donald Mosley</i>
06/26/2006	Motion (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN TO DECLARE NRS 704.206 UNCONSTITUTIONAL /87 Heard By: Donald Mosley</i>
06/26/2006	Motion (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN TO DECLARD NRS 704.206 UNCONSTITUTIONAL /88 Heard By: Donald Mosley</i>
06/26/2006	Motion (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN TO CONDUCT FULL VOIR DIRE ON JURORS' PERSONAL & PROF EXPERIENCE /89 Heard By: Donald Mosley</i>
06/26/2006	Motion (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN TO CONDUCT FULL VOIR DIRE ON JURORS PER & PROF EXPERIENCE /90 Heard By: Donald Mosley</i>
06/26/2006	Motion to Strike (9:00 AM) Events: 06/15/2006 Motion <i>DEFT'S MTN TO STRIKE NTC OF INTENT TO SEEK DEATH UPON UNCONSTITUTIONALITY /91 Heard By: Donald Mosley</i>
06/26/2006	Motion to Strike (9:00 AM) Events: 06/15/2006 Motion

CASE SUMMARY

CASE No. 05C212667-4

DEFT'S MTN TO STRIKE NTC OF INTENT TO SEEK DEATH UPON UNCONSTITUTIONALITY /92 Heard By: Donald Mosley

06/26/2006 **All Pending Motions (9:00 AM)**

ALL PENDING MOTIONS 6/26/06 Court Clerk: Linda Skinner Reporter/Recorder: Joe D'Amato Heard By: Donald Mosley

Matter Heard; ALL PENDING MOTIONS 6/26/06 Court Clerk: Linda Skinner Reporter/Recorder: Joe D'Amato Heard By: Donald Mosley

Journal Entry Details:

DEFTS HIDALGO & ESPINDOLA'S MOTION TO PRECLUDE USE OF PEREMPTORY CHALLENGES...DEFTS HIDALGO & ESPINDOLA'S MOTION TO PROHIBIT ARGUMENT ON DETERRENCE OR IN THE ALTERNATIVE TO PERMIT EVIDENCE OF LACK OF DETERRENCE...DEFTS HIDALGO & ESPINDOLA'S MOTION TO PROHIBIT USE OF IMPUTED AGGRAVATING CIRCUMSTANCES...DEFTS HIDALGO & ESPINDOLA'S MOTION TO STRIKE DEATH PENALTY BASED UPON UNCONSTITUTIONALITY...DEFTS HIDALGO & ESPINDOLA'S MOTION TO PROHIBIT INTRODUCTION OF VICTIM IMPACT EVIDENCE DURING THE GUILT PHASE...DEFTS HIDALGO & ESPINDOLA'S MOTION TO STRIKE NOTICE OF INTENT TO SEEK DEATH BASED UPON UNCONSTITUTIONAL WEIGHING EQUATION...DEFTS HIDALGO & ESPINDOLA'S MOTION TO CONDUCT VOIR DIRE ON POSSIBLE RACIAL BIAS AND PREJUDICE...DEFTS HIDALGO & ESPINDOLA'S MOTION TO PRECLUDE THE COURT FROM PARTICIPATING IN REHABILITATION OF POTENTIAL JURORS...DEFTS HIDALGO & ESPINDOLA'S MOTION TO STRIKE THE DEATH PENALTY AS UNCONSTITUTIONAL BASED ON ITS ALLOWANCE OF INHERENTLY UNRELIABLE EVIDENCE...DEFTS HIDALGO & ESPINDOLA'S MOTION FOR JURY QUESTIONNAIRE TO BE COMPLETED BY JURY VENIRE ONE WEEK PRIOR TO TRIAL...DEFTS HIDALGO & ESPINDOLA'S MOTION TO DECLARE AS UNCONSTITUTIONAL THE UNBRIDLED DISCRETION OF PROSECUTION TO SEEK THE DEATH PENALTY...DEFTS HIDALGO & ESPINDOLA'S MOTION FOR PROCEDURES REGARDING BAILIFFS AND OTHER COURT PERSONNEL CONCERNING JURORS AND PROSPECTIVE JURORS...DEFTS HIDALGO & ESPINDOLA'S MOTION FOR COURT TO ALLOW PRESENTATION OF EVIDENCE TO THE JURY OF THE DISPROPORTIONALITY AND ARBITRARINESS AND UNFAIRNESS OF A DEATH SENTENCE...DEFTS HIDALGO & ESPINDOLA'S MOTION TO PRECLUDE THE INTRODUCTION OF HEARSAY DURING SENTENCING...DEFTS HIDALGO & ESPINDOLA'S MOTION TO BIFURCATE PENALTY PHASE PROCEEDINGS...DEFTS HIDALGO & ESPINDOLA'S MOTION FOR EXCHANGE OF PROPOSED JURY INSTRUCTIONS AT CALENDAR CALL...DEFTS HIDALGO & ESPINDOLA'S MOTION TO DETERMINE ADMISSIBILITY OF STATE'S HEARSAY EVIDENCE BEFORE TRIAL...DEFTS HIDALGO & ESPINDOLA'S MOTION TO PROHIBIT EVIDENCE AND ARGUMENT ON IRRELEVANT MITIGATING CIRCUMSTANCES...DEFTS HIDALGO & ESPINDOLA'S MOTION TO DECLARE NRS 704.206 UNCONSTITUTIONAL...DEFTS HIDALGO & ESPINDOLA'S MOTION TO CONDUCT FULL VOIR DIRE ON POTENTIAL JURORS' PERSONAL AND PROFESSIONAL EXPERIENCES...DEFTS HIDALGO & ESPINDOLA'S MOTION TO STRIKE NOTICE OF INTENT TO SEEK DEATH PENALTY BASED UPON UNCONSTITUTIONALITY OF LETHAL INJECTION Court noted the trial and all the motions will be continued due to Ms. Wildeveld's condition. As to length, Mr. DiGiacomo stated if all Defendants were tried together it would take about 5 weeks and noted Deft Taoipu has been severed, however, Deft Carroll has not. Mr. Figler concurred and stated there is a Bruton problem and will not object to a severance, he stated he just has not filed one and added the co-defendants do not want to be tried with Deft Carroll. Mr. DiGiacomo stated he had no objection to Deft Carroll being severed out. Ms. Thomas stated if the State was not going to introduce Deft Carroll's statements, then there is no need for a severance. Mr. DiGiacomo advised he was. Conference at the Bench. By oral stipulation, COURT ORDERED, Defendant Carroll is severed out. As to motions, Court directed counsel to have all motions filed by 7/27; answers to be filed by 8/10; replies by 8/24 and matter set for argument on 8/31/06. Further, trial date VACATED and RESET as to Counts, Hidalgo and Espindola. Matter set for status check as to trial for Carroll and Taoipu. CUSTODY (ALL) 7/6/06 9:00 AM STATUS CHECK: TRIAL DATE (CARROLL & TAOIPU) 8/31/06 9:00 AM ARGUMENT ON (ABOVE) MOTIONS & ANY OTHERS FILED 4/10/07 9:00 AM CALENDAR CALL (#1) (COUNTS, HIDALGO & ESPINDOLA) 4/16/07 1:30 PM JURY TRIAL (#1) (COUNTS, HIDALGO & ESPINDOLA) ;

06/30/2006 **Status Check (9:00 AM)**

STATUS CHECK: TRIAL DATE

06/30/2006 **Status Check (9:00 AM)**

STATUS CHECK: TRIAL DATE

06/30/2006 **All Pending Motions (9:00 AM)**

ALL PENDING MOTIONS 6/30/06 Court Clerk: Linda Skinner Reporter/Recorder: Joe D'Amato Heard By: Donald Mosley

Matter Heard; ALL PENDING MOTIONS 6/30/06 Court Clerk: Linda Skinner Reporter/Recorder: Joe D'Amato Heard By: Donald Mosley

Journal Entry Details:

STATUS CHECK: TRIAL DATE (CARROLL & TAOIPU) Mr. Figler stated Deft. Carroll was severed as was Deft. Taoipu and both should have separate trials. All counsel concurred. However, Mr. Jackson stated due to his schedule,

CASE SUMMARY

CASE NO. 05C212667-4

he will not be ready for trial on 7/24 and would request an additional 90 days to prepare. Mr. Figler stated the status check date was moved up, however, he spoke briefly to his Investigator and they feel they could be ready for trial phase, however, not sure for penalty phase as there is still a lot of work to be done. Mr. Draskovich advised he is ready for Deft. Espindola and would request to go to trial as originally scheduled. Mr. DiGiacomo objected and advised Defts Counts, Hidalgo and Espindola need to be tried together. Court DENIED request. Following additional colloquy and discussion as to Court's schedule, COURT ORDERED, trial date for Defts Carroll & Taoipu VACATED; trial date set for Defts Counts, Hidalgo & Espindola are MOVED BACK ONE WEEK and start on 4/23; Deft. Carroll will be set for trial on 4/16 and Deft. Taoipu will start on 5/8. Objections by Mr. Draskovich and Ms. Thomas. Court so noted. Mr. Jackson advised he had a Motion set for 7/10 to continue the trial date. COURT ORDERED, Motion VACATED. CUSTODY (CARROLL & TAOIPU) 4/10/07 9:00 AM CALENDAR CALL (CARROLL) 4/16/07 1:30 PM JURY TRIAL (CARROLL) 4/17/07 9:00 AM CALENDAR CALL (COUNTS, HIDALGO & ESPINDOLA) 4/23/07 1:30 PM JURY TRIAL (COUNTS, HIDALGO & ESPINDOLA) 5/8/07 9:00 AM CALENDAR CALL (TAOIPU) 5/14/07 1:30 PM JURY TRIAL (TAOIPU) ;

07/06/2006 **Status Check (9:00 AM)**
Events: 06/26/2006 Hearing
STATUS CHECK: TRIAL DATE

07/06/2006 **Status Check (9:00 AM)**
Events: 06/26/2006 Hearing
STATUS CHECK: TRIAL DATE

07/10/2006 **CANCELED Motion to Vacate (9:00 AM)**
Events: 06/29/2006 Motion
Vacated

07/18/2006 **CANCELED Calendar Call (9:00 AM)**
Vacated

07/18/2006 **CANCELED Calendar Call (9:00 AM)**
Vacated

07/18/2006 **CANCELED Calendar Call (9:00 AM)**
Vacated

07/24/2006 **CANCELED Jury Trial (1:30 PM)**
Vacated

07/24/2006 **CANCELED Jury Trial (1:30 PM)**
Vacated

07/24/2006 **CANCELED Jury Trial (1:30 PM)**
Vacated

08/07/2006 **Motion in Limine (9:00 AM)**
Events: 07/27/2006 Motion
DEFT'S MTN IN LIMINE TO PRECLUDE ADMISSION OF EVID OF ARREST/FLIGHT /116 Heard By: Donald Mosley

08/07/2006 **Motion to Dismiss (9:00 AM)**
Events: 07/27/2006 Motion
DEFT'S MTN TO DISMISS DEATH PENALTY DUE TO FED DUE PROCESS VIOLATIONS /117 Heard By: Donald Mosley

08/07/2006 **Motion for Own Recognizance Release/Setting Reasonable Bail (9:00 AM)**
Events: 07/27/2006 Motion
DEFT'S MTN FOR REDUCTION OF BAIL / RELEASE ON HOUSE ARREST /118 Heard By: Donald Mosley

08/07/2006 **Motion in Limine (9:00 AM)**
Events: 07/27/2006 Motion
DEFT'S MTN IN LIMINE TO PRECLUDE ADMISSION OF PHONE/119 Heard By: Donald Mosley

CASE SUMMARY

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08/07/2006	Motion (9:00 AM) Events: 07/27/2006 Motion <i>DEFT'S MTN FOR RELEASE OF JUVENILE RECORDS /120 Heard By: Donald Mosley</i>
08/07/2006	Motion (9:00 AM) Events: 07/27/2006 Motion <i>DEFT'S MTN FOR DISCLOSURE OF EXCULPATORY EVID /121 Heard By: Donald Mosley</i>
08/07/2006	Motion (9:00 AM) Events: 07/27/2006 Motion <i>DEFT'S MTN FOR JURY QUESTIONNAIRE /122 Heard By: Donald Mosley</i>
08/07/2006	Motion (9:00 AM) Events: 07/27/2006 Motion <i>DEFT'S MTN FOR ORDER PERMITTING DISC OF RECORDS PERTAINING TO FAMILY LIFE /123 Heard By: Donald Mosley</i>
08/07/2006	Motion in Limine (9:00 AM) Events: 07/27/2006 Motion <i>DEFT'S MTN IN LIMINE TO SUPPRESS EVID OF DEFT'S PRIOR FELONY CONVICTIONS /124 Heard By: Donald Mosley</i>
08/31/2006	Motion (9:00 AM) <i>DEFT'S MTN TO PRECLUDE USE OF PEREMPTORY CHALLENGES/51 Heard By: Donald Mosley</i>
08/31/2006	Motion (9:00 AM) <i>DEFT'S MTN TO PRECLUDE USE OF PEREMPTORY CHALLENGE/52 Heard By: Donald Mosley</i>
08/31/2006	Motion (9:00 AM) <i>DEFT'S MTN TO PROHIBIT ARGUMENT ON DETERRENCE /53 Heard By: Donald Mosley</i>
08/31/2006	Motion (9:00 AM) <i>DEFT'S MTN TO PROHIBIT ARGUMENT ON DETERRENCE/54 Heard By: Donald Mosley</i>
08/31/2006	Motion (9:00 AM) <i>DEFT'S MTN TO PROHIBIT USE OF IMPUTED AGGRAVATING CIRCUMSTANCES /55 Heard By: Donald Mosley</i>
08/31/2006	Motion (9:00 AM) <i>DEFT'S MTN TO PROHIBIT USE OF IMPUTED AGGRAVATING CIRCUMSTANCES /56 Heard By: Donald Mosley</i>
08/31/2006	Motion to Strike (9:00 AM) <i>DEFT'S MTN TO STRIKE DEATH PENALTY BASED UPON UNCONSTITUTIONALITY /57 Heard By: Donald Mosley</i>
08/31/2006	Motion to Strike (9:00 AM) <i>DEFT'S MTN TO STRIKE DEATH PENALTY BASED UPON UNCONSTITUTIONALITY /58 Heard By: Donald Mosley</i>
08/31/2006	Motion (9:00 AM) <i>DEFT'S MTN TO PROHIBIT INTRO OF VICTIM IMPACT EVID DURING GUILT PHASE /59 Heard By: Donald Mosley</i>
08/31/2006	Motion (9:00 AM) <i>DEFT'S MTN TO PROHIBIT INTRO OF VICTIM IMPACT EVID DURING GUILT PHASE /60 Heard By: Donald Mosley</i>
08/31/2006	Motion to Strike (9:00 AM) <i>DEFT'S MTN TO STRIKE NTC OF INTENT TO SEEK DEATH /61 Heard By: Donald Mosley</i>
08/31/2006	Motion to Strike (9:00 AM) <i>DEFT'S MTN TO STRIKE NTC OF INTENT TO SEEK DEATH /62 Heard By: Donald Mosley</i>

CASE SUMMARY

CASE NO. 05C212667-4

08/31/2006	Motion (9:00 AM) <i>DEFT'S MTN TO CONDUCT VOIR DIRE ON POSSIBLE RACIAL BIAS & PREJUDICE /63 Heard By: Donald Mosley</i>
08/31/2006	Motion (9:00 AM) <i>DEFT'S MTN TO CONDUCT VOIR DIRE ON POSSIBLE RACIAL BIAS & PREJUDICE /64 Heard By: Donald Mosley</i>
08/31/2006	Motion (9:00 AM) <i>DEFT'S MTN TO PRECLUDE COURT FROM PARTICIPATING IN REHAB OF JURORS /65 Heard By: Donald Mosley</i>
08/31/2006	Motion (9:00 AM) <i>DEFT'S MTN TO PRECLUDE COURT FROM PARTICIPATING IN REHAB OF JURORS /66 Heard By: Donald Mosley</i>
08/31/2006	Motion to Strike (9:00 AM) <i>DEFT'S MTN TO STRIKE DEATH PENALTY AS UNCONSTITUTIONAL /67 Heard By: Donald Mosley</i>
08/31/2006	Motion to Strike (9:00 AM) <i>DEFT'S MTN TO STRIKE DEATH PENALTY AS UNCONSTITUTIONAL /68 Heard By: Donald Mosley</i>
08/31/2006	Motion (9:00 AM) <i>DEFT'S MTN FOR JURY QUESTIONNAIRE TO BE COMPLETED BY JURY VENIRE 1 WEEK PRIOR/69 Heard By: Donald Mosley</i>
08/31/2006	Motion (9:00 AM) <i>DEFT'S MTN FOR JURY QUESTIONNAIRE TO BE COMPLETED BY JURY VENIRE 1 WEEK PRIOR/70 Heard By: Donald Mosley</i>
08/31/2006	Motion (9:00 AM) <i>DEFT'S MTN TO DECLARE UNCONSTITUTIONAL THE DISCRETION TO SEEK DEATH PENALTY /71 Heard By: Donald Mosley</i>
08/31/2006	Motion (9:00 AM) <i>DEFT'S MTN TO DECLARE UNCONSTITUTIONAL THE DISCRETION TO SEEK DEATH PENALTY /72 Heard By: Donald Mosley</i>
08/31/2006	Motion (9:00 AM) <i>DEFT'S MTN FOR PROCEDURES REGARDING BAILIFFS & OTHER COURT PERSONNEL /73 Heard By: Donald Mosley</i>
08/31/2006	Motion (9:00 AM) <i>DEFT'S MTN FOR PROCEDURES REGARDING BAILIFFS & OTHER COURT PERSONNEL /74 Heard By: Donald Mosley</i>
08/31/2006	Motion (9:00 AM) <i>DEFT'S MTN FOR COURT TO ALLOW PRESENTATION OF EVID TO JURY /75 Heard By: Donald Mosley</i>
08/31/2006	Motion (9:00 AM) <i>DEFT'S MTN FOR COURT TO ALLOW PRESENTATION OF EVID TO JURY /76 Heard By: Donald Mosley</i>
08/31/2006	Motion (9:00 AM) <i>DEFT'S MTN TO PRECLUDE INTRO OF HEARSAY DURING SENTENCING /77 Heard By: Donald Mosley</i>
08/31/2006	Motion (9:00 AM) <i>DEFT'S MTN TO PRECLUDE INTRO OF HEARSAY DURING SENTENCING /78 Heard By: Donald Mosley</i>
08/31/2006	Motion to Bifurcate (9:00 AM) <i>DEFT'S MTN TO BIFURCATE PENALTY PHASE PROCEEDINGS /79 Heard By: Donald Mosley</i>

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CASE NO. 05C212667-4

08/31/2006	Motion to Bifurcate (9:00 AM) <i>DEFT'S MTN TO BIFURCATE PENALTY PHASE PROCEEDINGS /80 Heard By: Donald Mosley</i>
08/31/2006	Motion (9:00 AM) <i>DEFT'S MTN FOR EXCHANGE OF PROPOSED JURYINSTRUCTIONS AT CALENDAR CALL /81 Heard By: Donald Mosley</i>
08/31/2006	Motion (9:00 AM) <i>DEFT'S MTN FOR EXCHANGE OF PROPOSED JURYINSTRUCTIONS AT CALENDAR CALL /82 Heard By: Donald Mosley</i>
08/31/2006	Motion (9:00 AM) <i>DEFT'S MTN TO DETERMINE ADMISSIBILITY OFSTATE'S HEARSAY EVID BEFORE TRIAL /83 Heard By: Donald Mosley</i>
08/31/2006	Motion (9:00 AM) <i>DEFT'S MTN TO DETERMINE ADMISSIBILITY OFSTATE'S HEARSAY EVID BEFORE TRIAL /84 Heard By: Donald Mosley</i>
08/31/2006	Motion (9:00 AM) <i>DEFT'S MTN TO PROHIBIT EVID & ARGUMENT ON IRRELEVANT MITIGATING CIRCUMSTANCE/85 Heard By: Donald Mosley</i>
08/31/2006	Motion (9:00 AM) <i>DEFT'S MTN TO PROHIBIT EVID & ARGUMENT ON IRRELEVANT MITIGATING CIRCUMSTANCE/86 Heard By: Donald Mosley</i>
08/31/2006	Motion (9:00 AM) <i>DEFT'S MTN TO DECLARE NRS 704.206 UNCONSTITUTIONAL /87 Heard By: Donald Mosley</i>
08/31/2006	Motion (9:00 AM) <i>DEFT'S MTN TO DECLARD NRS 704.206 UNCONSTITUTIONAL /88 Heard By: Donald Mosley</i>
08/31/2006	Motion (9:00 AM) <i>DEFT'S MTN TO CONDUCT FULL VOIR DIRE ON JURORS' PERSONAL & PROF EXPERIENCE /89 Heard By: Donald Mosley</i>
08/31/2006	Motion (9:00 AM) <i>DEFT'S MTN TO CONDUCT FULL VOIR DIRE ON JURORS PER & PROF EXPERIENCE /90 Heard By: Donald Mosley</i>
08/31/2006	Motion to Strike (9:00 AM) <i>DEFT'S MTN TO STRIKE NTC OF INTENT TO SEEK DEATH UPON UNCONSTITUTIONALITY /91 Heard By: Donald Mosley</i>
08/31/2006	Motion to Strike (9:00 AM) <i>DEFT'S MTN TO STRIKE NTC OF INTENT TO SEEK DEATH UPON UNCONSTITUTIONALITY /92 Heard By: Donald Mosley</i>
08/31/2006	Motion in Limine (9:00 AM) <i>DEFT'S MTN IN LIMINE TO PRECLUDE ADMISSION OF EVID OF ARREST/FLIGHT /116 Heard By: Donald Mosley</i>
08/31/2006	Motion to Dismiss (9:00 AM) <i>DEFT'S MTN TO DISMISS DEATH PENALTY DUE TO FED DUE PROCESS VIOLATIONS /117 Heard By: Donald Mosley</i>
08/31/2006	Motion for Own Recognizance Release/Setting Reasonable Bail (9:00 AM) <i>DEFT'S MTN FOR REDUCTION OF BAIL / RELEASE ON HOUSE ARREST /118 Heard By: Donald Mosley</i>
08/31/2006	Motion in Limine (9:00 AM)

CASE SUMMARY

CASE NO. 05C212667-4

DEFT'S MTN IN LIMINE TO PRECLUDE ADMISSION OF PHONE/119 Heard By: Donald Mosley

08/31/2006 **Motion** (9:00 AM)

DEFT'S MTN FOR RELEASE OF JUVENILE RECORDS /120 Heard By: Donald Mosley

08/31/2006 **Motion** (9:00 AM)

DEFT'S MTN FOR DISCLOSURE OF EXCULPATORY EVID /121 Heard By: Donald Mosley

08/31/2006 **Motion** (9:00 AM)

DEFT'S MTN FOR JURY QUESTIONNAIRE /122 Heard By: Donald Mosley

08/31/2006 **Motion** (9:00 AM)

DEFT'S MTN FOR ORDER PERMITTING DISC OF RECORDS PERTAINING TO FAMILY LIFE /123 Heard By: Donald Mosley

08/31/2006 **Motion in Limine** (9:00 AM)

DEFT'S MTN IN LIMINE TO SUPPRESS EVID OF DEFT'S PRIOR FELONY CONVICTIONS /124 Heard By: Donald Mosley

08/31/2006 **Joinder** (9:00 AM)

Events: 07/27/2006 Motion

DEFT'S JOINDER TO OTHER DEFTS' MTNS/125 Heard By: Donald Mosley

08/31/2006 **All Pending Motions** (9:00 AM)

ALL PENDING MOTIONS 8/31/06 Court Clerk: Linda Skinner Reporter/Recorder: Maureen Schorn Heard By: Donald Mosley

Matter Heard; ALL PENDING MOTIONS 8/31/06 Court Clerk: Linda Skinner Reporter/Recorder: Maureen Schorn Heard By: Donald Mosley

Journal Entry Details:

1) DEFTS HIDALGO & ESPINDOLA'S MOTION TO CONDUCT VOIR DIRE ON POSSIBLE RACIAL BIAS AND PREJUDICE...2) DEFTS HIDALGO & ESPINDOLA'S MOTION TO PROHIBIT INTRODUCTION OF VICTIM IMPACT EVIDENCE DURING THE GUILTY PHASE...3) DEFTS HIDALGO & ESPINDOLA'S MOTION FOR EXCHANGE OF PROPOSED JURY INSTRUCTIONS AT CALENDAR CALL...4) DEFTS HIDALGO & ESPINDOLA'S MOTION FOR JURY QUESTIONNAIRE TO BE COMPLETED BY JURY VENIRE ONE WEEK PRIOR TO TRIAL...5) DEFTS HIDALGO & ESPINDOLA'S MOTION TO STRIKE THE DEATH PENALTY AS UNCONSTITUTIONAL BASED ON ITS ALLOWANCE OF INHERENTLY UNRELIABLE EVIDENCE... 6) DEFTS HIDALGO & ESPINDOLA'S MOTION FOR PROCEDURES REGARDING BAILIFFS AND OTHER COURT PERSONNEL CONCERNING JURORS AND PROSPECTIVE JURORS...7) DEFTS HIDALGO & ESPINDOLA'S MOTION TO PRECLUDE THE INTRODUCTION OF HEARSAY DURING SENTENCING...8) DEFTS HIDALGO & ESPINDOLA'S MOTION TO PROHIBIT ARGUMENT ON DETERRENCE OR IN THE ALTERNATIVE TO PERMIT EVIDENCE OF LACK OF DETERRENCE...9) DEFTS HIDALGO & ESPINDOLA'S MOTION TO PRECLUDE THE COURT FROM PARTICIPATING IN REHABILITATION OF POTENTIAL JURORS...10) DEFT HIDALGO & ESPINDOLA'S MOTION FOR COURT TO ALLOW PRESENTATION OF EVIDENCE TO THE JURY OF THE DISPROPORTIONALITY AND ARBITRARINESS AND UNFAIRNESS OF A DEATH SENTENCE...11) DEFTS HIDALGO & ESPINDOLA'S MOTION TO BIFURCATE PENALTY PHASE PROCEEDINGS...12) DEFT HIDALGO & ESPINDOLA'S MOTION TO CONDUCT FULL VOIR DIRE ON POTENTIAL JURORS' PERSONAL AND PROFESSIONAL EXPERIENCES...13) DEFTS HIDALGO & ESPINDOLA'S MOTION TO DECLARE AS UNCONSTITUTIONAL THE UNBRIDLED DISCRETION OF PROSECUTION TO SEEK THE DEATH PENALTY...14) DEFTS HIDALGO & ESPINDOLA'S MOTION TO STRIKE DEATH PENALTY BASED UPON UNCONSTITUTIONALITY...15) DEFTS HIDALGO & ESPINDOLA'S MOTION TO STRIKE NOTICE OF INTENT TO SEEK DEATH PENALTY BASED UPON UNCONSTITUTIONALITY OF LETHAL INJECTION...16) DEFT COUNTS' NOTICE OF JOINDER...17) DEFT COUNTS' RENEWED MOTION TO SEVER DEFENDANTS...18) DEFT COUNTS' MOTION TO SUPPRESS EVIDENCE OF THE DEFENDANT'S PRIOR FELONY CONVICTIONS...19) DEFT COUNTS' MOTION FOR AN ORDER PERMITTING DISCOVERY OF RECORDS PERTAINING TO FAMILY LIFE OF VICTIM...20) DEFT COUNTS' MOTION FOR DISCLOSURE OF EXCULPATORY EVIDENCE PERTAINING TO THE IMPACT OF THE DEFENDANT'S EXECUTION UPON VICTIM FAMILY MEMBERS...21) DEFT COUNTS' MOTION FOR RELEASE OF JUVENILE RECORDS...22) DEFT COUNTS' MOTION FOR REDUCTION IN BAIL OR IN THE ALTERNATIVE, FOR RELEASE ON HOUSE ARREST...23) DEFT COUNTS' MOTION IN LIMINE TO PRECLUDE ADMISSION OF PHONE CONVERSATIONS...24) DEFT COUNTS' MOTION TO DISMISS THE DEATH PENALTY DUE TO FEDERAL DUE PROCESS VIOLATIONS...25) DEFT COUNTS' MOTION IN LIMINE TO PRECLUDE ADMISSION OF EVIDENCE OF ARREST OR FLIGHT...26) DEFTS HIDALGO & ESPINDOLA'S MOTION TO PRECLUDE USE OF PEREMPTORY CHALLENGES...27) DEFTS HIDALGO & ESPINDOLA'S MOTION TO PROHIBIT USE OF IMPUTED AGGRAVATING CIRCUMSTANCES...28) DEFTS HIDALGO & ESPINDOLA'S MOTION TO STRIKE NOTICE OF INTENT TO SEEK DEATH BASED UPON

CASE SUMMARY**CASE NO. 05C212667-4**

UNCONSTITUTIONAL WEIGHING EQUATION...29) DEFTS HIDALGO & ESPINDOLA'S MOTION TO DETERMINE ADMISSIBILITY OF STATE'S HEARSAY EVIDENCE BEFORE TRIAL...30) DEFTS HIDALGO & ESPINDOLA'S MOTION TO PROHIBIT EVIDENCE AND ARGUMENT ON IRRELEVANT MITIGATING CIRCUMSTANCES...31) DEFTS HIDALGO & ESPINDOLA'S MOTION TO DECLARE NRS 704.206 UNCONSTITUTIONAL...32) DEFT COUNTS' MOTION FOR JURY QUESTIONNAIRE Mr. Figler would like to join in the motions as to Deft. Carroll and would request his presence be waived. Mr. DiGiacomo objected as he has not received any motions relating to this defendant. Mr. Figler argued that most of these motions are very broad and would apply to Deft. Carroll as well. COURT ORDERED, GRANTED. Ms. Wildeveld advised Mr. Whipple is still in a murder trial and would request some of the motions as to Deft Counts be continued for his presence. COURT ORDERED, GRANTED. 1) Ms. Thomas advised they would like open ended questions as opposed to racial questions. Objections by Mr. DiGiacomo. Court noted voir dire will be relaxed and counsel will be able to expand on some questions, however, open ended questions will not be asked. COURT ORDERED, DENIED. 2) Upon Court's inquiry, Mr. DiGiacomo advised he is not sure what defense is asking. Ms. Thomas stated her concerns. Statements by Mr. DiGiacomo. COURT ORDERED, DENIED as this issue is moot. 3) Ms. Thomas requested this be done to get an idea of where the State will be going. Court advised it has never done this and will not deviate now. COURT ORDERED, DENIED. 4) Court noted it has reviewed what was submitted and advised there are a number of them that will not be allowed. Further, Court noted there will not be a lot of questions either. Following colloquy, Court advised it feels this would be a profiling process, which will not be allowed. COURT ORDERED, DENIED. 5) Counsel advised this was submitted for appeal purposes. COURT ORDERED, DENIED. 6) Court noted it takes exception to this in regards to his staff. COURT ORDERED, DENIED. 7) Counsel argued that hearsay should be allowed. Following arguments, COURT ORDERED, DENIED. 8) Ms. Thomas argued that even if the Supreme Court has O.K.'d this, she does not feel they have addressed both issues at the same time. Arguments by Mr. Draskovich. Following additional arguments, COURT ORDERED, DENIED. 9) Following discussion by counsel, Court noted it is not uncommon for the Court to ask questions of potential jurors and ORDERED, DENIED. 10) Court advised the death penalty is not on trial. Counsel advised the issue was raised for appeal. COURT ORDERED, DENIED. 11) Court noted this is contrary to State law. Arguments by Ms. Thomas. COURT ORDERED, DENIED. 12) Ms. Thomas stated jurors relate their own personal experiences to other jurors and she feels that counsel should know what their life experiences are. Court advised there would be no end to the inquiry of every experience. Mr. Draskovich advised that there could be 5 or 6 specific questions unique to this case. Court advised counsel may submit some questions for review, however, MOTION, DENIED. 13) Ms. Thomas advised they take exception as to how the State determines which case gets the death penalty. Following statements by Mr. DiGiacomo, COURT ORDERED, DENIED. 14) COURT ORDERED, DENIED. 15) Ms. Thomas argued that if the drugs used are not applied properly, it can cause extreme pain. Mr. DiGiacomo advised this is the cart before the horse, first there needs be a guilty verdict and feels this is a premature issue. Following arguments, Court advised this issue has been preserved and there is a presumption of legality, however, COURT ORDERED, DENIED. 16) Court advised this has been recognized and ORDERED, GRANTED. 17) Mr. Whipple requested a continuance as to this motion as he is still in trial. COURT ORDERED, matter CONTINUED. 18) Mr. Whipple requested a continuance as to this motion as he is still in trial. COURT ORDERED, matter CONTINUED. 19) Matter submitted by Ms. Wildeveld. Court advised it does see the relevancy and ORDERED, DENIED. 20) Ms. Wildeveld stated they would like to know if the family members agree with the death penalty. Mr. DiGiacomo argued the victim's family are not allowed to discuss punishment. Following colloquy, COURT ORDERED, DENIED. 21) Mr. DiGiacomo advised he does not understand why they want this information, that the only juvenile is Taoipu, however, he is not a witness but a defendant, however, will provide the records to the Court for an in-camera review. Following additional arguments, at request of Ms. Wildeveld, COURT ORDERED, matter CONTINUED for Mr. Whipple. 22) Mr. Whipple requested a continuance as to this motion as he is still in trial. COURT ORDERED, matter CONTINUED. 23) Mr. Whipple requested a continuance as to this motion as he is still in trial. COURT ORDERED, matter CONTINUED. 24) Ms. Wildeveld referred to Floyd vs State and submitted. COURT ORDERED, DENIED. 25) Mr. Whipple requested a continuance as to this motion as he is still in trial. COURT ORDERED, matter CONTINUED. 26) Ms. Thomas argued the peremptory challenges should be declared unconstitutional as they lead to Batson challenges. Ms. Thomas stated she feels there should be 4 challenges for each side with no peremptory challenges. Objections stated by Mr. DiGiacomo. Following additional arguments, COURT ORDERED, DENIED. 27) Ms. Thomas argued that the State should not apply aggravators to any other defendant. Mr. DiGiacomo stated the aggravators are specific as to each Defendant. Statements by Mr. Draskovich. Court advised it feels this issue is moot and does not feel it will occur, however, ORDERED, GRANTED. 28) Mr Draskovich advised the Supreme Court has addressed this issue. COURT ORDERED, DENIED. 29) Court noted what counsel want is a mini trial before trial. Ms. Thomas advised this Court did this in the early 80's. Following additional colloquy, Court noted the concept is not inappropriate, however, feels it is just another layer before trial with no meaningful result. COURT ORDERED, DENIED. 30) Ms. Thomas stated they do not want the State to blow up the statues as to mitigators for their closing. Mr. DiGiacomo advised he does not disagree with this and will not do it. COURT ORDERED, RESOLVED. 31) Ms. Thomas stated she feels the jury pool should include names from the power bills and not just from DMV. She argued that in rural areas, the power bills are used and would request it be done here to get a diverse panel. Mr. DiGiacomo stated there is no statute that requires the Court to compel Nevada Power to comply. COURT ORDERED, DENIED. 32) Court advised it has not done this in the past and will not start now. COURT ORDERED, DENIED. COURT ORDERED, motions not heard today are CONTINUED and matter set for status check as to trial and all counsel to be present next date. CUSTODY (ALL) 9/8/06 9:00 MOTIONS...STATUS CHECK TRIAL ;

CASE SUMMARY

CASE No. 05C212667-4

DEFT'S RENEWED MTN TO SEVER DEFENDANTS Heard By: Donald Mosley

09/08/2006 **Motion in Limine (9:00 AM)**

DEFT'S MTN IN LIMINE TO PRECLUDE ADMISSION OF EVID OF ARREST/FLIGHT /116 Heard By: Donald Mosley

09/08/2006 **Motion for Own Recognizance Release/Setting Reasonable Bail (9:00 AM)**

DEFT'S MTN FOR REDUCTION OF BAIL / RELEASE ON HOUSE ARREST /118 Heard By: Donald Mosley

09/08/2006 **Motion in Limine (9:00 AM)**

DEFT'S MTN IN LIMINE TO PRECLUDE ADMISSION OF PHONE/119 Heard By: Donald Mosley

09/08/2006 **Motion (9:00 AM)**

DEFT'S MTN FOR RELEASE OF JUVENILE RECORDS /120 Heard By: Donald Mosley

09/08/2006 **Motion in Limine (9:00 AM)**

DEFT'S MTN IN LIMINE TO SUPPRESS EVID OF DEFT'S PRIOR FELONY CONVICTIONS /124 Heard By: Donald Mosley

09/08/2006 **Status Check (9:00 AM)**

Events: 08/31/2006 Hearing

STATUS CHECK: STATUS CHECK: TRIAL

09/08/2006 **Motion (9:00 AM)**

DEFT'S RENEWED MTN TO SEVER DEFENDANTS Heard By: Donald Mosley

09/08/2006 **All Pending Motions (9:00 AM)**

ALL PENDING MOTIONS 9/8/06 Court Clerk: Linda Skinner Reporter/Recorder: Joe D'Amato Heard By: Donald Mosley

Matter Heard; ALL PENDING MOTIONS 9/8/06 Court Clerk: Linda Skinner Reporter/Recorder: Joe D'Amato Heard By: Donald Mosley

Journal Entry Details:

1) DEFT COUNTS' RENEWED MOTION TO SEVER DEFENDANTS...2) DEFT COUNTS' MOTION TO SUPPRESS EVIDENCE OF THE DEFENDANT'S PRIOR FELONY CONVICTIONS...3) DEFT COUNTS' MOTION FOR RELEASE OF JUVENILE RECORDS...4) DEFT COUNTS' MOTION FOR REDUCTION IN BAIL OR, IN THE ALTERNATIVE, FOR RELEASE ON HOUSE ARREST...5) DEFT COUNTS' MOTION IN LIMINE TO PRECLUDE ADMISSION OF PHONE CONVERSATIONS...6) DEFT COUNTS' MOTION IN LIMINE TO PRECLUDE ADMISSION OF EVIDENCE OF ARREST OR FLIGHT...STATUS CHECK: TRIAL (ALL) 1) Mr. Whipple state if the jury cannot consider the death penalty for all defendants, that Mr. Counts should be severed out. Following additional arguments, COURT ORDERED, DENIED. 2) Mr. Whipple feels this is a prejudicial vs probative issue. If Defendant takes the stand, there is a prejudicial issue as to his priors, however, they are drug related. Mr. DiGiacomo stated that non violent felonies are admissible and concurred that they are drug related. Following additional colloquy, COURT ORDERED, DENIED. 3) Court advised it will review these records in chambers. Mr. DiGiacomo advised there are two, Zone and Taoipu. However, Taoipu is not a witness, but a charged Defendant. If he does become a witness, then his records will be submitted for review. Mr. Whipple argued that Taoipu was the only witness in the car with a gun. Following additional arguments, Mr. DiGiacomo stated the propensity of evidence to commit a crime is not admissible. Just because Taoipu may have had a gun two years ago, does not mean he had a gun in this instance. Mr. Whipple requested the ?Court review the records. Following additional arguments, Court advised it thinks this will be of no value, however, ORDERED, GRANTED. 4) Mr. Whipple advised there is no bail at this time and would request a bail amount be set. Mr. DiGiacomo argued this has been before the Court before and since the last time, we have learned that Defendant was an absconder from probation when he committed this crime. Mr. Whipple argued that Defendant has been a good role model, has a family and is a Little League coach. Mr. DiGiacomo argued Defendant has picked up 2 new charges in California. Following additional arguments, COURT ORDERED, DENIED. 5) Court noted this involves jail phone calls and Mr. Whipple feels they should be disallowed. Mr. Whipple concurred and stated he feels it is speculation as to all calls. Arguments by Mr. DiGiacomo including that Defendant Counts was never informed prior to a phone call that he was being involved with Deft. Carroll. Further, Deft Counts' descriptions in conversations are an admission of guilt. Court advised if there is evidence to support the theory, then there is no speculation. COURT ORDERED, DENIED. Mr. Whipple requested an offer of proof from the State regarding the phone calls. Mr. DiGiacomo stated if he is going to use these phone calls, he will have them transcribed. Upon Court's inquiry, Mr. DiGiacomo advised he played 7 phone calls at the Preliminary Hearing and may play 2-3 more. Court requested all calls be transcribed and this issue can be reviewed later, however, prior ruling stands. 6) Court noted Defendant was found in the attic and that is not flight. Mr. Whipple advised Defendant was acting irrational, but there was no flight; Defendant was not trying to secret himself. Further, he does not feel these were actions of guilt, but irrational behavior. Court advised this does not preclude the State from arguing the opposite. Mr. DiGiacomo argued Defendant

CASE SUMMARY

CASE NO. 05C212667-4

was trying to hide from Police to not be arrested. Mr. Whipple argued that the Police knew he was there, he was not trying to hide, he was acting irrational. Court advised it will not embrace either side, however, **ORDERED, DENIED.** 7) Question as to Death Penalty: Court noted the Defense attorneys feel they should be present for the Death Review panel. Mr. DiGiacomo advised if the State can't prove intent, there will be no death case against the Defendants. Ms. Thomas argued the Notice the State filed is bad and should not be holding the Defendants as to the death penalty. Mr. Draskovich advised the State is seeking the death penalty against two of the Defendants that did not actually kill the victim. Following additional arguments, Court felt that Defense counsel should attend the review, however, at this time, **Motion DENIED WITHOUT PREJUDICE.** As to intent to kill, Court advised there was enough evidence to be bound over, it will not prejudice the evidence and is a question for the Jury. **COURT ORDERED, DENIED. ;**

10/04/2006 **Status Check (9:00 AM)**

Events: 09/26/2006 Hearing

STATE'S REQUEST FOR STATUS CHECK Court Clerk: Linda Skinner Reporter/Recorder: Maureen Schorn Heard By: Donald Mosley

Matter Resolved; **STATE'S REQUEST FOR STATUS CHECK** Court Clerk: Linda Skinner Reporter/Recorder: Maureen Schorn Heard By: Donald Mosley

Journal Entry Details:

*Mr. DiGiacomo stated he is concerned as a time limit was set in July to file any motions; there was a hearing in September wherein Mr. Figler joined into the motions already on calendar. Mr. DiGiacomo advised his concern is that Mr. Figler will wait until it is closer to trial to file any motions for his Defendant and thus frustrate the trial date. Mr. Figler stated he has no intention of continuing the trial. He advised he is working on motions that are unique and not the boiler plate ones that were submitted already; he advised they will be ready to file soon. Following colloquy, **COURT ORDERED, Mr. Figler to file his motions by 12/1/06 and the State to respond by 1/2/07. CUSTODY ;***

11/01/2006 **Minute Order (1:30 PM)**

MINUTE ORDER RE: RECUSAL- DEPT 14 Relief Clerk: Carol Donahoo/cd Heard By: Donald Mosley

Matter Heard; **MINUTE ORDER RE: RECUSAL- DEPT 14 Relief Clerk: Carol Donahoo/cd Heard By: Donald Mosley**

Journal Entry Details:

*Due to a substitution of counsel and to avoid the appearance of impropriety and implied bias, this Court hereby disqualifies itself and **ORDERS, this matter be REASSIGNED at random. ;***

12/07/2006 **Conversion Hearing Type (9:30 AM)**

Events: 11/29/2006 Hearing

TRIAL SETTING Relief Clerk: Sandra Anderson Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Matter Heard; **TRIAL SETTING Relief Clerk: Sandra Anderson Reporter/Recorder: Janie Olsen Heard By: Valerie Adair**

Journal Entry Details:

AS TO DEFT COUNTS: COURT ORDERED, matter set for trial. FURTHER ORDERED, Jury questionnaire due by 05-01-07. AS TO DEFT HIDALGO: Mr. Gentile advised the Court he is substituting in for Mr. Stein. Opposition by Mr. Pesci. Court agreed to wait on the Decision from the Supreme Court. COURT ORDERED, matter set for trial. FURTHER ORDERED, Jury questionnaire due by 05-01-07. AS TO DEFT. ESPINDOLA: COURT ORDERED, matter set for trial. FURTHER ORDERED, Jury questionnaire due by 05-01-07. AS TO DEFT. CARROL: COURT ORDERED, matter set for trial. FURTHER ORDERED, Jury questionnaire due by 05-01-07. AS TO DEFT. TAOIPU: Court noted this is the only non capital. COURT ORDERED, matter set for trial. CUSTODY (ALL) 05-17-07 9:30 AM CALENDAR CALL (CARROLL) 05-21-07 10:00 AM JURY TRIAL (CARROLL) 05-31-07 9:30 AM CALENDAR CALL (COUNTS, HIDALGO, ESPINDOLA) 06-04-07 10:00 AM JURY TRIAL (COUNTS, HIDALGO, ESPINDOLA) 08-02-07 9:30 AM CALENDAR CALL (TAOIPU) 08-06-07 10:00 AM JURY TRIAL (TAOIPU) ;

01/30/2007 **Motion to Dismiss (9:30 AM)**

Events: 01/19/2007 Motion

DEFT'S MTN TO DISMISS /143 Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Matter Continued; **DEFT'S MTN TO DISMISS /143 Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie**

Journal Entry Details:

Mr. Jackson argued that he needs to speak with Mr. Pike regarding one of the witnesses; Mr. Zone is a critical witness and he has to know whether or not someone has discouraged him from testifying. The State requested more time to file an opposition. COURT ORDERED, matter CONTINUED and set for a status check regarding discussion with the witness. CUSTODY 2/27/07 9:30 AM DEFENDANT'S MOTION TO DISMISS...STATUS CHECK: DISCUSSION WITH WITNESS ;

02/27/2007 **Motion to Dismiss (9:30 AM)**

DEFT'S MTN TO DISMISS /143 Heard By: Valerie Adair

CASE SUMMARY

CASE NO. 05C212667-4

02/27/2007	Status Check (9:30 AM) Events: 01/30/2007 Hearing <i>STATUS CHECK: DISCUSSION WITH WITNESS Heard By: Valerie Adair</i>
02/27/2007	All Pending Motions (9:30 AM) <i>ALL PENDING MOTIONS 2/27/07 Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair</i> Matter Heard; ALL PENDING MOTIONS 2/27/07 Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair Journal Entry Details: <i>DEFENDANT'S MOTION TO DISMISS...STATUS CHECK: DISCUSSION WITH WITNESS Mr. Jackson stated that Mr. Pike wants him to interview Mr. Zone in his presence. The Court directed counsel to facilitate this. COURT ORDERED, matter is OFF CALENDAR; parties may renew following the interview. ;</i>
04/10/2007	CANCELED Calendar Call (9:00 AM) <i>Vacated</i>
04/10/2007	CANCELED Calendar Call (9:00 AM) <i>Vacated</i>
04/10/2007	CANCELED Calendar Call (9:00 AM) <i>Vacated</i>
04/10/2007	CANCELED Calendar Call (9:00 AM) <i>Vacated</i>
04/16/2007	CANCELED Jury Trial (1:30 PM) <i>Vacated</i>
04/16/2007	CANCELED Jury Trial (1:30 PM) <i>Vacated</i>
04/16/2007	CANCELED Jury Trial (1:30 PM) <i>Vacated</i>
04/16/2007	CANCELED Jury Trial (1:30 PM) <i>Vacated</i>
04/17/2007	CANCELED Calendar Call (9:00 AM) <i>Vacated</i>
04/17/2007	CANCELED Calendar Call (9:00 AM) <i>Vacated</i>
04/17/2007	CANCELED Calendar Call (9:00 AM) <i>Vacated</i>
04/17/2007	CANCELED Jury Trial (1:30 PM) <i>Vacated</i>
04/23/2007	CANCELED Jury Trial (1:30 PM) <i>Vacated</i>
04/23/2007	CANCELED Jury Trial (1:30 PM) <i>Vacated</i>
05/08/2007	CANCELED Calendar Call (9:00 AM) <i>Vacated</i>
05/14/2007	CANCELED Jury Trial (1:30 PM)

CASE SUMMARY

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Vacated

05/15/2007	Motion to Reconsider (9:30 AM) Events: 04/09/2007 Motion <i>DEFT'S MTN TO RECONSIDER /146 Heard By: Valerie Adair</i>
05/15/2007	Motion to Reconsider (9:30 AM) Events: 04/09/2007 Motion <i>DEFT'S MTN TO RECONSIDER TO ALLOW DEFENSE TO ARGUE/147 Heard By: Valerie Adair</i>
05/15/2007	Motion to Reconsider (9:30 AM) Events: 04/09/2007 Motion <i>DEFT'S MTN TO RECONSIDER MTN IN LIMINE/148 Heard By: Valerie Adair</i>
05/15/2007	Motion to Reconsider (9:30 AM) Events: 04/09/2007 Motion <i>DEFT'S MTN TO RECONSIDER MTN TO DISMISS/149 Heard By: Valerie Adair</i>
05/15/2007	Motion to Reconsider (9:30 AM) Events: 04/09/2007 Motion <i>DEFT'S MTN TO RECONSIDER DISCLOSURE/150 Heard By: Valerie Adair</i>
05/15/2007	Motion to Reconsider (9:30 AM) Events: 04/09/2007 Motion <i>DEFT'S MTN TO RECONSIDER MTN IN LIMINE TO PRECLUDE/151 Heard By: Valerie Adair</i>
05/15/2007	Motion to Reconsider (9:30 AM) Events: 04/09/2007 Motion <i>DEFT'S MTN TO RECONSIDER MTN FOR DISCOVERY/152 Heard By: Valerie Adair</i>
05/15/2007	Motion to Reconsider (9:30 AM) Events: 04/09/2007 Motion <i>DEFT'S MTN TO RECONSIDER MTN TO STRIKE/153 Heard By: Valerie Adair</i>
05/15/2007	Motion to Reconsider (9:30 AM) Events: 04/09/2007 Motion <i>DEFT'S MTN TO RECONSIDER MTN FOR INDIVIDUAL VOIR DIRE/154 Heard By: Valerie Adair</i>
05/15/2007	Motion to Reconsider (9:30 AM) Events: 04/09/2007 Motion <i>DEFT'S MTN TO RECONSIDER TO BAR IMPROPER/155 Heard By: Valerie Adair</i>
05/15/2007	Motion to Reconsider (9:30 AM) Events: 04/09/2007 Motion <i>DEFT'S MTN TO RECONSIDER MTN TO FEDERALIZE/156 Heard By: Valerie Adair</i>
05/15/2007	Motion to Reconsider (9:30 AM) Events: 04/09/2007 Motion <i>DEFT'S MTN TO RECONSIDER MTN IN LIMINE/157 Heard By: Valerie Adair</i>
05/15/2007	Motion to Reconsider (9:30 AM) Events: 04/09/2007 Motion <i>DEFT'S MTN TO RECONSIDER MTN IN LIMINE/158 Heard By: Valerie Adair</i>
05/15/2007	Motion to Reconsider (9:30 AM) Events: 04/10/2007 Motion <i>DEFT'S MTN TO RECONSIDER MTN IN LIMINE/159 Heard By: Valerie Adair</i>
05/15/2007	Motion to Continue (9:30 AM) Events: 05/04/2007 Motion <i>DEFT'S MTN TO CONTINUE /161 Heard By: Valerie Adair</i>

CASE SUMMARY

CASE NO. 05C212667-4

05/15/2007	<p>Request of Court (9:30 AM) Events: 05/11/2007 Hearing <i>AT THE REQUEST OF THE COURT TO ADDRESS DEFT'S CUSTODY STATUS IN THIS CASE Heard By: Valerie Adair</i></p>
05/15/2007	<p>All Pending Motions (9:30 AM) <i>ALL PENDING MOTIONS 05-15-07 Heard By: Valerie Adair</i></p>
05/15/2007	<p>All Pending Motions (9:30 AM) <i>ALL PENDING MOTIONS 05-15-07 Court Clerk: Sandra Anderson Reporter/Recorder: Janie Olsen Heard By: Valerie Adair</i> Matter Heard; ALL PENDING MOTIONS 05-15-07 Court Clerk: Sandra Anderson Reporter/Recorder: Janie Olsen Heard By: Valerie Adair Journal Entry Details: <i>AS TO DEFT. COUNTS: Following argument by counsel Court stated findings and ORDERED, as follows: 1)Motion to reconsider motion to allow the defense to argue last at the penalty phase/147, DENIED. 2)Motion to reconsider motion to bifurcate penalty phase/146, DENIED. 3)Motion to reconsider motion in limine to preclude admission of evidence of arrest or flight/148, DENIED. 4)Motion to reconsider motion to dismiss the death penalty due to federal due process violations/149, DENIED. 5)Motion to reconsider disclosure of exculpatory evidence pertaining to the impact of the Defendant's execution upon victim's family members/150, DENIED 6)Motion to reconsider motion in limine to preclude admission of phone conversations/151, DENIED. 7)Motion to reconsider motion for discovery and evidentiary hearing regarding the manner and method of determining in which murder cases the death penalty will be sought/152, DENIED. 8)Motion to reconsider motion to strike notice of intent to seek the death penalty/153, DENIED. 9)Motion to reconsider motion for individual voir dire/154, GRANTED, as need only basis. 10)Motion to reconsider motion in limine to bar improper prosecutorial argument/155, GRANTED as already done by Judge Mosley. 11) Motion to reconsider motion to federalize all motions objections requests and other applications for the proceedings in the above entitled case/156, DENIED. 12)Motion to reconsider motion in limine to preclude the introduction of victim impact evidence/157, DENIED. 13)Motion to reconsider motion in limine to preclude admission of gang affiliation or drug activity/158, DENIED. 14)Motion to reconsider motion in limine to preclude admission of gang affiliation or drug activity/159, DENIED. AS TO DEFT. ESPINDOLA: Motion to continue, following argument by counsel, COURT ORDERED, matter taken, UNDER ADVISEMENT, Court will announce it's decision by tomorrow. ;</i></p>
05/17/2007	<p>CANCELED Calendar Call (9:30 AM) <i>Vacated</i></p>
05/17/2007	<p>Motion to Continue (9:30 AM) Events: 05/15/2007 Motion <i>DEFT'S MTN TO CONTINUE TRIAL/164</i></p>
05/17/2007	<p>All Pending Motions (9:30 AM) <i>ALL PENDING MOTIONS (05-17-07) Relief Clerk: Carol Donahoo Reporter/Recorder: Janie Olsen Heard By: Valerie Adair</i> Matter Heard; ALL PENDING MOTIONS (05-17-07) Relief Clerk: Carol Donahoo Reporter/Recorder: Janie Olsen Heard By: Valerie Adair Journal Entry Details: <i>DEFENDANT CARROLL'S MOTION TO CONTINUE TRIAL DATE...CALENDAR CALL Court advised it received Mr. Figler's Motion to Continue Trial set for May 29, 2007. Court advanced the Motion to today. Conference at the Bench. Mr. DiGiacomo announced ready. Mr. Figler indicated he has more work to do in this matter as there are a number of significant issues. COURT ORDERED, Motion to Continue Trial GRANTED. Colloquy regarding a new trial date. COURT FURTHER ORDERED, trial date VACATED; matter set for status check. Court directed all parties to be present. CUSTODY 05/21/07 9:30 AM STATUS CHECK: TRIAL SETTING ;</i></p>
05/21/2007	<p>Status Check (9:30 AM) Events: 05/18/2007 Hearing <i>STATUS CHECK: TRIAL SETTING Relief Clerk: Carol Donahoo Reporter/Recorder: Janie Olsen Heard By: Valerie Adair</i> Matter Heard; STATUS CHECK: TRIAL SETTING Relief Clerk: Carol Donahoo Reporter/Recorder: Janie Olsen Heard By: Valerie Adair Journal Entry Details: <i>Conference in Chambers with all counsel prior to the commencement of proceedings regarding scheduling issues. DELANGELO RESHAWN CARROLL: Court noted Mr. Figler's Motion to Continue Trial was granted. Therefore, COURT ORDERED, trial date VACATED and RESET. KENNETH COUNTS: Trial for this Deft. is set for June 4, 2007; however, the State does not want to try this Deft. separately. A ruling from the Supreme Court could have an</i></p>

CASE SUMMARY

CASE NO. 05C212667-4

impact on this Deft. and since the trial dates for Deft. Hidalgo and Deft. Espindola have been continued, Court will consider vacating and resetting Deft. Counts' trial as well. Colloquy regarding Supreme Court issues. COURT ORDERED, matter set for status check. JAYSON TAOIPU: Court noted Deft. Taoipu is the only non-capital matter. COURT ORDERED, trial date VACATED and RESET. LUIS ALONSO HIDALGO and ANABEL ESPINDOLA: COURT ORDERED, trial dates VACATED and RESET. Mr. DiGiacomo advised he has packets with additional discovery on his secretary's desk available for all counsel. CUSTODY (ALL) 08/16/07 9:30 AM CALENDAR CALL (CARROLL) 08/20/07 10:00 AM JURY TRIAL (CARROLL) 05/24/07 9:30 AM STATUS CHECK: TRIAL SETTING (COUNTS) 03/06/08 9:30 AM CALENDAR CALL (TAOIPU) 03/10/08 10:00 AM JURY TRIAL (TAOIPU) 01/24/08 9:30 AM CALENDAR CALL (HIDALGO and ESPINDOLA) 01/28/08 10:00 AM JURY TRIAL (HIDALGO and ESPINDOLA) ;

05/21/2007 **CANCELED Jury Trial (10:00 AM)**
Vacated

05/24/2007 **Status Check (9:30 AM)**
Events: 05/21/2007 Hearing
STATUS CHECK: TRIAL SETTING Relief Clerk: Carole D'Aloia Reporter/Recorder: Janie Olsen Heard By: Valerie Adair
Matter Heard; STATUS CHECK: TRIAL SETTING Relief Clerk: Carole D'Aloia Reporter/Recorder: Janie Olsen Heard By: Valerie Adair
Journal Entry Details:
Court advised this matter was continued to give Ms. Wildevelt time to review the writ filed by the co-defendants to see if it would be something she would be filing a joinder on behalf of Defendant Counts. Upon Court's inquiry, Ms. Wildevelt advised she and Mr. Whipple would not be joining in on the writ, announced ready for trial and requested the 6/4/07 trial date. Colloquy between Court and counsel regarding the writ. Mr. Pesci advised he feels the trial should not go forward until the Supreme Court has ruled on the writ. Ms. Wildevelt adamantly requested the 6/4/07 trial date. Further colloquy regarding the trial date. Following CONFERENCE AT BENCH, COURT ORDERED, matter set for JURY TRIAL on 6/4/07 at the request of Ms. Wildevelt. Ms. Wildevelt inquired about a jury questionnaire and advised they will get one to the State and Court this evening or first thing tomorrow. Court advised Ms. Wildevelt that it did not think it would be possible, logistically, to have a jury questionnaire at such a late date. Following CONFERENCE AT BENCH, Ms. Wildevelt advised that Mr. Whipple had already forwarded a copy of the proposed jury questionnaire to Mr. DiGiacomo and Mr. Pesci stated he will check with him to see if he has it. COURT ORDERED, matter set for STATUS CHECK on the jury questionnaire tomorrow morning. CUSTODY 5/25/07 9:30 AM STATUS CHECK: JURY QUESTIONNAIRE 6/4/07 10:00 AM JURY TRIAL ;

05/25/2007 **Status Check (9:30 AM)**
Events: 05/24/2007 Hearing
STATUS CHECK: JURY QUESTIONNAIRE Relief Clerk: Carole D'Aloia Reporter/Recorder: Janie Olsen Heard By: Valerie Adair
Matter Heard; STATUS CHECK: JURY QUESTIONNAIRE Relief Clerk: Carole D'Aloia Reporter/Recorder: Janie Olsen Heard By: Valerie Adair
Journal Entry Details:
Jury questionnaire, reviewed, amended and agreed upon by counsel. Mr. Owens stated his reasons why he believes the trial should not go forward until the Nevada Supreme Court has decided on the Co-Defendants' writ. Mr. Owens inquired if Court would contact the Clerk of the Nevada Supreme Court to see if a decision would be forthcoming. Matter TRAILED. Matter RECALLED and Court advised it's Judicial Executive Assistant (JEA) called the Clerk of the Nevada Supreme Court and was advised that the decision will not be coming any time soon. COURT ORDERED, trial date STANDS and counsel to get together and finalize the jury questionnaire and get it to Jury Services first thing on Tuesday morning. CUSTODY ;

05/29/2007 **Motion to Dismiss (9:30 AM)**
Events: 05/16/2007 Motion
DEFT'S MTN TO DISMISS /165 Relief Clerk: Carol Donahoo Reporter/Recorder: Janie Olsen Heard By: Valerie Adair
Off Calendar; DEFT'S MTN TO DISMISS /165 Relief Clerk: Carol Donahoo Reporter/Recorder: Janie Olsen Heard By: Valerie Adair
Journal Entry Details:
Ms. Wildeveld advised Deft. Counts' buccal swabs came back negative; she requested matter be taken off calendar. COURT SO ORDERED; Court noted this matter is set for calendar call on May 31, 2007, and trial begins on June 4, 2007. CUSTODY ;

05/31/2007 **CANCELED Calendar Call (9:30 AM)**
Vacated

CASE SUMMARY

CASE No. 05C212667-4

05/31/2007	CANCELED Calendar Call (9:30 AM) <i>Vacated</i>
05/31/2007	CANCELED Calendar Call (9:30 AM) <i>Vacated</i>
05/31/2007	Calendar Call (9:30 AM) <i>CALENDAR CALL Relief Clerk: Carol Donahoo Reporter/Recorder: Janie Olsen Heard By: Valerie Adair</i> Matter Heard; CALENDAR CALL Relief Clerk: Carol Donahoo Reporter/Recorder: Janie Olsen Heard By: Valerie Adair Journal Entry Details: <i>Court advised counsel the jury questionnaires were available in chambers and confirmed the trial was going forward; however, the start date has been moved from Monday to Tuesday. CUSTODY 06-05-07 10:30 AM JURY TRIAL ;</i>
06/04/2007	CANCELED Jury Trial (10:00 AM) <i>Vacated</i>
06/04/2007	CANCELED Jury Trial (10:00 AM) <i>Vacated</i>
06/04/2007	CANCELED Jury Trial (10:00 AM) <i>Vacated</i>
06/04/2007	CANCELED Jury Trial (10:00 AM) <i>Vacated</i>
06/05/2007	Jury Trial (10:30 AM) <i>TRIAL BY JURY Relief Clerk: Carol Donahoo Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie</i> Matter Continued; TRIAL BY JURY Relief Clerk: Carol Donahoo Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie Journal Entry Details: <i>11:48 a.m. Jury selection commenced. Court and counsel examine prospective jurors. COURT ORDERED, trial CONTINUED; jury selection will resume on June 6, 2007, at 10:30 a.m. 5:30 p.m. Court admonished the prospective jurors and recessed for the evening. ;</i>
06/05/2007	CANCELED Jury Trial (10:30 AM) <i>Vacated</i>
06/06/2007	Change of Plea (9:30 AM) Events: 06/05/2007 Conversion Case Event Type <i>CHANGE OF PLEA Relief Clerk: Carol Donahoo Reporter/Recorder: Janie Olsen Heard By: Valerie Adair</i> MINUTES Conversion Case Event Type <i>CHANGE OF PLEA</i> Matter Heard; CHANGE OF PLEA Relief Clerk: Carol Donahoo Reporter/Recorder: Janie Olsen Heard By: Valerie Adair Journal Entry Details: <i>Mr. Jackson advised this matter is negotiated and Deft. Taoipu will withdraw his not guilty plea and plead guilty to reduced charges. Colloquy regarding sealing the courtroom and the plea. Conference at the Bench. COURT ORDERED, plea WITHDRAWN; EXHIBIT 2 of the Guilty Plea Agreement (GPA) shall be SEALED. Mr. DiGiacomo to submit an Order. Amended Information and GPA FILED IN OPEN COURT. NEGOTIATIONS: State retains the right to argue and agrees to recommend concurrent sentences between the counts. Both sides agree they are bound by the terms and conditions of Exhibit 2 of the GPA. DEFT. TAOIPU ARRAIGNED and PLED GUILTY to COUNT 1 - CONSPIRACY TO COMMIT MURDER (F) and COUNT 2 - VOLUNTARY MANSLAUGHTER WITH USE OF A DEADLY WEAPON (F). Mr. DiGiacomo advised Count 2 is a fictitious charge; however, the statement as to what was done is not fictitious. COURT accepted plea and FURTHER ORDERED, matter referred to the Division of Parole and Probation (P&P) and set for status check; trial date VACATED. CUSTODY 09/04/07 9:30 AM STATUS CHECK: SENTENCING ;</i>
06/06/2007	Jury Trial (10:30 AM) <i>TRIAL BY JURY Relief Clerk: Carol Donahoo Reporter/Recorder: Janie Olsen Heard By: Valerie Adair</i> Matter Heard; TRIAL BY JURY Relief Clerk: Carol Donahoo Reporter/Recorder: Janie Olsen Heard By: Valerie

CASE SUMMARY

CASE NO. 05C212667-4

Adair

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY: Court advised counsel came to court today and raised a potential conflict. The conflict was presented to Judge Bell. Colloquy regarding the appointment of Robert Langford, Esq., to represent a witness and how things will proceed from this point. Court noted Court Services confiscated from Deft. the jury questionnaires and his notes regarding the prospective jury panel. Colloquy regarding same. Due to the aforementioned developments, COURT ORDERED, the prospective panel of jurors DISMISSED and matter set for status check. CUSTODY 06/26/07 9:30 AM STATUS CHECK CLERK'S NOTE: All Deft.'s notes, not concerning the prospective jurors, were returned to him. ;

06/25/2007 **Request of Court (7:30 AM)**

Events: 06/18/2007 Hearing

AT REQUEST OF COURT: IN-COURT DEPOSITION Heard By: Stewart Bell

06/25/2007 **Request of Court (7:30 AM)**

Events: 06/18/2007 Hearing

AT REQUEST OF COURT: IN-COURT DEPOSITION Heard By: Stewart Bell

06/25/2007 **Request of Court (7:30 AM)**

Events: 06/18/2007 Hearing

AT REQUEST OF COURT: IN-COURT DEPOSITION Heard By: Stewart Bell

06/26/2007 **Request of Court (7:30 AM)**

AT REQUEST OF COURT: IN-COURT DEPOSITION Heard By: Stewart Bell

06/26/2007 **Request of Court (7:30 AM)**

AT REQUEST OF COURT: IN-COURT DEPOSITION Heard By: Stewart Bell

06/26/2007 **Request of Court (7:30 AM)**

AT REQUEST OF COURT: IN-COURT DEPOSITION Heard By: Stewart Bell

06/26/2007 **All Pending Motions (7:30 AM)**

ALL PENDING MOTIONS 6-26-07 Court Clerk: Tina Hurd Reporter/Recorder: Renee Vincent Heard By: Stewart Bell

Matter Heard; ALL PENDING MOTIONS 6-26-07 Court Clerk: Tina Hurd Reporter/Recorder: Renee Vincent Heard By: Stewart Bell

Journal Entry Details:

AT REQUEST OF COURT: IN-COURT DEPOSITION (COUNTS, HIDALGO & ESPINDOLA) 8:04 A.M.--Robert Langford, Esq. present with witness Omar Manor. Court advised this hearing is due to a potential conflict that arose with Ms. Wildeveld and Mr. Whipple regarding a witness. If there is not a conflict, this video will be used as testimony in any trial regarding Deft. Counts wherein he is represented by Ms. Wildeveld or Mr. Whipple. Mr. DiGiacomo advised he does not plan on playing the video of Mr. Manor if he is available. Court advised the video has to be used to waive any conflict. Mr. DiGiacomo advised the defense would have to waive any defect. Mr. Whipple advised that is inherent. Court advised, in any case where Deft. Counts is represented by Ms. Wildeveld or Mr. Whipple, this video must be used. Mr. DiGiacomo advised all counsel would have to agree. All defense counsel present agreed. Court advised the video is locked on the witness as Defts. Counts, Hidalgo and Espindola were brought over in jail clothing, so they will not appear on the video but everyone's voices will be picked up. Court advised, if there is a conflict, Ms. Wildeveld and Mr. Whipple would have to be relieved and new counsel appointed, then the State could call Mr. Manor live. 8:11 a.m.--Omar Manor sworn and testified. 8:17 a.m.--Court stated it appears Ms. Wildeveld and Mr. Whipple can go forward in this case and ORDERED, Ms. Wildeveld and Mr. Whipple will remain as counsel for Deft. Counts. Court advised a status check is already set before Judge Adair on this matter. Mr. DiGiacomo advised, because there is an ongoing relationship between Omar and Irene, there may be other issues that come up and he will bring those before the Court if such issues arise. 8:19 a.m.--Hearing concluded. CUSTODY (ALL) ;

06/26/2007 **Status Check (9:30 AM)**

Events: 06/19/2007 Hearing

STATUS CHECK Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Matter Heard; STATUS CHECK Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Journal Entry Details:

Colloquy regarding Discovery. The Court encouraged Mr. Whipple to protect the record by listing what was provided. FURTHER, matter set for trial. CUSTODY 1/24/08 9:30 AM CALENDAR CALL 1/28/08 10:00 AM JURY TRIAL ;

07/24/2007 **Motion (9:30 AM)**

CASE SUMMARY

CASE NO. 05C212667-4

	<p>Events: 07/05/2007 Motion <i>STATES MTN TO CONDUCT VIDEOTAPED TEST/192 Court Clerk: Tia Everett/te Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie</i> Matter Continued; STATES MTN TO CONDUCT VIDEOTAPED TEST/192 Court Clerk: Tia Everett/te Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie Journal Entry Details: <i>COURT ORDERED, matter CONTINUED. CUSTODY ;</i></p>
07/26/2007	<p>Motion (9:30 AM) <i>STATES MTN TO CONDUCT VIDEOTAPED TEST/192 Court Clerk: Sandra Anderson Reporter/Recorder: Janie Olsen Heard By: Valerie Adair</i> Matter Continued; STATES MTN TO CONDUCT VIDEOTAPED TEST/192 Court Clerk: Sandra Anderson Reporter/Recorder: Janie Olsen Heard By: Valerie Adair Journal Entry Details: <i>Court noted this is the States motion and that Court has received oppositions. Following conference at the bench Court stated it findings and ORDERED, motion GRANTED. Following colloquy Court advised the specific will be discussed in chambers. CUSTODY (ALL) 08-13-07 (CHAMBERS) STATUS/CHECK: OPEN/SEALED DEPOSITIONS 08-27-07 9:30 AM HEARINGS: DEPOSITIONS ;</i></p>
08/02/2007	<p>CANCELED Calendar Call (9:30 AM) <i>Vacated</i></p>
08/06/2007	<p>CANCELED Jury Trial (10:00 AM) <i>Vacated</i></p>
08/13/2007	<p>Status Check (0:00 AM) Events: 07/26/2007 Hearing <i>STATUS CHECK: OPEN/SEALED DEPOSITIONS</i></p>
08/16/2007	<p>Calendar Call (9:30 AM) <i>CALENDAR CALL (VJ 8/28/07) Court Clerk: Phyllis Irby/pi Reporter/Recorder: Janie Olsen Heard By: Valerie Adair</i> Matter Heard; CALENDAR CALL (VJ 8/28/07) Court Clerk: Phyllis Irby/pi Reporter/Recorder: Janie Olsen Heard By: Valerie Adair Journal Entry Details: <i>Following extended arguments of counsel. COURT ORDERED, matter CONTINUED. CUSTODY 8-20-07 9:30 AM CALENDAR CALL/JURY TRIAL (CARROLL) ;</i></p>
08/20/2007	<p>CANCELED Jury Trial (10:00 AM) <i>Vacated</i></p>
08/27/2007	<p>Hearing (9:30 AM) Events: 07/26/2007 Hearing <i>DEPOSITIONS HEARING Court Clerk: Tia Everett/te Reporter/Recorder: Janie Olsen Heard By: Valerie Adair</i> MINUTES Hearing <i>DEPOSITIONS HEARING</i> Off Calendar; DEPOSITIONS HEARING Court Clerk: Tia Everett/te Reporter/Recorder: Janie Olsen Heard By: Valerie Adair Journal Entry Details: <i>COURT ORDERED, matter OFF CALENDAR. CUSTODY (ALL) ;</i></p>
08/28/2007	<p>Status Check (9:30 AM) Events: 08/23/2007 Hearing <i>STATUS CHECK: TRIAL STATUS Heard By: Valerie Adair</i></p>
08/28/2007	<p>Status Check (9:30 AM) Events: 08/23/2007 Hearing <i>STATUS CHECK: TRIAL STATUS Heard By: Valerie Adair</i></p>
08/28/2007	<p>Status Check (9:30 AM) Events: 08/23/2007 Hearing</p>

CASE SUMMARY

CASE NO. 05C212667-4

STATUS CHECK: TRIAL STATUS Heard By: Valerie Adair

08/28/2007 **Status Check (9:30 AM)**

Events: 08/23/2007 Hearing

STATUS CHECK: TRIAL STATUS Heard By: Valerie Adair

08/28/2007 **All Pending Motions (9:30 AM)**

ALL PENDING MOTIONS (8/28/07) Court Clerk: Tia Everett/te Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

MINUTES

Motion

ALL PENDING MOTIONS (8/28/07)

Matter Heard; ALL PENDING MOTIONS (8/28/07) Court Clerk: Tia Everett/te Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Journal Entry Details:

STATUS CHECK TRIAL (COUNTS...HIDALGO...ESPINDOLA...CARROLL) Colloquy regarding trial setting and scheduling of all parties involved. Upon Court's inquiry, counsel anticipate trial to last four weeks. COURT ORDERED, as to Defs' Counts, Hidalgo, and Espindola Trial dates VACATED and RESET. CONFERENCE AT BENCH. COURT FURTHER ORDERED, as to Def. Carroll, Trial date VACATED and RESET. CUSTODY (ALL) 11/29/07 CALENDAR CALL (CARROLL) 12/03/07 JURY TRIAL (CARROLL) 1/17/08 CALENDAR CALL (COUNTS...HIDALGO...ESPINDOLA) 1/22/08 JURY TRIAL (COUNTS...HIDALGO...ESPINDOLA) ;

09/04/2007 **Sentencing (9:30 AM)**

Events: 06/19/2007 Conversion Case Event Type

SENTENCING Relief Clerk: Nora Pena Reporter/Recorder: Debbie Winn Heard By: Adair, Valerie

MINUTES

Conversion Case Event Type

SENTENCING

Matter Continued; SENTENCING Relief Clerk: Nora Pena Reporter/Recorder: Debbie Winn Heard By: Adair, Valerie

Journal Entry Details:

Conference at the bench. Mr. DiGiacomo requested a continuance the second week in January. COURT ORDERED, matter CONTINUED. CUSTODY ;

09/11/2007 **Motion for Discovery (9:30 AM)**

Events: 08/29/2007 Motion

DEFT'S MTN FOR DISCOVERY /209 Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Granted; DEFT'S MTN FOR DISCOVERY /209 Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Journal Entry Details:

Mr. Digiacomo state he has provided audio and video tapes and has more that he will provide to Mr. Whipple by the end of the week; he will give him the photo line-up by the end of week as well. COURT ORDERED, motion GRANTED. FURTHER, pursuant to request by Mr. Whipple, the State is to provide a list of all items produced. CUSTODY ;

09/20/2007 **Motion to Strike (9:30 AM)**

Events: 08/16/2007 Motion

DEFT CARROLL'S MOTION TO STRIKE DEATH PENALTY AGGRAVATORS/208 Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Matter Continued; DEFT CARROLL'S MOTION TO STRIKE DEATH PENALTY AGGRAVATORS/208 Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Journal Entry Details:

Matter trailed for either Mr. Digiacomo or Mr. Pesci to be present. Matter recalled. Mr. Figler advised that he and Mr. Digiacomo agreed to continue the hearing to allow counsel time to file an opposition. COURT ORDERED, CONTINUED. CUSTODY ;

10/09/2007 **Motion to Strike (0:00 AM)**

DEFT CARROLL'S MOTION TO STRIKE DEATH PENALTY AGGRAVATORS/208 Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Matter Continued; DEFT CARROLL'S MOTION TO STRIKE DEATH PENALTY AGGRAVATORS/208 Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Journal Entry Details:

The Court informed counsel that all pleadings have been reviewed. Mr. Figler advised that the received the State's

CASE SUMMARY

CASE No. 05C212667-4

	<i>opposition last Thursday; he argued oral response to State's motion. Mr. DiGiacomo submitted. COURT ORDERED, RULING RESERVED; for now, the Court is not inclined to stay the case against the Defendant in District Court. CUSTODY ;</i>
10/11/2007	Motion to Strike (9:00 AM) <i>DEFT CARROLL'S MOTION TO STRIKE DEATH PENALTY AGGRAVATORS/208 Court Clerk: Denise Husted</i> <i>Heard By: Valerie Adair</i> Denied; DEFT CARROLL'S MOTION TO STRIKE DEATH PENALTY AGGRAVATORS/208 Court Clerk: Denise Husted <i>Heard By: Valerie Adair</i> Journal Entry Details: <i>COURT ORDERED, Motion to Strike DENIED based on State's opposition. The State is to prepare findings of fact and conclusions of law and order. FURTHER, Motion to Stay is DENIED. CUSTODY ;</i>
11/06/2007	Motion (9:30 AM) Events: 10/24/2007 Motion <i>DEFT'S PRO PER MTN ON PTN TO MARRY/210 Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen</i> <i>Heard By: Valerie Adair</i> Granted; DEFT'S PRO PER MTN ON PTN TO MARRY/210 Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen <i>Heard By: Valerie Adair</i> Journal Entry Details: <i>COURT ORDERED, motion GRANTED. ;</i>
11/29/2007	Calendar Call (9:30 AM) <i>CALENDAR CALL Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen</i> <i>Heard By: Valerie Adair</i> Matter Heard; CALENDAR CALL Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen <i>Heard By: Valerie Adair</i> Journal Entry Details: <i>The Court noted that Mr. Figler filed an emergency stay in the Nevada Supreme Court; he did not file a written motion for continuance in District Court. Mr. Digiacomo announced ready for trial which should last one week and one to two days for the penalty phase, should there be one. He also stated that he has witnesses coming in from Thailand. Mr. Figler advised that the state noticed new witnesses on 11/14/07; defendant Taoipu's attorney said his client would plead the Fifth Amendment, which indicates to him that the state has questioned Taoipu. In addition, he informed the Court that after speaking with the defendant yesterday, he found the defendant seemed to have cognitive problems and he wants him evaluated by Dr. Roitman. He further stated the Mr. Roitman was busy working on another case. The Court noted that the case he is speaking about dealt, which would have left time to request an evaluation. Mr. Digiacomo strongly objected to Mr. Figler's accusation that the state spoke to Mr. Taoipu; Mr. Jackson, who is his attorney was the one that spoke to him and reported to counsel that the defendant would plead the Fifth Amendment. COURT ORDERED, the trial will be heard next week; trial date VACATED and RESET. CUSTODY 12/6/07 9:30 AM JURY TRIAL ;</i>
12/03/2007	CANCELED Jury Trial (9:30 AM) <i>Vacated</i>
12/06/2007	CANCELED Jury Trial (10:30 AM) <i>Vacated</i>
01/10/2008	Request (9:30 AM) Events: 01/05/2008 Hearing <i>STATE'S REQUEST STATUS CHECK - AGREED</i> <i>Heard By: Valerie Adair</i>
01/15/2008	Sentencing (9:30 AM) <i>SENTENCING</i> <i>Heard By: Valerie Adair</i>
01/15/2008	Calendar Call (9:30 AM) <i>CALENDAR CALL</i>
01/15/2008	Calendar Call (9:30 AM) <i>CALENDAR CALL</i>
01/15/2008	Calendar Call (9:30 AM) <i>CALENDAR CALL</i>
01/15/2008	Request (9:30 AM)

CASE SUMMARY

CASE NO. 05C212667-4

STATE'S REQUEST STATUS CHECK - AGREED Heard By: Valerie Adair

01/15/2008 **Motion** (9:30 AM)

DEFT'S MTN FOR AUDIBILITY HEARING & TRANSCRIPT APPROVAL/213

01/15/2008 **Motion** (9:30 AM)

DFT'S MTN TO SUPPRESS CUSTODIAL STATEMENTS/214

01/15/2008 **Motion** (9:30 AM)

DFT'S MTN TO JOIN HIDALGO'S MTN FOR AUDIBILITY HEARING/215

01/15/2008 **Motion** (9:30 AM)

DFT'S MTN TO JOIN HIDALGO'S MTN FOR SEVERANCE/216 Heard By: Valerie Adair

01/15/2008 **Motion to Set Bail** (9:30 AM)

Events: 01/08/2008 Motion

DEFT'S MTN TO SET BAIL /217 Heard By: Valerie Adair

01/15/2008 **Motion to Sever** (9:30 AM)

Events: 01/08/2008 Motion

DEFT'S MTN FOR SEVERANCE FROM CAPITL/218 Heard By: Valerie Adair

01/15/2008 **All Pending Motions** (9:30 AM)

ALL PENDING MOTIONS 1/15/08 Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

MINUTES

Motion

ALL PENDING MOTIONS 1/15/08

Matter Heard; ALL PENDING MOTIONS 1/15/08 Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Journal Entry Details:

DEFENDANT HIDALGO'S MOTION FOR AUDIBILITY HEARING AND TRANSCRIPT APPROVAL...DEFENDANT COUNTS MOTION TO SUPPRESS HIS CUSTODIAL STATEMENTS...DEFENDANT ESPINDOLA'S MOTION TO JOIN HIDALGO'S MOTION FOR AUDIBILITY HEARING AND TRANSCRIPT APPROVAL...DEFENDANT ESPINDOLA'S MOTION TO JOIN HIDALGO'S MOTION FOR SEVERANCE FROM CAPITAL DEFENDANT...DEFENDANT HIDALGO'S MOTION TO SET BAIL...DEFENDANT HIDALGO'S MOTION FOR SEVERANCE FROM CAPITAL DEFENDANT...STATE'S REQUEST STATUS CHECK-AGREED (COUNTS)...CALENDAR CALL The Court stated the trial in this matter would go forward on January 28th. The Supreme Court decision in this matter struck the aggravators regarding the death penalty with regard to Espindola and Hidalgo so this would not be a capital case and there was no reason not to go forward with what could have been done months ago. Mr. Gentile presented argument regarding due process rights of the co-defendants, and the issue regarding the fifteen day notice citing case law to support his position. Mr. Oram advised he was ready to go forward with defendant Espindola and joined all the arguments of Mr. Gentile. Ms. Wildeveld stated her preference would be to proceed on the 28th as she has an issue that would preclude her from going until a much later date. Colloquy between Court and counsel. Mr. Whipple advised he intended to file motions to strike with regard to defendant Counts with the Supreme Court. Court stated this is something that Mr. Whipple should have addressed months ago and it was too late at this point in time but he was free to file with the Supreme Court if he so desired. Mr. DiGiacomo addressed the issue of the remittitur and authority of the Court to proceed lacking the receipt of the formal remittitur and requested the Court stay this matter in order for him to return to the Supreme Court on an emergency writ. COURT ORDERED, request for STAY DENIED; trial for Counts will proceed on January 28th at 10:00 AM. This Court had previously started the trial in the Counts case as a death penalty case when as issue arose that had to be heard by Judge Bell; however, it is still a death penalty case and since trial counsel was prepared to go forward at that time as a death penalty case, there is no reason why it should not go forward as such now. FURTHER ORDERED, DEFENDANT COUNTS IS SEVERED FROM DEFENDANTS HILDALGO AND ESPINDOLA as these defendants are no longer death qualified. Trial for defendants Hildalgo and Espindola will proceed following this case on February 11th at 9:30 AM. Colloquy between Court and counsel regarding jury questionnaires. CONFERENCE AT BENCH. COURT ORDERED, the jurors will fill out a questionnaire based on the death penalty and if the Supreme Court strikes the aggravators as to Counts then a new panel will be brought in. The Court would not use the same panel that filled out a death questionnaire for a trial where that was no longer a consideration. Mr. Gentile requested a hearing on the motion for audibility and presented argument. Response by the State. Colloquy between Court and counsel. COURT ORDERED, it would listen to the CD and read the transcript and then issue a ruling on January 29th at 9:30 AM. Mr. Gentile presented argument on the issue of bail regarding defendant Hidalgo. State argued in opposition. Court stated that if it were inclined to issue bail in this matter it would in all likelihood be set at a significantly high amount.

CASE SUMMARY**CASE NO. 05C212667-4**

COURT ORDERED, matter to be taken UNDER ADVISEMENT and a decision to be issued. Counsel advised that there is a motion regarding defendant Counts set for January 29th that needs to be addressed prior to the trial date. Colloquy. COURT ORDERED, due to its schedule this matter will be heard by Judge Bell on January 22nd so that this matter can proceed to trial on the 28th. Mr. Jackson requested that defendant Taoipu's sentencing date be set within thirty days. COURT SO ORDERED and referred the matter to the Division of Parole and Probation for a presentence investigation report to be prepared. Mr. Jackson inquired about an order for excess investigation fees. Court informed Mr. Jackson to prepare the order and submit it and it would be signed. CUSTODY (COUNTS, HIDALGO, ESPINDOLA, TAOIPU) 1/22/08 8:00 AM DEFENDANT COUNT'S MOTION TO RECONSIDER MOTION TO STRIKE (HEARD BY JUDGE BELL) 1/28/08 10:00 AM JURY TRIAL (COUNTS) 1/29/08 9:30 AM DEFENDANT HIDALGO'S MOTION FOR AUDIBILITY HEARING AND TRANSCRIPT APPROVAL...DEFENDANT COUNT'S MOTION TO SUPPRESS HIS CUSTODIAL STATEMENTS...DEFENDANT ESPINDOLA'S MOTION TO JOIN HIDALGO'S MOTION FOR AUDIBILITY HEARING AND TRANSCRIPT APPROVAL 2/11/08 9:30 AM JURY TRIAL (HIDALGO & ESPINDOLA) 2/12/08 9:30 AM SENTENCING (TAOIPU) ;

01/17/2008 **Calendar Call (9:30 AM)**
CALENDAR CALL

01/17/2008 **Calendar Call (9:30 AM)**
CALENDAR CALL

01/17/2008 **Calendar Call (9:30 AM)**
CALENDAR CALL

01/22/2008 **Motion to Strike (8:30 AM)**
DEFT'S SECOND MTN TO RECONSIDER MTN TO STRIKE AGGRAVATING CIRCUMSTANCES Court Clerk: Tina Hurd Reporter/Recorder: Renee Vincent Heard By: Bell, Stewart L.
Matter Continued; DEFT'S SECOND MTN TO RECONSIDER MTN TO STRIKE AGGRAVATING CIRCUMSTANCES Court Clerk: Tina Hurd Reporter/Recorder: Renee Vincent Heard By: Bell, Stewart L.
Journal Entry Details:
Court advised this is Judge Adair's case, however, she is on vacation and he is hearing this motion as counsel need a ruling prior to trial. Mr. Whipple provided a copy of the Hidalgo decision to the Court and argued regarding Rule 250, late Notice of Intent, aggravating circumstances and specificity. Mr. Whipple advised the co-Deft. had the aggravators stripped and that case is no longer a capital case. Mr. DiGiacomo argued Deft. Counts was still under a sentence of imprisonment in two cases when this occurred and was in warrant status in one of them so there is no specificity problem as to the first aggravator. Mr. Whipple argued the issue is how the State pled it. Mr. Pesci argued the law says they can still plead in the alternative. Mr. Whipple argued the issue goes to notice and argued the State cannot boot strap. Court advised he will read the Hidalgo decision and ORDERED, matter CONTINUED to tomorrow for decision. Mr. Whipple advised, if the Court strikes the aggravators, they are ready for trial; if not, he will request a stay. Court advised he is not the trial judge and will not grant a stay, so counsel should be forewarned. CUSTODY ;

01/22/2008 **CANCELED Jury Trial (10:30 AM)**
Vacated

01/22/2008 **CANCELED Jury Trial (10:30 AM)**
Vacated

01/22/2008 **CANCELED Jury Trial (10:30 AM)**
Vacated

01/23/2008 **Motion to Strike (8:30 AM)**
DEFT'S SECOND MTN TO RECONSIDER MTN TO STRIKE AGGRAVATING CIRCUMSTANCES Court Clerk: Tina Hurd/th Relief Clerk: Tia Everett Reporter/Recorder: Renee Vincent Heard By: Stewart Bell
Denied; DEFT'S SECOND MTN TO RECONSIDER MTN TO STRIKE AGGRAVATING CIRCUMSTANCES Court Clerk: Tina Hurd/th Relief Clerk: Tia Everett Reporter/Recorder: Renee Vincent Heard By: Stewart Bell
Journal Entry Details:
Court advised he has read the pleadings and cases provided and ORDERED, motion DENIED. Court stated he does not believe the decision has much changed the pleadings rules as they have known them over the years. Every theory has to be charged. Court advised this case also says they have to charge anything on which there has to be notice. They can be charged in the alternative but everything in the alternative has to be supporting that. Court advised, in death penalty cases, it has to be the case that each and every prong is supported. Court FINDS if Deft. was on probation for a Felony with an underlying term, that IS a sentence of imprisonment and was charged appropriately. Court advised Ms. Wildeveld has a motion to stay and ORDERED, stay DENIED and the defense may go to the Supreme Court. Mr. DiGiacomo advised they need to have the jury questionnaire to the Department this morning. Colloquy. Court advised he is not getting to substantive issues of whether a stay is appropriate. He heard this motion

CASE SUMMARY

CASE No. 05C212667-4

for Judge Adair and he is not going to set this trial off in her absence. If the Supreme Court does, so be it. Ms. Wildeveld advised, for the record, they are ready to go to trial. Hearing concluded. CUSTODY ;

01/24/2008 **CANCELED Calendar Call** (9:30 AM)
Vacated

01/24/2008 **CANCELED Calendar Call** (9:30 AM)
Vacated

01/24/2008 **CANCELED Calendar Call** (9:30 AM)
Vacated

01/24/2008 **Minute Order** (1:30 PM)
MINUTE ORDER RE: RE: BAIL FOR DEFTS. HILDALGO AND Court Clerk: Denise Husted Heard By: Valerie Adair
Matter Heard; MINUTE ORDER RE: RE: BAIL FOR DEFTS. HILDALGO AND Court Clerk: Denise Husted Heard By: Valerie Adair
Journal Entry Details:
After taking this matter under consideration, COURT ORDERED, BAIL is SET as to Deft. HILDALGO at EIGHT HUNDRED THOUSAND DOLLARS (\$800,000.) as to DEFT. ESPINDOLA at FIVE HUNDRED FIFTY THOUSAND DOLLARS (\$550,000.). ;

01/28/2008 **CANCELED Jury Trial** (10:00 AM)
Vacated

01/28/2008 **CANCELED Jury Trial** (10:00 AM)
Vacated

01/28/2008 **CANCELED Jury Trial** (10:00 AM)
Vacated

01/28/2008 **CANCELED Jury Trial** (10:00 AM)
Vacated

01/29/2008 **Motion** (9:30 AM)
DEFT'S MTN FOR AUDIBILITY HEARING & TRANSCRIPT APPROVAL/213

01/29/2008 **Motion** (9:30 AM)
Events: 01/07/2008 Motion
DEFT'S MTN FOR AUDIBILITY HEARING & TRANSCRIPT APPROVAL/213

01/29/2008 **Motion** (9:30 AM)
DFT'S MTN TO SUPRESS CUSTODIAL STATEMENTS/214

01/29/2008 **Motion** (9:30 AM)
Events: 01/07/2008 Motion
DFT'S MTN TO SUPRESS CUSTODIAL STATEMENTS/214

01/29/2008 **Motion** (9:30 AM)
DFT'S MTN TO JOIN HIDALGO'S MTN FOR AUDIBILITY HEARING/215

01/29/2008 **Motion** (9:30 AM)
Events: 01/08/2008 Motion
DFT'S MTN TO JOIN HIDALGO'S MTN FOR AUDIBILITY HEARING/215

01/29/2008 **Motion** (9:30 AM)
Events: 01/08/2008 Motion
DFT'S MTN TO JOIN HIDALGO'S MTN FOR SEVERANCE/216 Heard By: Valerie Adair

01/29/2008 **Motion to Strike** (9:30 AM)
Events: 01/08/2008 Motion

CASE SUMMARY

CASE NO. 05C212667-4

DEFT'S SECOND MTN TO RECONSIDER MTN TO STRIKE AGGRAVATING CIRCUMSTANCES Heard By: Valerie Adair

01/29/2008 **CANCELED Motion** (9:30 AM)
Events: 01/11/2008 Motion
Vacated

01/29/2008 **All Pending Motions** (9:30 AM)
ALL PENDING MOTIONS 1/29/08 Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair
Matter Heard; *ALL PENDING MOTIONS 1/29/08 Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair*
Journal Entry Details:
DEFENDANT'S MOTION FOR AUDIBILITY HEARING AND TRANSCRIPT APPROVAL (HIDALGO)...DEFENDANT'S MOTION TO SUPPRESS CUSTODIAL STATEMENTS (COUNTS)...DEFENDANT'S MOTION TO JOIN HIDALGO'S MOTION FOR AUDIBILITY HEARING (ESPINDOLA) Mr. Gentile requested that the motions calendared this day be continued for further review. There being no opposition by other counsel, COURT ORDERED, motions CONTINUED. CONTINUED TO: 2/5/08 10:30 AM ;

01/29/2008 **Jury Trial** (1:30 PM)
TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie
Matter Continued; *TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie*
Journal Entry Details:
OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding potential penalty witnesses. The Court informed counsel that there will be three alternates and twelve jurors. Colloquy regarding aggravators and mitigators. Mr. Pesci stated that the jury questionnaires will cover this. Mr. Whipple moved for a continuance based on Supreme Court rule 250(4)(d); he stated he needs time to review the notice and needs thrifty days. Opposition by Mr. Digiaco; he advised that Judge Bell's previous ruling was clean in denying the trial continuance and believes Mr. Whipple's request is inappropriate. COURT ORDERED, motion for CONTINUANCE DENIED. Second Amended Information FILED IN OPEN COURT. IN THE PRESENCE OF THE JURY. Introductions by Court and counsel. Roll of jurors called by the Clerk. Jury selection proceeded. Mr. Whipple requested a new jury panel on the basis of ethnic make-up. COURT ORDERED, motion DENIED. Evening recess. MATTER CONTINUED. ;

01/30/2008 **Jury Trial** (10:30 AM)
TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie
Matter Continued; *TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie*
Journal Entry Details:
OUTSIDE THE PRESENCE OF THE JURY. Discussion regarding potential penalty phase and reports; counsel cited Zane Floyd case which is specific as to expert disclosures. COURT FINDS, counsel needs to disclosed experts and turn of curriculum vitae. Mr. Digiaco cited paragraphs thirteen and fourteen of the Floyd case. The Court stated that Mr. Whipple is to conform to Discovery rules; counsel is entitled to tests and reports. Following further arguments and request by Mr. Digiaco, COURT ORDERED, Mr. Whipple is to provide written notice, curriculum vitae and tests and they must be filed by tomorrow. Colloquy regarding questioning of potential jurors. IN THE PRESENCE OF THE JURY. Roll of jurors called by the Clerk. Jury selection CONTINUED. OUTSIDE THE PRESENCE OF THE JURY. Mr. Whipple requested allowance of giving specific mitigators; he wanted it on the record what he will and will not be allowed to do. COURT ADVISED, Mr. Whipple may illustrate and provide examples of mitigators. IN THE PRESENCE OF THE JURY. Jury selected. OUTSIDE THE PRESENCE OF THE JURY. Discussion among Court and counsel regarding jury panel. Evening recess. MATTER CONTINUED. ;

01/31/2008 **Jury Trial** (9:30 AM)
TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie
Matter Continued; *TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie*
Journal Entry Details:
OUTSIDE THE PRESENCE OF THE JURY. Defendant's Offer of Proof, Notice of Defendant's Expert Witnesses for Penalty Phase, ROC, ROC and Notice of Wirellesses for Penalty Phase FILED IN OPEN COURT. Arguments by counsel regarding offer of proof regarding statement of defendant Deangelo Carroll that he made to another prisoner regarding his involvement in the murder. Mr. Pesci stated that he never gave this statement to the police; now a statement by a cell mate in the detention center is dubious at best. Mr. Digiaco argued that the statement is clearly unreliable. COURT FINDS, technically it is a statement against penal interest; one statement will be allowed in an the other statements will not be allowed. IN THE PRESENCE OF THE JURY. Jurors SWORN. Second Amended Information read by the Clerk. Introductory statement by the Court. Opening statements by Mr. Digiaco. Opening

CASE SUMMARY

CASE NO. 05C212667-4

Statements by Mr. Whipple. OUTSIDE THE PRESENCE OF THE JURY. Pursuant to CONFERENCE AT BENCH, COURT ORDERED, previous rulings by Judge Mosely are the law of the case. Mr. Whipple moved for a mistrial on the basis of due process violations against his client. COURT ORDERED, motion DENIED. Evening recess. MATTER CONTINUED. ;

02/01/2008 **Jury Trial (9:30 AM)**

TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie Matter Continued; TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY. Discussion regarding Mr. Whipple saying that he had not received certain exhibits from the State. Mr. Digiacomo stated that whenever Mr. Whipple came and requested exhibits, they were provided to him. Mr. Whipple advised that he bate-stamped what he was requesting and gave the request to the State. COURT FINDS, at this point is up to defense counsel to obtain what they want from the State. Further arguments regarding the power point presentation and making a particular exhibit a Court's exhibit. COURT ORDERED, this issue was already decided by Judge Mosely. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Pursuant to CONFERENCE AT BENCH, Mr. Digiacomo stated that it became apparent that something was wrong with Mr. Zone. Mr. Pesci stated that Mr. Zone has another son that Mr. Whipple has represented. Mr. Digiacomo advised that they spoke with Mr. Zone; Mr. Whipple remembered the other son. Mr. Whipple informed the Court that at some point he spoke with Mr. Zone, but never discussed anything pertaining to this case with Mr. Zone or the other son. He also stated that he never met Roantae Zone. The Court question Mr. Zone regarding the preliminary hearing. Mr. Whipple stated that he was not present at that hearing. CONFERENCE AT BENCH. The Court question Mr. Counts regarding the fact that Mr. Whipple represented Mr. Zones brother. The Defendant stated he has no problem of Mr. Whipple continuing to represent him. Out of an abundance of caution, the Court asked Mr. Zone to leave the Courtroom. After that, Mr. Whipple stated he has no problem zealously advocating and representing Mr. Counts. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding whether or not Officer Rivera was on the witness list. As there were other officers listed, COURT FINDS, his testimony will be allowed. Mr. Digiacomo stated that Officer Rivera was on the list in the Justice Court hearing. Mr. Whipple objected to Mr. Rivera's testimony as he believes it is prejudicial to his client's due process rights and MOVED for a mistrial. COURT ORDERED, DENIED. Mr. Whipple requested that the phone calls from the detention center be provided before his testimony. Opposition by Mr. Digiacomo. The Court stated that if there is a policy at the detention center, then it can be done. The Court services attorney or an investigator must stay with the Defendant the entire time, but Court Services cannot stay with the Defendant while he listens. Further discussion regarding Officer Rivera's testimony. The Court stated that Mr. Whipple was aware that some SWAT Officer would be testifying and he didn't call any other officers to testify. Mr. Whipple advised that it was not his burden. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. COURT ORDERED, defendant Burman to be remanded to the Clark County Detention for this weekend in order that Mr. Whipple's investigators will have time to review the case with him. Evening recess. MATTER CONTINUED. ;

02/04/2008 **Change of Plea (9:00 AM)**

CHANGE OF PLEA Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair Matter Heard; CHANGE OF PLEA Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Journal Entry Details:

Third Amended Information FILED IN OPEN COURT. Negotiations are as contained in the Guilty Plea Agreement FILED IN OPEN COURT. DEFENDANT ESPINDOLA ARRAIGNED and PLED GUILTY to Voluntary Manslaughter with use of a Deadly Weapon. COURT ACCEPTED plea and ORDERED, matter CONTINUED for a status check regarding sentencing. FURTHER, pursuant to request by the State, Attachment to the Guilty Plea Agreement is to be FILED UNDER SEAL. CUSTODY 4/15/08 9:30 AM SENTENCING ;

02/04/2008 **Jury Trial (1:00 PM)**

TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie Matter Continued; TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY. Counsel advised that defendant Taoipu sent a letter to Mr. Counts, which was received last night at 10:00 PM. Colloquy regarding having investigator pick up witnesses from Tonopah to testify Wednesday. Discussion regarding Discovery. Colloquy regarding scheduling of witnesses. Mr. Digiacomo stated he believes Mr. Bremmer can wait his turn as his witnesses (who are not incarcerated) have been inconvenienced. Further discussion regarding Discovery. Mr. Whipple informed the Court that he received a phone call from Cal Potter's office regarding post conviction relief for Defendant in Palomino murder in 2000. They believe this murder was set up by Hildalgo. The State inquired the validity of that having anything to do to this case. Mr. Whipple advised that he didn't really know, but wanted to make a record and make a Court's exhibit and requested a twenty-four hour continuance to find "Airial" AKA Michelle Schwanderlik. Mr. Digiacomo stated that the other murder was when the Palomino Club

CASE SUMMARY**CASE NO. 05C212667-4**

was under different ownership; also, the person Mr. Whipple is looking for cannot be found. He further advised that there is no evidence linking this murder to the other murder in case C182148 filed on 8/6/02. COURT FINDS, there is no need for a Court's exhibit, and DENIED the continuance. Mr. Digiacoia stated he had no problem with the Court reviewing the other case. OUTSIDE THE PRESENCE OF THE JURY. The Court inquired of Mr. Taoipu if he discussed testifying with his counsel, Terry Jackson, Esq. Mr. Taoipu stated that he had spoken with counsel and that he understands his rights. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. Evening recess. MATTER CONTINUED. ;

02/05/2008 **Motion (9:30 AM)**

DEFT'S MTN FOR AUDIBILITY HEARING & TRANSCRIPT APPROVAL/213

02/05/2008 **Motion (9:30 AM)**

DFT'S MTN TO SUPPRESS CUSTODIAL STATEMENTS/214

02/05/2008 **Motion (9:30 AM)**

DFT'S MTN TO JOIN HIDALGO'S MTN FOR AUDIBILITY HEARING/215

02/05/2008 **Motion in Limine (9:30 AM)**

Events: 01/25/2008 Motion

DEFT'S MTN IN LIMINE TO ALLOW STATEMENT/227 Heard By: Valerie Adair

02/05/2008 **All Pending Motions (9:30 AM)**

ALL PENDING MOTIONS 2/5/08 Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Matter Heard; ALL PENDING MOTIONS 2/5/08 Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Journal Entry Details:

DEFENDANT'S MOTION FOR AUDIBILITY HEARING AND TRANSCRIPT APPROVAL

(HIDALGO)...DEFENDANT'S MOTION TO SUPPRESS CUSTODIAL STATEMENT...DEFENDANT'S MOTION TO ALLOW STATEMENTS Hidalgo: CONFERENCE AT BENCH. Mr. Digiacoia advised that based on new evidence,

the State is seeking an indictment against Hidalgo, Jr. Mr. Gentile stated that service would not be accepted as there is a Supreme Court order regarding conflict for him to represent Hidalgo III, and Hidalgo Jr.; those records are sealed. Following further arguments and request by the State, COURT ORDERED, the police are not to destroy any notes and they must be maintained; the Court will sign an order as to this. Mr. Gentile requested production of phone conversations from Espindola and Hidalgo Jr. COURT ORDERED, Defendant's Motion for Audibility Hearing and Transcript Approval is CONTINUED. Counts: COURT ORDERED, Defendant's Motion to Suppress Custodial Statements pertain to Defendant Hidalgo and is CONTINUED; Defendant's Motion in Limine to Allow Statements is MOOT. CUSTODY (BOTH) CONTINUED TO: 2/7/08 9:30 AM DEFENDANT'S MOTION FOR AUDIBILITY HEARING AND TRANSCRIPT APPROVAL...DEFENDANT'S MOTION TO SUPPRESS CUSTODIAL STATEMENT (HIDALGO III) ;

02/05/2008 **Jury Trial (10:00 AM)**

TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Matter Continued; TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY. Mr. Whipple stated he had not received certain items of Discovery; if they weren't copied, they must have come from the detectives files. Defendant's Motion to Preclude Test from Detectives Re: their Interpretation of Third Party Conversation FILED IN OPEN COURT. COURT ORDERED, they can testify if interpretations is non street slang; they can't speculate as to meaning. He further stated that as to the conspiracy charge as to Kenneth Counts will be asking for a directed verdict as to that issue. Arguments by counsel. Arguments by Ms. Wildeveld in support of her possession; discussion regarding the way the charge was pled. COURT FINDS, all of the conspirators do not have to be at all of the meetings at the same time. Mr. Digiacoia stated this argument was made in front of Judge Moseley and is part of the record. The Court informed counsel that these issues can be determined with jury instructions. Arguments by Mr. Whipple regarding Crawford issues. IN THE PRESENCE OF THE JURY; Testimony and exhibits per worksheet. OUTSIDE THE PRESENCE OF THE JURY; Discussion regarding witness Calvin Williams being transported from Tohupah, NV tonight; order to transport to be prepared. Mr. Whipple stated he doesn't want Deangelo Carroll's statements to be given to the jury. Mr. Digiacoia stated they were given file stamped copies of transcript; they could have redacted before now. He stated that Mr. Whipple is being disingenuous to say he didn't have a copy of this information. COURT ORDERED, redaction of statement is UNTIMELY; Judge Moseley's previous order stands. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. Evening recess. MATTER CONTINUED. ;

02/06/2008 **Jury Trial (10:30 AM)**

CASE SUMMARY

CASE NO. 05C212667-4

TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie
Matter Continued; TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Journal Entry Details:

IN THE PRESENCE OF THE JURY. State rested. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding exhibits. Discussion regarding transport of the two witnesses; the Court directed to transport the two witnesses separately. Colloquy regarding Mr. Whipple's witnesses. Opposition by Mr. Digiacomo. The Court admonished Mr. Counts of his constitutional right to not be compelled to take the stand in how own defense. The Defendant stated he understood his rights. Colloquy regarding Defendant Carroll and that the State may call him as a witness. IN THE PRESENCE OF THE JURY. CONFERENCE AT BENCH. Testimony and exhibits presented per worksheet. Defense rested. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding scheduling. The Court requested that parties settle jury instructions. Mr. Whipple stated that he was not prepared to do that. Evening recess. MATTER CONTINUED. ;

02/07/2008 **Jury Trial (9:00 AM)**

TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie
Matter Continued; TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding proposed jury instructions. Mr. Whipple requested twenty four hour continuance to review discrepancy in exhibit 189. The Court DENIED Mr. Whipple's motion as the document became relevant due to testimony of the Defendant; he opened the door. Mr. Whipple MOVED for a mistrial based on the violation of Mr. Counts due process rights. COURT ORDERED, DENIED. Jury instructions settled on the record. IN THE PRESENCE OF THE JURY. The Court instructed the jurors on the law of the case. Closing arguments by Mr. Pesci. Closing arguments by Mr. Whipple. Closing arguments by Mr. DiGiacomo. Officer sworn to take charge of the jury. Alternate jurors thirteen to fifteen revealed; the Court requested that they provide phone numbers to the bailiff in the event that they have to be recalled. At the hour of 4:40 PM the jury retired to deliberate. Evening recess. MATTER CONTINUED. ;

02/07/2008 **Motion (9:30 AM)**

DEFT'S MTN FOR AUDIBILITY HEARING & TRANSCRIPT APPROVAL/213

02/07/2008 **Motion (9:30 AM)**

DFT'S MTN TO SUPPRESS CUSTODIAL STATEMENTS/214

02/07/2008 **Motion to Set Bail (9:30 AM)**

Events: 02/01/2008 Motion

DEFT'S MTN TO SET BAIL /229 Heard By: Valerie Adair

02/07/2008 **All Pending Motions (9:30 AM)**

ALL PENDING MOTIONS 2/7/08 Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Matter Heard; ALL PENDING MOTIONS 2/7/08 Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Journal Entry Details:

DEFENDANT'S MOTION FOR AUDIBILITY HEARING AND TRANSCRIPT APPROVAL...DEFENDANT'S MOTION TO SUPPRESS CUSTODIAL STATEMENTS...DEFENDANT'S MOTION TO SET BAIL Mr. Gentile requested that the motions other than the bail motion be continued to 2/11/08 and that the trial be continued to 2/12/08. COURT SO ORDERED. The Court noted that Mr. Hidalgo's bail is already set at \$800,000.00. Mr. Gentile requested that the bail be lowered and the Defendant be placed on house arrest. Opposition by Mr. DiGiacomo regarding lowering of bail. COURT ORDERED, Defendant's Motion to Set Bail is DENIED. Pursuant to CONFERENCE AT BENCH, the Court stated that if the Defendant can come up with \$800,000.00 in property, Mr. Gentile may place the matter back on calendar for a hearing, however the previous ruling issued regarding lowering bail STANDS AT THIS POINT CUSTODY 2/11/08 9:30 AM DEFENDANT'S MOTION FOR AUDIBILITY HEARING AND TRANSCRIPT APPROVAL...DEFENDANT'S MOTION TO SUPPRESS CUSTODIAL STATEMENT ;

02/08/2008 **Jury Trial (9:00 AM)**

TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Verdict; TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Journal Entry Details:

At the hour of 5:40 PM the jury returned with the following verdict: COUNT I - CONSPIRACY TO COMMIT MURDER - GUILTY COURT ORDERED, Defendant REMANDED without bail on this charge. COUNT II - MURDER WITH USE OF A DEADLY WEAPON - NOT GUILTY. The Court thanked and excused jurors from service. COURT ORDERED, matter referred to the Division of Parole and Probation for a presentence investigation report and set for

CASE SUMMARY

CASE No. 05C212667-4

sentencing. CUSTODY 3/20/08 9:30 AM SENTENCING ;

02/11/2008	<p>Jury Trial (9:30 AM) <i>TRIAL BY JURY Court Clerk: Denise Husted Heard By: Valerie Adair</i></p> <p>MINUTES Matter Heard; TRIAL BY JURY Court Clerk: Denise Husted Heard By: Valerie Adair Journal Entry Details: <i>Pursuant to conference in chambers, COURT ORDERED, trial date VACATED and RESET. FURTHER, matter set for a hearing regarding potential conflict. 2/13/08 1:30 PM HEARING: POTENTIAL CONFLICT 2/19/08 10:30 AM JURY TRIAL (LUIS HIDALGO III) ;</i></p>
02/11/2008	<p>CANCELED Jury Trial (9:30 AM) <i>Vacated</i></p>
02/11/2008	<p>Motion (9:30 AM) Events: 02/08/2008 Motion <i>DEFT'S MTN FOR DISCLOSURE/233</i></p>
02/11/2008	<p>All Pending Motions (9:30 AM) <i>ALL PENDING MOTIONS 2/11/08 Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair</i> Matter Heard; ALL PENDING MOTIONS 2/11/08 Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair Journal Entry Details: <i>DEFENDANT'S MOTION FOR AUDIBILITY HEARING AND TRANSCRIPT APPROVAL...DEFENDANT'S MOTION TO SUPPRESS CUSTODIAL STATEMENT...DEFENDANT'S MOTION FOR DISCLOSURE COURT ORDERED, motions CONTINUED. CONTINUED TO: 2/14/08 10:30 AM ;</i></p>
02/11/2008	<p>Motion (10:30 AM) <i>DEFT'S MTN FOR AUDIBILITY HEARING & TRANSCRIPT APPROVAL/213</i></p>
02/11/2008	<p>Motion (10:30 AM) <i>DFT'S MTN TO SUPRESS CUSTODIAL STATEMENTS/214</i></p>
02/12/2008	<p>Sentencing (9:30 AM) <i>SENTENCING Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie</i> Matter Continued; SENTENCING Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie Journal Entry Details: <i>CONFERENCE AT BENCH. Mr. Jackson stated that the continuance needs to be continued as the Division of Parole and Probation has not prepared the presentence investigation report. He stated that he filed a motion for House Arrest pending the new sentencing date. The State submitted on Mr. Jackson's request. COURT ORDERED, Defendant RELEASED ON HOUSE ARREST through the Clark County Detention Center. FURTHER, Defendant MUST REPORT IMMEDIATELY upon release to interview; also, he must report to the Detention Center as often as they require. H.A. ;</i></p>
02/13/2008	<p>Hearing (1:30 PM) Events: 02/11/2008 Hearing <i>HEARING:POTENTIAL CONFLICT Heard By: Valerie Adair</i></p>
02/14/2008	<p>Motion (10:30 AM) <i>DEFT'S MTN FOR AUDIBILITY HEARING & TRANSCRIPT APPROVAL/213</i></p>
02/14/2008	<p>Motion (10:30 AM) <i>DFT'S MTN TO SUPRESS CUSTODIAL STATEMENTS/214</i></p>
02/14/2008	<p>Motion (10:30 AM) <i>DEFT'S MTN FOR DISCLOSURE/233</i></p>
02/14/2008	<p>Motion (10:30 AM) Events: 02/08/2008 Motion</p>

CASE SUMMARY

CASE NO. 05C212667-4

DEFT'S MTN FOR DISCLOSURE OF THE EXISTENCE/234

02/14/2008 **Motion to Compel** (10:30 AM)

Events: 02/08/2008 Motion

DEFT'S MTN TO COMPEL PRODUCTION OF HANDWRITTEN NOTES/235

02/14/2008 **Hearing** (10:30 AM)

HEARING:POTENTIAL CONFLICT Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Matter Heard; HEARING:POTENTIAL CONFLICT Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Journal Entry Details:

Confidential conflict hearing held. CUSTODY ;

02/14/2008 **All Pending Motions** (10:30 AM)

ALL PENDING MOTIONS 2/14/08 Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Matter Heard; ALL PENDING MOTIONS 2/14/08 Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Journal Entry Details:

DEFENDANT'S MOTION FOR DISCLOSURE...DEFENDANT'S MOTION FOR AUDIBILITY HEARING AND TRANSCRIPT APPROVAL...DEFENDANT'S MOTION TO SUPPRESS CUSTODIAL STATEMENTS...DEFENDANT'S MOTION FOR DISCLOSURE OF THE EXISTENCE/DEFT'S MOTION TO COMPEL PRODUCTION OF HANDWRITTEN NOTES As to Defendant's Motion for Disclosure of the Existence, Mr. Gentile informed the Court that there was no wiretap. COURT ORDERED, that motion was to be heard on 2/19/08, therefore is to be reset to day and OFF CALENDAR. As to the other part of the motion, Deft's Motion to Compel Production of Handwritten notes, parties agreed there is a Grand Jury transcript of Espindola; Defendant will ask for that. The State has no opposition for the Defendant is entitled to them. Audibility tapes played on the record. COURT ORDERED, as to Defendant's Motion for Audibility Hearing and Transcript Approval, both transcripts will be provided to the jury and the tape will be played twice per stipulation of counsel. Custodial statements recordings played. Arguments by Ms. Armeni that Defendant was not told he did not have to talk with the Detective. The Court noted he was listening and responding, even thought it was not in the manner the Detectives wanted him to respond. Although it was obvious he had a cough, there were long periods of time that he didn't cough. COURT ORDERED, the tape is more appropriate than the transcript. State submitted. Colloquy regarding defense agreement to testify; if introduced to the jury it may create an inference. COURT ORDERED, the only way it will come in is if the door was opened; agrees it is prejudicial, therefore Defendant's Motion to Suppress Custodial Statements was ADDRESSED BY THE COURT. Defendant's Motion for Disclosure was not addressed. CUSTODY ;

02/19/2008 **CANCELED Jury Trial** (10:30 AM)

Vacated

02/21/2008 **Jury Trial** (1:00 PM)

TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

MINUTES

Matter Heard; TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair
Journal Entry Details:

Colloquy regarding Supreme Court stay of trial. Mr. Digiacomio stated that although there were motions that parties intended to argue, the Stay precludes them from being heard. COURT ORDERED, trial date RESET. CUSTODY 5/22/08 9:30 AM CALENDAR CALL 5/27/08 10:00 AM JURY TRIAL ;

02/22/2008 **CANCELED Jury Trial** (9:00 AM)

Vacated

02/26/2008 **Motion for New Trial** (9:30 AM)

Events: 02/15/2008 Motion

DEFT'S MTN FOR NEW TRIAL AND REQUEST FOR AN EVIDENTIARY HEARING/242 Heard By: Valerie Adair

02/26/2008 **Motion to Dismiss** (9:30 AM)

Events: 02/20/2008 Motion

DEFT'S MTN TO DISMISS OR MTN TO STRIKE/243 VJ 5/22 STAY BY NSC

02/26/2008 **All Pending Motions** (9:30 AM)

CASE SUMMARY

CASE NO. 05C212667-4

ALL PENDING MOTIONS 2/26/08 Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Matter Heard; ALL PENDING MOTIONS 2/26/08 Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Journal Entry Details:

DEFENDANT'S MOTION FOR NEW TRIAL AND REQUEST FOR AN EVIDENTIARY HEARING

(COUNTS)...DEFENDANT'S MOTION TO DISMISS OR TO STRIKE The Court informed Mr. Whipple that the current Supreme Court stay does not apply to Mr. Counts. Mr. Whipple requested a continuance as Ms. Wildeveld is not available until after 3/6/08. COURT ORDERED, CONTINUED. CONTINUED TO: 3/11/08 9:30 AM ;

03/06/2008 **CANCELED Calendar Call (9:30 AM)**
Vacated

03/10/2008 **CANCELED Jury Trial (10:00 AM)**
Vacated

03/11/2008 **Motion for New Trial (9:30 AM)**
DEFT'SMTN FOR NEW TRIAL AND REQUEST FOR AN EVIDENTIARY HEARING/242 Relief Clerk: REBECCA FOSTER Reporter/Recorder: Janie Olsen Heard By: Valerie Adair
Denied; DEFT'SMTN FOR NEW TRIAL AND REQUEST FOR AN EVIDENTIARY HEARING/242 Relief Clerk: REBECCA FOSTER Reporter/Recorder: Janie Olsen Heard By: Valerie Adair
Journal Entry Details:
Arguments by counsel. Court stated she inspected documents in-camera, the documents can be sealed and made a part of the Court's record in case the Nevada Supreme Court wants to look at them, the Declaration of Arrest should be sufficient and, ORDERED, motion DENIED. CUSTODY ;

03/11/2008 **Motion to Dismiss (9:30 AM)**
DEFT'S MTN TO DISMISS OR MTN TO STRIKE/243 VJ 5/22 STAY BY NSC

03/20/2008 **Sentencing (9:30 AM)**
Events: 02/08/2008 Conversion Case Event Type
SENTENCING Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair
Granted; SENTENCING Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair
Journal Entry Details:
Parties argued and submitted. Statement by Defendant. The State MOVED that Defendant's copies of Judgements of Conviction be admitted as exhibits and also requested that the Defendant be sentenced under the Small Habitual Criminal statute. Arguments in opposition by Mr. Whipple. DEFENDANT COUNTS ADJUDGED GUILTY under the Small Habitual Criminal Statute of CONSPIRACY TO COMMIT MURDER (F). COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee and submission to DNA testing under the direction of the Division and payment of a \$150.00 Analysis fee to the Clark County Clerk, Defendant SENTENCED to a MINIMUM of NINETY-SIX (96) MONTHS in the Nevada Department of Corrections with a MAXIMUM term of TWO-HUNDRED FORTY (240) MONTHS, to RUN CONSECUTIVELY to Defendant's cases in California, with 1,029 DAYS CREDIT for time served. FURTHER, copies of Judgements of Conviction are ADMITTED; Ms. Wildeveld is APPOINTED as appellate counsel. NDC ;

03/25/2008 **Sentencing (9:30 AM)**
SENTENCING Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair
Matter Continued; SENTENCING Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair
Journal Entry Details:
Parties argued and submitted. Statement by Defendant. Upon Court's inquiry, Ms. Jones stated the Defendant has been looking for a job and the Public Defender's office has been assisting him in obtaining a copy of his birth certificate so that he can get his driver's license and identification. DEFENDANT TAOIPU ADJUDGED GUILTY of COUNT I - CONSPIRACY TO COMMIT MURDER (F) and COUNT II - VOLUNTARY MANSLAUGHTER WITH USE OF A DEADLY WEAPON (F). COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee and submission to DNA testing under the direction of the Division and payment of a \$150.00 Analysis fee to the Clark County Clerk, Defendant SENTENCED on Count I to a MINIMUM of FORTY-EIGHT (48) MONTHS in the Nevada Department of Corrections with a MAXIMUM term of ONE-HUNDRED TWENTY (120) MONTHS; Count II to a MINIMUM of SIXTEEN (16) MONTHS with a MAXIMUM term of SIXTY (60) MONTHS with an equal and consecutive term of 16/60 MONTHS for the deadly weapons enhancement; Count II to RUN CONCURRENTLY with Count I, SUSPENDED; placed on PROBATION for an indeterminate period not to exceed FIVE (5) YEARS. CONDITIONS: 1. Obtain/maintain lawful full time employment unless Defendant is a full time student; 2. Defendant placed on House Arrest for a period not to exceed one year; 3. Submit to counseling evaluation and any counseling deemed necessary by the evaluator; submit to random urinalyses; 4. Complete GED/high school diploma; 5. Complete vocational training as

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deemed necessary by the Division of Parole and Probation. BOND, if any EXONERATED. ;

04/10/2008	Motion (9:30 AM) Events: 04/09/2008 Motion <i>STATE'S MTN TO CONDUCT VIDEOTAPED TESTIMONY OF A COOPERATING WITNESS/250 Heard By: Valerie Adair</i>
04/15/2008	Status Check (9:30 AM) Events: 02/04/2008 Hearing <i>STATUS CHECK:SENTENCING Heard By: Valerie Adair</i>
04/15/2008	Motion (9:30 AM) <i>STATE'S MTN TO CONDUCT VIDEOTAPED TESTIMONY OF A COOPERATING WITNESS/250 Heard By: Valerie Adair</i>
04/15/2008	All Pending Motions (9:30 AM) <i>ALL PENDING MOTIONS 4/15/08 Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair</i> Matter Heard; ALL PENDING MOTIONS 4/15/08 Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair Journal Entry Details: <i>STATE'S MOTION TO CONDUCT VIDEOTAPED TESTIMONY OF A COOPERATING WITNESS (LUIS HIDALGO, III)...STATUS CHECK: SENTENCING (ANABEL ESPINDOLA) COURT ORDERED, Status Check: Sentencing is OFF CALENDAR. FURTHER, State's Motion to Conduct Videotaped Testimony of a Cooperating Witness is CONTINUED. CUSTODY (BOTH) 4/17/08 9:30 AM STATE'S MOTION TO CONDUCT VIDEOTAPED TESTIMONY OF A COOPERATING WITNESS (LUIS HIDALGO III) ;</i>
04/17/2008	Motion (9:30 AM) <i>STATE'S MTN TO CONDUCT VIDEOTAPED TESTIMONY OF A COOPERATING WITNESS/250 Heard By: Valerie Adair</i> Off Calendar; STATE'S MTN TO CONDUCT VIDEOTAPED TESTIMONY OF A COOPERATING WITNESS/250 Heard By: Valerie Adair Journal Entry Details: <i>As this case has been STAYED by the Supreme Court, COURT ORDERED, OFF CALENDAR. CUSTODY ;</i>
05/22/2008	Motion to Dismiss (9:30 AM) <i>DEFT'S MTN TO DISMISS OR MTN TO STRIKE/243 VJ 5/22 STAY BY NSC</i>
05/22/2008	CANCELED Calendar Call (9:30 AM) <i>Vacated</i>
05/27/2008	CANCELED Jury Trial (10:00 AM) <i>Vacated</i>
06/17/2008	Status Check (9:30 AM) Events: 05/29/2008 Hearing <i>STATUS CHECK: TRIAL SETTING Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair</i> Matter Heard; STATUS CHECK: TRIAL SETTING Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair Journal Entry Details: <i>COURT ORDERED, trial date is to be set recognizing that the Court has not ruled on consolidation. CUSTODY 1/22/09 9:30 AM CALENDAR CALL 1/26/09 10:00 AM JURY TRIAL ;</i>
07/10/2008	Motion to Consolidate (9:30 AM) Events: 06/25/2008 Motion <i>STATES MTN TO CONSOLIDATE WITH C241394/256 Heard By: Valerie Adair</i>
07/10/2008	Notice of Intent to Seek Revocation of Probation (9:30 AM) Events: 06/30/2008 Motion <i>NOTICE OF INTENT REV OF PROB Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair</i>

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Probation Reinstated; NOTICE OF INTENT REV OF PROB Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Journal Entry Details:

Statement by Mr. DiGiacomo. Mr. Jackson stated the facts alleged in the violation report are not sufficient to revoke the Defendant. The Court noted the Defendant has been in custody over two weeks. Further, the Defendant did not avail himself of the free counseling, was not in compliance with imposed curfew and didn't meet with his Probation Officer, which makes it appear the Defendant is not taking the benefit of probation seriously. Mr. Jackson informed the Court he spoke with the Defendant regarding his responsibilities; he also helped him obtain an ID card, so he will now be able to seek employment. COURT ORDERED, PROBATION REINSTATED with the same conditions imposed previously. ;

07/22/2008 **Motion to Consolidate (9:30 AM)**

STATES MTN TO CONSOLIDATE WITH C241394/256 Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Off Calendar; STATES MTN TO CONSOLIDATE WITH C241394/256 Court Clerk: Denise Husted

Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Journal Entry Details:

Mr. Gentile requested more time to respond to the State's Motion to Consolidate. Upon Court's inquire Mr. Gentile stated he is still willing to represent both Hidalgo defendants as long as the cases are not consolidated. He further stated he will be filing a challenge regarding seeking the death penalty as to Luis Hidalgo, III, but he is uncertain regarding this issue as to Luis Hidalgo, Jr. Colloquy regarding trial dates. COURT ORDERED, States' Motions to Consolidate are OFF CALENDAR. FURTHER, trial date VACATED and RESET in case C241294. The Court informed counsel that the cases will be tried back to back, with the in-custody Defendant being tried first, as long as the cases are not consolidated. CUSTODY ;

08/12/2008 **Motion to Consolidate (9:30 AM)**

STATES MTN TO CONSOLIDATE WITH C241394/256 Heard By: Valerie Adair

10/23/2008 **Conversion Hearing Type (9:30 AM)**

Events: 10/20/2008 Hearing

TRIAL SETTING Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Matter Heard; TRIAL SETTING Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Journal Entry Details:

Counsel advised that the Nevada Supreme Court has made its decision and the State has to file a notice in conformance. Mr. DiGiacomo advised that has been done. COURT ORDERED, trial date SET. CUSTODY 6/11/09 9:30 AM CALENDAR CALL 6/15/09 10:00 AM JURY TRIAL ;

11/20/2008 **Request (9:30 AM)**

Events: 11/13/2008 Hearing

STATE'S REQUEST STATUS CHECK ON MTN TO CONSOLIDATE C241394 Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Matter Continued; STATE'S REQUEST STATUS CHECK ON MTN TO CONSOLIDATE C241394 Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Journal Entry Details:

Mr. Gentile introduced Chris Adams, Esq. from Atlanta, who will be substituting in as counsel for Luis Hidalgo, III; also John Arascata, Esq. from Reno will be appearing later. He further stated that these attorneys will be representing Hidalgo, III because of the issues that can be raised between Hidalgo, III and Hidalgo, Jr. and because of the Nevada Supreme Court's narrow mandate in their ruling. Mr. Gentile advised he will continue to represent Hidalgo, Jr. and requested additional time to file oppositions for the Motions to Consolidate cases C212667 and C241394. Mr. Digiacomo requested time for the State to file replies to Mr. Gentile's opposition. COURT ORDERED, Mr. Gentile's opposition is due by 12/4/08 and the State's reply is due by 12/11/08. FURTHER, Motions to Consolidate CONTINUED in cases C212667 and C241394. CUSTODY ;

12/19/2008 **Request (9:30 AM)**

STATE'S REQUEST STATUS CHECK ON MTN TO CONSOLIDATE C241394 Relief Clerk: Carole D'Aloia Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Matter Continued; STATE'S REQUEST STATUS CHECK ON MTN TO CONSOLIDATE C241394 Relief Clerk: Carole D'Aloia Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Journal Entry Details:

Christopher W. Adams, Esq., from Atlanta, Georgia, also present on behalf of Defendant Hidalgo III. Mr. Arrascada advised he has filed an Order for association of counsel on behalf of Mr. Adams, Court advised it did not see a problem with this and it will sign the Order. Dominic P. Gentile, Esq., also present on behalf of DEFENDANT HIDALGO, JR., case C241394. Mr. DiGiacomo advised that when he picked-up his copy of Defendants' opposition to the State's motion to consolidate, there were two (2) additional motions to strike the amended notice to seek death

CASE SUMMARY

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penalty on behalf of both Defendants and the State has not had an opportunity to respond and requested time to do so, noting he spoke to Mr. Gentile regarding this matter. Court informed counsel that if the motion is granted, and the notice to seek the death penalty is stricken for either Defendant, the motion to consolidate will not be granted. COURT ORDERED, Defendants' Motions to Strike the Amended Notice to seek Death Penalty CONTINUED. As to the State's motion to consolidate, Mr. Gentile stated his objections on the record. Mr. Gentile informed, if Court grants this motion, it would deprive Defendants their right to eight (8) preemptory challenges each. Mr. Adams advised he is joining in this motion on behalf of Defendant Hildalgo III. Response by Mr. DiGiacomo. Court advised the biggest problem it foresees in granting the motion to consolidate would be during the penalty phase of the trial, where possibly family members would have to choose which of the two (2) Defendants they would testify on behalf of and, then if called upon to testify as to the other Defendant, they could not testify to the contrary. Court advised Mr. Gentile his argument was very interesting and, ORDERED, RULING RESERVED to continuance date. CUSTODY ;

01/09/2009 **Request (9:30 AM)**

STATE'S REQUEST STATUS CHECK ON MTN TO CONSOLIDATE C241394 Court Clerk: Denise Husted
Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie
Matter Continued; STATE'S REQUEST STATUS CHECK ON MTN TO CONSOLIDATE C241394 Court Clerk:
Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie
Journal Entry Details:
COURT ORDERED, matter CONTINUED for decision. CUSTODY ;

01/16/2009 **Request (9:30 AM)**

STATE'S REQUEST STATUS CHECK ON MTN TO CONSOLIDATE C241394 Heard By: Valerie Adair

01/16/2009 **Motion (9:30 AM)**

STATE'S MTN TO REMOVE MR GENTILE AS ATTORNEY OR TO REQ WAIVERS/262 Heard By: Valerie Adair

01/16/2009 **Motion (9:30 AM)**

DEFT'S MTN FOR FAIR & ADEQUATE VOIR DIRE/263 Heard By: Valerie Adair

01/16/2009 **All Pending Motions (9:30 AM)**

ALL PENDING MOTIONS 1-16-09 Relief Clerk: REBECCA FOSTER Reporter/Recorder: Janie Olsen Heard By:
Valerie Adair
Matter Heard; ALL PENDING MOTIONS 1-16-09 Relief Clerk: REBECCA FOSTER Reporter/Recorder: Janie Olsen
Heard By: Valerie Adair
Journal Entry Details:
STATE'S MOTION TO REMOVE MR. GENTILE AS ATTORNEY OR REQUEST WAIVERS AFTER DEFENDANTS
HAVE HAD TRUE INDEPENDENT COUNSEL...STATE'S REQUEST STATUS CHECK ON MOTION TO
CONSOLIDATE C241394...DEFT'S MOTION FOR FAIR AND ADEQUATE VOIR DIRE Christopher W. Adams, Esq,
pro hac vice also present. WAIVER OF RIGHTS TO A DETERMINATION OF PENALTY BY THE TRIAL JURY
(HILDAGO, JR and HIDALGO III) FILED IN OPEN COURT. ORDER GRANTING THE STATE'S MOTION TO
CONSOLIDATE C241394 INTO C212667 FILED IN OPEN COURT. Mr. DiGiacomo advised the Court an agreement
has been reached between parties as it relates to conflict issue and Notice to Seek Death Penalty against both depts will
be withdrawn. Further defense counsel acknowledged there is no conflict as to the guilt phase. Colloquy between
Court and counsel regarding charging documents and voir dire process. COURT ORDERED, State's Motion to
Remove Mr. Gentile is MOOT; Motion to Consolidate with C241394 is GRANTED; and Deft'S Motion for Fair and
Adequate Voir Dire is MOOT. COURT FURTHER ORDERED, Deft's Motion to Suppress scheduled for 1-20 will be
heard at 10:15 with other Motion in Limine to Exclude Testimony (C241394). CUSTODY ;

01/20/2009 **Motion (9:30 AM)**

Events: 01/07/2009 Motion
STATE'S MTN TO REMOVE MR GENTILE AS ATTORNEY OR TO REQ WAIVERS/262 Heard By: Valerie Adair

01/20/2009 **Motion (9:30 AM)**

Events: 01/08/2009 Motion
DEFT'S MTN FOR FAIR & ADEQUATE VOIR DIRE/263 Heard By: Valerie Adair

01/22/2009 **Calendar Call (9:30 AM)**

CALENDAR CALL Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair
Matter Heard; CALENDAR CALL Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie
Adair
Journal Entry Details:

Christopher Adams, Esq. appearing in case C212667; Dominic Gentile, Esq. and Paola Armeni, Esq. appearing in
consolidated case C241394, with Defendant Luis Hidalgo Jr. Colloquy regarding trial date. Counsel announced ready

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for trial which should last two weeks with 26 witnesses. Mr. Arrascada stated opposition to parts of the State's Fourth Amended Information. Mr. Digiacoimo stated that the Jury must be advised there are two different conspiracies and that he believes it was addressed as to Luis Hidalgo Jr. He further advised that it will require a special verdict form, which is not before the Court at this time. Consolidated case C241394: STATE'S MOTION IN LIMINE TO EXCLUDE THE TESTIMONY OF VALERIE FRIDLAND...DEFENDANT'S MOTION TO SUPPRESS EVIDENCE...CALENDAR CALL Arguments by Mr. Gentile regarding the linguistics expert, Valerie Fridland. He stated that the use of pronouns employed by Ms. Espindola in the tapes in which she didn't know she was being recorded and the Grand Jury tapes were different and that the expert will be able to evaluate what was said in order to assist the jury. Opposition by Mr. Digiacoimo. The Court stated that this matter will be reviewed further and a ruling will be made on 1/23/09. As to Defendant's Motion to Suppress Evidence, Mr. Gentile submitted on the pleadings. He added that this was a general warrant; the issue regarding Family Court signing the warrant needed to be raised now, or it can't be raised later in front of the Supreme Court. COURT FINDS, Family Court has jurisdiction to sign warrants. Mr. Gentile stated the warrant left too much to the discretion of the searching officers, which violates the Fourth Amendment. Mr. Digiacoimo argued that each and every one of the witnesses is tied to a specific crime and there was probable cause for each item listed. COURT FINDS, it was not so general as to be considered a general warrant and ORDERED, Defendant's Motion to Suppress is DENIED. Colloquy regarding pleadings and whether or not new Information would be filed. Additionally, discussion ensued as to possibly striking parts of the Information/Indictment. COURT ORDERED, a ruling will be given on 1/23/09 following further review of the Court's minutes and transcripts. COURT ORDERED, ORDERED, trial date VACATED and RESET for a firm setting. 1/27/09 12:30 PM JURY TRIAL (C212667 AND C241394) ;

01/23/2009 **Decision (10:50 AM)**

DECISION:MATTERS ADDRESSED ON 1/22/09 Court Clerk: Denise Husted Heard By: Valerie Adair
Matter Heard; DECISION:MATTERS ADDRESSED ON 1/22/09 Court Clerk: Denise Husted Heard By: Valerie Adair

Journal Entry Details:

COURT ORDERED, the State's Motion in Limine to Exclude the Testimony of Valerie Fridland is GRANTED. FURTHER, as to Hidalgo III's oral objection to the conspiracy count in the Fourth Amended Indictment, the COURT ORDERS that the language objected to be STRICKEN. Additionally, the COURT FINDS that there were two conspiracies; one relating to Timothy Hadland and one relating to Kenneth Counts. ;

01/26/2009 **CANCELED Jury Trial (10:00 AM)**
Vacated

01/26/2009 **Request (10:00 AM)**

Events: 01/23/2009 Hearing

STATE'S REQUEST FOR CLARIFICATION Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Matter Heard; STATE'S REQUEST FOR CLARIFICATION Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Journal Entry Details:

Dominic Gentile, Esq. and Paola Armeni, Esq. appearing for Luis Hidalgo, Jr. in consolidated case C241394. Hidalgo, Jr. presence WAIVED. Mr. Digiacoimo stated that questions arose pertaining to the 4/17/08 transcript; there are multiple meanings as to what order on 1/23/19 means. He asked if the Court made a legal determination the Hidalgo, III is not admissible. The Court stated that right now it cannot say automatically that this is an ongoing part of conspiracy and part of the cover up of the conspiracy; not prepared to say this is a conspiracy. If the evidence ties it in, the State can argue they are not able to say factually that this is part of intentional conspiracy. Case law shows there may have been a second conspiracy; the initial conspiracy involved payment; the second conspiracy involved getting rid of Mr. Counts. Mr. Digiacoimo read the Federal case law; Nevada law relates to ongoing acts of concealment. Following further arguments by counsel, COURT FINDS, the issue of Hidalgo, III solicitation of murder is up to the defense to bring in; the Court cannot say for certain that is was part of the first conspiracy. CUSTODY (HIDALGO III) ;

01/27/2009 **Jury Trial (12:30 PM)**

TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie
Matter Continued; TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Journal Entry Details:

Christopher Adams, Esq. appearing pro hoc vice for Luis Hidalgo, III. Dominic Gentile, Esq. and Paola Armeni, Esq. appearing for Luis Hidalgo, Jr. in consolidated case C241394. IN THE PRESENCE OF THE JURY. Introductions by Court and counsel. Roll of jurors called by the Clerk. Jury selection proceeded. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding for cause challenges. Evening recess. MATTER CONTINUED. ;

01/28/2009 **Jury Trial (10:30 AM)**

TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

CASE SUMMARY

CASE NO. 05C212667-4

Matter Continued; TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Journal Entry Details:

Christopher Adams, Esq. appearing pro hoc vice for Luis Hidalgo, III. Dominic Gentile, Esq. and Paola Armeni, Esq. appearing for Luis Hidalgo, Jr. in consolidated case C241394. OUTSIDE THE PRESENCE OF THE JURY. The Court noted that juror number fifteen said the stress of this process exacerbated a medical condition and provided a prescription. The Court excused this juror. Discussion regarding transcripts provided by the State; Mr. Adams objected to this. Mr. Gentile stated an audibility hearing was previously held regarding the tape. He requested that the Court listen to the tape and see if the transcript is reasonable decision regarding Anabel's debriefing. He further requested that he be provided the State's notes in order to determine if there may be a Brady issue. Mr. Digiacomo stated the admissibility hearing came before Anabel's plea. Following further discussion, the Court informed counsel that jury selection is to proceed. IN THE PRESENCE OF THE JURY. Roll of jurors called by the Clerk. Jury selection proceeded. OUTSIDE THE PRESENCE OF THE JURY. Discussion regarding juror challenges. IN THE PRESENCE OF THE JURY. Jury selection proceeded. CONFERENCE AT BENCH. Evening recess. MATTER CONTINUED. ;

01/29/2009 **Jury Trial (9:30 AM)**

TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Matter Continued; TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Journal Entry Details:

Christopher Adams, Esq. appearing pro hoc vice for Defendant Hidalgo III. Dominic Gentile, Esq. and Paola Armeni, Esq. appearing for Defendant Hidalgo Jr. in consolidated case C241394. IN THE PRESENCE OF THE JURY. Jury selection continued. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding jury panel and possible conversations between some of them regarding the case. Jurors 018 and 052 questioned separately regarding this issue. IN THE PRESENCE OF THE JURY. Jury selection continued; voir dire questioning held one at a time outside the presence of the others in the panel. OUTSIDE THE PRESENCE OF THE JURY. Luis A. Hidalgo Jr's Trial Memorandum (Redacted) in case C212667 and consolidated case C241394 FILED IN OPEN COURT. Colloquy regarding differences in transcripts of Ms. Espindola. The Court noted it may be better to play the tape. Mr. Gentile agreed and Mr. Digiacomo opposed the suggestion. Discussion regarding the interview of Ms. Espindola. Mr. Adams requested copies of the notes of the interview. Following further discussion, the Court directed counsel to provide highlighted copies of the first and second transcripts showing the differences; the Court will review these prior to making a decision. Evening recess. MATTER CONTINUED. ;

01/30/2009 **Jury Trial (10:00 AM)**

TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Matter Continued; TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Journal Entry Details:

Christopher Adams, Esq. appearing pro hoc vice for Luis Hidalgo, III. Dominic Gentile, Esq. and Paola Armeni, Esq. appearing for Luis Hidalgo, Jr. in consolidated case C241394. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding jury selection. Jury selection continued. Voir Dire questioning took place with individual jurors apart from the others. OUTSIDE THE PRESENCE OF THE JURY. The Court read the case provided by counsel regarding the transcript issue. COURT ORDERED, parties are not precluded from allowing use of the transcript pursuant to case law provided by Mr. Arrascada. IN THE PRESENCE OF THE JURY. Jury selection continued. Introductions by Court and counsel. Information read by the Clerk. Evening recess. MATTER CONTINUED. ;

02/02/2009 **Jury Trial (10:30 AM)**

TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Matter Continued; TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Journal Entry Details:

Christopher Adams, Esq. appearing pro hoc vice for Defendant Hidalgo III. Dominic Gentile, Esq. and Paola Armeni, Esq. appearing for Defendant Hidalgo Jr. in consolidated case C241394. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding jury selection. IN THE PRESENCE OF THE JURY. Jury selection continued; voir dire questioning took place with individual jurors apart from the others. OUTSIDE THE PRESENCE OF THE JURY. Mr. Adams argued Batson challenge. Opposition by the State. COURT FINDS, the release of the juror was with good cause. IN THE PRESENCE OF THE JURY. Jury selection continued. Voir dire questioning took place with individual jurors apart from the others. Jury selected and SWORN. Opening arguments counsel. Testimony and exhibits presented per worksheet. Evening recess. MATTER CONTINUED. ;

02/03/2009 **Jury Trial (10:30 AM)**

TRIAL BY JURY Court Clerk: Denise Husted Relief Clerk: Carol Donahoo (3:45 p.m.) Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Matter Continued; TRIAL BY JURY Court Clerk: Denise Husted Relief Clerk: Carol Donahoo (3:45 p.m.) Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

CASE SUMMARY

CASE NO. 05C212667-4

Journal Entry Details:

Christopher Adams, Esq. appearing pro hoc vice for Luis Hidalgo, III. Dominic Gentile, Esq. and Paola Armeni, Esq. appearing for Luis Hidalgo, Jr. in consolidated case C241394. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding the State amending the witness list to include Christopher Oram. Mr. Gentile stated that Ms. Espindola will have to waive attorney client privilege should Mr. Oram testify. The Court informed counsel that the law regarding this issue will be reviewed. Further statements regarding jail phone records between Deangelo Carroll and his wife. IN THE PRESENCE OF THE JURY Testimony and exhibits presented per worksheet. Carol Donahoo (3:45 p.m.) Testimony and exhibits presented (see worksheet). COURT ORDERED, trial CONTINUED and recessed for the evening. OUTSIDE THE PRESENCE OF THE JURY: Arguments by counsel with respect to the legal issues surrounding the tape recording of Deangelo Carroll. Counsel will revisit this matter tomorrow. Evening recess. MATTER CONTINUED. ;

02/04/2009 **Jury Trial (10:30 AM)**

TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie Matter Continued; TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Journal Entry Details:

Christopher Adams, Esq. appearing pro hoc vice for Luis Hidalgo, III. Dominic Gentile, Esq. and Paola Armeni, Esq. appearing for Luis Hidalgo, Jr. in consolidated case C241394. Testimony and exhibits presented per worksheet. Evening recess. MATTER CONTINUED. ;

02/05/2009 **Jury Trial (9:00 AM)**

TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie Matter Continued; TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Journal Entry Details:

Christopher Adams, Esq. appearing pro hoc vice for Luis Hidalgo, III. Dominic Gentile, Esq. and Paola Armeni, Esq. appearing for Luis Hidalgo, Jr. in consolidated case C241394. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding proper questioning of Detective McGrath. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. Evening recess. MATTER CONTINUED. ;

02/06/2009 **Jury Trial (9:30 AM)**

TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie Matter Continued; TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Journal Entry Details:

Christopher Adams, Esq. appearing pro hoc vice for Luis Hidalgo, III. Dominic Gentile, Esq. and Paola Armeni, Esq. appearing for Luis Hidalgo, Jr. in consolidated case C241394. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. CONFERENCE AT BENCH. OUTSIDE THE PRESENCE OF THE JURY. Discussion regarding exhibits. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. CONFERENCE AT BENCH. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. Evening recess. MATTER CONTINUED. ;

02/09/2009 **Jury Trial (9:00 AM)**

TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie Matter Continued; TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Journal Entry Details:

Christopher Adams, Esq. appearing pro hoc vice for Luis Hidalgo, III. Dominic Gentile, Esq. and Paola Armeni, Esq. appearing for Luis Hidalgo, Jr. in consolidated case C241394. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding scheduling of witnesses. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Mr. Espindola with anyone during the lunch break. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Discussion regarding jury questions. Mr. Adams made stated on the record the people that Ms. Espincola conspired with. Now, one of the juror questions shows that the information they were told to consider is on the note. He MOVED for a mistrial. COURT ORDERED, DENIED; the matter will be cured by a statement by the Court. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. Evening recess. MATTER CONTINUED. ;

02/10/2009 **Jury Trial (9:30 AM)**

TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie Matter Continued; TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

CASE SUMMARY

CASE NO. 05C212667-4

Journal Entry Details:

Christopher Adams, Esq. appearing pro hoc vice for Luis Hidalgo, III. Dominic Gentile, Esq. and Paola Armeni, Esq. appearing for Luis Hidalgo, Jr. in consolidated case C241394. OUTSIDE THE PRESENCE OF THE JURY. Discussion regarding evidence. Discussion regarding article in the Review Journal. Following discussion by counsel, the Court stated it will ask jurors if anyone has seen anything about this case in the news media. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. State rested. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Opposition by counsel to being served with notice of witnesses this morning; he needs time to prepare for cross-examination. COURT ORDERED, said witness is to be excluded as there is another witness that may be called. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. CONFERENCE AT BENCH. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Juror number eleven excused as the trial is going longer than expected and he informed the Court and counsel at jury selection that he has to be out of town. Evening recess. MATTER CONTINUED. ;

02/11/2009 **Jury Trial (9:30 AM)**

TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie
Matter Continued; TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Journal Entry Details:

Christopher Adams, Esq. appearing pro hoc vice for Luis Hidalgo, III. Dominic Gentile, Esq. and Paola Armeni, Esq. appearing for Luis Hidalgo, Jr. in consolidated case C241394. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding witness being called who was in the Clark County Detention Center at the same time as Ms. Espindola. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Discussion regarding testimony of P.K. Handley. Mr. Gentile requested receipt of evidence given to the Court to find if there is exculpatory evidence. Following further discussion regarding this issue. COURT ORDERED, Mr. Gigiacomo is to provide the defense with a copy of the information, and if not, the State will be precluded from recalling Mr. Handley. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. CONFERENCE AT BENCH. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Mr. Digiacoimo read Mr. Handley's stated and advised there is no need to ask any other questions. Discussion regarding testimony of Ms. Perez. Mr. Digiacoimo informed the Court that Mr. Gentile is requesting Mr. Oram's notes from interviewing Ms. Espindola. Mr. Oram advised he has no problem showing the Court his work product in camera, but feels it would be inappropriate to have to testify. Mr. Gentile argued there is a joint defense argument with Ms. Espindola before she pled. The Court excused Mr. Handley with the caveat that he is to leave his cell phone on in case he has to be called back to Court. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. The Court advised Mr. Hidalgo, Jr. and Mr. Hidalgo, III of their constitutional rights to not be compelled to testify on their own behalf. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. CONFERENCE AT BENCH. Mr. Gentile RESTED. Mr. Arrascada RESTED. OUTSIDE THE PRESENCE OF THE JURY. Discussion regarding rebuttal testimony and what witnesses will be called and how they will be questioned. IN THE PRESENCE OF THE JURY. testimony and exhibits presented per worksheet. CONFERENCE AT BENCH. IN THE PRESENCE OF THE JURY Testimony and exhibits presented per worksheet. CONFERENCE AT BENCH. IN THE PRESENCE OF THE JURY. The State RESTED. OUTSIDE THE PRESENCE OF THE JURY. Counsel directed to provide jury instructions by disc to the Judicial Executive Assistant for modification. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding admission of Taoipu's affidavit in lieu of live testimony, as he has absconded. COURT STATED FINDINGS and ORDERED, that one exculpatory statement may not be used without discussing Hidalgo, III and his involvement. Evening recess. MATTER CONTINUED. ;

02/12/2009 **Jury Trial (9:30 AM)**

TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie
Matter Continued; TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Journal Entry Details:

Christopher Adams, Esq. appearing pro hoc vice for Luis Hidalgo, III. Dominic Gentile, Esq. and Paola Armeni, Esq. appearing for Luis Hidalgo, Jr. in consolidated case C241394. OUTSIDE THE PRESENCE OF THE JURY. Jury instructions settled on the record. IN THE PRESENCE OF THE JURY. Jurors instructed on the law of the case. OUTSIDE THE PRESENCE OF THE JURY. Mr. Adams requested that any testimony regarding "bats and bags" be stricken from the testimony. He sited his reason as being issues regarding due process and trial rights. Mr. Digiacoimo stated there is no legal basis for this request. IN THE PRESENCE OF THE JURY. Closing arguments by Mr. Pesci. Closing arguments by Mr. Gentile. Closing arguments by Mr. Adams. Closing arguments by Mr. Digiacoimo. At the hour of 6:45 PM, the jury retires to deliberate. Officer Wooten sworn to take charge of the jury. The Court released alternates in chairs seven and fifteen and asked them to provide Officer Wooten with their phone numbers in case the have to fill in for another juror. Evening recess. MATTER CONTINUED. ;

02/13/2009 **Jury Trial (9:30 AM)**

CASE SUMMARY

CASE No. 05C212667-4

TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie
Matter Continued; TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie
Journal Entry Details:
Deliberation by juror. Evening recess. MATTER CONTINUED. ;

02/17/2009 **Jury Trial (9:30 AM)**
TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair
Matter Heard; TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair
Journal Entry Details:
IN THE PRESENCE OF THE JURY. At the hour of 3:05 PM the jury returned with the following verdict: Count 1 - GUILTY of CONSPIRACY TO COMMIT A BATTERY WITH A DEADLY WEAPON OR BATTERY RESULTING IN SUBSTANTIAL BODILY HARM (F); Count 2 - GUILTY of SECOND DEGREE MURDER WITH USE OF A DEADLY WEAPON (F); Count 3 - GUILTY of SOLICITATION TO COMMIT MURDER (F); Count 4 - GUILTY of SOLICITATION TO COMMIT MURDER The Court thanked and excused the jurors from service. COURT ORDERED, matter referred to the Division of Parole and Probation for a presentence investigation report and SET for sentencing. CUSTODY 5/5/09 9:30 AM SENTENCING ;

02/24/2009 **CANCELED Motion for Own Recognizance Release/Setting Reasonable Bail (9:30 AM)**
Events: 02/18/2009 Motion
Vacated

02/24/2009 **Motion for Own Recognizance Release/Setting Reasonable Bail (9:30 AM)**
Events: 02/18/2009 Motion
DEFT'S MTN FIR O.R. RELEASE FOR HOUSE ARREST/271 Relief Clerk: Sharon Chun Reporter/Recorder: Janie Olsen Heard By: Valerie Adair
Granted; DEFT'S MTN FIR O.R. RELEASE FOR HOUSE ARREST/271 Relief Clerk: Sharon Chun
Reporter/Recorder: Janie Olsen Heard By: Valerie Adair
Journal Entry Details:
Following arguments by counsel, COURT ORDERED, Deft Espindola RELEASED ON O.R. WITH HOUSE ARREST THROUGH CLARK COUNTY DETENTION CENTER, noting that the State can coordinate her next appearance. O.R./H.A. ;

03/24/2009 **Motion for Judgment (9:30 AM)**
Events: 03/10/2009 Motion
DEFT'S MTN FOR JUDGMENT OF ACQUITTAL/272 Heard By: Valerie Adair

03/24/2009 **Motion for Judgment (9:30 AM)**
Events: 03/10/2009 Motion
DEFT'S MTN FOR JUDGMENT OF ACQUITTAL/273

04/21/2009 **Motion for Judgment (9:30 AM)**
DEFT'S MTN FOR JUDGMENT OF ACQUITTAL/273

04/21/2009 **Motion for Judgment (10:30 AM)**
DEFT'S MTN FOR JUDGMENT OF ACQUITTAL/272 Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie
Matter Continued; DEFT'S MTN FOR JUDGMENT OF ACQUITTAL/272 Court Clerk: Denise Husted
Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie
Journal Entry Details:
Dominic Gentile and Paola Armeni appearing in consolidated case C241394. Following arguments by counsel, COURT ORDERED, CONTINUED. CUSTODY ;

05/01/2009 **Motion for Judgment (10:30 AM)**
DEFT'S MTN FOR JUDGMENT OF ACQUITTAL/272 Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair
Matter Heard; DEFT'S MTN FOR JUDGMENT OF ACQUITTAL/272 Court Clerk: Denise Husted
Reporter/Recorder: Janie Olsen Heard By: Valerie Adair
Journal Entry Details:
Dominic Gentile and Paola Armeni appearing in consolidated case C241394. The Court noted that the question is regarding DeAngelo Carrol's statement. Statement by Ms. Armeni regarding Carrol's statement and his use of the pronoun "you". Mr. Digiacoimo argued that what the jury acted appropriately with what the Court instructed them to do. Mr. Gentile advised that a Crawford problem now exists as Carrol never took the stand in this trial. Additionally,

CASE SUMMARY

CASE No. 05C212667-4

the question is what is the magnitude of error of the jury not following their instructions. The Court stated its belief that there was no intentional misconduct. Mr. Gentile cited the Valdez case, which was decided last November by the Nevada Supreme Court; the Nevada statute is based on the advisory committees first draft of the code. Mr. Digiacomo argued that the law is on the State's side in this issue and the Court should not consider what happened in the jury room during deliberations. COURT FINDS, it is very clear that if anything is considered, there will be an Evidentiary Hearing or a ruling at a later date. COURT ORDERED, parties are to brief the issue; objections are due by 5/15/09 and the response is due by 5/22/09. Mr. Gentile requested that the sentencing be continued as the presentence investigation report was sent to the wrong law firm. Additionally, once the report was received, he found several mistakes in the report. COURT ORDERED, it will reluctantly continue the sentencing, however counsel must file a motion with the Court identifying the alleged errors in the presentence investigation report. CUSTODY 6/2/09 9:30 AM SENTENCING ;

05/05/2009 **CANCELED Sentencing (9:30 AM)**

Events: 02/18/2009 Conversion Case Event Type
Vacated

05/07/2009 **Bench Warrant Return (9:30 AM)**

Events: 05/05/2009 Bench Warrant
BENCH WARRANT RETURN Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair Matter Heard; BENCH WARRANT RETURN Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair
Journal Entry Details:
The Court noted that the Defendant is currently being held in North Las Vegas and a Revocation hearing needs to be set. Matter trailed for Mr. Jackson's appearance. Matter recalled with Mr. Jackson present. He stated he has a Federal trial coming up which may last several months, and doesn't think he will be able to continue representing the Defendant. The Court stated that since he has been with the Defendant throughout the case, he should continue representing him; the matter will be continued to accommodate Mr. Jackson's schedule. Mr. Digiacomo advised the Defendant has been charged with four separate home invasions and will be in custody pending preliminary hearings in those cases. COURT ORDERED, matter set for revocation hearing. CUSTODY 6/16/09 9:30 AM REVOCATION OF PROBATION ;

06/02/2009 **Status Check (9:30 AM)**

Events: 05/01/2009 Hearing
STATUS CHECK: SENTENCING Relief Clerk: Shelly Landwehr/sl Reporter/Recorder: Janie Olsen Heard By: Valerie Adair
Matter Heard; STATUS CHECK: SENTENCING Relief Clerk: Shelly Landwehr/sl Reporter/Recorder: Janie Olsen Heard By: Valerie Adair
Journal Entry Details:
Following conference at the bench, Court advised it addressed the previous Motions in chambers and prepared a minute order. Regarding the corrected pre-sentence investigation report (PSI), COURT ORDERED, both counsel to prepare an Order directing P & P to make the necessary changes. Following conference at the bench, State advised they are willing to accept the changes Def't's attorneys are referring to and suggested the State prepare the Order and to include 6/16/09 as the due date for the PSI; COURT SO ORDERED and matter SET for sentencing. CUSTODY 06/23/09 10:00 AM SENTENCING (HIDALGO) ;

06/11/2009 **Calendar Call (9:30 AM)**

CALENDAR CALL Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

MINUTES

Matter Heard; CALENDAR CALL Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Journal Entry Details:

The State announced ready for trial which should last one week for the guilt phase and one day for the penalty phase, if necessary. Mr. Figler requested a continuance to review the jury questionnaires. Additionally, he stated that the Court can address the aggravator or he can take it to the Supreme Court. Mr. Digiacomo argued that he cannot start any later that the trial is now set. The Court informed Mr. Figler that he was informed at the last continuance that he must be ready for trial at this setting. COURT ORDERED, Mr. Figler's oral motion to Stay and request to continue are DENIED; trial date STANDS and will begin at 9:30 AM. CUSTODY 9/15/09 9:30 AM JURY TRIAL ;

06/15/2009 **Jury Trial (9:30 AM)**

TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair
Matter Heard; TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair
Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY. Oral motion by Mr. Figler to continue the trial as he is not adequately

CASE SUMMARY**CASE NO. 05C212667-4**

prepared to represent the Defendant in this death penalty case. He added that he requested that the case be tried as a non-death penalty case and that he has not had adequate time to fully review the jury questionnaires. The Court noted that the questionnaires were ready for Mr. Figler's review last week; because this is a death penalty case, the questionnaires were mandatory. Mr. Figler informed the Court that due to the death of his father, the fact that he was recently hospitalized and that he recently switched firms, he is not prepared to try this case. The Court stated that everyone knew that Carroll was wearing a wire long before Mr. Figler experienced personal problems; this was the issue from the inception of the case and it is inexcusable that Mr. Figler is not prepared. Mr. Bunin advised that he is not comfortable going forward at this time. Mr. Digiacomo stated his belief that Mr. Figler is posturing to have the death penalty taken off of the table and have the information regarding the wires excluded; in that case the jury questionnaires are not necessary. Mr. Bunin stated that he has not been able to speak to Mr. Figler during the last two months to determine what his trial preparation is. The Court noted that there has been a long history of continuances by Mr. Figler and he was told that one more request for a continuance would result in his removal from the case. CONFERENCE AT BENCH. Upon Court's inquiry the Defendant stated that in four years, he has spoken to Mr. Figler for one and on-half hours; he advised that he doesn't want Mr. Figler representing him any longer. COURT ORDERED, Dayvid Figler is REMOVED from the case; the matter is referred to Drew Christiansen to appoint a 250 qualified attorney. Mr. Figler stated he will turn over all of the paperwork and Discovery to Mr. Bunin. COURT ORDERED, CONTINUED for Confirmation of Counsel/Dan Albregts and to reset trial. The Judicial Executive Assistant to contact Mr. Albregts to appear. CUSTODY 6/18/09 9:30 AM STATUS CHECK: CONFIRMATION OF COUNSEL/DAN ALBREGTS/RESET TRIAL ;

06/16/2009 Revocation of Probation (9:30 AM)

Events: 05/07/2009 Hearing

REVOCATION OF PROBATION Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Matter Continued; REVOCATION OF PROBATION Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Journal Entry Details:

Mr. Jackson stated the matter was not resolved. The Court noted that the Defendant has been indicted on new charges. Colloquy regarding the new case. Mr. Jackson requested that the Revocation be continued until after the conclusion of any other new cases. CONFERENCE AT BENCH. COURT ORDERED, matter CONTINUED for the presence of an officer from the Division of Parole and Probation. CUSTODY ;

06/18/2009 Status Check (9:30 AM)

Events: 06/15/2009 Hearing

STATUS CHECK: APPOINTMENT OF DAN ALBREGTS/RESET TRIAL Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Granted; STATUS CHECK: APPOINTMENT OF DAN ALBREGTS/RESET TRIAL Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Journal Entry Details:

Tom Ericson CONFIRMED as counsel replacing Dayvid Figler. Colloquy regarding scheduling date for new trial. COURT ORDERED, trial date SET. CUSTODY 5/13/10 9:30 AM CALENDAR CALL 5/17/10 9:30 AM JURY TRIAL ;

06/23/2009 Sentencing (10:00 AM)

Events: 06/02/2009 Conversion Case Event Type

SENTENCING Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Granted; SENTENCING Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Journal Entry Details:

Discussion regarding juror misconduct and misuse of jury instructions. COURT FINDS, there was enough evidence that the conspiracy went beyond simple battery and the Court is not inclined to overturn the verdict. FURTHER, the Court stands by its decision to disallow the testimony of Jayson Taoipu. Parties argued and submitted. Victim speakers Doris Gibbs, Allana Hadland and Jennifer Hadland SWORN AND TESTIFIED. DEFENDANT HIDALGO III ADJUDGED GUILTY of Count I - Conspiracy to Commit Battery with a Deadly Weapon or Battery (GM), Count II - Second Degree Murder with Use of a Deadly Weapon (F), and Counts III & IV - Solicitation to commit Murder (F). COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee and submission to DNA testing under the direction of the Division and payment of a \$150.00 Analysis fee to the Clerk of the Court, Defendant SENTENCED as follows: Count I - TWELVE (12) MONTHS in the Clark County Detention Center; Count II - MINIMUM of ONE-HUNDRED TWENTY (120) MONTHS in the Nevada Department of Corrections with a MAXIMUM term of LIFE, plus an EQUAL and CONSECUTIVE term of 120 Months to LIFE for the Deadly Weapons enhancement, Count II to RUN CONCURRENTLY with Count I; Count III - MINIMUM of TWENTY FOUR (24) MONTHS in the Nevada Department of Corrections with a MAXIMUM term of SEVENTY-TWO (72) MONTHS, Count III to RUN CONCURRENTLY with Counts I & II; Count IV - MINIMUM of TWENTY FOUR (24) MONTHS in the Nevada Department of Corrections with a MAXIMUM term of SEVENTY TWO (72) MONTHS, Count IV to RUN CONCURRENTLY with Count I, II and III. BOND, if any EXONERATED. Defendant to receive 1,492 DAYS CREDIT for time served. ;

06/30/2009 Revocation of Probation (9:30 AM)

CASE SUMMARY

CASE NO. 05C212667-4

REVOCATION OF PROBATION Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Probation Revoked; REVOCATION OF PROBATION Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Journal Entry Details:

Tim Case of the Division of Parole and Probation present. Officer case SWORN AND TESTIFIED. Exhibits admitted per worksheets. Mr. Jackson questioned Officer Case. Jason Taoipu SWORN AND TESTIFIED. Arguments by Mr. Jackson in support of reinstatement. Ms. Weckerly stated the record is clear that the Defendant was not in compliance with probation. COURT ORDERED, PROBATION REVOKED; underlying sentence IMPOSED as follows: Count I - MINIMUM of FORTY-EIGHT (48) MONTHS in the Nevada Department of Corrections with a MAXIMUM term of ONE-HUNDRED TWENTY (120 MONTHS; Count II - MINIMUM of SIXTEEN (16) MONTHS with a MAXIMUM term of SIXTY (60) MONTHS, plus an EQUAL AND CONSECUTIVE term of 16/60 months for the deadly weapons enhancement; Count II to RUN CONCURRENTLY with Count I, with 870 DAYS CREDIT for time served. ;

12/29/2009 **Motion (9:30 AM)**

Events: 12/17/2009 Motion

DEFT'S PRO PER MTN TO WITHDRAW CNSL/283 Court Clerk: Denise Husted Heard By: Valerie Adair

Matter Heard; DEFT'S PRO PER MTN TO WITHDRAW CNSL/283 Court Clerk: Denise Husted Heard By: Valerie Adair

Journal Entry Details:

COURT ORDERED, motion GRANTED. NDC ;

01/21/2010 **Motion (9:30 AM)**

Events: 01/11/2010 Motion

DEFT'S PRO PER MTN FOR RELIEF FROM JUDGMENT/284 Court Clerk: Denise Husted Reporter/Recorder: Patti Slattery Heard By: Adair, Valerie

Matter Continued; DEFT'S PRO PER MTN FOR RELIEF FROM JUDGMENT/284 Court Clerk: Denise Husted Reporter/Recorder: Patti Slattery Heard By: Adair, Valerie

Journal Entry Details:

The Court noted there is no certificate of service. Mr. Smith stated that this is Mr. Digiacoimo's case. COURT ORDERED, CONTINUED. NDC CLERK'S NOTE: Mr. Digiacoimo notified via e-mail of the continuance date. ;

02/09/2010 **Motion (9:30 AM)**

Events: 01/25/2010 Motion

DEFT'S PRO PER MTN FOR PRODCUTION OF DOCUMENTS PAPERS PLEADINGS AND TNGBL/285 Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Granted; DEFT'S PRO PER MTN FOR PRODCUTION OF DOCUMENTS PAPERS PLEADINGS AND TNGBL/285 Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Journal Entry Details:

COURT ORDERED, motion GRANTED; Ms. Wildeveld to provide the Defendant with requested papers, etc. NDC ;

02/11/2010 **Motion (9:30 AM)**

DEFT'S PRO PER MTN FOR RELIEF FROM JUDGMENT/284 Court Clerk: Melissa Benson Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Denied; DEFT'S PRO PER MTN FOR RELIEF FROM JUDGMENT/284 Court Clerk: Melissa Benson Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Journal Entry Details:

Court stated it is not entertaining any argument as their are no parties present and ORDERED, based upon review of the breifs motion DENIED. NDC CLERK'S NOTE: A copy of this minute order was mailed to the Def. Kenneth Counts #1017559 PO Box 650 H.D.S.P., Indian Springs, NV 89070. mb 2/11/10 ;

03/30/2010 **Motion to Dismiss (9:30 AM)**

Events: 03/18/2010 Motion

DEFT'S PRO PER MTN TO DISMISS COUNSEL/286 Relief Clerk: Shelly Landwehr Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Withdrawn; DEFT'S PRO PER MTN TO DISMISS COUNSEL/286 Relief Clerk: Shelly Landwehr Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Journal Entry Details:

Mr. Bunin advised Def. wished to withdraw his motion. Upon Court's inquiry, Def. concurred. COURT ORDERED, motion WITHDRAWN. Trial date STANDS. CUSTODY ;

05/11/2010 **Motion (9:30 AM)**

Events: 04/28/2010 Motion

CASE SUMMARY

CASE NO. 05C212667-4

STATE'S MTN FOR DISCOVERY RE: EXPERT TESTIMONY & MTN IN LIMINE RE: EXPRT/288

05/11/2010 **Motion to Suppress** (9:30 AM)

Events: 04/30/2010 Motion
DEFT'S MTN TO SUPPRESS /289

05/11/2010 **All Pending Motions** (9:30 AM)

ALL PENDING MOTIONS 5/11/10 Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Matter Heard; ALL PENDING MOTIONS 5/11/10 Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Journal Entry Details:

STATE'S MOTION FOR DISCOVERY RE: EXPERT TESTIMONY AND MOTION IN LIMINE RE: EXPERT TESTIMONY Mr. Erickson argued opposition to State's Motion for Discovery; under the rules, doctors have to turn over their reports to other doctors and not lay personnel. COURT ORDERED, reports can be released to a licensed physician. Mr. Erickson informed the Court he will provide to the State by 5/12/10. Mr. Pesci advised that a report is not ready as yet, only data is available. COURT ORDERED, report has to be completed within forty-eight hours. As to Defendant's Motion to Suppress, the Court informed parties that a ruling will be made following an in-camera review of briefs, transcript and the DVD. CUSTODY CLERK'S NOTE: After reviewing the transcript, DVD and Defendant's interview, COURT FINDS no need for an Evidentiary Hearing on the Defendant's Motion to Suppress. Based upon the briefs, transcript and DVD, COURT ORDERED, Defendant's Motion to Suppress is DENIED. ;

05/13/2010 **Calendar Call** (9:30 AM)

CALENDAR CALL Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

MINUTES

Matter Heard; CALENDAR CALL Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Journal Entry Details:

CONFERENCE AT BENCH. Counsel announced ready for trial with 10-12 witnesses and five days for the guilt phase. COURT ORDERED, trial date STANDS. 5/17/10 9:00 AM JURY TRIAL (CARROLL) ;

05/17/2010 **Jury Trial** (9:30 AM)

TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

MINUTES

Matter Continued; TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Journal Entry Details:

IN THE PRESENCE OF THE JURY. Introductions by Court and counsel. Roll of jurors called by the Clerk. Jury selection proceeded. OUTSIDE THE PRESENCE OF THE JURY. Discussion regarding for cause challenges. Juror #126 excused due to a medical situation. IN THE PRESENCE OF THE JURY. Jury selection continued. Second half of jury panel present in Court. Introductions by counsel. Roll of second panel called by the Clerk. OUTSIDE THE PRESENCE OF THE JURY. Discussion regarding timeline of opening statements. Juror #320 questions regarding his jury questionnaire. After the juror left the Courtroom, the Court informed counsel that it cannot dismiss that juror for cause. Mr. Ericsson stated his opinion regarding juror #320 is that the juror should be stricken for cause. Opposition by Mr. Digiaco. The Court informed counsel that it has to presume jurors are being truthful; #320 will be able to sit as a juror based on his answers. IN THE PRESENCE OF THE JURY. Jury selection process continued. Evening recess. MATTER CONTINUED. ;

05/18/2010 **Jury Trial** (10:30 AM)

TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Matter Continued; TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding jury selection. IN THE PRESENCE OF THE JURY. Roll of jurors called by the Clerk. Jury selection process continued. Evening recess. MATTER CONTINUED. ;

05/19/2010 **Jury Trial** (10:30 AM)

TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Matter Continued; TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY. Mr. Digiaco informed the Court that the State decided they are not

CASE SUMMARY

CASE NO. 05C212667-4

calling Ms. Espindola and that any conversations the State has had with counsel are not relevant in this case. The Court agreed. *IN THE PRESENCE OF THE JURY.* Jurors Sworn. Information read by the Clerk. Introductory comments by the Court. Opening statements by Ms. Digiaco. Opening statement by Mr. Ericsson. *OUTSIDE THE PRESENCE OF THE JURY.* Mr. Ericsson objected to the State playing segments of interviews with the police and the Defendant. Mr. Digiaco stated there is no legal basis for Mr. Ericsson's objections. *COURT FINDS,* it the same as the State highlighting portions of a transcript; the *COURT DOES NOT FIND* playing segments objectionable. *IN THE PRESENCE OF THE JURY.* Testimony and exhibits presented per worksheet. *OUTSIDE THE PRESENCE OF THE JURY.* The Court admonished counsel to not make speaking objections. *IN THE PRESENCE OF THE JURY.* Testimony and exhibits presented per worksheet. Evening recess. *MATTER CONTINUED.* ;

05/20/2010 **Jury Trial (9:00 AM)**

TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie
Matter Continued; *TRIAL BY JURY* Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Journal Entry Details:

IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. *CONFERENCE AT BENCH.* *OUTSIDE THE PRESENCE OF THE JURY.* Colloquy regarding cross examination of Rontae Zone. The Court informed Mr. Digiaco that he may ask Mr. Zone whether of not he used the works kill or murder during his interview. *IN THE PRESENCE OF THE JURY.* Testimony and Exhibits presented per worksheet. *CONFERENCE AT BENCH.* *IN THE PRESENCE OF THE JURY.* Testimony and exhibits presented per worksheet. Evening recess. *MATTER CONTINUED.* ;

05/21/2010 **Jury Trial (10:00 AM)**

TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie
Matter Continued; *TRIAL BY JURY* Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding Anabella Espindola's transcript. *IN THE PRESENCE OF THE JURY.* Testimony and exhibits presented per worksheet. *OUTSIDE THE PRESENCE OF THE JURY.* The Court admonished the Defendant regarding his first Amendment right to not be compelled to testify on his own behalf. The Defendant stated he understands his rights. The State *RESTED.* *CONFERENCE AT BENCH.* The State reopened their case. Testimony per worksheet. The State *RESTED.* Defense *RESTED.* Mr. Ericsson moved for a mistrial as Mr. Digiaco reopened his case to ask the detective where the crime took place. *COURT ORDERED, DENIED* as the incident took place in Clark county. *OUTSIDE THE PRESENCE OF THE JURY.* Colloquy regarding jury instructions. Evening recess. *MATTER CONTINUED.* ;

05/24/2010 **Jury Trial (9:30 AM)**

TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie
Matter Continued; *TRIAL BY JURY* Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY. Jury instructions settled on the record. *IN THE PRESENCE OF THE JURY.* The Court instructed jurors on the law of the case. Closing arguments by Mr. Pesci. Closing arguments by Mr. Bunin. Rebuttal arguments by Mr. Digiaco. Officer Wooten *SWORN* to take charge of the jury. At the hour of 2:05 PM the jury retired to deliberate. Alternate jurors in seats thirteen, fourteen and fifteen released. Evening recess. *MATTER CONTINUED.* ;

05/25/2010 **Jury Trial (9:30 AM)**

TRIAL BY JURY Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: David Wall
Matter Heard; *TRIAL BY JURY* Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: David Wall

Journal Entry Details:

IN THE PRESENCE OF THE JURY. At the hour of 2:05 PM, the jury returned with the following verdict: *COUNT I - CONSPIRACY TO COMMIT MURDER - GUILTY COUNT II - FIRST DEGREE MURDER WITH USE OF A DEADLY WEAPON - GUILTY.* Penalty hearing SET. The Court thanked the jurors and advised them to return on 6/2/10 for the penalty hearing. *COURT ORDERED, Defendant HELD WITHOUT BAIL. CUSTODY 6/2/10 11:00 AM PENALTY HEARING ;*

06/02/2010 **Motion (11:00 AM)**

Events: 05/25/2010 Motion

PENALTY HEARING Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

MINUTES

Motion

PENALTY HEARING

CASE SUMMARY

CASE NO. 05C212667-4

Matter Continued; PENALTY HEARING Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY. Mr. Bunin opposed Judge Loehrer hearing the penalty phase as Judge Adair has been involved with this case from the beginning and has heard two previous trials in this case. Judge Loehrer stated that the Defendant has already been convicted of first degree murder; Judge Adair is unavailable today and there are no rules precluding another Judge from hearing the Penalty Phase. Jury instructions settled on the record. *IN THE PRESENCE OF THE JURY.* Introductions by the Court. Opening statement by Mr. Digiaco. Opening statements by Mr. Ericsson. Testimony and exhibits presented per worksheet. State *RESTED*. Evening recess. *MATTER CONTINUED.* ;

06/03/2010 **Petition for Writ of Habeas Corpus (9:30 AM)**

Events: 04/16/2010 Petition

PTN FOR WRIT OF HABEAS CORPUS Relief Clerk: Susan Jovanovich /sj Reporter/Recorder: Janie Olsen Heard By: Doug Smith

Matter Continued; PTN FOR WRIT OF HABEAS CORPUS Relief Clerk: Susan Jovanovich /sj Reporter/Recorder: Janie Olsen Heard By: Doug Smith

Journal Entry Details:

At request of State, COURT ORDERED, matter CONTINUED for 30 days, for Deft's presence. State to prepare an order for transport. NDC MATTER CONTINUED TO: 7-01-10 9:30 AM ;

06/03/2010 **Motion (9:30 AM)**

PENALTY HEARING Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Matter Continued; PENALTY HEARING Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Adair, Valerie

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding death penalty being sought in this case with other defendants. *COURT ORDERED*, based on Judge Loehrer's ruling, the jury will be instructed that the State sought the death penalty against Kenneth Counts; it was also sought against defendants' Hidalgo, Jr. and Hidalgo, III, but was withdrawn based on tactical issues. Additionally the jurors will be told that plea negotiations were entered by defendants' Taiopu and Espindola. *IN THE PRESENCE OF THE JURY.* Testimony and exhibits presented per worksheet. *OUTSIDE THE PRESENCE OF THE JURY.* Colloquy regarding scheduling. Defendant admonished that he has the right to take the stand and make an unsworn statement in front of the jury. The Court further advised him of what discussion was proper and what was not proper. *IN THE PRESENCE OF THE JURY.* Testimony and exhibits presented per worksheet. *UNSWORN* statement by Deangelo Carroll. Defense *RESTED*. The Court instructed jurors on the law of the case. Closing arguments by Mr. Pesci. Closing arguments by Mr. Ericsson. Closing arguments by Mr. Bunin. *CONFERENCE AT BENCH.* Closing arguments by Mr. Bunin continued. Rebuttal arguments by Mr. Pesci. At the hour of 5:20 PM, the jury retired to deliberate. Marshall *SWORN* to take charge of the jury. Evening recess. *MATTER CONTINUED.* ;

06/04/2010 **Motion (9:30 AM)**

PENALTY HEARING Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Doug Smith

Matter Heard; PENALTY HEARING Court Clerk: Denise Husted Reporter/Recorder: Janie Olsen Heard By: Doug Smith

Journal Entry Details:

IN THE PRESENCE OF THE JURY: At the hour of 2:10 PM the jury returned with the following verdict: Count 2 - *MURDER OF THE FIRST DEGREE* - Life in the Nevada State Prison with the Possibility of Parole, beginning when a Minimum of 40 Years has been Served; *SPECIAL VERDICT:* Deangelo did not come up with the idea to kill Timothy Hadland. Deangelo was not the shooter. Deangelo's cooperation led to charges being filed against other defendants. Deangelo has a low IQ. Deangelo suffers from dependent personality disorder. Deangelo can still be a significant part of his grandmother's life. Deangelo can still be a significant part of his son's life. The killing did not involve torture of mutilation of the victim. The killing was not a case of multiple homicides. Other persons involved in the offense received punishments significantly lower than the punishments Deangelo is facing. *SPECIAL VERDICT:* Defendant Deangelo Reshawn Carroll having been found Guilty of Count 2 - Murder of the First Degree - The murder was committed by a person, for himself or another, to receive money or any other thing of monetary value. The Court thanked and excused jurors from service. *COURT ORDERED*, matter referred to the Division of Parole and Probation for a presentence investigation report and SET for sentencing. *CUSTODY 8/12/10 9:30 AM SENTENCING ;*

07/01/2010 **Petition for Writ of Habeas Corpus (9:30 AM)**

Events: 06/03/2010 Petition

PTN FOR WRIT OF HABEAS CORPUS (CONTINUEDFROM 6/03/10) Court Clerk: Dameda Scott Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

MINUTES

Petition

CASE SUMMARY

CASE No. 05C212667-4

PTN FOR WRIT OF HABEAS CORPUS (CONTINUED FROM 6/03/10)

Matter Heard; PTN FOR WRIT OF HABEAS CORPUS (CONTINUED FROM 6/03/10) Court Clerk: Dameda Scott
Reporter/Recorder: Janie Olsen Heard By: Valerie Adair

Journal Entry Details:

Colloquy regarding appeal filed by Defendant Pro Se; confirmed all remaining issues to be heard in Dept. 21 with nothing, including appeal, pending before Nevada Supreme Court. Mr. Schwartz requested continuance and, there being no opposition, COURT ORDERED, matter CONTINUED and Reply due 7/15/10. NDC 8/19/10 9:30 AM DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS ;


08/12/2010  **Sentencing** (9:30 AM) (Judicial Officer: Adair, Valerie)

Defendant Sentenced;

Journal Entry Details:

Parties argued and submitted. Defendant CARROLL ADDJUDGED GUILTY of COUNT 1 - CONSPIRACY TO COMMIT MURDER (F). and COUNT 2 - MURDER WITH USE OF A DEADLY WEAPON (F). COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee and submission to DNA testing and payment of a \$150.00 fee to the District Court Clerk, Defendant SENTENCED as follows: COUNT 1 - MINIMUM of THIRTY-SIX (36) MONTHS in the Nevada Department of Corrections with a MAXIMUM term of ONE-HUNDRED TWENTY (120) MONTHS; Count 2 - LIFE with the POSSIBILITY OF PAROLE after serving a MINIMUM of TWENTY (20) YEARS plus an EQUAL AND CONSECUTIVE term of LIFE with the POSSIBILITY OF PAROLE after serving TWENTY (20) YEARS, Count 2 to RUN CONSECUTIVELY to Count 1, with 1,904 DAYS CREDIT for time served. BOND, if any EXONERATED. CLERK'S NOTE: The above minute order MODIFIED to reflect that the Defendant sentenced to 36/120 on Count 1. dh 3/15/11 ;


08/19/2010 **CANCELED Motion** (9:30 AM)
Vacated - On In Error

12/16/2010  **Request** (9:30 AM) (Judicial Officer: Smith, Douglas E.)

*Request for Appointment of Appellate Counsel re: violation of Deft's Lozado Rights
Granted;*

Journal Entry Details:

Mr. Bunin moved to be removed as counsel. COURT SO ORDERED. Pat McDonald informed parties that he is taking the appointment as counsel. He requested a status check in sixty days. COURT SO ORDERED. CUSTODY 2/17/11 9:30 AM STATUS CHECK ;

02/17/2011  **Status Check** (9:30 AM) (Judicial Officer: Adair, Valerie)

02/17/2011, 03/08/2011

Continued;

Matter Heard;

Journal Entry Details:

Mr. McDonald stated he received the file from, but has not reviewed it as yet. Upon Court's inquiry, he requested that a briefing schedule be set. COURT ORDERED, briefing schedule set as follows: Opening brief due by 6/7/11; Opposition due by 8/9/11; Reply due by 9/9/00, and matter SET for hearing. CUSTODY 9/13/11 9:30 AM HEARING ;

Continued;

Matter Heard;

Journal Entry Details:

Mr. McDonald stated that despite three requests, he has received only one-third of the file from Mr. Bunin; he will send another request for receipt of the records. COURT ORDERED, CONTINUED CUSTODY 3/8/11 9:30 AM STATUS CHECK;

03/15/2011  **Motion to Amend Judgment** (9:30 AM) (Judicial Officer: Adair, Valerie)

Events: 03/01/2011 Motion to Amend Judgment

Motion to Amend Judgment of Conviction

Granted;

Journal Entry Details:

Ms. Wong appearing for the State. Mr. McDonald stated Count 1 of the Judgment of Conviction needs to be amended. COURT ORDERED, Count 1 MODIFIED to reflect a sentence of a MINIMUM of THIRTY-SIX (36) MONTHS in the Nevada Department of Corrections with a MAXIMUM term of ONE-HUNDRED TWENTY (120) MONTHS. NDC CLERK'S NOTE: Sentencing minutes of 8/12/10 modified to reflect the above change. dh 3/15/11. ;

08/30/2011  **Motion** (9:30 AM) (Judicial Officer: Adair, Valerie)

CASE SUMMARY

CASE NO. 05C212667-4

08/30/2011, 09/13/2011

Events: 08/26/2011 Motion

Motion for an Extension of Time to File Opening Brief

Continued;

Granted;

Journal Entry Details:

Mr. McDonald advised that Mr. Bunin only supplied him with a partial amount of the records so far and requested an extension in order to obtain and review all of the records. Colloquy regarding confusion between Bunin and Erickson in thinking the other had provided all of the records. COURT ORDERED, motion GRANTED. CUSTODY ;

Continued;

Granted;

Journal Entry Details:

Defendant not present, in custody in the Nevada Department of Corrections. Mr. McDonald requested an extension to file opening brief; State reserves the right to raise the issue pertaining to the delays caused by the defense. Following CONFERENCE AT THE BENCH, Court directed Mr. McDonald to contact counsel to locate the transcripts, and SET matter for Status Check in two weeks. CUSTODY 9/13/11 9:30 AM - STATUS CHECK ;

11/01/2011



Status Check (9:30 AM) (Judicial Officer: Adair, Valerie)

Set New Briefing Schedule and Hearing Date

Granted;

Journal Entry Details:

Pursuant to request by Mr. McDonald, COURT ORDERED, the following brief schedule is set: Opening due by 1/3/12 Response due by 3/6/12 Reply due by 4/10/12 and matter SET for hearing. FURTHER, the State of prepare the Order for Transport for Defendant's presence for the hearing. CUSTODY 4/24/12 9:30 AM HEARING ;

04/24/2012



Hearing (9:30 AM) (Judicial Officer: Adair, Valerie)

04/24/2012, 05/10/2012

Events: 07/06/2011 Stipulation and Order

Matter Continued;

Matter Heard;

Journal Entry Details:

Bob Sweetin present on behalf of the State. Court reviewed the history of the case. COURT set Evidentiary Hearing for the matter. NDC 6/4/12 9:30 AM EVIDENTIARY HEARING ;

Matter Continued;

Matter Heard;

Journal Entry Details:

Mr. Kozel requested a continuance as Mr. Giordani is out of the jurisdiction. NDC CONTINUED TO: 5/10/12 9:30 AM ;

04/24/2012

CANCELED Petition for Writ of Habeas Corpus (9:30 AM) (Judicial Officer: Adair, Valerie)

Vacated

06/04/2012



Evidentiary Hearing (9:30 AM) (Judicial Officer: Adair, Valerie)








Matter Heard;

Journal Entry Details:

Court noted the presence of the parties and the defendant regarding this matter. Testimony presented (See worksheets). Colloquy between the Court and the current witness on the stand regarding any potential appellate issues being discussed with the defendant prior to or during trial. Upon inquiry by the court Attorney McDonald states there will be no further testimony presented based upon the witness testimony that has already been conducted. Court advised, it is clear from the testimony presented of there being a failure to file an appeal on the defendant's behalf by counsel. Further, it is also clear that the Defendant's right for appeal was denied and therefore should be granted at this level. Attorney Simon inquired if the Court was familiar with the new 4 (c) appellate procedure under Nevada rules. Therefore, COURT ORDERED, the Defendant will be given relief at this level regarding an appeal. Attorney McDonald is to prepare the order and submit it to the Court. The court clerk's office is to file an appeal on behalf of the Defendant. Colloquy between the court and counsel regarding Attorney McDonald remaining the Defendant's counsel at the appellate level. COURT FURTHER ORDERED, the Court will contact Attorney Christiansen's office to notify him of Attorney McDonald's desire to remain counsel at the appellate level verses there being new counsel appointed by the Court. Upon inquiry by the Court Attorney McDonald confirmed that he is 250 qualified. This matter will be set for a 2 week status check with the Defendant's presence being waived for the next court date listed. The State is to prepare an order to transport in the event of the Defendant's presence being required for any future court dates following the status check. NDC 6/19/12 9:30 A.M. STATUS CHECK: APPELLATE COUNSEL ;

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06/19/2012	 Status Check (9:30 AM) (Judicial Officer: Adair, Valerie) <i>STATUS CHECK: APPELLATE COUNSEL</i> Matter Heard; Journal Entry Details: <i>DEFT NOT PRESENT. Mr. McDonald informed the Court he is CONFIRMING APPOINTMENT OF COUNSEL. COURT SO ORDERED. NDC ;</i>
03/26/2013	 Motion to Withdraw as Counsel (9:30 AM) (Judicial Officer: Adair, Valerie) <i>Motion to Withdraw</i> Granted; Journal Entry Details: <i>Tim Fattig, Deputy District Attorney, present on behalf of the State. Defendant not present in custody with the Nevada Department of Corrections, and represented by Kent Kozal Esq. on behalf of McDonald Adras LLC. Following a conference at the bench, COURT ORDERED, Motion GRANTED; counsel shall be appointed through Drew Christensen's office; and matter SET for Confirmation of Counsel. FURTHER ORDERED, the firm shall be responsible for provided the file to new counsel. NDC 4/11/2013 9:30 AM CONFIRMATION OF COUNSEL CLERK'S NOTE: Drew Christensen notified via email regarding appointment. te ;</i>
04/11/2013	 Confirmation of Counsel (9:30 AM) (Judicial Officer: Adair, Valerie) <i>Confirmation of Counsel - Appointment by Drew Christensen</i> Matter Heard; Journal Entry Details: <i>Mario Valencia confirmed as Counsel. Upon inquiry of the Court, a status check is not necessary at this time. NDC;</i>
08/20/2013	 Further Proceedings (9:30 AM) (Judicial Officer: Adair, Valerie) <i>Further Proceedings to Set Evidentiary Hearing Pursuant to Order of Remand From Supreme Court</i> Hearing Set; Journal Entry Details: <i>Mr. Valencia stated that Mr. McDonald previously represented the defendant. COURT ORDERED, matter SET for an Evidentiary Hearing; order of transport to be completed by the State and Mr. McDonald to be present to explain if he filed an appeal in a timely manner. NDC 9/16/13 9:30 AM EVIDENTIARY HEARING ;</i>
09/16/2013	CANCELED Evidentiary Hearing (9:30 AM) (Judicial Officer: Adair, Valerie) <i>Vacated - per Secretary</i>
09/17/2013	 Status Check (9:30 AM) (Judicial Officer: Adair, Valerie) <i>Status Check: Reset Evidentiary Hearing</i> Matter Heard; Journal Entry Details: <i>Mr. Valencia stated the witness for this case will be available within 30 days and requested that the Evidentiary Hearing be reset. Conference at the bench. Mr. Pesci stated he would prepare an Order for Transport. COURT advised it would move forward even if the witness was not available and ORDERED, Evidentiary Hearing RESET. NDC 10/21/13 9:30 AM EVIDENTIARY HEARING ;</i>
10/21/2013	 Evidentiary Hearing (9:30 AM) (Judicial Officer: Adair, Valerie) Matter Heard; Journal Entry Details: <i>Court noted issues from the Remand from the Supreme Court. Mr. Valencia argued if defendant testifies today that it be limited and stated the limitations. Arguments by counsel. Defendant sworn and testified. Court stated its findings, and ORDERED, it was reasonable for defendant to assume an appeal would be forthcoming and he requested an appeal. Defendant wanted an appeal and believed his attorneys would pursuant an appeal for him. Defendant took steps to contact Mr. McDonald. Mr. McDonald tried to get the file. Defendant did establish a good cause and the Petition was filed within a reasonable time. Counsel to submit findings from today. NDC ;</i>
03/21/2017	 Motion to Withdraw as Counsel (9:30 AM) (Judicial Officer: Adair, Valerie) <i>Defendant's Motion To Withdraw Counsel And Return All Documents NRS 7.055</i> Granted; Journal Entry Details: <i>Court GRANTED the motion and noted that the Deft's attorney notified chambers that there were 15 banker's boxes</i>

CASE SUMMARY

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that contained the Deft's file. Court stated that if Mr. Valencia has issues with getting the file to the Deft., he needs to place the matter back on calendar to inform the Court of the issues. NDC CLERK'S NOTE: The above minute order has been distributed to Mr. Valencia via email. jmc 4/1/17;

08/17/2017 **Petition for Writ of Habeas Corpus (9:30 AM)** (Judicial Officer: Adair, Valerie)
08/17/2017, 08/21/2017


Events: 05/31/2017 Order for Petition for Writ of Habeas Corpus
Decision Made;

08/17/2017 **Motion for Appointment of Attorney (9:30 AM)** (Judicial Officer: Adair, Valerie)
08/17/2017, 08/21/2017


Defendant's Motion for Appointment of Counsel for Investigation Purposes in Post Conviction
Decision Made;

08/17/2017  **All Pending Motions (9:30 AM)** (Judicial Officer: Adair, Valerie)


Matter Heard;
Journal Entry Details:
PETITION FOR WRIT OF HABEAS CORPUS... DEFENDANT'S MOTION FOR APPOINTMENT OF COUNSEL FOR INVESTIGATIVE PURPOSES IN POST-CONVICTION Matter called. Defendant not present. COURT ORDERED matter CONTINUED for Chambers Decision. NDC CONTINUED TO: 8/21/17 (CHAMBERS);

08/21/2017  **All Pending Motions (3:00 AM)** (Judicial Officer: Adair, Valerie)

Decision Made;
Journal Entry Details:
PETITION FOR WRIT OF HABEAS CORPUS...MOTION FOR APPOINTMENT OF ATTORNEY Defendant's Motion for Appointment of Counsel is granted. Drew Christiansen's office will be contacted by the Court. Matter set for confirmation of counsel on September 5 at 9:30. Defendant's Petition for Writ of Habeas Corpus continued for possible supplemental briefing by appointed counsel. 9/5/17 9:30 AM CONFIRMATION OF COUNSEL CLERK'S NOTE: The above minute order has been distributed to counsel via email. jmc 8/23/17;


09/05/2017  **Confirmation of Counsel (9:30 AM)** (Judicial Officer: Adair, Valerie)

MINUTES


 **Status Check: Discovery (12/05/2017 at 9:30 AM)** (Judicial Officer: Adair, Valerie)

File Review
Counsel Confirmed;
Journal Entry Details:
Court noted the Mr. Resch was appointed through Drew Christensen's office and SET matter for status check to discuss the status of discovery and the results of the file review. NDC 12/5/17 9:30 AM STATUS CHECK: DISCOVERY/FILE REVIEW;

SCHEDULED HEARINGS

 **Status Check: Discovery (12/05/2017 at 9:30 AM)** (Judicial Officer: Adair, Valerie)

File Review

12/05/2017  **Status Check: Discovery (9:30 AM)** (Judicial Officer: Adair, Valerie)

File Review

MINUTES

 **Hearing (11/15/2018 at 9:30 AM)** (Judicial Officer: Adair, Valerie)

11/15/2018, 12/04/2018

Briefing Schedule Set;

Journal Entry Details:

Mr. Resch stated he received the Deft's file very large file and requested time to file the writ. Court SET the following briefing schedule: 6/5/18 Deadline to file the writ; 8/5/18 reply due. COURT SET matter for hearing. NDC 8/21/18 9:30 AM HEARING ON WRIT ;

SCHEDULED HEARINGS

 **Hearing (11/15/2018 at 9:30 AM)** (Judicial Officer: Adair, Valerie)

11/15/2018, 12/04/2018

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11/15/2018



Hearing (9:30 AM) (Judicial Officer: Adair, Valerie)

11/15/2018, 12/04/2018

See 5/15/18 correspondence from counsel requesting that Briefing Schedule and Hearing date be moved to later dates

Matter Continued;

Denied;

Journal Entry Details:

Argument by counsel. Court DENIED for the reasons set forth by the State as to the Batson challenge. State to prepare a detailed order. Ms. Resch requested to continued representing the Deft. for his appeal. Court directed Mr. Resch to contact Drew Christiansen's office to see if that would be approved. NDC;

See 5/15/18 correspondence from counsel requesting that Briefing Schedule and Hearing date be moved to later dates

Matter Continued;

Denied;

Journal Entry Details:

Court noted that the case had an extensive history and ORDERED MATTER CONTINUED to have the presiding judge present. NDC CONTINUED TO: 12/4/18 9:30 AM;

DATE

FINANCIAL INFORMATION

Defendant Carroll, Deangelo Reshawn

Total Charges

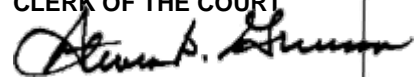
455.00

Total Payments and Credits

455.00

Balance Due as of 2/4/2019

0.00



FCL
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
Jonathan VanBoskerck
Chief Deputy District Attorney
Nevada Bar #6528
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-

DEANGELO R. CARROLL,
#1678381,

Defendant.

CASE NO: 05C212667-4

DEPT NO: XXI

FINDINGS OF FACT AND CONCLUSIONS OF LAW

DATE OF HEARING: December 4, 2018
TIME OF HEARING: 9:30 AM

THIS CAUSE having come on for hearing before the Honorable VALERIE ADAIR, District Judge, on the 4th day of December, 2018, the Petitioner not being present, represented by JAMIE RESCH, ESQ., the Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through MARC DIGIACAMO, Chief Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law.

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///

///

1 **FINDINGS OF FACT, CONCLUSIONS OF LAW**

2 **PROCEDURAL HISTORY**

3 On June 3, 2005, Deangelo Reshawn Carroll (hereinafter “Defendant”)—along with
4 four (4) co-defendants, Kenneth Counts, Luis Hidalgo, Anabel Espindola, and Jayson
5 Taoipu—were charged by way of Second Amended Criminal Complaint with one (1) count of
6 Conspiracy to Commit Murder and one (1) count Murder with Use of a Deadly Weapon for
7 the murder of Timothy Hadland. Co-defendants Hidalgo and Espindola were also charged with
8 two (2) counts of Solicitation to Commit Murder for procuring Defendant to kill Rontae Zone
9 and co-defendant Taoipu.

10 A Preliminary Hearing was held on June 13, 2005, wherein co-defendants Hidalgo,
11 Counts, and Espindola were held to answer. Defendant waived his right to preliminary hearing
12 after the first witness was called and sworn. Subsequently, on June 20, 2005, Defendant,
13 Hidalgo, Counts, and Espindola were charged by way of Information with all counts as alleged
14 in the Second Amended Criminal Complaint.

15 On April 30, 2010, Petitioner filed a Motion to Suppress, seeking to exclude his
16 statements to the police. On May 4, 2010, the State filed an Opposition. On May 11, 2010, the
17 Court denied Petitioner’s Motion.

18 Defendant proceeded to trial on May 21, 2010. At trial, Defendant was represented by
19 Dan Bunin, Esq. and Thomas Ericsson, Esq. After six days of trial, the jury returned a verdict
20 of Guilty as to Count 1 – Conspiracy to Commit Murder and Count 2 – Murder in the First
21 Degree. On August 12, 2010, Defendant was sentenced to the following: as to Count 1 – to a
22 maximum of one hundred twenty (120) months with a minimum parole eligibility of thirty-six
23 (36) months; and as to Count 2 – life with the possibility of parole after serving a minimum of
24 twenty (20) years, plus an equal and consecutive term of life with the possibility of parole after
25 serving a minimum of twenty (20) years for Use of a Deadly Weapon, Count 2 to run
26 consecutive to Count 1. Defendant received one thousand nine hundred four (1,904) days
27
28

1 credit for time served. The Judgment of Conviction was filed on September 8, 2010.¹
2 Defendant did not file a direct appeal.

3 On December 17, 2010, Patrick E. McDonald, Esq. was appointed as appellate counsel
4 for Defendant. Counsel appeared for a status check on February 17, 2011, and stated that he
5 had not yet received Defendant's file from prior counsel. McDonald then appeared on March
6 8, 2011 and stated that he had received the file from prior counsel but had not yet had the
7 opportunity to review it. Counsel then requested a briefing schedule. There followed two
8 stipulated continuances and Defendant's Motion for an Extension of Time to File Opening
9 Brief, which this Court granted.

10 Defendant ultimately filed his Petition for Writ of Habeas Corpus (Post-Conviction)
11 ("First Petition") on December 29, 2011. The State's filed its Response on January 19, 2012.
12 Defendant filed his Reply on February 17, 2012. This Court held an Evidentiary Hearing on
13 June 4, 2012. On July 30, 2012, this Court issued Findings of Fact, Conclusions of Law and
14 Order, finding that Defendant had been denied appellate relief; the Court directed the court
15 clerk to file a Notice of Appeal on behalf of Defendant. McDonald withdrew due to medical
16 and personal reasons, and on April 11, 2013, Mario Valencia was confirmed as replacement
17 appellate counsel.

18 The Notice of Appeal was filed on May 1, 2013. The Nevada Supreme Court remanded
19 the case back to this Court on August 23, 2013, because Defendant had only raised his denial
20 of appeal claim in his untimely First Petition and this Court had not specifically determined
21 that there was good cause to overcome the procedural bars. Thus, on October 21, 2013, this
22 Court held another Evidentiary Hearing regarding that issue. The evidence showed that
23 following the entry of the Judgment of Conviction, Petitioner informed his trial counsel that
24 he wished to pursue a direct appeal. But because of a breakdown in communication between
25 Petitioner and trial counsel, a Notice of Appeal was not timely filed. Upon discovery of this,
26 McDonald had been appointed to determine whether an untimely appeal could be pursued.
27 McDonald had had difficulty obtaining the complete file and did not discuss the post-

28 ¹ An Amended Judgment of Conviction was filed on March 23, 2011, correcting a clerical error.

conviction claims with trial counsel. This was sufficient to establish good cause to excuse the untimeliness of Defendant's First Petition. On January 3, 2014, the District Court entered its Findings of Fact, Conclusions of Law and Order, directing the court clerk to file a second Notice of Appeal on behalf of Defendant.

The Notice of Appeal was filed on January 6, 2014. On April 7, 2016, the Nevada Supreme Court issued a published opinion affirming Defendant's conviction on the merits. Carroll v. State, 132 Nev. Adv. Rep. 23, 371 P.3d 1023 (2016). Remitter issued on October 21, 2016.

Defendant filed a pro per Petition for Writ of Habeas Corpus ("Second Petition") and a Motion for Appointment of Counsel for Investigation Purposes in Post-Conviction NRS 171.188 NRS 178.397 on May 10, 2017. The State filed its Response on July 13, 2017. Defendant filed a Reply on August 7, 2017. Pursuant to Defendant's Motion for Appointment of Counsel, this Court appointed counsel on September 5, 2017. Defendant, through counsel, filed his Supplement to Petition for Writ of Habeas Corpus ("Supplement") on August 31, 2018. The State filed its Opposition on October 30, 2018. The Court now finds as follows.

STATEMENT OF FACTS

The following are the facts as determined by the Nevada Supreme Court in its published opinion affirming the judgment:

On May 19, 2005, police discovered Timothy J. Hadland's body on Northshore Road near Lake Mead. Along with Hadland's body, police found advertisements for the Palomino Club. Hadland was fired from his job at the Palomino Club a week before his death. Palomino Club management recruited Carroll to "knock off" Hadland because Hadland was spreading negative rumors about the club.

Carroll was also an employee at the Palomino Club. Carroll used the club's van to promote the club by handing out flyers to cab drivers and tourists. On the night of Hadland's murder, Carroll drove the club's van with two other men, Rontae Zone and Jayson Taoipu, who occasionally assisted him. Carroll recruited Kenneth Counts for this assignment because Carroll knew Counts would "take care of" someone for money.

Carroll, Zone, Taoipu, and Counts went to an area near Lake Mead, and Carroll called Hadland. When Hadland noticed the Palomino Club's van,

1 Hadland parked his car in front of the van and walked to the driver's side
2 window where Carroll was sitting. As Hadland and Carroll talked, Counts
3 exited the van through the side door, snuck around to the front, and fired two
4 shots into Hadland's head. Counts then jumped back into the van and ordered
5 Carroll to return to town.

6 Carroll drove directly to the Palomino Club and told club management what
7 occurred. Louis Hidalgo, Jr., the general manager of the club, directed other
8 employees to give Carroll \$6,000 in cash to pay Counts. Carroll gave the
9 money to Counts, who then left in a cab. The next morning, at Hidalgo's
10 direction, Carroll bought new tires for the van and disposed of the old tires
11 at two separate locations.

12 The evening after Hadland's murder, homicide detectives contacted Carroll
13 at the Palomino Club, as Carroll's phone number was the last phone number
14 on Hadland's phone. When the detectives asked to speak with Carroll, he
15 agreed, and the detectives drove Carroll to the homicide office for
16 questioning. Carroll sat in a small room at a table with his back to the wall,
17 while the detectives sat between him and the exit. The detectives did not give
18 Carroll Miranda^[2] warnings before questioning him, but they informed
19 Carroll that he was speaking with them voluntarily. Eventually, Carroll
20 implicated himself, Palomino Club management, and Counts in Hadland's
21 murder.

22 Carroll then volunteered to wear a recording device to corroborate his story
23 by speaking with the Palomino Club management. The detectives strategized
24 with Carroll before he spoke with the management each time. The
25 information on these recordings allowed the State to charge three members
26 of Palomino Club management for their roles in Hadland's murder.

27 After the detectives finished obtaining information and evidence from
28 Carroll, they arrested him.

29 Carroll, 132 Nev. at ___, 371 P.3d at 1026–27.

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33 ANALYSIS

34 **Defendant fails to demonstrate counsel was ineffective.**

35 ² Miranda v. Arizona, 384 U.S. 436, 86 S Ct. 1602 (1966).

1 Petitioner raises six claims of ineffective assistance of counsel plus a cumulative error
2 claim based on the alleged ineffective assistance.³ Such claims are analyzed under the two-
3 pronged test articulated in Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984),
4 wherein the defendant must show (1) that counsel's performance was deficient, and (2) that
5 the deficient performance prejudiced the defense. Id. at 687, 104 S. Ct. at 2064. "A court may
6 consider the two test elements in any order and need not consider both prongs if the defendant
7 makes an insufficient showing on either one." Kirksey v. State, 112 Nev. 980, 987, 923 P.2d
8 1102, 1107 (1997); Molina v. State, 120 Nev. 185, 190, 87 P.3d 533, 537 (2004).

9 "Surmounting Strickland's high bar is never an easy task." Padilla v. Kentucky, 559
10 U.S. 356, 371, 130 S. Ct. 1473, 1485 (2010). The question is whether an attorney's
11 representations amounted to incompetence under prevailing professional norms, "not whether
12 it deviated from best practices or most common custom." Harrington v. Richter, 562 U.S. 86,
13 88, 131 S. Ct. 770, 778 (2011). Further, "[e]ffective counsel does not mean errorless counsel,
14 but rather counsel whose assistance is '[w]ithin the range of competence demanded of
15 attorneys in criminal cases.' " Jackson v. Warden, Nevada State Prison, 91 Nev. 430, 432, 537
16 P.2d 473, 474 (1975) (quoting McMann v. Richardson, 397 U.S. 759, 771, 90 S. Ct. 1441,
17 1449 (1970)).

18 The court begins with a presumption of effectiveness and then must determine whether
19 the defendant has demonstrated by a preponderance of the evidence that counsel was
20 ineffective. Means v. State, 120 Nev. 1001, 1011–12, 103 P.3d 25, 32–33 (2004). The role of
21 a court in considering alleged ineffective assistance of counsel is "not to pass upon the merits
22 of the action not taken but to determine whether, under the particular facts and circumstances
23 of the case, trial counsel failed to render reasonably effective assistance." Donovan v. State,
24 94 Nev. 671, 675, 584 P.2d 708, 711 (1978) (citing Cooper v. Fitzharris, 551 F.2d 1162, 1166
25 (9th Cir. 1977)).

26

³ To the extent Defendant attempts to raise substantive complaints and not just ineffective assistance
27 of counsel claims, these are outside the scope of a petition for writ of habeas corpus and are waived
28 as not being brought on direct appeal. NRS 34.724(2)(a); NRS 34.810(1)(b); Evans v. State, 117 Nev.
609, 646–47, 29 P.3d 498, 523 (2001); Franklin v. State, 110 Nev. 750, 752, 877 P.2d 1058, 1059
(1994), disapproved on other grounds, Thomas v. State, 115 Nev. 148, 979 P.2d 222 (1999).

1 This analysis does not indicate that the court should “second guess reasoned choices
2 between trial tactics, nor does it mean that defense counsel, to protect himself against
3 allegations of inadequacy, must make every conceivable motion no matter how remote the
4 possibilities are of success.” Donovan, 94 Nev. at 675, 584 P.2d at 711 (citing Cooper, 551
5 F.2d at 1166 (9th Cir. 1977)). In essence, the court must “judge the reasonableness of counsel’s
6 challenged conduct on the facts of the particular case, viewed as of the time of counsel’s
7 conduct.” Strickland, 466 U.S. at 690, 104 S. Ct. at 2066.

8 Not only must the petitioner show that counsel was incompetent, but he must also
9 demonstrate that but for that incompetence the results of the proceeding would have been
10 different:

11 In assessing prejudice under Strickland, the question is not whether a court can
12 be certain counsel’s performance had no effect on the outcome or whether it is
13 possible a reasonable doubt might have been established if counsel acted
14 differently. Instead, Strickland asks whether it is reasonably likely the results
15 would have been different. This does not require a showing that counsel’s
16 actions more likely than not altered the outcome, but the difference between
17 Strickland’s prejudice standard and a more-probable-than-not standard is
slight and matters only in the rarest case. The likelihood of a different result
must be substantial, not just conceivable.

18 Harrington, 562 U.S. at 111–12, 131 S. Ct. at 791–92 (internal quotation marks and citations
19 omitted); accord McNelson v. State, 115 Nev. 396, 403, 990 P.2d 1263, 1268 (1999) (noting
20 that a defendant must show a reasonable probability that, but for counsel’s errors, the result of
21 the trial would have been different).

22 Importantly, when raising a Strickland claim, the defendant bears the burden to
23 demonstrate the underlying facts by a preponderance of the evidence. Means, 120 Nev. at
24 1012, 103 P.3d at 33. “Bare” or “naked” allegations are not sufficient to show ineffectiveness
25 of counsel; claims asserted in a petition for post-conviction relief must be supported with
26 specific factual allegations which if true would entitle petitioner to relief. Hargrove v. State,
27 100 Nev. 498, 502, 686 P.2d 222, 225 (1984).

1 With regard to ineffective assistance on appeal, there is a strong presumption that
2 appellate counsel's performance was reasonable and fell within "the wide range of reasonable
3 professional assistance." See United States v. Aguirre, 912 F.2d 555, 560 (2nd Cir. 1990)
4 (citing Strickland, 466 U.S. at 689, 104 S.Ct. at 2065). Federal courts have held that a claim
5 of ineffective assistance of appellate counsel must satisfy the two-prong test set forth by
6 Strickland, 466 U.S. at 687–88, 694, 104 S.Ct. at 2065, 2068; Williams v. Collins, 16 F.3d
7 626, 635 (5th Cir. 1994); Hollenback v. United States, 987 F.2d 1272, 1275 (7th Cir. 1993);
8 Heath v. Jones, 941 F.2d 1126, 1130 (11th Cir. 1991). In order to satisfy Strickland's second
9 prong, the defendant must show that the omitted issue would have had a reasonable probability
10 of success on appeal. See Duhamel v. Collins, 955 F.2d 962, 967 (5th Cir. 1992); Heath, 941
11 F.2d at 1132.

12 Furthermore, the Nevada Supreme Court has held that all appeals must be "pursued in
13 a manner meeting high standards of diligence, professionalism and competence." Burke v.
14 State, 110 Nev. 1366, 1368, 887 P.2d 267, 268 (1994). In Jones v. Barnes, 463 U.S. 745, 751,
15 103 S.Ct. 3308, 3312 (1983), the Supreme Court recognized that part of professional diligence
16 and competence involves "winnowing out weaker arguments on appeal and focusing on one
17 central issue if possible, or at most on a few key issues." Id. at 751–52, 103 S.Ct. at 3313. In
18 particular, a "brief that raises every colorable issue runs the risk of burying good arguments .
19 . . in a verbal mound made up of strong and weak contentions." Id. 753, 103 S.Ct. at 3313.
20 The Court also held that, "for judges to second-guess reasonable professional judgments and
21 impose on appointed counsel a duty to raise every 'colorable' claim suggested by a client would
22 disserve the very goal of vigorous and effective advocacy." Id. at 754, 103 S.Ct. at 3314.

23 **A. Neither trial counsel nor appellate counsel were ineffective for failure to suppress**
24 **the wire tape recordings.**

25 Defendant claims trial and appellate counsel were both ineffective for failure to
26 suppress physical and/or testimonial evidence regarding the wire Defendant voluntarily wore
27 to assist police. Supplement at 24–31. However, counsel did in fact move to suppress this
28 evidence. Further, despite the fact that Defendant was in custody when he spoke to police, he

1 then volunteered—in the hopes of receiving a benefit—to assist police by wearing a recording
2 device. Thus, any motions specifically regarding fruit of the poisonous tree/Miranda violations
3 would have been futile. Therefore, counsel was not ineffective.

4 As an initial matter, to claim both trial and appellate counsel were ineffective for failure
5 to move to suppress the wire tape recordings is disingenuous. Defendant argues that counsel
6 was ineffective for not “*specifically* argu[ing] that the wiretap evidence should be suppressed
7 because it was the product of an illegal interrogation.” Supplement at 6, 25 (emphasis added).
8 However, trial counsel has the “immediate and ultimate responsibility of deciding if and when
9 to object . . . and what defenses to develop.” Rhyne v. State, 118 Nev. 1, 8, 38 P.3d 163, 167
10 (2002). Defendant admits that “various attempts were made to suppress the wiretap evidence”
11 using other methods unspecified by Defendant. Supplement at 6, 25. Trial counsel’s strategic
12 decision to argue for its suppression using other methods is virtually unchallengeable. Dawson
13 v. State, 108 Nev. 112, 117, 825 P.2d 593, 596 (1992). Similarly, appellate counsel did in fact
14 argue that the wire tape recordings should have been suppressed, based on several grounds.
15 Carroll, 132 Nev. at ___, 371 P.3d at 1027–31. Because there is a strong presumption that
16 appellate counsel made a sound professional judgment to pursue stronger arguments, this
17 Court should not second guess appellate counsel’s strategy in arguing on direct appeal that the
18 wire tape recordings should have been suppressed through different means. Barnes, 463 U.S.
19 at 751, 103 S.Ct. at 3312–13.

20 However, even on the merits, Defendant’s “fruit of the poisonous tree” argument is
21 without merit. Any argument about the fruit of the poisonous tree would have been futile—
22 because Defendant initiated the request to wear a wire to assist police and then wore it
23 voluntarily. See Ennis v. State, 122 Nev. 694, 706, 137 P.3d 1095, 1103 (2006) (holding that
24 counsel cannot be ineffective for failure to make futile arguments).

25 In Defendant’s statement to police on May 19, 2005, after implicating himself in the
26 murder, Defendant was read his rights and asked if he understood them, to which he responded
27 “yes.” See Defendant’s Motion to Suppress, filed April 30, 2013, Exhibit B at 85. Detectives
28 had Defendant sign a Miranda card to ensure that he understood his rights. Id. “The police

1 promised Defendant they would take him home at the conclusion of the interview, which they
2 did. The police also promised Defendant they would attempt to prove his version of events
3 was true, which they did by making the recordings with [Defendant's] coconspirators.”
4 Carroll, 132 Nev. at ___, 371 P.3d at 1031. To that end, Defendant—not police—suggested that
5 Defendant wear a recording device to corroborate his story. Defendant's Motion to Suppress,
6 filed April 30, 2013, Exhibit B at 86. Then, on May 24, 2005, Defendant wore a wire while he
7 spoke with his co-conspirators at the Palomino Club. Supplement at 21–22.

8 It must be noted that the Nevada Supreme Court has already examined the wire tape
9 recordings and established law of the case surrounding their admissibility. The Court held that
10 the wire tape recordings were not so unduly prejudicial as to outweigh their probative value,
11 that they were not inadmissible hearsay, that they were made in furtherance of a conspiracy,
12 and that did not violate Defendant's right against self-incrimination. Carroll, 132 Nev. at ___,
13 371 P.3d at 1027–31. The Court also held that despite the fact that the district court erred in
14 admitting Defendant's inculpatory statements to police, that error was harmless beyond a
15 reasonable doubt because of the overwhelming evidence against Defendant. Id. at ___, 371 P.3d
16 at 1031–35. Thus, the admissibility of the wire tape recordings, and the harmlessness of the
17 Miranda violation, is law of the case.

18 Defendant relies upon other jurisdictions' interpretations of U.S. Supreme Court
19 precedent in stating that the wire tape recordings should have been suppressed. United States
20 v. Patane, 542 U.S. 630, 646, 124 S. Ct. 2620, 2631 (2004). However, Patane specifically holds
21 that suppression of physical evidence resulting from a Miranda violation is *not* required. Id.
22 Defendant's argument that trial and appellate counsel should have relied upon it to suppress
23 the wire tape recordings is thus without merit. Supplement at 30–31. Though some states have
24 suppressed such evidence, the holding of the Florida case Defendant analyzes is
25 distinguishable from Defendant's case. The Florida appellate court suppressed wiretap
26 evidence resulting from police request for the defendant's cooperation in contacting a drug
27 dealer. Kessler v. State, 991 So.2d 1015 (Fla. App. 2008). Conversely, here, Defendant himself
28

1 requested to wear a wire; he was not accommodating a request by police. Defendant's Motion
2 to Suppress, filed April 30, 2013, Exhibit B at 86.

3 Moreover, Nevada is not subject to other states' holdings as described by Defendant.
4 Nevada has never held that "[its] own constitution[] provide[s] a broader self-incrimination
5 privilege than the Supreme Court's interpretation [in Patane] of the federal self-incrimination
6 privilege." Supplement at 28. Ohio and Oregon have specifically articulated these additional
7 protections. State v. Vondehn, 348 Ore. 462, 476 – 77 (2009); State v. Ferris, 109 Ohio St.3d
8 519, 529 (2006). But Nevada has never suggested that physical evidence, such as the wire tape
9 recordings, may be suppressed based on a Miranda violation. Therefore, Defendant is asking
10 for a new interpretation of Nevada law. As counsel cannot be found ineffective for failing to
11 anticipate a change in the law, this argument is without merit. Nika v. State, 124 Nev. 12772,
12 1289, 198 P.3d 839, 851 (2008); Doyle v. State, 116 Nev. 148, 156, 995P.2d 465, 470 (2000).

13 Finally, the United States Supreme Court has indicated that a Miranda warning—even
14 given in an untimely manner—may cure fruit of the poisonous tree issues. Oregon v Elstad,
15 470 U.S. 298, 84 L. Ed. 2d 222, 105 S. Ct. 1285 (1985). The Court stated:

16 A suspect who has responded to uncoercive questioning by a police officer
17 while in custody and without being given Miranda warnings is not thereby
18 disabled from waiving his rights and confessing after he has been given the
19 requisite Miranda warnings, and *his confession is not, solely on account of*
20 *the prior, unwarned admission, rendered inadmissible as "fruit of the*
21 *poisonous tree"*; the relevant inquiry is whether, in fact, the second statement
22 was also voluntarily made in view of the surrounding circumstances and the
23 entire course of police conduct with respect to the suspect.

24 If a confession is not, on account of a prior un-Mirandized admission, inadmissible as fruit of
25 the poisonous tree, physical evidence given after a Miranda warning—such as voluntarily
26 given wire tape recordings—cannot be said to be fruit of the poisonous tree. Here, there was
27 in fact a Miranda warning, just before Defendant volunteered to wear a wire for police.
28 Defendant's Motion to Suppress, filed April 30, 2013, Exhibit B at 85–86. Because counsel
cannot be found ineffective for failing to file a futile motion to suppress wire tape recordings

1 legally obtained by police—evidence Defendant volunteered, after being read his Miranda
2 rights—counsel was not ineffective here. Ennis, 122 Nev. at 706, 137 P.3d at 1103.

3 **B. Trial counsel was not ineffective for failure to impeach Zone.**

4 Defendant claims trial counsel was ineffective for not impeaching witness Zone with
5 the same impeachment evidence with which Zone had been confronted at co-defendant
6 Counts's trial. Supplement at 31–33. But the assertion that the impeachment of Zone with
7 Williams's testimony would have brought about the same result as in Counts's trial is a naked
8 speculation suitable only for summary denial under Hargrove. 100 Nev. at 502, 686 P.2d at
9 225. Unlike Counts—who was charged with being the actual shooter—Defendant was charged
10 under a theory of conspiracy. The facts, including who actually pulled the trigger, were not
11 really at issue in Defendant's case. The question was: What was Defendant's intent with regard
12 to the killing? Zone's testimony was not particularly probative of Defendant's intent.

13 Indeed, other evidence was more than demonstrated Defendant's intent that someone
14 shoot and kill the victim. Defendant, himself, states in the wire tape recordings that he “took
15 care of”—i.e. killed—the victim, as co-defendant Espindola asked him to do. Wire Transcript,
16 State's Exhibit 244. Defendant also discusses facilitating payment—and the fact that the
17 shooter was not happy with his \$6,000 Defendant and his co-defendants had paid him for the
18 murder. Wire Transcript, State's Exhibit 245. Co-defendant Espindola specifically states in
19 this same recording that “if something happens to him [the shooter] we all fucking lose. Every
20 fucking one of us.” Id. Thus, not only does Defendant implicate himself by discussing with
21 his co-defendants that he knew it was going to be a murder; at least one co-defendant confirms
22 that “all” of them knew enough to be implicated in the murder. Defendant's intent was also
23 established by several facts, including the isolated location of the murder. Transcript, Jury
24 Trial, Day 7 at 33.

25 Because the issue of who the actual shooter was had nothing to do with whether
26 Defendant intended that the victim be killed, counsel cannot be said to be unreasonable for not
27 bogging down the jury with the issue. Further, Defendant does not even argue how the lack of
28 impeachment evidence prejudiced him. He cannot establish, for example, that impeaching

1 Zone would have led to his acquittal. Again, the conviction rested not on who shot the victim
2 but on what Defendant intended, and there was more than sufficient evidence to convict
3 Defendant based upon the evidence of his intent. Counsel was not ineffective.

4 **C. Trial and appellate counsel were not ineffective for not further challenging the**
5 **trial court's denial of a Batson challenge.**

6 Defendant claims that trial counsel was ineffective for not challenging the basis for the
7 denial of the Batson objection. Supplement at 33–38; Batson v. Kentucky, 476 U.S. 79, 106
8 S.Ct. 1712 (1986). However, as any further challenge beyond the objection counsel offered at
9 trial would have been futile, this claim is without merit.

10 In Batson v. Kentucky, the United States Supreme Court held that the use of peremptory
11 challenges to remove potential jurors on the basis of race is unconstitutional under the Equal
12 Protection Clause of the United States Constitution. Id. at 89, 106 S.Ct. at 1719. Adjudicating
13 a Batson challenge is a three step process: (1) the defendant must make a prima facie showing
14 that racial discrimination has occurred based upon the totality of the circumstances, (2) the
15 prosecution then must provide a race-neutral explanation for its peremptory challenge or
16 challenges, and (3) the district court must determine whether the defendant in fact
17 demonstrated purposeful discrimination. Batson, 476 U.S. at 94, 106 S.Ct. at 1721; Watson v.
18 State, 130 Nev. __, __, __ P.3d __, 2014 WL 4925686, p. 4 (2014).

19 In step one, a defendant alleging that members of a cognizable group “have been
20 impermissibly excluded from the venire may make out a prima facie case of purposeful
21 discrimination by showing that the totality of the relevant facts give rise to an inference of
22 discriminatory purpose.” Batson, 476 U.S. at 94–95, 106 S. Ct. at 1721. In deciding whether
23 or not the requisite prima facie case has been made, a court may consider the “pattern of
24 strikes” exercised or the questions and statements made by counsel during the voir dire
25 examination. Id. at 96–97, 106 S.Ct. at 1723.

26 Only after the movant has established a prima facie case of intentional discrimination
27 is the proponent of the strike compelled to proffer a race-neutral explanation. “The second
28 step of this process does not demand an explanation that is persuasive, or even plausible.”

1 Purkett v. Elem, 514 U.S. 765, 767–68, 115 S.Ct. 1769, 1771 (1995). The neutral explanation
2 “is not a reason that makes sense, but a reason that does not deny equal protection.” Id. at 769,
3 115 S.Ct. at 1771. “Unless a discriminatory intent is inherent in the State’s explanation, the
4 reason offered will be deemed race neutral.” Id. at 768, 115 S.Ct. at 1171 (internal citations
5 omitted).

6 Step three comes down to credibility: “the district court must determine whether the
7 explanation was a mere pretext and whether the opponent successfully proved racial
8 discrimination.” King, 116 Nev. at 353, 998 P.2d at 1175. This can be measured by “how
9 reasonable, or how improbable, the explanations are; and by whether the proffered rationale
10 has some basis in accepted trial strategy.” Miller-El v. Cockrell, 537 U.S. 322, 324, 123 S.Ct.
11 1029, 1032 (2003).

12 The Nevada Supreme Court “review[s] the district court’s ruling on the issue of
13 discriminatory intent for clear error.” Conner v. State, 130 Nev. ___, ___, 327 P.3d 503, 508
14 (2014). ““The trial court’s decision on the ultimate question of discriminatory intent represents
15 a finding of fact of the sort accorded great deference on appeal.”” Walker, 113 Nev. at 867-68,
16 944 P.2d at 771–72 (quoting Hernandez v. New York, 500 U.S. 352, 364, 111 S.Ct. 1859,
17 1868 (1991) (plurality opinion)). The reason for such a standard is the trial court is in the
18 position to best assess whether from the “totality of the relevant facts” that racial
19 discrimination is occurring. Hernandez, 50 U.S. at 363, 111 S. Ct at 1868. Further, the Nevada
20 Supreme Court has emphasized that the burden is on the opponent of the strike in step three to
21 develop a pretext for the explanation at the district court level. Hawkins v. State, 127 Nev. ___,
22 ___, 256 P.3d 965, 967 (2011).

23 Here, trial counsel actually challenged the State’s preemptory challenge of Prospective
24 Juror No. 092. Transcript, Jury Trial, Day 2 at 72–77. Defendant’s assertion that the trial court
25 “refused to even consider the challenge because it found there could not be a ‘pattern’ of
26 discrimination based on the first such exercised strike” is not born out by the record.
27 Supplement at 35. In fact, this Court completed all steps required in a Batson challenge. First,
28 this Court noted the challenge, discussing first that there was in fact no pattern of

1 discrimination and next that in fact it was unusual that there had been four African-American
2 potential jurors in the box Transcript, Jury Trial, Day 2 at 72–77. Of these, as the Court noted,
3 two were excused; one via preemptory challenge by the State and one for cause by the defense.
4 Id. Then, this Court permitted the State to place on the record its race-neutral explanation: the
5 State challenged Potential Juror 092 because “her behavior in th[e] courtroom is an example
6 of what appeared to be someone who wasn’t taking the situation very seriously at all,” and that
7 her questionnaire answers suggested that the defense would have had reason to strike her for
8 cause. Id. at 76. This Court agreed with the assessment of Potential Juror No. 092 as “a
9 character” and the juror was dismissed. Id. Because the Court followed all steps required of a
10 Batson challenge, any further challenge by counsel would have been futile under Ennis.
11 122 Nev. at 706, 137 P.3d at 1103.

12 Further, counsel made a virtually unchallengeable strategic decision to let the Batson
13 challenge go since, as Defendant points out himself, Prospective Juror No. 092 appeared to be
14 a good juror for the State. Dawson, 108 Nev. at 117, 825 P.2d at 596; Supplement at 36. The
15 questioning of this juror, which lasted for almost twenty (20) pages of the transcript, revealed
16 that she was a retired New York corrections officer who believed that “the laws are not strict
17 enough,” who might have been “making a point” with her verdict. Transcript, Jury Trial, Day
18 1 at 144–62. Any “inference” that the State’s challenge was the result of purposeful
19 discrimination was mollified by the State’s clarification—helpful for this analysis, as certain
20 of the juror’s overly-jovial mannerisms would not have been clear from a cold transcript
21 alone—that this juror simply did not take the responsibility seriously. Supplement at 36;
22 Transcript, Jury Trial, Day 2 at 76. Possessed of all this information, and reassured that the
23 State did in fact have a race-neutral reason for challenging the juror, trial counsel and appellate
24 counsel were not unreasonable for making the strategic choice to drop the issue of the Batson
25 challenge. Counsel was thus not ineffective.

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1 **D. Neither trial counsel nor appellate counsel were ineffective for failure to challenge**
2 **the treatment of custodian of records witnesses as experts.**

3 Defendant claims trial and appellate counsel were both ineffective for not challenging
4 the treatment of custodian of record witnesses as expert witnesses who testified as experts
5 regarding cell phone communications technology. Supplement at 38–39. However, because
6 Defendant relies upon a change in the law that counsel could not have predicted—as it
7 occurred after his trial—and because Defendant cannot show prejudice, this claim is without
8 merit.

9 State’s witness Joseph Trawicki, a records custodian for Sprint, offered testimony about
10 what information Sprint maintains: what cell tower a phone connects with, “who’s calling
11 who, what time, day,” and how long those records are kept. Transcript, Jury Trial, Day 5 at
12 19–22. Defendant seems to contend that counsel’s so-called failure to object failed to predict
13 that years in the future, the Nevada Supreme Court would find that relatively simple
14 information about cell phone towers and signals would be deemed expert testimony: that is, it
15 denied him the benefit of Burnside v. State, 131 Nev. ___, 352 P.3d 627 (2015), cert. denied,
16 ___ U.S. ___, 136 S.Ct. 1466 (2016). Of course, counsel cannot be found ineffective for failing
17 to anticipate a change in law. Nika, 124 Nev. at 1289, 198 P.3d at 851; Doyle, 116 Nev. at
18 156, 995 P.2d at 470. Counsel’s lack of objection was reasonable, given the law at the time.

19 Further, it should be noted that as in Burnside, Defendant “has not explained what he
20 would have done differently had proper notice been given, and he did not request a
21 continuance. See NRS 174.295(2).” 131 Nev. ___, 352 P.3d 627, 637 (2015). Thus, Defendant
22 has not argued prejudice based on the lack of objection. Finally, Defendant cannot demonstrate
23 prejudice because of the overwhelming evidence of Petitioner’s guilt. See Sections A and B,
24 supra. Thus, counsel was not ineffective.

25 **E. Neither trial counsel nor appellate counsel were ineffective for failure to object to**
26 **prosecutorial misconduct.**

27 Defendant claims trial and appellate counsel were both ineffective for not challenging
28 various instances of so-called prosecutorial misconduct. Supplement at 40–44. However,

1 Defendant cannot establish ineffective assistance of counsel because the underlying claim of
2 prosecutorial misconduct is meritless.

3 The Nevada Supreme Court employs a two-step analysis when considering claims of
4 prosecutorial misconduct. Valdez v. State, 124 Nev. 1172, 1188, 196 P.3d 465, 476 (2008).
5 First, the Court determines if the conduct was improper. Id. Second, the Court determines
6 whether misconduct warrants reversal. Id. As to the first factor, argument is not misconduct
7 unless “the remarks ... were ‘patently prejudicial.’” Riker v. State, 111 Nev. 1316, 1328, 905
8 P.2d 706, 713 (1995) (quoting, Libby v. State, 109 Nev. 905, 911, 859 P.2d 1050, 1054
9 (1993)). Notably, “statements by a prosecutor, in argument... made as a deduction or
10 conclusion from the evidence introduced in the trial are permissible and unobjectionable.”
11 Parker v. State, 109 Nev. 383, 392, 849 P.2d 1062, 1068 (1993) (quoting, Collins v. State, 87
12 Nev. 436, 439, 488 P.2d 544, 545 (1971)). Further, the State may respond to defense theories
13 and arguments. Williams v. State, 113 Nev. 1008, 1018–19, 945 P.2d 438, 444–45 (1997),
14 receded from on other grounds, Byford v. State, 116 Nev. 215, 994 P.2d 700 (2000).

15 With respect to the second step, the Nevada Supreme Court will not reverse if the
16 misconduct was harmless error, which depends on whether it was of constitutional dimension.
17 Valdez, 124 Nev. at 1188, 196 P.3d at 476. Error of a constitutional dimension requires
18 impermissible comment on the exercise of a specific constitutional right, or if in light of the
19 proceedings as a whole, the misconduct “so infected the trial with unfairness as to make the
20 resulting conviction a denial of due process.” Id. at 1189, 196 P.3d at 477. If the error is not
21 of a constitutional dimension, the Court will reverse only if the error substantially affected the
22 jury’s verdict. Id.

23 Importantly, a defendant is entitled to a fair trial, not a perfect one, and therefore “a
24 criminal conviction is not to be lightly overturned on the basis of a prosecutor's comments
25 standing alone[.]” United States v. Young, 470 U.S. 1, 11, 105 S.Ct. 1038, 1044 (1985).
26 Accord, Leonard, 117 Nev. at 81, 17 P.3d at 414. “[W]here evidence of guilt is overwhelming,
27 even aggravated prosecutorial misconduct may constitute harmless error.” Smith v. State, 120
28 Nev. 944, 948, 102 P.3d 569, 572 (2004) (citing King v. State, 116 Nev. 349, 356, 998 P.2d

1 1172, 1176 (2000)). In determining prejudice, a court considers whether a comment had: 1) a
2 prejudicial impact on the verdict when considered in the context of the trial as a whole; or 2)
3 seriously affects the integrity or public reputation of the judicial proceedings. Rose, 123 Nev.
4 at 208–09, 163 P.3d at 418.

5 Where a defendant fails to offer a contemporaneous objection, an appellate court will
6 only review claims of prosecutorial misconduct for plain error. Hernandez v. State, 118 Nev.
7 513, 525, 50 P.3d 1100, 1109 (2002). Plain error asks whether an error is “so unmistakable
8 that it reveals itself by a casual inspection of the record.” Patterson, 111 Nev. at 1530, 907
9 P.2d at 987 (internal citations omitted); Sterling, 108 Nev. at 394, 834 P.2d at 402. In
10 determining whether an error is plain, a court must consider “whether there was ‘error,’
11 whether the error was ‘plain’ or clear, and whether the error affected the defendant’s
12 substantial rights. Additionally, the burden is on an appellant to show actual prejudice or a
13 miscarriage of justice.” Green, 119 Nev. at 545, 80 P.3d at 95 (footnote omitted).

14 Here, the specific instances raised by Defendant are insufficient to meet the high
15 standard for reversal due to prosecutorial misconduct. Defendant complains that the State’s
16 closing argument contained the phrases “it would be a travesty of justice if you did anything
17 less than the truth, the absolute truth.” Transcript, Jury Trial, Day 6 at 124. Defense counsel
18 did not object to this statement, meaning that this issue could only be analyzed on appeal for
19 plain error. Hernandez, 118 Nev. at 525, 50 P.3d at 1109. Of course, counsel had a good reason
20 for not objecting. The prosecutors were appropriately responding to defense counsel’s
21 argument for involuntary manslaughter. Williams, 113 Nev. at 1018–19, 945 P.2d at 444–45.
22 Specifically, the State responded to defense counsel’s argument about justice. Defense counsel
23 stated in closing argument that Defendant “is guilty. He is absolutely guilty of something, and
24 that’s what we’re asking you to do. Find him guilty of what he should have been charged with
25 in the first place. He conspired to commit battery, commit a manslaughter. That’s what your
26 instructions tell you you must do. *This is justice in this case.*” Transcript, Jury Trial, Day 6 at
27 123–24 (emphasis added). In other words, the defense commented on what it viewed to be
28 “justice.” The State then responded with what it believed justice would be, given the evidence

1 it presented. This is not improper. Defendant has not argued that this comment affected his
2 substantial rights, nor that there was actual prejudice of a miscarriage of justice. Green, 119
3 Nev. at 545, 80 P.3d at 95. Thus, counsel was not unreasonable for not objecting; and thus,
4 counsel was not ineffective.

5 Next, Defendant complains that the State did not reveal that Zone may or may not have
6 been the actual shooter. Supplement at 42. Again, trial counsel did not object, and this so issue
7 could only be analyzed for plain error on appeal. Hernandez, 118 Nev. at 525, 50 P.3d at 1109.
8 Regardless, Defendant's premise that there was evidence Zone was more than a bystander is
9 flawed. As discussed supra, Defendant's argument that the impeachment of Zone during
10 Counts's trial led to Counts's acquittal—implying that the jury believed that Zone was actually
11 the shooter—is mere speculation insufficient for post-conviction. Hargrove, 100 Nev. at 502,
12 686 P.2d at 225. The jury may have believed the impeachment evidence against Zone: that he
13 “confessed” to his ex-partner, Williams, that he was the shooter “with the Palomino Club.”
14 Supplement at 23. Or, Counts could have been acquitted for another reason. Defendant cannot
15 know why the jury acquitted Counts. That the State did not reference the hearsay statements
16 of Zone's ex-partner in Defendant's trial does not indicate that it was somehow presenting
17 evidence that it “kn[ew] to be false.” Alcorta v. Texas, 355 U.S. 28, 30, 78 S. Ct. 103, 105
18 (1957). The State had no way of evaluating whether Williams's testimony was actually true—
19 let alone that it was a “basis to charge [Zone] with any crime.” Supplement at 42. Thus, it had
20 no obligation to present that evidence to the jury. Defendant cannot argue that the State's
21 conduct affected his substantial rights, or that there was actual prejudice or a miscarriage of
22 justice. Green, 119 Nev. at 545, 80 P.3d at 95. Trial counsel made the reasonable, strategic
23 decision not to confuse the jury with this issue.

24 Further, any misconduct related to Zone amounts to nothing more substantive than
25 harmless error, because Defendant's own conduct—that is, that Defendant conspired to harm
26 the victim—was not at issue in this case. Defendant does not, and cannot, show that the so-
27 called failure to paint Zone as the actual shooter either substantially affected the jury's verdict
28 or so infected the trial with unfairness that Defendant was denied due process. Valdez, 124

1 Nev. at 1188, 196 P.3d at 476–77. Whether Zone or Counts was the shooter is irrelevant to
2 whether Defendant himself was involved in this conspiracy. Thus, because the evidence of
3 Defendant’s guilt in the conspiracy was overwhelming—and was in fact admitted to by
4 defense counsel during closing—the way the State handled Zone’s testimony was at most
5 harmless error. Smith, 120 Nev. at 948, 102 P.3d at 572. Because any error was harmless,
6 Defendant cannot show that trial or appellate counsel’s failure to raise this issue prejudiced
7 him in any way. Thus, there was no ineffective assistance of counsel.

8 Next, Defendant complains that the prosecutor mentioned that a verdict of involuntary
9 manslaughter would require a finding of an “accident.” Supplement at 42. The Court did
10 actually sustain defense counsel’s objection to this. Transcript, Jury Trial, Day 6 at 138–39.
11 Defendant does not explain why appellate counsel should have raised the sustained objection
12 on appeal. Supplement at 42–43. Indeed, this Court’s sustaining the objection means that it is
13 presumed that the jury properly disregarded the comment about the victim shooting himself.
14 Leonard v. State, 117 Nev. 53, 66, 17 P.3d 397, 405 (2001) (holding that jurors are presumed
15 to follow instructions given to them). Further, this Court also admonished the jury that “this is
16 just [the State’s] commentary on what he thinks [defense counsel] argued or what he
17 remembers. It’s your collective recollection of what [defense counsel] said and what [defense
18 counsel]’s argument is that should control what you think about this.” Id. The Court correctly
19 explained that the prosecutor did not offer an “incorrect” account of the law; he merely
20 commented on what defense counsel argued would be required to find Defendant guilty of
21 involuntary manslaughter. Indeed, because the law on involuntary manslaughter indicates that
22 such a killing is done “without any intent to do so,” the prosecutor did not act improperly in
23 using the shorthand “accident.” NRS 200.070. Because the prosecutor did not act improperly,
24 and because this Court correctly remedied any effect of the single comment about the victim
25 shooting himself, neither trial nor appellate counsel were unreasonable for not taking further
26 steps. Moreover, Defendant cannot establish prejudice based on the sustained objection. Thus,
27 there was no ineffective assistance of counsel.

1 Last, Defendant complains that the prosecutor “[old] the jury they have a duty to
2 convict the defendant.” Supplement at 43. This is a vast leap from the prosecutor’s actual
3 statements. He stated:

4 I think it’s your duty to go back there and look at the evidence. Go back there,
5 go through the wire recording, go through the physical evidence. Ask
6 yourself how he can’t be guilty of a deadly weapon when you know he gave
7 Jay Jay [the shooter] a .22. Ask yourself how he can be guilty of less than
8 first-degree murder when he acknowledges and everybody acknowledges
9 that the order was a killing. That’s your duty. And I submit to you that if the
10 group of 12 of you go back to that room and actually look at the evidence in
11 this case, actually focus on the evidence not what we’re saying, look at what
the evidence is, that you’ll be able to determine the truth because there’s at
least one person in this room that knows that he intended to kill Timothy
Hadland, and I submit to you if you’re doing your job, you’ll come back here
and you’ll tell [Defendant] that you know too.

12 Transcript, Jury Trial, Day 6 at 139–40.

13 Again, trial counsel did not object, so appellate review would be limited to plain error.
14 Hernandez, 118 Nev. at 525, 50 P.3d at 1109. And taken in context, his comment is not such
15 an unmistakable error on casual inspection. Patterson, 111 Nev. at 1530, 907 P.2d at 987. The
16 comment is very similar to a comment already examined by the Nevada Supreme Court; the
17 phrase “I submit to you that there’s at least one person in this room who knows beyond a
18 shadow of a doubt who killed [the victim]” was not improper when it “followed a summation
19 of evidence” and “reflects the prosecutor’s conclusions based on the evidence.” Taylor v.
20 State, 132 Nev. ___, ___, 371 P.3d 1036, 1046 (2016). Similarly, the comment that if the jury is
21 “doing their job”—i.e. examining the evidence, which the prosecutor requested multiple times
22 in the preceding sentences that the jury do—they will tell Defendant that he had the intent to
23 kill followed a summation of the evidence and reflects the prosecutors conclusions thereof.

24 Certainly the prosecutor’s comment here is not as egregious as that made in the case
25 Defendant cites: “he needs to be convicted—he’s endangering people—he’s certainly
26 endangering his child--do his child and all of us a favor--do your duty in this case--find that
27 he’s guilty.” Anderson v. State, 121 Nev. 511, 517, 118 P.3d 184, 187 (2005). The comment
28 in Anderson was a clear command that the jury side with the State. It explicitly stated that the

1 jury's "duty" was to "find that he's guilty." Id. Here, the prosecutor merely commented on the
2 evidence, saying that the State believed that if the jury examines the evidence (i.e. "doing their
3 job") they will convict. It is certainly a stretch to read this prosecutor's statement as a command
4 to convict.

5 Even if this was misconduct, it is Defendant's burden to demonstrate that his substantial
6 rights were affected by the comment, which he cannot do. Green, 119 Nev. at 545, 80 P.3d at
7 95 (footnote omitted). Thus, neither trial nor appellate counsel were unreasonable for not
8 objecting to this single comment. There was no ineffective assistance of counsel regarding any
9 instance of so-called prosecutorial misconduct.

10 **F. Appellate counsel was not ineffective for failure to challenge the flight instruction.**

11 Finally, Defendant claims appellate counsel was ineffective for not raising an objection
12 to the flight instruction. Supplement at 44–45. However, Defendant cannot establish
13 ineffective assistance of counsel because the underlying claim that the flight instruction was
14 improper is meritless.

15 The Nevada Supreme Court has held that "[f]light instructions are valid only if there is
16 evidence sufficient to support a chain of unbroken inferences from the defendant's behavior
17 to the defendant's guilt of the crime charged." Jackson v. State, 117 Nev. 116, 121, 17 P.3d
18 998, 1001 (2001); United States v. Feldman, 788 F.2d 544, 555 (9th Cir. 1986). "A defendant's
19 conduct, such as flight from a scene of the crime, generally is considered a party admission,
20 and will be admitted if the actions have probative value." Turner v. State, 98 Nev. 103, 106,
21 641 P.2d 1062, 1065 (1982). The giving of a flight instruction is not reversible error if evidence
22 of flight has been admitted. Potter v. State, 96 Nev. 875, 875–76, 619 P.2d 1222, 1222 (1980).

23 Here, defense counsel objected to the flight instruction at trial. Transcript, Jury Trial,
24 Day 6 at 4. This Court overruled that objection. Id. It was not reversible error for this Court to
25 do so because evidence of flight had been admitted. Potter, 96 Nev. at 875–76, 619 P.2d at
26 1222. Specifically, even without Defendant's confession to police that he watched the victim
27 be shot and merely drove away from the scene without reaching out for help, the wire tape
28 recordings revealed that Defendant actually took the shooter from the scene to get paid. Wire

1 Transcript, State's Exhibit 244; see also Transcript, Jury Trial, Day 6 at 3. This Court correctly
2 pointed out that if this had actually been an accident—if Defendant had not meant for the
3 victim to be killed, as he claimed—then it certainly points to “consciousness of guilt” that he
4 did not reach out to law enforcement and instead went immediately about his daily life.
5 Transcript, Jury Trial, Day 6 at 3–4. Thus, appellate counsel was reasonable in not arguing the
6 issue.

7 Further, there is no prejudice because Defendant cannot demonstrate a likelihood that
8 this argument would have won on appeal. District courts have “broad discretion” to settle jury
9 instructions. Cortinas v. State, 124 Nev. 1013, 1019, 195 P.3d 315, 319 (2008). And because
10 there was in fact evidence of flight, the district court did not abuse its discretion; and the
11 argument would not have won on appeal. Crawford v. State, 121 Nev. 746, 748, 121 P.3d 582,
12 585 (2003) (holding that jury instruction decisions are generally reviewed for an abuse of
13 discretion). This Court properly utilized its discretion in finding that the flight instruction was
14 warranted given the evidence and given the State’s theory of the case. Thus, absent prejudice,
15 there was no ineffective assistance of counsel.

16 **G. There is no cumulative error.**

17
18 Defendant claims that “cumulative errors” by trial and appellate counsel entitle him to
19 relief. However, since Defendant fails to show any instances of error, his argument regarding
20 cumulative error is without merit. Even if there is an instance of error, the issue of guilt was
21 not close, and so relief is not warranted.

22 The Nevada Supreme Court has not endorsed application of its direct appeal cumulative
23 error standard to the post-conviction Strickland context. McConnell v. State, 125 Nev. 243,
24 259, 212 P.3d 307, 318 (2009). Nor should cumulative error apply on post-conviction review.
25 Middleton v. Roper, 455 F.3d 838, 851 (8th Cir. 2006), cert. denial, 549 U.S. 1134, 1275 S.
26 Ct. 980 (2007) (“a habeas petitioner cannot build a showing of prejudice on series of errors,
27 none of which would by itself meet the prejudice test.”)
28

1 Nevertheless, even where available a cumulative error finding in the context of a
2 Strickland claim is extraordinarily rare and requires an extensive aggregation of errors. See,
3 e.g., Harris By and through Ramseyer v. Wood, 64 F.3d 1432, 1438 (9th Cir. 1995). In fact,
4 logic dictates that there can be no cumulative error where the defendant fails to demonstrate
5 any single violation of Strickland. See Turner v. Quarterman, 481 F.3d 292, 301 (5th Cir.
6 2007) (“where individual allegations of error are not of constitutional stature or are not errors,
7 there is ‘nothing to cumulate.’”) (quoting Yohey v. Collins, 985 F.2d 222, 229 (5th Cir. 1993));
8 Hughes v. Epps, 694 F.Supp.2d 533, 563 (N.D. Miss. 2010) (citing Leal v. Dretke, 428 F.3d
9 543, 552-53 (5th Cir. 2005)). Because Defendant has not demonstrated any claim warrants
10 relief under Strickland, there is nothing to cumulate. Therefore, Defendant’s cumulative error
11 claim is denied.

12 Assuming arguendo that there was any error, Defendant fails to demonstrate cumulative
13 error sufficient to warrant reversal. In addressing a claim of cumulative error, the relevant
14 factors are: 1) whether the issue of guilt is close; 2) the quantity and character of the error; and
15 3) the gravity of the crime charged. Mulder v. State, 116 Nev. 1, 17, 992 P.2d 845, 854–55
16 (2000). As discussed above, the issue of guilt was not close, as even the Nevada Supreme
17 Court has noted that the evidence against Defendant was “overwhelming.” Carroll, 132 Nev.
18 at ___, 371 P.3d at 1031–36. Further, even assuming that some or all of Defendant’s allegations
19 of deficiency have merit, he has failed to establish that, when aggregated, the errors deprived
20 him of a reasonable likelihood of a better outcome at trial. Therefore, even if counsel was in
21 any way deficient, there is no reasonable probability that Defendant would have received a
22 better result but for the alleged deficiencies. Further, even if Defendant had made such a
23 showing, he has certainly not shown that the cumulative effect of these errors was so
24 prejudicial as to undermine this Court’s confidence in the outcome of Defendant’s case.
25 Therefore, his claim of cumulative error is without merit.

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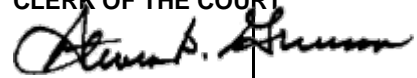
DATED this 19 day of December, 2018.

1/3

BY /s/ Jonathan VanBoskerk
JONATHAN VANBOSKERK
Chief Deputy District Attorney
Nevada Bar #006528

JAMIE RESCH, ESQ.
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05FB0052D/JV/AO/saj/MVU



NEO

**DISTRICT COURT
CLARK COUNTY, NEVADA**

DEANGELO R. CARROLL,

Petitioner,

vs.

THE STATE OF NEVADA,

Respondent,

Case No: 05C212667-4

Dept No: XXI

**NOTICE OF ENTRY OF FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER**

PLEASE TAKE NOTICE that on January 18, 2019, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on January 22, 2019.

STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Amber Lasby

Amber Lasby, Deputy Clerk

CERTIFICATE OF E-SERVICE / MAILING

I hereby certify that on this 22 day of January 2019, I served a copy of this Notice of Entry on the following:

☒ By e-mail:

Clark County District Attorney's Office
Attorney General's Office – Appellate Division-

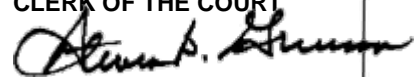
☒ The United States mail addressed as follows:

Jamie J. Resch # 1056956
P.O. Box 650
Indian Springs, NV 89070

Jamie J. Resch, Esq.
2620 Regatta Dr., Ste. 102
Las Vegas, NV 89128

/s/ Amber Lasby

Amber Lasby, Deputy Clerk



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DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

DEANGELO R. CARROLL,
#1678381,

Defendant.

CASE NO: 05C212667-4

DEPT NO: XXI

FINDINGS OF FACT AND CONCLUSIONS OF LAW

DATE OF HEARING: December 4, 2018
TIME OF HEARING: 9:30 AM

THIS CAUSE having come on for hearing before the Honorable VALERIE ADAIR, District Judge, on the 4th day of December, 2018, the Petitioner not being present, represented by JAMIE RESCH, ESQ., the Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through MARC DIGIACAMO, Chief Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law.

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1 **FINDINGS OF FACT, CONCLUSIONS OF LAW**

2 **PROCEDURAL HISTORY**

3 On June 3, 2005, Deangelo Reshawn Carroll (hereinafter “Defendant”)—along with
4 four (4) co-defendants, Kenneth Counts, Luis Hidalgo, Anabel Espindola, and Jayson
5 Taoipu—were charged by way of Second Amended Criminal Complaint with one (1) count of
6 Conspiracy to Commit Murder and one (1) count Murder with Use of a Deadly Weapon for
7 the murder of Timothy Hadland. Co-defendants Hidalgo and Espindola were also charged with
8 two (2) counts of Solicitation to Commit Murder for procuring Defendant to kill Rontae Zone
9 and co-defendant Taoipu.

10 A Preliminary Hearing was held on June 13, 2005, wherein co-defendants Hidalgo,
11 Counts, and Espindola were held to answer. Defendant waived his right to preliminary hearing
12 after the first witness was called and sworn. Subsequently, on June 20, 2005, Defendant,
13 Hidalgo, Counts, and Espindola were charged by way of Information with all counts as alleged
14 in the Second Amended Criminal Complaint.

15 On April 30, 2010, Petitioner filed a Motion to Suppress, seeking to exclude his
16 statements to the police. On May 4, 2010, the State filed an Opposition. On May 11, 2010, the
17 Court denied Petitioner’s Motion.

18 Defendant proceeded to trial on May 21, 2010. At trial, Defendant was represented by
19 Dan Bunin, Esq. and Thomas Ericsson, Esq. After six days of trial, the jury returned a verdict
20 of Guilty as to Count 1 – Conspiracy to Commit Murder and Count 2 – Murder in the First
21 Degree. On August 12, 2010, Defendant was sentenced to the following: as to Count 1 – to a
22 maximum of one hundred twenty (120) months with a minimum parole eligibility of thirty-six
23 (36) months; and as to Count 2 – life with the possibility of parole after serving a minimum of
24 twenty (20) years, plus an equal and consecutive term of life with the possibility of parole after
25 serving a minimum of twenty (20) years for Use of a Deadly Weapon, Count 2 to run
26 consecutive to Count 1. Defendant received one thousand nine hundred four (1,904) days
27
28

1 credit for time served. The Judgment of Conviction was filed on September 8, 2010.¹
2 Defendant did not file a direct appeal.

3 On December 17, 2010, Patrick E. McDonald, Esq. was appointed as appellate counsel
4 for Defendant. Counsel appeared for a status check on February 17, 2011, and stated that he
5 had not yet received Defendant's file from prior counsel. McDonald then appeared on March
6 8, 2011 and stated that he had received the file from prior counsel but had not yet had the
7 opportunity to review it. Counsel then requested a briefing schedule. There followed two
8 stipulated continuances and Defendant's Motion for an Extension of Time to File Opening
9 Brief, which this Court granted.

10 Defendant ultimately filed his Petition for Writ of Habeas Corpus (Post-Conviction)
11 ("First Petition") on December 29, 2011. The State's filed its Response on January 19, 2012.
12 Defendant filed his Reply on February 17, 2012. This Court held an Evidentiary Hearing on
13 June 4, 2012. On July 30, 2012, this Court issued Findings of Fact, Conclusions of Law and
14 Order, finding that Defendant had been denied appellate relief; the Court directed the court
15 clerk to file a Notice of Appeal on behalf of Defendant. McDonald withdrew due to medical
16 and personal reasons, and on April 11, 2013, Mario Valencia was confirmed as replacement
17 appellate counsel.

18 The Notice of Appeal was filed on May 1, 2013. The Nevada Supreme Court remanded
19 the case back to this Court on August 23, 2013, because Defendant had only raised his denial
20 of appeal claim in his untimely First Petition and this Court had not specifically determined
21 that there was good cause to overcome the procedural bars. Thus, on October 21, 2013, this
22 Court held another Evidentiary Hearing regarding that issue. The evidence showed that
23 following the entry of the Judgment of Conviction, Petitioner informed his trial counsel that
24 he wished to pursue a direct appeal. But because of a breakdown in communication between
25 Petitioner and trial counsel, a Notice of Appeal was not timely filed. Upon discovery of this,
26 McDonald had been appointed to determine whether an untimely appeal could be pursued.
27 McDonald had had difficulty obtaining the complete file and did not discuss the post-

28 ¹ An Amended Judgment of Conviction was filed on March 23, 2011, correcting a clerical error.

conviction claims with trial counsel. This was sufficient to establish good cause to excuse the untimeliness of Defendant's First Petition. On January 3, 2014, the District Court entered its Findings of Fact, Conclusions of Law and Order, directing the court clerk to file a second Notice of Appeal on behalf of Defendant.

The Notice of Appeal was filed on January 6, 2014. On April 7, 2016, the Nevada Supreme Court issued a published opinion affirming Defendant's conviction on the merits. Carroll v. State, 132 Nev. Adv. Rep. 23, 371 P.3d 1023 (2016). Remitter issued on October 21, 2016.

Defendant filed a pro per Petition for Writ of Habeas Corpus ("Second Petition") and a Motion for Appointment of Counsel for Investigation Purposes in Post-Conviction NRS 171.188 NRS 178.397 on May 10, 2017. The State filed its Response on July 13, 2017. Defendant filed a Reply on August 7, 2017. Pursuant to Defendant's Motion for Appointment of Counsel, this Court appointed counsel on September 5, 2017. Defendant, through counsel, filed his Supplement to Petition for Writ of Habeas Corpus ("Supplement") on August 31, 2018. The State filed its Opposition on October 30, 2018. The Court now finds as follows.

STATEMENT OF FACTS

The following are the facts as determined by the Nevada Supreme Court in its published opinion affirming the judgment:

On May 19, 2005, police discovered Timothy J. Hadland's body on Northshore Road near Lake Mead. Along with Hadland's body, police found advertisements for the Palomino Club. Hadland was fired from his job at the Palomino Club a week before his death. Palomino Club management recruited Carroll to "knock off" Hadland because Hadland was spreading negative rumors about the club.

Carroll was also an employee at the Palomino Club. Carroll used the club's van to promote the club by handing out flyers to cab drivers and tourists. On the night of Hadland's murder, Carroll drove the club's van with two other men, Rontae Zone and Jayson Taoipu, who occasionally assisted him. Carroll recruited Kenneth Counts for this assignment because Carroll knew Counts would "take care of" someone for money.

Carroll, Zone, Taoipu, and Counts went to an area near Lake Mead, and Carroll called Hadland. When Hadland noticed the Palomino Club's van,

1 Hadland parked his car in front of the van and walked to the driver's side
2 window where Carroll was sitting. As Hadland and Carroll talked, Counts
3 exited the van through the side door, snuck around to the front, and fired two
4 shots into Hadland's head. Counts then jumped back into the van and ordered
5 Carroll to return to town.

6 Carroll drove directly to the Palomino Club and told club management what
7 occurred. Louis Hidalgo, Jr., the general manager of the club, directed other
8 employees to give Carroll \$6,000 in cash to pay Counts. Carroll gave the
9 money to Counts, who then left in a cab. The next morning, at Hidalgo's
10 direction, Carroll bought new tires for the van and disposed of the old tires
11 at two separate locations.

12 The evening after Hadland's murder, homicide detectives contacted Carroll
13 at the Palomino Club, as Carroll's phone number was the last phone number
14 on Hadland's phone. When the detectives asked to speak with Carroll, he
15 agreed, and the detectives drove Carroll to the homicide office for
16 questioning. Carroll sat in a small room at a table with his back to the wall,
17 while the detectives sat between him and the exit. The detectives did not give
18 Carroll Miranda^[2] warnings before questioning him, but they informed
19 Carroll that he was speaking with them voluntarily. Eventually, Carroll
20 implicated himself, Palomino Club management, and Counts in Hadland's
21 murder.

22 Carroll then volunteered to wear a recording device to corroborate his story
23 by speaking with the Palomino Club management. The detectives strategized
24 with Carroll before he spoke with the management each time. The
25 information on these recordings allowed the State to charge three members
26 of Palomino Club management for their roles in Hadland's murder.

27 After the detectives finished obtaining information and evidence from
28 Carroll, they arrested him.

29 Carroll, 132 Nev. at ___, 371 P.3d at 1026–27.

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33 ANALYSIS

34 **Defendant fails to demonstrate counsel was ineffective.**

35 ² Miranda v. Arizona, 384 U.S. 436, 86 S Ct. 1602 (1966).

1 Petitioner raises six claims of ineffective assistance of counsel plus a cumulative error
2 claim based on the alleged ineffective assistance.³ Such claims are analyzed under the two-
3 pronged test articulated in Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984),
4 wherein the defendant must show (1) that counsel's performance was deficient, and (2) that
5 the deficient performance prejudiced the defense. Id. at 687, 104 S. Ct. at 2064. "A court may
6 consider the two test elements in any order and need not consider both prongs if the defendant
7 makes an insufficient showing on either one." Kirksey v. State, 112 Nev. 980, 987, 923 P.2d
8 1102, 1107 (1997); Molina v. State, 120 Nev. 185, 190, 87 P.3d 533, 537 (2004).

9 "Surmounting Strickland's high bar is never an easy task." Padilla v. Kentucky, 559
10 U.S. 356, 371, 130 S. Ct. 1473, 1485 (2010). The question is whether an attorney's
11 representations amounted to incompetence under prevailing professional norms, "not whether
12 it deviated from best practices or most common custom." Harrington v. Richter, 562 U.S. 86,
13 88, 131 S. Ct. 770, 778 (2011). Further, "[e]ffective counsel does not mean errorless counsel,
14 but rather counsel whose assistance is '[w]ithin the range of competence demanded of
15 attorneys in criminal cases.' " Jackson v. Warden, Nevada State Prison, 91 Nev. 430, 432, 537
16 P.2d 473, 474 (1975) (quoting McMann v. Richardson, 397 U.S. 759, 771, 90 S. Ct. 1441,
17 1449 (1970)).

18 The court begins with a presumption of effectiveness and then must determine whether
19 the defendant has demonstrated by a preponderance of the evidence that counsel was
20 ineffective. Means v. State, 120 Nev. 1001, 1011–12, 103 P.3d 25, 32–33 (2004). The role of
21 a court in considering alleged ineffective assistance of counsel is "not to pass upon the merits
22 of the action not taken but to determine whether, under the particular facts and circumstances
23 of the case, trial counsel failed to render reasonably effective assistance." Donovan v. State,
24 94 Nev. 671, 675, 584 P.2d 708, 711 (1978) (citing Cooper v. Fitzharris, 551 F.2d 1162, 1166
25 (9th Cir. 1977)).

26

³ To the extent Defendant attempts to raise substantive complaints and not just ineffective assistance
27 of counsel claims, these are outside the scope of a petition for writ of habeas corpus and are waived
28 as not being brought on direct appeal. NRS 34.724(2)(a); NRS 34.810(1)(b); Evans v. State, 117 Nev.
609, 646–47, 29 P.3d 498, 523 (2001); Franklin v. State, 110 Nev. 750, 752, 877 P.2d 1058, 1059
(1994), disapproved on other grounds, Thomas v. State, 115 Nev. 148, 979 P.2d 222 (1999).

1 This analysis does not indicate that the court should “second guess reasoned choices
2 between trial tactics, nor does it mean that defense counsel, to protect himself against
3 allegations of inadequacy, must make every conceivable motion no matter how remote the
4 possibilities are of success.” Donovan, 94 Nev. at 675, 584 P.2d at 711 (citing Cooper, 551
5 F.2d at 1166 (9th Cir. 1977)). In essence, the court must “judge the reasonableness of counsel’s
6 challenged conduct on the facts of the particular case, viewed as of the time of counsel’s
7 conduct.” Strickland, 466 U.S. at 690, 104 S. Ct. at 2066.

8 Not only must the petitioner show that counsel was incompetent, but he must also
9 demonstrate that but for that incompetence the results of the proceeding would have been
10 different:

11 In assessing prejudice under Strickland, the question is not whether a court can
12 be certain counsel’s performance had no effect on the outcome or whether it is
13 possible a reasonable doubt might have been established if counsel acted
14 differently. Instead, Strickland asks whether it is reasonably likely the results
15 would have been different. This does not require a showing that counsel’s
16 actions more likely than not altered the outcome, but the difference between
17 Strickland’s prejudice standard and a more-probable-than-not standard is
18 slight and matters only in the rarest case. The likelihood of a different result
19 must be substantial, not just conceivable.

20 Harrington, 562 U.S. at 111–12, 131 S. Ct. at 791–92 (internal quotation marks and citations
21 omitted); accord McNelson v. State, 115 Nev. 396, 403, 990 P.2d 1263, 1268 (1999) (noting
22 that a defendant must show a reasonable probability that, but for counsel’s errors, the result of
23 the trial would have been different).

24 Importantly, when raising a Strickland claim, the defendant bears the burden to
25 demonstrate the underlying facts by a preponderance of the evidence. Means, 120 Nev. at
26 1012, 103 P.3d at 33. “Bare” or “naked” allegations are not sufficient to show ineffectiveness
27 of counsel; claims asserted in a petition for post-conviction relief must be supported with
28 specific factual allegations which if true would entitle petitioner to relief. Hargrove v. State,
100 Nev. 498, 502, 686 P.2d 222, 225 (1984).

1 With regard to ineffective assistance on appeal, there is a strong presumption that
2 appellate counsel's performance was reasonable and fell within "the wide range of reasonable
3 professional assistance." See United States v. Aguirre, 912 F.2d 555, 560 (2nd Cir. 1990)
4 (citing Strickland, 466 U.S. at 689, 104 S.Ct. at 2065). Federal courts have held that a claim
5 of ineffective assistance of appellate counsel must satisfy the two-prong test set forth by
6 Strickland, 466 U.S. at 687–88, 694, 104 S.Ct. at 2065, 2068; Williams v. Collins, 16 F.3d
7 626, 635 (5th Cir. 1994); Hollenback v. United States, 987 F.2d 1272, 1275 (7th Cir. 1993);
8 Heath v. Jones, 941 F.2d 1126, 1130 (11th Cir. 1991). In order to satisfy Strickland's second
9 prong, the defendant must show that the omitted issue would have had a reasonable probability
10 of success on appeal. See Duhamel v. Collins, 955 F.2d 962, 967 (5th Cir. 1992); Heath, 941
11 F.2d at 1132.

12 Furthermore, the Nevada Supreme Court has held that all appeals must be "pursued in
13 a manner meeting high standards of diligence, professionalism and competence." Burke v.
14 State, 110 Nev. 1366, 1368, 887 P.2d 267, 268 (1994). In Jones v. Barnes, 463 U.S. 745, 751,
15 103 S.Ct. 3308, 3312 (1983), the Supreme Court recognized that part of professional diligence
16 and competence involves "winnowing out weaker arguments on appeal and focusing on one
17 central issue if possible, or at most on a few key issues." Id. at 751–52, 103 S.Ct. at 3313. In
18 particular, a "brief that raises every colorable issue runs the risk of burying good arguments .
19 . . in a verbal mound made up of strong and weak contentions." Id. 753, 103 S.Ct. at 3313.
20 The Court also held that, "for judges to second-guess reasonable professional judgments and
21 impose on appointed counsel a duty to raise every 'colorable' claim suggested by a client would
22 disserve the very goal of vigorous and effective advocacy." Id. at 754, 103 S.Ct. at 3314.

23 **A. Neither trial counsel nor appellate counsel were ineffective for failure to suppress**
24 **the wire tape recordings.**

25 Defendant claims trial and appellate counsel were both ineffective for failure to
26 suppress physical and/or testimonial evidence regarding the wire Defendant voluntarily wore
27 to assist police. Supplement at 24–31. However, counsel did in fact move to suppress this
28 evidence. Further, despite the fact that Defendant was in custody when he spoke to police, he

1 then volunteered—in the hopes of receiving a benefit—to assist police by wearing a recording
2 device. Thus, any motions specifically regarding fruit of the poisonous tree/Miranda violations
3 would have been futile. Therefore, counsel was not ineffective.

4 As an initial matter, to claim both trial and appellate counsel were ineffective for failure
5 to move to suppress the wire tape recordings is disingenuous. Defendant argues that counsel
6 was ineffective for not “*specifically* argu[ing] that the wiretap evidence should be suppressed
7 because it was the product of an illegal interrogation.” Supplement at 6, 25 (emphasis added).
8 However, trial counsel has the “immediate and ultimate responsibility of deciding if and when
9 to object . . . and what defenses to develop.” Rhyne v. State, 118 Nev. 1, 8, 38 P.3d 163, 167
10 (2002). Defendant admits that “various attempts were made to suppress the wiretap evidence”
11 using other methods unspecified by Defendant. Supplement at 6, 25. Trial counsel’s strategic
12 decision to argue for its suppression using other methods is virtually unchallengeable. Dawson
13 v. State, 108 Nev. 112, 117, 825 P.2d 593, 596 (1992). Similarly, appellate counsel did in fact
14 argue that the wire tape recordings should have been suppressed, based on several grounds.
15 Carroll, 132 Nev. at ___, 371 P.3d at 1027–31. Because there is a strong presumption that
16 appellate counsel made a sound professional judgment to pursue stronger arguments, this
17 Court should not second guess appellate counsel’s strategy in arguing on direct appeal that the
18 wire tape recordings should have been suppressed through different means. Barnes, 463 U.S.
19 at 751, 103 S.Ct. at 3312–13.

20 However, even on the merits, Defendant’s “fruit of the poisonous tree” argument is
21 without merit. Any argument about the fruit of the poisonous tree would have been futile—
22 because Defendant initiated the request to wear a wire to assist police and then wore it
23 voluntarily. See Ennis v. State, 122 Nev. 694, 706, 137 P.3d 1095, 1103 (2006) (holding that
24 counsel cannot be ineffective for failure to make futile arguments).

25 In Defendant’s statement to police on May 19, 2005, after implicating himself in the
26 murder, Defendant was read his rights and asked if he understood them, to which he responded
27 “yes.” See Defendant’s Motion to Suppress, filed April 30, 2013, Exhibit B at 85. Detectives
28 had Defendant sign a Miranda card to ensure that he understood his rights. Id. “The police

1 promised Defendant they would take him home at the conclusion of the interview, which they
2 did. The police also promised Defendant they would attempt to prove his version of events
3 was true, which they did by making the recordings with [Defendant's] coconspirators.”
4 Carroll, 132 Nev. at ___, 371 P.3d at 1031. To that end, Defendant—not police—suggested that
5 Defendant wear a recording device to corroborate his story. Defendant's Motion to Suppress,
6 filed April 30, 2013, Exhibit B at 86. Then, on May 24, 2005, Defendant wore a wire while he
7 spoke with his co-conspirators at the Palomino Club. Supplement at 21–22.

8 It must be noted that the Nevada Supreme Court has already examined the wire tape
9 recordings and established law of the case surrounding their admissibility. The Court held that
10 the wire tape recordings were not so unduly prejudicial as to outweigh their probative value,
11 that they were not inadmissible hearsay, that they were made in furtherance of a conspiracy,
12 and that did not violate Defendant's right against self-incrimination. Carroll, 132 Nev. at ___,
13 371 P.3d at 1027–31. The Court also held that despite the fact that the district court erred in
14 admitting Defendant's inculpatory statements to police, that error was harmless beyond a
15 reasonable doubt because of the overwhelming evidence against Defendant. Id. at ___, 371 P.3d
16 at 1031–35. Thus, the admissibility of the wire tape recordings, and the harmlessness of the
17 Miranda violation, is law of the case.

18 Defendant relies upon other jurisdictions' interpretations of U.S. Supreme Court
19 precedent in stating that the wire tape recordings should have been suppressed. United States
20 v. Patane, 542 U.S. 630, 646, 124 S. Ct. 2620, 2631 (2004). However, Patane specifically holds
21 that suppression of physical evidence resulting from a Miranda violation is *not* required. Id.
22 Defendant's argument that trial and appellate counsel should have relied upon it to suppress
23 the wire tape recordings is thus without merit. Supplement at 30–31. Though some states have
24 suppressed such evidence, the holding of the Florida case Defendant analyzes is
25 distinguishable from Defendant's case. The Florida appellate court suppressed wiretap
26 evidence resulting from police request for the defendant's cooperation in contacting a drug
27 dealer. Kessler v. State, 991 So.2d 1015 (Fla. App. 2008). Conversely, here, Defendant himself
28

1 requested to wear a wire; he was not accommodating a request by police. Defendant's Motion
2 to Suppress, filed April 30, 2013, Exhibit B at 86.

3 Moreover, Nevada is not subject to other states' holdings as described by Defendant.
4 Nevada has never held that "[its] own constitution[] provide[s] a broader self-incrimination
5 privilege than the Supreme Court's interpretation [in Patane] of the federal self-incrimination
6 privilege." Supplement at 28. Ohio and Oregon have specifically articulated these additional
7 protections. State v. Vondehn, 348 Ore. 462, 476 – 77 (2009); State v. Ferris, 109 Ohio St.3d
8 519, 529 (2006). But Nevada has never suggested that physical evidence, such as the wire tape
9 recordings, may be suppressed based on a Miranda violation. Therefore, Defendant is asking
10 for a new interpretation of Nevada law. As counsel cannot be found ineffective for failing to
11 anticipate a change in the law, this argument is without merit. Nika v. State, 124 Nev. 12772,
12 1289, 198 P.3d 839, 851 (2008); Doyle v. State, 116 Nev. 148, 156, 995P.2d 465, 470 (2000).

13 Finally, the United States Supreme Court has indicated that a Miranda warning—even
14 given in an untimely manner—may cure fruit of the poisonous tree issues. Oregon v Elstad,
15 470 U.S. 298, 84 L. Ed. 2d 222, 105 S. Ct. 1285 (1985). The Court stated:

16 A suspect who has responded to uncoercive questioning by a police officer
17 while in custody and without being given Miranda warnings is not thereby
18 disabled from waiving his rights and confessing after he has been given the
19 requisite Miranda warnings, and *his confession is not, solely on account of*
20 *the prior, unwarned admission, rendered inadmissible as "fruit of the*
21 *poisonous tree"*; the relevant inquiry is whether, in fact, the second statement
22 was also voluntarily made in view of the surrounding circumstances and the
23 entire course of police conduct with respect to the suspect.

24 If a confession is not, on account of a prior un-Mirandized admission, inadmissible as fruit of
25 the poisonous tree, physical evidence given after a Miranda warning—such as voluntarily
26 given wire tape recordings—cannot be said to be fruit of the poisonous tree. Here, there was
27 in fact a Miranda warning, just before Defendant volunteered to wear a wire for police.
28 Defendant's Motion to Suppress, filed April 30, 2013, Exhibit B at 85–86. Because counsel
cannot be found ineffective for failing to file a futile motion to suppress wire tape recordings

1 legally obtained by police—evidence Defendant volunteered, after being read his Miranda
2 rights—counsel was not ineffective here. Ennis, 122 Nev. at 706, 137 P.3d at 1103.

3 **B. Trial counsel was not ineffective for failure to impeach Zone.**

4 Defendant claims trial counsel was ineffective for not impeaching witness Zone with
5 the same impeachment evidence with which Zone had been confronted at co-defendant
6 Counts's trial. Supplement at 31–33. But the assertion that the impeachment of Zone with
7 Williams's testimony would have brought about the same result as in Counts's trial is a naked
8 speculation suitable only for summary denial under Hargrove. 100 Nev. at 502, 686 P.2d at
9 225. Unlike Counts—who was charged with being the actual shooter—Defendant was charged
10 under a theory of conspiracy. The facts, including who actually pulled the trigger, were not
11 really at issue in Defendant's case. The question was: What was Defendant's intent with regard
12 to the killing? Zone's testimony was not particularly probative of Defendant's intent.

13 Indeed, other evidence was more than demonstrated Defendant's intent that someone
14 shoot and kill the victim. Defendant, himself, states in the wire tape recordings that he “took
15 care of”—i.e. killed—the victim, as co-defendant Espindola asked him to do. Wire Transcript,
16 State's Exhibit 244. Defendant also discusses facilitating payment—and the fact that the
17 shooter was not happy with his \$6,000 Defendant and his co-defendants had paid him for the
18 murder. Wire Transcript, State's Exhibit 245. Co-defendant Espindola specifically states in
19 this same recording that “if something happens to him [the shooter] we all fucking lose. Every
20 fucking one of us.” Id. Thus, not only does Defendant implicate himself by discussing with
21 his co-defendants that he knew it was going to be a murder; at least one co-defendant confirms
22 that “all” of them knew enough to be implicated in the murder. Defendant's intent was also
23 established by several facts, including the isolated location of the murder. Transcript, Jury
24 Trial, Day 7 at 33.

25 Because the issue of who the actual shooter was had nothing to do with whether
26 Defendant intended that the victim be killed, counsel cannot be said to be unreasonable for not
27 bogging down the jury with the issue. Further, Defendant does not even argue how the lack of
28 impeachment evidence prejudiced him. He cannot establish, for example, that impeaching

1 Zone would have led to his acquittal. Again, the conviction rested not on who shot the victim
2 but on what Defendant intended, and there was more than sufficient evidence to convict
3 Defendant based upon the evidence of his intent. Counsel was not ineffective.

4 **C. Trial and appellate counsel were not ineffective for not further challenging the**
5 **trial court's denial of a Batson challenge.**

6 Defendant claims that trial counsel was ineffective for not challenging the basis for the
7 denial of the Batson objection. Supplement at 33–38; Batson v. Kentucky, 476 U.S. 79, 106
8 S.Ct. 1712 (1986). However, as any further challenge beyond the objection counsel offered at
9 trial would have been futile, this claim is without merit.

10 In Batson v. Kentucky, the United States Supreme Court held that the use of peremptory
11 challenges to remove potential jurors on the basis of race is unconstitutional under the Equal
12 Protection Clause of the United States Constitution. Id. at 89, 106 S.Ct. at 1719. Adjudicating
13 a Batson challenge is a three step process: (1) the defendant must make a prima facie showing
14 that racial discrimination has occurred based upon the totality of the circumstances, (2) the
15 prosecution then must provide a race-neutral explanation for its peremptory challenge or
16 challenges, and (3) the district court must determine whether the defendant in fact
17 demonstrated purposeful discrimination. Batson, 476 U.S. at 94, 106 S.Ct. at 1721; Watson v.
18 State, 130 Nev. __, __, __ P.3d __, 2014 WL 4925686, p. 4 (2014).

19 In step one, a defendant alleging that members of a cognizable group “have been
20 impermissibly excluded from the venire may make out a prima facie case of purposeful
21 discrimination by showing that the totality of the relevant facts give rise to an inference of
22 discriminatory purpose.” Batson, 476 U.S. at 94–95, 106 S. Ct. at 1721. In deciding whether
23 or not the requisite prima facie case has been made, a court may consider the “pattern of
24 strikes” exercised or the questions and statements made by counsel during the voir dire
25 examination. Id. at 96–97, 106 S.Ct. at 1723.

26 Only after the movant has established a prima facie case of intentional discrimination
27 is the proponent of the strike compelled to proffer a race-neutral explanation. “The second
28 step of this process does not demand an explanation that is persuasive, or even plausible.”

1 Purkett v. Elem, 514 U.S. 765, 767–68, 115 S.Ct. 1769, 1771 (1995). The neutral explanation
2 “is not a reason that makes sense, but a reason that does not deny equal protection.” Id. at 769,
3 115 S.Ct. at 1771. “Unless a discriminatory intent is inherent in the State’s explanation, the
4 reason offered will be deemed race neutral.” Id. at 768, 115 S.Ct. at 1171 (internal citations
5 omitted).

6 Step three comes down to credibility: “the district court must determine whether the
7 explanation was a mere pretext and whether the opponent successfully proved racial
8 discrimination.” King, 116 Nev. at 353, 998 P.2d at 1175. This can be measured by “how
9 reasonable, or how improbable, the explanations are; and by whether the proffered rationale
10 has some basis in accepted trial strategy.” Miller-El v. Cockrell, 537 U.S. 322, 324, 123 S.Ct.
11 1029, 1032 (2003).

12 The Nevada Supreme Court “review[s] the district court’s ruling on the issue of
13 discriminatory intent for clear error.” Conner v. State, 130 Nev. ___, ___, 327 P.3d 503, 508
14 (2014). ““The trial court’s decision on the ultimate question of discriminatory intent represents
15 a finding of fact of the sort accorded great deference on appeal.”” Walker, 113 Nev. at 867-68,
16 944 P.2d at 771–72 (quoting Hernandez v. New York, 500 U.S. 352, 364, 111 S.Ct. 1859,
17 1868 (1991) (plurality opinion)). The reason for such a standard is the trial court is in the
18 position to best assess whether from the “totality of the relevant facts” that racial
19 discrimination is occurring. Hernandez, 50 U.S. at 363, 111 S. Ct at 1868. Further, the Nevada
20 Supreme Court has emphasized that the burden is on the opponent of the strike in step three to
21 develop a pretext for the explanation at the district court level. Hawkins v. State, 127 Nev. ___,
22 ___, 256 P.3d 965, 967 (2011).

23 Here, trial counsel actually challenged the State’s preemptory challenge of Prospective
24 Juror No. 092. Transcript, Jury Trial, Day 2 at 72–77. Defendant’s assertion that the trial court
25 “refused to even consider the challenge because it found there could not be a ‘pattern’ of
26 discrimination based on the first such exercised strike” is not born out by the record.
27 Supplement at 35. In fact, this Court completed all steps required in a Batson challenge. First,
28 this Court noted the challenge, discussing first that there was in fact no pattern of

1 discrimination and next that in fact it was unusual that there had been four African-American
2 potential jurors in the box Transcript, Jury Trial, Day 2 at 72–77. Of these, as the Court noted,
3 two were excused; one via preemptory challenge by the State and one for cause by the defense.
4 Id. Then, this Court permitted the State to place on the record its race-neutral explanation: the
5 State challenged Potential Juror 092 because “her behavior in th[e] courtroom is an example
6 of what appeared to be someone who wasn’t taking the situation very seriously at all,” and that
7 her questionnaire answers suggested that the defense would have had reason to strike her for
8 cause. Id. at 76. This Court agreed with the assessment of Potential Juror No. 092 as “a
9 character” and the juror was dismissed. Id. Because the Court followed all steps required of a
10 Batson challenge, any further challenge by counsel would have been futile under Ennis.
11 122 Nev. at 706, 137 P.3d at 1103.

12 Further, counsel made a virtually unchallengeable strategic decision to let the Batson
13 challenge go since, as Defendant points out himself, Prospective Juror No. 092 appeared to be
14 a good juror for the State. Dawson, 108 Nev. at 117, 825 P.2d at 596; Supplement at 36. The
15 questioning of this juror, which lasted for almost twenty (20) pages of the transcript, revealed
16 that she was a retired New York corrections officer who believed that “the laws are not strict
17 enough,” who might have been “making a point” with her verdict. Transcript, Jury Trial, Day
18 1 at 144–62. Any “inference” that the State’s challenge was the result of purposeful
19 discrimination was mollified by the State’s clarification—helpful for this analysis, as certain
20 of the juror’s overly-jovial mannerisms would not have been clear from a cold transcript
21 alone—that this juror simply did not take the responsibility seriously. Supplement at 36;
22 Transcript, Jury Trial, Day 2 at 76. Possessed of all this information, and reassured that the
23 State did in fact have a race-neutral reason for challenging the juror, trial counsel and appellate
24 counsel were not unreasonable for making the strategic choice to drop the issue of the Batson
25 challenge. Counsel was thus not ineffective.

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1 **D. Neither trial counsel nor appellate counsel were ineffective for failure to challenge**
2 **the treatment of custodian of records witnesses as experts.**

3 Defendant claims trial and appellate counsel were both ineffective for not challenging
4 the treatment of custodian of record witnesses as expert witnesses who testified as experts
5 regarding cell phone communications technology. Supplement at 38–39. However, because
6 Defendant relies upon a change in the law that counsel could not have predicted—as it
7 occurred after his trial—and because Defendant cannot show prejudice, this claim is without
8 merit.

9 State’s witness Joseph Trawicki, a records custodian for Sprint, offered testimony about
10 what information Sprint maintains: what cell tower a phone connects with, “who’s calling
11 who, what time, day,” and how long those records are kept. Transcript, Jury Trial, Day 5 at
12 19–22. Defendant seems to contend that counsel’s so-called failure to object failed to predict
13 that years in the future, the Nevada Supreme Court would find that relatively simple
14 information about cell phone towers and signals would be deemed expert testimony: that is, it
15 denied him the benefit of Burnside v. State, 131 Nev. ___, 352 P.3d 627 (2015), cert. denied,
16 ___ U.S. ___, 136 S.Ct. 1466 (2016). Of course, counsel cannot be found ineffective for failing
17 to anticipate a change in law. Nika, 124 Nev. at 1289, 198 P.3d at 851; Doyle, 116 Nev. at
18 156, 995 P.2d at 470. Counsel’s lack of objection was reasonable, given the law at the time.

19 Further, it should be noted that as in Burnside, Defendant “has not explained what he
20 would have done differently had proper notice been given, and he did not request a
21 continuance. See NRS 174.295(2).” 131 Nev. ___, 352 P.3d 627, 637 (2015). Thus, Defendant
22 has not argued prejudice based on the lack of objection. Finally, Defendant cannot demonstrate
23 prejudice because of the overwhelming evidence of Petitioner’s guilt. See Sections A and B,
24 supra. Thus, counsel was not ineffective.

25 **E. Neither trial counsel nor appellate counsel were ineffective for failure to object to**
26 **prosecutorial misconduct.**

27 Defendant claims trial and appellate counsel were both ineffective for not challenging
28 various instances of so-called prosecutorial misconduct. Supplement at 40–44. However,

1 Defendant cannot establish ineffective assistance of counsel because the underlying claim of
2 prosecutorial misconduct is meritless.

3 The Nevada Supreme Court employs a two-step analysis when considering claims of
4 prosecutorial misconduct. Valdez v. State, 124 Nev. 1172, 1188, 196 P.3d 465, 476 (2008).
5 First, the Court determines if the conduct was improper. Id. Second, the Court determines
6 whether misconduct warrants reversal. Id. As to the first factor, argument is not misconduct
7 unless “the remarks ... were ‘patently prejudicial.’” Riker v. State, 111 Nev. 1316, 1328, 905
8 P.2d 706, 713 (1995) (quoting, Libby v. State, 109 Nev. 905, 911, 859 P.2d 1050, 1054
9 (1993)). Notably, “statements by a prosecutor, in argument... made as a deduction or
10 conclusion from the evidence introduced in the trial are permissible and unobjectionable.”
11 Parker v. State, 109 Nev. 383, 392, 849 P.2d 1062, 1068 (1993) (quoting, Collins v. State, 87
12 Nev. 436, 439, 488 P.2d 544, 545 (1971)). Further, the State may respond to defense theories
13 and arguments. Williams v. State, 113 Nev. 1008, 1018–19, 945 P.2d 438, 444–45 (1997),
14 receded from on other grounds, Byford v. State, 116 Nev. 215, 994 P.2d 700 (2000).

15 With respect to the second step, the Nevada Supreme Court will not reverse if the
16 misconduct was harmless error, which depends on whether it was of constitutional dimension.
17 Valdez, 124 Nev. at 1188, 196 P.3d at 476. Error of a constitutional dimension requires
18 impermissible comment on the exercise of a specific constitutional right, or if in light of the
19 proceedings as a whole, the misconduct “so infected the trial with unfairness as to make the
20 resulting conviction a denial of due process.” Id. at 1189, 196 P.3d at 477. If the error is not
21 of a constitutional dimension, the Court will reverse only if the error substantially affected the
22 jury’s verdict. Id.

23 Importantly, a defendant is entitled to a fair trial, not a perfect one, and therefore “a
24 criminal conviction is not to be lightly overturned on the basis of a prosecutor's comments
25 standing alone[.]” United States v. Young, 470 U.S. 1, 11, 105 S.Ct. 1038, 1044 (1985).
26 Accord, Leonard, 117 Nev. at 81, 17 P.3d at 414. “[W]here evidence of guilt is overwhelming,
27 even aggravated prosecutorial misconduct may constitute harmless error.” Smith v. State, 120
28 Nev. 944, 948, 102 P.3d 569, 572 (2004) (citing King v. State, 116 Nev. 349, 356, 998 P.2d

1 1172, 1176 (2000)). In determining prejudice, a court considers whether a comment had: 1) a
2 prejudicial impact on the verdict when considered in the context of the trial as a whole; or 2)
3 seriously affects the integrity or public reputation of the judicial proceedings. Rose, 123 Nev.
4 at 208–09, 163 P.3d at 418.

5 Where a defendant fails to offer a contemporaneous objection, an appellate court will
6 only review claims of prosecutorial misconduct for plain error. Hernandez v. State, 118 Nev.
7 513, 525, 50 P.3d 1100, 1109 (2002). Plain error asks whether an error is “so unmistakable
8 that it reveals itself by a casual inspection of the record.” Patterson, 111 Nev. at 1530, 907
9 P.2d at 987 (internal citations omitted); Sterling, 108 Nev. at 394, 834 P.2d at 402. In
10 determining whether an error is plain, a court must consider “whether there was ‘error,’
11 whether the error was ‘plain’ or clear, and whether the error affected the defendant’s
12 substantial rights. Additionally, the burden is on an appellant to show actual prejudice or a
13 miscarriage of justice.” Green, 119 Nev. at 545, 80 P.3d at 95 (footnote omitted).

14 Here, the specific instances raised by Defendant are insufficient to meet the high
15 standard for reversal due to prosecutorial misconduct. Defendant complains that the State’s
16 closing argument contained the phrases “it would be a travesty of justice if you did anything
17 less than the truth, the absolute truth.” Transcript, Jury Trial, Day 6 at 124. Defense counsel
18 did not object to this statement, meaning that this issue could only be analyzed on appeal for
19 plain error. Hernandez, 118 Nev. at 525, 50 P.3d at 1109. Of course, counsel had a good reason
20 for not objecting. The prosecutors were appropriately responding to defense counsel’s
21 argument for involuntary manslaughter. Williams, 113 Nev. at 1018–19, 945 P.2d at 444–45.
22 Specifically, the State responded to defense counsel’s argument about justice. Defense counsel
23 stated in closing argument that Defendant “is guilty. He is absolutely guilty of something, and
24 that’s what we’re asking you to do. Find him guilty of what he should have been charged with
25 in the first place. He conspired to commit battery, commit a manslaughter. That’s what your
26 instructions tell you you must do. *This is justice in this case.*” Transcript, Jury Trial, Day 6 at
27 123–24 (emphasis added). In other words, the defense commented on what it viewed to be
28 “justice.” The State then responded with what it believed justice would be, given the evidence

1 it presented. This is not improper. Defendant has not argued that this comment affected his
2 substantial rights, nor that there was actual prejudice of a miscarriage of justice. Green, 119
3 Nev. at 545, 80 P.3d at 95. Thus, counsel was not unreasonable for not objecting; and thus,
4 counsel was not ineffective.

5 Next, Defendant complains that the State did not reveal that Zone may or may not have
6 been the actual shooter. Supplement at 42. Again, trial counsel did not object, and this so issue
7 could only be analyzed for plain error on appeal. Hernandez, 118 Nev. at 525, 50 P.3d at 1109.
8 Regardless, Defendant's premise that there was evidence Zone was more than a bystander is
9 flawed. As discussed supra, Defendant's argument that the impeachment of Zone during
10 Counts's trial led to Counts's acquittal—implying that the jury believed that Zone was actually
11 the shooter—is mere speculation insufficient for post-conviction. Hargrove, 100 Nev. at 502,
12 686 P.2d at 225. The jury may have believed the impeachment evidence against Zone: that he
13 “confessed” to his ex-partner, Williams, that he was the shooter “with the Palomino Club.”
14 Supplement at 23. Or, Counts could have been acquitted for another reason. Defendant cannot
15 know why the jury acquitted Counts. That the State did not reference the hearsay statements
16 of Zone's ex-partner in Defendant's trial does not indicate that it was somehow presenting
17 evidence that it “kn[ew] to be false.” Alcorta v. Texas, 355 U.S. 28, 30, 78 S. Ct. 103, 105
18 (1957). The State had no way of evaluating whether Williams's testimony was actually true—
19 let alone that it was a “basis to charge [Zone] with any crime.” Supplement at 42. Thus, it had
20 no obligation to present that evidence to the jury. Defendant cannot argue that the State's
21 conduct affected his substantial rights, or that there was actual prejudice or a miscarriage of
22 justice. Green, 119 Nev. at 545, 80 P.3d at 95. Trial counsel made the reasonable, strategic
23 decision not to confuse the jury with this issue.

24 Further, any misconduct related to Zone amounts to nothing more substantive than
25 harmless error, because Defendant's own conduct—that is, that Defendant conspired to harm
26 the victim—was not at issue in this case. Defendant does not, and cannot, show that the so-
27 called failure to paint Zone as the actual shooter either substantially affected the jury's verdict
28 or so infected the trial with unfairness that Defendant was denied due process. Valdez, 124

1 Nev. at 1188, 196 P.3d at 476–77. Whether Zone or Counts was the shooter is irrelevant to
2 whether Defendant himself was involved in this conspiracy. Thus, because the evidence of
3 Defendant’s guilt in the conspiracy was overwhelming—and was in fact admitted to by
4 defense counsel during closing—the way the State handled Zone’s testimony was at most
5 harmless error. Smith, 120 Nev. at 948, 102 P.3d at 572. Because any error was harmless,
6 Defendant cannot show that trial or appellate counsel’s failure to raise this issue prejudiced
7 him in any way. Thus, there was no ineffective assistance of counsel.

8 Next, Defendant complains that the prosecutor mentioned that a verdict of involuntary
9 manslaughter would require a finding of an “accident.” Supplement at 42. The Court did
10 actually sustain defense counsel’s objection to this. Transcript, Jury Trial, Day 6 at 138–39.
11 Defendant does not explain why appellate counsel should have raised the sustained objection
12 on appeal. Supplement at 42–43. Indeed, this Court’s sustaining the objection means that it is
13 presumed that the jury properly disregarded the comment about the victim shooting himself.
14 Leonard v. State, 117 Nev. 53, 66, 17 P.3d 397, 405 (2001) (holding that jurors are presumed
15 to follow instructions given to them). Further, this Court also admonished the jury that “this is
16 just [the State’s] commentary on what he thinks [defense counsel] argued or what he
17 remembers. It’s your collective recollection of what [defense counsel] said and what [defense
18 counsel]’s argument is that should control what you think about this.” Id. The Court correctly
19 explained that the prosecutor did not offer an “incorrect” account of the law; he merely
20 commented on what defense counsel argued would be required to find Defendant guilty of
21 involuntary manslaughter. Indeed, because the law on involuntary manslaughter indicates that
22 such a killing is done “without any intent to do so,” the prosecutor did not act improperly in
23 using the shorthand “accident.” NRS 200.070. Because the prosecutor did not act improperly,
24 and because this Court correctly remedied any effect of the single comment about the victim
25 shooting himself, neither trial nor appellate counsel were unreasonable for not taking further
26 steps. Moreover, Defendant cannot establish prejudice based on the sustained objection. Thus,
27 there was no ineffective assistance of counsel.

1 Last, Defendant complains that the prosecutor “[old] the jury they have a duty to
2 convict the defendant.” Supplement at 43. This is a vast leap from the prosecutor’s actual
3 statements. He stated:

4 I think it’s your duty to go back there and look at the evidence. Go back there,
5 go through the wire recording, go through the physical evidence. Ask
6 yourself how he can’t be guilty of a deadly weapon when you know he gave
7 Jay Jay [the shooter] a .22. Ask yourself how he can be guilty of less than
8 first-degree murder when he acknowledges and everybody acknowledges
9 that the order was a killing. That’s your duty. And I submit to you that if the
10 group of 12 of you go back to that room and actually look at the evidence in
11 this case, actually focus on the evidence not what we’re saying, look at what
the evidence is, that you’ll be able to determine the truth because there’s at
least one person in this room that knows that he intended to kill Timothy
Hadland, and I submit to you if you’re doing your job, you’ll come back here
and you’ll tell [Defendant] that you know too.

12 Transcript, Jury Trial, Day 6 at 139–40.

13 Again, trial counsel did not object, so appellate review would be limited to plain error.
14 Hernandez, 118 Nev. at 525, 50 P.3d at 1109. And taken in context, his comment is not such
15 an unmistakable error on casual inspection. Patterson, 111 Nev. at 1530, 907 P.2d at 987. The
16 comment is very similar to a comment already examined by the Nevada Supreme Court; the
17 phrase “I submit to you that there’s at least one person in this room who knows beyond a
18 shadow of a doubt who killed [the victim]” was not improper when it “followed a summation
19 of evidence” and “reflects the prosecutor’s conclusions based on the evidence.” Taylor v.
20 State, 132 Nev. ___, ___, 371 P.3d 1036, 1046 (2016). Similarly, the comment that if the jury is
21 “doing their job”—i.e. examining the evidence, which the prosecutor requested multiple times
22 in the preceding sentences that the jury do—they will tell Defendant that he had the intent to
23 kill followed a summation of the evidence and reflects the prosecutors conclusions thereof.

24 Certainly the prosecutor’s comment here is not as egregious as that made in the case
25 Defendant cites: “he needs to be convicted—he’s endangering people—he’s certainly
26 endangering his child--do his child and all of us a favor--do your duty in this case--find that
27 he’s guilty.” Anderson v. State, 121 Nev. 511, 517, 118 P.3d 184, 187 (2005). The comment
28 in Anderson was a clear command that the jury side with the State. It explicitly stated that the

1 jury's "duty" was to "find that he's guilty." Id. Here, the prosecutor merely commented on the
2 evidence, saying that the State believed that if the jury examines the evidence (i.e. "doing their
3 job") they will convict. It is certainly a stretch to read this prosecutor's statement as a command
4 to convict.

5 Even if this was misconduct, it is Defendant's burden to demonstrate that his substantial
6 rights were affected by the comment, which he cannot do. Green, 119 Nev. at 545, 80 P.3d at
7 95 (footnote omitted). Thus, neither trial nor appellate counsel were unreasonable for not
8 objecting to this single comment. There was no ineffective assistance of counsel regarding any
9 instance of so-called prosecutorial misconduct.

10 **F. Appellate counsel was not ineffective for failure to challenge the flight instruction.**

11 Finally, Defendant claims appellate counsel was ineffective for not raising an objection
12 to the flight instruction. Supplement at 44–45. However, Defendant cannot establish
13 ineffective assistance of counsel because the underlying claim that the flight instruction was
14 improper is meritless.

15 The Nevada Supreme Court has held that "[f]light instructions are valid only if there is
16 evidence sufficient to support a chain of unbroken inferences from the defendant's behavior
17 to the defendant's guilt of the crime charged." Jackson v. State, 117 Nev. 116, 121, 17 P.3d
18 998, 1001 (2001); United States v. Feldman, 788 F.2d 544, 555 (9th Cir. 1986). "A defendant's
19 conduct, such as flight from a scene of the crime, generally is considered a party admission,
20 and will be admitted if the actions have probative value." Turner v. State, 98 Nev. 103, 106,
21 641 P.2d 1062, 1065 (1982). The giving of a flight instruction is not reversible error if evidence
22 of flight has been admitted. Potter v. State, 96 Nev. 875, 875–76, 619 P.2d 1222, 1222 (1980).

23 Here, defense counsel objected to the flight instruction at trial. Transcript, Jury Trial,
24 Day 6 at 4. This Court overruled that objection. Id. It was not reversible error for this Court to
25 do so because evidence of flight had been admitted. Potter, 96 Nev. at 875–76, 619 P.2d at
26 1222. Specifically, even without Defendant's confession to police that he watched the victim
27 be shot and merely drove away from the scene without reaching out for help, the wire tape
28 recordings revealed that Defendant actually took the shooter from the scene to get paid. Wire

1 Transcript, State's Exhibit 244; see also Transcript, Jury Trial, Day 6 at 3. This Court correctly
2 pointed out that if this had actually been an accident—if Defendant had not meant for the
3 victim to be killed, as he claimed—then it certainly points to “consciousness of guilt” that he
4 did not reach out to law enforcement and instead went immediately about his daily life.
5 Transcript, Jury Trial, Day 6 at 3–4. Thus, appellate counsel was reasonable in not arguing the
6 issue.

7 Further, there is no prejudice because Defendant cannot demonstrate a likelihood that
8 this argument would have won on appeal. District courts have “broad discretion” to settle jury
9 instructions. Cortinas v. State, 124 Nev. 1013, 1019, 195 P.3d 315, 319 (2008). And because
10 there was in fact evidence of flight, the district court did not abuse its discretion; and the
11 argument would not have won on appeal. Crawford v. State, 121 Nev. 746, 748, 121 P.3d 582,
12 585 (2003) (holding that jury instruction decisions are generally reviewed for an abuse of
13 discretion). This Court properly utilized its discretion in finding that the flight instruction was
14 warranted given the evidence and given the State’s theory of the case. Thus, absent prejudice,
15 there was no ineffective assistance of counsel.

16 **G. There is no cumulative error.**

17
18 Defendant claims that “cumulative errors” by trial and appellate counsel entitle him to
19 relief. However, since Defendant fails to show any instances of error, his argument regarding
20 cumulative error is without merit. Even if there is an instance of error, the issue of guilt was
21 not close, and so relief is not warranted.

22 The Nevada Supreme Court has not endorsed application of its direct appeal cumulative
23 error standard to the post-conviction Strickland context. McConnell v. State, 125 Nev. 243,
24 259, 212 P.3d 307, 318 (2009). Nor should cumulative error apply on post-conviction review.
25 Middleton v. Roper, 455 F.3d 838, 851 (8th Cir. 2006), cert. denial, 549 U.S. 1134, 1275 S.
26 Ct. 980 (2007) (“a habeas petitioner cannot build a showing of prejudice on series of errors,
27 none of which would by itself meet the prejudice test.”)
28

1 Nevertheless, even where available a cumulative error finding in the context of a
2 Strickland claim is extraordinarily rare and requires an extensive aggregation of errors. See,
3 e.g., Harris By and through Ramseyer v. Wood, 64 F.3d 1432, 1438 (9th Cir. 1995). In fact,
4 logic dictates that there can be no cumulative error where the defendant fails to demonstrate
5 any single violation of Strickland. See Turner v. Quarterman, 481 F.3d 292, 301 (5th Cir.
6 2007) (“where individual allegations of error are not of constitutional stature or are not errors,
7 there is ‘nothing to cumulate.’”) (quoting Yohey v. Collins, 985 F.2d 222, 229 (5th Cir. 1993));
8 Hughes v. Epps, 694 F.Supp.2d 533, 563 (N.D. Miss. 2010) (citing Leal v. Dretke, 428 F.3d
9 543, 552-53 (5th Cir. 2005)). Because Defendant has not demonstrated any claim warrants
10 relief under Strickland, there is nothing to cumulate. Therefore, Defendant’s cumulative error
11 claim is denied.

12 Assuming arguendo that there was any error, Defendant fails to demonstrate cumulative
13 error sufficient to warrant reversal. In addressing a claim of cumulative error, the relevant
14 factors are: 1) whether the issue of guilt is close; 2) the quantity and character of the error; and
15 3) the gravity of the crime charged. Mulder v. State, 116 Nev. 1, 17, 992 P.2d 845, 854–55
16 (2000). As discussed above, the issue of guilt was not close, as even the Nevada Supreme
17 Court has noted that the evidence against Defendant was “overwhelming.” Carroll, 132 Nev.
18 at ___, 371 P.3d at 1031–36. Further, even assuming that some or all of Defendant’s allegations
19 of deficiency have merit, he has failed to establish that, when aggregated, the errors deprived
20 him of a reasonable likelihood of a better outcome at trial. Therefore, even if counsel was in
21 any way deficient, there is no reasonable probability that Defendant would have received a
22 better result but for the alleged deficiencies. Further, even if Defendant had made such a
23 showing, he has certainly not shown that the cumulative effect of these errors was so
24 prejudicial as to undermine this Court’s confidence in the outcome of Defendant’s case.
25 Therefore, his claim of cumulative error is without merit.

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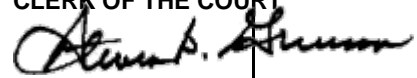
DATED this 19 day of December, 2018.

1/3

BY /s/ Jonathan VanBoskerk
JONATHAN VANBOSKERK
Chief Deputy District Attorney
Nevada Bar #006528

JAMIE RESCH, ESQ.
Email: jresch@convictionsolutions.com

05FB0052D/JV/AO/saj/MVU



1 NEO

2 **DISTRICT COURT**
3 **CLARK COUNTY, NEVADA**

4 DEANGELO R. CARROLL,

5 Petitioner,

6 vs.

7 THE STATE OF NEVADA,

8 Respondent,

Case No: 05C212667-4

Dept No: XXI

9 **AMENDED NOTICE OF ENTRY OF FINDINGS
OF FACT, CONCLUSIONS OF LAW AND
ORDER**

10 **PLEASE TAKE NOTICE** that on January 18, 2019, the court entered a decision or order in this matter,
11 a true and correct copy of which is attached to this notice.

12 You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you
13 must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is
14 mailed to you. This notice was mailed on January 23, 2019.

15 STEVEN D. GRIERSON, CLERK OF THE COURT

16 /s/ Amber Lasby

17 Amber Lasby, Deputy Clerk

18 **CERTIFICATE OF E-SERVICE / MAILING**

19 I hereby certify that on this 23 day of January 2019, I served a copy of this Notice of Entry on the
20 following:

21 ☒ By e-mail:

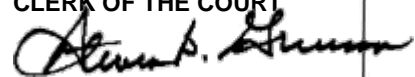
22 Clark County District Attorney's Office
Attorney General's Office – Appellate Division-

23 ☒ The United States mail addressed as follows:

24 Deangelo Carroll # 1056956 Jamie J. Resch, Esq.
P.O. Box 650 2620 Regatta Dr., Ste. 102
25 Indian Springs, NV 89070 Las Vegas, NV 89128

26 /s/ Amber Lasby

27 Amber Lasby, Deputy Clerk



FCL
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
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Chief Deputy District Attorney
Nevada Bar #6528
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-

DEANGELO R. CARROLL,
#1678381,

Defendant.

CASE NO: 05C212667-4

DEPT NO: XXI

FINDINGS OF FACT AND CONCLUSIONS OF LAW

DATE OF HEARING: December 4, 2018
TIME OF HEARING: 9:30 AM

THIS CAUSE having come on for hearing before the Honorable VALERIE ADAIR, District Judge, on the 4th day of December, 2018, the Petitioner not being present, represented by JAMIE RESCH, ESQ., the Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through MARC DIGIACAMO, Chief Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law.

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1 **FINDINGS OF FACT, CONCLUSIONS OF LAW**

2 **PROCEDURAL HISTORY**

3 On June 3, 2005, Deangelo Reshawn Carroll (hereinafter “Defendant”)—along with
4 four (4) co-defendants, Kenneth Counts, Luis Hidalgo, Anabel Espindola, and Jayson
5 Taoipu—were charged by way of Second Amended Criminal Complaint with one (1) count of
6 Conspiracy to Commit Murder and one (1) count Murder with Use of a Deadly Weapon for
7 the murder of Timothy Hadland. Co-defendants Hidalgo and Espindola were also charged with
8 two (2) counts of Solicitation to Commit Murder for procuring Defendant to kill Rontae Zone
9 and co-defendant Taoipu.

10 A Preliminary Hearing was held on June 13, 2005, wherein co-defendants Hidalgo,
11 Counts, and Espindola were held to answer. Defendant waived his right to preliminary hearing
12 after the first witness was called and sworn. Subsequently, on June 20, 2005, Defendant,
13 Hidalgo, Counts, and Espindola were charged by way of Information with all counts as alleged
14 in the Second Amended Criminal Complaint.

15 On April 30, 2010, Petitioner filed a Motion to Suppress, seeking to exclude his
16 statements to the police. On May 4, 2010, the State filed an Opposition. On May 11, 2010, the
17 Court denied Petitioner’s Motion.

18 Defendant proceeded to trial on May 21, 2010. At trial, Defendant was represented by
19 Dan Bunin, Esq. and Thomas Ericsson, Esq. After six days of trial, the jury returned a verdict
20 of Guilty as to Count 1 – Conspiracy to Commit Murder and Count 2 – Murder in the First
21 Degree. On August 12, 2010, Defendant was sentenced to the following: as to Count 1 – to a
22 maximum of one hundred twenty (120) months with a minimum parole eligibility of thirty-six
23 (36) months; and as to Count 2 – life with the possibility of parole after serving a minimum of
24 twenty (20) years, plus an equal and consecutive term of life with the possibility of parole after
25 serving a minimum of twenty (20) years for Use of a Deadly Weapon, Count 2 to run
26 consecutive to Count 1. Defendant received one thousand nine hundred four (1,904) days
27
28

1 credit for time served. The Judgment of Conviction was filed on September 8, 2010.¹
2 Defendant did not file a direct appeal.

3 On December 17, 2010, Patrick E. McDonald, Esq. was appointed as appellate counsel
4 for Defendant. Counsel appeared for a status check on February 17, 2011, and stated that he
5 had not yet received Defendant's file from prior counsel. McDonald then appeared on March
6 8, 2011 and stated that he had received the file from prior counsel but had not yet had the
7 opportunity to review it. Counsel then requested a briefing schedule. There followed two
8 stipulated continuances and Defendant's Motion for an Extension of Time to File Opening
9 Brief, which this Court granted.

10 Defendant ultimately filed his Petition for Writ of Habeas Corpus (Post-Conviction)
11 ("First Petition") on December 29, 2011. The State's filed its Response on January 19, 2012.
12 Defendant filed his Reply on February 17, 2012. This Court held an Evidentiary Hearing on
13 June 4, 2012. On July 30, 2012, this Court issued Findings of Fact, Conclusions of Law and
14 Order, finding that Defendant had been denied appellate relief; the Court directed the court
15 clerk to file a Notice of Appeal on behalf of Defendant. McDonald withdrew due to medical
16 and personal reasons, and on April 11, 2013, Mario Valencia was confirmed as replacement
17 appellate counsel.

18 The Notice of Appeal was filed on May 1, 2013. The Nevada Supreme Court remanded
19 the case back to this Court on August 23, 2013, because Defendant had only raised his denial
20 of appeal claim in his untimely First Petition and this Court had not specifically determined
21 that there was good cause to overcome the procedural bars. Thus, on October 21, 2013, this
22 Court held another Evidentiary Hearing regarding that issue. The evidence showed that
23 following the entry of the Judgment of Conviction, Petitioner informed his trial counsel that
24 he wished to pursue a direct appeal. But because of a breakdown in communication between
25 Petitioner and trial counsel, a Notice of Appeal was not timely filed. Upon discovery of this,
26 McDonald had been appointed to determine whether an untimely appeal could be pursued.
27 McDonald had had difficulty obtaining the complete file and did not discuss the post-

28 ¹ An Amended Judgment of Conviction was filed on March 23, 2011, correcting a clerical error.

conviction claims with trial counsel. This was sufficient to establish good cause to excuse the untimeliness of Defendant's First Petition. On January 3, 2014, the District Court entered its Findings of Fact, Conclusions of Law and Order, directing the court clerk to file a second Notice of Appeal on behalf of Defendant.

The Notice of Appeal was filed on January 6, 2014. On April 7, 2016, the Nevada Supreme Court issued a published opinion affirming Defendant's conviction on the merits. Carroll v. State, 132 Nev. Adv. Rep. 23, 371 P.3d 1023 (2016). Remitter issued on October 21, 2016.

Defendant filed a pro per Petition for Writ of Habeas Corpus ("Second Petition") and a Motion for Appointment of Counsel for Investigation Purposes in Post-Conviction NRS 171.188 NRS 178.397 on May 10, 2017. The State filed its Response on July 13, 2017. Defendant filed a Reply on August 7, 2017. Pursuant to Defendant's Motion for Appointment of Counsel, this Court appointed counsel on September 5, 2017. Defendant, through counsel, filed his Supplement to Petition for Writ of Habeas Corpus ("Supplement") on August 31, 2018. The State filed its Opposition on October 30, 2018. The Court now finds as follows.

STATEMENT OF FACTS

The following are the facts as determined by the Nevada Supreme Court in its published opinion affirming the judgment:

On May 19, 2005, police discovered Timothy J. Hadland's body on Northshore Road near Lake Mead. Along with Hadland's body, police found advertisements for the Palomino Club. Hadland was fired from his job at the Palomino Club a week before his death. Palomino Club management recruited Carroll to "knock off" Hadland because Hadland was spreading negative rumors about the club.

Carroll was also an employee at the Palomino Club. Carroll used the club's van to promote the club by handing out flyers to cab drivers and tourists. On the night of Hadland's murder, Carroll drove the club's van with two other men, Rontae Zone and Jayson Taoipu, who occasionally assisted him. Carroll recruited Kenneth Counts for this assignment because Carroll knew Counts would "take care of" someone for money.

Carroll, Zone, Taoipu, and Counts went to an area near Lake Mead, and Carroll called Hadland. When Hadland noticed the Palomino Club's van,

1 Hadland parked his car in front of the van and walked to the driver's side
2 window where Carroll was sitting. As Hadland and Carroll talked, Counts
3 exited the van through the side door, snuck around to the front, and fired two
4 shots into Hadland's head. Counts then jumped back into the van and ordered
5 Carroll to return to town.

6 Carroll drove directly to the Palomino Club and told club management what
7 occurred. Louis Hidalgo, Jr., the general manager of the club, directed other
8 employees to give Carroll \$6,000 in cash to pay Counts. Carroll gave the
9 money to Counts, who then left in a cab. The next morning, at Hidalgo's
10 direction, Carroll bought new tires for the van and disposed of the old tires
11 at two separate locations.

12 The evening after Hadland's murder, homicide detectives contacted Carroll
13 at the Palomino Club, as Carroll's phone number was the last phone number
14 on Hadland's phone. When the detectives asked to speak with Carroll, he
15 agreed, and the detectives drove Carroll to the homicide office for
16 questioning. Carroll sat in a small room at a table with his back to the wall,
17 while the detectives sat between him and the exit. The detectives did not give
18 Carroll Miranda^[2] warnings before questioning him, but they informed
19 Carroll that he was speaking with them voluntarily. Eventually, Carroll
20 implicated himself, Palomino Club management, and Counts in Hadland's
21 murder.

22 Carroll then volunteered to wear a recording device to corroborate his story
23 by speaking with the Palomino Club management. The detectives strategized
24 with Carroll before he spoke with the management each time. The
25 information on these recordings allowed the State to charge three members
26 of Palomino Club management for their roles in Hadland's murder.

27 After the detectives finished obtaining information and evidence from
28 Carroll, they arrested him.

29 Carroll, 132 Nev. at ___, 371 P.3d at 1026–27.

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33 ANALYSIS

34 **Defendant fails to demonstrate counsel was ineffective.**

35 ² Miranda v. Arizona, 384 U.S. 436, 86 S Ct. 1602 (1966).

1 Petitioner raises six claims of ineffective assistance of counsel plus a cumulative error
2 claim based on the alleged ineffective assistance.³ Such claims are analyzed under the two-
3 pronged test articulated in Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984),
4 wherein the defendant must show (1) that counsel's performance was deficient, and (2) that
5 the deficient performance prejudiced the defense. Id. at 687, 104 S. Ct. at 2064. "A court may
6 consider the two test elements in any order and need not consider both prongs if the defendant
7 makes an insufficient showing on either one." Kirksey v. State, 112 Nev. 980, 987, 923 P.2d
8 1102, 1107 (1997); Molina v. State, 120 Nev. 185, 190, 87 P.3d 533, 537 (2004).

9 "Surmounting Strickland's high bar is never an easy task." Padilla v. Kentucky, 559
10 U.S. 356, 371, 130 S. Ct. 1473, 1485 (2010). The question is whether an attorney's
11 representations amounted to incompetence under prevailing professional norms, "not whether
12 it deviated from best practices or most common custom." Harrington v. Richter, 562 U.S. 86,
13 88, 131 S. Ct. 770, 778 (2011). Further, "[e]ffective counsel does not mean errorless counsel,
14 but rather counsel whose assistance is '[w]ithin the range of competence demanded of
15 attorneys in criminal cases.' " Jackson v. Warden, Nevada State Prison, 91 Nev. 430, 432, 537
16 P.2d 473, 474 (1975) (quoting McMann v. Richardson, 397 U.S. 759, 771, 90 S. Ct. 1441,
17 1449 (1970)).

18 The court begins with a presumption of effectiveness and then must determine whether
19 the defendant has demonstrated by a preponderance of the evidence that counsel was
20 ineffective. Means v. State, 120 Nev. 1001, 1011–12, 103 P.3d 25, 32–33 (2004). The role of
21 a court in considering alleged ineffective assistance of counsel is "not to pass upon the merits
22 of the action not taken but to determine whether, under the particular facts and circumstances
23 of the case, trial counsel failed to render reasonably effective assistance." Donovan v. State,
24 94 Nev. 671, 675, 584 P.2d 708, 711 (1978) (citing Cooper v. Fitzharris, 551 F.2d 1162, 1166
25 (9th Cir. 1977)).

26

³ To the extent Defendant attempts to raise substantive complaints and not just ineffective assistance
27 of counsel claims, these are outside the scope of a petition for writ of habeas corpus and are waived
28 as not being brought on direct appeal. NRS 34.724(2)(a); NRS 34.810(1)(b); Evans v. State, 117 Nev.
609, 646–47, 29 P.3d 498, 523 (2001); Franklin v. State, 110 Nev. 750, 752, 877 P.2d 1058, 1059
(1994), disapproved on other grounds, Thomas v. State, 115 Nev. 148, 979 P.2d 222 (1999).

1 This analysis does not indicate that the court should “second guess reasoned choices
2 between trial tactics, nor does it mean that defense counsel, to protect himself against
3 allegations of inadequacy, must make every conceivable motion no matter how remote the
4 possibilities are of success.” Donovan, 94 Nev. at 675, 584 P.2d at 711 (citing Cooper, 551
5 F.2d at 1166 (9th Cir. 1977)). In essence, the court must “judge the reasonableness of counsel’s
6 challenged conduct on the facts of the particular case, viewed as of the time of counsel’s
7 conduct.” Strickland, 466 U.S. at 690, 104 S. Ct. at 2066.

8 Not only must the petitioner show that counsel was incompetent, but he must also
9 demonstrate that but for that incompetence the results of the proceeding would have been
10 different:

11 In assessing prejudice under Strickland, the question is not whether a court can
12 be certain counsel’s performance had no effect on the outcome or whether it is
13 possible a reasonable doubt might have been established if counsel acted
14 differently. Instead, Strickland asks whether it is reasonably likely the results
15 would have been different. This does not require a showing that counsel’s
16 actions more likely than not altered the outcome, but the difference between
17 Strickland’s prejudice standard and a more-probable-than-not standard is
18 slight and matters only in the rarest case. The likelihood of a different result
19 must be substantial, not just conceivable.

20 Harrington, 562 U.S. at 111–12, 131 S. Ct. at 791–92 (internal quotation marks and citations
21 omitted); accord McNelson v. State, 115 Nev. 396, 403, 990 P.2d 1263, 1268 (1999) (noting
22 that a defendant must show a reasonable probability that, but for counsel’s errors, the result of
23 the trial would have been different).

24 Importantly, when raising a Strickland claim, the defendant bears the burden to
25 demonstrate the underlying facts by a preponderance of the evidence. Means, 120 Nev. at
26 1012, 103 P.3d at 33. “Bare” or “naked” allegations are not sufficient to show ineffectiveness
27 of counsel; claims asserted in a petition for post-conviction relief must be supported with
28 specific factual allegations which if true would entitle petitioner to relief. Hargrove v. State,
100 Nev. 498, 502, 686 P.2d 222, 225 (1984).

1 With regard to ineffective assistance on appeal, there is a strong presumption that
2 appellate counsel's performance was reasonable and fell within "the wide range of reasonable
3 professional assistance." See United States v. Aguirre, 912 F.2d 555, 560 (2nd Cir. 1990)
4 (citing Strickland, 466 U.S. at 689, 104 S.Ct. at 2065). Federal courts have held that a claim
5 of ineffective assistance of appellate counsel must satisfy the two-prong test set forth by
6 Strickland, 466 U.S. at 687–88, 694, 104 S.Ct. at 2065, 2068; Williams v. Collins, 16 F.3d
7 626, 635 (5th Cir. 1994); Hollenback v. United States, 987 F.2d 1272, 1275 (7th Cir. 1993);
8 Heath v. Jones, 941 F.2d 1126, 1130 (11th Cir. 1991). In order to satisfy Strickland's second
9 prong, the defendant must show that the omitted issue would have had a reasonable probability
10 of success on appeal. See Duhamel v. Collins, 955 F.2d 962, 967 (5th Cir. 1992); Heath, 941
11 F.2d at 1132.

12 Furthermore, the Nevada Supreme Court has held that all appeals must be "pursued in
13 a manner meeting high standards of diligence, professionalism and competence." Burke v.
14 State, 110 Nev. 1366, 1368, 887 P.2d 267, 268 (1994). In Jones v. Barnes, 463 U.S. 745, 751,
15 103 S.Ct. 3308, 3312 (1983), the Supreme Court recognized that part of professional diligence
16 and competence involves "winnowing out weaker arguments on appeal and focusing on one
17 central issue if possible, or at most on a few key issues." Id. at 751–52, 103 S.Ct. at 3313. In
18 particular, a "brief that raises every colorable issue runs the risk of burying good arguments .
19 . . in a verbal mound made up of strong and weak contentions." Id. 753, 103 S.Ct. at 3313.
20 The Court also held that, "for judges to second-guess reasonable professional judgments and
21 impose on appointed counsel a duty to raise every 'colorable' claim suggested by a client would
22 disserve the very goal of vigorous and effective advocacy." Id. at 754, 103 S.Ct. at 3314.

23 **A. Neither trial counsel nor appellate counsel were ineffective for failure to suppress**
24 **the wire tape recordings.**

25 Defendant claims trial and appellate counsel were both ineffective for failure to
26 suppress physical and/or testimonial evidence regarding the wire Defendant voluntarily wore
27 to assist police. Supplement at 24–31. However, counsel did in fact move to suppress this
28 evidence. Further, despite the fact that Defendant was in custody when he spoke to police, he

1 then volunteered—in the hopes of receiving a benefit—to assist police by wearing a recording
2 device. Thus, any motions specifically regarding fruit of the poisonous tree/Miranda violations
3 would have been futile. Therefore, counsel was not ineffective.

4 As an initial matter, to claim both trial and appellate counsel were ineffective for failure
5 to move to suppress the wire tape recordings is disingenuous. Defendant argues that counsel
6 was ineffective for not “*specifically* argu[ing] that the wiretap evidence should be suppressed
7 because it was the product of an illegal interrogation.” Supplement at 6, 25 (emphasis added).
8 However, trial counsel has the “immediate and ultimate responsibility of deciding if and when
9 to object . . . and what defenses to develop.” Rhyne v. State, 118 Nev. 1, 8, 38 P.3d 163, 167
10 (2002). Defendant admits that “various attempts were made to suppress the wiretap evidence”
11 using other methods unspecified by Defendant. Supplement at 6, 25. Trial counsel’s strategic
12 decision to argue for its suppression using other methods is virtually unchallengeable. Dawson
13 v. State, 108 Nev. 112, 117, 825 P.2d 593, 596 (1992). Similarly, appellate counsel did in fact
14 argue that the wire tape recordings should have been suppressed, based on several grounds.
15 Carroll, 132 Nev. at ___, 371 P.3d at 1027–31. Because there is a strong presumption that
16 appellate counsel made a sound professional judgment to pursue stronger arguments, this
17 Court should not second guess appellate counsel’s strategy in arguing on direct appeal that the
18 wire tape recordings should have been suppressed through different means. Barnes, 463 U.S.
19 at 751, 103 S.Ct. at 3312–13.

20 However, even on the merits, Defendant’s “fruit of the poisonous tree” argument is
21 without merit. Any argument about the fruit of the poisonous tree would have been futile—
22 because Defendant initiated the request to wear a wire to assist police and then wore it
23 voluntarily. See Ennis v. State, 122 Nev. 694, 706, 137 P.3d 1095, 1103 (2006) (holding that
24 counsel cannot be ineffective for failure to make futile arguments).

25 In Defendant’s statement to police on May 19, 2005, after implicating himself in the
26 murder, Defendant was read his rights and asked if he understood them, to which he responded
27 “yes.” See Defendant’s Motion to Suppress, filed April 30, 2013, Exhibit B at 85. Detectives
28 had Defendant sign a Miranda card to ensure that he understood his rights. Id. “The police

1 promised Defendant they would take him home at the conclusion of the interview, which they
2 did. The police also promised Defendant they would attempt to prove his version of events
3 was true, which they did by making the recordings with [Defendant's] coconspirators.”
4 Carroll, 132 Nev. at ___, 371 P.3d at 1031. To that end, Defendant—not police—suggested that
5 Defendant wear a recording device to corroborate his story. Defendant's Motion to Suppress,
6 filed April 30, 2013, Exhibit B at 86. Then, on May 24, 2005, Defendant wore a wire while he
7 spoke with his co-conspirators at the Palomino Club. Supplement at 21–22.

8 It must be noted that the Nevada Supreme Court has already examined the wire tape
9 recordings and established law of the case surrounding their admissibility. The Court held that
10 the wire tape recordings were not so unduly prejudicial as to outweigh their probative value,
11 that they were not inadmissible hearsay, that they were made in furtherance of a conspiracy,
12 and that did not violate Defendant's right against self-incrimination. Carroll, 132 Nev. at ___,
13 371 P.3d at 1027–31. The Court also held that despite the fact that the district court erred in
14 admitting Defendant's inculpatory statements to police, that error was harmless beyond a
15 reasonable doubt because of the overwhelming evidence against Defendant. Id. at ___, 371 P.3d
16 at 1031–35. Thus, the admissibility of the wire tape recordings, and the harmlessness of the
17 Miranda violation, is law of the case.

18 Defendant relies upon other jurisdictions' interpretations of U.S. Supreme Court
19 precedent in stating that the wire tape recordings should have been suppressed. United States
20 v. Patane, 542 U.S. 630, 646, 124 S. Ct. 2620, 2631 (2004). However, Patane specifically holds
21 that suppression of physical evidence resulting from a Miranda violation is *not* required. Id.
22 Defendant's argument that trial and appellate counsel should have relied upon it to suppress
23 the wire tape recordings is thus without merit. Supplement at 30–31. Though some states have
24 suppressed such evidence, the holding of the Florida case Defendant analyzes is
25 distinguishable from Defendant's case. The Florida appellate court suppressed wiretap
26 evidence resulting from police request for the defendant's cooperation in contacting a drug
27 dealer. Kessler v. State, 991 So.2d 1015 (Fla. App. 2008). Conversely, here, Defendant himself
28

1 requested to wear a wire; he was not accommodating a request by police. Defendant's Motion
2 to Suppress, filed April 30, 2013, Exhibit B at 86.

3 Moreover, Nevada is not subject to other states' holdings as described by Defendant.
4 Nevada has never held that "[its] own constitution[] provide[s] a broader self-incrimination
5 privilege than the Supreme Court's interpretation [in Patane] of the federal self-incrimination
6 privilege." Supplement at 28. Ohio and Oregon have specifically articulated these additional
7 protections. State v. Vondehn, 348 Ore. 462, 476 – 77 (2009); State v. Ferris, 109 Ohio St.3d
8 519, 529 (2006). But Nevada has never suggested that physical evidence, such as the wire tape
9 recordings, may be suppressed based on a Miranda violation. Therefore, Defendant is asking
10 for a new interpretation of Nevada law. As counsel cannot be found ineffective for failing to
11 anticipate a change in the law, this argument is without merit. Nika v. State, 124 Nev. 12772,
12 1289, 198 P.3d 839, 851 (2008); Doyle v. State, 116 Nev. 148, 156, 995P.2d 465, 470 (2000).

13 Finally, the United States Supreme Court has indicated that a Miranda warning—even
14 given in an untimely manner—may cure fruit of the poisonous tree issues. Oregon v Elstad,
15 470 U.S. 298, 84 L. Ed. 2d 222, 105 S. Ct. 1285 (1985). The Court stated:

16 A suspect who has responded to uncoercive questioning by a police officer
17 while in custody and without being given Miranda warnings is not thereby
18 disabled from waiving his rights and confessing after he has been given the
19 requisite Miranda warnings, and *his confession is not, solely on account of*
20 *the prior, unwarned admission, rendered inadmissible as "fruit of the*
21 *poisonous tree"*; the relevant inquiry is whether, in fact, the second statement
22 was also voluntarily made in view of the surrounding circumstances and the
23 entire course of police conduct with respect to the suspect.

24 If a confession is not, on account of a prior un-Mirandized admission, inadmissible as fruit of
25 the poisonous tree, physical evidence given after a Miranda warning—such as voluntarily
26 given wire tape recordings—cannot be said to be fruit of the poisonous tree. Here, there was
27 in fact a Miranda warning, just before Defendant volunteered to wear a wire for police.
28 Defendant's Motion to Suppress, filed April 30, 2013, Exhibit B at 85–86. Because counsel
cannot be found ineffective for failing to file a futile motion to suppress wire tape recordings

1 legally obtained by police—evidence Defendant volunteered, after being read his Miranda
2 rights—counsel was not ineffective here. Ennis, 122 Nev. at 706, 137 P.3d at 1103.

3 **B. Trial counsel was not ineffective for failure to impeach Zone.**

4 Defendant claims trial counsel was ineffective for not impeaching witness Zone with
5 the same impeachment evidence with which Zone had been confronted at co-defendant
6 Counts's trial. Supplement at 31–33. But the assertion that the impeachment of Zone with
7 Williams's testimony would have brought about the same result as in Counts's trial is a naked
8 speculation suitable only for summary denial under Hargrove. 100 Nev. at 502, 686 P.2d at
9 225. Unlike Counts—who was charged with being the actual shooter—Defendant was charged
10 under a theory of conspiracy. The facts, including who actually pulled the trigger, were not
11 really at issue in Defendant's case. The question was: What was Defendant's intent with regard
12 to the killing? Zone's testimony was not particularly probative of Defendant's intent.

13 Indeed, other evidence was more than demonstrated Defendant's intent that someone
14 shoot and kill the victim. Defendant, himself, states in the wire tape recordings that he “took
15 care of”—i.e. killed—the victim, as co-defendant Espindola asked him to do. Wire Transcript,
16 State's Exhibit 244. Defendant also discusses facilitating payment—and the fact that the
17 shooter was not happy with his \$6,000 Defendant and his co-defendants had paid him for the
18 murder. Wire Transcript, State's Exhibit 245. Co-defendant Espindola specifically states in
19 this same recording that “if something happens to him [the shooter] we all fucking lose. Every
20 fucking one of us.” Id. Thus, not only does Defendant implicate himself by discussing with
21 his co-defendants that he knew it was going to be a murder; at least one co-defendant confirms
22 that “all” of them knew enough to be implicated in the murder. Defendant's intent was also
23 established by several facts, including the isolated location of the murder. Transcript, Jury
24 Trial, Day 7 at 33.

25 Because the issue of who the actual shooter was had nothing to do with whether
26 Defendant intended that the victim be killed, counsel cannot be said to be unreasonable for not
27 bogging down the jury with the issue. Further, Defendant does not even argue how the lack of
28 impeachment evidence prejudiced him. He cannot establish, for example, that impeaching

1 Zone would have led to his acquittal. Again, the conviction rested not on who shot the victim
2 but on what Defendant intended, and there was more than sufficient evidence to convict
3 Defendant based upon the evidence of his intent. Counsel was not ineffective.

4 **C. Trial and appellate counsel were not ineffective for not further challenging the**
5 **trial court's denial of a Batson challenge.**

6 Defendant claims that trial counsel was ineffective for not challenging the basis for the
7 denial of the Batson objection. Supplement at 33–38; Batson v. Kentucky, 476 U.S. 79, 106
8 S.Ct. 1712 (1986). However, as any further challenge beyond the objection counsel offered at
9 trial would have been futile, this claim is without merit.

10 In Batson v. Kentucky, the United States Supreme Court held that the use of peremptory
11 challenges to remove potential jurors on the basis of race is unconstitutional under the Equal
12 Protection Clause of the United States Constitution. Id. at 89, 106 S.Ct. at 1719. Adjudicating
13 a Batson challenge is a three step process: (1) the defendant must make a prima facie showing
14 that racial discrimination has occurred based upon the totality of the circumstances, (2) the
15 prosecution then must provide a race-neutral explanation for its peremptory challenge or
16 challenges, and (3) the district court must determine whether the defendant in fact
17 demonstrated purposeful discrimination. Baton, 476 U.S. at 94, 106 S.Ct. at 1721; Watson v.
18 State, 130 Nev. __, __, __ P.3d __, 2014 WL 4925686, p. 4 (2014).

19 In step one, a defendant alleging that members of a cognizable group “have been
20 impermissibly excluded from the venire may make out a prima facie case of purposeful
21 discrimination by showing that the totality of the relevant facts give rise to an inference of
22 discriminatory purpose.” Batson, 476 U.S. at 94–95, 106 S. Ct. at 1721. In deciding whether
23 or not the requisite prima facie case has been made, a court may consider the “pattern of
24 strikes” exercised or the questions and statements made by counsel during the voir dire
25 examination. Id. at 96–97, 106 S.Ct. at 1723.

26 Only after the movant has established a prima facie case of intentional discrimination
27 is the proponent of the strike compelled to proffer a race-neutral explanation. “The second
28 step of this process does not demand an explanation that is persuasive, or even plausible.”

1 Purkett v. Elem, 514 U.S. 765, 767–68, 115 S.Ct. 1769, 1771 (1995). The neutral explanation
2 “is not a reason that makes sense, but a reason that does not deny equal protection.” Id. at 769,
3 115 S.Ct. at 1771. “Unless a discriminatory intent is inherent in the State’s explanation, the
4 reason offered will be deemed race neutral.” Id. at 768, 115 S.Ct. at 1171 (internal citations
5 omitted).

6 Step three comes down to credibility: “the district court must determine whether the
7 explanation was a mere pretext and whether the opponent successfully proved racial
8 discrimination.” King, 116 Nev. at 353, 998 P.2d at 1175. This can be measured by “how
9 reasonable, or how improbable, the explanations are; and by whether the proffered rationale
10 has some basis in accepted trial strategy.” Miller-El v. Cockrell, 537 U.S. 322, 324, 123 S.Ct.
11 1029, 1032 (2003).

12 The Nevada Supreme Court “review[s] the district court’s ruling on the issue of
13 discriminatory intent for clear error.” Conner v. State, 130 Nev. ___, ___, 327 P.3d 503, 508
14 (2014). ““The trial court’s decision on the ultimate question of discriminatory intent represents
15 a finding of fact of the sort accorded great deference on appeal.”” Walker, 113 Nev. at 867-68,
16 944 P.2d at 771–72 (quoting Hernandez v. New York, 500 U.S. 352, 364, 111 S.Ct. 1859,
17 1868 (1991) (plurality opinion)). The reason for such a standard is the trial court is in the
18 position to best assess whether from the “totality of the relevant facts” that racial
19 discrimination is occurring. Hernandez, 50 U.S. at 363, 111 S. Ct at 1868. Further, the Nevada
20 Supreme Court has emphasized that the burden is on the opponent of the strike in step three to
21 develop a pretext for the explanation at the district court level. Hawkins v. State, 127 Nev. ___,
22 ___, 256 P.3d 965, 967 (2011).

23 Here, trial counsel actually challenged the State’s preemptory challenge of Prospective
24 Juror No. 092. Transcript, Jury Trial, Day 2 at 72–77. Defendant’s assertion that the trial court
25 “refused to even consider the challenge because it found there could not be a ‘pattern’ of
26 discrimination based on the first such exercised strike” is not born out by the record.
27 Supplement at 35. In fact, this Court completed all steps required in a Batson challenge. First,
28 this Court noted the challenge, discussing first that there was in fact no pattern of

1 discrimination and next that in fact it was unusual that there had been four African-American
2 potential jurors in the box Transcript, Jury Trial, Day 2 at 72–77. Of these, as the Court noted,
3 two were excused; one via preemptory challenge by the State and one for cause by the defense.
4 Id. Then, this Court permitted the State to place on the record its race-neutral explanation: the
5 State challenged Potential Juror 092 because “her behavior in th[e] courtroom is an example
6 of what appeared to be someone who wasn’t taking the situation very seriously at all,” and that
7 her questionnaire answers suggested that the defense would have had reason to strike her for
8 cause. Id. at 76. This Court agreed with the assessment of Potential Juror No. 092 as “a
9 character” and the juror was dismissed. Id. Because the Court followed all steps required of a
10 Batson challenge, any further challenge by counsel would have been futile under Ennis.
11 122 Nev. at 706, 137 P.3d at 1103.

12 Further, counsel made a virtually unchallengeable strategic decision to let the Batson
13 challenge go since, as Defendant points out himself, Prospective Juror No. 092 appeared to be
14 a good juror for the State. Dawson, 108 Nev. at 117, 825 P.2d at 596; Supplement at 36. The
15 questioning of this juror, which lasted for almost twenty (20) pages of the transcript, revealed
16 that she was a retired New York corrections officer who believed that “the laws are not strict
17 enough,” who might have been “making a point” with her verdict. Transcript, Jury Trial, Day
18 1 at 144–62. Any “inference” that the State’s challenge was the result of purposeful
19 discrimination was mollified by the State’s clarification—helpful for this analysis, as certain
20 of the juror’s overly-jovial mannerisms would not have been clear from a cold transcript
21 alone—that this juror simply did not take the responsibility seriously. Supplement at 36;
22 Transcript, Jury Trial, Day 2 at 76. Possessed of all this information, and reassured that the
23 State did in fact have a race-neutral reason for challenging the juror, trial counsel and appellate
24 counsel were not unreasonable for making the strategic choice to drop the issue of the Batson
25 challenge. Counsel was thus not ineffective.

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1 **D. Neither trial counsel nor appellate counsel were ineffective for failure to challenge**
2 **the treatment of custodian of records witnesses as experts.**

3 Defendant claims trial and appellate counsel were both ineffective for not challenging
4 the treatment of custodian of record witnesses as expert witnesses who testified as experts
5 regarding cell phone communications technology. Supplement at 38–39. However, because
6 Defendant relies upon a change in the law that counsel could not have predicted—as it
7 occurred after his trial—and because Defendant cannot show prejudice, this claim is without
8 merit.

9 State’s witness Joseph Trawicki, a records custodian for Sprint, offered testimony about
10 what information Sprint maintains: what cell tower a phone connects with, “who’s calling
11 who, what time, day,” and how long those records are kept. Transcript, Jury Trial, Day 5 at
12 19–22. Defendant seems to contend that counsel’s so-called failure to object failed to predict
13 that years in the future, the Nevada Supreme Court would find that relatively simple
14 information about cell phone towers and signals would be deemed expert testimony: that is, it
15 denied him the benefit of Burnside v. State, 131 Nev. ___, 352 P.3d 627 (2015), cert. denied,
16 ___ U.S. ___, 136 S.Ct. 1466 (2016). Of course, counsel cannot be found ineffective for failing
17 to anticipate a change in law. Nika, 124 Nev. at 1289, 198 P.3d at 851; Doyle, 116 Nev. at
18 156, 995 P.2d at 470. Counsel’s lack of objection was reasonable, given the law at the time.

19 Further, it should be noted that as in Burnside, Defendant “has not explained what he
20 would have done differently had proper notice been given, and he did not request a
21 continuance. See NRS 174.295(2).” 131 Nev. ___, 352 P.3d 627, 637 (2015). Thus, Defendant
22 has not argued prejudice based on the lack of objection. Finally, Defendant cannot demonstrate
23 prejudice because of the overwhelming evidence of Petitioner’s guilt. See Sections A and B,
24 supra. Thus, counsel was not ineffective.

25 **E. Neither trial counsel nor appellate counsel were ineffective for failure to object to**
26 **prosecutorial misconduct.**

27 Defendant claims trial and appellate counsel were both ineffective for not challenging
28 various instances of so-called prosecutorial misconduct. Supplement at 40–44. However,

1 Defendant cannot establish ineffective assistance of counsel because the underlying claim of
2 prosecutorial misconduct is meritless.

3 The Nevada Supreme Court employs a two-step analysis when considering claims of
4 prosecutorial misconduct. Valdez v. State, 124 Nev. 1172, 1188, 196 P.3d 465, 476 (2008).
5 First, the Court determines if the conduct was improper. Id. Second, the Court determines
6 whether misconduct warrants reversal. Id. As to the first factor, argument is not misconduct
7 unless “the remarks ... were ‘patently prejudicial.’” Riker v. State, 111 Nev. 1316, 1328, 905
8 P.2d 706, 713 (1995) (quoting, Libby v. State, 109 Nev. 905, 911, 859 P.2d 1050, 1054
9 (1993)). Notably, “statements by a prosecutor, in argument... made as a deduction or
10 conclusion from the evidence introduced in the trial are permissible and unobjectionable.”
11 Parker v. State, 109 Nev. 383, 392, 849 P.2d 1062, 1068 (1993) (quoting, Collins v. State, 87
12 Nev. 436, 439, 488 P.2d 544, 545 (1971)). Further, the State may respond to defense theories
13 and arguments. Williams v. State, 113 Nev. 1008, 1018–19, 945 P.2d 438, 444–45 (1997),
14 receded from on other grounds, Byford v. State, 116 Nev. 215, 994 P.2d 700 (2000).

15 With respect to the second step, the Nevada Supreme Court will not reverse if the
16 misconduct was harmless error, which depends on whether it was of constitutional dimension.
17 Valdez, 124 Nev. at 1188, 196 P.3d at 476. Error of a constitutional dimension requires
18 impermissible comment on the exercise of a specific constitutional right, or if in light of the
19 proceedings as a whole, the misconduct “so infected the trial with unfairness as to make the
20 resulting conviction a denial of due process.” Id. at 1189, 196 P.3d at 477. If the error is not
21 of a constitutional dimension, the Court will reverse only if the error substantially affected the
22 jury’s verdict. Id.

23 Importantly, a defendant is entitled to a fair trial, not a perfect one, and therefore “a
24 criminal conviction is not to be lightly overturned on the basis of a prosecutor's comments
25 standing alone[.]” United States v. Young, 470 U.S. 1, 11, 105 S.Ct. 1038, 1044 (1985).
26 Accord, Leonard, 117 Nev. at 81, 17 P.3d at 414. “[W]here evidence of guilt is overwhelming,
27 even aggravated prosecutorial misconduct may constitute harmless error.” Smith v. State, 120
28 Nev. 944, 948, 102 P.3d 569, 572 (2004) (citing King v. State, 116 Nev. 349, 356, 998 P.2d

1 1172, 1176 (2000)). In determining prejudice, a court considers whether a comment had: 1) a
2 prejudicial impact on the verdict when considered in the context of the trial as a whole; or 2)
3 seriously affects the integrity or public reputation of the judicial proceedings. Rose, 123 Nev.
4 at 208–09, 163 P.3d at 418.

5 Where a defendant fails to offer a contemporaneous objection, an appellate court will
6 only review claims of prosecutorial misconduct for plain error. Hernandez v. State, 118 Nev.
7 513, 525, 50 P.3d 1100, 1109 (2002). Plain error asks whether an error is “so unmistakable
8 that it reveals itself by a casual inspection of the record.” Patterson, 111 Nev. at 1530, 907
9 P.2d at 987 (internal citations omitted); Sterling, 108 Nev. at 394, 834 P.2d at 402. In
10 determining whether an error is plain, a court must consider “whether there was ‘error,’
11 whether the error was ‘plain’ or clear, and whether the error affected the defendant’s
12 substantial rights. Additionally, the burden is on an appellant to show actual prejudice or a
13 miscarriage of justice.” Green, 119 Nev. at 545, 80 P.3d at 95 (footnote omitted).

14 Here, the specific instances raised by Defendant are insufficient to meet the high
15 standard for reversal due to prosecutorial misconduct. Defendant complains that the State’s
16 closing argument contained the phrases “it would be a travesty of justice if you did anything
17 less than the truth, the absolute truth.” Transcript, Jury Trial, Day 6 at 124. Defense counsel
18 did not object to this statement, meaning that this issue could only be analyzed on appeal for
19 plain error. Hernandez, 118 Nev. at 525, 50 P.3d at 1109. Of course, counsel had a good reason
20 for not objecting. The prosecutors were appropriately responding to defense counsel’s
21 argument for involuntary manslaughter. Williams, 113 Nev. at 1018–19, 945 P.2d at 444–45.
22 Specifically, the State responded to defense counsel’s argument about justice. Defense counsel
23 stated in closing argument that Defendant “is guilty. He is absolutely guilty of something, and
24 that’s what we’re asking you to do. Find him guilty of what he should have been charged with
25 in the first place. He conspired to commit battery, commit a manslaughter. That’s what your
26 instructions tell you you must do. *This is justice in this case.*” Transcript, Jury Trial, Day 6 at
27 123–24 (emphasis added). In other words, the defense commented on what it viewed to be
28 “justice.” The State then responded with what it believed justice would be, given the evidence

1 it presented. This is not improper. Defendant has not argued that this comment affected his
2 substantial rights, nor that there was actual prejudice of a miscarriage of justice. Green, 119
3 Nev. at 545, 80 P.3d at 95. Thus, counsel was not unreasonable for not objecting; and thus,
4 counsel was not ineffective.

5 Next, Defendant complains that the State did not reveal that Zone may or may not have
6 been the actual shooter. Supplement at 42. Again, trial counsel did not object, and this so issue
7 could only be analyzed for plain error on appeal. Hernandez, 118 Nev. at 525, 50 P.3d at 1109.
8 Regardless, Defendant's premise that there was evidence Zone was more than a bystander is
9 flawed. As discussed supra, Defendant's argument that the impeachment of Zone during
10 Counts's trial led to Counts's acquittal—implying that the jury believed that Zone was actually
11 the shooter—is mere speculation insufficient for post-conviction. Hargrove, 100 Nev. at 502,
12 686 P.2d at 225. The jury may have believed the impeachment evidence against Zone: that he
13 “confessed” to his ex-partner, Williams, that he was the shooter “with the Palomino Club.”
14 Supplement at 23. Or, Counts could have been acquitted for another reason. Defendant cannot
15 know why the jury acquitted Counts. That the State did not reference the hearsay statements
16 of Zone's ex-partner in Defendant's trial does not indicate that it was somehow presenting
17 evidence that it “kn[ew] to be false.” Alcorta v. Texas, 355 U.S. 28, 30, 78 S. Ct. 103, 105
18 (1957). The State had no way of evaluating whether Williams's testimony was actually true—
19 let alone that it was a “basis to charge [Zone] with any crime.” Supplement at 42. Thus, it had
20 no obligation to present that evidence to the jury. Defendant cannot argue that the State's
21 conduct affected his substantial rights, or that there was actual prejudice or a miscarriage of
22 justice. Green, 119 Nev. at 545, 80 P.3d at 95. Trial counsel made the reasonable, strategic
23 decision not to confuse the jury with this issue.

24 Further, any misconduct related to Zone amounts to nothing more substantive than
25 harmless error, because Defendant's own conduct—that is, that Defendant conspired to harm
26 the victim—was not at issue in this case. Defendant does not, and cannot, show that the so-
27 called failure to paint Zone as the actual shooter either substantially affected the jury's verdict
28 or so infected the trial with unfairness that Defendant was denied due process. Valdez, 124

1 Nev. at 1188, 196 P.3d at 476–77. Whether Zone or Counts was the shooter is irrelevant to
2 whether Defendant himself was involved in this conspiracy. Thus, because the evidence of
3 Defendant’s guilt in the conspiracy was overwhelming—and was in fact admitted to by
4 defense counsel during closing—the way the State handled Zone’s testimony was at most
5 harmless error. Smith, 120 Nev. at 948, 102 P.3d at 572. Because any error was harmless,
6 Defendant cannot show that trial or appellate counsel’s failure to raise this issue prejudiced
7 him in any way. Thus, there was no ineffective assistance of counsel.

8 Next, Defendant complains that the prosecutor mentioned that a verdict of involuntary
9 manslaughter would require a finding of an “accident.” Supplement at 42. The Court did
10 actually sustain defense counsel’s objection to this. Transcript, Jury Trial, Day 6 at 138–39.
11 Defendant does not explain why appellate counsel should have raised the sustained objection
12 on appeal. Supplement at 42–43. Indeed, this Court’s sustaining the objection means that it is
13 presumed that the jury properly disregarded the comment about the victim shooting himself.
14 Leonard v. State, 117 Nev. 53, 66, 17 P.3d 397, 405 (2001) (holding that jurors are presumed
15 to follow instructions given to them). Further, this Court also admonished the jury that “this is
16 just [the State’s] commentary on what he thinks [defense counsel] argued or what he
17 remembers. It’s your collective recollection of what [defense counsel] said and what [defense
18 counsel]’s argument is that should control what you think about this.” Id. The Court correctly
19 explained that the prosecutor did not offer an “incorrect” account of the law; he merely
20 commented on what defense counsel argued would be required to find Defendant guilty of
21 involuntary manslaughter. Indeed, because the law on involuntary manslaughter indicates that
22 such a killing is done “without any intent to do so,” the prosecutor did not act improperly in
23 using the shorthand “accident.” NRS 200.070. Because the prosecutor did not act improperly,
24 and because this Court correctly remedied any effect of the single comment about the victim
25 shooting himself, neither trial nor appellate counsel were unreasonable for not taking further
26 steps. Moreover, Defendant cannot establish prejudice based on the sustained objection. Thus,
27 there was no ineffective assistance of counsel.

1 Last, Defendant complains that the prosecutor “[old] the jury they have a duty to
2 convict the defendant.” Supplement at 43. This is a vast leap from the prosecutor’s actual
3 statements. He stated:

4 I think it’s your duty to go back there and look at the evidence. Go back there,
5 go through the wire recording, go through the physical evidence. Ask
6 yourself how he can’t be guilty of a deadly weapon when you know he gave
7 Jay Jay [the shooter] a .22. Ask yourself how he can be guilty of less than
8 first-degree murder when he acknowledges and everybody acknowledges
9 that the order was a killing. That’s your duty. And I submit to you that if the
10 group of 12 of you go back to that room and actually look at the evidence in
11 this case, actually focus on the evidence not what we’re saying, look at what
the evidence is, that you’ll be able to determine the truth because there’s at
least one person in this room that knows that he intended to kill Timothy
Hadland, and I submit to you if you’re doing your job, you’ll come back here
and you’ll tell [Defendant] that you know too.

12 Transcript, Jury Trial, Day 6 at 139–40.

13 Again, trial counsel did not object, so appellate review would be limited to plain error.
14 Hernandez, 118 Nev. at 525, 50 P.3d at 1109. And taken in context, his comment is not such
15 an unmistakable error on casual inspection. Patterson, 111 Nev. at 1530, 907 P.2d at 987. The
16 comment is very similar to a comment already examined by the Nevada Supreme Court; the
17 phrase “I submit to you that there’s at least one person in this room who knows beyond a
18 shadow of a doubt who killed [the victim]” was not improper when it “followed a summation
19 of evidence” and “reflects the prosecutor’s conclusions based on the evidence.” Taylor v.
20 State, 132 Nev. ___, ___, 371 P.3d 1036, 1046 (2016). Similarly, the comment that if the jury is
21 “doing their job”—i.e. examining the evidence, which the prosecutor requested multiple times
22 in the preceding sentences that the jury do—they will tell Defendant that he had the intent to
23 kill followed a summation of the evidence and reflects the prosecutors conclusions thereof.

24 Certainly the prosecutor’s comment here is not as egregious as that made in the case
25 Defendant cites: “he needs to be convicted—he’s endangering people—he’s certainly
26 endangering his child--do his child and all of us a favor--do your duty in this case--find that
27 he’s guilty.” Anderson v. State, 121 Nev. 511, 517, 118 P.3d 184, 187 (2005). The comment
28 in Anderson was a clear command that the jury side with the State. It explicitly stated that the

1 jury's "duty" was to "find that he's guilty." Id. Here, the prosecutor merely commented on the
2 evidence, saying that the State believed that if the jury examines the evidence (i.e. "doing their
3 job") they will convict. It is certainly a stretch to read this prosecutor's statement as a command
4 to convict.

5 Even if this was misconduct, it is Defendant's burden to demonstrate that his substantial
6 rights were affected by the comment, which he cannot do. Green, 119 Nev. at 545, 80 P.3d at
7 95 (footnote omitted). Thus, neither trial nor appellate counsel were unreasonable for not
8 objecting to this single comment. There was no ineffective assistance of counsel regarding any
9 instance of so-called prosecutorial misconduct.

10 **F. Appellate counsel was not ineffective for failure to challenge the flight instruction.**

11 Finally, Defendant claims appellate counsel was ineffective for not raising an objection
12 to the flight instruction. Supplement at 44–45. However, Defendant cannot establish
13 ineffective assistance of counsel because the underlying claim that the flight instruction was
14 improper is meritless.

15 The Nevada Supreme Court has held that "[f]light instructions are valid only if there is
16 evidence sufficient to support a chain of unbroken inferences from the defendant's behavior
17 to the defendant's guilt of the crime charged." Jackson v. State, 117 Nev. 116, 121, 17 P.3d
18 998, 1001 (2001); United States v. Feldman, 788 F.2d 544, 555 (9th Cir. 1986). "A defendant's
19 conduct, such as flight from a scene of the crime, generally is considered a party admission,
20 and will be admitted if the actions have probative value." Turner v. State, 98 Nev. 103, 106,
21 641 P.2d 1062, 1065 (1982). The giving of a flight instruction is not reversible error if evidence
22 of flight has been admitted. Potter v. State, 96 Nev. 875, 875–76, 619 P.2d 1222, 1222 (1980).

23 Here, defense counsel objected to the flight instruction at trial. Transcript, Jury Trial,
24 Day 6 at 4. This Court overruled that objection. Id. It was not reversible error for this Court to
25 do so because evidence of flight had been admitted. Potter, 96 Nev. at 875–76, 619 P.2d at
26 1222. Specifically, even without Defendant's confession to police that he watched the victim
27 be shot and merely drove away from the scene without reaching out for help, the wire tape
28 recordings revealed that Defendant actually took the shooter from the scene to get paid. Wire

1 Transcript, State's Exhibit 244; see also Transcript, Jury Trial, Day 6 at 3. This Court correctly
2 pointed out that if this had actually been an accident—if Defendant had not meant for the
3 victim to be killed, as he claimed—then it certainly points to “consciousness of guilt” that he
4 did not reach out to law enforcement and instead went immediately about his daily life.
5 Transcript, Jury Trial, Day 6 at 3–4. Thus, appellate counsel was reasonable in not arguing the
6 issue.

7 Further, there is no prejudice because Defendant cannot demonstrate a likelihood that
8 this argument would have won on appeal. District courts have “broad discretion” to settle jury
9 instructions. Cortinas v. State, 124 Nev. 1013, 1019, 195 P.3d 315, 319 (2008). And because
10 there was in fact evidence of flight, the district court did not abuse its discretion; and the
11 argument would not have won on appeal. Crawford v. State, 121 Nev. 746, 748, 121 P.3d 582,
12 585 (2003) (holding that jury instruction decisions are generally reviewed for an abuse of
13 discretion). This Court properly utilized its discretion in finding that the flight instruction was
14 warranted given the evidence and given the State’s theory of the case. Thus, absent prejudice,
15 there was no ineffective assistance of counsel.

16 **G. There is no cumulative error.**

17
18 Defendant claims that “cumulative errors” by trial and appellate counsel entitle him to
19 relief. However, since Defendant fails to show any instances of error, his argument regarding
20 cumulative error is without merit. Even if there is an instance of error, the issue of guilt was
21 not close, and so relief is not warranted.

22 The Nevada Supreme Court has not endorsed application of its direct appeal cumulative
23 error standard to the post-conviction Strickland context. McConnell v. State, 125 Nev. 243,
24 259, 212 P.3d 307, 318 (2009). Nor should cumulative error apply on post-conviction review.
25 Middleton v. Roper, 455 F.3d 838, 851 (8th Cir. 2006), cert. denial, 549 U.S. 1134, 1275 S.
26 Ct. 980 (2007) (“a habeas petitioner cannot build a showing of prejudice on series of errors,
27 none of which would by itself meet the prejudice test.”)
28

1 Nevertheless, even where available a cumulative error finding in the context of a
2 Strickland claim is extraordinarily rare and requires an extensive aggregation of errors. See,
3 e.g., Harris By and through Ramseyer v. Wood, 64 F.3d 1432, 1438 (9th Cir. 1995). In fact,
4 logic dictates that there can be no cumulative error where the defendant fails to demonstrate
5 any single violation of Strickland. See Turner v. Quarterman, 481 F.3d 292, 301 (5th Cir.
6 2007) (“where individual allegations of error are not of constitutional stature or are not errors,
7 there is ‘nothing to cumulate.’”) (quoting Yohey v. Collins, 985 F.2d 222, 229 (5th Cir. 1993));
8 Hughes v. Epps, 694 F.Supp.2d 533, 563 (N.D. Miss. 2010) (citing Leal v. Dretke, 428 F.3d
9 543, 552-53 (5th Cir. 2005)). Because Defendant has not demonstrated any claim warrants
10 relief under Strickland, there is nothing to cumulate. Therefore, Defendant’s cumulative error
11 claim is denied.

12 Assuming arguendo that there was any error, Defendant fails to demonstrate cumulative
13 error sufficient to warrant reversal. In addressing a claim of cumulative error, the relevant
14 factors are: 1) whether the issue of guilt is close; 2) the quantity and character of the error; and
15 3) the gravity of the crime charged. Mulder v. State, 116 Nev. 1, 17, 992 P.2d 845, 854–55
16 (2000). As discussed above, the issue of guilt was not close, as even the Nevada Supreme
17 Court has noted that the evidence against Defendant was “overwhelming.” Carroll, 132 Nev.
18 at ___, 371 P.3d at 1031–36. Further, even assuming that some or all of Defendant’s allegations
19 of deficiency have merit, he has failed to establish that, when aggregated, the errors deprived
20 him of a reasonable likelihood of a better outcome at trial. Therefore, even if counsel was in
21 any way deficient, there is no reasonable probability that Defendant would have received a
22 better result but for the alleged deficiencies. Further, even if Defendant had made such a
23 showing, he has certainly not shown that the cumulative effect of these errors was so
24 prejudicial as to undermine this Court’s confidence in the outcome of Defendant’s case.
25 Therefore, his claim of cumulative error is without merit.

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DATED this 19 day of December, 2018.

1/3

BY /s/ Jonathan VanBoskerk
JONATHAN VANBOSKERK
Chief Deputy District Attorney
Nevada Bar #006528

JAMIE RESCH, ESQ.
Email: jresch@convictionsolutions.com

05FB0052D/JV/AO/saj/MVU

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****June 27, 2005**

05C212667-4

The State of Nevada vs Deangelo R Carroll

June 27, 2005**9:00 AM****Initial Arraignment****INITIAL
ARRAIGNMENT
Court Clerk: Linda
Skinner
Reporter/Recorder:
Maureen Schorn
Heard By: Donald
Mosley****HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**Bunin, Joseph D.
Carroll, Deangelo R
Di Giacomo, Marc P.
Figler, Dayvid J.
Whipple, Bret O.Attorney
Defendant
Attorney
Attorney
Attorney**JOURNAL ENTRIES**

- AS TO DEFT COUNTS: DEFENDANT ARRAIGNED, PLED NOT GUILTY AND INVOKED THE SIXTY (60) DAY RULE. COURT ORDERED, matter set for trial within sixty days.

AS TO DEFT HIDALGO: DEFENDANT ARRAIGNED, PLED NOT GUILTY AND INVOKED THE SIXTY (60) DAY RULE. COURT ORDERED, matter set for trial within sixty days.

AS TO DEFT ESPINDOLAS: Mr. Draskovich appeared for Mr. Oram. DEFENDANT ARRAIGNED, PLED NOT GUILTY AND INVOKED THE SIXTY (60) DAY RULE. COURT ORDERED, matter set for trial within sixty days.

AS TO DEFT CARROLL: DEFENDANT ARRAIGNED, PLED NOT GUILTY AND INVOKED THE SIXTY (60) DAY RULE. COURT ORDERED, matter set for trial within sixty days.

Counsel requested 21 days from the filing of the Preliminary Hearing Transcript to file a writ.
COURT ORDERED, Defendant's rights are reserved.

CUSTODY (ALL)

8/23/05 9:00 AM CALENDAR CALL (ALL)

8/29/05 1:30 PM JURY TRIAL (ALL)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 11, 2005

05C212667-4

The State of Nevada vs Deangelo R Carroll

July 11, 2005

9:00 AM

Request

**STATE'S REQUEST
FOR
APPOINTMENT OF
COUNSEL / STATUS**
**Court Clerk: Linda
Skinner**
**Reporter/Recorder:
Maureen Schorn**
**Heard By: Donald
Mosley**

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Bunin, Joseph D.

Attorney

Carroll, Deangelo R

Defendant

Di Giacomo, Marc P.

Attorney

Figler, Dayvid J.

Attorney

JOURNAL ENTRIES

- Mr. Figler appeared for Ms. Wildeveld and advised the State has filed a Notice of Intent to Seek Death Penalty on all Defendants; he requested Mr. Bunin be appointed as his co-counsel. Court noted Mr. Draskovich was in chambers prior to calendar and would like Mr. Langford appointed as co-counsel. Mr. Whipple would like Ms. Wildeveld appointed. Mr. DiGiacomo advised Mr. Draskovich and Mr. Oram were retained and Rule 250 does not apply to retained counsel. COURT ORDERED, State's Request is GRANTED as to Defts Counts & Carroll. Mr. Figler requested a status check now that the State has filed a death notice to make sure everyone is on track. There being no objection, COURT SO ORDERED and matter CONTINUED as to Hidalgo and Espindolas.

CUSTODY (ALL)

7/14/05 9:00 AM STATE'S REQUEST FOR APPOINTMENT OF COUNSEL/STATUS (HIDALGO & ESPINDOLAS)...STATUS CHECK: TRIAL (ALL)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 14, 2005

05C212667-4

The State of Nevada vs Deangelo R Carroll

July 14, 2005

9:00 AM

All Pending Motions

**ALL PENDING
MOTIONS 7/14/05
Court Clerk: Linda
Skinner
Reporter/Recorder:
Maureen Schorn
Heard By: Donald
Mosley**

HEARD BY:

COURTROOM: No Location

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Bunin, Joseph D.
Carroll, Deangelo R
Kane, Edward R.

Attorney
Defendant
Attorney

JOURNAL ENTRIES

- STATE'S REQUEST FOR APPOINTMENT OF COUNSEL/STATUS (HIDALGO & ESPINDOLAS)...STATUS CHECK; TRIAL SETTING (ALL)

Mr. Kane advised they will need to continue the matter as to counsel. Further, as all counsel are not present, COURT ORDERED, matter CONTINUED and directed that counsel be noticed to be present next date.

CUSTODY (ALL)

...CONTINUED 8/4/05 9:00 AM

CLERK'S NOTE: Judicial Executive Assistant notified all counsel to be present next date. ls

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 04, 2005

05C212667-4

The State of Nevada vs Deangelo R Carroll

August 04, 2005

9:00 AM

All Pending Motions

**ALL PENDING
MOTIONS 8/4/05**
**Relief Clerk: Melissa
Swinn**
**Reporter/Recorder:
Joe D'Amato Heard**
By: Donald Mosley

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Bunin, Daniel M.	Attorney
Carroll, Deangelo R	Defendant
DiGiacomo, Sandra	Attorney
Figler, Dayvid J.	Attorney

JOURNAL ENTRIES

- STATE'S REQUEST FOR APPOINTMENT OF COUNSEL/STATUS (HIDALGO & ESPINDOLA) ...
 STATE'S MOTION TO COMPEL HANDWRITING EXAMPLES (HIDALGO, ESPINDOLA &
 CARROLL) ... DEFT COUNT'S MOTION FOR REDUCTION IN BAIL OR, IN THE ALTERNATIVE,
 FOR RELEASE ON HOUSE ARREST ... STATUS CHECK (ALL)

As to Bail, O.R. or H.A. and Appointment of Counsel: Court stated that parties met in chambers,
 prior to court to discuss these issues. All parties agree that the matters need to be continued and
 COURT SO ORDERED.

As to Motion to Compel Handwriting Examples: Mr. Figler stated he has no objection as long as it is
 not out of the scope. COURT ORDERED, motion GRANTED.

As to Trial Setting: Court noted all parties have waived the 60 day rule. COURT ORDERED, trial
 date VACATED and this matter CONTINUED.

Ms. Wildeveld stated she has not received the transcript and intends to file a writ. Further, Defendant Counts has a medical problem with his shoulder and needs to see a doctor. Court Services Officer stated he will make sure the Defendant is seen by a doctor. Colloquy regarding pending writs, supplements and replies. Counsel agreed upon two weeks for supplements and 30 days for the State to respond.

CUSTODY (ALL)

8/11/05 9 AM DEFT COUNT'S MOTION FOR REDUCTION IN BAIL OR, IN THE
ALTERNATIVE, FOR RELEASE ON HOUSE ARREST

9/27/05 9 AM STATE'S REQUEST FOR APPOINTMENT OF COUNSEL/STATUS (HIDALGO &
ESPINDOLA). . . DEFTS' WRIT OF HABEAS CORPUS (HIDALGO & ESPINDOLA). . . ARGUMENT
ON WRITS (ALL) . . . STATUS CHECK: TRIAL (ALL)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 11, 2005**

05C212667-4

The State of Nevada vs Deangelo R Carroll

August 11, 2005**9:00 AM****Motion**

**DEFT'S MTN FOR
REDUCTION IN
BAIL OR FOR
RELEASE ON
HOUSE ARREST/12
Court Clerk: Linda
Skinner
Reporter/Recorder:
Maureen Schorn
Heard By: Donald
Mosley**

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Di Giacomo, Marc P.

Attorney

Pesci, Giancarlo

Attorney

Whipple, Bret O.

Attorney

JOURNAL ENTRIES

- Mr. Whipple asked for a bail amount to be set, that Defendant has been in this community for over 10 years, has 4 children, has employment and coaches football. Further, Mr. Whipple advised they would be filing a writ. Court so noted. Mr. DiGiacomo provided Defendant's scope to Court and argued the co-defendants all testified this Defendant was the shooter and would object to the motion. Following additional colloquy, COURT ORDERED, Motion DENIED.
CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 21, 2005

05C212667-4

The State of Nevada vs Deangelo R Carroll

September 21, 2005

9:00 AM

Motion

DEFT'S MTN TO
PLACE ON
CALENDAR FOR
THE PURPOSE OF
BEING APPOINTED
AS CO-CNSL/18
Court Clerk: Linda
Skinner
Reporter/Recorder:
Maureen Schorn
Heard By: Mosley,
Donald M.

HEARD BY:

COURTROOM: No Location

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT: Di Giacomo, Marc P.

Attorney

JOURNAL ENTRIES

- Court noted Mr. DiGiacomo, Mr. Pesci, Mr. Bunin, Mr. Oram, Mr. Draskovich and Mr. Hart were in chambers prior to calendar. Court inquired if Defendant knew him. Defendant indicated he did not. At request of Mr. Stein, who appeared in chambers after meeting but before calendar, COURT ORDERED, matter CONTINUED.
CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 27, 2005

05C212667-4

The State of Nevada vs Deangelo R Carroll

September 27, 2005

9:00 AM

All Pending Motions

**ALL PENDING
MOTIONS 9/27/05**
**Relief Clerk: Melissa
Swinn**
**Reporter/Recorder:
Joe D'Amato Heard
By: Donald Mosley**

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Miller, Ross J.
Whipple, Bret O.

Attorney
Attorney

JOURNAL ENTRIES

- STATE'S REQUEST FOR APPOINTMENT OF COUNSEL/STATUS (HIDALGO & ESPINDOLAS) .
 .. DEFTS HIDALGO AND ESPINDOLAS' PETITION FOR WRIT OF HABEAS CORPUS ... DEFT
 COUNTS' PETITION FOR WRIT OF HABEAS CORPUS ... ARGUMENTS ON WRITS ... STATUS
 CHECK: TRIAL (ALL)

Court indicated it met with interested parties prior to court and ORDERED, all matters as stated
 above as well as the matter on October 5, 2005 are CONTINUED to October 6, 2005.

CUSTODY (ALL)

CONTINUED TO: 10/6/05 9 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 06, 2005

05C212667-4

The State of Nevada vs Deangelo R Carroll

October 06, 2005

9:00 AM

All Pending Motions

**ALL PENDING
MOTIONS 10/6/05
Court Clerk: Linda
Skinner
Reporter/Recorder:
Maureen Schorn
Heard By: Donald
Mosley**

HEARD BY:

COURTROOM: No Location

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Bunin, Joseph D.
Carroll, Deangelo R
Di Giacomo, Marc P.
Figler, Dayvid J.
Pesci, Giancarlo

Attorney
Defendant
Attorney
Attorney
Attorney

JOURNAL ENTRIES

- STATE'S REQUEST FOR APPOINTMENT OF COUNSEL/STATUS (HIDALGO & ESPINDOLAS)...DEFTS HIDALGO'S AND ESPINDOLAS' PETITION FOR WRIT OF HABEAS CORPUS...DEFT COUNTS' PETITION FOR WRIT OF HABEAS CORPUS...DEFT HIDALGO'S MOTION TO PLACE ON CALENDAR FOR THE PURPOSE OF BEING APPOINTED AS CO-COUNSEL BY THE COURT...STATUS CHECK: TRIAL (ALL)

AS TO THE WRIT: Court noted the issue stems from the tape introduced at the Preliminary Hearing. Mr. Draskovich concurred and stated it is unclear who is actually speaking. Mr. DiGiacomo stated that was untrue, that the Detective that is familiar with their voices identified them. Arguments by Mr. Draskovich, Mr. Oram and Ms. Wildeveld regarding the tape, how it was obtained and the

statements made and asking for the tape to be disallowed. Court noted there was a quantum of evidence produced at the Preliminary Hearing and he needs to evaluate if the Justice of the Peace had enough sufficient evidence to bind this over and this Court feels he did. Therefore, COURT ORDERED, Writ DENIED.

As to Deft Hidalgo: Mr. Stein advised he is a friend of the family and they have asked that he join Mr. Draskovich in representation and provided the paperwork to the Court. COURT ORDERED, matter UNDER ADVISEMENT.

As to Deft Espindolas: Mr. Oram advised he was retained and at this time because of her assets, co-counsel cannot be appointed.

COURT ORDERED, matter set for trial in ordinary course.

CUSTODY (ALL)

7/18/06 9:00 AM CALENDAR CALL (ALL)

7/24/06 1:30 PM JURY TRIAL (ALL)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****November 28, 2005**

05C212667-4

The State of Nevada vs Deangelo R Carroll

November 28, 2005**9:00 AM****All Pending Motions**

**ALL PENDING
MOTIONS 11/28/05
Court Clerk: Linda
Skinner
Reporter/Recorder:
Joe D'Amato Heard
By: Joseph
Pavlikowski**

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Stanton, David L.
Whipple, Bret O.

Attorney
Attorney

JOURNAL ENTRIES

- STATE'S MOTION TO FILE AMENDED NOTICE ALLEGING AN ADDITIONAL AGGRAVATING CIRCUMSTANCE...DEFT'S MOTION TO SEVER DEFENDANTS
Mr. Whipple advised he did not receive the State's Opposition and requested matter be continued.
Further, Mr. Whipple FILED IN OPEN COURT Kenneth Counts' Opposition to Motion to File Amended Notice Alleging an Additional Aggravating Circumstance and Motion to Strike Aggravating Circumstances. COURT ORDERED, both Motions CONTINUED.
...CONTINUED 12/12/05 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 12, 2005

05C212667-4

The State of Nevada vs Deangelo R Carroll

December 12, 2005

9:00 AM

All Pending Motions

**ALL PENDING
MOTIONS 12/12/05**
**Court Clerk: Linda
Skinner**
**Reporter/Recorder:
Joe D'Amato Heard**
By: Donald Mosley

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Di Giacomo, Marc P.
Whipple, Bret O.

Attorney
Attorney

JOURNAL ENTRIES

- STATE'S MOTION TO FILE AMENDED NOTICE ALLEGING AN ADDITIONAL AGGRAVATING CIRCUMSTANCE...DEFT'S MOTION TO SEVER DEFENDANTS AS TO AMENDED NOTICE: Mr. DiGiacomo stated Defendant was on parole at the time of this murder and that there is actually an active warrant out of California as he absconded. Ms. Wildeveld argued Defendant transferred his probation to Nevada, did what he was supposed to do and was unaware of the warrant. Mr. DiGiacomo advised the Investigator learned of the active warrant during his investigation and that Defendant was on parole/probation at the time of this incident; he filed this motion within the 15 day period. Following additional colloquy, COURT ORDERED, Motion GRANTED. State's Amended Notice of Intent to Seek Death Penalty FILED IN OPEN COURT.

AS TO MOTION TO SEVER: Mr. DiGiacomo stated he had no objection and feels Deft Carroll should be severed. Mr. Figler stated he was unaware of this motion and Defendant should be present. Ms. Wildeveld stated this pertains to Deft. Counts. Court noted the allegations are that the Defendants

hired Deft Counts to kill someone. Ms. Wildeveld argued that 5 people got together and formed a plan that Deft. Counts was not involved in; he was picked up by a van, driven to the scene and driven back. Arguments by Mr. DiGiacomo. Ms. Wildeveld stated the majority of evidence does not pertain to Deft. Counts. Mr. DiGiacomo stated there will be testimony that Defendant was paid \$6,000 after the murder. Following additional arguments, COURT ORDERED, Motion DENIED. Mr. Figler and Mr. Whipple advised they have submitted Ex-Parte Orders for Investigators that they have not received back from the Court. Court advised \$5,000 would be approved and will see if the Orders are in chambers.

Mr. Whipple advised he has asked for scope on the other co-defendants. Mr. DiGiacomo advised some of what he wants is juvenile. Court requested counsel put this on calendar.
CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****December 21, 2005**

05C212667-4

The State of Nevada vs Deangelo R Carroll

December 21, 2005**9:00 AM****Initial Arraignment****INITIAL****ARRAIGNMENT****Court Clerk: Sandra****Anderson/sa Relief****Clerk: Kathleen****Arnold****Reporter/Recorder:****Kiara Schmidt Heard****By: J. CHARLES****THOMPSON****HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:** Di Giacomo, Marc P.

Attorney

JOURNAL ENTRIES

- DEFT. TAOIPU ARRAIGNED, PLED NOT GUILTY and WAIVED THE 60-DAY RULE. COURT ORDERED, matter set for trial.

CUSTODY

07-18-06 9:00 AM CALENDAR CALL

07-24-06 1:30 PM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****December 22, 2005**

05C212667-4

The State of Nevada vs Deangelo R Carroll

December 22, 2005**9:00 AM****Motion to Strike****DEFT'S MTN TO
STRIKE Court Clerk:
Linda Skinner
Reporter/Recorder:
Maureen Schorn
Heard By: Mosley,
Donald M.****HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Nelson III, Roy L.

Attorney

JOURNAL ENTRIES

- Court noted Ms. Weckerly and Mr. Draskovich appeared in chambers prior to calendar. At request of counsel, COURT ORDERED the following briefing schedule: Ms. Weckerly to reply by 1/5 and matter set for argument.

CUSTODY

CLERK'S NOTE: This motion also applies to Deft. Espindola and she should be added to calendar next date.

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****January 19, 2006**

05C212667-4

The State of Nevada vs Deangelo R Carroll

January 19, 2006**9:00 AM****All Pending Motions****ALL PENDING
MOTIONS 1/19/06
Court Clerk: Melissa
Swinn
Reporter/Recorder:
Joe D'Amato Heard
By: Donald Mosley****HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Rutledge, Brian S.

Attorney

JOURNAL ENTRIES

- DEFENDANTS HIDALGO AND ESPINDOLA'S MOTION TO STRIKE NOTICE OF INTENT TO
SEEK DEATH PENALTY

COURT ORDERED, matter CONTINUED TWO WEEKS.

CUSTODY

CONTINUED TO: 2/2/06 @ 9AM

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****February 02, 2006**

05C212667-4

The State of Nevada vs Deangelo R Carroll

February 02, 2006**9:00 AM****All Pending Motions****ALL PENDING
MOTIONS 2/2/06
Court Clerk: Linda
Skinner
Reporter/Recorder:
Joe D'Amato Heard
By: Donald Mosley****HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Nelson III, Roy L.

Attorney

JOURNAL ENTRIES

- DEFTS' MOTION TO STRIKE NOTICE OF INTENT TO SEEK DEATH PENALTY (HIDALGO & ESPINDOLA)

Court noted at request of Mr. Draskovich, COURT ORDERED, matter CONTINUED.

CUSTODY (BOTH)

...CONTINUED 2/17/06 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 17, 2006

05C212667-4

The State of Nevada vs Deangelo R Carroll

March 17, 2006

9:00 AM

All Pending Motions

**ALL PENDING
MOTIONS 3/17/06**
**Relief Clerk: Jennifer
Lott**
**Reporter/Recorder:
Joe D'Amato Heard**
By: Donald Mosley

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Bunin, Joseph D.

Attorney

Di Giacomo, Marc P.

Attorney

Figler, Dayvid J.

Attorney

Pesci, Giancarlo

Attorney

JOURNAL ENTRIES

- DEFTS HIDALGO'S AND ESPINDOLA'S MOTION TO STRIKE NOTICE OF INTENT TO SEEK DEATH PENALTY.....DEFT COUNTS' MOTION TO ALLOW THE DEFENSE TO ARGUE LAST AT THE PENALTY PHASE...DEFT COUNTS' MTN TO FEDERALIZE ALL MOTIONS, OBJECTIONS, REQUESTS AND OTHER APPLICATIONS FOR THE PROCEEDINGS IN THE ABOVE ENTITLED CASE...DEFT COUNTS' MOTION FOR INDIVIDUAL VOIR DIRE.....DEFT COUNTS' MOTION IN LIMINE TO EXCLUDE AUTOPSY, CRIME SCENE, AND OTHER GRUESOME PHOTOGRAPHS..DEFT COUNTS' MOTION IN LIMINE TO PRECLUDE THE INTRODUCTION OF VICTIM IMPACT EVIDENCE....DEFT COUNTS' MOTION IN LIMINE TO PROHIBIT ANY REFERENCES TO THE FIRST PHASE AS THE "GUILT PHASE"DEFT COUNTS' MOTION TO BIFURCATE PENALTY PHASE...DEFT COUNTS' MOTION IN LIMINE TO BAR IMPROPER PROSECUTORIAL ARGUMENT.....DEFT COUNTS' MOTION IN LIMINE TO PRECLUDE ADMISSION OF GANG

AFFILIATION, DRUG ACTIVITY, HANDLING OF GUNS AND BATTERIES....DEFT COUNTS' MOTION FOR DISCOVERY AND EVIDENTIARY HEARING REGARDING THE MANNER AND METHOD OF DETERMINING IN WHICH MURDER CASES THE DEATH PENALTY WILL BE SOUGHT....DEFT COUNTS' MOTION FOR DISQUALIFICATION FROM THE JURY VENIRE OF ALL POTENTIAL JURORS WHO WOULD AUTOMATICALLY VOTE FOR THE DEATH PENALTY IF THEY FOUND KENNETH COUNTS GUILTY OF CAPITAL MURDER

Mr. Figler requested to join Defendant Carroll in motions if necessary. Mr. Jackson stated Court's secretary told him to be present, his client Defendant Taoipu is not on calendar; however, counsel requested Court move 3/27/06 motions to accommodate his schedule. Mr. Di Giacomo stated Defendant Taoipu (Mr. Jackson's client) fled to California, was brought back through Boulder City, he was given the same case number, and Mr. Jackson filed a Motion to Sever Defendant Taoipu. COURT ORDERED, motions CONTINUED and Evidentiary Hearing SET 4/21/06 at 9:00 a.m. COURT ORDERED, all motions MUST BE ON CALENDAR FROM NOW ON. Mr. Figler will file his motions in short order. Ms. Wildeveld requested Defendant Counts' motions be separated from other defendants as Defendant Counts is not involved if other charges. COURT ORDERED, Request is DENIED. Ms. Wildeveld requested to Join in Motions in issues are related.

Argument by Ms. Thomas, Mr. Draskovich, and Mr. Orme in support of Defts Hidalgo's and Espindola's Motion to Strike Notice of Intent to Seek Death Penalty. Ms. Thomas argued defendants did not intend to kill anyone, argument regarding pecuniary gain factor, and counsel requested all aggravators stricken. Mr. Draskovich stated baseball bats and garbage bags were not included in the taped conversations; argument by counsel in opposition to State's intent to seek the death penalty. Argument by Mr. Di Giacomo in opposition to motion. Mr. Orme read from the transcript to correct testimony (Page 4 after 844); counsel stated there is nothing in the tapes indicating Defendant Espindola intended to kill anyone, and the death penalty is not appropriate. Colloquy regarding if defendants were aware of surveillance. Mr. Draskovich argued this case cannot be raised to a death case. COURT ORDERED, motion is UNDER ADVISEMENT.

DEFT COUNTS' MTN TO ALLOW THE DEFENSE TO ARGUE LAST AT THE PENALTY PHASE: Matter submitted by Ms. Wildeveld; Mr. Pesci argued this claim has no merit. COURT ORDERED, motion is DENIED.

DEFT COUNTS' MTN TO FEDERALIZE ALL MOTIONS, OBJECTIONS, REQUESTS AND OTHER APPLICATIONS FOR THE PROCEEDINGS IN THE ABOVE ENTITLED CASE: Argument by Ms. Wildeveld. Mr. Di Giacomo argued motion does not solve the problems before the Federal Court, and this Court should be given the opportunity to address proper concerns. Ms. Wildeveld is not asking to be completely relieved of her obligation, and counsel will make every effort to make a full objection. COURT ORDERED, motion is DENIED WITHOUT PREJUDICE.

DEFT COUNTS' MOTION FOR INDIVIDUAL VOIR DIRE: Matter submitted by counsel. COURT ORDERED, motion is DENIED.

DEFT COUNTS' MOTION IN LIMINE TO EXCLUDE AUTOPSY, CRIME SCENE, AND OTHER GRUESOME PHOTOGRAPHS: COURT ORDERED, motion is PREMATURE and Court RESERVES RULING.

DEFT COUNTS' MOTION IN LIMINE TO PRECLUDE THE INTRODUCTION OF VICTIM IMPACT EVIDENCE: Argument by Ms. Wildeveld in opposition to the jury hearing benevolent testimony regarding victim as he did participate in a drug deal. COURT ORDERED, Court WILL ALLOW

testimony from victim's son and daughter; however, Court RESERVES RULING on this motion. DEFT COUNTS' MOTION IN LIMINE TO PROHIBIT ANY REFERENCES TO THE FIRST PHASE AS THE "GUILT PHASE": Matter submitted by counsel. COURT ORDERED, motion is DENIED. DEFT COUNTS' MOTION TO BIFURCATE PENALTY PHASE: Matter submitted by Ms. Wildeveld, and argument by Mr. Pesci. COURT ORDERED, motion is DENIED. DEFT COUNTS' MOTION IN LIMINE TO BAR IMPROPER PROSECUTORIAL ARGUMENT: Matter submitted by counsel. COURT ORDERED, motion is GRANTED. DEFT COUNTS' MOTION IN LIMINE TO PRECLUDE ADMISSION OF GANG AFFILIATION, DRUG ACTIVITY, HANDLING OF GUNS AND BATTERIES: Arguments by counsel. COURT ORDERED, GANG AFFILIATION and DRUG ACTIVITY WILL NOT BE DISCUSSED unless State brings a Motion for Bad Acts at trial; HOWEVER, information WILL BE ALLOWED AT THE PENALTY PHASE. Regarding issue of handguns, Ms. Wildeveld argued she does not have Defendant Counts' scope, Judicial Clearance document provided to the Court, and counsel argued another Kenneth Counts is located in California. Mr. Di Giacomo argued defendant does not dispute felony convictions for drugs or Ex-Felon in Possession of Firearm, and information will not be brought out at trial unless State brings a Motion for Bad Acts. COURT SO ORDERED, however, information WILL BE AVAILABLE DURING THE PENALTY PHASE. Arguments by counsel regarding viewing the State's information. COURT ORDERED, counsel to GET TOGETHER and SHARE CRIMINAL RECORDS, and fingerprints MUST BE MADE if necessary. For the record, Ms. Wildeveld stated she went to California Court, did extensive research on Defendant Counts' convictions, and counsel did not find anything except what was already discussed. COURT ORDERED, DEFT COUNTS' MOTION IN LIMINE TO PRECLUDE ADMISSION OF GANG AFFILIATION, DRUG ACTIVITY, HANDLING OF GUNS AND BATTERIES is GRANTED IN PART (as indicated above). DEFT COUNTS' MOTION FOR DISCOVERY AND EVIDENTIARY HEARING REGARDING THE MANNER AND METHOD OF DETERMINING IN WHICH MURDER CASES THE DEATH PENALTY WILL BE SOUGHT: Ms. Wildeveld argued for information on how State determines death penalty cases. Mr. Pesci argued the State follows criteria of the statute to determine aggravators, and the jury determines if aggregators exist. Argument by Mr. Di Giacomo regarding State's committee to review cases, and requests by defense counsel to offer a presentation to committee. Ms. Wildeveld was not aware that opportunity existed. COURT ORDERED, motion is DENIED. DEFT COUNTS' MOTION FOR DISQUALIFICATION FROM THE JURY VENIRE OF ALL POTENTIAL JURORS WHO WOULD AUTOMATICALLY VOTE FOR THE DEATH PENALTY IF THEY FOUND KENNETH COUNTS GUILTY OF CAPITAL MURDER: Arguments by Ms. Wildeveld and Mr. Di Giacomo. COURT ORDERED, motion is GRANTED. Ms. Wildeveld requested defendant's shoulder be examined at the jail as defendant has sent several kytes without success. COURT ORDERED, defendant MUST HAVE HIS SHOULDER EXAMINED at the jail. CUSTODY 4/21/06 9:00 A.M. DEFT TAOIPU'S MOTION FOR SEVERANCE.....DEFT TAOIPU'S MOTION TO SUPPRESS STATEMENT.....EVIDENTIARY HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****April 11, 2006**

05C212667-4

The State of Nevada vs Deangelo R Carroll

April 11, 2006**9:00 AM****Request****STATE'S REQUEST
FOR
CLARIFICATION
OF RULING Court
Clerk: Linda Skinner
Reporter/Recorder:
Joe D'Amato Heard
By: Donald Mosley****HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Di Giacomo, Marc P.

Attorney

JOURNAL ENTRIES

- Court noted matter was resolved in chambers prior to calendar. COURT ORDERED, matter
RESOLVED.
CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 21, 2006

05C212667-4

The State of Nevada vs Deangelo R Carroll

April 21, 2006

9:00 AM

All Pending Motions

**ALL PENDING
MOTIONS 4/21/06
Court Clerk: Linda
Skinner
Reporter/Recorder:
Maureen Schorn
Heard By: Donald
Mosley**

HEARD BY:

COURTROOM: No Location

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Di Giacomo, Marc P.
Pesci, Giancarlo

Attorney
Attorney

JOURNAL ENTRIES

- DEFT'S MOTION FOR SEVERANCE...DEFT'S MOTION TO SUPPRESS
STATEMENT...EVIDENTIARY HEARING

AS TO SEVERANCE: Mr. DiGiacomo advised he has no objection to the motion as this Defendant was arrested at a different time and has a different Information. COURT ORDERED, Motion GRANTED and this Defendant to receive a new case number.

AS TO STATEMENT: Mr. DiGiacomo advised this entire issue was litigated at the Preliminary Hearing. Mr. Jackson requested to call witnesses and outlined his reasons why. Hearing commenced. Testimony and evidence presented. Mr. Jackson argued Defendant was not mirandized, was not allowed to leave, was held in a small locked room and was not able to call his parents. Mr. DiGiacomo stated there was no evidence of coercion. Defendant's statement clearly indicates that he thought he was free to leave. Even if Defendant asked for his father, due to the charge, the father would not have been called. Court noted the reason Deft Carroll brought

Defendant to the Police is of no consequence; as to the room, Defendant agreed he was free to leave and using video versus audio for interview is simply an investigative tool. Therefore, COURT ORDERED, Motion to Suppress Statement is DENIED.
CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 26, 2006

05C212667-4

The State of Nevada vs Deangelo R Carroll

June 26, 2006

9:00 AM

All Pending Motions

**ALL PENDING
MOTIONS 6/26/06**
**Court Clerk: Linda
Skinner**
**Reporter/Recorder:
Joe D'Amato Heard**
By: Donald Mosley

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Carroll, Deangelo R
 Di Giacomo, Marc P.
 Figler, Dayvid J.
 Pesci, Giancarlo

Defendant
 Attorney
 Attorney
 Attorney

JOURNAL ENTRIES

- DEFTS HIDALGO & ESPINDOLA'S MOTION TO PRECLUDE USE OF PEREMPTORY CHALLENGES...DEFTS HIDALGO & ESPINDOLA'S MOTION TO PROHIBIT ARGUMENT ON DETERRENCE OR IN THE ALTERNATIVE TO PERMIT EVIDENCE OF LACK OF DETERRENCE...DEFTS HIDALGO & ESPINDOLA'S MOTION TO PROHIBIT USE OF IMPUTED AGGRAVATING CIRCUMSTANCES...DEFTS HIDALGO & ESPINDOLA'S MOTION TO STRIKE DEATH PENALTY BASED UPON UNCONSTITUTIONALITY...DEFTS HIDALGO & ESPINDOLA'S MOTION TO PROHIBIT INTRODUCTION OF VICTIM IMPACT EVIDENCE DURING THE GUILT PHASE...DEFTS HIDALGO & ESPINDOLA'S MOTION TO STRIKE NOTICE OF INTENT TO SEEK DEATH BASED UPON UNCONSTITUTIONAL WEIGHING EQUATION...DEFTS HIDALGO & ESPINDOLA'S MOTION TO CONDUCT VOIR DIRE ON POSSIBLE RACIAL BIAS AND PREJUDICE...DEFTS HIDALGO & ESPINDOLA'S MOTION TO PRECLUDE THE COURT FROM

PARTICIPATING IN REHABILITATION OF POTENTIAL JURORS...DEFTS HIDALGO & ESPINDOLA'S MOTION TO STRIKE THE DEATH PENALTY AS UNCONSTITUTIONAL BASED ON ITS ALLOWANCE OF INHERENTLY UNRELIABLE EVIDENCE...DEFTS HIDALGO & ESPINDOLA'S MOTION FOR JURY QUESTIONNAIRE TO BE COMPLETED BY JURY VENIRE ONE WEEK PRIOR TO TRIAL...DEFTS HIDALGO & ESPINDOLA'S MOTION TO DECLARE AS UNCONSTITUTIONAL THE UNBRIDLED DISCRETION OF PROSECUTION TO SEEK THE DEATH PENALTY...DEFTS HIDALGO & ESPINDOLA'S MOTION FOR PROCEDURES REGARDING BAILIFFS AND OTHER COURT PERSONNEL CONCERNING JURORS AND PROSPECTIVE JURORS...DEFTS HIDALGO & ESPINDOLA'S MOTION FOR COURT TO ALLOW PRESENTATION OF EVIDENCE TO THE JURY OF THE DISPROPORTIONALITY AND ARBITRARINESS AND UNFAIRNESS OF A DEATH SENTENCE...DEFTS HIDALGO & ESPINDOLA'S MOTION TO PRECLUDE THE INTRODUCTION OF HEARSAY DURING SENTENCING...DEFTS HIDALGO & ESPINDOLA'S MOTION TO BIFURCATE PENALTY PHASE PROCEEDINGS...DEFTS HIDALGO & ESPINDOLA'S MOTION FOR EXCHANGE OF PROPOSED JURY INSTRUCTIONS AT CALENDAR CALL...DEFTS HIDALGO & ESPINDOLA'S MOTION TO DETERMINE ADMISSIBILITY OF STATE'S HEARSAY EVIDENCE BEFORE TRIAL...DEFTS HIDALGO & ESPINDOLA'S MOTION TO PROHIBIT EVIDENCE AND ARGUMENT ON IRRELEVANT MITIGATING CIRCUMSTANCES...DEFTS HIDALGO & ESPINDOLA'S MOTION TO DECLARE NRS 704.206 UNCONSTITUTIONAL...DEFTS HIDALGO & ESPINDOLA'S MOTION TO CONDUCT FULL VOIR DIRE ON POTENTIAL JURORS' PERSONAL AND PROFESSIONAL EXPERIENCES...DEFTS HIDALGO & ESPINDOLA'S MOTION TO STRIKE NOTICE OF INTENT TO SEEK DEATH PENALTY BASED UPON UNCONSTITUTIONALITY OF LETHAL INJECTION

Court noted the trial and all the motions will be continued due to Ms. Wildeveld's condition. As to length, Mr. DiGiacomo stated if all Defendants were tried together it would take about 5 weeks and noted Deft Taoipu has been severed, however, Deft Carroll has not. Mr. Figler concurred and stated there is a Bruton problem and will not object to a severance, he stated he just has not filed one and added the co-defendants do not want to be tried with Deft Carroll. Mr. DiGiacomo stated he had no objection to Deft Carroll being severed out. Ms. Thomas stated if the State was not going to introduce Deft Carroll's statements, then there is no need for a severance. Mr. DiGiacomo advised he was.

Conference at the Bench. By oral stipulation, COURT ORDERED, Defendant Carroll is severed out. As to motions, Court directed counsel to have all motions filed by 7/27; answers to be filed by 8/10; replies by 8/24 and matter set for argument on 8/31/06. Further, trial date VACATED and RESET as to Counts, Hidalgo and Espindola. Matter set for status check as to trial for Carroll and Taoipu.

CUSTODY (ALL)

7/6/06 9:00 AM STATUS CHECK: TRIAL DATE (CARROLL & TAOIPU)
 8/31/06 9:00 AM ARGUMENT ON (ABOVE) MOTIONS & ANY OTHERS FILED
 4/10/07 9:00 AM CALENDAR CALL (#1) (COUNTS, HIDALGO & ESPINDOLA)
 4/16/07 1:30 PM JURY TRIAL (#1) (COUNTS, HIDALGO & ESPINDOLA)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 30, 2006**

05C212667-4

The State of Nevada vs Deangelo R Carroll

June 30, 2006**9:00 AM****All Pending Motions**

**ALL PENDING
MOTIONS 6/30/06
Court Clerk: Linda
Skinner
Reporter/Recorder:
Joe D'Amato Heard
By: Donald Mosley**

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Carroll, Deangelo R
Di Giacomo, Marc P.
Figler, Dayvid J.

Defendant
Attorney
Attorney

JOURNAL ENTRIES**- STATUS CHECK: TRIAL DATE (CARROLL & TAOIPU)**

Mr. Figler stated Deft. Carroll was severed as was Deft. Taoipu and both should have separate trials. All counsel concurred. However, Mr. Jackson stated due to his schedule, he will not be ready for trial on 7/24 and would request an additional 90 days to prepare. Mr. Figler stated the status check date was moved up, however, he spoke briefly to his Investigator and they feel they could be ready for trial phase, however, not sure for penalty phase as there is still a lot of work to be done. Mr. Draskovich advised he is ready for Deft. Espindola and would request to go to trial as originally scheduled. Mr. DiGiacomo objected and advised Defts Counts, Hidalgo and Espindola need to be tried together. Court DENIED request. Following additional colloquy and discussion as to Court's schedule, COURT ORDERED, trial date for Defts Carroll & Taoipu VACATED; trial date set for Defts Counts, Hildago & Espindola are MOVED BACK ONE WEEK and start on 4/23; Deft. Carroll will be set for trial on 4/16 and Deft. Taoipu will start on 5/8. Objections by Mr. Draskovich and Ms.

Thomas. Court so noted. Mr. Jackson advised he had a Motion set for 7/10 to continue the trial date.
COURT ORDERED, Motion VACATED.

CUSTODY (CARROLL & TAOIPU)

4/10/07 9:00 AM CALENDAR CALL (CARROLL)

4/16/07 1:30 PM JURY TRIAL (CARROLL)

4/17/07 9:00 AM CALENDAR CALL (COUNTS, HIDALGO & ESPINDOLA)

4/23/07 1:30 PM JURY TRIAL (COUNTS, HIDALGO & ESPINDOLA)

5/8/07 9:00 AM CALENDAR CALL (TAOIPU)

5/14/07 1:30 PM JURY TRIAL (TAOIPU)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 31, 2006

05C212667-4

The State of Nevada vs Deangelo R Carroll

August 31, 2006

9:00 AM

All Pending Motions

**ALL PENDING
MOTIONS 8/31/06
Court Clerk: Linda
Skinner
Reporter/Recorder:
Maureen Schorn
Heard By: Donald
Mosley**

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Di Giacomo, Marc P.
Figler, Dayvid J.
Pesci, Giancarlo
Whipple, Bret O.

Attorney
Attorney
Attorney
Attorney

JOURNAL ENTRIES

- 1) DEFTS HIDALGO & ESPINDOLA'S MOTION TO CONDUCT VOIR DIRE ON POSSIBLE RACIAL BIAS AND PREJUDICE...2) DEFTS HIDALGO & ESPINDOLA'S MOTION TO PROHIBIT INTRODUCTION OF VICTIM IMPACT EVIDENCE DURING THE GUILTY PHASE...3) DEFTS HIDALGO & ESPINDOLA'S MOTION FOR EXCHANGE OF PROPOSED JURY INSTRUCTIONS AT CALENDAR CALL...4) DEFTS HIDALGO & ESPINDOLA'S MOTION FOR JURY QUESTIONNAIRE TO BE COMPLETED BY JURY VENIRE ONE WEEK PRIOR TO TRIAL...5) DEFTS HIDALGO & ESPINDOLA'S MOTION TO STRIKE THE DEATH PENALTY AS UNCONSTITUTIONAL BASED ON ITS ALLOWANCE OF INHERENTLY UNRELIABLE EVIDENCE... 6) DEFTS HIDALGO & ESPINDOLA'S MOTION FOR PROCEDURES REGARDING BAILIFFS AND OTHER COURT

PERSONNEL CONCERNING JURORS AND PROSPECTIVE JURORS...7) DEFTS HIDALGO & ESPINDOLA'S MOTION TO PRECLUDE THE INTRODUCTION OF HEARSAY DURING SENTENCING...8) DEFTS HIDALGO & ESPINDOLA'S MOTION TO PROHIBIT ARGUMENT ON DETERRENCE OR IN THE ALTERNATIVE TO PERMIT EVIDENCE OF LACK OF DETERRENCE...9) DEFTS HIDALGO & ESPINDOLA'S MOTION TO PRECLUDE THE COURT FROM PARTICIPATING IN REHABILITATION OF POTENTIAL JURORS...10) DEFT HIDALGO & ESPINDOLA'S MOTION FOR COURT TO ALLOW PRESENTATION OF EVIDENCE TO THE JURY OF THE DISPROPORTIONALITY AND ARBITRARINESS AND UNFAIRNESS OF A DEATH SENTENCE...11) DEFTS HIDALGO & ESPINDOLA'S MOTION TO BIFURCATE PENALTY PHASE PROCEEDINGS...12) DEFT HIDALGO & ESPINDOLA'S MOTION TO CONDUCT FULL VOIR DIRE ON POTENTIAL JURORS' PERSONAL AND PROFESSIONAL EXPERIENCES...13) DEFTS HIDALGO & ESPINDOLA'S MOTION TO DECLARE AS UNCONSTITUTIONAL THE UNBRIDLED DISCRETION OF PROSECUTION TO SEEK THE DEATH PENALTY...14) DEFTS HIDALGO & ESPINDOLA'S MOTION TO STRIKE DEATH PENALTY BASED UPON UNCONSTITUTIONALITY...15) DEFTS HIDALGO & ESPINDOLA'S MOTION TO STRIKE NOTICE OF INTENT TO SEEK DEATH PENALTY BASED UPON UNCONSTITUTIONALITY OF LETHAL INJECTION...16) DEFT COUNTS' NOTICE OF JOINDER...17) DEFT COUNTS' RENEWED MOTION TO SEVER DEFENDANTS...18) DEFT COUNTS' MOTION TO SUPPRESS EVIDENCE OF THE DEFENDANT'S PRIOR FELONY CONVICTIONS...19) DEFT COUNTS' MOTION FOR AN ORDER PERMITTING DISCOVERY OF RECORDS PERTAINING TO FAMILY LIFE OF VICTIM...20) DEFT COUNTS' MOTION FOR DISCLOSURE OF EXCULPATORY EVIDENCE PERTAINING TO THE IMPACT OF THE DEFENDANT'S EXECUTION UPON VICTIM FAMILY MEMBERS...21) DEFT COUNTS' MOTION FOR RELEASE OF JUVENILE RECORDS...22) DEFT COUNTS' MOTION FOR REDUCTION IN BAIL OR IN THE ALTERNATIVE, FOR RELEASE ON HOUSE ARREST...23) DEFT COUNTS' MOTION IN LIMINE TO PRECLUDE ADMISSION OF PHONE CONVERSATIONS...24) DEFT COUNTS' MOTION TO DISMISS THE DEATH PENALTY DUE TO FEDERAL DUE PROCESS VIOLATIONS...25) DEFT COUNTS' MOTION IN LIMINE TO PRECLUDE ADMISSION OF EVIDENCE OF ARREST OR FLIGHT...26) DEFTS HIDALGO & ESPINDOLA'S MOTION TO PRECLUDE USE OF PEREMPTORY CHALLENGES...27) DEFTS HIDALGO & ESPINDOLA'S MOTION TO PROHIBIT USE OF IMPUTED AGGRAVATING CIRCUMSTANCES...28) DEFTS HIDALGO & ESPINDOLA'S MOTION TO STRIKE NOTICE OF INTENT TO SEEK DEATH BASED UPON UNCONSTITUTIONAL WEIGHING EQUATION...29) DEFTS HIDALGO & ESPINDOLA'S MOTION TO DETERMINE ADMISSIBILITY OF STATE'S HEARSAY EVIDENCE BEFORE TRIAL...30) DEFTS HIDALGO & ESPINDOLA'S MOTION TO PROHIBIT EVIDENCE AND ARGUMENT ON IRRELEVANT MITIGATING CIRCUMSTANCES...31) DEFTS HIDALGO & ESPINDOLA'S MOTION TO DECLARE NRS 704.206 UNCONSTITUTIONAL...32) DEFT COUNTS' MOTION FOR JURY QUESTIONNAIRE

Mr. Figler would like to join in the motions as to Deft. Carroll and would request his presence be waived. Mr. DiGiacomo objected as he has not received any motions relating to this defendant. Mr. Figler argued that most of these motions are very broad and would apply to Deft. Carroll as well. COURT ORDERED, GRANTED. Ms. Wildeveld advised Mr. Whipple is still in a murder trial and would request some of the motions as to Deft Counts be continued for his presence. COURT ORDERED, GRANTED.

- 1) Ms. Thomas advised they would like open ended questions as opposed to racial questions. Objections by Mr. DiGiacomo. Court noted voir dire will be relaxed and counsel will be able to expand on some questions, however, open ended questions will not be asked. COURT ORDERED, DENIED.
- 2) Upon Court's inquiry, Mr. DiGiacomo advised he is not sure what defense is asking. Ms. Thomas stated her concerns. Statements by Mr. DiGiacomo. COURT ORDERED, DENIED as this issue is moot.
- 3) Ms. Thomas requested this be done to get an idea of where the State will be going. Court advised it has never done this and will not deviate now. COURT ORDERED, DENIED.
- 4) Court noted it has reviewed what was submitted and advised there are a number of them that will not be allowed. Further, Court noted there will not be a lot of questions either. Following colloquy, Court advised it feels this would be a profiling process, which will not be allowed. COURT ORDERED, DENIED.
- 5) Counsel advised this was submitted for appeal purposes. COURT ORDERED, DENIED.
- 6) Court noted it takes exception to this in regards to his staff. COURT ORDERED, DENIED.
- 7) Counsel argued that hearsay should be allowed. Following arguments, COURT ORDERED, DENIED.
- 8) Ms. Thomas argued that even if the Supreme Court has O.K.'d this, she does not feel they have addressed both issues at the same time. Arguments by Mr. Draskovich. Following additional arguments, COURT ORDERED, DENIED.
- 9) Following discussion by counsel, Court noted it is not uncommon for the Court to ask questions of potential jurors and ORDERED, DENIED.
- 10) Court advised the death penalty is not on trial. Counsel advised the issue was raised for appeal. COURT ORDERED, DENIED.
- 11) Court noted this is contrary to State law. Arguments by Ms. Thomas. COURT ORDERED, DENIED.
- 12) Ms. Thomas stated jurors relate their own personal experiences to other jurors and she feels that counsel should know what their life experiences are. Court advised there would be no end to the inquiry of every experience. Mr. Draskovich advised that there could be 5 or 6 specific questions unique to this case. Court advised counsel may submit some questions for review, however, MOTION, DENIED.
- 13) Ms. Thomas advised they take exception as to how the State determines which case gets the death penalty. Following statements by Mr. DiGiacomo, COURT ORDERED, DENIED.
- 14) COURT ORDERED, DENIED.
- 15) Ms. Thomas argued that if the drugs used are not applied properly, it can cause extreme pain. Mr. DiGiacomo advised this is the cart before the horse, first there needs be a guilty verdict and feels this is a premature issue. Following arguments, Court advised this issue has been preserved and there is a presumption of legality, however, COURT ORDERED, DENIED.
- 16) Court advised this has been recognized and ORDERED, GRANTED.
- 17) Mr. Whipple requested a continuance as to this motion as he is still in trial. COURT ORDERED, matter CONTINUED.
- 18) Mr. Whipple requested a continuance as to this motion as he is still in trial. COURT ORDERED, matter CONTINUED.

19) Matter submitted by Ms. Wildeveld. Court advised it does see the relevancy and ORDERED, DENIED.

20) Ms. Wildeveld stated they would like to know if the family members agree with the death penalty. Mr. DiGiacomo argued the victim's family are not allowed to discuss punishment. Following colloquy, COURT ORDERED, DENIED.

21) Mr. DiGiacomo advised he does not understand why they want this information, that the only juvenile is Taoipu, however, he is not a witness but a defendant, however, will provide the records to the Court for an in-camera review. Following additional arguments, at request of Ms. Wildeveld, COURT ORDERED, matter CONTINUED for Mr. Whipple.

22) Mr. Whipple requested a continuance as to this motion as he is still in trial. COURT ORDERED, matter CONTINUED.

23) Mr. Whipple requested a continuance as to this motion as he is still in trial. COURT ORDERED, matter CONTINUED.

24) Ms. Wildeveld referred to Floyd vs State and submitted. COURT ORDERED, DENIED.

25) Mr. Whipple requested a continuance as to this motion as he is still in trial. COURT ORDERED, matter CONTINUED.

26) Ms. Thomas argued the peremptory challenges should be declared unconstitutional as they lead to Batson challenges. Ms. Thomas stated she feels there should be 4 challenges for each side with no peremptory challenges. Objections stated by Mr. DiGiacomo. Following additional arguments, COURT ORDERED, DENIED.

27) Ms. Thomas argued that the State should not apply aggravators to any other defendant. Mr. DiGiacomo stated the aggravators are specific as to each Defendant. Statements by Mr. Draskovich. Court advised it feels this issue is moot and does not feel it will occur, however, ORDERED, GRANTED.

28) Mr Draskovich advised the Supreme Court has addressed this issue. COURT ORDERED, DENIED.

29) Court noted what counsel want is a mini trial before trial. Ms. Thomas advised this Court did this in the early 80's. Following additional colloquy, Court noted the concept is not inappropriate, however, feels it is just another layer before trial with no meaningful result. COURT ORDERED, DENIED.

30) Ms. Thomas stated they do not want the State to blow up the statues as to mitigators for their closing. Mr. DiGiacomo advised he does not disagree with this and will not do it. COURT ORDERED, RESOLVED.

31) Ms. Thomas stated she feels the jury pool should include names from the power bills and not just from DMV. She argued that in rural areas, the power bills are used and would request it be done here to get a diverse panel. Mr. DiGiacomo stated there is no statute that requires the Court to compel Nevada Power to comply. COURT ORDERED, DENIED.

32) Court advised it has not done this in the past and will not start now. COURT ORDERED, DENIED.

COURT ORDERED, motions not heard today are CONTINUED and matter set for status check as to trial and all counsel to be present next date.

CUSTODY (ALL)

9/8/06 9:00 MOTIONS...STATUS CHECK TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 08, 2006

05C212667-4

The State of Nevada vs Deangelo R Carroll

September 08, 2006

9:00 AM

All Pending Motions

**ALL PENDING
MOTIONS 9/8/06**
**Court Clerk: Linda
Skinner**
**Reporter/Recorder:
Joe D'Amato Heard
By: Donald Mosley**

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Carroll, Deangelo R
 Di Giacomo, Marc P.
 Figler, Dayvid J.
 Pesci, Giancarlo
 Whipple, Bret O.

Defendant
 Attorney
 Attorney
 Attorney
 Attorney

JOURNAL ENTRIES

- 1) DEFT COUNTS' RENEWED MOTION TO SEVER DEFENDANTS...2) DEFT COUNTS' MOTION TO SUPPRESS EVIDENCE OF THE DEFENDANT'S PRIOR FELONY CONVICTIONS...3) DEFT COUNTS' MOTION FOR RELEASE OF JUVENILE RECORDS...4) DEFT COUNTS' MOTION FOR REDUCTION IN BAIL OR, IN THE ALTERNATIVE, FOR RELEASE ON HOUSE ARREST...5) DEFT COUNTS' MOTION IN LIMINE TO PRECLUDE ADMISSION OF PHONE CONVERSATIONS...6) DEFT COUNTS' MOTION IN LIMINE TO PRECLUDE ADMISSION OF EVIDENCE OF ARREST OR FLIGHT...STATUS CHECK: TRIAL (ALL)

1) Mr. Whipple state if the jury cannot consider the death penalty for all defendants, that Mr. Counts should be severed out. Following additional arguments, COURT ORDERED, DENIED.

2) Mr. Whipple feels this is a prejudicial vs probative issue. If Defendant takes the stand, there is a

prejudicial issue as to his priors, however, they are drug related. Mr. DiGiacomo stated that non violent felonies are admissible and concurred that they are drug related. Following additional colloquy, COURT ORDERED, DENIED.

3) Court advised it will review these records in chambers. Mr. DiGiacomo advised there are two, Zone and Taoipu. However, Taoipu is not a witness, but a charged Defendant. If he does become a witness, then his records will be submitted for review. Mr. Whipple argued that Taoipu was the only witness in the car with a gun. Following additional arguments, Mr. DiGiacomo stated the propensity of evidence to commit a crime is not admissible. Just because Taoipu may have had a gun two years ago, does not mean he had a gun in this instance. Mr. Whipple requested the Court review the records. Following additional arguments, Court advised it thinks this will be of no value, however, ORDERED, GRANTED.

4) Mr. Whipple advised there is no bail at this time and would request a bail amount be set. Mr. DiGiacomo argued this has been before the Court before and since the last time, we have learned that Defendant was an absconder from probation when he committed this crime. Mr. Whipple argued that Defendant has been a good role model, has a family and is a Little League coach. Mr. DiGiacomo argued Defendant has picked up 2 new charges in California. Following additional arguments, COURT ORDERED, DENIED.

5) Court noted this involves jail phone calls and Mr. Whipple feels they should be disallowed. Mr. Whipple concurred and stated he feels it is speculation as to all calls. Arguments by Mr. DiGiacomo including that Defendant Counts was never informed prior to a phone call that he was being involved with Deft. Carroll. Further, Deft Counts' descriptions in conversations are an admission of guilt. Court advised if there is evidence to support the theory, then there is no speculation. COURT ORDERED, DENIED. Mr. Whipple requested an offer of proof from the State regarding the phone calls. Mr. DiGiacomo stated if he is going to use these phone calls, he will have them transcribed. Upon Court's inquiry, Mr. DiGiacomo advised he played 7 phone calls at the Preliminary Hearing and may play 2-3 more. Court requested all calls be transcribed and this issue can be reviewed later, however, prior ruling stands.

6) Court noted Defendant was found in the attic and that is not flight. Mr. Whipple advised Defendant was acting irrational, but there was no flight; Defendant was not trying to secret himself. Further, he does not feel these were actions of guilt, but irrational behavior. Court advised this does not preclude the State from arguing the opposite. Mr. DiGiacomo argued Defendant was trying to hide from Police to not be arrested. Mr. Whipple argued that the Police knew he was there, he was not trying to hide, he was acting irrational. Court advised it will not embrace either side, however, ORDERED, DENIED.

7) Question as to Death Penalty: Court noted the Defense attorneys feel they should be present for the Death Review panel. Mr. DiGiacomo advised if the State can't prove intent, there will be no death case against the Defendants. Ms. Thomas argued the Notice the State filed is bad and should not be holding the Defendants as to the death penalty. Mr. Draskovich advised the State is seeking the death penalty against two of the Defendants that did not actually kill the victim. Following additional arguments, Court felt that Defense counsel should attend the review, however, at this time, Motion DENIED WITHOUT PREJUDICE.

As to intent to kill, Court advised there was enough evidence to be bound over, it will not prejudice the evidence and is a question for the Jury. COURT ORDERED, DENIED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 04, 2006

05C212667-4

The State of Nevada vs Deangelo R Carroll

October 04, 2006

9:00 AM

Status Check

**STATE'S REQUEST
FOR STATUS
CHECK Court Clerk:
Linda Skinner
Reporter/Recorder:
Maureen Schorn
Heard By: Donald
Mosley**

HEARD BY:

COURTROOM: No Location

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Carroll, Deangelo R
Di Giacomo, Marc P.
Figler, Dayvid J.

Defendant
Attorney
Attorney

JOURNAL ENTRIES

- Mr. DiGiacomo stated he is concerned as a time limit was set in July to file any motions; there was a hearing in September wherein Mr. Figler joined into the motions already on calendar. Mr. DiGiacomo advised his concern is that Mr. Figler will wait until it is closer to trial to file any motions for his Defendant and thus frustrate the trial date. Mr. Figler stated he has no intention of continuing the trial. He advised he is working on motions that are unique and not the boiler plate ones that were submitted already; he advised they will be ready to file soon. Following colloquy, COURT ORDERED, Mr. Figler to file his motions by 12/1/06 and the State to respond by 1/2/07.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 01, 2006

05C212667-4

The State of Nevada vs Deangelo R Carroll

November 01, 2006

1:30 PM

Minute Order

**MINUTE ORDER
RE: RECUSAL- DEPT
14 Relief Clerk:
Carol Donahoo/cd
Heard By: Donald
Mosley**

HEARD BY:

COURTROOM: No Location

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Due to a substitution of counsel and to avoid the appearance of impropriety and implied bias, this Court hereby disqualifies itself and ORDERS, this matter be REASSIGNED at random.

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****December 07, 2006**

05C212667-4

The State of Nevada vs Deangelo R Carroll

December 07, 2006**9:30 AM****Conversion Hearing Type****TRIAL SETTING****Relief Clerk: Sandra
Anderson****Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair****HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Bunin, Joseph D.

Attorney

Figler, Dayvid J.

Attorney

Pesci, Giancarlo

Attorney

Whipple, Bret O.

Attorney

JOURNAL ENTRIES

- AS TO DEFT COUNTS: COURT ORDERED, matter set for trial. FURTHER ORDERED, Jury questionnaire due by 05-01-07.

AS TO DEFT HIDALGO: Mr. Gentile advised the Court he is substituting in for Mr. Stein. Opposition by Mr. Pesci. Court agreed to wait on the Decision from the Supreme Court. COURT ORDERED, matter set for trial. FURTHER ORDERED, Jury questionnaire due by 05-01-07.

AS TO DEFT. ESPINDOLA: COURT ORDERED, matter set for trial. FURTHER ORDERED, Jury questionnaire due by 05-01-07.

AS TO DEFT. CARROL: COURT ORDERED, matter set for trial. FURTHER ORDERED, Jury questionnaire due by 05-01-07.

AS TO DEFT. TAOIPU: Court noted this is the only non capital. COURT ORDERED, matter set for trial.

CUSTODY (ALL)

05-17-07 9:30 AM CALENDAR CALL (CARROLL)

05-21-07 10:00 AM JURY TRIAL (CARROLL)

05-31-07 9:30 AM CALENDAR CALL (COUNTS, HIDALGO, ESPINDOLA)

06-04-07 10:00 AM JURY TRIAL (COUNTS, HIDALGO, ESPINDOLA)

08-02-07 9:30 AM CALENDAR CALL (TAOIPU)

08-06-07 10:00 AM JURY TRIAL (TAOIPU)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 30, 2007**

05C212667-4

The State of Nevada vs Deangelo R Carroll

January 30, 2007**9:30 AM****Motion to Dismiss**

**DEFT'S MTN TO
DISMISS /143 Court
Clerk: Denise Husted
Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie**

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:** Di Giacomo, Marc P.

Attorney

JOURNAL ENTRIES

- Mr. Jackson argued that he needs to speak with Mr. Pike regarding one of the witnesses; Mr. Zone is a critical witness and he has to know whether or not someone has discouraged him from testifying. The State requested more time to file an opposition. COURT ORDERED, matter CONTINUED and set for a status check regarding discussion with the witness.

CUSTODY

2/27/07 9:30 AM DEFENDANT'S MOTION TO DISMISS...STATUS CHECK: DISCUSSION WITH WITNESS

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****February 27, 2007**

05C212667-4

The State of Nevada vs Deangelo R Carroll

February 27, 2007**9:30 AM****All Pending Motions****ALL PENDING
MOTIONS 2/27/07
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair****HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Di Giacomo, Marc P.

Attorney

JOURNAL ENTRIES

- DEFENDANT'S MOTION TO DISMISS...STATUS CHECK: DISCUSSION WITH WITNESS
Mr. Jackson stated that Mr. Pike wants him to interview Mr. Zone in his presence. The Court directed counsel to facilitate this. COURT ORDERED, matter is OFF CALENDAR; parties may renew following the interview.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 15, 2007**

05C212667-4

The State of Nevada vs Deangelo R Carroll

May 15, 2007**9:30 AM****All Pending Motions**

**ALL PENDING
MOTIONS 05-15-07
Court Clerk: Sandra
Anderson
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair**

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Di Giacomo, Marc P.
Pesci, Giancarlo
Whipple, Bret O.

Attorney
Attorney
Attorney

JOURNAL ENTRIES

- AS TO DEFT. COUNTS: Following argument by counsel Court stated findings and ORDERED, as follows: 1)Motion to reconsider motion to allow the defense to argue last at the penalty phase/147, DENIED. 2)Motion to reconsider motion to bifurcate penalty phase/146, DENIED. 3)Motion to reconsider motion in limine to preclude admission of evidence of arrest or flight/148, DENIED. 4)Motion to reconsider motion to dismiss the death penalty due to federal due process violations/149, DENIED. 5)Motion to reconsider disclosure of exculpatory evidence pertaining to the impact of the Defendant's execution upon victim's family members/150, DENIED 6)Motion to reconsider motion in limine to preclude admission of phone conversations/151, DENIED. 7)Motion to reconsider motion for discovery and evidentiary hearing regarding the manner and method of determining in which murder cases the death penalty will be sought/152, DENIED. 8)Motion to reconsider motion to strike notice of intent to seek the death penalty/153, DENIED. 9)Motion to reconsider motion for individual voir dire/154, DENIED, as need only basis. 10)Motion to reconsider

motion in limine to bar improper prosecutorial argument/155, GRANTED as already done by Judge Mosley. 11)Motion to reconsider motion to federalize all motions objections requests and other applications for the proceedings in the above entitled case/156, DENIED. 12)Motion to reconsider motion in limine to preclude the introduction of victim impact evidence/157, DENIED. 13)Motion to reconsider motion in limine to preclude admission of gang affiliation or drug activity/158, DENIED. 14)Motion to reconsider motion in limine to preclude admission of gang affiliation or drug activity/159, DENIED.

AS TO DEFT. ESPINDOLA: Motion to continue, following argument by counsel, COURT ORDERED, matter taken, UNDER ADVISEMENT, Court will announce it's decision by tomorrow.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 17, 2007**

05C212667-4

The State of Nevada vs Deangelo R Carroll

May 17, 2007**9:30 AM****All Pending Motions**

**ALL PENDING
MOTIONS (05-17-07)
Relief Clerk: Carol
Donahoo
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair**

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Bunin, Joseph D.	Attorney
Carroll, Deangelo R	Defendant
Di Giacomo, Marc P.	Attorney
Figler, Dayvid J.	Attorney
Pesci, Giancarlo	Attorney

JOURNAL ENTRIES

- DEFENDANT CARROLL'S MOTION TO CONTINUE TRIAL DATE...CALENDAR CALL

Court advised it received Mr. Figler's Motion to Continue Trial set for May 29, 2007. Court advanced the Motion to today. Conference at the Bench. Mr. DiGiacomo announced ready. Mr. Figler indicated he has more work to do in this matter as there are a number of significant issues. COURT ORDERED, Motion to Continue Trial GRANTED. Colloquy regarding a new trial date. COURT FURTHER ORDERED, trial date VACATED; matter set for status check. Court directed all parties to be present. CUSTODY

05/21/07 9:30 AM STATUS CHECK: TRIAL SETTING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 21, 2007

05C212667-4

The State of Nevada vs Deangelo R Carroll

May 21, 2007

9:30 AM

Status Check

STATUS CHECK:
TRIAL SETTING
Relief Clerk: Carol
Donahoo
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Bunin, Joseph D.	Attorney
Carroll, Deangelo R	Defendant
Di Giacomo, Marc P.	Attorney
Figler, Dayvid J.	Attorney
Whipple, Bret O.	Attorney

JOURNAL ENTRIES

- Conference in Chambers with all counsel prior to the commencement of proceedings regarding scheduling issues.

DELANGELO RESHAWN CARROLL: Court noted Mr. Figler's Motion to Continue Trial was granted. Therefore, COURT ORDERED, trail date VACATED and RESET.

KENNETH COUNTS: Trial for this Deft. is set for June 4, 2007; however, the State does not want to try this Deft. separately. A ruling from the Supreme Court could have an impact on this Deft. and since the trial dates for Deft. Hidalgo and Deft. Espindola have been continued, Court will consider vacating and resetting Deft. Counts' trial as well. Colloquy regarding Supreme Court issues. COURT ORDERED, matter set for status check.

JAYSON TAOIPU: Court noted Deft. Taoipu is the only non-capital matter. COURT ORDERED, trial

date VACATED and RESET.

LUIS ALONSO HIDALGO and ANABEL ESPINDOLA: COURT ORDERED, trial dates VACATED and RESET.

Mr. DiGiacomo advised he has packets with additional discovery on his secretary's desk available for all counsel.

CUSTODY (ALL)

08/16/07 9:30 AM CALENDAR CALL (CARROLL)

08/20/07 10:00 AM JURY TRIAL (CARROLL)

05/24/07 9:30 AM STATUS CHECK: TRIAL SETTING (COUNTS)

03/06/08 9:30 AM CALENDAR CALL (TAOIPU)

03/10/08 10:00 AM JURY TRIAL (TAOIPU)

01/24/08 9:30 AM CALENDAR CALL (HIDALGO and ESPINDOLA)

01/28/08 10:00 AM JURY TRIAL (HIDALGO and ESPINDOLA)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 24, 2007

05C212667-4

The State of Nevada vs Deangelo R Carroll

May 24, 2007

9:30 AM

Status Check

STATUS CHECK:
TRIAL SETTING
Relief Clerk: Carole
D'Aloia
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Pesci, Giancarlo

Attorney

JOURNAL ENTRIES

- Court advised this matter was continued to give Ms. Wildevelt time to review the writ filed by the co-defendants to see if it would be something she would be filing a joinder on behalf of Defendant Counts. Upon Court's inquiry, Ms. Wildevelt advised she and Mr. Whipple would not be joining in on the writ, announced ready for trial and requested the 6/4/07 trial date. Colloquy between Court and counsel regarding the writ. Mr. Pesci advised he feels the trial should not go forward until the Supreme Court has ruled on the writ. Ms. Wildevelt adamantly requested the 6/4/07 trial date. Further colloquy regarding the trial date. Following CONFERENCE AT BENCH, COURT ORDERED, matter set for JURY TRIAL on 6/4/07 at the request of Ms. Wildevelt. Ms. Wildevelt inquired about a jury questionnaire and advised they will get one to the State and Court this evening or first thing tomorrow. Court advised Ms. Wildevelt that it did not think it would be possible, logistically, to have a jury questionnaire at such a late date. Following CONFERENCE AT BENCH, Ms. Wildevelt advised that Mr. Whipple had already forwarded a copy of the proposed jury questionnaire to Mr. DiGiacomo and Mr. Pesci stated he will check with him to see if he has it. COURT ORDERED, matter set for STATUS CHECK on the jury questionnaire tomorrow morning.

05C212667-4

CUSTODY

5/25/07 9:30 AM STATUS CHECK: JURY QUESIONNAIRE

6/4/07 10:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 25, 2007

05C212667-4

The State of Nevada vs Deangelo R Carroll

May 25, 2007

9:30 AM

Status Check

STATUS CHECK:
JURY
QUESTIONNAIRE
Relief Clerk: Carole
D'Aloia
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair

HEARD BY:

COURTROOM: No Location

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Owens, Christopher J.
Pesci, Giancarlo

Attorney
Attorney

JOURNAL ENTRIES

- Jury questionnaire, reviewed, amended and agreed upon by counsel. Mr. Owens stated his reasons why he believes the trial should not go forward until the Nevada Supreme Court has decided on the Co-Defendants' writ. Mr. Owens inquired if Court would contact the Clerk of the Nevada Supreme Court to see if a decision would be forthcoming. Matter TRAILED.

Matter RECALLED and Court advised it's Judicial Executive Assistant (JEA) called the Clerk of the Nevada Supreme Court and was advised that the decision will not be coming any time soon.

COURT ORDERED, trial date STANDS and counsel to get together and finalize the jury questionnaire and get it to Jury Services first thing on Tuesday morning.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****May 29, 2007**

05C212667-4

The State of Nevada vs Deangelo R Carroll

May 29, 2007**9:30 AM****Motion to Dismiss****DEFT'S MTN TO
DISMISS /165 Relief
Clerk: Carol
Donahoo
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair****HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Turner, Robert B.

Attorney

JOURNAL ENTRIES

- Ms. Wildeveld advised Deft. Counts' buccal swabs came back negative; she requested matter be taken off calendar. COURT SO ORDERED; Court noted this matter is set for calendar call on May 31, 2007, and trial begins on June 4, 2007.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****May 31, 2007**

05C212667-4

The State of Nevada vs Deangelo R Carroll

May 31, 2007**9:30 AM****Calendar Call****CALENDAR CALL****Relief Clerk: Carol
Donahoo****Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair****HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**Staudaher, Michael V.
Whipple, Bret O.Attorney
Attorney**JOURNAL ENTRIES**

- Court advised counsel the jury questionnaires were available in chambers and confirmed the trial was going forward; however, the start date has been moved from Monday to Tuesday.

CUSTODY

06-05-07 10:30 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****June 05, 2007**

05C212667-4

The State of Nevada vs Deangelo R Carroll

June 05, 2007**10:30 AM****Jury Trial****TRIAL BY JURY****Relief Clerk: Carol
Donahoo****Reporter/Recorder:
Janie Olsen Heard****By: Adair, Valerie****HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Di Giacomo, Marc P.

Attorney

Pesci, Giancarlo

Attorney

Whipple, Bret O.

Attorney

JOURNAL ENTRIES

- 11:48 a.m. Jury selection commenced.

Court and counsel examine prospective jurors.

COURT ORDERED, trial CONTINUED; jury selection will resume on June 6, 2007, at 10:30 a.m.

5:30 p.m. Court admonished the prospective jurors and recessed for the evening.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 06, 2007**

05C212667-4

The State of Nevada vs Deangelo R Carroll

June 06, 2007**9:30 AM****Change of Plea****CHANGE OF PLEA****Relief Clerk: Carol
Donahoo****Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair****HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**Di Giacomo, Marc P.
Pesci, GiancarloAttorney
Attorney**JOURNAL ENTRIES**

- Mr. Jackson advised this matter is negotiated and Deft. Taoipu will withdraw his not guilty plea and plead guilty to reduced charges. Colloquy regarding sealing the courtroom and the plea. Conference at the Bench. COURT ORDERED, plea WITHDRAWN; EXHIBIT 2 of the Guilty Plea Agreement (GPA) shall be SEALED. Mr. DiGiacomo to submit an Order. Amended Information and GPA FILED IN OPEN COURT. NEGOTIATIONS: State retains the right to argue and agrees to recommend concurrent sentences between the counts. Both sides agree they are bound by the terms and conditions of Exhibit 2 of the GPA. DEFT. TAOIPU ARRAIGNED and PLED GUILTY to COUNT 1 - CONSPIRACY TO COMMIT MURDER (F) and COUNT 2 - VOLUNTARY MANSLAUGHTER WITH USE OF A DEADLY WEAPON (F). Mr. DiGiacomo advised Count 2 is a fictitious charge; however, the statement as to what was done is not fictitious. COURT accepted plea and FURTHER ORDERED, matter referred to the Division of Parole and Probation (P&P) and set for status check; trial date VACATED.

CUSTODY

09/04/07 9:30 AM STATUS CHECK: SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 06, 2007

05C212667-4

The State of Nevada vs Deangelo R Carroll

June 06, 2007

10:30 AM

Jury Trial

TRIAL BY JURY**Relief Clerk: Carol
Donahoo****Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair****HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Di Giacomo, Marc P.
Pesci, Giancarlo
Whipple, Bret O.

Attorney
Attorney
Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY: Court advised counsel came to court today and raised a potential conflict. The conflict was presented to Judge Bell. Colloquy regarding the appointment of Robert Langford, Esq., to represent a witness and how things will proceed from this point. Court noted Court Services confiscated from Deft. the jury questionnaires and his notes regarding the prospective jury panel. Colloquy regarding same. Due to the aforementioned developments, COURT ORDERED, the prospective panel of jurors DISMISSED and matter set for status check.

CUSTODY

06/26/07 9:30 AM STATUS CHECK

CLERK'S NOTE: All Deft.'s notes, not concerning the prospective jurors, were returned to him.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 26, 2007**

05C212667-4

The State of Nevada vs Deangelo R Carroll

June 26, 2007**7:30 AM****All Pending Motions**

**ALL PENDING
MOTIONS 6-26-07
Court Clerk: Tina
Hurd
Reporter/Recorder:
Renee Vincent
Heard By: Stewart
Bell**

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Di Giacomo, Marc P.
Pesci, Giancarlo
Whipple, Bret O.

Attorney
Attorney
Attorney

JOURNAL ENTRIES

- AT REQUEST OF COURT: IN-COURT DEPOSITION (COUNTS, HIDALGO & ESPINDOLA)
8:04 A.M.--Robert Langford, Esq. present with witness Omar Manor. Court advised this hearing is due to a potential conflict that arose with Ms. Wildeveld and Mr. Whipple regarding a witness. If there is not a conflict, this video will be used as testimony in any trial regarding Deft. Counts wherein he is represented by Ms. Wildeveld or Mr. Whipple. Mr. DiGiacomo advised he does not plan on playing the video of Mr. Manor if he is available. Court advised the video has to be used to waive any conflict. Mr. DiGiacomo advised the defense would have to waive any defect. Mr. Whipple advised that is inherent. Court advised, in any case where Deft. Counts is represented by Ms. Wildeveld or Mr. Whipple, this video must be used. Mr. DiGiacomo advised all counsel would have to agree. All defense counsel present agreed. Court advised the video is locked on the witness as Defts. Counts, Hidalgo and Espindola were brought over in jail clothing, so they will not appear on the video but

everyone's voices will be picked up. Court advised, if there is a conflict, Ms. Wildeveld and Mr. Whipple would have to be relieved and new counsel appointed, then the State could call Mr. Manor live. 8:11 a.m.--Omar Manor sworn and testified. 8:17 a.m.--Court stated it appears Ms. Wildeveld and Mr. Whipple can go forward in this case and ORDERED, Ms. Wildeveld and Mr. Whipple will remain as counsel for Deft. Counts. Court advised a status check is already set before Judge Adair on this matter. Mr. DiGiacomo advised, because there is an ongoing relationship between Omar and Irene, there may be other issues that come up and he will bring those before the Court if such issues arise. 8:19 a.m.--Hearing concluded.

CUSTODY (ALL)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 26, 2007**

05C212667-4

The State of Nevada vs Deangelo R Carroll

June 26, 2007**9:30 AM****Status Check**

STATUS CHECK
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Di Giacomo, Marc P.
Pesci, Giancarlo
Whipple, Bret O.

Attorney
Attorney
Attorney

JOURNAL ENTRIES

- Colloquy regarding Discovery. The Court encouraged Mr. Whipple to protect the record by listing what was provided. FURTHER, matter set for trial.

CUSTODY

1/24/08 9:30 AM CALENDAR CALL

1/28/08 10:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 24, 2007**

05C212667-4

The State of Nevada vs Deangelo R Carroll

July 24, 2007**9:30 AM****Motion**

**STATES MTN TO
CONDUCT
VIDEOTAPED
TEST/192 Court
Clerk: Tia Everett/te
Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie**

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Figler, Dayvid J.
Whipple, Bret O.

Attorney
Attorney

JOURNAL ENTRIES

- COURT ORDERED, matter CONTINUED.
CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 26, 2007**

05C212667-4

The State of Nevada vs Deangelo R Carroll

July 26, 2007**9:30 AM****Motion**

**STATES MTN TO
CONDUCT
VIDEOTAPED
TEST/192 Court
Clerk: Sandra
Anderson
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair**

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Carroll, Deangelo R
Figler, Dayvid J.
Pesci, Giancarlo

Defendant
Attorney
Attorney

JOURNAL ENTRIES

- Court noted this is the States motion and that Court has received oppositions. Following conference at the bench Court stated its findings and ORDERED, motion GRANTED. Following colloquy Court advised the specific will be discussed in chambers.

CUSTODY (ALL)

08-13-07 (CHAMBERS) STATUS/CHECK: OPEN/SEALED DEPOSITIONS

08-27-07 9:30 AM HEARINGS: DEPOSITIONS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 16, 2007**

05C212667-4

The State of Nevada vs Deangelo R Carroll

August 16, 2007**9:30 AM****Calendar Call**

**CALENDAR CALL
(VJ 8/28/07) Court
Clerk: Phyllis Irby/pi
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair**

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Bunin, Joseph D.

Attorney

Carroll, Deangelo R

Defendant

Di Giacomo, Marc P.

Attorney

Figler, Dayvid J.

Attorney

Pesci, Giancarlo

Attorney

JOURNAL ENTRIES

- Following extended arguments of counsel. COURT ORDERED, matter CONTINUED.
CUSTODY

8-20-07 9:30 AM CALENDAR CALL/JURY TRIAL (CARROLL)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 27, 2007

05C212667-4

The State of Nevada vs Deangelo R Carroll

August 27, 2007

9:30 AM

Hearing

**DEPOSITIONS
HEARING Court
Clerk: Tia Everett/te
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair**

HEARD BY:

COURTROOM: No Location

COURT CLERK:

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT ORDERED, matter OFF CALENDAR.
CUSTODY (ALL)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 28, 2007

05C212667-4

The State of Nevada vs Deangelo R Carroll

August 28, 2007

9:30 AM

All Pending Motions

**ALL PENDING
MOTIONS (8/28/07)**
**Court Clerk: Tia
Everett/te**
**Reporter/Recorder:
Janie Olsen Heard**
By: Valerie Adair

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Carroll, Deangelo R
 Di Giacomo, Marc P.
 Figler, Dayvid J.
 Pesci, Giancarlo
 Whipple, Bret O.

Defendant
 Attorney
 Attorney
 Attorney
 Attorney

JOURNAL ENTRIES

- STATUS CHECK TRIAL (COUNTS...HIDALGO...ESPINDOLA...CARROLL)

Colloquy regarding trial setting and scheduling of all parties involved. Upon Court's inquiry, counsel anticipate trial to last four weeks. COURT ORDERED, as to Defts' Counts, Hidalgo, and Espindola Trial dates VACATED and RESET. CONFERENCE AT BENCH. COURT FURTHER ORDERED, as to Deft. Carroll, Trial date VACATED and RESET.

CUSTODY (ALL)

11/29/07 CALENDAR CALL (CARROLL)

12/03/07 JURY TRIAL (CARROLL)

1/17/08 CALENDAR CALL (COUNTS...HIDALGO...ESPINDOLA)

1/22/08 JURY TRIAL (COUNTS...HIDALGO...ESPINDOLA)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 04, 2007

05C212667-4

The State of Nevada vs Deangelo R Carroll

September 04, 2007

9:30 AM

Sentencing

SENTENCING

Relief Clerk: Nora

Pena

Reporter/Recorder:

Debbie Winn Heard

By: Adair, Valerie

HEARD BY:

COURTROOM: No Location

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT:

Di Giacomo, Marc P.

Attorney

JOURNAL ENTRIES

- Conference at the bench. Mr. DiGiacomo requested a continuance the second week in January.

COURT ORDERED, matter CONTINUED.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 11, 2007

05C212667-4

The State of Nevada vs Deangelo R Carroll

September 11, 2007

9:30 AM

Motion for Discovery

**DEFT'S MTN FOR
DISCOVERY /209
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair**

HEARD BY:

COURTROOM: No Location

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT:

Di Giacomo, Marc P.
Whipple, Bret O.

Attorney
Attorney

JOURNAL ENTRIES

- Mr. Digiacomo state he has provided audio and video tapes and has more that he will provide to Mr. Whipple by the end of the week; he will give him the photo line-up by the end of week as well. COURT ORDERED, motion GRANTED. FURTHER, pursuant to request by Mr. Whipple, the State is to provide a list of all items produced.
CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****September 20, 2007**

05C212667-4

The State of Nevada vs Deangelo R Carroll

September 20, 2007**9:30 AM****Motion to Strike****DEFT CARROLL'S
MOTION TO
STRIKE DEATH
PENALTY
AGGRAVATORS/20
8 Court Clerk:
Denise Husted
Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie****HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**Carroll, Deangelo R
Di Giacomo, Marc P.
Figler, Dayvid J.Defendant
Attorney
Attorney**JOURNAL ENTRIES**

- Matter trailed for either Mr. Digiacomo or Mr. Pesci to be present.

Matter recalled. Mr. Figler advised that he and Mr. Digiacomo agreed to continue the hearing to allow counsel time to file an opposition. COURT ORDERED, CONTINUED.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 09, 2007

05C212667-4

The State of Nevada vs Deangelo R Carroll

October 09, 2007

12:00 AM

Motion to Strike

**DEFT CARROLL'S
MOTION TO
STRIKE DEATH
PENALTY
AGGRAVATORS/20
8 Court Clerk:
Denise Husted
Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie**

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Carroll, Deangelo R
Di Giacomo, Marc P.
Figler, Dayvid J.

Defendant
Attorney
Attorney

JOURNAL ENTRIES

- The Court informed counsel that all pleadings have been reviewed. Mr. Figler advised that the received the State's opposition last Thursday; he argued oral response to State's motion. Mr. DiGiacomo submitted. COURT ORDERED, RULING RESERVED; for now, the Court is not inclined to stay the case against the Defendant in District Court.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****October 11, 2007**

05C212667-4

The State of Nevada vs Deangelo R Carroll

October 11, 2007**9:00 AM****Motion to Strike****DEFT CARROLL'S
MOTION TO
STRIKE DEATH
PENALTY
AGGRAVATORS/20
8 Court Clerk:
Denise Husted
Heard By: Valerie
Adair****HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES
PRESENT:****JOURNAL ENTRIES**

- COURT ORDERED, Motion to Strike DENIED based on State's opposition. The State is to prepare findings of fact and conclusions of law and order. FURTHER, Motion to Stay is DENIED.
CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 06, 2007

05C212667-4

The State of Nevada vs Deangelo R Carroll

November 06, 2007

9:30 AM

Motion

**DEFT'S PRO PER
MTN ON PTN TO
MARRY/210 Court
Clerk: Denise Husted
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair**

HEARD BY:

COURTROOM: No Location

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT:

Pesci, Giancarlo

Attorney

JOURNAL ENTRIES

- COURT ORDERED, motion GRANTED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 29, 2007

05C212667-4

The State of Nevada vs Deangelo R Carroll

November 29, 2007

9:30 AM

Calendar Call

CALENDAR CALL
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Bunin, Joseph D.

Attorney

Carroll, Deangelo R

Defendant

Di Giacomo, Marc P.

Attorney

Figler, Dayvid J.

Attorney

JOURNAL ENTRIES

- The Court noted that Mr. Figler filed an emergency stay in the Nevada Supreme Court; he did not file a written motion for continuance in District Court. Mr. Digiacomo announced ready for trial which should last one week and one to two days for the penalty phase, should there be one. He also stated that he has witnesses coming in from Thailand. Mr. Figler advised that the state noticed new witnesses on 11/14/07; defendant Taoipu's attorney said his client would plead the Fifth Amendment, which indicates to him that the state has questioned Taoipu. In addition, he informed the Court that after speaking with the defendant yesterday, he found the defendant seemed to have cognitive problems and he wants him evaluated by Dr. Roitman. He further stated the Mr. Roitman was busy working on another case. The Court noted that the case he is speaking about dealt, which would have left time to request an evaluation. Mr. Digiacomo strongly objected to Mr. Figler's accusation that the state spoke to Mr. Taoipu; Mr. Jackson, who is his attorney was the one that spoke to him and reported to counsel that the defendant would plead the Fifth Amendment. COURT

ORDERED, the trial will be heard next week; trial date VACATED and RESET.
CUSTODY
12/6/07 9:30 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 15, 2008**

05C212667-4

The State of Nevada vs Deangelo R Carroll

January 15, 2008**9:30 AM****All Pending Motions**

**ALL PENDING
MOTIONS 1/15/08
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair**

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Di Giacomo, Marc P.
Pesci, Giancarlo
Whipple, Bret O.

Attorney
Attorney
Attorney

JOURNAL ENTRIES

- DEFENDANT HIDALGO'S MOTION FOR AUDIBILITY HEARING AND TRANSCRIPT APPROVAL...DEFENDANT COUNTS MOTION TO SUPPRESS HIS CUSTODIAL STATEMENTS...DEFENDANT ESPINDOLA'S MOTION TO JOIN HIDALGO'S MOTION FOR AUDIBILITY HEARING AND TRANSCRIPT APPROVAL...DEFENDANT ESPINDOLA'S MOTION TO JOIN HIDALGO'S MOTION FOR SEVERANCE FROM CAPITAL DEFENDANT...DEFENDANT HIDALGO'S MOTION TO SET BAIL...DEFENDANT HIDALGO'S MOTION FOR SEVERANCE FROM CAPITAL DEFENDANT...STATE'S REQUEST STATUS CHECK-AGREED (COUNTS)...CALENDAR CALL

The Court stated the trial in this matter would go forward on January 28th. The Supreme Court decision in this matter struck the aggravators regarding the death penalty with regard to Espindola and Hidalgo so this would not be a capital case and there was no reason not to go forward with what could have been done months ago. Mr. Gentile presented argument regarding due process rights of

the co-defendants, and the issue regarding the fifteen day notice citing case law to support his position. Mr. Oram advised he was ready to go forward with defendant Espindola and joined all the arguments of Mr. Gentile. Ms. Wildeveld stated her preference would be to proceed on the 28th as she has an issue that would preclude her from going until a much later date. Colloquy between Court and counsel. Mr. Whipple advised he intended to file motions to strike with regard to defendant Counts with the Supreme Court. Court stated this is something that Mr. Whipple should have addressed months ago and it was too late at this point in time but he was free to file with the Supreme Court if he so desired. Mr. DiGiacomo addressed the issue of the remittitur and authority of the Court to proceed lacking the receipt of the formal remittitur and requested the Court stay this matter in order for him to return to the Supreme Court on an emergency writ. COURT ORDERED, request for STAY DENIED; trial for Counts will proceed on January 28th at 10:00 AM. This Court had previously started the trial in the Counts case as a death penalty case when an issue arose that had to be heard by Judge Bell; however, it is still a death penalty case and since trial counsel was prepared to go forward at that time as a death penalty case, there is no reason why it should not go forward as such now. FURTHER ORDERED, DEFENDANT COUNTS IS SEVERED FROM DEFENDANTS HIDALGO AND ESPINDOLA as these defendants are no longer death qualified. Trial for defendants Hidalgo and Espindola will proceed following this case on February 11th at 9:30 AM. Colloquy between Court and counsel regarding jury questionnaires. CONFERENCE AT BENCH. COURT ORDERED, the jurors will fill out a questionnaire based on the death penalty and if the Supreme Court strikes the aggravators as to Counts then a new panel will be brought in. The Court would not use the same panel that filled out a death questionnaire for a trial where that was no longer a consideration.

Mr. Gentile requested a hearing on the motion for audibility and presented argument. Response by the State. Colloquy between Court and counsel. COURT ORDERED, it would listen to the CD and read the transcript and then issue a ruling on January 29th at 9:30 AM.

Mr. Gentile presented argument on the issue of bail regarding defendant Hidalgo. State argued in opposition. Court stated that if it were inclined to issue bail in this matter it would in all likelihood be set at a significantly high amount. COURT ORDERED, matter to be taken UNDER ADVISEMENT and a decision to be issued.

Counsel advised that there is a motion regarding defendant Counts set for January 29th that needs to be addressed prior to the trial date. Colloquy. COURT ORDERED, due to its schedule this matter will be heard by Judge Bell on January 22nd so that this matter can proceed to trial on the 28th.

Mr. Jackson requested that defendant Taoipu's sentencing date be set within thirty days. COURT SO ORDERED and referred the matter to the Division of Parole and Probation for a presentence investigation report to be prepared. Mr. Jackson inquired about an order for excess investigation fees. Court informed Mr. Jackson to prepare the order and submit it and it would be signed.

CUSTODY (COUNTS, HIDALGO, ESPINDOLA, TAOIPU)

1/22/08 8:00 AM DEFENDANT COUNT'S MOTION TO RECONSIDER MOTION TO STRIKE
(HEARD BY JUDGE BELL)

1/28/08 10:00 AM JURY TRIAL (COUNTS)

1/29/08 9:30 AM DEFENDANT HIDALGO'S MOTION FOR AUDIBILITY HEARING AND
TRANSCRIPT APPROVAL...DEFENDANT COUNT'S MOTION TO SUPPRESS HIS CUSTODIAL
STATEMENTS...DEFENDANT ESPINDOLA'S MOTION TO JOIN HIDALGO'S MOTION FOR

AUDIBILITY HEARING AND TRANSCRIPT APPROVAL
2/11/08 9:30 AM JURY TRIAL (HIDALGO & ESPINDOLA)
2/12/08 9:30 AM SENTENCING (TAOIPU)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 22, 2008**

05C212667-4

The State of Nevada vs Deangelo R Carroll

January 22, 2008**8:30 AM****Motion to Strike**

**DEFT'S SECOND
MTN TO
RECONSIDER MTN
TO STRIKE
AGGRAVATING
CIRCUMSTANCES
Court Clerk: Tina
Hurd
Reporter/Recorder:
Renee Vincent
Heard By: Bell,
Stewart L.**

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Di Giacomo, Marc P.

Attorney

Pesci, Giancarlo

Attorney

Whipple, Bret O.

Attorney

JOURNAL ENTRIES

- Court advised this is Judge Adair's case, however, she is on vacation and he is hearing this motion as counsel need a ruling prior to trial. Mr. Whipple provided a copy of the Hidalgo decision to the Court and argued regarding Rule 250, late Notice of Intent, aggravating circumstances and specificity. Mr. Whipple advised the co-Deft. had the aggravators stripped and that case is no longer a capital case. Mr. DiGiacomo argued Deft. Counts was still under a sentence of imprisonment in two cases when this occurred and was in warrant status in one of them so there is no specificity problem as to the first aggravator. Mr. Whipple argued the issue is how the State pled it. Mr. Pesci

argued the law says they can still plead in the alternative. Mr. Whipple argued the issue goes to notice and argued the State cannot boot strap. Court advised he will read the Hidalgo decision and ORDERED, matter CONTINUED to tomorrow for decision. Mr. Whipple advised, if the Court strikes the aggravators, they are ready for trial; if not, he will request a stay. Court advised he is not the trial judge and will not grant a stay, so counsel should be forewarned.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 23, 2008**

05C212667-4

The State of Nevada vs Deangelo R Carroll

January 23, 2008**8:30 AM****Motion to Strike**

**DEFT'S SECOND
MTN TO
RECONSIDER MTN
TO STRIKE
AGGRAVATING
CIRCUMSTANCES
Court Clerk: Tina
Hurd/th Relief Clerk:
Tia Everett
Reporter/Recorder:
Renee Vincent
Heard By: Stewart
Bell**

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Di Giacomo, Marc P.
Pesci, Giancarlo

Attorney
Attorney

JOURNAL ENTRIES

- Court advised he has read the pleadings and cases provided and ORDERED, motion DENIED. Court stated he does not believe the decision has much changed the pleadings rules as they have known them over the years. Every theory has to be charged. Court advised this case also says they have to charge anything on which there has to be notice. They can be charged in the alternative but everything in the alternative has to be supporting that. Court advised, in death penalty cases, it has to be the case that each and every prong is supported. Court FINDS if Deft. was on probation for a Felony with an underlying term, that IS a sentence of imprisonment and was charged appropriately. Court advised Ms. Wildeveld has a motion to stay and ORDERED, stay DENIED and the defense

PRINT DATE: 02/04/2019

Page 80 of 214

Minutes Date: June 27, 2005

may go to the Supreme Court. Mr. DiGiacomo advised they need to have the jury questionnaire to the Department this morning. Colloquy. Court advised he is not getting to substantive issues of whether a stay is appropriate. He heard this motion for Judge Adair and he is not going to set this trial off in her absence. If the Supreme Court does, so be it. Ms. Wildeveld advised, for the record, they are ready to go to trial. Hearing concluded.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****January 24, 2008**

05C212667-4

The State of Nevada vs Deangelo R Carroll

January 24, 2008**1:30 PM****Minute Order****MINUTE ORDER
RE: RE: BAIL FOR
DEFTS.
HILDALGO AND
Court Clerk: Denise
Husted Heard By:
Valerie Adair****HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES
PRESENT:****JOURNAL ENTRIES**

- After taking this matter under consideration, COURT ORDERED, BAIL is SET as to Deft. HILDALGO at EIGHT HUNDRED THOUSAND DOLLARS (\$800,000.) as to DEFT. ESPINDOLA at FIVE HUNDRED FIFTY THOUSAND DOLLARS (\$550,000.).

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 29, 2008**

05C212667-4

The State of Nevada vs Deangelo R Carroll

January 29, 2008**9:30 AM****All Pending Motions**

**ALL PENDING
MOTIONS 1/29/08
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair**

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Di Giacomo, Marc P.
Pesci, Giancarlo
Whipple, Bret O.

Attorney
Attorney
Attorney

JOURNAL ENTRIES

- DEFENDANT'S MOTION FOR AUDIBILITY HEARING AND TRANSCRIPT APPROVAL (HIDALGO)...DEFENDANT'S MOTION TO SUPPRESS CUSTODIAL STATEMENTS (COUNTS)...DEFENDANT'S MOTION TO JOIN HIDALGO'S MOTION FOR AUDIBILITY HEARING (ESPINDOLA)

Mr. Gentile requested that the motions calendared this day be continued for further review. There being no opposition by other counsel, COURT ORDERED, motions CONTINUED.

CONTINUED TO: 2/5/08 10:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 29, 2008

05C212667-4

The State of Nevada vs Deangelo R Carroll

January 29, 2008

1:30 PM

Jury Trial

TRIAL BY JURY
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES**

PRESENT:	Di Giacomo, Marc P.	Attorney
	Pesci, Giancarlo	Attorney
	Whipple, Bret O.	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding potential penalty witnesses. The Court informed counsel that there will be three alternates and twelve jurors. Colloquy regarding aggravators and mitigators. Mr. Pesci stated that the jury questionnaires will cover this. Mr. Whipple moved for a continuance based on Supreme Court rule 250(4)(d); he stated he needs time to review the notice and needs thrifty days. Opposition by Mr. Digiacomo; he advised that Judge Bell's previous ruling was clean in denying the trial continuance and believes Mr. Whipple's request is inappropriate. COURT ORDERED, motion for CONTINUANCE DENIED. Second Amended Information FILED IN OPEN COURT. IN THE PRESENCE OF THE JURY. Introductions by Court and counsel. Roll of jurors called by the Clerk. Jury selection proceeded. Mr. Whipple requested a new jury panel on the basis of ethnic make-up. COURT ORDERED, motion DENIED. Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 30, 2008

05C212667-4

The State of Nevada vs Deangelo R Carroll

January 30, 2008

10:30 AM

Jury Trial

TRIAL BY JURY
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES**

PRESENT:	Di Giacomo, Marc P.	Attorney
	Pesci, Giancarlo	Attorney
	Whipple, Bret O.	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY. Discussion regarding potential penalty phase and reports; counsel cited Zane Floyd case which is specific as to expert disclosures. COURT FINDS, counsel needs to disclosed experts and turn of curriculum vitae. Mr. Digiacomo cited paragraphs thirteen and fourteen of the Floyd case. The Court stated that Mr. Whipple is to conform to Discovery rules; counsel is entitles to tests and reports. Following further arguments and request by Mr. Digiacomo, COURT ORDERED, Mr. Whipple is to provide written notice, curriculum vitae and tests and they must be filed by tomorrow. Colloquy regarding questioning of potential jurors. IN THE PRESENCE OF THE JURY. Roll of jurors called by the Clerk. Jury selection CONTINUED. OUTSIDE THE PRESENCE OF THE JURY. Mr. Whipple requested allowance of giving specific mitigators; he wanted it on the record what he will and will not be allowed to do. COURT ADVISED, Mr. Whipple may illustrate and provide examples of mitigators. IN THE PRESENCE OF THE JURY. Jury selected. OUTSIDE THE PRESENCE OF THE JURY. Discussion among Court and counsel regarding jury panel. Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 31, 2008**

05C212667-4

The State of Nevada vs Deangelo R Carroll

January 31, 2008**9:30 AM****Jury Trial**

TRIAL BY JURY
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Di Giacomo, Marc P.
Pesci, Giancarlo
Whipple, Bret O.

Attorney
Attorney
Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY. Defendant's Offer of Proof, Notice of Defendant's Expert Witnesses for Penalty Phase, ROC, ROC and Notice of Wirellesses for Penalty Phase FILED IN OPEN COURT. Arguments by counsel regarding offer of proof regarding statement of defendant Deangelo Carroll that he made to another prisoner regarding his involvement in the murder. Mr. Pesci stated that he never gave this statement to the police; now a statement by a cell mate in the detention center is dubious at best. Mr. Digiacommo argued that the statement is clearly unreliable. COURT FINDS, technically it is a statement against penal interest; one statement will be allowed in an the other statements will not be allowed. IN THE PRESENCE OF THE JURY. Jurors SWORN. Second Amended Information read by the Clerk. Introductory statement by the Court. Opening statements by Mr. Digiacommo. Opening Statements by Mr. Whipple. OUTSIDE THE PRESENCE OF THE JURY. Pursuant to CONFERENCE AT BENCH, COURT ORDERED, previous rulings by Judge Mosely are the law of the case. Mr. Whipple moved for a mistrial on the basis of due process violations against his client. COURT ORDERED, motion DENIED. Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 01, 2008

05C212667-4

The State of Nevada vs Deangelo R Carroll

February 01, 2008

9:30 AM

Jury Trial

TRIAL BY JURY
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie

HEARD BY:

COURTROOM: No Location

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT:	Di Giacomo, Marc P.	Attorney
	Pesci, Giancarlo	Attorney
	Whipple, Bret O.	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY. Discussion regarding Mr. Whipple saying that he had not received certain exhibits from the State. Mr. Digiacomo stated that whenever Mr. Whipple came and requested exhibits, they were provided to him. Mr. Whipple advised that he bate-stamped what he was requesting and gave the request to the State. COURT FINDS, at this point is up to defense counsel to obtain what they want from the State. Further arguments regarding the power point presentation and making a particular exhibit a Court's exhibit. COURT ORDERED, this issue was already decided by Judge Mosely. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Pursuant to CONFERENCE AT BENCH, Mr. Digiacomo stated that it became apparent that something was wrong with Mr. Zone. Mr. Pesci stated that Mr. Zone has another son that Mr. Whipple has represented. Mr. Digiacomo advised that they spoke with Mr. Zone; Mr. Whipple remembered the other son. Mr. Whipple informed the Court that at some point he spoke with Mr. Zone, but never discussed anything pertaining to this case with Mr. Zone or the other son. He also stated that he never met Roantae Zone.

The Court question Mr. Zone regarding the preliminary hearing. Mr. Whipple stated that he was not present at that hearing. CONFERENCE AT BENCH. The Court question Mr. Counts regarding the fact that Mr. Whipple represented Mr. Zones brother. The Defendant stated he has no problem of Mr. Whipple continuing to represent him. Out of an abundance of caution, the Court asked Mr. Zone to leave the Courtroom. After that, Mr. Whipple stated he has no problem zealously advocating and representing Mr. Counts. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding whether or not Officer Rivera was on the witness list. As there were other officers listed, COURT FINDS, his testimony will be allowed. Mr. Digiacomo stated that Officer Rivera was on the list in the Justice Court hearing. Mr. Whipple objected to Mr. Rivera's testimony as he believes it is prejudicial to his client's due process rights and MOVED for a mistrial. COURT ORDERED, DENIED. Mr. Whipple requested that the phone calls from the detention center be provided before his testimony. Opposition by Mr. Digiacomo. The Court stated that if there is a policy at the detention center, then it can be done. The Court services attorney or an investigator must stay with the Defendant the entire time, but Court Services cannot stay with the Defendant while he listens. Further discussion regarding Officer Rivera's testimony. The Court stated that Mr. Whipple was aware that some SWAT Officer would be testifying and he didn't call any other officers to testify. Mr. Whipple advised that it was not his burden. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. COURT ORDERED, defendant Burman to be remanded to the Clark County Detention for this weekend in order that Mr. Whipple's investigators will have time to review the case with him. Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****February 04, 2008**

05C212667-4

The State of Nevada vs Deangelo R Carroll

February 04, 2008**9:00 AM****Change of Plea****CHANGE OF PLEA****Court Clerk: Denise
Husted****Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair****HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**Di Giacomo, Marc P.
Pesci, GiancarloAttorney
Attorney**JOURNAL ENTRIES**

- Third Amended Information FILED IN OPEN COURT. Negotiations are as contained in the Guilty Plea Agreement FILED IN OPEN COURT. DEFENDANT ESPINDOLA ARRAIGNED and PLED GUILTY to Voluntary Manslaughter with use of a Deadly Weapon. COURT ACCEPTED plea and ORDERED, matter CONTINUED for a status check regarding sentencing. FURTHER, pursuant to request by the State, Attachment to the Guilty Plea Agreement is to be FILED UNDER SEAL. CUSTODY

4/15/08 9:30 AM SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 04, 2008

05C212667-4

The State of Nevada vs Deangelo R Carroll

February 04, 2008

1:00 PM

Jury Trial

TRIAL BY JURY
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES**

PRESENT:	Di Giacomo, Marc P.	Attorney
	Pesci, Giancarlo	Attorney
	Whipple, Bret O.	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY. Counsel advised that defendant Taoipu sent a letter to Mr. Counts, which was received last night at 10:00 PM. Colloquy regarding having investigator pick up witnesses from Tonopah to testify Wednesday. Discussion regarding Discovery. Colloquy regarding scheduling of witnesses. Mr. Digiacomo stated he believes Mr. Bremmer can wait his turn as his witnesses (who are not incarcerated) have been inconvenienced. Further discussion regarding Discovery. Mr. Whipple informed the Court that he received a phone call from Cal Potter's office regarding post conviction relief for Defendant in Palomino murder in 2000. They believe this murder was set up by Hildalgo. The State inquired the validity of that having anything to do to this case. Mr. Whipple advised that he didn't really know, but wanted to make a record and make a Court's exhibit and requested a twenty-four hour continuance to find "Airial" AKA Michelle Schwanderlik. Mr. Digiacomo stated that the other murder was when the Palomino Club was under different ownership; also, the person Mr. Whipple is looking for cannot be found. He further advised that there is no evidence linking this murder to the other murder in case C182148 filed on 8/6/02. COURT

FINDS, there is no need for a Court's exhibit, and DENIED the continuance. Mr. Digiacomo stated he had no problem with the Court reviewing the other case. OUTSIDE THE PRESENCE OF THE JURY. The Court inquired of Mr. Taoipu if he discussed testifying with his counsel, Terry Jackson, Esq. Mr. Taoipu stated that he had spoken with counsel and that he understands his rights. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 05, 2008

05C212667-4

The State of Nevada vs Deangelo R Carroll

February 05, 2008

9:30 AM

All Pending Motions

**ALL PENDING
MOTIONS 2/5/08
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair**

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Di Giacomo, Marc P.
Pesci, Giancarlo
Whipple, Bret O.

Attorney
Attorney
Attorney

JOURNAL ENTRIES

- DEFENDANT'S MOTION FOR AUDIBILITY HEARING AND TRANSCRIPT APPROVAL (HIDALGO)...DEFENDANT'S MOTION TO SUPPRESS CUSTODIAL STATEMENT...DEFENDANT'S MOTION TO ALLOW STATEMENTS

Hidalgo: CONFERENCE AT BENCH. Mr. Digiacomo advised that based on new evidence, the State is seeking an indictment against Hidalgo, Jr. Mr. Gentile stated that service would not be accepted as there is a Supreme Court order regarding conflict for him to represent Hidalgo III, and Hidalgo Jr.; those records are sealed. Following further arguments and request by the State, COURT ORDERED, the police are not to destroy any notes and they must be maintained; the Court will sign an order as to this. Mr. Gentile requested production of phone conversations from Espindola and Hidalgo Jr. COURT ORDERED, Defendant's Motion for Audibility Hearing and Transcript Approval is CONTINUED.

Counts: COURT ORDERED, Defendant's Motion to Suppress Custodial Statements pertain to

Defendant Hidalgo and is CONTINUED; Defendant's Motion in Limine to Allow Statements is MOOT.

CUSTODY (BOTH)

CONTINUED TO: 2/7/08 9:30 AM DEFENDANT'S MOTION FOR AUDIBILITY HEARING AND TRANSCRIPT APPROVAL...DEFENDANT'S MOTION TO SUPPRESS CUSTODIAL STATEMENT (HIDALGO III)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 05, 2008

05C212667-4

The State of Nevada vs Deangelo R Carroll

February 05, 2008

10:00 AM

Jury Trial

TRIAL BY JURY
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES**

PRESENT:	Di Giacomo, Marc P.	Attorney
	Pesci, Giancarlo	Attorney
	Whipple, Bret O.	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY. Mr. Whipple stated he had not received certain items of Discovery; if they weren't copied, they must have come from the detectives files. Defendant's Motion to Preclude Test from Detectives Re: their Interpretation of Third Party Conversation FILED IN OPEN COURT. COURT ORDERED, they can testify if interpretations is non street slang; they can't speculate as to meaning. He further stated that as to the conspiracy charge as to Kenneth Counts will be asking for a directed verdict as to that issue. Arguments by counsel. Arguments by Ms. Wildeveld in support of her possession; discussion regarding the way the charge was pled. COURT FINDS, all of the conspirators do not have to be at all of the meetings at the same time. Mr. Digiacomo stated this argument was made in front of Judge Moseley and is part of the record. The Court informed counsel that these issues can be determined with jury instructions. Arguments by Mr. Whipple regarding Crawford issues.

IN THE PRESENCE OF THE JURY; Testimony and exhibits per worksheet.

OUTSIDE THE PRESENCE OF THE JURY; Discussion regarding witness Calvin Williams being

transported from Tohapah, NV tonight; order to transport to be prepared. Mr. Whipple stated he doesn't want Deangelo Carroll's statements to be given to the jury. Mr. Diagiacomo stated they were given file stamped copies of transcript; they could have redacted before now. He stated that Mr. Whipple is being disingenuous to say he didn't have a copy of this information. COURT ORDERED, redaction of statement is UNTIMELY; Judge Moseley's previous order stands. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 06, 2008

05C212667-4

The State of Nevada vs Deangelo R Carroll

February 06, 2008

10:30 AM

Jury Trial

TRIAL BY JURY
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES**

PRESENT:	Di Giacomo, Marc P.	Attorney
	Pesci, Giancarlo	Attorney
	Whipple, Bret O.	Attorney

JOURNAL ENTRIES

- IN THE PRESENCE OF THE JURY. State rested. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding exhibits. Discussion regarding transport of the two witnesses; the Court directed to transport the two witnesses separately. Colloquy regarding Mr. Whipple's witnesses. Opposition by Mr. Digiacomo. The Court admonished Mr. Counts of his constitutional right to not be compelled to take the stand in how own defense. The Defendant stated he understood his rights. Colloquy regarding Defendant Carroll and that the State may call him as a witness. IN THE PRESENCE OF THE JURY. CONFERENCE AT BENCH. Testimony and exhibits presented per worksheet. Defense rested. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding scheduling. The Court requested that parties settle jury instructions. Mr. Whipple stated that he was not prepared to do that. Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 07, 2008

05C212667-4

The State of Nevada vs Deangelo R Carroll

February 07, 2008

9:00 AM

Jury Trial

TRIAL BY JURY
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES**

PRESENT:	Di Giacomo, Marc P.	Attorney
	Pesci, Giancarlo	Attorney
	Whipple, Bret O.	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding proposed jury instructions. Mr. Whipple requested twenty four hour continuance to review discrepancy in exhibit 189. The Court DENIED Mr. Whipple's motion as the document became relevant due to testimony of the Defendant; he opened the door. Mr. Whipple MOVED for a mistrial based on the violation of Mr. Counts due process rights. COURT ORDERED, DENIED. Jury instructions settled on the record. IN THE PRESENCE OF THE JURY. The Court instructed the jurors on the law of the case. Closing arguments by Mr. Pesci. Closing arguments by Mr. Whipple. Closing arguments by Mr. DiGiacomo. Officer sworn to take charge of the jury. Alternate jurors thirteen to fifteen revealed; the Court requested that they provide phone numbers to the bailiff in the event that they have to be recalled. At the hour of 4:40 PM the jury retired to deliberate. Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 07, 2008

05C212667-4

The State of Nevada vs Deangelo R Carroll

February 07, 2008

9:30 AM

All Pending Motions

**ALL PENDING
MOTIONS 2/7/08**
**Court Clerk: Denise
Husted**
**Reporter/Recorder:
Janie Olsen Heard**
By: Valerie Adair

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Di Giacomo, Marc P.

Attorney

JOURNAL ENTRIES

- DEFENDANT'S MOTION FOR AUDIBILITY HEARING AND TRANSCRIPT
 APPROVAL...DEFENDANT'S MOTION TO SUPPRESS CUSTODIAL
 STATEMENTS...DEFENDANT'S MOTION TO SET BAIL

Mr. Gentile requested that the motions other than the bail motion be continued to 2/11/08 and that the trial be continued to 2/12/08. COURT SO ORDERED.

The Court noted that Mr. Hidalgo's bail is already set at \$800,000.00. Mr. Gentile requested that the bail be lowered and the Defendant be placed on house arrest. Opposition by Mr. DiGiacomo regarding lowering of bail. COURT ORDERED, Defendant's Motion to Set Bail is DENIED. Pursuant to CONFERENCE AT BENCH, the Court stated that if the Defendant can come up with \$800,000.00 in property, Mr. Gentile may place the matter back on calendar for a hearing, however the previous ruling issued regarding lowering bail STANDS AT THIS POINT
 CUSTODY

2/11/08 9:30 AM DEFENDANT'S MOTION FOR AUDIBILITY HEARING AND TRANSCRIPT
 APPROVAL...DEFENDANT'S MOTION TO SUPPRESS CUSTODIAL STATEMENT

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****February 08, 2008**

05C212667-4

The State of Nevada vs Deangelo R Carroll

February 08, 2008**9:00 AM****Jury Trial****TRIAL BY JURY**
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair**HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Di Giacomo, Marc P.

Attorney

Risse, Rebecca

Attorney

Whipple, Bret O.

Attorney

JOURNAL ENTRIES

- At the hour of 5:40 PM the jury returned with the following verdict: COUNT I - CONSPIRACY TO COMMIT MURDER - GUILTY COURT ORDERED, Defendant REMANDED without bail on this charge.

COUNT II - MURDER WITH USE OF A DEADLY WEAPON - NOT GUILTY.

The Court thanked and excused jurors from service.

COURT ORDERED, matter referred to the Division of Parole and Probation for a presentence investigation report and set for sentencing.

CUSTODY

3/20/08 9:30 AM SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****February 11, 2008**

05C212667-4

The State of Nevada vs Deangelo R Carroll

February 11, 2008**9:30 AM****Jury Trial****TRIAL BY JURY**
Court Clerk: Denise
Husted Heard By:
Valerie Adair**HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**Di Giacomo, Marc P.
Pesci, GiancarloAttorney
Attorney**JOURNAL ENTRIES**

- Pursuant to conference in chambers, COURT ORDERED, trial date VACATED and RESET.
FURTHER, matter set for a hearing regarding potential conflict.

2/13/08 1:30 PM HEARING: POTENTIAL CONFLICT

2/19/08 10:30 AM JURY TRIAL (LUIS HIDALGO III)

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****February 11, 2008**

05C212667-4

The State of Nevada vs Deangelo R Carroll

February 11, 2008**9:30 AM****All Pending Motions****ALL PENDING
MOTIONS 2/11/08
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair****HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES
PRESENT:****JOURNAL ENTRIES**

- DEFENDANT'S MOTION FOR AUDIBILITY HEARING AND TRANSCRIPT
APPROVAL...DEFENDANT'S MOTION TO SUPPRESS CUSTODIAL
STATEMENT...DEFENDANT'S MOTION FOR DISCLOSURE
COURT ORDERED, motions CONTINUED.
CONTINUED TO: 2/14/08 10:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****February 12, 2008**

05C212667-4

The State of Nevada vs Deangelo R Carroll

February 12, 2008**9:30 AM****Sentencing****SENTENCING****Court Clerk: Denise
Husted****Reporter/Recorder:
Janie Olsen Heard****By: Adair, Valerie****HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Pesci, Giancarlo

Attorney

JOURNAL ENTRIES

- CONFERENCE AT BENCH. Mr. Jackson stated that the continuance needs to be continued as the Division of Parole and Probation has not prepared the presentence investigation report. He stated that he filed a motion for House Arrest pending the new sentencing date. The State submitted on Mr. Jackson's request. COURT ORDERED, Defendant RELEASED ON HOUSE ARREST through the Clark County Detention Center. FURTHER, Defendant MUST REPORT IMMEDIATELY upon release to interview; also, he must report to the Detention Center as often as they require.
H.A.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 14, 2008

05C212667-4

The State of Nevada vs Deangelo R Carroll

February 14, 2008

10:30 AM

Hearing

**HEARING:POTENTI
AL CONFLICT
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair**

HEARD BY:

COURTROOM: No Location

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT:

Pesci, Giancarlo

Attorney

JOURNAL ENTRIES

- Confidential conflict hearing held.
CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 14, 2008

05C212667-4

The State of Nevada vs Deangelo R Carroll

February 14, 2008

10:30 AM

All Pending Motions

**ALL PENDING
MOTIONS 2/14/08
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair**

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Jaffe, Steven T.

Attorney

JOURNAL ENTRIES

- DEFENDANT'S MOTION FOR DISCLOSURE...DEFENDANT'S MOTION FOR AUDIBILITY HEARING AND TRANSCRIPT APPROVAL...DEFENDANT'S MOTION TO SUPPRESS CUSTODIAL STATEMENTS...DEFENDANT'S MOTION FOR DISCLOSURE OF THE EXISTENCE/DEFT'S MOTION TO COMPEL PRODUCTION OF HANDWRITTEN NOTES

As to Defendant's Motion for Disclosure of the Existence, Mr. Gentile informed the Court that there was no wiretap. COURT ORDERED, that motion was to be heard on 2/19/08, therefore is to be reset to day and OFF CALENDAR. As to the other part of the motion, Deft's Motion to Compel Production of Handwritten notes, parties agreed there is a Grand Jury transcript of Espindola; Defendant will ask for that. The State has no opposition for the Defendant is entitled to them.

Audibility tapes played on the record. COURT ORDERED, as to Defendant's Motion for Audibility Hearing and Transcript Approval, both transcripts will be provided to the jury and the tape will be played twice per stipulation of counsel.

Custodial statements recordings played. Arguments by Ms. Armeni that Defendant was not told he

did not have to talk with the Detective. The Court noted he was listening and responding, even thought it was not in the manner the Detectives wanted him to respond. Although it was obvious he had a cough, there were long periods of time that he didn't cough. COURT ORDERED, the tape is more appropriate than the transcript. State submitted. Colloquy regarding defense agreement to testify; if introduced to the jury it may create an inference. COURT ORDERED, the only way it will come in is if the door was opened; agrees it is prejudicial, therefore Defendant's Motion to Suppress Custodial Statements was ADDRESSED BY THE COURT.

Defendant's Motion for Disclosure was not addressed.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****February 21, 2008**

05C212667-4

The State of Nevada vs Deangelo R Carroll

February 21, 2008**1:00 PM****Jury Trial****TRIAL BY JURY**
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair**HEARD BY:****COURTROOM:** No Location**COURT CLERK:** Denise Husted**RECORDER:** Janie Olsen**REPORTER:****PARTIES****PRESENT:** Di Giacomo, Marc P. Attorney
Pesci, Giancarlo Attorney**JOURNAL ENTRIES**

- Colloquy regarding Supreme Court stay of trial. Mr. Digiacomo stated that although there were motions that parties intended to argue, the Stay precludes them from being heard. COURT ORDERED, trial date RESET.

CUSTODY

5/22/08 9:30 AM CALENDAR CALL

5/27/08 10:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****February 26, 2008**

05C212667-4

The State of Nevada vs Deangelo R Carroll

February 26, 2008**9:30 AM****All Pending Motions****ALL PENDING
MOTIONS 2/26/08
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair****HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**Pesci, Giancarlo
Whipple, Bret O.Attorney
Attorney**JOURNAL ENTRIES**

- DEFENDANT'S MOTION FOR NEW TRIAL AND REQUEST FOR AN EVIDENTIARY HEARING (COUNTS)...DEFENDANT'S MOTION TO DISMISS OR TO STRIKE

The Court informed Mr. Whipple that the current Supreme Court stay does not apply to Mr. Counts. Mr. Whipple requested a continuance as Ms. Wildeveld is not available until after 3/6/08. COURT ORDERED, CONTINUED.

CONTINUED TO: 3/11/08 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 11, 2008

05C212667-4

The State of Nevada vs Deangelo R Carroll

March 11, 2008

9:30 AM

Motion for New Trial

**DEFT'S MTN FOR
NEW TRIAL AND
REQUEST FOR AN
EVIDENTIARY
HEARING/242
Relief Clerk:
REBECCA FOSTER
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair**

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Pesci, Giancarlo
Whipple, Bret O.

Attorney
Attorney

JOURNAL ENTRIES

- Arguments by counsel. Court stated she inspected documents in-camera, the documents can be sealed and made a part of the Court's record in case the Nevada Supreme Court wants to look at them, the Declaration of Arrest should be sufficient and, ORDERED, motion DENIED.
CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 20, 2008

05C212667-4

The State of Nevada vs Deangelo R Carroll

March 20, 2008

9:30 AM

Sentencing

SENTENCING
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Di Giacomo, Marc P.
Pesci, Giancarlo
Whipple, Bret O.

Attorney
Attorney
Attorney

JOURNAL ENTRIES

- Parties argued and submitted. Statement by Defendant. The State MOVED that Defendant's copies of Judgements of Conviction be admitted as exhibits and also requested that the Defendant be sentenced under the Small Habitual Criminal statute. Arguments in opposition by Mr. Whipple. DEFENDANT COUNTS ADJUDGED GUILTY under the Small Habitual Criminal Statute of CONSPIRACY TO COMMIT MURDER (F). COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee and submission to DNA testing under the direction of the Division and payment of a \$150.00 Analysis fee to the Clark County Clerk, Defendant SENTENCED to a MINIMUM of NINETY-SIX (96) MONTHS in the Nevada Department of Corrections with a MAXIMUM term of TWO-HUNDRED FORTY (240) MONTHS, to RUN CONSECUTIVELY to Defendant's cases in California, with 1,029 DAYS CREDIT for time served. FURTHER, copies of Judgements of Conviction are ADMITTED; Ms. Wildeveld is APPOINTED as appellate counsel. NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 25, 2008**

05C212667-4

The State of Nevada vs Deangelo R Carroll

March 25, 2008**9:30 AM****Sentencing**

SENTENCING
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Pesci, Giancarlo

Attorney

JOURNAL ENTRIES

- Parties argued and submitted. Statement by Defendant. Upon Court's inquiry, Ms. Jones stated the Defendant has been looking for a job and the Public Defender's office has been assisting him in obtaining a copy of his birth certificate so that he can get his driver's license and identification. DEFENDANT TAOIPU ADJUDGED GUILTY of COUNT I - CONSPIRACY TO COMMIT MURDER (F) and COUNT II - VOLUNTARY MANSLAUGHTER WITH USE OF A DEADLY WEAPON (F). COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee and submission to DNA testing under the direction of the Division and payment of a \$150.00 Analysis fee to the Clark County Clerk, Defendant SENTENCED on Count I to a MINIMUM of FORTY-EIGHT (48) MONTHS in the Nevada Department of Corrections with a MAXIMUM term of ONE-HUNDRED TWENTY (120) MONTHS; Count II to a MINIMUM of SIXTEEN (16) MONTHS with a MAXIMUM term of SIXTY (60) MONTHS with an equal and consecutive term of 16/60 MONTHS for the deadly weapons enhancement; Count II to RUN CONCURRENTLY with Count I, SUSPENDED; placed on PROBATION for an indeterminate period not to exceed FIVE (5) YEARS. CONDITIONS: 1. Obtain/maintain lawful full time employment unless Defendant is a full time student; 2. Defendant placed on House Arrest for a period not to exceed one year; 3. Submit to counseling evaluation and

any counseling deemed necessary by the evaluator; submit to random urinalyses; 4. Complete GED/high school diploma; 5. Complete vocational training as deemed necessary by the Division of Parole and Probation.

BOND, if any EXONERATED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****April 15, 2008**

05C212667-4

The State of Nevada vs Deangelo R Carroll

April 15, 2008**9:30 AM****All Pending Motions**

**ALL PENDING
MOTIONS 4/15/08
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair**

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- STATE'S MOTION TO CONDUCT VIDEOTAPED TESTIMONY OF A COOPERATING WITNESS (LUIS HIDALGO, III)...STATUS CHECK: SENTENCING (ANABEL ESPINDOLA)
COURT ORDERED, Status Check: Sentencing is OFF CALENDAR.
FURTHER, State's Motion to Conduct Videotaped Testimony of a Cooperating Witness is CONTINUED.
CUSTODY (BOTH)
4/17/08 9:30 AM STATE'S MOTION TO CONDUCT VIDEOTAPED TESTIMONY OF A COOPERATING WITNESS (LUIS HIDALGO III)

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****April 17, 2008**

05C212667-4

The State of Nevada vs Deangelo R Carroll

April 17, 2008**9:30 AM****Motion****STATE'S MTN TO
CONDUCT
VIDEOTAPED
TESTIMONY OF A
COOPERATING
WITNESS/250 Heard
By: Valerie Adair****HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**Di Giacomo, Marc P.
Pesci, GiancarloAttorney
Attorney**JOURNAL ENTRIES**

- As this case has been STAYED by the Supreme Court, COURT ORDERED, OFF CALENDAR.
CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****June 17, 2008**

05C212667-4

The State of Nevada vs Deangelo R Carroll

June 17, 2008**9:30 AM****Status Check****STATUS CHECK:
TRIAL SETTING
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair****HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Di Giacomo, Marc P.

Attorney

JOURNAL ENTRIES

- COURT ORDERED, trial date is to be set recognizing that the Court has not ruled on consolidation.
CUSTODY

1/22/09 9:30 AM CALENDAR CALL

1/26/09 10:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 10, 2008

05C212667-4

The State of Nevada vs Deangelo R Carroll

July 10, 2008

9:30 AM

**Notice of Intent to Seek
Revocation of Probation**

**NOTICE OF INTENT
REV OF PROB Court
Clerk: Denise Husted
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair**

HEARD BY:

COURTROOM: No Location

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Di Giacomo, Marc P.
Pesci, Giancarlo

Attorney
Attorney

JOURNAL ENTRIES

- Statement by Mr. DiGiacomo. Mr. Jackson stated the facts alleged in the violation report are not sufficient to revoke the Defendant. The Court noted the Defendant has been in custody over two weeks. Further, the Defendant did not avail himself of the free counseling, was not in compliance with imposed curfew and didn't meet with his Probation Officer, which makes it appear the Defendant is not taking the benefit of probation seriously. Mr. Jackson informed the Court he spoke with the Defendant regarding his responsibilities; he also helped him obtain an ID card, so he will now be able to seek employment. COURT ORDERED, PROBATION REINSTATED with the same conditions imposed previously.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 22, 2008

05C212667-4

The State of Nevada vs Deangelo R Carroll

July 22, 2008

9:30 AM

Motion to Consolidate

**STATES MTN TO
CONSOLIDATE
WITH
C241394/256 Court
Clerk: Denise Husted
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair**

HEARD BY:

COURTROOM: No Location

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Pesci, Giancarlo

Attorney

JOURNAL ENTRIES

- Mr. Gentile requested more time to respond to the State's Motion to Consolidate. Upon Court's inquire Mr. Gentile stated he is still willing to represent both Hidalgo defendants as long as the cases are not consolidated. He further stated he will be filing a challenge regarding seeking the death penalty as to Luis Hidalgo, III, but he is uncertain regarding this issue as to Luis Hidalgo, Jr. Colloquy regarding trial dates. COURT ORDERED, States' Motions to Consolidate are OFF CALENDAR. FURTHER, trial date VACATED and RESET in case C241294. The Court informed counsel that the cases will be tried back to back, with the in-custody Defendant being tried first, as long as the cases are not consolidated.
CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****October 23, 2008**

05C212667-4

The State of Nevada vs Deangelo R Carroll

October 23, 2008**9:30 AM****Conversion Hearing Type****TRIAL SETTING**
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair**HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**Carroll, Deangelo R
Di Giacomo, Marc P.
Figler, Dayvid J.Defendant
Attorney
Attorney**JOURNAL ENTRIES**

- Counsel advised that the Nevada Supreme Court has made its decision and the State has to file a notice in conformance. Mr. DiGiacomo advised that has been done. COURT ORDERED, trial date SET.

CUSTODY

6/11/09 9:30 AM CALENDAR CALL

6/15/09 10:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 20, 2008

05C212667-4

The State of Nevada vs Deangelo R Carroll

November 20, 2008

9:30 AM

Request

**STATE'S REQUEST
STATUS CHECK ON
MTN TO
CONSOLIDATE
C241394 Court Clerk:
Denise Husted
Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie**

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Di Giacomo, Marc P.
Pesci, Giancarlo

Attorney
Attorney

JOURNAL ENTRIES

- Mr. Gentile introduced Chris Adams, Esq. from Atlanta, who will be substituting in as counsel for Luis Hidalgo, III; also John Arascata, Esq. from Reno will be appearing later. He further stated that these attorneys will be representing Hidalgo, III because of the issues that can be raised between Hidalgo, III and Hidalgo, Jr. and because of the Nevada Supreme Court's narrow mandate in their ruling. Mr. Gentile advised he will continue to represent Hidalgo, Jr. and requested additional time to file oppositions for the Motions to Consolidate cases C212667 and C241394. Mr. Digiacomo requested time for the State to file replies to Mr. Gentile's opposition. COURT ORDERED, Mr. Gentile's opposition is due by 12/4/08 and the State's reply is due by 12/11/08. FURTHER, Motions to Consolidate CONTINUED in cases C212667 and C241394.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 19, 2008

05C212667-4

The State of Nevada vs Deangelo R Carroll

December 19, 2008

9:30 AM

Request

**STATE'S REQUEST
STATUS CHECK ON
MTN TO
CONSOLIDATE
C241394 Relief
Clerk: Carole D'Aloia
Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie**

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Di Giacomo, Marc P.

Attorney

JOURNAL ENTRIES

- Christopher W. Adams, Esq., from Atlanta, Georgia, also present on behalf of Defendant Hidalgo III. Mr. Arrascada advised he has filed an Order for association of counsel on behalf of Mr. Adams, Court advised it did not see a problem with this and it will sign the Order. Dominic P. Gentile, Esq., also present on behalf of DEFENDANT HIDALGO, JR., case C241394. Mr. DiGiacomo advised that when he picked-up his copy of Defendants' opposition to the State's motion to consolidate, there were two (2) additional motions to strike the amended notice to seek death penalty on behalf of both Defendants and the State has not had an opportunity to respond and requested time to do so, noting he spoke to Mr. Gentile regarding this matter. Court informed counsel that if the motion is granted, and the notice to seek the death penalty is stricken for either Defendant, the motion to consolidate will not be granted. COURT ORDERED, Defendants' Motions to Strike the Amended Notice to seek Death Penalty CONTINUED. As to the State's motion to consolidate, Mr. Gentile stated his objections on the record. Mr. Gentile informed, if Court grants this motion, it would deprive

Defendants their right to eight (8) preemptory challenges each. Mr. Adams advised he is joining in this motion on behalf of Defendant Hildalgo III. Response by Mr. DiGiacomo. Court advised the biggest problem it foresees in granting the motion to consolidate would be during the penalty phase of the trial, where possibly family members would have to choose which of the two (2) Defendants they would testify on behalf of and, then if called upon to testify as to the other Defendant, they could not testify to the contrary. Court advised Mr. Gentile his argument was very interesting and, ORDERED, RULING RESERVED to continuance date.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****January 09, 2009**

05C212667-4

The State of Nevada vs Deangelo R Carroll

January 09, 2009**9:30 AM****Request****STATE'S REQUEST
STATUS CHECK ON
MTN TO
CONSOLIDATE
C241394 Court Clerk:
Denise Husted
Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie****HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Di Giacomo, Marc P.

Attorney

JOURNAL ENTRIES

- COURT ORDERED, matter CONTINUED for decision.
CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 16, 2009

05C212667-4

The State of Nevada vs Deangelo R Carroll

January 16, 2009

9:30 AM

All Pending Motions

**ALL PENDING
MOTIONS 1-16-09**
Relief Clerk:
REBECCA FOSTER
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Di Giacomo, Marc P.
Pesci, Giancarlo

Attorney
Attorney

JOURNAL ENTRIES

- STATE'S MOTION TO REMOVE MR. GENTILE AS ATTORNEY OR REQUEST WAIVERS AFTER DEFENDANTS HAVE HAD TRUE INDEPENDENT COUNSEL...STATE'S REQUEST STATUS CHECK ON MOTION TO CONSOLIDATE C241394...DEFT'S MOTION FOR FAIR AND ADEQUATE VOIR DIRE

Christopher W. Adams, Esq, pro hac vice also present. WAIVER OF RIGHTS TO A DETERMINATION OF PENALTY BY THE TRIAL JURY (HILDAGO, JR and HIDALGO III) FILED IN OPEN COURT. ORDER GRANTING THE STATE'S MOTION TO CONSOLIDATE C241394 INTO C212667 FILED IN OPEN COURT. Mr. DiGiacomo advised the Court an agreement has been reached between parties as it relates to conflict issue and Notice to Seek Death Penalty against both defts will be withdrawn. Further defense counsel acknowledged there is no conflict as to the guilt phase. Colloquy between Court and counsel regarding charging documents and voir dire process. COURT ORDERED, State's Motion to Remove Mr. Gentile is MOOT; Motion to Consolidate with C241394 is GRANTED; and Deft'S Motion for Fair and Adequate Voir Dire is MOOT. COURT

FURTHER ORDERED, Deft's Motion to Suppress scheduled for 1-20 will be heard at 10:15 with other Motion in Limine to Exclude Testimony (C241394).
CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 22, 2009**

05C212667-4

The State of Nevada vs Deangelo R Carroll

January 22, 2009**9:30 AM****Calendar Call**

CALENDAR CALL
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Di Giacomo, Marc P.

Attorney

JOURNAL ENTRIES

- Christopher Adams, Esq. appearing in case C212667; Dominic Gentile, Esq. and Paola Armeni, Esq. appearing in consolidated case C241394, with Defendant Luis Hidalgo Jr. Colloquy regarding trial date. Counsel announced ready for trial which should last two weeks with 26 witnesses. Mr. Arrascada stated opposition to parts of the State's Fourth Amended Information. Mr. Digiacomo stated that the Jury must be advised there are two different conspiracies and that he believes it was addressed as to Luis Hidalgo Jr. He further advised that it will require a special verdict form, which is not before the Court at this time.

Consolidated case C241394: STATE'S MOTION IN LIMINE TO EXCLUDE THE TESTIMONY OF VALERIE FRIDLAND...DEFENDANT'S MOTION TO SUPPRESS EVIDENCE...CALENDAR CALL Arguments by Mr. Gentile regarding the linguistics expert, Valerie Fridland. He stated that the use of pronouns employed by Ms. Espindola in the tapes in which she didn't know she was being recorded and the Grand Jury tapes were different and that the expert will be able to evaluate what was said in order to assist the jury. Opposition by Mr. Digiacomo. The Court stated that this matter will be reviewed further and a ruling will be made on 1/23/09. As to Defendant's Motion to Suppress Evidence, Mr. Gentile submitted on the pleadings. He added that this was a general warrant; the

issue regarding Family Court signing the warrant needed to be raised now, or it can't be raised later in front of the Supreme Court. COURT FINDS, Family Court has jurisdiction to sign warrants. Mr. Gentile stated the warrant left too much to the discretion of the searching officers, which violates the Fourth Amendment. Mr. Digiacommo argued that each and every one of the witnesses is tied to a specific crime and there was probable cause for each item listed. COURT FINDS, it was not so general as to be considered a general warrant and ORDERED, Defendant's Motion to Suppress is DENIED. Colloquy regarding pleadings and whether or not new Information would be filed. Additionally, discussion ensued as to possibly striking parts of the Information/Indictment. COURT ORDERED, a ruling will be given on 1/23/09 following further review of the Court's minutes and transcripts.

COURT ORDERED, ORDERED, trial date VACATED and RESET for a firm setting.
1/27/09 12:30 PM JURY TRIAL (C212667 AND C241394)

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****January 23, 2009**

05C212667-4

The State of Nevada vs Deangelo R Carroll

January 23, 2009**10:50 AM****Decision****DECISION:MATTER
S ADDRESSED ON
1/22/09 Court Clerk:
Denise Husted
Heard By: Valerie
Adair****HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:****JOURNAL ENTRIES**

- COURT ORDERED, the State's Motion in Limine to Exclude the Testimony of Valerie Fridland is GRANTED. FURTHER, as to Hidalgo III's oral objection to the conspiracy count in the Fourth Amended Indictment, the COURT ORDERS that the language objected to be STRICKEN. Additionally, the COURT FINDS that there were two conspiracies; one relating to Timothy Hadland and one relating to Kenneth Counts.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 26, 2009

05C212667-4

The State of Nevada vs Deangelo R Carroll

January 26, 2009

10:00 AM

Request

**STATE'S REQUEST
FOR
CLARIFICATION
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair**

HEARD BY:

COURTROOM: No Location

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Di Giacomo, Marc P.
Pesci, Giancarlo

Attorney
Attorney

JOURNAL ENTRIES

- Dominic Gentile, Esq. and Paola Armeni, Esq. appearing for Luis Hidalgo, Jr. in consolidated case C241394.

Hidalgo, Jr. presence WAIVED. Mr. Digiacomo stated that questions arose pertaining to the 4/17/08 transcript; there are multiple meanings as to what order on 1/23/19 means. He asked if the Court made a legal determination the Hidalgo, III is not admissible. The Court stated that right now it cannot say automatically that this is an ongoing part of conspiracy and part of the cover up of the conspiracy; not prepared to say this is a conspiracy. If the evidence ties it in, the State can argue they are not able to say factually that this is part of intentional conspiracy. Case law shows there may have been a second conspiracy; the initial conspiracy involved payment; the second conspiracy involved getting rid of Mr. Counts. Mr. Digiacomo read the Federal case law; Nevada law relates to ongoing acts of concealment. Following further arguments by counsel, COURT FINDS, the issue of Hidalgo, III solicitation of murder is up to the defense to bring in; the Court cannot say for certain that is was

part of the first conspiracy.
CUSTODY (HIDALGO III)

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****January 27, 2009**

05C212667-4

The State of Nevada vs Deangelo R Carroll

January 27, 2009**12:30 AM****Jury Trial****TRIAL BY JURY**
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie**HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**Di Giacomo, Marc P.
Pesci, GiancarloAttorney
Attorney**JOURNAL ENTRIES**

- Christopher Adams, Esq. appearing pro hoc vice for Luis Hidalgo, III. Dominic Gentile, Esq. and Paola Armeni, Esq. appearing for Luis Hidalgo, Jr. in consolidated case C241394.

IN THE PRESENCE OF THE JURY. Introductions by Court and counsel. Roll of jurors called by the Clerk. Jury selection proceeded. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding for cause challenges. Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 28, 2009

05C212667-4

The State of Nevada vs Deangelo R Carroll

January 28, 2009

10:30 AM

Jury Trial

TRIAL BY JURY
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Di Giacomo, Marc P.
Pesci, Giancarlo

Attorney
Attorney

JOURNAL ENTRIES

- Christopher Adams, Esq. appearing pro hoc vice for Luis Hidalgo, III. Dominic Gentile, Esq. and Paola Armeni, Esq. appearing for Luis Hidalgo, Jr. in consolidated case C241394.

OUTSIDE THE PRESENCE OF THE JURY. The Court noted that juror number fifteen said the stress of this process exacerbated a medical condition and provided a prescription. The Court excused this juror. Discussion regarding transcripts provided by the State; Mr. Adams objected to this. Mr. Gentile stated an audibility hearing was previously held regarding the tape. He requested that the Court listen to the tape and see if the transcript is reasonable decision regarding Anabel's debriefing. He further requested that he be provided the State's notes in order to determine if there may be a Brady issue. Mr. Digiacomo stated the admissibility hearing came before Anabel's plea. Following further discussion, the Court informed counsel that jury selection is to proceed. IN THE PRESENCE OF THE JURY. Roll of jurors called by the Clerk. Jury selection proceeded. OUTSIDE THE PRESENT OF THE JURY. Discussion regarding juror challenges. IN THE PRESENCE OF THE JURY. Jury selection proceeded. CONFERENCE AT BENCH. Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 29, 2009

05C212667-4

The State of Nevada vs Deangelo R Carroll

January 29, 2009

9:30 AM

Jury Trial

TRIAL BY JURY
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Di Giacomo, Marc P.
Pesci, Giancarlo

Attorney
Attorney

JOURNAL ENTRIES

- Christopher Adams, Esq. appearing pro hoc vice for Defendant Hidalgo III. Dominic Gentile, Esq. and Paola Armeni, Esq. appearing for Defendant Hidalgo Jr. in consolidated case C241394. IN THE PRESENCE OF THE JURY. Jury selection continued. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding jury panel and possible conversations between some of them regarding the case. Jurors 018 and 052 questioned separately regarding this issue. IN THE PRESENCE OF THE JURY. Jury selection continued; voir dire questioning held one at a time outside the presence of the others in the panel. OUTSIDE THE PRESENCE OF THE JURY. Luis A. Hidalgo Jr's Trial Memorandum (Redacted) in case C212667 and consolidated case C241394 FILED IN OPEN COURT. Colloquy regarding differences in transcripts of Ms. Espindola. The Court noted it may be better to play the tape. Mr. Gentile agreed and Mr. Digiacomo opposed the suggestion. Discussion regarding the interview of Ms. Espindola. Mr. Adams requested copies of the notes of the interview. Following further discussion, the Court directed counsel to provide highlighted copies of the first and second transcripts showing the differences; the Court will review these prior to making a decision. Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 30, 2009**

05C212667-4

The State of Nevada vs Deangelo R Carroll

January 30, 2009**10:00 AM****Jury Trial**

TRIAL BY JURY
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Di Giacomo, Marc P.
Pesci, Giancarlo

Attorney
Attorney

JOURNAL ENTRIES

- Christopher Adams, Esq. appearing pro hoc vice for Luis Hidalgo, III. Dominic Gentile, Esq. and Paola Armeni, Esq. appearing for Luis Hidalgo, Jr. in consolidated case C241394.

OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding jury selection. Jury selection continued. Voir Dire questioning took place with individual jurors apart from the others. OUTSIDE THE PRESENCE OF THE JURY. The Court read the case provided by counsel regarding the transcript issue. COURT ORDERED, parties are not precluded from allowing use of the transcript pursuant to case law provided by Mr. Arrascada. IN THE PRESENCE OF THE JURY. Jury selection continued. Introductions by Court and counsel. Information read by the Clerk. Eveinng recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 02, 2009

05C212667-4

The State of Nevada vs Deangelo R Carroll

February 02, 2009

10:30 AM

Jury Trial

TRIAL BY JURY
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Di Giacomo, Marc P.
Pesci, Giancarlo

Attorney
Attorney

JOURNAL ENTRIES

- Christopher Adams, Esq. appearing pro hoc vice for Defendant Hidalgo III. Dominic Gentile, Esq. and Paola Armeni, Esq. appearing for Defendant Hidalgo Jr. in consolidated case C241394. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding jury selection. IN THE PRESENCE OF THE JURY. Jury selection continued; voir dire questioning took place with individual jurors apart from the others. OUTSIDE THE PRESENCE OF THE JURY. Mr. Adams argued Batson challenge. Opposition by the State. COURT FINDS, the release of the juror was with good cause. IN THE PRESENCE OF THE JURY. Jury selection continued. Voir dire questioning took place with individual jurors apart from the others. Jury selected and SWORN. Opening arguments counsel. Testimony and exhibits presented per worksheet. Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 03, 2009

05C212667-4

The State of Nevada vs Deangelo R Carroll

February 03, 2009

10:30 AM

Jury Trial

TRIAL BY JURY

Court Clerk: Denise

Husted Relief Clerk:

Carol Donahoo (3:45

p.m.)

Reporter/Recorder:

Janie Olsen Heard

By: Adair, Valerie

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Di Giacomo, Marc P.

Attorney

Pesci, Giancarlo

Attorney

JOURNAL ENTRIES

- Christopher Adams, Esq. appearing pro hoc vice for Luis Hidalgo, III. Dominic Gentile, Esq. and Paola Armeni, Esq. appearing for Luis Hidalgo, Jr. in consolidated case C241394.

OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding the State amending the witness list to include Christopher Oram. Mr. Gentile stated that Ms. Espindola will have to waive attorney client privilege should Mr. Oram testify. The Court informed counsel that the law regarding this issue will be reviewed. Further statements regarding jail phone records between Deangelo Carroll and his wife. IN THE PRESENCE OF THE JURY Testimony and exhibits presented per worksheet.

Carol Donahoo (3:45 p.m.)

Testimony and exhibits presented (see worksheet).

COURT ORDERED, trial CONTINUED and recessed for the evening.

OUTSIDE THE PRESENCE OF THE JURY: Arguments by counsel with respect to the legal issues surrounding the tape recording of Deangelo Carroll. Counsel will revisit this matter tomorrow.

Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****February 04, 2009**

05C212667-4

The State of Nevada vs Deangelo R Carroll

February 04, 2009**10:30 AM****Jury Trial****TRIAL BY JURY**
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie**HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Roger, David J.

Attorney

JOURNAL ENTRIES

- Christopher Adams, Esq. appearing pro hoc vice for Luis Hidalgo, III. Dominic Gentile, Esq. and Paola Armeni, Esq. appearing for Luis Hidalgo, Jr. in consolidated case C241394.
Testimony and exhibits presented per worksheet. Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****February 05, 2009**

05C212667-4

The State of Nevada vs Deangelo R Carroll

February 05, 2009**9:00 AM****Jury Trial****TRIAL BY JURY**
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie**HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**Di Giacomo, Marc P.
Pesci, GiancarloAttorney
Attorney**JOURNAL ENTRIES**

- Christopher Adams, Esq. appearing pro hoc vice for Luis Hidalgo, III. Dominic Gentile, Esq. and Paola Armeni, Esq. appearing for Luis Hidalgo, Jr. in consolidated case C241394.

IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding proper questioning of Detective McGrath. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****February 06, 2009**

05C212667-4

The State of Nevada vs Deangelo R Carroll

February 06, 2009**9:30 AM****Jury Trial****TRIAL BY JURY**
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie**HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**Di Giacomo, Marc P.
Pesci, GiancarloAttorney
Attorney**JOURNAL ENTRIES**

- Christopher Adams, Esq. appearing pro hoc vice for Luis Hidalgo, III. Dominic Gentile, Esq. and Paola Armeni, Esq. appearing for Luis Hidalgo, Jr. in consolidated case C241394.

IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. CONFERENCE AT BENCH. OUTSIDE THE PRESENCE OF THE JURY. Discussion regarding exhibits. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. CONFERENCE AT BENCH. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 09, 2009

05C212667-4

The State of Nevada vs Deangelo R Carroll

February 09, 2009

9:00 AM

Jury Trial

TRIAL BY JURY
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Di Giacomo, Marc P.
Pesci, Giancarlo
Roger, David J.

Attorney
Attorney
Attorney

JOURNAL ENTRIES

- Christopher Adams, Esq. appearing pro hoc vice for Luis Hidalgo, III. Dominic Gentile, Esq. and Paola Armeni, Esq. appearing for Luis Hidalgo, Jr. in consolidated case C241394.
IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding scheduling of witnesses. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Mr. Espindola with anyone during the lunch break. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Discussion regarding jury questions. Mr. Adams made stated on the record the people that Ms. Espincola conspired with. Now, one of the juror questions shows that the information they were told to consider is on the note. He MOVED for a mistrial. COURT ORDERED, DENIED; the matter will be cured by a statement by the Court. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 10, 2009**

05C212667-4

The State of Nevada vs Deangelo R Carroll

February 10, 2009**9:30 AM****Jury Trial**

TRIAL BY JURY
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Di Giacomo, Marc P.
Pesci, Giancarlo

Attorney
Attorney

JOURNAL ENTRIES

- Christopher Adams, Esq. appearing pro hoc vice for Luis Hidalgo, III. Dominic Gentile, Esq. and Paola Armeni, Esq. appearing for Luis Hidalgo, Jr. in consolidated case C241394.

OUTSIDE THE PRESENCE OF THE JURY. Discussion regarding evidence. Discussion regarding article in the Review Journal. Following discussion by counsel, the Court stated it will ask jurors if anyone has seen anything about this case in the news media. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. State rested. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Opposition by counsel to being served with notice of witnesses this morning; he needs time to prepare for cross-examination. COURT ORDERED, said witness is to be excluded as there is another witness that may be called. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. CONFERENCE AT BENCH. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Juror number eleven excused as the trial is going longer than expected and he informed the Court and counsel at jury selection that he has to be out of town. Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 11, 2009

05C212667-4

The State of Nevada vs Deangelo R Carroll

February 11, 2009

9:30 AM

Jury Trial

TRIAL BY JURY
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Di Giacomo, Marc P.
Pesci, Giancarlo

Attorney
Attorney

JOURNAL ENTRIES

- Christopher Adams, Esq. appearing pro hoc vice for Luis Hidalgo, III. Dominic Gentile, Esq. and Paola Armeni, Esq. appearing for Luis Hidalgo, Jr. in consolidated case C241394.

OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding witness being called who was in the Clark County Detention Center at the same time as Ms. Espindola. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY.

Discussion regarding testimony of P.K. Handley. Mr. Gentile requested receipt of evidence given to the Court to find if there is exculpatory evidence. Following further discussion regarding this issue.

COURT ORDERED, Mr. Gigiacomo is to provide the defense with a copy of the information, and if not, the State will be precluded from recalling Mr. Handley. IN THE PRESENCE OF THE JURY.

Testimony and exhibits presented per worksheet. CONFERENCE AT BENCH. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Mr. Digiacomo read Mr. Handley's stated and advised there is no need to ask any other questions. Discussion regarding testimony of Ms. Perez. Mr. Digiacomo informed the Court that Mr. Gentile is requesting Mr. Oram's notes from interviewing Ms. Espindola. Mr. Oram advised he has no

problem showing the Court his work product in camera, but feels it would be inappropriate to have to testify. Mr. Gentile argued there is a joint defense argument with Ms. Espindola before she pled. The Court excused Mr. Handley with the caveat that he is to leave his cell phone on in case he has to be called back to Court. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. The Court advised Mr. Hidalgo, Jr. and Mr. Hidalgo, III of their constitutional rights to not be compelled to testify on their own behalf. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. CONFERENCE AT BENCH. Mr. Gentile RESTED. Mr. Arrascada RESTED. OUTSIDE THE PRESENCE OF THE JURY. Discussion regarding rebuttal testimony and what witnesses will be called and how they will be questioned. IN THE PRESENCE OF THE JURY. testimony and exhibits presented per worksheet. CONFERENCE AT BENCH. IN THE PRESENCE OF THE JURY Testimony and exhibits presented per worksheet. CONFERENCE AT BENCH. IN THE PRESENCE OF THE JURY. The State RESTED. OUTSIDE THE PRESENCE OF THE JURY. Counsel directed to provide jury instructions by disc to the Judicial Executive Assistant for modification. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding admission of Taoipu's affidavit in lieu of live testimony, as he has absconded. COURT STATED FINDINGS and ORDERED, that one exculpatory statement may not be used without discussing Hidalggo, III and his involvement. Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****February 12, 2009**

05C212667-4

The State of Nevada vs Deangelo R Carroll

February 12, 2009**9:30 AM****Jury Trial****TRIAL BY JURY****Court Clerk: Denise
Husted****Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie****HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**Di Giacomo, Marc P.
Pesci, GiancarloAttorney
Attorney**JOURNAL ENTRIES**

- Christopher Adams, Esq. appearing pro hoc vice for Luis Hidalgo, III. Dominic Gentile, Esq. and Paola Armeni, Esq. appearing for Luis Hidalgo, Jr. in consolidated case C241394.

OUTSIDE THE PRESENCE OF THE JURY. Jury instructions settled on the record. IN THE PRESENCE OF THE JURY. Jurors instructed on the law of the case. OUTSIDE THE PRESENCE OF THE JURY. Mr. Adams requested that any testimony regarding "bats and bags" be stricken from the testimony. He sited his reason as being issues regarding due process and trial rights. Mr. Digiacomo stated there is no legal basis for this request. IN THE PRESENCE OF THE JURY. Closing arguments by Mr. Pesci. Closing arguments by Mr. Gentile. Closing arguments by Mr. Adams. Closing arguments by Mr. Digiacomo.

At the hour of 6:45 PM, the jury retires to deliberate. Officer Wooten sworn to take charge of the jury. The Court released alternates in chairs seven and fifteen and asked them to provide Officer Wooten with their phone numbers in case the have to fill in for another juror. Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 13, 2009

05C212667-4

The State of Nevada vs Deangelo R Carroll

February 13, 2009

9:30 AM

Jury Trial

TRIAL BY JURY
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie

HEARD BY:

COURTROOM: No Location

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Deliberation by juror. Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****February 17, 2009**

05C212667-4

The State of Nevada vs Deangelo R Carroll

February 17, 2009**9:30 AM****Jury Trial****TRIAL BY JURY**
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair**HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**Di Giacomo, Marc P.
Pesci, GiancarloAttorney
Attorney**JOURNAL ENTRIES**

- IN THE PRESENCE OF THE JURY. At the hour of 3:05 PM the jury returned with the following verdict: Count 1 - GUILTY of CONSPIRACY TO COMMIT A BATTERY WITH A DEADLY WEAPON OR BATTERY RESULTING IN SUBSTANTIAL BODILY HARM (F); Count 2 - GUILTY of SECOND DEGREE MURDER WITH USE OF A DEADLY WEAPON (F); Count 3 - GUILTY of SOLICITATION TO COMMIT MURDER (F); Count 4 - GUILTY of SOLICITATION TO COMMIT MURDER

The Court thanked and excused the jurors from service. COURT ORDERED, matter referred to the Division of Parole and Probation for a presentence investigation report and SET for sentencing. CUSTODY

5/5/09 9:30 AM SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 24, 2009

05C212667-4

The State of Nevada vs Deangelo R Carroll

February 24, 2009

9:30 AM

**Motion for Own
Recognizance
Release/Setting Reasonable
Bail**

**DEFT'S MTN FIR
O.R. RELEASE FOR
HOUSE
ARREST/271 Relief
Clerk: Sharon Chun
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair**

HEARD BY:

COURTROOM: No Location

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Di Giacomo, Marc P.
Pesci, Giancarlo

Attorney
Attorney

JOURNAL ENTRIES

- Following arguments by counsel, COURT ORDERED, Deft Espindola RELEASED ON O.R. WITH HOUSE ARREST THROUGH CLARK COUNTY DETENTION CENTER, noting that the State can coordinate her next appearance.
O.R./H.A.

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****April 21, 2009**

05C212667-4

The State of Nevada vs Deangelo R Carroll

April 21, 2009**10:30 AM****Motion for Judgment****DEFT'S MTN FOR
JUDGMENT OF
ACQUITTAL/272
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie****HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**Di Giacomo, Marc P.
Pesci, GiancarloAttorney
Attorney**JOURNAL ENTRIES**

- Dominic Gentile and Paola Armeni appearing in consolidated case C241394.
Following arguments by counsel, COURT ORDERED, CONTINUED.
CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 01, 2009

05C212667-4

The State of Nevada vs Deangelo R Carroll

May 01, 2009

10:30 AM

Motion for Judgment

DEFT'S MTN FOR
JUDGMENT OF
ACQUITTAL/272
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair

HEARD BY:

COURTROOM: No Location

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Di Giacomo, Marc P.

Attorney

JOURNAL ENTRIES

- Dominic Gentile and Paola Armeni appearing in consolidated case C241394. The Court noted that the question is regarding DeAngelo Carroll's statement. Statement by Ms. Armeni regarding Carroll's statement and his use of the pronoun "you". Mr. Digiacomo argued that what the jury acted appropriately with what the Court instructed them to do. Mr. Gentile advised that a Crawford problem now exists as Carroll never took the stand in this trial. Additionally, the question is what is the magnitude of error of the jury not following their instructions. The Court stated its belief that there was no intentional misconduct. Mr. Gentile cited the Valdez case, which was decided last November by the Nevada Supreme Court; the Nevada statute is based on the advisory committees first draft of the code. Mr. Digiacomo argued that the law is on the State's side in this issue and the Court should not consider what happened in the jury room during deliberations. COURT FINDS, it is very clear that if anything is considered, there will be an Evidentiary Hearing or a ruling at a later date. COURT ORDERED, parties are to brief the issue; objections are due by 5/15/09 and the response is due by 5/22/09.

Mr. Gentile requested that the sentencing be continued as the presentence investigation report was sent to the wrong law firm. Additionally, once the report was received, he found several mistakes in the report. COURT ORDERED, it will reluctantly continue the sentencing, however counsel must file a motion with the Court identifying the alleged errors in the presentence investigation report.

CUSTODY

6/2/09 9:30 AM SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****May 07, 2009**

05C212667-4

The State of Nevada vs Deangelo R Carroll

May 07, 2009**9:30 AM****Bench Warrant Return****BENCH WARRANT
RETURN Court
Clerk: Denise Husted
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair****HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Di Giacomo, Marc P.

Attorney

JOURNAL ENTRIES

- The Court noted that the Defendant is currently being held in North Las Vegas and a Revocation hearing needs to be set. Matter trailed for Mr. Jackson's appearance.

Matter recalled with Mr. Jackson present. He stated he has a Federal trial coming up which may last several months, and doesn't think he will be able to continue representing the Defendant. The Court stated that since he has been with the Defendant throughout the case, he should continue representing him; the matter will be continued to accommodate Mr. Jackson's schedule. Mr.

Digiacoimo advised the Defendant has been charged with four separate home invasions and will be in custody pending preliminary hearings in those cases. COURT ORDERED, matter set for revocation hearing.

CUSTODY**6/16/09 9:30 AM REVOCATION OF PROBATION**

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 02, 2009

05C212667-4

The State of Nevada vs Deangelo R Carroll

June 02, 2009

9:30 AM

Status Check

STATUS CHECK:**SENTENCING****Relief Clerk: Shelly****Landwehr/sl****Reporter/Recorder:****Janie Olsen Heard****By: Valerie Adair****HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Di Giacomo, Marc P.

Attorney

Pesci, Giancarlo

Attorney

JOURNAL ENTRIES

- Following conference at the bench, Court advised it addressed the previous Motions in chambers and prepared a minute order. Regarding the corrected pre-sentence investigation report (PSI), COURT ORDERED, both counsel to prepare an Order directing P & P to make the necessary changes. Following conference at the bench, State advised they are willing to accept the changes Deft's attorneys are referring to and suggested the State prepare the Order and to include 6/16/09 as the due date for the PSI; COURT SO ORDERED and matter SET for sentencing.

CUSTODY

06/23/09 10:00 AM SENTENCING (HIDALGO)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 11, 2009

05C212667-4

The State of Nevada vs Deangelo R Carroll

June 11, 2009

9:30 AM

Calendar Call

CALENDAR CALL
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Bunin, Joseph D.	Attorney
Carroll, Deangelo R	Defendant
Di Giacomo, Marc P.	Attorney
Figler, Dayvid J.	Attorney
Pesci, Giancarlo	Attorney

JOURNAL ENTRIES

- The State announced ready for trial which should last one week for the guilt phase and one day for the penalty phase, if necessary. Mr. Figler requested a continuance to review the jury questionnaires. Additionally, he stated that the Court can address the aggravator or he can take it to the Supreme Court. Mr. Digiacomo argued that he cannot start any later that the trial is now set. The Court informed Mr. Figler that he was informed at the last continuance that he must be ready for trial at this setting. COURT ORDERED, Mr. Figler's oral motion to Stay and request to continue are DENIED; trial date STANDS and will begin at 9:30 AM.

CUSTODY

9/15/09 9:30 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 15, 2009**

05C212667-4

The State of Nevada vs Deangelo R Carroll

June 15, 2009**9:30 AM****Jury Trial**

TRIAL BY JURY
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Bunin, Joseph D.	Attorney
Carroll, Deangelo R	Defendant
Di Giacomo, Marc P.	Attorney
Figler, Dayvid J.	Attorney
Pesci, Giancarlo	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY. Oral motion by Mr. Figler to continue the trial as he is not adequately prepared to represent the Defendant in this death penalty case. He added that he requested that the case be tried as a non-death penalty case and that he has not had adequate time to fully review the jury questionnaires. The Court noted that the questionnaires were ready for Mr. Figler's review last week; because this is a death penalty case, the questionnaires were mandatory. Mr. Figler informed the Court that due to the death of his father, the fact that he was recently hospitalized and that he recently switched firms, he is not prepared to try this case. The Court stated that everyone knew that Carroll was wearing a wire long before Mr. Figler experienced personal problems; this was the issue from the inception of the case and it is inexcusable that Mr. Figler is not prepared. Mr. Bunin advised that he is not comfortable going forward at this time. Mr. DiGiacomo stated his belief that Mr. Figler is posturing to have the death penalty taken off of the table and have the information regarding

the wires excluded; in that case the jury questionnaires are not necessary. Mr. Bunin stated that he has not been able to speak to Mr. Figler during the last two months to determine what his trial preparation is. The Court noted that has been a long history of continuances by Mr. Figler and he was told that one more request for a continuance would result in his removal from the case.

CONFERENCE AT BENCH. Upon Court's inquiry the Defendant stated that in four years, he has spoken to Mr. Figler for one and on-half hours; he advised that he doesn't want Mr. Figler representing him any longer. COURT ORDERED, Dayvid Figler is REMOVED from the case; the matter is referred to Drew Christiansen to appoint a 250 qualified attorney. Mr. Figler stated he will turn over all of the paperwork and Discovery to Mr. Bunin. COURT ORDERED, CONTINUED for Confirmation of Counsel/Dan Albregts and to reset trial. The Judicial Executive Assistant to contact Mr. Albregts to appear.

CUSTODY

6/18/09 9:30 AM STATUS CHECK: CONFIRMATION OF COUNSEL/DAN ALBREGTS/RESET TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 16, 2009**

05C212667-4

The State of Nevada vs Deangelo R Carroll

June 16, 2009**9:30 AM****Revocation of Probation**

**REVOCATION OF
PROBATION Court
Clerk: Denise Husted
Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie**

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:** Pesci, Giancarlo

Attorney

JOURNAL ENTRIES

- Mr. Jackson stated the matter was not resolved. The Court noted that the Defendant has been indicted on new charges. Colloquy regarding the new case. Mr. Jackson requested that the Revocation be continued until after the conclusion of any other new cases. CONFERENCE AT BENCH. COURT ORDERED, matter CONTINUED for the presence of an officer from the Division of Parole and Probation.
CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 18, 2009**

05C212667-4

The State of Nevada vs Deangelo R Carroll

June 18, 2009**9:30 AM****Status Check**

**STATUS CHECK:
APPOINTMENT OF
DAN
ALBREGTS/RESET
TRIAL Court Clerk:
Denise Husted
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair**

HEARD BY:**COURTROOM:** No Location**COURT CLERK:** Denise Husted**RECORDER:** Janie Olsen**REPORTER:****PARTIES****PRESENT:**

Bunin, Joseph D.	Attorney
Carroll, Deangelo R	Defendant
Di Giacomo, Marc P.	Attorney
Ericsson, Thomas A.	Attorney
Pesci, Giancarlo	Attorney

JOURNAL ENTRIES

- Tom Ericson CONFIRMED as counsel replacing Dayvid Figler. Colloquy regarding scheduling date for new trial. COURT ORDERED, trial date SET.

CUSTODY

5/13/10 9:30 AM CALENDAR CALL

5/17/10 9:30 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 23, 2009

05C212667-4

The State of Nevada vs Deangelo R Carroll

June 23, 2009

10:00 AM

Sentencing

SENTENCING
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair

HEARD BY:

COURTROOM: No Location

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Di Giacomo, Marc P.
Pesci, Giancarlo

Attorney
Attorney

JOURNAL ENTRIES

- Discussion regarding juror misconduct and misuse of jury instructions. COURT FINDS, there was enough evidence that the conspiracy went beyond simple battery and the Court is not inclined to overturn the verdict. FURTHER, the Court stands by its decision to disallow the testimony of Jayson Taoipu.

Parties argued and submitted. Victim speakers Doris Gibbs, Allana Hadland and Jennifer Hadland SWORN AND TESTIFIED. DEFENDANT HIDALGO III ADJUDGED GUILTY of Count I - Conspiracy to Commit Battery with a Deadly Weapon or Battery (GM), Count II - Second Degree Murder with Use of a Deadly Weapon (F), and Counts III & IV - Solicitation to commit Murder (F). COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee and submission to DNA testing under the direction of the Division and payment of a \$150.00 Analysis fee to the Clerk of the Court, Defendant SENTENCED as follows: Count I - TWELVE (12) MONTHS in the Clark County Detention Center; Count II - MINIMUM of ONE-HUNDRED TWENTY (120) MONTHS in the Nevada Department of Corrections with a MAXIMUM term of LIFE, plus an EQUAL and CONSECUTIVE term of 120 Months to LIFE for the Deadly Weapons enhancement, Count II to RUN

CONCURRENTLY with Count I; Count III - MINIMUM of TWENTY FOUR (24) MONTHS in the Nevada Department of Corrections with a MAXIMUM term of SEVENTY-TWO (72) MONTHS, Count III to RUN CONCURRENTLY with Counts I & II; Count IV - MINIMUM of TWENTY FOUR (24) MONTHS in the Nevada Department of Corrections with a MAXIMUM term of SEVENTY TWO (72) MONTHS, Count IV to RUN CONCURRENTLY with Count I, II and III.
BOND, if any EXONERATED. Defendant to receive 1,492 DAYS CREDIT for time served.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 30, 2009**

05C212667-4

The State of Nevada vs Deangelo R Carroll

June 30, 2009**9:30 AM****Revocation of Probation**

**REVOCATION OF
PROBATION Court
Clerk: Denise Husted
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair**

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:** Weckerly, Pamela C.

Attorney

JOURNAL ENTRIES

- Tim Case of the Division of Parole and Probation present. Officer case SWORN AND TESTIFIED. Exhibits admitted per worksheets. Mr. Jackson questioned Officer Case. Jason Taoipu SWORN AND TESTIFIED. Arguments by Mr. Jackson in support of reinstatement. Ms. Weckerly stated the record is clear that the Defendant was not in compliance with probation. COURT ORDERED, PROBATION REVOKED; underlying sentence IMPOSED as follows: Count I - MINIMUM of FORTY-EIGHT (48) MONTHS in the Nevada Department of Corrections with a MAXIMUM term of ONE-HUNDRED TWENTY (120 MONTHS; Count II - MINIMUM of SIXTEEN (16) MONTHS with a MAXIMUM term of SIXTY (60) MONTHS, plus an EQUAL AND CONSECUTIVE term of 16/60 months for the deadly weapons enhancement; Count II to RUN CONCURRENTLY with Count I, with 870 DAYS CREDIT for time served.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 29, 2009

05C212667-4

The State of Nevada vs Deangelo R Carroll

December 29, 2009

9:30 AM

Motion

**DEFT'S PRO PER
MTN TO
WITHDRAW
CNSL/283 Court
Clerk: Denise Husted
Heard By: Valerie
Adair**

HEARD BY:

COURTROOM: No Location

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT:

Adams, Danae

Attorney

JOURNAL ENTRIES

- COURT ORDERED, motion GRANTED.
NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****January 21, 2010**

05C212667-4

The State of Nevada vs Deangelo R Carroll

January 21, 2010**9:30 AM****Motion****DEFT'S PRO PER
MTN FOR RELIEF
FROM
JUDGMENT/284
Court Clerk: Denise
Husted
Reporter/Recorder:
Patti Slattery Heard
By: Adair, Valerie****HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:** Smith, Phillip N.

Attorney

JOURNAL ENTRIES

- The Court noted there is no certificate of service. Mr. Smith stated that this is Mr. Digiacomo's case.
COURT ORDERED, CONTINUED.

NDC

CLERK'S NOTE: Mr. Digiacomo notified via e-mail of the continuance date.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 09, 2010**

05C212667-4

The State of Nevada vs Deangelo R Carroll

February 09, 2010**9:30 AM****Motion**

**DEFT'S PRO PER
MTN FOR
PRODCUTION OF
DOCUMENTS
PAPERS
PLEADINGS AND
TNGBL/285 Court
Clerk: Denise Husted
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair**

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- COURT ORDERED, motion GRANTED; Ms. Wildeveld to provide the Defendant with requested papers, etc.
NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****February 11, 2010**

05C212667-4

The State of Nevada vs Deangelo R Carroll

February 11, 2010**9:30 AM****Motion****DEFT'S PRO PER
MTN FOR RELIEF
FROM
JUDGMENT/284
Court Clerk: Melissa
Benson
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair****HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:** Keeler, Brett O.

Attorney

JOURNAL ENTRIES

- Court stated it is not entertaining any argument as their are no parties present and ORDERED,
based upon review of the breifs motion DENIED.

NDC

CLERK'S NOTE: A copy of this minute order was mailed to the Deft. Kenneth Counts #1017559 PO
Box 650 H.D.S.P., Indian Springs, NV 89070. mb 2/11/10

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****March 30, 2010**

05C212667-4

The State of Nevada vs Deangelo R Carroll

March 30, 2010**9:30 AM****Motion to Dismiss****DEFT'S PRO PER
MTN TO DISMISS
COUNSEL/286
Relief Clerk: Shelly
Landwehr
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair****HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**Bunin, Joseph D.
Carroll, Deangelo R
Pesci, GiancarloAttorney
Defendant
Attorney**JOURNAL ENTRIES**

- Mr. Bunin advised Deft. wished to withdraw his motion. Upon Court's inquiry, Deft. concurred.
COURT ORDERED, motion WITHDRAWN. Trial date STANDS.
CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 11, 2010**

05C212667-4

The State of Nevada vs Deangelo R Carroll

May 11, 2010**9:30 AM****All Pending Motions**

**ALL PENDING
MOTIONS 5/11/10
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair**

HEARD BY:**COURTROOM:** No Location**COURT CLERK:** Denise Husted**RECORDER:** Janie Olsen**REPORTER:****PARTIES****PRESENT:**

Bunin, Joseph D.	Attorney
Carroll, Deangelo R	Defendant
Di Giacomo, Marc P.	Attorney
Ericsson, Thomas A.	Attorney
Pesci, Giancarlo	Attorney

JOURNAL ENTRIES

- STATE'S MOTION FOR DISCOVERY RE: EXPERT TESTIMONY AND MOTION IN LIMINE RE:
EXPERT TESTIMONY

Mr. Erickson argued opposition to State's Motion for Discovery; under the rules, doctors have to turn over their reports to other doctors and not lay personnel. COURT ORDERED, reports can be released to a licensed physician. Mr. Erickson informed the Court he will provide to the State by 5/12/10. Mr. Pesci advised that a report is not ready as yet, only data is available. COURT ORDERED, report has to be completed within forty-eight hours. As to Defendant's Motion to Suppress, the Court informed parties that a ruling will be made following an in-camera review of briefs, transcript and the DVD.

CUSTODY

CLERK'S NOTE: After reviewing the transcript, DVD and Defendant's interview, COURT FINDS no

need for an Evidentiary Hearing on the Defendant's Motion to Suppress. Based upon the briefs, transcript and DVD, COURT ORDERED, Defendant's Motion to Suppress is DENIED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 13, 2010**

05C212667-4

The State of Nevada vs Deangelo R Carroll

May 13, 2010**9:30 AM****Calendar Call**

CALENDAR CALL
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair

HEARD BY:**COURTROOM:** No Location**COURT CLERK:** Denise Husted**RECORDER:** Janie Olsen**REPORTER:****PARTIES**

PRESENT:	Bunin, Joseph D.	Attorney
	Carroll, Deangelo R	Defendant
	Di Giacomo, Marc P.	Attorney
	Ericsson, Thomas A.	Attorney
	Pesci, Giancarlo	Attorney

JOURNAL ENTRIES

- CONFERENCE AT BENCH. Counsel announced ready for trial with 10-12 witnesses and five days for the guilt phase. COURT ORDERED, trial date STANDS.
 5/17/10 9:00 AM JURY TRIAL (CARROLL)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 17, 2010**

05C212667-4

The State of Nevada vs Deangelo R Carroll

May 17, 2010**9:30 AM****Jury Trial**

TRIAL BY JURY
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie

HEARD BY:**COURTROOM:** No Location**COURT CLERK:** Denise Husted**RECORDER:** Janie Olsen**REPORTER:****PARTIES**

PRESENT:	Bunin, Joseph D.	Attorney
	Carroll, Deangelo R	Defendant
	Di Giacomo, Marc P.	Attorney
	Ericsson, Thomas A.	Attorney
	Pesci, Giancarlo	Attorney
	Roger, David J.	Attorney

JOURNAL ENTRIES

- IN THE PRESENCE OF THE JURY. Introductions by Court and counsel. Roll of jurors called by the Clerk. Jury selection proceeded. OUTSIDE THE PRESENCE OF THE JURY. Discussion regarding for cause challenges. Juror #126 excused due to a medical situation. IN THE PRESENCE OF THE JURY. Jury selection continued. Second half of jury panel present in Court. Introductions by counsel. Roll of second panel called by the Clerk. OUTSIDE THE PRESENCE OF THE JURY. Discussion regarding timeline of opening statements. Juror #320 questions regarding his jury questionnaire. After the juror left the Courtroom, the Court informed counsel that it cannot dismiss that juror for cause. Mr. Ericsson stated his opinion regarding juror #320 is that the juror should be stricken for cause. Opposition by Mr. Digiacomo. The Court informed counsel that it has to presume jurors are being truthful; #320 will be able to sit as a juror based on his answers. IN THE PRESENCE OF THE JURY.

Jury selection process continued. Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 18, 2010**

05C212667-4

The State of Nevada vs Deangelo R Carroll

May 18, 2010**10:30 AM****Jury Trial**

TRIAL BY JURY
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie

HEARD BY:**COURTROOM:** No Location**COURT CLERK:** Denise Husted**RECORDER:** Janie Olsen**REPORTER:****PARTIES****PRESENT:**

Bunin, Joseph D.

Attorney

Carroll, Deangelo R

Defendant

Di Giacomo, Marc P.

Attorney

Ericsson, Thomas A.

Attorney

Pesci, Giancarlo

Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding jury selection. IN THE PRESENCE OF THE JURY. Roll of jurors called by the Clerk. Jury selection process continued. Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 19, 2010**

05C212667-4

The State of Nevada vs Deangelo R Carroll

May 19, 2010**10:30 AM****Jury Trial**

TRIAL BY JURY
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie

HEARD BY:**COURTROOM:** No Location**COURT CLERK:** Denise Husted**RECORDER:** Janie Olsen**REPORTER:****PARTIES**

PRESENT:	Bunin, Joseph D.	Attorney
	Carroll, Deangelo R	Defendant
	Di Giacomo, Marc P.	Attorney
	Ericsson, Thomas A.	Attorney
	Pesci, Giancarlo	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY. Mr. Digiacomo informed the Court that the State decided they are not calling Ms. Espindola and that any conversations the State has had with counsel are not relevant in this case. The Court agreed. IN THE PRESENCE OF THE JURY. Jurors Sworn. Information read by the Clerk. Introductory comments by the Court. Opening statements by Ms. Digiacomo. Opening statement by Mr. Ericsson. OUTSIDE THE PRESENCE OF THE JURY. Mr. Ericsson objected to the State playing segments of interviews with the police and the Defendant. Mr. Digiacomo stated there is no legal basis for Mr. Ericsson's objections. COURT FINDS, it the same as the State highlighting portions of a transcript; the COURT DOES NOT FIND playing segments objectionable. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. The Court admonished counsel to not make speaking objections. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet.

Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 20, 2010**

05C212667-4

The State of Nevada vs Deangelo R Carroll

May 20, 2010**9:00 AM****Jury Trial**

TRIAL BY JURY
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie

HEARD BY:**COURTROOM:** No Location**COURT CLERK:** Denise Husted**RECORDER:** Janie Olsen**REPORTER:****PARTIES**

PRESENT:	Bunin, Joseph D.	Attorney
	Carroll, Deangelo R	Defendant
	Di Giacomo, Marc P.	Attorney
	Ericsson, Thomas A.	Attorney
	Pesci, Giancarlo	Attorney

JOURNAL ENTRIES

- IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet.
 CONFERENCE AT BENCH. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding cross
 examination of Rontae Zone. The Court informed Mr. Digiacomo that he may ask Mr. Zone whether
 of not he used the works kill or murder during his interview. IN THE PRESENCE OF THE JURY.
 Testimony and Exhibits presented per worksheet. CONFERENCE AT BENCH. IN THE PRESENCE
 OF THE JURY. Testimony and exhibits presented per worksheet. Evening recess. MATTER
 CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 21, 2010**

05C212667-4

The State of Nevada vs Deangelo R Carroll

May 21, 2010**10:00 AM****Jury Trial**

TRIAL BY JURY
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie

HEARD BY:**COURTROOM:** No Location**COURT CLERK:** Denise Husted**RECORDER:** Janie Olsen**REPORTER:****PARTIES****PRESENT:**

Bunin, Joseph D.	Attorney
Carroll, Deangelo R	Defendant
DiGiacomo, Sandra	Attorney
Ericsson, Thomas A.	Attorney
Pesci, Giancarlo	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding Anabella Espindola's transcript. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. The Court admonished the Defendant regarding his first Amendment right to not be compelled to testify on his own behalf. The Defendant stated he understands his rights. The State RESTED. CONFERENCE AT BENCH. The State reopened their case. Testimony per worksheet. The State RESTED. Defense RESTED. Mr. Ericsson moved for a mistrial as Mr. Digiacomo reopened his case to ask the detective where the crime took place. COURT ORDERED, DENIED as the incident took place in Clark county. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding jury instructions. Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****May 24, 2010**

05C212667-4

The State of Nevada vs Deangelo R Carroll

May 24, 2010**9:30 AM****Jury Trial****TRIAL BY JURY**
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie**HEARD BY:****COURTROOM:** No Location**COURT CLERK:** Denise Husted**RECORDER:** Janie Olsen**REPORTER:****PARTIES**

PRESENT:	Bunin, Joseph D.	Attorney
	Carroll, Deangelo R	Defendant
	DiGiacomo, Sandra	Attorney
	Ericsson, Thomas A.	Attorney
	Pesci, Giancarlo	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY. Jury instructions settled on the record. IN THE PRESENCE OF THE JURY. The Court instructed jurors on the law of the case. Closing arguments by Mr. Pesci. Closing arguments by Mr. Bunin. Rebuttal arguments by Mr. Digiacomo. Officer Wooten SWORN to take charge of the jury.

At the hour of 2:05 PM the jury retired to deliberate. Alternate jurors in seats thirteen, fourteen and fifteen released.

Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 25, 2010**

05C212667-4

The State of Nevada vs Deangelo R Carroll

May 25, 2010**9:30 AM****Jury Trial**

TRIAL BY JURY
Court Clerk: Denise
Husted
Reporter/Recorder:
Janie Olsen Heard
By: David Wall

HEARD BY:**COURTROOM:** No Location**COURT CLERK:** Carol Foley**RECORDER:****REPORTER:** Julie Lever**PARTIES**

PRESENT:	Bunin, Joseph D.	Attorney
	Carroll, Deangelo R	Defendant
	Ericsson, Thomas A.	Attorney
	Pesci, Giancarlo	Attorney

JOURNAL ENTRIES

- IN THE PRESENCE OF THE JURY. At the hour of 2:05 PM, the jury returned with the following verdict:

COUNT I - CONSPIRACY TO COMMIT MURDER - GUILTY COUNT II - FIRST DEGREE MURDER WITH USE OF A DEADLY WEAPON - GUILTY.

Penalty hearing SET. The Court thanked the jurors and advised them to return on 6/2/10 for the penalty hearing. COURT ORDERED, Defendant HELD WITHOUT BAIL.

CUSTODY

6/2/10 11:00 AM PENALTY HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 02, 2010

05C212667-4

The State of Nevada vs Deangelo R Carroll

June 02, 2010

11:00 AM

Motion

**PENALTY
HEARING Court
Clerk: Denise Husted
Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie**

HEARD BY:

COURTROOM: No Location

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Bunin, Joseph D.	Attorney
Carroll, Deangelo R	Defendant
Di Giacomo, Marc P.	Attorney
Ericsson, Thomas A.	Attorney
Pesci, Giancarlo	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY. Mr. Bunin opposed Judge Loehrer hearing the penalty phase as Judge Adair has been involved with this case from the beginning and has heard two previous trials in this case. Judge Loehrer stated that the Defendant has already been convicted of first degree murder; Judge Adair is unavailable today and there are no rules precluding another Judge from hearing the Penalty Phase. Jury instructions settled on the record. IN THE PRESENCE OF THE JURY. Introductions by the Court. Opening statement by Mr. Digiacomo. Opening statements by Mr. Ericsson. Testimony and exhibits presented per worksheet. State RESTED. Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****June 03, 2010**

05C212667-4

The State of Nevada vs Deangelo R Carroll

June 03, 2010**9:30 AM****Petition for Writ of Habeas
Corpus****PTN FOR WRIT OF
HABEAS CORPUS
Relief Clerk: Susan
Jovanovich /sj
Reporter/Recorder:
Janie Olsen Heard
By: Doug Smith****HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Jorgenson, Eric G.

Attorney

JOURNAL ENTRIES

- At request of State, COURT ORDERED, matter CONTINUED for 30 days, for Deft's presence. State to prepare an order for transport.

NDC

MATTER CONTINUED TO: 7-01-10 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 03, 2010**

05C212667-4

The State of Nevada vs Deangelo R Carroll

June 03, 2010**9:30 AM****Motion**

**PENALTY
HEARING Court
Clerk: Denise Husted
Reporter/Recorder:
Janie Olsen Heard
By: Adair, Valerie**

HEARD BY:**COURTROOM:** No Location**COURT CLERK:** Denise Husted**RECORDER:** Janie Olsen**REPORTER:****PARTIES****PRESENT:**

Bunin, Joseph D.

Attorney

Carroll, Deangelo R

Defendant

Ericsson, Thomas A.

Attorney

Pesci, Giancarlo

Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding death penalty being sought in this case with other defendants. COURT ORDERED, based on Judge Loehrer's ruling, the jury will be instructed that the State sought the death penalty against Kenneth Counts; it was also sought against defendants' Hidalgo, Jr. and Hidalgo, III, but was withdrawn based on tactical issues. Additionally the jurors will be told that plea negotiations were entered by defendants' Taiopu and Espindola. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding scheduling. Defendant admonished that he has the right to take the stand and make an unsworn statement in front of the jury. The Court further advised him of what discussion was proper and what was not proper. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. UNSWORN statement by Deangelo Carroll. Defense RESTED.

The Court instructed jurors on the law of the case. Closing arguments by Mr. Pesci. Closing

arguments by Mr. Ericsson. Closing arguments by Mr. Bunin. CONFERENCE AT BENCH. Closing arguments by Mr. Bunin continued. Rebuttal arguments by Mr. Pesci. At the hour of 5:20 PM, the jury retired to deliberate. Marshall SWORN to take charge of the jury. Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 04, 2010**

05C212667-4

The State of Nevada vs Deangelo R Carroll

June 04, 2010**9:30 AM****Motion**

**PENALTY
HEARING Court
Clerk: Denise Husted
Reporter/Recorder:
Janie Olsen Heard
By: Doug Smith**

HEARD BY:**COURTROOM:** No Location**COURT CLERK:** Katherine Streuber**RECORDER:** Jill Jacoby**REPORTER:****PARTIES**

PRESENT:	Bunin, Joseph D.	Attorney
	Carroll, Deangelo R	Defendant
	Ericsson, Thomas A.	Attorney
	Pesci, Giancarlo	Attorney

JOURNAL ENTRIES**- IN THE PRESENCE OF THE JURY:**

At the hour of 2:10 PM the jury returned with the following verdict:

Count 2 - MURDER OF THE FIRST DEGREE - Life in the Nevada State Prison with the Possibility of Parole, beginning when a Minimum of 40 Years has been Served;

SPECIAL VERDICT:

Deangelo did not come up with the idea to kill Timothy Hadland.

Deangelo was not the shooter.

Deangelo's cooperation led to charges being filed against other defendants.

Deangelo has a low IQ.

Deangelo suffers from dependent personality disorder.

Deangelo can still be a significant part of his grandmother's life.

Deangelo can still be a significant part of his son's life.

The killing did not involve torture or mutilation of the victim.

The killing was not a case of multiple homicides.

Other persons involved in the offense received punishments significantly lower than the punishments Deangelo is facing.

SPECIAL VERDICT:

Defendant Deangelo Reshawn Carroll having been found Guilty of Count 2 - Murder of the First Degree - The murder was committed by a person, for himself or another, to receive money or any other thing of monetary value.

The Court thanked and excused jurors from service. COURT ORDERED, matter referred to the Division of Parole and Probation for a presentence investigation report and SET for sentencing.

CUSTODY

8/12/10 9:30 AM SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 01, 2010

05C212667-4

The State of Nevada vs Deangelo R Carroll

July 01, 2010

9:30 AM

Petition for Writ of Habeas
Corpus

PTN FOR WRIT OF
HABEAS CORPUS
(CONTINUEDFROM
6/03/10) Court Clerk:
Damedia Scott
Reporter/Recorder:
Janie Olsen Heard
By: Valerie Adair

HEARD BY:

COURTROOM: No Location

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:** Pesci, Giancarlo

Attorney

JOURNAL ENTRIES

- Colloquy regarding appeal filed by Defendant Pro Se; confirmed all remaining issues to be heard in Dept. 21 with nothing, including appeal, pending before Nevada Supreme Court. Mr. Schwartz requested continuance and, there being no opposition, COURT ORDERED, matter CONTINUED and Reply due 7/15/10.

NDC

8/19/10 9:30 AM DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 12, 2010**

05C212667-4

The State of Nevada vs Deangelo R Carroll

August 12, 2010**9:30 AM****Sentencing****HEARD BY:** Adair, Valerie**COURTROOM:** RJC Courtroom 11C**COURT CLERK:** Denise Husted**RECORDER:** Janie Olsen**REPORTER:****PARTIES****PRESENT:**

Bunin, Daniel M.

Attorney

Carroll, Deangelo R

Defendant

Ericsson, Thomas A.

Attorney

Samples, Peg

Attorney

State of Nevada

Plaintiff

JOURNAL ENTRIES

- Parties argued and submitted. Defendant CARROLL ADJUDGED GUILTY of COUNT 1 - CONSPIRACY TO COMMIT MURDER (F). and COUNT 2 - MURDER WITH USE OF A DEADLY WEAPON (F). COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee and submission to DNA testing and payment of a \$150.00 fee to the District Court Clerk, Defendant SENTENCED as follows:

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

Count 2 - LIFE with the POSSIBILITY OF PAROLE after serving a MINIMUM of TWENTY (20) YEARS plus an EQUAL AND CONSECUTIVE term of LIFE with the POSSIBILITY OF PAROLE after serving TWENTY (20) YEARS, Count 2 to RUN CONSECUTIVELY to Count 1, with 1,904 DAYS CREDIT for time served. BOND, if any EXONERATED.

CLERK'S NOTE: The above minute order MODIFIED to reflect that the Defendant sentenced to 36/120 on Count 1. dh 3/15/11

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 16, 2010

05C212667-4

The State of Nevada vs Deangelo R Carroll

December 16, 2010 9:30 AM Request

HEARD BY: Smith, Douglas E.

COURTROOM: RJC Courtroom 11C

COURT CLERK: Denise Husted

RECORDER: Janie Olsen

REPORTER:

PARTIES

PRESENT:

Bunin, Daniel M.
Graham, Nickolas
State of Nevada

Attorney
Attorney
Plaintiff

JOURNAL ENTRIES

- Mr. Bunin moved to be removed as counsel. COURT SO ORDERED. Pat McDonald informed parties that he is taking the appointment as counsel. He requested a status check in sixty days. COURT SO ORDERED.

CUSTODY

2/17/11 9:30 AM STATUS CHECK

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 17, 2011

05C212667-4

The State of Nevada vs Deangelo R Carroll

February 17, 2011

9:30 AM

Status Check

HEARD BY: Adair, Valerie

COURTROOM: RJC Courtroom 11C

COURT CLERK: Denise Husted

RECORDER: Janie Olsen

REPORTER:

PARTIES

PRESENT:

McDonald, Patrick E.

Attorney

Pesci, Giancarlo

Attorney

State of Nevada

Plaintiff

JOURNAL ENTRIES

- Mr. McDonald stated that despite three requests, he has received only one-third of the file from Mr. Bunin; he will send another request for receipt of the records. COURT ORDERED, CONTINUED

CUSTODY

3/8/11 9:30 AM STATUS CHECK

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****March 08, 2011**

05C212667-4

The State of Nevada vs Deangelo R Carroll

March 08, 2011**9:30 AM****Status Check****HEARD BY:** Adair, Valerie**COURTROOM:** RJC Courtroom 11C**COURT CLERK:** Denise Husted**RECORDER:** Janie Olsen**REPORTER:****PARTIES****PRESENT:**

Fleck, Michelle

Attorney

McDonald, Patrick E.

Attorney

State of Nevada

Plaintiff

JOURNAL ENTRIES

- Mr. McDonald stated he received the file from, but has not reviewed it as yet. Upon Court's inquiry, he requested that a briefing schedule be set. COURT ORDERED, briefing schedule set as follows:

Opening brief due by 6/7/11;

Opposition due by 8/9/11;

Reply due by 9/9/00,

and matter SET for hearing.

CUSTODY

9/13/11 9:30 AM HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****March 15, 2011**

05C212667-4

The State of Nevada vs Deangelo R Carroll

March 15, 2011**9:30 AM****Motion to Amend
Judgment****HEARD BY:** Adair, Valerie**COURTROOM:** RJC Courtroom 11C**COURT CLERK:** Denise Husted**RECORDER:** Janie Olsen**REPORTER:****PARTIES****PRESENT:** McDonald, Patrick E.

Attorney

JOURNAL ENTRIES

- Ms. Wong appearing for the State. Mr. McDonald stated Count 1 of the Judgment of Conviction needs to be amended. COURT ORDERED, Count 1 MODIFIED to reflect a sentence of a MINIMUM of THIRTY-SIX (36) MONTHS in the Nevada Department of Corrections with a MAXIMUM term of ONE-HUNDRED TWENTY (120) MONTHS.

NDC

CLERK'S NOTE: Sentencing minutes of 8/12/10 modified to reflect the above change. dh 3/15/11.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 30, 2011**

05C212667-4

The State of Nevada vs Deangelo R Carroll

August 30, 2011**9:30 AM****Motion****HEARD BY:** Adair, Valerie**COURTROOM:** RJC Courtroom 11C**COURT CLERK:** Susie Schofield**RECORDER:** Janie Olsen**REPORTER:****PARTIES****PRESENT:**

Leavitt, Tara M.

Attorney

McDonald, Patrick E.

Attorney

State of Nevada

Plaintiff

JOURNAL ENTRIES

- Defendant not present, in custody in the Nevada Department of Corrections. Mr. McDonald requested an extension to file opening brief; State reserves the right to raise the issue pertaining to the delays caused by the defense. Following CONFERENCE AT THE BENCH, Court directed Mr. McDonald to contact counsel to locate the transcripts, and SET matter for Status Check in two weeks.

CUSTODY

9/13/11 9:30 AM - STATUS CHECK

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 13, 2011

05C212667-4

The State of Nevada vs Deangelo R Carroll

September 13, 2011 9:30 AM Motion

HEARD BY: Adair, Valerie

COURTROOM: RJC Courtroom 11C

COURT CLERK: Denise Husted

RECORDER: Janie Olsen

REPORTER:

PARTIES

PRESENT:	Di Giacomo, Marc P.	Attorney
	Leavitt, Tara M.	Attorney
	McDonald, Patrick E.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. McDonald advised that Mr. Bunin only supplied him with a partial amount of the records so far and requested an extension in order to obtain and review all of the records. Colloquy regarding confusion between Bunin and Erickson in thinking the other had provided all of the records. COURT ORDERED, motion GRANTED.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 01, 2011

05C212667-4

The State of Nevada vs Deangelo R Carroll

November 01, 2011 9:30 AM Status Check

HEARD BY: Adair, Valerie

COURTROOM: RJC Courtroom 11C

COURT CLERK: Denise Husted

RECORDER: Janie Olsen

REPORTER:

PARTIES

PRESENT:	McDonald, Patrick E.	Attorney
	State of Nevada	Plaintiff
	Wong, Hetty O.	Attorney

JOURNAL ENTRIES

- Pursuant to request by Mr. McDonald, COURT ORDERED, the following brief schedule is set:

Opening due by 1/3/12

Response due by 3/6/12

Reply due by 4/10/12 and matter SET for hearing. FURTHER, the State of prepare the Order for Transport for Defendant's presence for the hearing.

CUSTODY

4/24/12 9:30 AM HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 24, 2012

05C212667-4

The State of Nevada vs Deangelo R Carroll

April 24, 2012

9:30 AM

Hearing

HEARD BY: Adair, Valerie

COURTROOM: RJC Courtroom 11C

COURT CLERK: Denise Husted

RECORDER: Janie Olsen

REPORTER:

PARTIES

PRESENT:

Kozal, Marcus K.
Pesci, Giancarlo
State of Nevada

Attorney
Attorney
Plaintiff

JOURNAL ENTRIES

- Mr. Kozel requested a continuance as Mr. Giordani is out of the jurisdiction.

NDC

CONTINUED TO: 5/10/12 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 10, 2012**

05C212667-4

The State of Nevada vs Deangelo R Carroll

May 10, 2012**9:30 AM****Hearing****HEARD BY:** Adair, Valerie**COURTROOM:** RJC Courtroom 11C**COURT CLERK:** Jill Chambers**RECORDER:** Janie Olsen**REPORTER:****PARTIES****PRESENT:**Carroll, Deangelo R
McDonald, Patrick E.Defendant
Attorney**JOURNAL ENTRIES**

- Bob Sweetin present on behalf of the State. Court reviewed the history of the case. COURT set Evidentiary Hearing for the matter.

NDC

6/4/12 9:30 AM EVIDENTIARY HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 04, 2012**

05C212667-4

The State of Nevada vs Deangelo R Carroll

June 04, 2012**9:30 AM****Evidentiary Hearing****HEARD BY:** Adair, Valerie**COURTROOM:** RJC Courtroom 11C**COURT CLERK:** Roshonda Mayfield**RECORDER:** Patti Slattery**REPORTER:****PARTIES****PRESENT:**

Carroll, Deangelo R

Defendant

McDonald, Patrick E.

Attorney

JOURNAL ENTRIES

- Court noted the presence of the parties and the defendant regarding this matter. Testimony presented (See worksheets). Colloquy between the Court and the current witness on the stand regarding any potential appellate issues being discussed with the defendant prior to or during trial. Upon inquiry by the court Attorney McDonald states there will be no further testimony presented based upon the witness testimony that has already been conducted. Court advised, it is clear from the testimony presented of there being a failure to file an appeal on the defendant's behalf by counsel. Further, it is also clear that the Defendant's right for appeal was denied and therefore should be granted at this level. Attorney Simon inquired if the Court was familiar with the new 4 (c) appellate procedure under Nevada rules. Therefore, COURT ORDERED, the Defendant will be given relief at this level regarding an appeal. Attorney McDonald is to prepare the order and submit it to the Court. The court clerk's office is to file an appeal on behalf of the Defendant . Colloquy between the court and counsel regarding Attorney McDonald remaining the Defendant's counsel at the appellate level. COURT FURTHER ORDERED, the Court will contact Attorney Christiansen's office to notify him of Attorney McDonald's desire to remain counsel at the appellate level verses there being new counsel appointed by the Court. Upon inquiry by the Court Attorney McDonald confirmed that he is 250 qualified. This matter will be set for a 2 week status check with the Defendant's presence being waived for the next court date listed. The State is to prepare an order to transport in the event of the Defendant's presence being required for any future court dates following the status check.

05C212667-4

NDC

6/19/12 9:30 A.M. STATUS CHECK: APPELLATE COUNSEL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 19, 2012

05C212667-4

The State of Nevada vs Deangelo R Carroll

June 19, 2012

9:30 AM

Status Check

HEARD BY: Adair, Valerie

COURTROOM: RJC Courtroom 11C

COURT CLERK: Phyllis Irby

RECORDER: Debbie Winn

REPORTER:

PARTIES

PRESENT:

McDonald, Patrick E.

Attorney

State of Nevada

Plaintiff

Villani, Jacob J.

Attorney

JOURNAL ENTRIES

- DEFT NOT PRESENT. Mr. McDonald informed the Court he is CONFIRMING APPOINTMENT OF COUNSEL. COURT SO ORDERED.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 26, 2013**

05C212667-4

The State of Nevada vs Deangelo R Carroll

March 26, 2013**9:30 AM****Motion to Withdraw as
Counsel****HEARD BY:** Adair, Valerie**COURTROOM:** RJC Courtroom 11C**COURT CLERK:** Tia Everett**RECORDER:** Janie Olsen**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Tim Fattig, Deputy District Attorney, present on behalf of the State. Defendant not present in custody with the Nevada Department of Corrections, and represented by Kent Kozal Esq. on behalf of McDonald Adras LLC.

Following a conference at the bench, COURT ORDERED, Motion GRANTED; counsel shall be appointed through Drew Christensen's office; and matter SET for Confirmation of Counsel. FURTHER ORDERED, the firm shall be responsible for provided the file to new counsel.

NDC

4/11/2013 9:30 AM CONFIRMATION OF COUNSEL

CLERK'S NOTE: Drew Christensen notified via email regarding appointment. te

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 11, 2013

05C212667-4

The State of Nevada vs Deangelo R Carroll

April 11, 2013

9:30 AM

Confirmation of Counsel

HEARD BY: Adair, Valerie

COURTROOM: RJC Courtroom 11C

COURT CLERK: Denise Husted
Katrina Hernandez

RECORDER: Janie Olsen

REPORTER:

PARTIES

PRESENT:	PORTZ, KENNETH	Attorney
	State of Nevada	Plaintiff
	Valencia, Mario D	Attorney

JOURNAL ENTRIES

- Mario Valencia confirmed as Counsel. Upon inquiry of the Court, a status check is not necessary at this time.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 20, 2013

05C212667-4

The State of Nevada vs Deangelo R Carroll

August 20, 2013

9:30 AM

Further Proceedings

HEARD BY: Adair, Valerie

COURTROOM: RJC Courtroom 11C

COURT CLERK: Denise Husted

RECORDER: Janie Olsen

REPORTER:

PARTIES

PRESENT:

Pesci, Giancarlo
State of Nevada
Valencia, Mario D

Attorney
Plaintiff
Attorney

JOURNAL ENTRIES

- Mr. Valencia stated that Mr. McDonald previously represented the defendant. COURT ORDERED, matter SET for an Evidentiary Hearing; order of transport to be completed by the State and Mr. McDonald to be present to explain if he filed an appeal in a timely manner.

NDC

9/16/13 9:30 AM EVIDENTIARY HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****September 17, 2013**

05C212667-4

The State of Nevada vs Deangelo R Carroll

September 17, 2013 9:30 AM Status Check**HEARD BY:** Adair, Valerie**COURTROOM:** RJC Courtroom 11C**COURT CLERK:** Keri Cromer**RECORDER:** Janie Olsen**REPORTER:****PARTIES****PRESENT:**Pesci, Giancarlo
State of Nevada
Valencia, Mario DAttorney
Plaintiff
Attorney**JOURNAL ENTRIES**

- Mr. Valencia stated the witness for this case will be available within 30 days and requested that the Evidentiary Hearing be reset. Conference at the bench. Mr. Pesci stated he would prepare an Order for Transport. COURT advised it would move forward even if the witness was not available and ORDERED, Evidentiary Hearing RESET.

NDC

10/21/13 9:30 AM EVIDENTIARY HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****October 21, 2013**

05C212667-4

The State of Nevada vs Deangelo R Carroll

October 21, 2013**9:30 AM****Evidentiary Hearing****HEARD BY:** Adair, Valerie**COURTROOM:** RJC Courtroom 11C**COURT CLERK:** Billie Jo Craig**RECORDER:** Janie Olsen**REPORTER:****PARTIES****PRESENT:**

Carroll, Deangelo R

Defendant

Pesci, Giancarlo

Attorney

State of Nevada

Plaintiff

Valencia, Mario D

Attorney

JOURNAL ENTRIES

- Court noted issues from the Remand from the Supreme Court. Mr. Valencia argued if defendant testifies today that it be limited and stated the limitations. Arguments by counsel. Defendant sworn and testified. Court stated its findings, and ORDERED, it was reasonable for defendant to assume an appeal would be forthcoming and he requested an appeal. Defendant wanted an appeal and believed his attorneys would pursuant an appeal for him. Defendant took steps to contact Mr. McDonald. Mr. McDonald tried to get the file. Defendant did establish a good cause and the Petition was filed within a reasonable time. Counsel to submit findings from today.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

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

05C212667-4

The State of Nevada vs Deangelo R Carroll

March 21, 2017**9:30 AM****Motion to Withdraw as
Counsel****HEARD BY:** Adair, Valerie**COURTROOM:** RJC Courtroom 11C**COURT CLERK:** Jill Chambers**RECORDER:** Susan Schofield**REPORTER:****PARTIES****PRESENT:**Pandukht, Taleen R
State of NevadaAttorney
Plaintiff**JOURNAL ENTRIES**

- Court GRANTED the motion and noted that the Deft's attorney notified chambers that there were 15 banker's boxes that contained the Deft's file. Court stated that if Mr. Valencia has issues with getting the file to the Deft., he needs to place the matter back on calendar to inform the Court of the issues.

NDC

CLERK'S NOTE: The above minute order has been distributed to Mr. Valencia via email. jmc 4/1/17

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 17, 2017

05C212667-4

The State of Nevada vs Deangelo R Carroll

August 17, 2017

9:30 AM

All Pending Motions

HEARD BY: Adair, Valerie

COURTROOM: RJC Courtroom 11C

COURT CLERK: Denise Duron

RECORDER: Susan Schofield

REPORTER:

PARTIES

PRESENT:

Rogan, Jeffrey
State of Nevada

Attorney
Plaintiff

JOURNAL ENTRIES

- PETITION FOR WRIT OF HABEAS CORPUS... DEFENDANT'S MOTION FOR APPOINTMENT OF COUNSEL FOR INVESTIGATIVE PURPOSES IN POST-CONVICTION

Matter called. Defendant not present. COURT ORDERED matter CONTINUED for Chambers Decision.

NDC

CONTINUED TO: 8/21/17 (CHAMBERS)

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****August 21, 2017**

05C212667-4

The State of Nevada vs Deangelo R Carroll

August 21, 2017**3:00 AM****All Pending Motions****HEARD BY:** Adair, Valerie**COURTROOM:** RJC Courtroom 11C**COURT CLERK:** Jill Chambers**RECORDER:****REPORTER:****PARTIES****PRESENT:****JOURNAL ENTRIES****- PETITION FOR WRIT OF HABEAS CORPUS...MOTION FOR APPOINTMENT OF ATTORNEY**

Defendant's Motion for Appointment of Counsel is granted. Drew Christiansen's office will be contacted by the Court. Matter set for confirmation of counsel on September 5 at 9:30. Defendant's Petition for Writ of Habeas Corpus continued for possible supplemental briefing by appointed counsel.

9/5/17 9:30 AM CONFIRMATION OF COUNSEL

CLERK'S NOTE: The above minute order has been distributed to counsel via email. jmc 8/23/17

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 05, 2017

05C212667-4

The State of Nevada vs Deangelo R Carroll

September 05, 2017 9:30 AM

Confirmation of Counsel

HEARD BY: Adair, Valerie

COURTROOM: RJC Courtroom 11C

COURT CLERK: Jill Chambers

RECORDER: Susan Schofield

REPORTER:

PARTIES

PRESENT:

Carroll, Deangelo R
Pandukht, Taleen R
Resch, Jamie J.
State of Nevada

Defendant
Attorney
Attorney
Plaintiff

JOURNAL ENTRIES

- Court noted the Mr. Resch was appointed through Drew Christensen's office and SET matter for status check to discuss the status of discovery and the results of the file review.

NDC

12/5/17 9:30 AM STATUS CHECK: DISCOVERY/FILE REVIEW

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****December 05, 2017**

05C212667-4

The State of Nevada vs Deangelo R Carroll

December 05, 2017 9:30 AM**Status Check: Discovery****HEARD BY:** Adair, Valerie**COURTROOM:** RJC Courtroom 11C**COURT CLERK:** Jill Chambers**RECORDER:** Susan Schofield**REPORTER:****PARTIES****PRESENT:**Resch, Jamie J.
Rogan, Jeffrey
State of NevadaAttorney
Attorney
Plaintiff**JOURNAL ENTRIES**

- Mr. Resch stated he received the Deft's file very large file and requested time to file the writ. Court SET the following briefing schedule:

6/5/18 Deadline to file the writ;
8/5/18 reply due.

COURT SET matter for hearing.

NDC

8/21/18 9:30 AM HEARING ON WRIT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 15, 2018

05C212667-4

The State of Nevada vs Deangelo R Carroll

November 15, 2018 9:30 AM Hearing

HEARD BY: Barker, David

COURTROOM: RJC Courtroom 11C

COURT CLERK: Jill Chambers

RECORDER: Susan Schofield

REPORTER:

PARTIES

PRESENT:

Pesci, Giancarlo

Attorney

Attorney

Resch, Jamie J.

Attorney

State of Nevada

Plaintiff

JOURNAL ENTRIES

- Court noted that the case had an extensive history and ORDERED MATTER CONTINUED to have the presiding judge present.

NDC

CONTINUED TO: 12/4/18 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****December 04, 2018**

05C212667-4

The State of Nevada vs Deangelo R Carroll

December 04, 2018 9:30 AM Hearing**HEARD BY:** Adair, Valerie**COURTROOM:** RJC Courtroom 11C**COURT CLERK:** Jill Chambers**RECORDER:** Susan Schofield**REPORTER:****PARTIES**

PRESENT:	Carroll, Deangelo R	Defendant
	Di Giacomo, Marc P.	Attorney
	Resch, Jamie J.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Argument by counsel. Court DENIED for the reasons set forth by the State as to the Batson challenge. State to prepare a detailed order.

Ms. Resch requested to continued representing the Deft. for his appeal. Court directed Mr. Resch to contact Drew Christiansen's office to see if that would be approved.

NDC

✓ ☒ ✓

EXHIBITS

Date	Offered	OBJ	Admitted	Date
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[illegible]

State's

EXHIBITS

CASE NO. C212667

Date Offered OBJ Admitted Date

1. Autopsy Photo 05-3984	1/31	✓	24p	✓	1/31
2. " " " "	1/31	✓		✓	
3. " " " "	1/31	✓		✓	
4. " " " "	1/31	✓		✓	
5. Crime scene photo	1/31	✓		✓	
6. " " " - body in street	1/31	✓		✓	
7. " " " " " "	1/31	✓		✓	
8. " " " " " "	1/31	✓		✓	
9. Crime Scene Photo " " "	1/31	✓	↓	✓	↓
10. " " " " " "	1/31	✓	24p	✓	1/31
11. " " " " " "	1/31	✓	24p	✓	1/31
12. " " " " " "	1/31	✓	24p	✓	1/31
13. Photo- Bloody glasses	1/31	✓	24p	✓	1/31
14. Photo- Street w/evidence	1/31	✓	24p	✓	1/31
15. " " " " "	1/31	✓		✓	1/31
16. " " " " "	1/31	✓	↓	✓	1/31
17. " " " " "		✓		✓	
18. Street- evidence 4		✓		✓	
19. Street " 5		✓		✓	
20. Street " 6		✓		✓	
21. Photo- Kia Sportage		✓		✓	
22. Photo - " "		✓		✓	
23. Photo - " " interior	↓	✓	↓	✓	↓

State's EXHIBITS

CASE NO. C212667

Date Offered OBJ Admitted Date

24. Photo - Interior of car - cell phone	1/31	✓	Slip	✓	1/31
25. Photo - Interior of car - cooler	1	✓	1	✓	1
26. Photo " " " Bag	1	✓	1	✓	1
27. Photo - Trunk of car - items inside	1	✓	1	✓	1
28. Photo - Cell phone	1	✓	1	✓	1
29. Photo - Bag + contents	1	✓	1	✓	1
30. Photo - Bank deposit case	1	✓	1	✓	1
31. Photo - Beer can	↓	✓	↓	✓	↓
32. Photo - Int. of van	1	✓	1	✓	1
33. Photo - Back of Chevy van - 363-NKS	1	✓	1	✓	1
34. Photo - Side of vehicle	1	✓	1	✓	1
35. Photo - " " "	1	✓	1	✓	1
36. Photo - Int. of van	1	✓	1	✓	1
37. Photo - " " "	1	✓	1	✓	1
38. Photo - Vehicle window - print lifts	1	✓	1	✓	1
39. Photo - Int. of van	1	✓	1	✓	1
40. Photo - " " "	1	✓	1	✓	1
41. Photo - Palomino cards/spoons	1	✓	1	✓	1
42. Photo - Seat w/ Palomino card	1	✓	1	✓	1
43. Photo - Ash tray	1	✓	1	✓	1
44. Photo - Int. of van	1	✓	1	✓	1
45. Photo - Ash tray	1	✓	1	✓	1
46. Photo - Back seat of van	↓	✓	↓	✓	↓

State's EXHIBITS

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Date Offered OBJ Admitted Date

47. Photo- Back seat of van	1/31	✓	SEP	✓	1/31
48. Photo- Int. of van	1	✓		✓	1
49. Photo- Int of van- cupholder/ashtray	1	✓		✓	1
50 Photo- " " " "	1	✓		✓	1
51 Photo- Dash of van	1	✓		✓	1
52 Photo- Windshield of van	1	✓		✓	1
53 Photo- Cupholders/	1	✓		✓	1
54 Photo- Dash / Ash tray / glove box	1	✓		✓	1
55 Photo- DMV / Insurance papers	1	✓		✓	1
56 Photo- DMV envelope / Deangelo Carroll	1	✓		✓	1
57 Photo- " " " " / Palomino Cards	1	✓		✓	1
58 Photo- Drivers seat	1	✓		✓	1
59 Photo- Front seats	1	✓		✓	1
60. Photo- House	2/4	✓		✓	2/4
61. Photo- " Address 1676	1	✓		✓	1
62 Photo- Black Chevy	1	✓		✓	1
63 Photo- Cluttered Patio	1	✓		✓	1
64 Photo- Shelves w/items	1	✓		✓	1
65 Photo- Black metal	1	✓		✓	1
66 Photo- Bags of bullets	1	✓		✓	1
67 Photo- FAX Machine / Messy floor	1	✓		✓	1
68 Photo- Dining Area	1	✓		✓	1
69 Photo- Dining Table	1	✓		✓	1

70 Photo- Checkbook- Irene + Kenneth Counts	2/4	✓	2/4	✓	2/4
71 Photo- Sprint Bill- Photos	✓	✓	✓	✓	✓
72 Photo- Messy Hallway	✓	✓	✓	✓	✓
73 Photo- Clothes on floor	✓	✓	✓	✓	✓
74 Photo- " " "	✓	✓	✓	✓	✓
75 Photo- Black Shirt	✓	✓	✓	✓	✓
76 Photo- Black Cap- Item 6	✓	✓	✓	✓	✓
77 Photo- Black glove- Item 7 (Left)	✓	✓	✓	✓	✓
78 Photo- " " " " (Left)	✓	✓	✓	✓	✓
79 Photo- Black Pants	✓	✓	✓	✓	✓
80 Photo- Blue Jeans Item 2	✓	✓	✓	✓	✓
81 Photo- Curb- Address 1677	2/4	✓	2/4	✓	2/4
82 Photo- House	2/1	✓	2/1	✓	2/1
83 Photo- Garage	2/4	✓	2/4	✓	2/4
84 Photo- Hallway / ladder	2/1	✓	2/1	✓	2/1
85 Photo- Disheveled living room	2/1	✓	2/1	✓	2/1
86 Photo- " " "	2/4	✓	2/4	✓	2/4
87 Photo- " " "	✓	✓	✓	✓	✓
88 Photo- " " "	✓	✓	✓	✓	✓
89 Photo- TV Remote / ID Card	✓	✓	✓	✓	✓
90 Photo- Floor / Items on floor	✓	✓	✓	✓	✓
- 91 Photo- " " " "	✓	✓	✓	✓	✓
- 92 Photo- Misc Items	✓	✓	✓	✓	✓

93	Photo - Pouch w/ cash	2/4	✓	Exp	✓	2/4
94	Photo - Wallet NDL Irene Counts	2/4	✓		✓	2/4
95	Photo - Palomino Cards	2/4	✓		✓	2/4
96	Photo - Cash	2/4	✓		✓	2/4
97	Photo - Simones Auto	2/5	✓	obj	✓	2/5
98	" SAP 6770		✓		✓	
99	" - Int. of Building		✓		✓	
100	" " " "		✓		✓	
101	" " " "		✓		✓	
102	" - Desk		✓		✓	
103	" - Brief case		✓		✓	
104	" Desk		✓		✓	
105	" Check to Deangele Carroll		✓		✓	
106	" Pool table		✓		✓	
107	" 2 Red chairs		✓		✓	
108	" Pool table / Point Blank APRON		✓		✓	
109	" Magazine / Note on front		✓		✓	
110	" - Cash		✓		✓	
111	Photo - Int of building		✓		✓	
112	Photo - Door / hallway		✓		✓	
113	Photo - Door #6		✓		✓	
114	Photo - Hall / Disheveled Room		✓		✓	
115	Photo - Disheveled Room		✓		✓	

116	Photo - Disheveled Desk	2/5	✓	obj	✓	2/5
117	Photo - Disheveled Desk	↓	✓	↓	✓	↓
118	Photo - Birth Cert. Luis Hidalgo	↓	✓	↓	✓	↓
119	Photo - Order for savings bonds	↓	✓	↓	✓	↓
120	Photo - Disheveled Room	↓	✓	↓	✓	↓
121	Photo - Disheveled Room	↓	✓	↓	✓	↓
122	Photo - " "	↓	✓	↓	✓	↓
123	Photo Bed / Items on bed	↓	✓	↓	✓	↓
124	Photo - Disheveled Room	↓	✓	↓	✓	↓
125	Photo - " "	↓	✓	↓	✓	↓
126	Photo - Paperwork / Notebook	↓	✓	↓	✓	↓
127	Photo - Savings Bond - Luis Hidalgo	↓	✓	↓	✓	↓
128	Photo - SS Card - " "	↓	✓	↓	✓	↓
129	Photo - Bathroom	↓	✓	↓	✓	↓
130	Photo - Bathroom	↓	✓	↓	✓	↓
131	Photo - Item on tile	↓	✓	↓	✓	↓
132	Photo - Toilet	↓	✓	↓	✓	↓
133	Photo - " "	↓	✓	↓	✓	↓
134	Envelope	1/31	✓	obj	✓	1/31
134 A	Bullet fragment	↓	✓	↓	✓	↓
134 B	" " Upper Brain	↓	✓	↓	✓	↓
134 C	" " Lower Brain	↓	✓	↓	✓	↓
135	Photo - Palomina Club	2/5	✓	obj	✓	2/5

State's

EXHIBITS

CASE NO. C212667

Date Offered OBJ Admitted Date

136 Photo- Palomino Club Blueprint	2/5	✓	Slip	✓	2/5
137 Photo - Money	1	✓	1	✓	1
138 Photo - Money		✓		✓	
139 Photo - Money / Jewelry		✓		✓	
140 Photo - Money		✓		✓	
141 Photo - Money		✓		✓	
142 Photo - Payroll 5/14/04		✓		✓	
143 Photo - Bulletin Board		✓		✓	
144 Photo - Box of Cards	↓	✓	↓	✓	↓
145 Metro Print Card (4 Pages)	1/31	✓	Slip	✓	1/31
146 Metro Print Card (2 pages)	1/31	✓	Slip	✓	1/31
147 \$100 dollar bill - front + back (Photo)	2/4	✓	Slip	✓	2/4
- 148 Event # 050519-3516 - List of evidence	1/31	✓	Slip	✓	1/31
149 Evidence Bag + Contents	1/31	✓	Slip	✓	1/31
149A #27 Farmers Ins ^{Simones Auto} Cert, Letter from DMV (Deangelo Carroll) DMV					
Reg (Anabel Esindola; env w/ Simones Auto Plaza on front;					
containing DMV reg (Anabel Espidola; BofA Cashiers check					
(Deangelo Carroll) Env from DMV (Deangelo Carroll)					
150 Evidence Env.	1/31	✓	Slip	✓	1/31
150A 42 Palomino Bs. Cards	1/31	✓	Slip	✓	1/31
151 Evidence Env	1/31	✓	Slip	✓	1/31
151a 1 Palomino Club matchbook	1/31	✓	Slip	✓	1/31
152 Evidence Env	1/31	✓	Slip	✓	1/31

152 A 33 Palomino Club ad cards	1/31	✓	Slip	✓	1/31
153 Evidence Bags	1/31	✓	Slip	✓	1/31
153A Black Wallet + contents	1/31	✓	Slip	✓	1/31
154 Evidence Env	1/31	✓	Slip	✓	1/31
154a 28 Palomino Club Vip Cards	1/31	✓	Slip	✓	1/31
155 Evidence Bag					
155A 1 pneumatic tube w/ DI on the side					
156 Metro Print Card	1/31	✓	Slip	✓	1/31
157 Video	2/1	✓	Slip	✓	2/1
157A Voluntary Statement	2/1	✓	Slip	✓	2/1
158 Aerial street map	2/5	✓	Slip	✓	2/5
159 Aerial map	2/5	✓	Slip	✓	2/5
160 + Evidence Env	2/4	✓	Slip	✓	2/4
160A 1 Bus Card "The Scooter Guy"	2/4	✓	Slip	✓	2/4
160B 6 "Pal Vip Cards"	2/4	✓	Slip	✓	2/4
160C 1 " " "	2/4	✓	Slip	✓	2/4
160D 10 " " "	2/4	✓	Slip	✓	2/4
161 Evidence Env + Contents	2/4	✓	Slip	✓	2/4
161A 5 \$100.00 bills (Evid Env not opened)					
162 ENV BAG + Contents	2/4	✓	Slip	✓	2/4

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EXHIBITS

CASE NO. C212667

Date Offered OBJ Admitted Date

162 A	6 Bills \$95.00 (Evid Env not opened)				
163	ENV (Evidence)	2/4	✓	Slip	✓ 2/4
163 A	Black Cloth Pistol Case	2/4	✓	Slip	✓ 2/4
164	Evid. Env + (contents) (Evid ENV not opened)	2/4	✓	Slip	✓ 2/4
164A					
164B					
165	ENV (Evidence) + contents (not opened)	2/4	✓	Slip	✓ 2/4
166	Evid ENV + contents (not opened)	2/4	✓	Slip	✓ 2/4
167	Evid ENV + contents (not opened)	2/4	✓	Slip	✓ 2/4
168	Evid ENV + contents (not opened)	2/4	✓	Slip	✓ 2/4
169	GPA- Jayson Taoifu - 6/6/07	2/4	✓	Slip	✓ 2/4
170	Cab trip sheet	2/4	✓	Slip	✓ 2/4
171	VIP Cards - Palomino		✓		✓

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Date Offered OBJ Admitted Date

172	Latent Print Lifts	2/4	✓	Slip	✓	2/4
173	" " "	2/4	✓	Slip	✓	2/4
174	" " "	2/4	✓	Slip	✓	2/4
175	Prints		✓		✓	
176	"		✓		✓	
177	"		✓		✓	
178	"		✓		✓	
179	"		✓		✓	
180	"		✓		✓	
181	\$100 bill + prints	↓	✓	↓	✓	↓
182	Photo- K J Counts	2/5	✓	Slip	✓	2/5
183	Contact Sheet 6/20/05	2/5	✓	Slip	✓	2/5
184	Call det exhibit	2/5	✓	Slip	✓	2/5
185	CD 2/1/08	2/5	✓	Slip	✓	2/5
186	CD 2/1/08	2/5	✓	Slip	✓	2/5
187	Kenneth Counts phone calls	2/5	✓	Slip	✓	2/5
188	Sprint document 4/26/06	2/5	✓		✓	2/5
189	Call log	2/5	✓		✓	2/5
190	Nextel document	2/5	✓	↓	✓	2/5
191	CD	2/5	✓	Slip	✓	2/5
191A	CD Transcript	2/5	✓	Slip	✓	2/5
191B	"	2/5	✓	Slip	✓	2/5
192A+B	CD					

Deft's EXHIBITS

CASE NO. C212667

Date Offered OBJ Admitted Date

A Photo - Deangelo Carroll	2/1	✓	Stop	✓	2/1
B Photo - Roantae Zone	2/1	✓	↓	✓	2/1
C Photo - Jayson Taoipa	2/1	✓	↓	✓	2/1
D Photo - Calvin Williams	2/6	✓	Stop	✓	2/6
E Photo - Calvin Williams (Side view)	2/6	✓	Stop	✓	2/6
F Photo - 6 people	2/6	✓	Stop	✓	2/6
G Photo - Woman	2/6	✓	obj		
H Photo - Older Man					
I Photo - Young Man / Yellow Shirt					
J Photo - Street w/ houses	2/5	✓	Stop	✓	2/5
K Letter from Jayson Taoipa to Kenneth Counts	2/4	✓	Stop	✓	2/4
L LV Metro Line Up.	2/4	✓	Stop	✓	2/4
M Evidence Bag	2/6	✓	Stop	✓	2/6
M1 Black T-Shirt	↓	✓	Stop	✓	
M2 Black Cap	↓	✓	Stop	✓	
M3 Black Gloves	↓	✓	Stop	✓	
M4 Black Jeans	↓	✓	Stop	✓	
M5 Black Pants (1)	↓	✓	Stop	✓	
M6 Black Pants (2)	↓	✓	Stop	✓	↓

Deft's (Luis Nidalgo, Jr.)
EXHIBITS

EXHIBITS

CASE NO. C212667

[illegible]

Deft's

(Luis Hidalgo, Jr.)

EXHIBITS

CASE NO. C212667

[illegible]

✓ & Admitted as AA

V- found 3/27/09

Deft's EXHIBITS

CASE NO. C212667

[illegible]

STATE'S EXHIBITS

CASE NO. C212667 – D. Carroll 5/17/10

	Date Offered	Objection	Date Admitted
1. Autopsy Photo – 05-3984	5/20/10	Stip.	5/20/10
2. Autopsy Photo – 05-3984	5/20/10	Stip.	5/20/10
3. Autopsy Photo – 05-3984	5/20/10	Stip.	5/20/10
4. Autopsy Photo – 05-3984	5/20/10	Stip.	5/20/10
5. Crime scene photo	5/19/10	Stip.	5/19/10
6. Crime scene photo – body in street	5/19/10	Stip.	5/19/10
7. Crime scene photo – body in street	5/19/10	Stip.	5/19/10
8. Crime scene photo – body in street	5/19/10	Stip.	5/19/10
9. Crime scene photo – body in street	5/19/10	Stip.	5/19/10
10. Crime scene photo – body in street	5/19/10	Stip.	5/19/10
11. Crime scene photo – body in street	5/19/10	Stip.	5/19/10
12. Crime scene photo – body in street	5/19/10	Stip.	5/19/10
13. Photo – bloody glasses	5/19/10	Stip.	5/19/10
14. Photo – street/with evidence	5/19/10	Stip.	5/19/10
15. Photo – street /with evidence	5/19/10	Stip.	5/19/10
16. Photo – street/with evidence	5/19/10	Stip.	5/19/10
17. Photo – street/with evidence	5/19/10	Stip.	5/19/10
18. Street – evidence 4	5/19/10	Stip.	5/19/10
19. Street – evidence 5	5/19/10	Stip.	5/19/10
20. Street – evidence 6	5/19/10	Stip.	5/19/10
21. Photo – Kia Sportage	5/19/10	Stip.	5/19/10
22. Photo – Kia Sportage	5/19/10	Stip.	5/19/10
23. Photo – Kia Sportage interior	5/19/10	Stip.	5/19/10
24. Photo – Interior of car – cell phone	5/19/10	Stip.	5/19/10
25. Photo - Interior of car – cooler	5/19/10	Stip.	5/19/10
26. Photo – Interior of car – bag	5/19/10	Stip.	5/19/10
27. Photo – Trunk of car – items inside	5/19/10	Stip.	5/19/10
28. Photo – cell phone	5/19/10	Stip.	5/19/10
29. Photo – bag & contents	5/19/10	Stip.	5/19/10

STATE'S EXHIBITS**CASE NO. C212667 – D. Carroll 5/17/10**

30. Photo – bank deposit case	5/19/10	Stip.	5/19/10
31. Photo – beer can	5/19/10	Stip.	5/19/10
32. Photo – interior of van	5/19/10	Stip.	5/19/10
33. Photo – back of Chevy van – 363NKS	5/19/10	Stip.	5/19/10
34. Photo – side of vehicle	5/19/10	Stip.	5/19/10
35. Photo – side of vehicle	5/19/10	Stip.	5/19/10
36. Photo – interior of van	5/19/10	Stip.	5/19/10
37. Photo – interior of van	5/19/10	Stip.	5/19/10
38. Photo – vehicle window – print lifts	5/19/10	Stip.	5/19/10
39. Photo – interior of van	5/19/10	Stip.	5/19/10
40. Photo – interior of van	5/19/10	Stip.	5/19/10
41. Photo – Palomino cards/spoons	5/19/10	Stip.	5/19/10
42. Photo – seat w/Palomino card	5/19/10	Stip.	5/19/10
43. Photo – ash tray	5/19/10	Stip.	5/19/10
44. Photo – interior of van	5/19/10	Stip.	5/19/10
45. Photo – ash tray	5/19/10	Stip.	5/19/10
46. Photo – back seat of van	5/19/10	Stip.	5/19/10
47. Photo – back seat of van	5/19/10	Stip.	5/19/10
48. Photo – interior of van	5/19/10	Stip.	5/19/10
49. Photo – interior of van-cupholder/ashtray	5/19/10	Stip.	5/19/10
50. Photo – interior of van	5/19/10	Stip.	5/19/10
51. Photo – dash of van	5/19/10	Stip.	5/19/10
52. Photo – windshield of van	5/19/10	Stip.	5/19/10
53. Photo – cupholders	5/19/10	Stip.	5/19/10
54. Photo – dash/ashtray/glove box	5/19/10	Stip.	5/19/10
55. Photo – DMV/insurance papers	5/19/10	Stip.	5/19/10
56. Photo – DMV envelope-Deangelo Carroll	5/19/10	Stip.	5/19/10
57. Photo – DMV envelope –Deangelo Carroll/Palomino cards	5/19/10	Stip.	5/19/10
58. Photo – driver's seat	5/19/10	Stip.	5/19/10
59. Photo – front seats	5/19/10	Stip.	5/19/10

STATE'S EXHIBITS**CASE NO. C212667 – D. Carroll 5/17/10**

60. Photo – house	5/21/10	Stip	5/21/10
61. Photo – house – address 1676	5/21/10	Stip	5/21/10
62. Photo – Black Chevy	5/21/10	Stip	5/21/10
63. Photo – cluttered patio	5/21/10	Stip	5/21/10
64. Photo – shelves w/items	5/21/10	Stip	5/21/10
65. Photo – black metal	5/21/10	Stip	5/21/10
66. Photo – bags of bullets	5/21/10	Stip	5/21/10
67. Photo – fax machine/messy floor	5/21/10	Stip	5/21/10
68. Photo – dining area	5/21/10	Stip	5/21/10
69. Photo – dining table	5/21/10	Stip	5/21/10
70. Photo – checkbook – Irene & Kenneth Counts	5/21/10	Stip	5/21/10
71. Photo – Sprint bill – photos	5/21/10	Stip	5/21/10
72. Photo – messy hallway	5/21/10	Stip	5/21/10
73. Photo – clothes on floor	5/21/10	Stip	5/21/10
74. Photo – clothes on floor	5/21/10	Stip	5/21/10
75. Photo – black shirt	5/21/10	Stip	5/21/10
76. Photo – black cap – item 6	5/21/10	Stip	5/21/10
77. Photo – black glove – item 7 (left)	5/21/10	Stip	5/21/10
78. Photo – black glove – item 7 (left)	5/21/10	Stip	5/21/10
79. Photo – black pants	5/21/10	Stip	5/21/10
80. Photo – blue jeans – item 2	5/21/10	Stip	5/21/10
81. Photo – curb – address 1677	5/21/10	Stip	5/21/10
82. Photo – house	5/21/10	Stip	5/21/10
83. Photo – garage	5/21/10	Stip	5/21/10
84. Photo – hallway/ladder	5/21/10	Stip	5/21/10
85. Photo – disheveled living room	5/21/10	Stip	5/21/10
86. Photo – disheveled living room	5/21/10	Stip	5/21/10
87. Photo – disheveled living room	5/21/10	Stip	5/21/10
88. Photo – disheveled living room	5/21/10	Stip	5/21/10
89. Photo – TV remote/ID card	5/21/10	Stip	5/21/10

STATE'S EXHIBITS**CASE NO. C212667 – D. Carroll 5/17/10**

90. Photo – floor/items on floor	5/21/10	Stip	5/21/10
91. Photo – floor/items on floor	5/21/10	Stip	5/21/10
92. Photo – misc. items	5/21/10	Stip	5/21/10
93. Photo – pouch w/cash	5/21/10	Stip	5/21/10
94. Photo – wallet – NDL – Irene Counts	5/21/10	Stip	5/21/10
95. Photo – Palomino cards	5/21/10	Stip	5/21/10
96. Photo – cash	5/21/10	Stip	5/21/10
97. Photo – Simone's Auto	5/20/10	Stip.	5/20/10
98. Photo – Photo SAP 6770	5/20/10	Stip.	5/20/10
99. Photo – interior of building	5/20/10	Stip.	5/20/10
100. Photo – interior of building	5/20/10	Stip.	5/20/10
101. Photo – interior of building	5/20/10	Stip.	5/20/10
102. Photo – desk	5/20/10	Stip.	5/20/10
103. Photo – brief case	5/20/10	Stip.	5/20/10
104. Photo - desk	5/20/10	Stip.	5/20/10
105. Photo – check to Deangelo Carroll	5/20/10	Stip.	5/20/10
106. Photo – pool table	5/20/10	Stip.	5/20/10
107. Photo – two red chairs	5/20/10	Stip.	5/20/10
108. Photo – pool table/point black apron			
109. Photo – magazine/note on front	5/20/10	Stip.	5/20/10
110. Photo – cash	5/20/10	Stip.	5/20/10
111. Photo – interior of building	5/20/10	Stip.	5/20/10
112. Photo – door/hallway	5/20/10	Stip.	5/20/10
113. Photo – door #6	5/20/10	Stip.	5/20/10
114. Photo – hall/dishveled room	5/20/10	Stip.	5/20/10
115. Photo – dishveled room	5/20/10	Stip.	5/20/10
116. Photo – dishveled desk	5/20/10	Stip.	5/20/10
117. Photo – dishveled desk	5/20/10	Stip.	5/20/10
118. Photo – birth certificate of Luis Hidalgo	5/20/10	Stip.	5/20/10
119. Photo – order for savings bonds	5/20/10	Stip.	5/20/10

STATE'S EXHIBITS**CASE NO. C212667 – D. Carroll 5/17/10**

120. Photo – disheveled room	5/20/10	Stip.	5/20/10
121. Photo – disheveled room	5/20/10	Stip.	5/20/10
122. Photo – disheveled room	5/20/10	Stip.	5/20/10
123. Photo – bed/items on bed	5/20/10	Stip.	5/20/10
124. Photo – disheveled room	5/20/10	Stip.	5/20/10
125. Photo - disheveled room	5/20/10	Stip.	5/20/10
126. Photo – paperwork/notebook	5/20/10	Stip.	5/20/10
127. Photo – savings bond – Luis Hidalgo	5/20/10	Stip.	5/20/10
128. Photo – social security card	5/20/10	Stip.	5/20/10
129. Photo – bathroom	5/20/10	Stip.	5/20/10
130. Photo – bathroom	5/20/10	Stip.	5/20/10
131. Photo – item on tile	5/20/10	Stip.	5/20/10
132. Photo – toilet	5/20/10	Stip.	5/20/10
133. Photo – toilet	5/20/10	Stip.	5/20/10
134. Envelope	5/21/10	Stip.	5/21/10
134 A – bullet fragment	5/21/10	Stip	5/21/10
134 B – bullet fragment – upper brain	5/21/10	Stip	5/21/10
134 C – bullet fragment – lower brain	5/21/10	Stip	5/21/10
135. Photo – Palomino Club	5/21/10	Stip	5/21/10
136. Photo – Palomino Club blueprint	5/21/10	Stip	5/21/10
137. Photo – money	5/21/10	Stip	5/21/10
138. Photo – money	5/21/10	Stip	5/21/10
139. Photo – money/jewelry	5/21/10	Stip	5/21/10
140. Photo – money	5/21/10	Stip	5/21/10
141. Photo – money	5/21/10	Stip	5/21/10
142. Photo – payroll 5/14/04	5/21/10	Stip	5/21/10
143. Photo – bulletin board	5/21/10	Stip	5/21/10
144. Photo – box of cards	5/21/10	Stip	5/21/10
145. Metro Print Card (four pages)	5/19/10	Stip.	5/19/10
146. Metro Print Card (two pages)	5/19/10	Stip.	5/19/10

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147. Photo - \$100.00 dollar bill/front and back (photo)	5/20/10	Stip.	5/20/10
148. Event #050519-3516 – list of evidence	5/19/10	Stip.	5/19/10
149. Evidence bag and contents	5/19/10	Stip.	5/19/10
149 A - #27 Farmers Ins. Cert (Simone's Auto), Letter from DMV (Deangelo Carroll) DMV; Reg(Anabel Espindola, envelope w/Simone's Auto Plaza on front; containing DMV reg (Anabel Espindola, Bank of America cashier's check (Deangelo Carroll); Envelope from DMV (Deangelo Carroll)	5/19/10	Stip.	5/19/10
150. Evidence Envelope	5/19/10	Stip.	5/19/10
150 A – 42 Palomino Business Cards	5/19/10	Stip.	5/19/10
151 – Evidence Envelope	5/19/10	Stip.	5/19/10
151 A – one Palomino Club matchbook	5/19/10	Stip.	5/19/10
152 – Evidence Envelope	5/19/10	Stip.	5/19/10
152 A – 33 Palomino Club ad cards	5/19/10	Stip.	5/19/10
153 – Evidence Bag			
153 A – black wallet and contents			
154 – Evidence Envelope	5/19/10	Stip.	5/19/10
154 A – 28 Palomino Club VIP cards	5/19/10	Stip.	5/19/10
155 – Evidence Bag	5/19/10	Stip.	5/19/10
155 A – one pneumatic tube w/DI on the side	5/19/10	Stip.	5/19/10
156 Metro Print Card	5/19/10	Stip.	5/19/10
157. Video (VHS)			
157 A – voluntary statement			
158. Aerial street map	5/21/10	Stip	5/21/10
159. Aerial map	5/19/10	Stip.	5/19/10
160. Evidence envelope	5/21/10	Stip	5/21/10
160 A – one business card "The Scooter Guy"	5/21/10	Stip	5/21/10
160 B – six "Palomino VIP Cards"	5/21/10	Stip	5/21/10
160 C – one "Palomino VIP Card"	5/21/10	Stip	5/21/10
160 D – ten "Palomino VIP Cards"	5/21/10	Stip	5/21/10

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161. Evidence Envelope and Contents	5/21/10	Stip	5/21/10
161 A – five \$100.00 bills			
162. Evidence Bag and Contents	5/21/10	Stip	5/21/10
162 A – six bills equaling \$95.00			
163. - Evidence Envelope	5/21/10	Stip	5/21/10
163 A – black cloth pistol case	5/21/10	Stip	5/21/10
164. - Evidence Envelope and Contents	5/21/10	Stip	5/21/10
164 A – Winchester 9m Luger Cartridge			
164 B - 59 RIM fire cartridges			
165. - Evidence Envelope and Contents	5/21/10	Stip	5/21/10
165 A – Misc. Items			
166 - Evidence Envelope and Contents	5/21/10	Stip	5/21/10
167 - Evidence Envelope and Contents	5/21/10	Stip	5/21/10
168. - Evidence Envelope and Contents	5/21/10	Stip	5/21/10
169. - GPA – Jayson Taoipu – 6/6/07			
170. - Cab trip sheet	5/20/10	Stip.	5/20/10
171. - VIP cards – Palomino	5/20/10	Stip.	5/20/10
172. - Latent print lifts	5/20/10	Stip.	5/20/10
173. - Latent print lifts	5/20/10	Stip.	5/20/10

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174. - Latent print lifts	5/20/10	Stip.	5/20/10
175. - Prints	5/20/10	Stip.	5/20/10
176. - Prints	5/20/10	Stip.	5/20/10
177. - Prints	5/20/10	Stip.	5/20/10
178. - Prints	5/20/10	Stip.	5/20/10
179. - Prints	5/20/10	Stip.	5/20/10
180. - Prints	5/20/10	Stip.	5/20/10
181. - \$100.00 bill and prints	5/20/10	Stip.	5/20/10
182. - Photo – K.J. Counts			
183. - Contact sheet – 6/20/05			
184. - Call det. Exhibits			
185. - CD 2/1/08			
186 - CD 2/1/08			
187. - Kenneth Count's phone calls			
188. - Sprint document – 4/26/06	5/21/10	Stip	5/21/10
189. - Call log	5/21/10	Stip	5/21/10
190 – Nextel document	5/21/10	Stip	5/21/10
191. - CD	5/21/10	Stip	5/21/10
191 A – CD Transcript			
191 B – Transcript			
192 A – CD	5/21/10	Stip	5/21/10
192 B – CD	5/21/10	Stip	5/21/10
193. Evidence Envelope	5/21/10	Stip	5/21/10
193 A – two pieces of paper stapled together	5/21/10	Stip	5/21/10
194. Evidence Bag and contents			
195 - Evidence Envelope	5/19/10	Stip.	5/19/10
195 A – Lake Mead Receipt	5/19/10	Stip.	5/19/10

STATE'S EXHIBITS

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196 – Badge Photo – Larry Matheny			
197 – Nextel Sector Layout	5/21/10	Stip	5/21/10
198 – Photo – Deangelo Carroll	5/20/10	Stip.	5/20/10
199 – Photo Taoipu	5/20/10	Stip.	5/20/10
200- Evidence Envelope			
200 A – Large yellow pad w/handwriting			
200 B – Yellow pad w/writing			
200 C – Paper sheets			
200 D – Several notepads w/handwriting			
200 E – Small yellow paper pad			
200 F – Small white paper pad			
200 G – SS card #615-18-0771			
200 H – Two notes w/handwriting			
200 I – Evidence Envelope			
200 J – Evidence Envelope			
200 K – Evidence Envelope			
200 L A – Note			
201 – Evidence Bag (released to counsel per order)			
201 A – Notebook			
201 B - \$10,100.00 US Bonds (released to counsel per order) Photocopies used.	5/20/10	Stip.	5/20/10
202 – Evidence Envelope containing (10) \$1,000.00 bills & (20) \$20.00 bills			
203 – Evidence Bag	5/20/10	Stip.	5/20/10
203 A – Tanqueray bottle	5/20/10	Stip.	5/20/10
204 – Evidence Bag			
204 A – Black Purse			
204 B - Misc. credit cards and personal items			
205 – Photo – Office	5/21/10	Stip	5/21/10
206 – Photo – Office	5/21/10	Stip	5/21/10

STATE'S EXHIBITS

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207 – Photo – Office.	5/21/10	Stip	5/21/10
208 – Photo – Office	5/21/10	Stip	5/21/10
209 – Photo – Bulletin Board	5/21/10	Stip	5/21/10
210 – Photo – Bulletin Board	5/21/10	Stip	5/21/10
211 – Photo – TV/Equipment	5/21/10	Stip	5/21/10
212 - Photo – File drawer/open	5/21/10	Stip	5/21/10
213 – Photo – File drawer/open	5/21/10	Stip	5/21/10
214 – Photo – File drawer/open	5/21/10	Stip	5/21/10
215. – Photo – TV	5/21/10	Stip	5/21/10
216. – Photo – Office	5/21/10	Stip	5/21/10
217 – Photo – Money	5/21/10	Stip	5/21/10
218 – Photo – Office	5/21/10	Stip	5/21/10
219 – Photo – Computer Equipment	5/21/10	Stip	5/21/10
220 - Envelope			
220 A – Letter			
221 – Envelope			
221 A – Card			
222 – Envelope			
222 A – Card			
222 B – Note in card			
223 – Envelope			
223 A – Card			
224 – Document – Carroll			
225 - Document – Counts			
226 – JOC – Carroll			
227 – Correspondence			
228 – GPA – Anabel Espindola	6/2/10	Stip.	6/2/10
229 – Note “keep your mouth shut”	5/20/10	Stip.	5/20/10
230 – Silverton receipt			
231 – Photo			

STATE'S EXHIBITS

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232 – Photo			
233 – Photo			
234 – Photo – Hidalgo Jr.	5/20/10	Stip.	5/20/10
235 – Photo – Anabel Espindola	5/20/10	Stip.	5/20/10
236 – Photo – Hidalgo III	5/20/10	Stip.	5/20/10
237 – Photo – Kenneth Counts	5/20/10	Stip.	5/20/10
238 – Phone Log	5/21/10	Stip	5/21/10
239 – Map of cell towers	5/21/10	Stip	5/21/10
240 – Photocopy – Check to Deangelo Carroll	5/20/10	Stip.	5/20/10
241 – Attorney Notes			
242 – Copy of envelope and card			
243. – CD – Deangelo Carroll statement	5/20/10	Stip.	5/20/10
244. – Portion of transcript - Carroll	5/21/10	Stip	5/21/10
245. – Portion of transcript – video transcript	5/21/10	Stip	5/21/10
246. – Transcript -	5/20/10	Stip.	5/20/10
Penalty Phase beginning 6/2/10			
247 -. Photo	6/2/10	Stip.	6/2/10
248 -. Photo	6/2/10	Stip	6/2/10
249 - Photo	6/2/10	Stip.	6/2/10
250 - Notebook	6/2/10	Stip.	6/2/10

EXHIBITS

Date	Offered	OBJ	Admitted
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[illegible]

Deft's EXHIBITS

[illegible]

State vs Deangelo Carroll
Penalty Hearing

Court's EXHIBITS

CASE NO. C212667

[illegible]

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; REQUEST FOR TRANSCRIPTS PURSUANT TO NRAP 9(A)(3); DISTRICT COURT DOCKET ENTRIES; FINDINGS OF FACT AND CONCLUSIONS OF LAW; NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER; AMENDED NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER; DISTRICT COURT MINUTES; EXHIBITS LIST

STATE OF NEVADA,

Plaintiff(s),

vs.

DEANGELO RESHAWN CARROLL,

Defendant(s).

Case No: 05C212667-4

Dept No: XXI

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 4 day of February 2019.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk