

IN THE SUPREME COURT OF THE STATE OF NEVADA

* * * * *

SIAOSI VANISI,

Appellant,

vs.

WILLIAM GITTERE, WARDEN,
and
AARON FORD, ATTORNEY
GENERAL FOR THE
STATE OF NEVADA.

Respondents.

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APPELLANT'S APPENDIX

Appeal from Order Denying Petition for Writ of
Habeas Corpus (Post-Conviction)
Second Judicial District Court, Washoe County
The Honorable Connie J. Steinheimer

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27	114. Declaration of Heidi Bailey-Aloi April 7, 2011.....	AA05727 – AA05730
27	115. Declaration of Herbert Duzant’s Interview of Tony Tafuna April 18, 2011.....	AA05731- AA05735
27	116. Declaration of Terry Williams April 10, 2011.....	AA05736 – AA05741
27	117. Declaration of Tim Williams April 10, 2011.....	AA05742 – AA05745
27	118. Declaration of Mele Maveni Vakapuna April 5, 2011.....	AA05746 – AA05748
27	119. Declaration of Priscilla Endemann April 6, 2011.....	AA05749 – AA05752
27	120. Declaration of Mapa Puloka January 24, 2011.....	AA05753 – AA05757
27	121. Declaration of Limu Havea January 24, 2011.....	AA05758 – AA05767
27	122. Declaration of Sione Pohahau January 22, 2011.....	AA05768 – AA05770
27	123. Declaration of Tavake Peaua January 21, 2011.....	AA05771 – AA05776
27	124. Declaration of Totoa Pohahau January 23, 2011.....	AA05777 – AA05799
27-28	125. Declaration of Vuki Mafileo February 11, 2011	AA05800 – AA05814

28	127. Declaration of Crystal Calderon April 18, 2011.....	AA05815 – AA05820
28	128. Declaration of Laura Lui April 7, 2011.....	AA05821 – AA05824
28	129. Declaration of Le’o Kinkini-Tongi April 5, 2011.....	AA05825 – AA05828
28	130. Declaration of Sela Vanisi-DeBruce April 7, 2011.....	AA05829 – AA05844
28	131. Declaration of Vainga Kinikini April 12, 2011.....	AA05845 – AA05848
28	132. Declaration of David Hales April 10, 2011.....	AA05849 – AA05852
28	136. Correspondence to Stephen Gregory from Edward J. Lynn, M.D. July 8, 1999.....	AA05853 – AA05855
28	137. Memorandum to Vanisi File from MRS April 27, 1998.....	AA05856 – AA05858
28	143. Memorandum to Vanisi File From Mike Specchio July 31, 1998.....	AA05859 – AA05861
28	144. Correspondence to Michael R. Specchio from Michael Pescetta October 9, 1998.....	AA05862 – AA05863
28	145. Correspondence to Michael Pescetta from Michael R. Specchio October 9, 1998.....	AA05864 – AA05866

28	146. 3 DVD's containing video footage of Siaosi Vanisi in custody on various dates (MANUALLY FILED).....	AA05867
28	147. Various Memorandum to and from Michael R. Specchio 1998-1999	AA05868 – AA05937
28	148. Memorandum to Vanisi file Crystal-Laura from MRS April 20, 1998.....	AA05938 – AA05940
28	149. Declaration of Steven Kelly April 6, 2011	AA05941 – AA05943
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28	151. Declaration of Josh Iveson April 6, 2011	AA05947 – AA05949
28	152. Declaration of Luisa Finau April 7, 2011	AA05950 – AA05955
28	153. Declaration of Leanna Morris April 7, 2011	AA05956 – AA05960
28	155. Declaration of Maile (Miles) Kinikini April 7, 2011	AA05961 – AA05966
28	156. Declaration of Nancy Chiladez April 11, 2011	AA05967 – AA05969
28-29	159. Transcript of Proceedings, Trial Volume 1, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 January 11, 1999.....	AA05970 – AA06222

29-31	160. Transcript of Proceedings, Trial Volume 2, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 January 12, 1999.....	AA06223 – AA06498
31	163. Neuropsychological and Psychological Evaluation of Siaosi Vanisi, Dr. Jonathan Mack April 18, 2011	AA06499 – AA06569
31-32	164. Independent Medical Examination in the Field of Psychiatry, Dr. Siale ‘Alo Foliaki April 18, 2011	AA06570 – AA06694
32	172. Motion for Change of Venue, <i>State of Nevada v.</i> <i>Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 July 15, 1998	AA06695 – AA06700
32	173. Declaration of Herbert Duzant’s Interview with Tongan Solicitor General, ‘Aminiasi Kefu April 17, 2011	AA06701 – AA06704
32	175. Order Denying Rehearing, Appeal from Denial of Post-Conviction Petition, <i>Vanisi vs. State of</i> <i>Nevada</i> , Nevada Supreme Court, Case No. 50607 June 22, 2010	AA06705 – AA06706
32	178. Declaration of Thomas Qualls April 15, 2011	AA06707 – AA06708
32	179. Declaration of Walter Fey April 18, 2011	AA06709 – AA06711
32	180. Declaration of Stephen Gregory April 17, 2011	AA06712 – AA06714
32	181. Declaration of Jeremy Bosler April 17, 2011	AA06715 – AA06718

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- 32 184. Manhattan Beach Police Department Police
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- 32 185. Manhattan Beach Police Department
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- 32 186. Notice of Intent to Seek Death Penalty,
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- 32 187. Judgment, *State of Nevada v. Vanisi*,
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- 32 190. Correspondence to The Honorable Connie
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- 32 195. Declaration of Herbert Duzant’s Interview of
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- 32 196. Declaration of Herbert Duzant’s Interview of
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12	Remittitur, <i>Vanisi v. State of Nevada, et al.</i> , Nevada Supreme Court, Case No. 35249 November 27, 2001.....	AA02527 – AA02528
15	Remittitur, <i>Vanisi v. State of Nevada, et al.</i> , Nevada Supreme Court, Case No. 50607 July 19, 2010	AA03031 – AA03032
35	Remittitur, <i>Vanisi v. State of Nevada, et al.</i> , Nevada Supreme Court, Case No. 65774 January 5, 2018.....	AA07319 – AA07320
12	Reply in Support of Motion to Withdraw as Counsel of Record, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 December 27, 2002	AA02572 – AA02575
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36	Reply to Opposition to Motion to Disqualify the Washoe County District Attorney’s Office, <i>Vanisi v. State of Nevada, et al.</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 July 27, 2018	AA07615 – AA07639

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36	1. Response to Motion for a Protective Order, <i>Vanisi v. State of Nevada, et al.</i> , Second Judicial District Court
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36	2. Letter from Scott W. Edwards to Steve Gregory re Vanisi post-conviction petition. March 19, 2002.....	AA07653 – AA07654
36	3. Supplemental Response to Motion for a Protective Order, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 March 16, 2005.....	AA07655 – AA07659
36	4. Appellant’s Appendix, Volume 1, Table of Contents, <i>Vanisi v. State of Nevada</i> , Nevada Supreme Court, Case No. 50607 August 22, 2008.....	AA07660 – AA07664
36	5. Facsimile from Scott W. Edwards to Jeremy Bosler April 5, 2002.....	AA07665 – AA07666
35	Reply to Opposition to Motion for Reconsideration and Objection to Petitioner’s Waiver of Attendance at Evidentiary Hearing, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 April 16, 2018.....	AA07356 – AA07365

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35	1. Petitioner’s Waiver of Appearance (and attached Declaration of Siao Si Vanisi), April 9, 2018.....	AA07366 – AA07371
13	Reply to Response to Motion for Stay of Post-Conviction Habeas Corpus Proceedings and for Transfer of Petitioner to Lakes Crossing for Psychological Evaluation and treatment (Hearing Requested), <i>State of Nevada v.</i> <i>Vanisi</i> , Second Judicial District Court of Nevada,	

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36 Reply to State’s Response to Petitioner’s Suggestion
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36 1. Declaration of Randolph M. Fiedler
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36 Request from Defendant, *State of Nevada v.*
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32 Response to Opposition to Motion to Dismiss
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36 Response to Vanisi’s Suggestion of Incompetency
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35 State’s Opposition to Motion for Reconsideration
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1. Declaration of Donald Southworth, *Vanisi v. State of Nevada, et al.*, Second Judicial District Court of Nevada, Case No. CR98-0516
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- 36 State’s Sur-Reply to Vanisi’s Motion to Disqualify the Washoe County District Attorney’s Office, *Vanisi v. State of Nevada, et al.*, Second Judicial District Court of Nevada, Case No. CR98-0516
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- 36 1. Transcript of Proceedings – Status Hearing, *Vanisi v. State of Nevada*, Second Judicial District Court of Nevada, Case No. CR98-0516
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- 36 Suggestion of Incompetency and Motion for Evaluation, *State of Nevada v. Vanisi*, Second Judicial District Court of Nevada, Case No. CR98-0516
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- 37 Transcript of Proceedings – Competency for Petitioner to Waive Evidentiary Hearing, *State of Nevada v. Vanisi*, Second Judicial District Court of Nevada, Case No. CR98-0516
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- 37-38 Transcript of Proceedings – Report on Psychiatric Evaluation, *State of Nevada v. Vanisi*, Second Judicial District Court of Nevada, Case No. CR98-0516
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13	Transcript of Proceedings – Conference Call – In Chambers, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 February 5, 2003	AA02583 – AA02587
35	Transcript of Proceedings – Conference Call, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 May 10, 2018	AA07372 – AA07384
34	Transcript of Proceedings – Decision (Telephonic), <i>Vanisi v. State of Nevada, et al.</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 March 4, 2014.....	AA07089 – AA07096
12	Transcript of Proceedings – In Chambers Hearing & Hearing Setting Execution Date, <i>Vanisi v. State of Nevada, et al.</i> , Second Judicial District of Nevada, Case No. CR98-0516 January 18, 2002.....	AA02541 – AA02552
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13	Transcript of Proceedings – In Chambers Hearing, <i>Vanisi v. State of Nevada, et al.</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 January 24, 2005.....	AA02655 – AA02679
35	Transcript of Proceedings – Oral Arguments, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 May 30, 2018	AA07391 – AA07446

38	Transcript of Proceedings – Oral Arguments, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 January 25, 2019.....	AA08136 – AA08156
32-33	Transcript of Proceedings - Petition for Post-Conviction (Day One), <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 December 5, 2013	AA06848 – AA06966

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33	199. Letter from Aminiask Kefu November 15, 2011.....	AA06967 – AA06969
33	201. Billing Records-Thomas Qualls, Esq. Various Dates.....	AA06970 – AA06992
33	214. Memorandum to File from MP March 22, 2002.....	AA06993 – AA07002
33	Transcript of Proceedings - Petition for Post-Conviction (Day Two), <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 December 6, 2013	AA07003 – AA07083

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33	200. Declaration of Scott Edwards, Esq. November 8, 2013.....	AA07084 – AA07086
33	224. Letter to Scott Edwards, Esq. from Michael Pescetta, Esq. January 30, 2003.....	AA07087 – AA07088

12-13	Transcript of Proceedings – Post-Conviction, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 January 28, 2003.....	AA02576 – AA02582
13	Transcript of Proceedings – Post-Conviction, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 November 22, 2004.....	AA02614 – AA02644
1	Transcript of Proceedings – Pre-Trial Motions, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 November 24, 1998.....	AA00001 – AA00127
13	Transcript of Proceedings – Report on Psychiatric Evaluation, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 January 27, 2005.....	AA02680 – AA02716
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13-14	Transcript of Proceedings – Report on Psychiatric Evaluation <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 February 18, 2005	AA02717 – AA02817
38	Transcript of Proceedings – Report on Psychiatric Evaluation, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 September 25, 2018.....	AA08034 – AA08080

36-37	Transcript of Proceedings – Status Conference, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 September 5, 2018.....	AA07725 – AA07781
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6-7	Transcript of Proceedings – Trial Volume 3, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 September 22, 1999.....	AA01113 – AA01299
2-3	Transcript of Proceedings – Trial Volume 4, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 January 14, 1999.....	AA00296 – AA00523
7	Transcript of Proceedings – Trial Volume 4, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 September 23, 1999.....	AA01300 – AA01433

3	Transcript of Proceedings, Trial Volume 5, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 January 15, 1999.....	AA00524 – AA0550
7-8	Transcript of Proceedings, Trial Volume 5, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 September 24, 1999.....	AA01434 – AA01545
8	Transcript of Proceedings – Trial Volume 6, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 September 27, 1999.....	AA01546 – AA01690
8-9	Transcript of Proceedings – Trial Volume 7, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 September 28, 1999.....	AA01691 – AA01706
9	Transcript of Proceedings – Trial Volume 8, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 September 30, 1999.....	AA01707 – AA01753
9-10	Transcript of Proceedings – Trial Volume 9, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 October 1, 1999.....	AA01754 – AA01984
10-11	Transcript of Proceedings – Trial Volume 10, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 October 4, 1999.....	AA01985 – AA02267

11-12	Transcript of Proceedings – Trial Volume 11, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 October 5, 1999.....	AA02268 – AA02412
12	Transcript of Proceedings – Trial Volume 12, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 October 6, 1999.....	AA2414 – AA02522

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 26th day of September, 2019.

Electronic Service of the foregoing Appellant's Appendix shall be made in accordance with the Master Service List as follows:

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An employee of the Federal
Public Defender's Office

Exhibit 66

Exhibit 66

SVan1312JDC03927

Case No. 98-0516

Dept. No. 4

FILED

'98 NOV 13 P1:52

BETTY L. LEE, CLERK
BY: [Signature]
DEPUTY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE
THE HONORABLE CONNIE STEINHEIMER, DISTRICT JUDGE

-oOo-

THE STATE OF NEVADA,)	
)	
Plaintiff,	)	HEARING REGARDING COUNSEL
)	
vs.	)	November 10, 1998
)	
SIAOSI VANISI,	)	Reno, Nevada
)	
Defendant.)	
)	

APPEARANCES:

For the Plaintiff:

RICHARD ALLEN GAMMICK
District Attorney
DAVID L. STANTON
Deputy District Attorney
Washoe County Courthouse
Reno, Nevada

For the Defendant:

MICHAEL R. SPECCHIO
Public Defender
One S. Sierra Street
Reno, Nevada

The Defendant:

SIAOSI VANISI

Reported by:

ERIC V. NELSON, CCR No. 57

ORIGINAL

SIERRA NEVADA REPORTERS (702) 329-6560

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2JDC03927
AA04942

1 RENO, NEVADA, TUESDAY, NOVEMBER 10, 1998, 11:00 A.M.

2 -oOo-

3 THE COURT: This is the time set for Mr. Vanisi
4 to make a determination if he wants to represent himself.

5 Mr. Specchio, have you had an opportunity to
6 discuss his decision with the court last week --

7 MR. SPECCHIO: Yes, Your Honor.

8 THE COURT: -- with him?

9 MR. SPECCHIO: I have.

10 THE COURT: Is it your understanding that he
11 wants to proceed with a request to represent himself?

12 MR. SPECCHIO: I don't think so. But I think
13 maybe the court ought to address Mr. Vanisi.

14 THE COURT: Mr. Vanisi, you had an opportunity
15 to consult with Mr. Specchio?

16 THE DEFENDANT: Yes.

17 THE COURT: Have you consulted with him?

18 THE DEFENDANT: Yes.

19 THE COURT: Is it your desire to proceed with
20 an inquiry and represent yourself?

21 THE DEFENDANT: No, it's not, Your Honor.

22 THE COURT: You think it's best just to stay
23 with the attorneys that you have and move forward?

24 THE DEFENDANT: Yes, I do, Your Honor.

25 THE COURT: Then we'll go ahead and do that,

1 Mr. Vanisi. We currently -- go ahead and you can be seated.
2 We have hearings set. Mr. Stanton.

3 MR. STANTON: Yes, Your Honor. If I could ask
4 the court to conduct just a brief additional canvass of
5 Mr. Vanisi.

6 My review of the Nevada Supreme Court's
7 addressing this issue also contemplates from between now and
8 the time of trial, maybe during trial into the penalty
9 phase, decisions by defendants to represent themselves and
10 that the Court absent some basis can completely deny that
11 request solely based on the fact that it would require a
12 continuance. Since Mr. Vanisi has expressed his unequivocal
13 desire to have counsel represent him from the Public
14 Defender's Office, I wonder if you could just conduct a
15 brief inquiry of Mr. Vanisi that he understands and knows
16 that from here on out, any request to change his counsel
17 that will result in a delay of the proceedings will be
18 denied on that basis alone.

19 In addition, Mr. Gammick brought up a fact
20 that at the last hearing there was some inquiry or intention
21 that was evidenced by a letter that we received and have
22 provided to defense counsel that Mr. Vanisi had expressed a
23 desire to other individuals about retaining his own counsel.
24 If the court could briefly inquire as to what his intent in
25 that regard is and that if he understands the ramifications

1 of not electing that decision now or addressing that issue
2 now, will potentially and most likely prohibit him from
3 substituting counsel at the last minute and cause a delay of
4 the trial.

5 THE COURT: I think I covered that at the last
6 hearing with Mr. Vanisi. We specifically discussed his
7 wife's desire to hire counsel or not, and I did indicate to
8 Mr. Vanisi there would be no continuances. If he wanted to
9 hire private counsel, he had to do it immediately. So I
10 have covered that aspect of it at the last hearing with
11 Mr. Vanisi.

12 And I think I covered, Mr. Vanisi, with you
13 that there won't be any continuances. We talked about that.
14 And the need to move forward with the trial date and that
15 this was your opportunity to elect to represent yourself and
16 that that wouldn't result in a continuance, but we would
17 just make the decision now. And is that your understanding
18 of what we talked about before?

19 THE DEFENDANT: Well, I understand that, you
20 know, today was to inform the court if I was going to
21 represent myself or if I was going to retain a private
22 attorney. And so I came today with the answer of I'm going
23 to stay with Specchio for this time.

24 If something were to arise in the future, then
25 I would have to address that in the court. Because I'm

1 limited on what I can do with criminal procedure and the
2 laws and the statutes of Nevada. So at this point my
3 addressing to the State is that at this point, that's what
4 we're doing. I'm going with Specchio. If anything else
5 arises, I will have to address that within that amount of
6 time.

7 But I do understand that January 11 is set, the
8 Court date is set at that time. So that's what I'm aware
9 of. That's what I have addressed, and you told me, and I
10 have understood it. Thank you, Your Honor.

11 THE COURT: Okay. Now one of the other pieces
12 that I want to make sure you understand is that the Nevada
13 Supreme Court has said that a timely request to represent
14 yourself will be considered by the court, but if you ask
15 after -- now you have decided you want to have an attorney
16 represent you, and for now it's Mr. Specchio, which I
17 understand that. If you were to ask me, for instance,
18 December 30th to represent yourself, I could and would deny
19 that request because it would require a continuance of your
20 trial.

21 Do you understand that?

22 THE DEFENDANT: Yes, I understand that you have
23 the discretion, Your Honor, to make that decision.

24 THE COURT: And you understand the Supreme
25 Court has basically told me that that's the way I should

1 exercise that discretion, if it would require a continuance,
2 would be to deny you either replacement attorney or
3 representing yourself at the last minute.

4 THE DEFENDANT: Yes, I understand that's what
5 the Supreme Court has informed you.

6 THE COURT: Now, I will tell you that remember
7 that I will certainly listen to any of your concerns that
8 may arise. And you should bring those concerns up to the
9 court if you have a significant concern. Again, I want to
10 remind you that your communications outside of the jail, and
11 I know Mr. Specchio has informed you of those communications
12 and the fact that your letters that you write will be
13 reviewed by the State. Remember that.

14 And we'll see you back at your next hearing.

15 Counsel have anything further? Anything
16 further?

17 MR. STANTON: Not from the State, Your Honor.

18 MR. SPECCHIO: Nothing further.

19 THE COURT: Thank you, counsel. We'll see you
20 back at the next hearing. Court is in recess.

21 (Recess adjourned at 11:05 a.m.)

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1 STATE OF NEVADA,)

2)

3 COUNTY OF WASHOE.)

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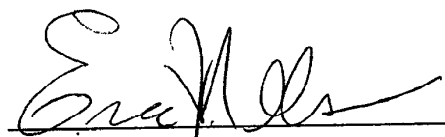
25

I, ERIC V. NELSON, Certified Shorthand Reporter
of the Second Judicial District Court of the State of
Nevada, in and for the County of Washoe, do hereby certify:

That I was present in Department No. 4 of the
above-entitled Court and took stenotype notes of the
proceedings entitled herein, and thereafter transcribed the
same into typewriting as herein appears;

That the foregoing transcript is a full, true
and correct transcription of my stenotype notes of said
proceedings.

DATED: At Reno, Nevada, this 11th day of June,
1998.



ERIC V. NELSON, CCR No. 57

Exhibit 67

Exhibit 67

9/4

13

FILED

99 JAN 12 PM 12:15

AMY H. HAYES

CASE NO. CR98-0516

DEPT. 4

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

BEFORE THE HONORABLE CONNIE STEINHEIMER, DISTRICT JUDGE

THE STATE OF NEVADA,

Plaintiff,

-vs-

SIAOSI VANISI,

Defendant.

:

:

:

:

:

:

PRETRIAL HEARING

December 10, 1998

Reno, Nevada

APPEARANCES:

FOR THE STATE:

RICHARD A. GAMMICK
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Washoe County Courthouse
Reno, Nevada

FOR THE DEFENDANT:

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Washoe County Public Defender
One South Sierra Street
Reno, Nevada

THE DEFENDANT:

SIAOSI VANISI

Reported by: Lesley A. Clarkson, CCR #182

ORIGINAL

SIERRA NEVADA REPORTERS (775) 329-6560

1 RENO, NEVADA, THURSDAY, DECEMBER 10, 1998, 11:45 A.M.

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3 THE COURT: Let the record reflect defendant and
4 counsel are present.

5 Are we talking about tables?

6 MR. SPECCHIO: No, just the location of Mr. Vanisi
7 during trial. We are going to have three lawyers here. And
8 we want him at counsel table, he will want to be at counsel
9 table. I'm just wondering if maybe we could put him on the
10 end.

11 THE COURT: Would you want -- I certainly wouldn't
12 presuppose where you would want him to sit, but you might
13 want two lawyers and Mr. Vanisi and then put the lawyer on
14 the end.

15 I don't think it matters to me. Does it matter to
16 anyone else?

17 MR. SPECCHIO: Well, we can talk about it. I'll
18 talk to these gentlemen about it. I think we will probably
19 have one lawyer sitting back here.

20 THE COURT: That's one of the questions. As you
21 can see, the tables are turned, and this is the way we intend
22 to have them during the trial.

23 MR. SPECCHIO: This is fine.

24 THE COURT: But we are not going to have any chairs
25 behind the extra chairs.

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1 MR. SPECCHIO: These.

2 THE COURT: So just tell us how many you think you
3 need, if you need one.

4 MR. SPECCHIO: I think if we have three chairs at
5 counsel table, we will only need one chair in the back.

6 THE COURT: Okay. Then that's the way it will be
7 set up. And then we believe that there will be no chairs
8 behind the district attorney's seat.

9 MR. GAMMICK: That will be fine, Your Honor.

10 THE COURT: That's sort of the way we thought it
11 would work.

12 MR. SPECCHIO: We also didn't discuss the
13 possibility, Judge, of we are going to have a lot of
14 material. It's going to come over on carts.

15 THE COURT: That's where -- we thought we would
16 want to move those chairs out so you would have room to set
17 your cart up there.

18 MR. SPECCHIO: Would it be all right to have that
19 material in the courtroom rather than have to haul it all
20 back every night?

21 THE COURT: Yes. Courtroom will be secure. If you
22 want to -- we might work with where you stack it. Because I
23 would rather, I like my staff be able to come and go.

24 MR. SPECCHIO: Maybe, because you are going to have
25 arraignments.

1 THE COURT: Right.

2 MR. SPECCHIO: So if we could just, you know, maybe
3 at the end of the day put them against the wall, I think that
4 will be all right. Mr. Gammick I don't think has any
5 problem, his people will be on that side of the table anyway.

6 THE COURT: Right, and he can move his cart a
7 little easier, I think. They don't have to leave the
8 building. But I understand it's hard to haul it across the
9 street.

10 Mrs. Stone, who will be your court clerk for the
11 trial, and the two bailiffs that are going to be assigned
12 will be glad to work with you about how to take care of the
13 material. We will find a place for it.

14 Okay. We also, today, I wanted to talk about just
15 briefly, give you an indication of the courtroom security
16 determinations that were made by the Court and the court
17 detail.

18 We will have a weaponless courtroom. There will be
19 no weapons in the courtroom by anyone other than court detail
20 personnel and as determined by the sheriff. Everyone else
21 will check their weapons. The sheriff is responsible for
22 maintaining this. It's not a court, the Court isn't going to
23 be doing it. There will be a magnetometer outside the
24 courtroom doors, and the courtroom will be cleared every,
25 after arraignments before court starts, just so you can know

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1 and notify your officers.

2 The old rule was in many cases unless you were in
3 uniform, but in this particular instance it's going to be no
4 weapons, uniform or not.

5 The security issues remain to be an issue for the
6 Court, and I want to make sure the record is clear that the
7 Court's goal is to have the jury believe that Mr. Vanisi is
8 not in custody. And we will make every effort to do that.
9 And I have been assured by the court detail that they will
10 make every effort to do that so the jury has no idea he is
11 being held in custody. If there is an issue that arises or
12 something appears to be not working, counsel again is
13 reminded that you should feel comfortable bringing that up to
14 the Court so that we can correct any problems that result.

15 I believe that during jury selection we will have
16 the jury panel move from the courtroom rather than the
17 parties. So if there's a break necessitated, the parties
18 will remain in the courtroom and the panel will be moved down
19 to another courtroom to be held.

20 We have a pretrial issue with regard to jury
21 questionnaires. It's the Court's determination that I will
22 allow for a pretrial questionnaire of the jury, which is an
23 expanded questionnaire over what we normally use. However, I
24 do not want this to be more than a page, perhaps two, but no
25 more than. And I have asked that counsel get together,

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1 submit to the Court a proposal, or at the very least let me
2 know what your real requests are to be held in this
3 questionnaire. I'm especially concerned about the wording of
4 the questionnaire as it relates to pretrial publicity.

5 I'll need this response back from the State and the
6 defense no later than next Wednesday at noon, so that we can
7 get this jury questionnaire put together.

8 I anticipate utilizing the questionnaire by having
9 the jury panel brought in, the veniremen, on January 4 to the
10 jury commissioner's office, being admonished about the jury
11 questionnaire, sworn by the clerk, and then fill out the jury
12 questionnaire in the presence of court personnel.

13 The questionnaire will remain in the courthouse
14 then and will never be out, and the people filling out the
15 questionnaire will have presented identification and be truly
16 the veniremen that are called.

17 Then I propose giving the questions, filled out
18 questionnaire to counsel by five o'clock that day. That
19 would be January 4. And then we have pretrial hearings set
20 already for the afternoon of January 7, at which point if
21 there's any individuals that we can remove from our veniremen
22 list based upon their questionnaire or background check that
23 is conducted and presented to counsel, we will be able to do
24 that at that hearing.

25 I'm going to ask the jury commissioner to pull 150

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1 people, and then we don't know how many of those will
2 actually appear to fill out the questionnaire. We are having
3 approximately 20 percent loss. And then we will reduce that
4 number down to who actually will appear on January 11 for
5 your jury selection.

6 We will be utilizing a modified individual voir
7 dire process in that we will do side bars if the question
8 requires a side bar discussion with the veniremen. That
9 would stop the rest of the panel from being tainted, from
10 hearing what the veniremen might say.

11 The method, just so that counsel knows, is the
12 court reporter will be up on the witness level throughout
13 jury selection, because we will have 42 or so people in our
14 pit area during the jury selection, and so we are going to
15 have them up there. And it also will be more convenient for
16 side bar. Everyone will go to the actual side bar, and we
17 will be on the record during the side bar discussions, but
18 the jury won't be hearing it.

19 The individual voir dire process that we will
20 utilize will be on a case-by-case basis and only as I see
21 it's necessary to stop the rest of the panel from being
22 contaminated by the statements of knowledge that the
23 individual jurors might have.

24 Jury confidentiality order. We have a jury
25 confidentiality order that's in effect in the county that was

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1 issued by the chief judge. I require a slight modification
2 in that, in that I ask that jurors' names, addresses and
3 telephone numbers not be provided by, to outside people,
4 anyone outside of the particular attorneys trying the case.
5 And that those telephone numbers, addresses not be
6 memorialized by counsel.

7 We require that the jury questionnaires that you
8 receive, the copies be returned to the Court for shredding.
9 The originals are held, and they are held in the sealed
10 documents of the court. Anyone can get them if there's a
11 reason for it, but absent a reason they will be held somewhat
12 confidential for the jurors' benefit.

13 Those people who are not selected for jury duty,
14 that are actually excused for jury duty, are not called up
15 even into the panel, the 40 that we inquire, those are not
16 even held by the court. That's our usual policy. If someone
17 believes something else should happen with those, you need to
18 make a motion and talk about it on the January 7 date, if you
19 have any concerns about that.

20 The decision with regard to the motion in limine
21 regarding the State's DNA expert will be in writing, but, and
22 you will receive it later this week, my written
23 determination. But it's, I don't think it will impact the
24 witnesses that we plan on calling.

25 That was everything on my list of things that we

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1 needed to talk about. I know counsel probably has some
2 concerns on their own lists.

3 So do you want to go forward, Mr. Gammick?

4 MR. GAMMICK: Thank you, Your Honor.

5 I would indicate for the record that we have
6 already returned the demonstrative evidence hatchet to the
7 clerk which was marked as Exhibit Number 5. I now will
8 present to the clerk photographs that were marked at the last
9 hearing labeled 4.B through 4.J, which were the photographs
10 that Dr. Clark testified to in court and the Court was going
11 to allow during the course of the trial.

12 THE COURT: Okay.

13 MR. GAMMICK: We have made -- we did have copies
14 printed of these and we have furnished them to defense,
15 except one photograph which we had a problem with, and that
16 will be done hopefully today or tomorrow.

17 THE COURT: Thank you.

18 MR. GAMMICK: I would also indicate that -- the one
19 that we didn't get to defense yet is 4.I, and he printed the
20 wrong photograph and we are getting that one reprinted, so we
21 should have that in the next day or two.

22 There is also four additional photographs that Dr.
23 Clark advised us after the hearing that she may need. We
24 went ahead and pulled those, we had those printed, we
25 furnished those to defense. If in fact Dr. Clark decides she

1 does need one or any of those, then we would ask the Court
2 for another hearing, if the Court deems that's necessary, and
3 establish the foundation and everything for those photographs
4 also.

5 They are basically the same as the Court's already
6 allowed, except there may be a little different angle or a
7 little different perspective on particular wounds. I'm not
8 even sure if Dr. Clark's going to need them at this time.

9 THE COURT: Will you know by the January 7 trial
10 date?

11 MR. GAMMICK: By January 11?

12 THE COURT: I mean the January 7 pretrial hearing
13 date that we have set aside.

14 MR. GAMMICK: We can contact Dr. Clark and see if
15 she's made up her mind by that time. If in fact we can have
16 her, if we do need any additional, if she decides she wants
17 to use any of those we anticipated, to be on the safe side,
18 furnish those to defense so they know what they are.

19 THE COURT: You should be prepared to rebut what,
20 if the defense has an objection. There was an initial motion
21 to exclude all the photographs. After the hearing I
22 granted -- denied the motion basically somewhat by the
23 culling down of the photographs and the viewing of the
24 photographs and my determination of their necessity. If you
25 want to add more to it you should be prepared to do that and

1 make a record so that I can see them in their total, because
2 it's the entire packet that you intend to use, and you should
3 be prepared to do that on Thursday the 7th of January.

4 MR. SPECCHIO: Judge, what time is that hearing on
5 the 7th?

6 THE COURT: It's set for 1:30, and it was set
7 initially, and it's blocked out the whole afternoon, so you
8 can do whatever you need to do.

9 MR. GAMMICK: I would also indicate for just
10 purposes of the record that on December 3 and December 4 our
11 investigators went to Reno Police Department and went
12 completely through their files, did find some additional
13 material. We have furnished that to Mr. Specchio this
14 morning. And we will go from there.

15 So as far as we are concerned, defense has
16 everything now. I explained to Mr. Specchio if anything else
17 comes up we are going to be surprised, too, because we have
18 been through it. And then we will also extend to
19 Mr. Specchio and Mr. Gregory the opportunity to come over to
20 our office and go through our file piece by piece if they
21 wish and make sure they do have everything.

22 I believe we have accomplished that on discovery, I
23 believe the statute requires discovery be furnished no later
24 than Saturday, which would be tomorrow. I believe that's
25 been complied with now with the exception of one photograph I

1 brought up we hadn't furnished them yet.

2 THE COURT: Okay. Mr. Specchio, do you have any
3 concerns or anything you'd like to apprise me of?

4 MR. SPECCHIO: Well, Your Honor, we are probably --
5 I have to see how this custody security thing is going to pan
6 out, but I do think we are going to have some problems, or at
7 least we might want to make a record. If I understand it,
8 there's going skirting around this table and that table.

9 THE COURT: Both tables, yes.

10 MR. SPECCHIO: And the defendant's going to have a
11 belly chain on and ankle bracelets.

12 THE COURT: As I understand, there will be some
13 sort of a waist restraint, electrical restraint, but it will
14 be under his clothing. His arms will be free during the
15 trial to write and pass notes back and forth.

16 MR. SPECCHIO: Well, I'm assuming, Judge, that I'm
17 supposed to be making some kind of a complaint, but I don't
18 think I can until I see what it will be, and then we will
19 voice it at that time.

20 THE COURT: Certainly you don't have to complain.
21 We hope this whole security issue works perfect and there's
22 nothing to complain about.

23 MR. SPECCHIO: That's fine.

24 THE COURT: So we will keep an open mind on that.

25 MR. GAMMICK: Your Honor, I did have one other

1 question. I apologize. I missed it.

2 If the, we are going to have the information in to
3 you by noon next Wednesday on the supplemental questionnaire.

4 THE COURT: Yes.

5 MR. GAMMICK: And you intend to give that to the
6 jurors on the 4th, are we going to have some time in between
7 to see what the Court proposes to give the jurors in case we
8 do have any comments or objections to make?

9 THE COURT: Actually I would like to have some -- I
10 think we actually have to put that on the record anyway, what
11 is ultimately determined. And I don't think -- we don't have
12 Mrs. Stone here, who kind of is the guru on the calendar, so
13 I can't really give you a definitive time and date right now.
14 If you all agree mostly on that, and I don't have a lot of
15 disagreement that you give me, we could even do it Wednesday
16 afternoon. But I have to look and see what else we are doing
17 next week.

18 So we will get back to you on when we will get
19 together, and you will have an opportunity to voice your
20 objections before I rule on it.

21 MR. GAMMICK: Well, I was looking at if the Court
22 wants them in by noon next week, the Court of course has to
23 have it in time to look at it, put together a questionnaire.
24 I just want to see that document the Court proposes to give
25 the jurors once you are done with it in case we have any

1 other comments.

2 THE COURT: Then you can decide if you want to
3 object to it or not.

4 MR. GAMMICK: Then we will see if we need a
5 hearing. We may be totally agreeable.

6 THE COURT: Is that procedure all right with you?

7 MR. SPECCHIO: I think that's fine, Judge. I still
8 extend the offer, if you want us to prepare it, it will speed
9 things up, just give me a call and we will prepare it. I'm
10 sure Dick would, too. So that we can have it reduced to
11 writing and know what we are talking.

12 THE COURT: Well, if you all can get together and
13 reduce something to writing by next Wednesday at noon, that
14 would be the best possible thing.

15 MR. SPECCHIO: What I am going to do, Judge, is
16 submit mine to the Court with a copy to Mr. Gammick, and
17 there will be probably 15 or 20 questions. And the ones he
18 agrees with, fine. The ones that he doesn't, he will advise
19 the Court, and vice versa. I'm sure he will do the same to
20 me.

21 MR. GAMMICK: We will do the same procedure, Your
22 Honor. I know the Court will fine glean it down to what the
23 Court will want to present. That's all I want to see, just
24 the final one, if we have any objections or questions or
25 issues with it.

1 THE COURT: We will go ahead and do that. We will
2 follow that, and we will give you a copy of the final form
3 that's proposed and then give you certain period of time to
4 voice your objections.

5 MR. GAMMICK: That will be fine, Your Honor. Thank
6 you.

7 THE COURT: Anything else?

8 MR. SPECCHIO: No. Judge, I should advise that
9 Mr. Rusk from the district attorney's office was kind enough
10 to provide me with my reading material for the weekend.

11 THE COURT: Is it Bates stamped?

12 MR. SPECCHIO: No, it isn't, Judge. It's just a
13 bunch of stuff, but I think we have it. I don't know yet.
14 I'll have to review it.

15 THE COURT: You can double check.

16 MR. SPECCHIO: I think with that, I'm going to rely
17 on Mr. Gammick's statement that we have everything. Which I
18 assume we do.

19 THE COURT: As he indicated, the file is open, so
20 at any time you --

21 MR. SPECCHIO: Exactly.

22 THE COURT: -- you can go over and look.

23 MR. SPECCHIO: I think, Mr. Stanton has been great
24 in providing all the stuff that we had.

25 THE COURT: Thank you, counsel.

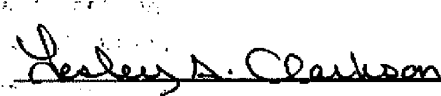
1 STATE OF NEVADA)
2) ss
3 COUNTY OF WASHOE.)
4

5 I, LESLEY A. CLARKSON, Official Reporter of
6 the Second Judicial District Court of the State of Nevada,
7 in and for the County of Washoe, DO HEREBY CERTIFY:

8 That I was present in Department No. 4 of the
9 above-entitled Court on Thursday, the 10th day of December,
10 1998, and took stenotype notes of the proceedings had upon
11 the Pretrial Hearing in the matter of THE STATE OF
12 NEVADA, Plaintiff, vs. SIAOSI VANISI, Defendant,
13 No. CR98-0516, and thereafter transcribed them
14 into typewriting as herein appears;

15 That the foregoing transcript is a full,
16 true and correct transcription of my stenotype notes of
17 said hearing.

18 Dated at Reno, Nevada, this 2nd day of
19 January, 1999.

20 
21 Lesley A. Clarkson, CCR #182

22
23
24
25

Exhibit 69

Exhibit 69

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12JDC03796

FILED

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Case No. CR98-0516

Dept. No. 4

'99 JAN 28 P2:32

[Signature]

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE
THE HONORABLE CONNIE STEINHEIMER, DISTRICT JUDGE

-ooo-

THE STATE OF NEVADA,
Plaintiff,

HEARING TO RESET
TRIAL DATE

January 19, 1999

-vs-

Reno, Nevada

SIAOSI VANISI,
Defendant.

APPEARANCES:
For the Plaintiff:

RICHARD A. GAMMICK
District Attorney
DAVID L. STANTON
Deputy District Attorney
Washoe County Courthouse
Reno, Nevada

For the Defendant:

MICHAEL R. SPECCHIO
Public Defender
STEVE GREGORY
Deputy Public Defender
One South Sierra Street
Reno, Nevada

The Defendant:

SIAOSI VANISI

ORIGINAL

Reported by:

KRISTINE A. BOKELMANN, CCR #165

1 RENO, NEVADA, TUESDAY, JANUARY 19, 1999, 10:02 A.M.

2 -oOo-

3
4 THE COURT: Let the record reflect the defendant is
5 present with Mr. Gregory and Mr. Specchio. The State is
6 present with counsel.

7 We are gathered now to reset this case for trial.
8 When I was speaking with your appellate deputies in a
9 conference call on Friday, I had suggested a potential date of
10 August 30th. They were going to talk to counsel. Did you have
11 a chance to look at that date or think that might work?

12 MR. SPECCHIO: Your Honor, I think the next week is
13 Labor Day. I think I'd ask for the week following that.
14 August is our worst month. We can go June, July. And August
15 is, because of shortage of help because of vacations, August is
16 a bad time, and I think --

17 THE COURT: Well, August 30th is the day school
18 starts, so it is your -- probably your staff would have --
19 school-age children will certainly be back. It is the
20 beginning of the school year.

21 The Memorial Day does fall in there, just like we
22 had this holiday during this trial setting, but we can give you
23 three weeks minus one day without bumping any other murder
24 cases or any civil cases that have been set for a long time.

25 If we go into June, we're in a little different

1 situation and we can't give you three weeks in July.

2 MR. SPECCHIO: When is Labor Day? Is it the
3 following week?

4 THE COURT: It's the Monday after August 30th.

5 MR. STANTON: September 6th.

6 THE COURT: You have five days of trial, then you
7 have Labor Day, four days of trial, and then five more days, so
8 you'd be able to have 14 days set aside.

9 MR. SPECCHIO: All right.

10 MR. GAMMICK: Your Honor, we would ask for the
11 earliest date possible.

12 THE COURT: Let me tell you my theory, okay. We
13 had a lot of publicity about the mistrial, and my feeling is --
14 I did discuss this briefly with Judge Breen also, the senior
15 judge in our district.

16 My feeling is that I would rather try it -- start
17 it today, if I had my druthers. I'd rather begin immediately.
18 We can't do that. The defense has asked for a minimum of 60
19 days.

20 We go into 60 days, and we are still dealing with
21 the publicity issue of the publicity of why we had a mistrial.
22 My belief is that if we go into August, which is a good date,
23 August, September, we've lost the initial impetus of the
24 publicity, and I think we'll be able to select a jury.

25 I don't want to do it -- if we can't do it

1 immediately, I don't want to do it so soon that we not only
2 lose the ability to continue with it on short notice, but we
3 add the added issue of more publicity.

4 I'm concerned about the jury selection and how long
5 it will take us anyway. And the longer time fades with regard
6 to publicity, I think we're better off, as long as it's not too
7 long. I obviously want to get this trial off.

8 That being said, Mr. Gammick, go ahead and tell me
9 what you think.

10 MR. GAMMICK: I'm not -- I understand the Court's
11 calendar and I understand there are a lot of things coming up
12 in here. The Court mentioned June.

13 I don't see where we're going to need three weeks
14 with this case. We anticipated resting today, with yesterday a
15 holiday. Defense anticipated a day for the guilt phase, so
16 we're looking at just over a week for the guilt phase, and then
17 if there's a penalty phase, I know neither one of us will have
18 a lot of additional information to put up, so we're looking at
19 a day or two days with a guilt phase. So I'm even more
20 comfortable than I was before that this trial should not take
21 more than two full weeks.

22 THE COURT: Well, you had six days to defense case,
23 six trial days in picking the jury and trying your case. If we
24 add an additional day, depending on how soon we go for jury
25 selection, because we may have to do more individual voir dire,

1 I want to be sure I have the days built in.

2 So there we're at seven with the defense take one.
3 That's eight. If the jury deliberates more than three or four
4 hours, we are basically eating up our ninth day. Then
5 depending on the verdict, if there is a guilty verdict, then we
6 may or may not have to have an extra day built in there for
7 preparation for the guilt phase, depending on what date, time
8 the jury returns its verdict.

9 That could be ten. And then you'd be into your
10 third week with one day for guilt -- or for penalty phase and
11 the defense two days is what I built in for penalty. I didn't
12 know if you would need that much. That puts us at 13 days, and
13 then deliberations.

14 So basically from the Court calendar, I really feel
15 I have to block out three weeks.

16 MR. GAMMICK: Okay.

17 THE COURT: I can't start another jury trial. I
18 can do lots of other things, but I can't really have anything
19 but in terms of jury work for those three weeks.

20 MR. GAMMICK: Understood. Did the Court mention
21 also that you had some time in June or is that --

22 THE COURT: We don't have.

23 MR. GAMMICK: Oh, okay.

24 THE COURT: We don't really have time anywhere. I
25 mean, we planned on you all going in January for a long time,

1 but we can move things. And certainly this case takes
2 precedence over other matters. Our last murder trial will be
3 resolved around the end of May. We have murder trials every
4 month, as you know --

5 MR. GAMMICK: Understood.

6 THE COURT: -- in this department, so -- and many
7 of those are set for two weeks, which gives us trouble trying
8 to set a three-week trial in the middle of that. So we're kind
9 of basically in murder trials through May.

10 So we could put you in June, but it would require
11 juggling, and if that's better for counsel, if you think June
12 is better than the end of August, we can go back and look at
13 the calendar.

14 MR. GAMMICK: I would express the same concern that
15 Mr. Specchio did, is having a three-day weekend in the middle
16 of this trial did cause some problems with some of the jurors
17 already having travel arrangements made because they were
18 looking at that three-day weekend.

19 I'm just not so sure that may not cause us grief
20 again in the fall, and if we are going to start then, I don't
21 know what the Court's calendar looks like with maybe doing that
22 on September 7th, which would be the day after Labor Day, which
23 will get everybody back and we wouldn't be faced with that
24 issue again, make for a four-day week. And I'm not sure what
25 the Court has, if you have enough room after that. I'm not

1 trying to be obstinate here this morning.

2 THE COURT: No, no, I understand.

3 MR. GAMMICK: We would like to get this in as soon
4 as we could, everything considered.

5 THE COURT: Well, the clerk doesn't see any problem
6 with that, if you want to wait until September 7th.

7 MR. SPECCHIO: I'd prefer that, your Honor, to the
8 August 30th date.

9 THE COURT: Or do you want us to look at June?

10 MR. SPECCHIO: For the same reason that Mr. Gammick
11 just stated.

12 THE COURT: Okay. We can either do it then or we
13 can look into June. The clerk will just have to -- she's got
14 the calendar here and she's trying to juggle it, but September
15 7th we have lots of things set in that three weeks but nothing
16 of urgency, and certainly nothing that would take precedence
17 over this case.

18 MR. GAMMICK: May I have just a moment, your
19 Honor?

20 THE COURT: Yes.

21 MR. GAMMICK: May I have just one more quick
22 moment, your Honor?

23 THE COURT: Yes.

24 MR. GAMMICK: Your Honor, we can agree with the
25 September 7th trial date.

1 THE COURT: Okay. The other date we were coming up
2 with was June 1st, but as the clerk just said, we'd probably
3 have vacation problems then, too, because the school just gets
4 out.

5 MR. GAMMICK: Mr. Specchio also advised me he's got
6 some time in June. We've got another murder case. We have so
7 many of these going now, the September 7th would probably be
8 the best day.

9 THE COURT: So we can hold that for both counsel
10 and the defense. Nothing else is in there, so we're out far
11 enough your trial team can still be in place, Mr. Specchio?

12 MR. SPECCHIO: We don't have anything after August
13 1 at this point, so we're okay.

14 THE COURT: All right.

15 MR. SPECCHIO: Actually, July 30th, whenever the
16 last day in July is, is where we are right now as far as all of
17 them. I think there's 11 that are stacked between now and
18 then.

19 THE COURT: I know I have five or six of them here,
20 so --

21 MR. SPECCHIO: Right, I know, I know. I think
22 there's four or five in here.

23 THE COURT: With your office.

24 MR. SPECCHIO: With my office, right.

25 THE COURT: Now, we've reviewed Rule 250 and as we

1 talked about Rule 250 before, it didn't apply when we were
2 starting before January 31st, but I do believe the new Rule 250
3 applies because of the continuance.

4 The clerk gave you, with your transcripts that were
5 filed this morning from Friday, applications, Mr. Specchio.
6 These are just draft application forms that we've used in other
7 cases that are currently pending.

8 I don't know what the application form is going to
9 look like once the district judges meet and are able to discuss
10 it. If you have any -- I'd appreciate it if you looked at it
11 and gave me some comments on it anyway.

12 But I think if the trial team fills these out,
13 we're fulfilling the statutory requirements and it covers all
14 the bases that we have to cover. And then any comments you or
15 your staff have, I'd like to take to the judges' meeting in
16 February just so we can talk about it. But the draft is what
17 I'm using in this department.

18 MR. SPECCHIO: I've looked it over, your Honor. It
19 seems all right.

20 THE COURT: Okay. Great. Now, so I'm going to ask
21 that you fill those out. Your staff get them back and file
22 them with the court clerk. Get them directly to Mrs. Stone and
23 she'll take care of the filing of them.

24 MR. GAMMICK: Your Honor, I would also just mention
25 for the record, since we do come under the new Rule 250 now,

1 that there were dates that we did not comply with that would be
2 impossible to comply with at this time, and I believe those are
3 dates of notice, dates of filing of the notice, those types of
4 things that we were not required to do at the time this case we
5 followed the Rule 250 that was in effect. We cannot meet those
6 dates under the new Rule 250. We will comply with the
7 provisions if we can.

8 For instance, I believe now there's a requirement
9 that we file with the Court for the penalty phase witnesses and
10 evidence. We will do that. We will do everything we can
11 comply with, but there are things we cannot comply with under
12 the new rule.

13 THE COURT: Now, what we did, Mr. Gammick, in
14 another case that's in the same boat, sort of in between the
15 two rules, is the new rule doesn't go into effect until January
16 30th. So what I said was that the State had from January 30th
17 forward to rectify the record within the time periods as though
18 you were filing your indictment on January 30th, if that makes
19 sense.

20 We have a requirement that some notices be filed
21 within ten days, some -- I think there's one for 30 days, so I
22 know that you indicated that you believed you had fulfilled
23 those requirements anyway, but I'd like to see a written notice
24 filed on those.

25 MR. GAMMICK: I'm not -- we do have a written

1 notice seeking death penalty filed in this case. It was just
2 not filed under the time constraints of the new 250, but it is
3 on file and active at this time and we intend to pursue that.
4 I'm not sure --

5 THE COURT: But does that notice fulfill the
6 requirements of the new 250? The new 250 death aggravating
7 circumstance notice is more involved than the old Rule 250.

8 MR. GAMMICK: I believe our notice will meet that.
9 The other requirement that I know we have not met to date is
10 the one that requires a filing with the Court I believe five
11 days prior to trial laying out the witnesses and what the
12 evidence will be presented at a penalty phase.

13 That we can comply with when it comes time in
14 August, but as far as I know, we're required to make some kind
15 of statement at time of initial appearance, which can't be done
16 now.

17 THE COURT: No later than 30 days after the filing
18 of the Information or the Indictment, the State must file in
19 the District Court a notice of intent to seek the death
20 penalty. The notice must allege all aggravating circumstances
21 which the State intends to prove, which that's no change, and
22 allege with specificity the facts on which the State will rely
23 to prove each aggravating circumstance.

24 MR. GAMMICK: Okay. We'll review that and insure
25 that we do comply.

1 THE COURT: And then there's the 15-day's notice
2 for the amended notice, and so what I'm thinking is if I find
3 that there's good cause -- specifically make a record now that
4 there's good cause for you not to have met that 30-day, but as
5 of January 30th you're on notice that you must comply.

6 So the late notice provision which allows you 15
7 days to amend your notice of intent to seek death penalty
8 should be complied with in the new Rule 250.

9 MR. GAMMICK: Okay. We will do that, your Honor.

10 THE COURT: And then that was my concern, because
11 it's a little different. The notice requirement does appear to
12 be different than the original Rule 250, so just go ahead and
13 review that, but you have as though you were filing your
14 indictment as of January 30th to fulfill the dates.

15 MR. GAMMICK: I understand now.

16 THE COURT: Okay. And does that make sense to you,
17 Mr. Specchio?

18 MR. SPECCHIO: Your Honor, you're relying on the
19 language that says any case pending on January 30th -- or
20 actually, 30 days from December 30th?

21 THE COURT: Right.

22 MR. SPECCHIO: Because I think an argument could be
23 made that this case doesn't fall under the new rule, not that I
24 have any objection to doing it, but either way, we're fine with
25 what you just advised Mr. Gammick.

1 I think an argument could be made that this case is
2 really an extension of the trial that began and stopped prior
3 to January 30th, but I'm not a legal scholar in that area, but
4 that's a possibility. But to answer the Court's question, I
5 don't have any problem with it, Judge.

6 THE COURT: Okay. The new rule in its application
7 does indicate that it applies to all new or pending cases,
8 including -- it says, provisions of this rule apply to cases in
9 which the death penalty is or may be sought or has been
10 imposed, including proceedings that have already started.

11 So I think in the interests of being sure that
12 there is no issue later, we'll follow the rule and make sure we
13 abide by it.

14 MR. SPECCHIO: That's fine, your Honor.

15 THE COURT: One of the things that are not required
16 in the new rule is all the briefings, all those special
17 hearings, although the clerk and I did set some hearing dates
18 down because we thought that was productive previously anyway,
19 even though it's not mandated by the rule.

20 I don't know if she's had a chance to come up with
21 some dates. We set this out a couple of times. You ready?

22 Also, does counsel wish to continue with the jury
23 selection process the way we did it in this matter earlier?

24 MR. GAMMICK: Your Honor, I talked to Mr. Hatlestad
25 and we're doing some research to ensure that a proposal that I

1 have for the Court would be entirely legal, but considering the
2 difficulties that we had managing that many people at one time,
3 what I was going to suggest to the Court -- again, we are
4 making sure that this is entirely legal -- would be to, if
5 we -- if the Court decides with counsel that we're going to
6 order 200 jurors or whatever the venire panel will be, to break
7 that up into smaller panels, for instance, 75 or 80 people per
8 panel, call the first panel in, put a second and a third and a
9 fourth or however many additional panels we need on an on-call
10 basis, and then the Court set that when we get down to where
11 there's ten left in the first panel, we call the second panel.

12 And then same thing with that panel, if we get down
13 that far, if there's ten left, then we call the third panel,
14 regardless of the number we set, 200, 300, whatever.

15 By doing that, we're not doing any kind of
16 alphabetizing or alphabetical breakdown. We're still doing
17 random panels that meet -- Mr. Hatlestad seemed to feel that
18 this would be an appropriate method, but he is going to
19 double-check just to make sure, and that way would be smaller,
20 more manageable panels.

21 And if we do get a jury fairly early on, then we
22 don't even have to call the rest of the people, and it would
23 sure make all the gyrations we went through to try to manage
24 that many people at one time a lot simpler, and I think it
25 would make the process go a lot quicker, too.

1 THE COURT: So you're thinking of only calling 75
2 in the original panel but have a backup panel of 75, at least
3 one backup panel of 75?

4 MR. GAMMICK: Well, 75, 80. I'm thinking about the
5 seating in the courtroom and having extra places for them to go
6 and actually comes down to calling the panel, that they can be
7 managed a lot easier, a lot quicker instead of taking a half
8 hour to get them in and out of the courtroom and call roll and
9 go through all the things that we did with 135 people.

10 THE COURT: Right.

11 MR. GAMMICK: Just looking at smaller groups, but
12 still call a total that should be sufficient to seat a jury in
13 this case, considering the amount of media and everything it
14 has had.

15 And when we go to trial again on this case, I'm
16 sure it will have a lot of media coverage again. This case has
17 a lot of public interest. There's not much we can do about
18 that.

19 MR. SPECCHIO: Judge, I don't have any problem with
20 that. I think it makes sense. This room is really built for
21 about 75 or 80 people.

22 What I think we should do, though, if you're going
23 to use the questionnaire, is to swear all 150 of them or
24 however many, and then tell this group they're coming in the
25 following Monday, and the next one that they're coming in a

1 Monday after that, or any time called by the Court.

2 They may be called and told they're excused, but --
3 and the purpose being that they should all be admonished at one
4 time before they're let loose on the public.

5 THE COURT: Right.

6 MR. SPECCHIO: That's the only problem I would
7 have.

8 THE COURT: So what we would do, we did break it
9 down into two panels for filling out the questionnaire.

10 MR. SPECCHIO: Right.

11 THE COURT: So we do the same thing, but instead of
12 telling both panels to come back Monday morning at 10:00 a.m.,
13 we tell one panel come back Monday morning at ten.

14 MR. SPECCHIO: And the other to be on standby.

15 THE COURT: And the other panel we'd hold on to.

16 MR. SPECCHIO: I think that would -- we would not
17 have any objection to that.

18 THE COURT: Okay. That would certainly make it
19 easier on the court staff.

20 MR. GAMMICK: Another issue was just brought up. I
21 would very much like to revisit that questionnaire as to
22 whether or not the Court's going to use it, what subjects we're
23 going to cover, and whether or not those same questions will be
24 asked again. I think that caused a lot more grief than it
25 really shed light on.

1 THE COURT: Actually, I liked it, Mr. Gammick. It
2 helped me a lot.

3 MR. GAMMICK: I understand, your Honor, and I
4 understand the Court's preference for using them, but I would
5 like to revisit as to on what we're going to ask and how we're
6 going to ask it this time. We have more experience now with
7 this one.

8 THE COURT: Okay. Well, I think that's something
9 that can be raised in our pretrial motion hearing. The clerk
10 and I have set as -- we have a date that we're going to give
11 you for all pretrial motions to be filed. Then you all respond
12 to it in the regular course. Then we have a date set for
13 hearing on those motions.

14 And again, there's not really a necessity for me to
15 rerule on everything, but those things you'd like me to
16 reconsider based upon your experience so far in the case or any
17 new issues that the defense finds, please be sure to raise it
18 by that motion date.

19 Then she'll give us the date for hearing, and by
20 that date everyone has to have responded and submitted it to
21 the Court so that I'll know where you're going. If you want to
22 have it only saved for oral hearing, note that in your
23 submission. If you want me to go ahead and rule on it as we
24 did before without oral hearing, you can say that in your
25 submission.

1 Otherwise, all prior motions and rulings will
2 remain in effect. Unless you specifically request that I
3 revisit an issue or file a new issue, the rulings of the Court
4 from the prior -- from the prior hearings and trial shall all
5 remain in effect. Does anyone have any question about that?

6 MR. GAMMICK: No.

7 MR. SPECCHIO: No, your Honor.

8 THE COURT: Then the clerk will give us --

9 MR. GAMMICK: While the Court's making orders on
10 this, too, we would also request that all witnesses that have
11 been subpoenaed in this case, at least from the State side, be
12 held to their subpoenas for the new trial date. I'm assuming
13 that's going to be at 10:00 a.m. again.

14 THE COURT: Yes, it is.

15 MR. SPECCHIO: Same for the defense witnesses, your
16 Honor.

17 THE COURT: Okay. The Court will order that all
18 witnesses previously subpoenaed are held to those original
19 subpoenas. Their appearance in court is continued until the
20 date of the trial, which the clerk will now give us. The clerk
21 will give us all the dates at one time. If you have any
22 conflicts based on your schedule, please let the clerk know.

23 THE CLERK: All motions are to be filed by April
24 15th, 1999. The hearing on submitted motions will be June 1st,
25 1999 at nine o'clock. Jury selection will be August 30th at

1 10:00 a.m. and 10:30. Jury selection of jurors that do not
2 come on Monday, the 30th, will be September 2nd at ten o'clock.

3 THE COURT: That's if we use a questionnaire.
4 That's the questionnaire, swearing of jurors, initial roll
5 calls.

6 MR. GAMMICK: Could I have those dates again,
7 please?

8 THE CLERK: Sure. Jury selection questionnaires,
9 August 30th at ten o'clock and 10:30. Additional jury
10 selection questionnaires, September 2nd at ten o'clock. Any
11 additional motions will be heard September 2nd at 11:00 a.m.
12 Any additional exhibits that need to be marked will be
13 September 2nd at 2:00 p.m. Trial will begin September 7th at
14 10:00 a.m.

15 THE COURT: That last hearing, September 2nd in the
16 morning, that's only if there's something that comes up right
17 before trial. All the motions that you've filed by April 15th
18 will all be resolved in June.

19 MR. GAMMICK: Your Honor, I would indicate at this
20 time that we intend to keep all exhibits that have been marked
21 so far marked in that order and just leave it as that, and if
22 we have any additional exhibits, we'll take care of it on the
23 2nd of September.

24 THE COURT: Okay.

25 MR. GAMMICK: And I would also ask, Friday when we

1 had our hearing, we had two exhibits marked, B and C, the
2 audiotape and the videotape. Those were originals. I would
3 ask for the Court permission to have those released at this
4 time so we could make copies for both the State and the
5 defense, and then we can return those to the Court once the
6 copies are made.

7 THE COURT: Any objection?

8 MR. SPECCHIO: No, your Honor.

9 THE COURT: Okay. You may -- the originals will be
10 provided to you for purposes of copying, and then provide the
11 originals back to the Court.

12 MR. GAMMICK: Yes, your Honor.

13 THE COURT: Is there any problem with this briefing
14 schedule?

15 MR. GAMMICK: If I may have just a moment, your
16 Honor, I don't believe so.

17 THE COURT: Go ahead and look.

18 MR. GAMMICK: The motions are due on April 18th?

19 THE CLERK: 15th.

20 MR. GAMMICK: 15th. Thank you.

21 MR. SPECCHIO: Right after you file your income
22 tax, come over and file.

23 MR. GAMMICK: Those dates look good with us, your
24 Honor.

25 THE COURT: Great. Thank you, counsel. Then we'll

1 see you -- yes, Mr. Specchio.

2 MR. SPECCHIO: Judge, in light of what happened on
3 Friday, the State -- we've kind of had an open agreement as far
4 as discovery is concerned. Is the Court going to consider an
5 order in this case that we get all of the tapes? I mean,
6 somebody has to compare the written with the oral so that we
7 don't do this in September again, because I can't take any more
8 shots in the paper about my incompetence.

9 THE COURT: At this time you're requesting a copy
10 of everything?

11 MR. SPECCHIO: Well, I just think some human being
12 has got to look, other than the one that transcribed, has got
13 to look at -- listen to the thing and watch the pages. I mean,
14 we've got about 2,000 pages of this stuff, and I'm sure there's
15 probably a lot of errors in there.

16 And if they're minor and don't mean anything, it's
17 no problem, but if it's of a significance that we ran into last
18 week, then I have a real problem again.

19 I'm just wondering if you want to at least consider
20 ordering us to get all the tapes of all the statements that we
21 have or, I don't know, somebody should be listening to these
22 things. I didn't have them or I would have listened, but I
23 think somebody should be doing that.

24 THE COURT: As I understand it, there was an open
25 file and anything you requested, the State would provide you a

1 copy of or you could listen to it wherever the evidence was
2 held. Do I understand that correctly?

3 MR. GAMMICK: Yes, your Honor, we did. We made the
4 tapes available. Any requests would have been honored to give
5 them to the defense. As I said, we didn't even copy them for
6 ourselves due to the volume of paperwork and everything.

7 These transcripts are not certified. We have seen
8 errors in them before. We're having a meeting this afternoon
9 to see if we can't remedy this situation. The damn budget gets
10 in the middle of it.

11 As far as furnishing, we've already talked about
12 just going ahead and copying all the tapes in this case, both
13 the state and the defense, and furnish them entirely. I know
14 we don't -- with the number of interviews that were done and
15 the number of tapes, I know we don't have the personnel or the
16 time for the detectives to sit down and go through each and
17 every single transcript in this case.

18 So if Mr. Specchio has ones he wants to check or
19 particular ones, we'll make -- we'll furnish him with copies of
20 the tapes. If they don't come out where they're
21 understandable, we'll make the originals available so they can
22 have an opportunity to at least go over and listen to them or
23 see them to see if there is any problem.

24 THE COURT: Is there any problem just copying every
25 tape that was made?

1 MR. GAMMICK: No, there isn't, your Honor. Like I
2 said, we've already talked about doing that and we start that
3 this week.

4 THE COURT: Okay. I'm going to order that. Just
5 copy everything and give them, and then the responsibility is
6 on the defense to review the original tape and/or video and
7 decide what evidence you can or want to use, just like the
8 responsibility is on the State to decide what they want to use.

9 MR. SPECCHIO: I have no problem with that.

10 THE COURT: I know that.

11 MR. SPECCHIO: I want the record to reflect, your
12 Honor, that we never had those tapes, nor on our inspection of
13 their file, they didn't have them either. I don't know how
14 far --

15 THE COURT: Everybody was using the written
16 transcripts. I understand that.

17 MR. SPECCHIO: Exactly.

18 THE COURT: But now so we don't have a problem
19 again, and we do have a little bit of a language issue in this
20 particular case that I think made it even more difficult for
21 the transcription, we will at this time order that copies be
22 made of all video and audiotapes, provide them to the defense,
23 and then each of you will use them as you see fit.

24 MR. GAMMICK: Like I said, your Honor --

25 THE COURT: You're going to do it anyway.

1 MR. GAMMICK: We will comply.

2 THE COURT: How long will that take?

3 MR. GAMMICK: Depending on how many more murders we
4 have, how much more stuff goes down, we intend to start that
5 process this week and get it done as soon as possible, but I
6 would hate to lock into a solid date not knowing what's
7 coming. We didn't expect a murder last Friday morning when all
8 this was going on either.

9 THE COURT: I would -- if we have April 15th as the
10 deadline for filing motions, I think that all that should be
11 provided to the defense no later than February 15th. That
12 gives you 30 days.

13 MR. GAMMICK: I would indicate that's less than 30
14 days. There are a lot of tapes. The videotapes have to be
15 done on a one-to-one ratio. We do have high speed audio
16 copiers, so those aren't a big problem. But if we've got an
17 eight-hour videotape, it takes eight hours to copy it.

18 THE COURT: Do you know how many you have?

19 MR. GAMMICK: We'll sure give it a run.

20 THE COURT: See, my concern is I have to give the
21 defense enough time after they get them to file the motions.

22 MR. SPECCHIO: If we get them by April 15th, we'll
23 be able to get through them.

24 THE COURT: But you won't be able to file any
25 motions on them.

1 MR. SPECCHIO: I don't think anything that's in
2 those, any error is going to require the filing of any motions.

3 THE COURT: Okay.

4 MR. SPECCHIO: I mean, it would be -- it would go
5 to the defense of the case, I would think, and not require the
6 filing of a motion. Used for impeachment or used for --

7 THE COURT: Okay. Let's do it in March then.
8 Let's say by March 15th. That's 60 days or so.

9 MR. GAMMICK: We will definitely, if any problems
10 come up, we'll come back to the Court. We should be able to
11 comply with that.

12 THE COURT: Feel free to come back if you have a
13 problem, but otherwise let's get everything copied and to the
14 defense by March 15th.

15 Okay. Anything further? Okay. Then I'll see you
16 all back in June. Court's in recess.

17 (Hearing adjourned at 10:35 a.m.)
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25

1 STATE OF NEVADA,)
2 COUNTY OF WASHOE.) ss.

3
4 I, KRISTINE A. BOKELMANN, Certified Court Reporter
5 of the Second Judicial District Court, in and for the County of
6 Washoe, State of Nevada, do hereby certify:

7 That I was present in the above-entitled court on
8 January 19, 1999, and took verbatim stenotype notes of the
9 proceedings as herein appears;

10 That the foregoing transcript is a full, true,
11 and correct transcription of my stenotype notes of said
12 hearing.

13 Dated at Reno, Nevada, this 27th day of January,
14 1999.

15
16 Kristine A. Bokelmann
17 KRISTINE A. BOKELMANN, CCR #165
18
19
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21
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23
24
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Exhibit 70

Exhibit 70

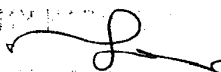
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JDC04373

Case No. CR98-0516

Dept. No. 4

FILED

'99 JUN -3 P12:29

ADMITTED


IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE
THE HONORABLE CONNIE STEINHEIMER, DISTRICT JUDGE

-oOo-

THE STATE OF NEVADA,)	
)	
Plaintiff,	)	Pre-trial Motions
)	
vs.	)	June 1, 1999
)	
SIAOSI VANISI,	)	Reno, Nevada
)	
Defendant.)	
)	

APPEARANCES:

For the Plaintiff:

RICHARD ALLEN GAMMICK
District Attorney
DAVID L. STANTON
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Reno, Nevada

For the Defendant:

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Reno, Nevada

The Defendant:

SIAOSI VANISI

ORIGINAL

Reported by:

ERIC V. NELSON, CCR No. 57

SIERRA NEVADA REPORTERS (775) 329-6560

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2JDC04373
AA04994

1 RENO, NEVADA, TUESDAY, JUNE 1, 1999, 10:17 A.M.

2 -oOo-

3
4 (Whereupon, the following proceedings were held
5 in chambers with Court and counsel.)

6 THE COURT: Is there something you all wanted
7 to put on the record or discuss with me outside the presence
8 of the defendant?

9 MR. GREGORY: Yes, Your Honor. I apologize for
10 inconveniencing the Court and the reporter. I understand
11 the trouble that they go through.

12 We talked to Mr. Vanisi this morning. He is
13 highly emotional, and it's our opinion that a psychiatric
14 evaluation should take place.

15 I will inform the Court that prior to his being
16 sent to Nevada State Prison, Dr. Thienhause,
17 T-h-i-e-n-h-a-u-s-e, at the jail suggested that he might be
18 sent over to Lake's Crossing. If for no other reason to see
19 if there is some medication that he can be given to calm him
20 down emotionally.

21 But we don't feel -- although I was able to
22 talk to him, and I haven't had a substantive conversation
23 with him since March, and I can't keep him on the
24 substantive issues, because we go off on to other issues
25 that I don't care to put on the record at this point. But

1 Dr. Thienhouse was of the opinion that there might be some
2 medications that he could be given to flatten him out so
3 that I could at the very least communicate with him for
4 lengthy periods of time.

5 So we don't feel at this point, and I don't
6 know quite how to put this, that he is emotionally capable
7 of handling this hearing. So we're going to ask this Court
8 to send him to Lake's Crossing for an evaluation and
9 hopefully some sort of drug regimen that will allow us to
10 continue.

11 THE COURT: Counsel.

12 MR. GAMMICK: If the record is sufficient to
13 require psychiatric eval and/or medications, we have no
14 objection to that. And I think we have a situation here,
15 though -- and this is nothing on the defense attorneys
16 whatsoever; this is on the defendant -- we just received,
17 and we have furnished to the defense, a lot of material
18 about his conduct at the jail. He seems to go off and then
19 he comes back, and then he acts up again and then he comes
20 back, and then he acts up again, goes through these
21 emotional fits, so to speak.

22 And I have a real question as to whether or not
23 this is controlled or he is out of control and can't control
24 it, because when he is given very definite or definitive
25 guidance, and we just read some reports from Nevada State

1 Prison that said the same thing, when he is flat told that's
2 it, straighten up, kind of like a recalcitrant child when
3 they get in his face and tell him that's it, they are not
4 putting up with any more, he quits doing the things that he
5 is doing, and he behaves and acts the way he is supposed to.
6 So it's almost like you are dealing with a young child here
7 in that respect, on the emotional side of it.

8 My concern is to whether or not he's doing this
9 or if he cannot control it and he does need some
10 medications. That I can't answer. The record gets made
11 that he needs the evaluation and go for medications, we have
12 no objection.

13 MR. GREGORY: I will indicate as an officer of
14 the court that he cannot control his emotions. I just went
15 to speak to him in the holding cell. He burst into tears.
16 It's my opinion that he is not putting an act on.

17 MR. STANTON: Your Honor, in addition, just so
18 the record is clear, I believe that the petition or motion
19 is being made by defense counsel that he is incompetent.
20 The prong of incompetency -- Steve, correct me if I'm wrong
21 -- is the ability to assist counsel. Is that correct?

22 MR. GREGORY: Yes.

23 MR. STANTON: Is there any other basis of him
24 being incompetent that you are seeking evaluation from a
25 mental health professional besides the assisting counsel?

1 MR. GREGORY: Well, I'm not an expert in the
2 field. That's why I wanted a doctor to look at him, or two
3 doctors, to tell us.

4 MR. STANTON: I understand that. But when you
5 file -- when you make a petition to the Court for
6 competency --

7 MR. GREGORY: He is not able to assist counsel
8 at this time. That would be the basis of our motion.

9 MR. STANTON: I think, as Mr. Gammick has said
10 about our concern, the timing of this, and whether or not
11 this is a manipulation. I would ask if the Court is
12 inclined to maybe conduct an inquiry specifically with
13 Mr. Vanisi by yourself to see what impressions the Court has
14 regarding his current mental status.

15 MR. BOSLER: I think the statute says once we
16 make the petition, the Court has to suspend the proceedings
17 and commit him to the Department of Mental Hygiene.

18 THE COURT: Actually it isn't commit him to the
19 Department of Mental Hygiene. I have to appoint two
20 psychologists or psychiatrists to evaluate him.

21 I don't know if your petition is that I
22 specifically send him to Lake's Crossing. If that is the
23 specific petition, that would be denied by this Court.

24 If your petition is that I have him evaluated
25 to determine if he can assist counsel in the preparation for

1 this hearing and/or trial, that based upon his emotional
2 state and Mr. Gregory's representation as an officer of the
3 court, that is another story, and that is what I thought you
4 were asking for. If that is the motion, then I can grant
5 that. My concern is granting it without Mr. Vanisi being
6 present and even having an opportunity to hear it, the
7 motion.

8 I have no problem with the motion. We
9 certainly will make a determination after the professionals
10 evaluate him whether or not it is malingering or whether or
11 not it is manipulation or whether or not it's real. I would
12 grant the motion.

13 But my concern is why are we doing it in
14 chambers without him being present. Normally we make this
15 on the record and file a written petition or are sworn and
16 make your representations under oath in lieu of a written
17 affidavit, which is no problem for me, and I will grant your
18 motion, and what I will do is I will have two people
19 evaluate him pursuant to the statute.

20 But is there some reason why we have to do this
21 in chambers without him being present?

22 MR. GREGORY: Under the circumstances, I didn't
23 feel that it was necessary for him to be present. You want
24 him to be present, that's fine, Judge.

25 THE COURT: I think we should go on the record

1 out in the courtroom and have him present, at least hearing
2 the motion, knowing what your motion is, and my ruling would
3 be appropriate, and I haven't heard any reason not to do
4 that on the record out in the courtroom. So I think we'll
5 do that, and in the interim, the clerk and I will come up
6 with a date for the return from the evaluations.

7 MR. STANTON: Could you also request or ask
8 Mr. Vanisi if he understands what his attorney's request is
9 and whether or not he agrees with it?

10 THE COURT: That's usually part of my canvass.
11 I don't always care if they agree or not.

12 MR. GREGORY: Your Honor, well, the only other
13 issue and my concern is the Court's statement that she's
14 going to appoint two psychiatrists to evaluate. I have
15 already indicated this man needs some help, Your Honor.
16 Just having two people talk to him and then deciding whether
17 or not he's competent is not sufficient, in my opinion.
18 This man needs some medical help so that I can deal with him
19 as a defense attorney, and obviously, Mr. Bosler. And so
20 that we can carry on proceedings in a fairly civilized
21 manner.

22 THE COURT: Of course, as you indicated, you
23 are not professionals in this area. So we need to get the
24 report from the doctors and their recommendation. I
25 understand you have no objections certainly to their

1 administering to him something that will help him.

2 MR. GREGORY: Absolutely not. But my
3 experience is they don't do anything to help. They just
4 make the evaluation and submit it to the Court under the
5 Court's suggested treatment of this issue.

6 THE COURT: Okay. Thank you. We'll see you in
7 the courtroom.

8 (Recess taken at 10:09 a.m.)
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1 RENO, NEVADA, TUESDAY, JUNE 1, 1999, 10:17 A.M.

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4 (Whereupon, the following proceedings were held
5 in open court.)

6 THE COURT: Please be seated.

7 This is the time set for pretrial motions to be
8 argued. Mr. Gregory, I think you have a motion.

9 MR. GREGORY: Yes, Your Honor. At this time we
10 would move for a psychiatric evaluation of Mr. Vanisi. I
11 have already indicated on the record my concerns.

12 At this time I don't believe he's able to
13 substantially assist counsel. I don't know how else to put
14 it. I have had a conversation with Mr. Vanisi concerning
15 the defense of this case since March of this year. Because
16 of certain things that have been occurring at the jail,
17 Nevada State Prison - we deal with those issues whenever I
18 speak to him - I'm not able to get him to focus. He cannot
19 control his emotions, and at this time I'm going to ask that
20 the Court appoint two psychiatrists to determine
21 Mr. Vanisi's psychological state.

22 THE COURT: Anything further from the State?

23 MR. STANTON: Nothing further other than what
24 was stated in chambers regarding the factual basis for the
25 motion that Mr. Gregory is making. I would indicate that

1 the State would concur with the assessment of the Court that
2 a request, if indeed one is being made for transfer of the
3 defendant to Lake's, would not be appropriate if for no
4 other reasons than for the security aspects.

5 We received a report last week that Mr. Vanisi
6 tried to tunnel out underneath a fence at the Department of
7 Prisons and was indeed shot with so many rubber bullets that
8 one of the correctional officers had to reload. I think
9 that coupled with the history at the Washoe County Jail, I
10 think there was another incident according to the transport
11 deputies, they told me Thursday of last week that they had
12 to do a cell extrication of Mr. Vanisi at the Department of
13 Prisons, that indeed for security reasons Lake's would not
14 be appropriate and have to visit him at prison.

15 In addition, I would request the Court conduct
16 some inquiry of the defendant, which I believe the Court
17 said was part of the standard canvass. Thank you, Your
18 Honor.

19 THE COURT: Mr. Vanisi, did you understand what
20 Mr. Gregory was asking me to do?

21 THE DEFENDANT: Yeah. I understand what
22 Gregory asking for me. I understand what David Stanton is
23 trying to present here.

24 But I need to ask you, Judge, to make request
25 that I have not been able to assist my counselor because of

1 all these other things that have occurred at Washoe and
2 other things that have occurred in prison. The main focus
3 here is whether I'm able to assist my counsel.

4 September is trial, September 7th. What is
5 today, June?

6 THE COURT: June.

7 THE DEFENDANT: Let me think. June, July,
8 August. We haven't been able to sit together, to get
9 together with Gregory and myself to discuss our defense
10 because of these things that have occurred.

11 So I ask to please, I guess -- you ask me if I
12 understand? I understand that I -- that my counselor here
13 is asking for a psychiatrist to evaluate me.

14 Now, I need to go to a place of refuge where I
15 can heal, where I can be emotionally at a level to assist my
16 counselor so we can have a trial in September. And so to
17 your question, once again, do I understand, that's what I am
18 saying to you if I have got it clear. Do I have it clear?

19 THE COURT: Yes.

20 THE DEFENDANT: I'm going to sit back down,
21 Judge. Thank you.

22 THE COURT: Mr. Vanisi, what I'm going to do is
23 I'm going to go ahead and appoint two psychiatrists, and
24 they are going to come visit with you. You need to visit
25 with them, and they will give me a report. You are going to

1 come back to see me in about 20 days, and I will get the
2 report.

3 If they recommend that there is another
4 placement for you or they recommend some treatment, then
5 we'll have a meeting with your attorneys even if you can't
6 be present, because you're not physically close by, and
7 we'll get that treatment started for you, or the placement
8 started for you. But we want you to be able to visit with
9 Mr. Gregory.

10 Mr. Gregory may also, and Mr. Bosler or
11 Mr. Specchio, may be able to come visit you in the prison
12 very soon, and have some time set aside where they can sit
13 down and visit with you and spend quite a bit of time, which
14 ought to help you mentally and emotionally.

15 So I think they are going to make that time and
16 try to get to see you.

17 THE DEFENDANT: One more thing, Your Honor, I
18 just want to clear up because the prosecutor are placing a
19 statement that I am a troublemaker. I have records that I
20 brought with me to show, and I have other records to show
21 that I am not a troublemaker.

22 THE COURT: You should give your records to
23 Mr. Bosler and Mr. Gregory.

24 THE DEFENDANT: I just want to say on the
25 record or just to say to anyone who is present that I am not

1 the troublemaker, that my records will play for those, and
2 when the time comes, I will play them records to show that I
3 am not the one who is causing this trouble or causing these
4 interferences to prevent my counselor and I. I just state
5 to David and his colleagues, time will come. Thank you,
6 Your Honor.

7 THE COURT: All right. We have got a new date
8 and time for the return.

9 THE CLERK: June 23rd at 1:15.

10 THE COURT: And we will sign the order later
11 this morning with regard to the appointment of the
12 psychiatrists.

13 MR. GREGORY: Your Honor, should we also
14 conclude that June 23rd will be the new date for the motions
15 hearing?

16 THE COURT: That is continuing the motions.
17 Now as we did before, you certainly are able to submit your
18 motions without oral argument. So unless you have some
19 specific need for additional oral argument, I have read of
20 course your motions and responses. If you want to submit
21 any of them without additional oral argument, you may do so,
22 and I will provide you with a written order.

23 MR. GREGORY: Thank you, Your Honor.

24 MR. STANTON: Judge, two things. One is I'm
25 certain that the motion hearing today on June 1st that there

1 are no -- if I can inquire of defense if there are any
2 additional motions, they should all have been filed by now.
3 I wanted to make sure there are no additional motions that
4 we should anticipate.

5 MR. GREGORY: No.

6 MR. STANTON: In addition, Your Honor, I found
7 it helpful that in your order request of two psychiatrists,
8 if you put the date of the hearing in your order.

9 THE COURT: It will be there. Anything else?

10 MR. GREGORY: Thank you, Your Honor.

11 MR. GAMMICK: Your Honor, just if I can remind
12 the Court, the defense had filed a motion with respect to
13 the autopsy photographs for the original trial, and we had a
14 hearing and everything on that. If you will recall,
15 Dr. Clark had worked with the system that the Court had
16 approved, and she was having difficulty making the points
17 that she needed to make using that.

18 Somewhere in the future whenever the Court
19 thinks is appropriate, I believe we need to bring Dr. Clark
20 back in so she can explain to the Court what difficulty she
21 is having and what type of system she would prefer during
22 her testimony to explain to the jury what she believed or
23 what her results are and what her conclusions are.

24 THE COURT: You should be prepared to do that
25 on the June 23rd hearing unless the reports from the

1 psychiatrists come back that Mr. Vanisi is incompetent. If
2 that happens, we're going to have to obviously do something
3 else. We'll await treatment. But if the reports come back
4 that he is competent and can assist Mr. Gregory, then, and
5 Mr. Bosler, then you should be prepared on the June 23rd
6 hearing to present that.

7 MR. GAMMICK: Thank you, Your Honor.

8 THE COURT: You have the entire afternoon set
9 aside.

10 MR. GREGORY: If you might correct me if I'm
11 wrong. Didn't the Court entertain this issue during the
12 last trial? And I believe the Court indicated at that time
13 that your previous ruling would stand.

14 THE COURT: I don't think there was a
15 renewed -- there was a pretrial hearing wherein I ruled, we
16 said how we were going to do it. There is no subsequent
17 ruling.

18 Now Mr. Gammick says that he has a subsequent
19 motion for me to review that, and he wants to put on
20 evidence through the testimony of Dr. Clark to establish the
21 need for that.

22 MR. GREGORY: Well, Your Honor, I believe it
23 was the Court that indicated that all motions should be
24 filed, all motions that were previously ruled on stood, and
25 any new motions had to be filed by the 15th of April. So we

1 would object to any subsequent motion.

2 MR. GAMMICK: Your Honor, this was still
3 pending. It was brought up before the granting of the
4 mistrial last time. Because of the granting of the
5 mistrial, we never had the hearing with Dr. Clark. So this
6 is absolutely nothing new. If you go back and check the
7 record, it's there.

8 So I'm going to just ask when the Court wants
9 to have the hearing because we didn't have the opportunity
10 to do it before.

11 THE COURT: June 23rd. Objection is overruled.
12 Anything further?

13 MR. GREGORY: No, Your Honor.

14 MR. STANTON: No, Your Honor.

15 THE COURT: Thank you, counsel. Court is in
16 recess.

17 (Court adjourned at 10:29 a.m.)
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Exhibit 71

Exhibit 71

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AMY HARVEY, CLERK
THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE
DEPUTY *S. Davis*

THE HONORABLE CONNIE STEINHEIMER, DISTRICT COURT JUDGE

-000-

STATE OF NEVADA,

Plaintiff,

Case No. CR98-0516
Dept. No. 4

-vs-

SIAOSI VANISI,

Defendant. /

MOTIONS

AUGUST 11, 1999

RENO, NEVADA

APPEARANCES:

For the Plaintiff:

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District Attorney
DAVID L. STANTON
Deputy District Attorney
Washoe County Courthouse
Reno, Nevada

For the Defendant:

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and JEREMY BOSLER
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The Defendant:

SIAOSI VANISI

Reported by:

DENISE PHIPPS, CCR #234, RDR, CRR

ORIGINAL

SIERRA NEVADA REPORTERS (775) 329-6560

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RENO, NEVADA, WEDNESDAY, AUGUST 11, 1999, 10:20 A.M.

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THE COURT: This is the time previously set for motions made by Reno Newspapers Incorporated and for a decision with regard to Mr. Vanisi's motion. So I'm going to proceed with my decision on the motion, and then we'll proceed immediately into Reno Newspapers' motions that need to be heard today.

The Court has had an opportunity to significantly review not only the case law in this case, in regards to this motion, the defendant's motion, as well as the record before the Court.

The defendant filed his motion on August 5th, 1999. He filed it with the assistance of counsel under seal. On August 5th, the Court unsealed that motion and scheduled a hearing to commence on August 10th.

On August 9th, 1999, the District Attorney's Office filed the response. Oral hearing was heard on August 10th. The Court has carefully reviewed the pleadings on file, supporting documents, as well as the history of the case, previous hearings in the case, and oral testimony and statements of the defendant.

In defendant's motion, he articulated a desire to exercise his constitutional right to represent

1 himself. He stated he understood the danger and
2 disadvantages that may procure from self-representation.
3 He further stated that if he conducted a defense to his
4 detriment, he would not complain on appeal.

5 In the State's response to the motion, the
6 State points out that the Nevada Supreme Court has
7 addressed the issue of self-representation, and further
8 has adopted Supreme Court Rule 253, with specific
9 guidelines for the canvass presented by a trial court
10 judge should a defendant seek the opportunity to represent
11 himself.

12 The State also has cited several important
13 Nevada Supreme Court cases, including Tanksley v. State,
14 113 Nevada 997, in which the Nevada Supreme Court upheld
15 the trial court's denial of the defendant's request for
16 self-representation because the defendant was disruptive.

17 In its response, the State then discusses
18 concerns that the request is untimely, the request was
19 made solely for purpose of delay, and the defendant was
20 abusing his right to self-representation by disrupting the
21 judicial process. However, the State did withhold its
22 ultimate position relative to the motion until after an
23 inquiry and assessment could be conducted by the Court.

24 The Nevada Supreme Court has held that
25 criminal defendants have an "unqualified right" to

1 self-representation, so long as there is a voluntary and
2 intelligent waiver of the right to counsel. The Nevada
3 Supreme Court has followed the guidelines as set down by
4 Faretta v. California, 422 U.S. 806.

5 However, although the constitutional right of
6 self-representation is generally protected by the court,
7 courts have denied self-representation where: The
8 defendant's request for self-representation is untimely;
9 the request is equivocal; the request is made solely for
10 purposes of delay; the defendant abuses the right of
11 self-representation by disrupting the judicial process;
12 the case is especially complex, requiring the assistance
13 of counsel; or the defendant is incompetent to voluntarily
14 and intelligently waive his right or her right to counsel.

15 In order to ensure the defendant has
16 voluntarily and intelligently waived his Sixth Amendment
17 right to the assistance of counsel, the Nevada Supreme
18 Court adopted the rule previously referred to. The
19 purpose of the rule is to set out guidelines for a canvass
20 that is meant to be an in-depth inquiry into whether or
21 not an individual fully understands the disadvantages of
22 self-representation, as well as an inquiry into the
23 defendant's background and ability to represent himself.
24 Once the Court has asked these and other relevant
25 questions of the defendant, the defendant's right to

1 represent himself may only be denied when one or more of
2 the relevant factors articulated in Lyons v. State is
3 present.

4 At the end of the Court's inquiry, the Public
5 Defender's Office expressed its position that Mr. Vanisi
6 had satisfactorily answered all of the questions posed to
7 him by Supreme Court Rule 253 and indicated that he should
8 be allowed to represent himself. Similarly, the District
9 Attorney's Office opined that Mr. Vanisi had
10 satisfactorily answered the questions posed to him, but
11 continued to voice concerns about the timeliness of the
12 motion and whether or not it would cause a delay of the
13 trial, as well as the possibility that the motion was made
14 for the purpose to disrupt the judicial process.
15 Additionally, the State said that at times previous to the
16 current hearing the defendant had acted in a disruptive
17 manner.

18 The Court believes that Mr. Vanisi was able
19 to recite answers to the Court's inquiry which revealed
20 him to be a very intelligent person who had carefully
21 reviewed some of the most significant cases involving
22 self-representation. However, inquiry as to whether to
23 grant the defendant's request to discharge counsel and
24 represent himself does not stop with those basic
25 questions. The Court must assess many factors. Paramount

1 to the Court's assessment, however, is always that the
2 defendant has a right to represent himself.

3 At the conclusion of the Supreme Court Rule
4 253 inquiry conducted by the Court, this Court had serious
5 concerns about Mr. Vanisi's request to represent himself.
6 First, although this request was technically timely,
7 pursuant to the Lyons v. State decision, this Court
8 believes the motion was made for purposes of delay.
9 Several factors enter into the Court's assessment of the
10 defendant's motive for the motion. That motive being for
11 purposes of delay. The defendant has previously verbally,
12 without agreement of counsel, requested a continuance of
13 the trial. Further, the defendant, in June of this year,
14 requested that the Court appoint new counsel to represent
15 him. The Court denied these requests. The defendant then
16 refused to cooperate with counsel, which in fact caused a
17 delay to take place. All matters ceased to be litigated
18 while the defendant was evaluated for competency. A
19 reviewing court is directed to the sealed portions of this
20 case to see the assessments of the physicians who examined
21 the defendant.

22 This Court found the defendant to be
23 competent to proceed. Now, the defendant has filed his
24 motion for self-representation. The inquiry of Mr. Vanisi
25 revealed that he had formed his intent to represent

1 himself on January 16, 1998 but did not make this request
2 until August 5th, 1999, approximately one month prior to
3 commencement of the second trial. Although the defendant
4 states he's not making this motion for purposes of delay,
5 the Court finds otherwise, in light of his previous
6 actions and requests in this case.

7 Next, this Court believes that Mr. Vanisi is
8 abusing the right of self-representation by disrupting the
9 judicial process. At previous hearings, Mr. Vanisi has
10 blurted out statements in a loud voice and interrupted
11 this Court requiring this Court to caution Mr. Vanisi
12 about his conduct. During the Rule 253 inquiry by the
13 Court, the defendant exhibited difficulty in processing
14 information. He took an extremely lengthy period of time
15 to respond to many of the Court's questions, the courtroom
16 proceedings, stopping for two to three minutes at times
17 while he pondered his answer.

18 The Court was asked to repeat the same
19 question many times before his answer. In addition, the
20 defendant refused to answer the Court's question because
21 he believed it to be an "incomplete sentence." He
22 frequently asked the Court questions rather than answering
23 the Court's questions directly. Further, he spoke out
24 loud to himself in such a manner that it was at times
25 difficult to determine if he was speaking for his own

1 benefit or the courtroom audience or the Court. Further,
2 Mr. Vanisi has previously been observed making statements
3 under his breath while others were speaking in court.
4 Moreover, at past hearings, Mr. Vanisi has been observed
5 standing up and engaging in unsettling rocking motions, as
6 well as repeating himself over and over again. Based on
7 this combination of words and gestures during prior
8 proceedings, this Court has concern about future
9 disruptions during trial.

10 Further, the defendant has a history of
11 aggressive and disruptive behavior while in the Nevada
12 State Prison which required aggressive action on the part
13 of prison guards, as well as several incidents at the
14 Washoe County Jail. Further, he has previously asked for
15 accommodation by the Court by way of ordering the security
16 detail to provide a less restrictive confinement of the
17 defendant while in the courtroom.

18 The Court has diligently safeguarded the
19 defendant's ability to function and to be presented in a
20 noncompromising position to the jury, while also
21 safeguarding the safety of all participants in the
22 courtroom.

23 In response to the Court's inquiry, if the
24 defendant thought that self-representation would allow him
25 full movement in the courtroom, the defendant's answer and

1 demeanor was interpreted by the Court as yes. And if the
2 Court did not grant him that further accommodation, the
3 defendant would be able to complain on appeal that he was
4 not afforded an equal opportunity to present his case as
5 the prosecutor was afforded. This reveals a "tactic"
6 intended to disrupt the judicial process.

7 In the case of Tanksley v. State, the Nevada
8 Supreme Court stated that "if the district court decided
9 that pretrial activity was a strong indication that
10 self-representation would disrupt the trial, they would
11 not overturn that factual determination. Further, "This
12 court," referring to the Supreme Court, "will not
13 substitute its evaluation for that of the district court
14 judge's own personal observations and impressions."

15 The Court, in view of all the case law
16 presented thus far, believes that Mr. Vanisi's motion for
17 self-representation is made for the purposes of disrupting
18 the judicial process. The Court must also consider the
19 complexity of this case and whether the defendant's
20 self-representation would virtually deny him a fair trial.

21 This Court recognizes that a request for
22 self-representation should not be denied because the Court
23 considers the defendant lacks reasonable legal skills.
24 However, two Nevada Supreme Court cases have upheld the
25 trial court's decision to deny a defendant's request for

1 self-representation when the case was especially complex.
2 In the case of Lyons, the Nevada Supreme Court stated that
3 "a court may deny a defendant's request to represent
4 himself when a case is so complex that the defendant would
5 virtually be denied a fair trial if allowed to proceed pro
6 se." The court in Lyons cited the Florida case of
7 Ashcroft versus Florida, in which the District Court of
8 Appeal in Florida held that "self-representation is not an
9 absolute right and need not be allowed when it would
10 jeopardize a fair trial on the issues...The judge
11 determined on the basis of the nature of the evidence to
12 be adduced at trial, his inquiries to the defendant, and
13 his observations of the defendant at prior hearings that
14 that defendant would not receive a 'decent' trial. We
15 equate 'decent' with fair, especially in view of the trial
16 court's contemplation of the technical aspects to be
17 involved at the trial, such as expert testimony.

18 Recently, in the case of Meegan versus State,
19 the Nevada Supreme Court has further found that a murder
20 defendant's request to represent himself was properly
21 denied due to the complexity of the case. Specifically in
22 that case the district court asked the defendant a series
23 of questions designed to determine whether he knew
24 anything about the law and procedure governing his case.
25 Upon receiving answers which indicated that he knew

1 virtually nothing about either, the district court denied
2 the request. The basis for the denial was that the
3 defendant was incapable of representing himself in a
4 complex case involving over 30 witnesses with expert
5 testimony on topics of DNA or other medical issues. The
6 district court determined that the trial would be
7 disrupted if the defendant were allowed to represent
8 himself. Thus, the Supreme Court upheld the determination
9 that he was not appropriate for self-representation in
10 that particular case.

11 Both Lyons and Meegan are similar to this
12 case. This case is extremely complex. There are multiple
13 charges against the defendant. The defendant is charged
14 with the murder and armed robbery of a police officer, the
15 armed robbery of two clerks at two different convenience
16 stores, and the grand larceny of a motor vehicle from
17 still another person. There are going to be approximately
18 60 witnesses, many from multiple jurisdictions. In
19 addition, there will be expert witnesses presenting
20 complex scientific evidence. In addition, death penalty
21 cases by their very nature are extremely complex and thus
22 the Nevada Supreme Court has articulated Nevada Supreme
23 Court Rule 250, which requires specific procedural
24 guidelines to ensure that defendants receive a fair trial.
25 In addition to the legal guidelines of the Supreme Court

1 rule, the rule also requires that the criminal defendant
2 facing the death penalty be represented by two attorneys,
3 one specifically trained and certified by the district
4 court as a death penalty qualified attorney. In this
5 case, Mr. Vanisi is seeking to substitute himself in place
6 of three competent attorneys, the Washoe County public
7 defender and two of his deputies.

8 The Court's concern about these complexities
9 is compounded by Defendant Vanisi's responses to the
10 Court's question about the charges against him. Mr.
11 Vanisi could not name the elements of all the crimes
12 against him, nor the penalties attached to those crimes,
13 nor the lesser included offenses, nor the elements of the
14 death penalty requirement, nor the maximum punishment
15 possible for all of these crimes. He focused only upon
16 the potential penalty of death, without being aware of all
17 the other charges. Although the Court understands why
18 this is foremost in the defendant's mind, the other
19 charges and defense of these charges could seriously
20 impact the entire trial process. The defendant was
21 clearly unable to appreciate the relationship of all the
22 charges to each other. It is evident to the Court that
23 the defendant's inability to relate to his entire case and
24 the subtle nuances of evidentiary issues presented by the
25 case's complexity would result in a denial of a fair

1 trial, if the Court were to allow him to represent
2 himself.

3 In addition, as the prosecutor argued before
4 the Court, the case is not one where it would be
5 fundamentally fair or result in a fair trial to allow a
6 defendant with a high school education, Mr. Vanisi's
7 mental health issues, and current drug medications, to
8 represent himself while facing the potential of the death
9 penalty. Accordingly, this Court finds that this
10 particular death penalty case is too complex for this
11 particular defendant, Siaosi Vanisi, to represent himself.

12 The Court has reviewed a videotape admitted
13 as Exhibit A on August 10th, 1999, and specifically finds
14 that it does not form the basis of the Court's
15 determination that the defendant is making this request
16 for the purpose of delay. It is, however, consistent with
17 the defendant's demeanor and verbal behavior in previous
18 hearings before the Court.

19 The Court does not believe the combination of
20 drugs the defendant is currently taking affects his
21 competency to stand trial or assist counsel. However, the
22 side effects of drowsiness could affect the defendant's
23 ability to effectively handle the complex issues involved
24 in this case.

25 Based on the foregoing, and with good cause

1 appearing, it is hereby ordered that Defendant Vanisi's
2 Court Ordered Motion for self-representation is denied.

3 We'll proceed with the hearing --

4 MR. GREGORY: May I have the Court's brief
5 indulgence?

6 Your Honor, we're going to ask that the Court
7 stay the proceedings so that we can look into the filing
8 of a writ of mandamus with the Supreme Court. If the
9 Court would give us until this afternoon and we will have
10 an answer at that time.

11 THE COURT: Mr. Gammick.

12 MR. GAMMICK: Your Honor, I'm going to object
13 to any stay for any reason in this matter. We're set to
14 go to trial September 7th. That's been set for a long
15 time. We are ready to proceed. And any reason to stop it
16 is -- it's not necessarily objecting to this particular
17 request for stay, but any reason. I think they can still
18 make a decision without having a stay put on the
19 proceedings.

20 THE COURT: Mr. Gregory.

21 MR. GREGORY: The problem is the Court's
22 going to want us to argue the Gazette-Journal request
23 motion. So I think it's putting the cart before the
24 horse. So if you give us until this afternoon, maybe to
25 continue this proceeding until 3:00 or the Court's

1 convenience, to allow us to make a decision whether or not
2 we want to seek a writ under these circumstances.

3 THE COURT: The motion is denied. I don't
4 see any reason for a stay. But I encourage you to make
5 the decision with regard to the writ. And certainly, if
6 that's the decision, I encourage you to move forward
7 immediately and request a stay from the Supreme Court. I
8 will issue a written order denying your request for stay
9 so that you can go to the Supreme Court and request a stay
10 from them.

11 MR. GREGORY: Thank you.

12 THE COURT: We'll move forward with the
13 motions.

14
15 Mr. Bartlett, we'll make room for you over on
16 that side of the room.

17 MR. BARTLETT: Thank you.

18 THE COURT: We have two motions before the
19 Court: Your Motion for Release of Competency Evaluations
20 and your Motion for Access to in Chambers Meetings.

21 The defense and prosecutor have both objected
22 to both motions.

23 MR. GAMMICK: Excuse me, Your Honor, I don't
24 believe we had anything on the request for in chambers
25 meetings. We're aware of the motion for the psychiatric

1 evaluation, but I'm not aware of a second motion.

2 MR. BARTLETT: I haven't received an
3 opposition from the District Attorney as to either motion.

4 THE COURT: As to either motion?

5 MR. BARTLETT: Not a written opposition.

6 THE COURT: There is a written opposition --

7 MR. GAMMICK: We filed with the Court a
8 written opposition to the Motion for Psychiatric
9 Examination on July 1st, 1999, which was mailed to Mr.
10 Bartlett by affidavit that I have attached to it on July
11 1st. And we have a copy. We can let him have it at this
12 time. It's not a very long opposition.

13 THE COURT: Why don't we go forward with the
14 request for release of the competency evaluations and then
15 we can determine what we're going to do with regard to the
16 other request.

17 MR. BARTLETT: That's fine, Your Honor.

18 Your Honor, this is Ronetta Clark from our
19 office.

20 THE COURT: Okay. Let the record reflect
21 that Phil Bartlett is present representing Reno Newspapers
22 Incorporated.

23 MR. BARTLETT: Yes, Your Honor.

24 THE COURT: You may proceed.

25 MR. BARTLETT: Your Honor, the readers of the

1 Reno Gazette-Journal and the people of this community have
2 a great interest in the progress of serious criminal
3 trials. The idea of someone killing a police officer
4 causes concern, outrage, hostility. And the people that
5 read our paper, the people in this community, want to know
6 whether the law is being enforced, whether the criminal
7 justice system is functioning. And it's not just
8 pro prosecution concerns. The readers of our paper want
9 to know whether the defendant is getting a fair trial.

10 We believe that the right of access to this
11 competency exam is protected by Nevada law, by the First
12 Amendment and by the common law. And limitation of that
13 access is allowed only under unique and unusual
14 circumstances and after a determination that there is no
15 reasonable alternative that would protect the right to a
16 fair trial.

17 The public's right to access to criminal
18 proceedings is fundamental to our system of justice and
19 underlies the First Amendment. Free discussion of
20 governmental affairs is critical to the way this society
21 functions.

22 We believe that Nevada law has already
23 resolved this issue. And we have the unique statutory
24 scheme in this state. First, NRS 239.010(1) states that
25 "all public records must be opened at all times unless

1 otherwise declared confidential."

2 Most importantly, NRS 178.415 provides that
3 "the hearing on the competency evaluation is to be a
4 hearing in open court, where the judge shall receive the
5 report of the examination and shall permit counsel for
6 both sides to examine the person or persons appointed to
7 examine the defendant."

8 The Legislature, therefore, decided that this
9 is to be an open discussion and an open public forum of
10 the defendant's competency, something that's not to be
11 hidden from public view, as happens in many other states.
12 And we think it would be inconsistent with the clear
13 language of this statute to find that the report is
14 confidential while at the same time allowing both sides to
15 examine the doctor about the report and the contents of
16 the report in an open public hearing.

17 In the case of Associated Press versus United
18 States District Court for the Central District of
19 California, at 705 Fd. 2d 1143, the Ninth Circuit, in
20 1983, ruled that "there is no reason to distinguish
21 between pretrial proceedings and the documents filed in
22 regard to them." The Court stated at page 1145, "Indeed
23 the two principal justifications for the First Amendment
24 right of access to criminal proceedings apply in general
25 to pretrial documents."

1 Judge Kosach has recently considered a
2 similar motion in a case called Christopher Merritt and
3 denied our right of access to the competency hearing in
4 that case or the competency report in that case based upon
5 his summary conclusion that the right of fair trial would
6 be affected. We think that Judge Kosach, for some reason,
7 flew right past Nevada law that seems to allow and provide
8 for a public hearing of a defendant's competency.

9 The psychiatric patient privilege does not
10 apply as to this hearing or as to this report, NRS 49.215
11 specifically stating that "communications made in the
12 course of a court-ordered examination of the condition of
13 a patient with respect to the specific purpose of the
14 examination are not protected by the privilege, the
15 therapist/psychiatrist privilege."

16 In Meador v. State, 101 Nevada 765, the
17 Nevada Supreme Court ruled, in a case where the Navy had
18 required an examination, "We conclude that the privilege
19 was inapplicable, however, because the psychiatrist,
20 Dr. Little, informed the appellant that he was making an
21 evaluation at the request of the Navy. NRS 49.215 defines
22 the confidential communication as one not intended to be
23 disclosed to third persons. Since appellant knew Dr.
24 Little was talking to him at the Navy's request, we
25 conclude he must have known that the information would be

1 transmitted to third persons." And likewise in this
2 court.

3 And as Your Honor heard yesterday, the
4 defendant freely discussed his manic depressive condition
5 in front of this Court and the nature of the medications
6 he was taking. So this is something that has been
7 discussed before third persons.

8 Most importantly, we believe that this report
9 is required to be produced under the First Amendment, the
10 Bill of Rights of the United States Constitution.
11 Pretrial proceedings are historically open to the public
12 in this country and public access is important to the
13 governmental process. If the Court finds that these
14 proceedings are historically open and that public access
15 is important, then it leads to a presumption of openness.

16 In Press Enterprise Company versus Superior
17 Court of California, 106 Supreme Court Reporter 2735, 478
18 U.S. 1, the Supreme Court stated that "the presumption"
19 that I've just described "may be overcome only by an
20 overriding interest based on findings that closure is
21 essential to preserve higher values and is narrowly
22 tailored to serve that interest. The interest is to be
23 articulated along with findings specific enough that a
24 reviewing court can determine whether the closure order
25 was properly entered."

1 Judge Kosach, with due respect, made no
2 attempt to find out if there was less restrictive
3 alternatives available. And the case law in this area
4 talks about the ability of competent defense and
5 prosecution counsel through the voir dire process to
6 select a fair jury through the use of the Court's
7 admonishment in an extreme situation through the
8 possibility of either sequestration or a change of venue.

9 In other words, the Supreme Court, through
10 Chief Justice Berger at that time, ruled that a court
11 considering matters of this type cannot just blithely say,
12 well, a fair trial is concerned here and therefore the
13 First Amendment loses. There must be this balancing test.
14 There must be this close consideration of the rights of
15 the accused versus the rights of the public to learn about
16 such a competency hearing.

17 The court in the Press Enterprise case
18 stated, "If the interest asserted is the right of the
19 accused to a fair trial, as has been asserted by the
20 Public Defender's Office here and the DA's Office, the
21 preliminary hearing shall be closed..." They were talking
22 about preliminary hearing there. "...shall be closed only
23 if specific findings are made demonstrating that, first,
24 there is a substantial probability that the defendant's
25 right to a fair trial would be prejudiced by publicity

1 that closure would prevent, and, second, reasonable
2 alternatives to closure cannot adequately protect the
3 defendant's fair trial rights." Those are the two
4 considerations that we believe the Court must focus on and
5 which were not considered by Judge Kosach in denying our
6 similar request in the Merritt case.

7 In the Associated Press case, the Ninth
8 Circuit discussed the possibility of damage or impact upon
9 the defendant's fair trial. And that case involved,
10 you'll recall, Mr. Delorean, who manufactured and designed
11 the Delorean sports car, was caught with all kinds of
12 drugs back in the mid-'80s and was prosecuted for that.
13 The Court stated, "Although the prosecution of Delorean
14 has attracted a great deal of publicity, there are many
15 other cases that generate significant public interest.
16 The documents in these other cases are routinely open to
17 the public without jeopardizing the fair trial guarantee.
18 As the Supreme Court has emphasized, pretrial publicity,
19 even if pervasive and concentrated," which we can't really
20 characterize the publicity in the Vanisi case as amounting
21 to, "cannot be regarded as leading automatically in every
22 kind of criminal case to an unfair trial. Even the
23 intensive publicity surrounding the events of Watergate
24 did not prevent the selection of impartial jurors." And
25 in this case, Associated Press, the Court concluded

1 "because there's been no showing that access to pretrial
2 documents will create a substantial probability of
3 irreparable damage to the defendant's fair trial rights,
4 the district court's orders do not satisfy this first
5 test."

6 So at this point all we have is speculation
7 that anything unusual or anything will impact the
8 defendant's right to a fair trial. The court, in State of
9 Vermont versus Densmore, March 12th, 1993, at 160 Vermont
10 131, held that, referring to an earlier case, "We held
11 that the mere possibility of prejudice at trial due to
12 publicity was insufficient to outweigh the First Amendment
13 right of access."

14 Just anecdotely, and I've been a lawyer in
15 this community for 25 years, I can't think back to a case
16 where the court has been unable to pick a jury because of
17 pretrial publicity. Maybe I've overlooked something, but
18 that's the kind of analysis I think this Court needs to
19 make before rejecting out of hand based on fair trial
20 consideration this request, in addition to considering
21 whether less restrictive alternatives are available.

22 The Nevada Supreme Court has also adopted a
23 balancing test in a case known as Donrey of Nevada, Inc.
24 versus Bradshaw involving obtaining a police internal
25 investigation where the Supreme Court, Justice Young,

1 held, at 106 Nevada 630, that "a balancing of interests
2 required disclosure of the entire report." I'm simply
3 citing this for Your Honor's benefit to know that the
4 Nevada Supreme Court has made a similar analysis.

5 In responding to the Points and Authorities
6 filed by the Public Defender's Office, there is no case
7 law or statute which makes these reports unavailable to
8 the media. This is not a mental health record. He's not
9 a client seeking treatment. He's not a mentally
10 disordered offender. He's not an offender that has been
11 convicted of anything at this point in time.

12 The State and the Public Defender's Office
13 rely on cases like Esquivel that say we can't allow
14 statements made to a psychiatrist to be used against the
15 defendant at trial. We're neutral in this case. We have
16 no position whether or not Mr. Vanisi is guilty. What we
17 ask is to be able to describe this competency report to
18 the readers and people of our community.

19 It's for the jury to decide whether or not
20 Mr. Vanisi is guilty. We're not attempting to obtain this
21 information to be used against him. That's why this Court
22 has less restrictive alternatives to avoid a jury hearing
23 about it.

24 There's no Supreme Court case that holds that
25 there's any privilege that applies. To the contrary, the

1 Meador case, as I've previously cited to the Court,
2 specifically states that if third parties are present at
3 the psychiatric evaluation, then the privilege is waived.

4 The Nevada Legislature has specifically held,
5 for example, that a presentence investigation is
6 confidential. There is no similar statute as to
7 competency evaluations. And in fact, based upon NRS
8 178.415, it appears that the Legislature has decided that
9 the entire hearing should be open to the public.

10 In conclusion, Your Honor, we believe that
11 absent some showing that there is some substantial
12 probability that the defendant's right to a fair trial
13 right is affected by this disclosure, that NRS 178.415 and
14 the Nevada Supreme Court cases we've cited as interpreted
15 by the Ninth Circuit require disclosure of this report.

16 Thank you.

17 THE COURT: The defense.

18 MR. BOSLER: Your Honor, at this point the
19 defense will stand on its written opposition. I do have a
20 copy of Judge Kosach's order if the Court wants to look at
21 that.

22 THE COURT: I have it also. Thank you.

23 MR. BOSLER: We'll stand on our opposition,
24 Your Honor.

25 THE COURT: The State.

1 MR. GAMMICK: Your Honor, I agree with a lot
2 of what Mr. Bartlett had to say. I believe the public
3 does have a right to know most of what we do in these
4 courts. The exception, and our concern with this
5 particular request, is of the timing. I fully feel that
6 at some time when it's appropriate the Court should
7 release that information, but now is not the time.

8 Donrey hasn't received much attention during
9 the filing of the motion. In fact, it wasn't even
10 mentioned in there that I could catch, and it didn't get
11 much here. But Donrey is the controlling case in this
12 jurisdiction on release of this type of information.

13 Mr. Bartlett is entirely correct that
14 ultimately the Supreme Court did rule that that material
15 be released, but he didn't go into an analysis in what
16 they laid out as their requirements. Donrey, and the
17 court, specifically took up the issue of whether or not
18 there must be a balancing test when there's a request for
19 release of records other than those specifically defined
20 as criminal history records. That's what we're dealing
21 with here.

22 And in that matter, the court, in Donrey,
23 laid out four, as I did lay out in my opposition, they
24 laid out four criteria to be looked at: Whether there's a
25 pending or anticipated criminal proceeding. That's

1 obvious in this case. We're set to go to trial September
2 7th; whether there are confidential sources or
3 investigative techniques to protect. That is not at issue
4 here; whether there's a possibility of denying someone a
5 fair trial. And I would say that that is really a big
6 part of the crux of this, and that is our concern from the
7 State, is that possibility, which is also what Judge
8 Kosach did in Merritt, and he cited some Nevada case law
9 there. If the Court already has that order, then I'm not
10 going to go through all the case law he cited, but that
11 was the crux of his order in denying this request was that
12 the potential, not even necessarily that it would, but the
13 potential or the possibility that it would deny the
14 defendant a fair trial. And none of us want to do this
15 again.

16 So our concern is with the timing, and that
17 would be our opposition to this, that maybe at a later
18 date, once the trial is complete, then it may be more
19 appropriate to release this.

20 I would also like to make sure the record is
21 clear that the Court did have the hearing. We did have a
22 public hearing that was done in open court. At that time
23 all of the details were not discussed because the
24 defendant was found competent by the psychiatrist and by
25 the Court. There was also a hearing previous to that one

1 on another competency issue that was held in open court.
2 I just want to make sure the record is clear on that; that
3 there weren't any secret hearings or closed hearings held
4 in this matter.

5 With that, if the Court has any questions,
6 I'd be happy to answer them. If not, that's all I have to
7 say.

8 THE COURT: I have no questions of you, Mr.
9 Gammick. Thank you.

10 Mr. Bartlett.

11 MR. BARTLETT: Just briefly, Your Honor.
12 Regardless of what the Nevada Supreme Court said about a
13 mere possibility in the Donrey case, I think the Nevada
14 Supreme Court is trumped by the U.S. Supreme Court's
15 decision in the Ninth Circuit interpretation of that in
16 Associated Press where it said that there must be a
17 substantial probability that irreparable damage to a
18 defendant's fair trial right will result.

19 Now, all we have from both sides of the
20 courtroom here are just speculation or is speculation in
21 that respect. And there's nothing on point in the Nevada
22 Supreme Court to the contrary that would preclude us from
23 getting this report in light of NRS 178.415 which makes
24 this an open hearing.

25 THE COURT: Mr. Bartlett, you've done this

1 review. You talked about the historic nature of documents
2 and whether or not a document was historically open or
3 historically closed. Do you have any information to
4 indicate that these psychiatric evaluations have ever been
5 anything but sealed in the Second Judicial District Court
6 or anywhere else in the state of Nevada?

7 MR. BARTLETT: I don't have any information
8 from the state of Nevada either way on the use of these
9 reports.

10 THE COURT: I know what happens in the Second
11 Judicial District Court. It's back 25 years. In my
12 experience, dating back to when I was a juvenile probation
13 officer, these reports have always been sealed in criminal
14 proceedings, not the hearings, but the reports. And so
15 that's why I was asking you if you had any information
16 that somewhere else maybe they're open.

17 MR. BARTLETT: No, I don't. But I'm not sure
18 that that should be determinative here in light of the
19 fact that the statute which I repeatedly have cited to the
20 Court has been amended since then. And the Press
21 Enterprise case was described or was announced by the
22 Supreme Court that said that there is a fundamental First
23 Amendment right to public access to pretrial proceedings.
24 That was not the law before. So the fact that no one has
25 brought this up for challenge does not mean it's not

1 worthy of consideration.

2 THE COURT: My second question for you is,
3 what is the status of Judge Kosach's decision? Have you
4 requested extraordinary relief from the Nevada Supreme
5 Court?

6 MR. BARTLETT: No, we just received it.

7 THE COURT: Okay.

8 MR. BARTLETT: Within the last three or four
9 days, as I recall.

10 THE COURT: When is that trial set to go?

11 MR. BARTLETT: Maybe Mr. Gammick would know.
12 I'm not sure.

13 THE COURT: It's not quite as close in time
14 as ours?

15 MR. GAMMICK: I couldn't answer that. We've
16 got so many of them going right now.

17 THE COURT: Do you intend to ask for
18 extraordinary relief from the Supreme Court?

19 MR. BARTLETT: I don't know at this point,
20 Your Honor. We have not decided that yet.

21 And one point that I did not respond to,
22 someone made a point, gee, let's wait until later. I
23 don't think the First Amendment says that if it's
24 newsworthy and the public is entitled to know about these
25 proceedings that they can know two or three years later

1 after someone, after the trial is over, whether he's
2 acquitted or convicted. To me, if the First Amendment has
3 any vitality, if it has any value in this country, then
4 it's an immediate value, not later on.

5 THE COURT: Is your view of the First
6 Amendment that the vitality of the First Amendment
7 directly relates to newsworthiness?

8 MR. BARTLETT: My sense is that there's a
9 public right of access and the public right of access is
10 when something is happening. And the public's right to
11 know about judicial proceedings are when those proceedings
12 are going on. That's why the courtrooms are open to the
13 public. We could make transcripts available to the public
14 two or three years after the trials are over, but that
15 would not give the public the right to know that it's
16 supposed to have under the Constitution. We believe it's
17 an immediate right.

18 THE COURT: Based on my questions of Mr.
19 Bartlett, which go beyond his argument, does either party
20 wish to comment?

21 MR. BOSLER: No, Your Honor.

22 THE COURT: Mr. Gammick?

23 MR. GAMMICK: No, Your Honor.

24 THE COURT: Now, I appreciate the arguments
25 and I appreciate the issue. I think the issue is of such

1 importance that it should be resolved by written order,
2 and I will take it under submission and provide the
3 parties with a written decision soon.

4 Now, the other issue that you don't have a
5 motion for, Mr. Gammick, it wasn't a specific motion, but
6 some time ago the Court received a letter request from
7 Reno Newspapers Incorporated to be allowed access to in
8 chambers meetings. And it was discussed in an open
9 hearing previously. But the Court had received this
10 request. And I did indicate at that time that I didn't
11 think it was appropriate to act upon the letter request
12 and/or act upon the issues without having a public hearing
13 in a public forum and the ability for everyone who might
14 be concerned in such a request to have an opportunity to
15 speak.

16 So we had indicated, we thought, that we
17 would do that today. Now, I don't want to put anybody at
18 a disadvantage. If the parties are not ready to talk
19 about that, we don't have to, but if you feel comfortable
20 going forward, I'd like to hear Mr. Bartlett's position on
21 this.

22 MR. GAMMICK: Your Honor, I would ask that
23 this matter be put over so we have an opportunity to
24 respond to it. This is a very, very important issue. We
25 don't have these hearings outside the presence of the jury

1 or outside the presence of the public just on a whim.
 2 There are very specific reasons. There are constitutional
 3 guarantees. As the Court is well aware, there's a lot of
 4 reasons to be doing these. I would like to have time to
 5 prepare something, because this does have some
 6 wide-reaching ramifications on a lot of the business that
 7 the courts and our office, and I'm sure the Public
 8 Defender's Office, do as a matter of routine.

9 THE COURT: Would counsel agree that, as an
 10 accommodation to Mr. Bartlett, because he did make this
 11 request a while ago, and we have had many other issues to
 12 deal with in this case, that we'd allow him to make his
 13 request orally now and then I'll give each party time to
 14 respond and I'll issue a decision?

15 MR. GAMMICK: I'd have no objection to that.
 16 Your Honor, also I do not believe we have a copy of that
 17 letter. I know we would request that. If we do have
 18 that, I don't remember seeing it.

19 MR. BARTLETT: That's correct. The letter
 20 was simply provided to the Court. And I would be glad to
 21 restate the concern of the newspaper at this point in time
 22 and then provide to both counsel copies of the letter.

23 THE COURT: I think that would be
 24 appropriate. Then I'll withhold making a decision until
 25 counsel has had an opportunity to respond.

1 MR. GREGORY: Let me understand the procedure
2 here. He hasn't filed a motion. He sent a letter to the
3 Court that wasn't presented to the defense or the State,
4 and now he's going to argue this letter and we're going to
5 respond to that?

6 THE COURT: That's not what was said, Mr.
7 Gregory.

8 MR. GREGORY: Then I misunderstood.

9 THE COURT: You did.

10 MR. GREGORY: Would the Court correct me as
11 to what we're doing here?

12 THE COURT: Mr. Bartlett is going to state
13 his request. I'm not going to take any action. Counsel
14 may respond to that request, ask for oral hearing and
15 argument, whatever the case may be, and I will decide the
16 matter after counsel has had an opportunity to hear the
17 request. The record will also reflect that this was
18 discussed with counsel, you, in open court on the record
19 approximately six weeks ago. And I'd like to move on now,
20 Mr. Gregory.

21 MR. GREGORY: I'd like a formal motion, Your
22 Honor, if we were to request that from the Gazette
23 Journal, so we can respond formally to whatever the
24 content of that letter is.

25 THE COURT: I'll take your request under

1 submission.

2 Mr. Bartlett.

3 MR. BARTLETT: Thank you, Your Honor. This
4 letter was authored on June 17, 1999 and directed to Your
5 Honor informally, based upon a hearing that occurred in
6 the Vanisi matter and our reporter Mike Henderson was
7 present in the courtroom. He's present here today. Your
8 Honor adjourned the hearing and commenced again in
9 chambers with counsel and a court reporter present.
10 Apparently this happened over a brief period of time, and
11 Your Honor took the bench again after several minutes.

12 We wrote this letter to you to object to
13 chambers hearings with a court reporter as that excluded
14 the public, not just the media, but the public from a
15 hearing. And what we ask is not that everything be in
16 public, what we ask is that the Court and counsel agree to
17 follow the guidelines set out by the U.S. Supreme Court in
18 the Globe Newspaper versus Superior Court at 457 U.S. 596,
19 which says that before the court can close a hearing, it
20 needs to have a brief noticed hearing where the media has
21 an opportunity to learn why it's going to be closed and to
22 object to the closure. That's all we ask. There may be
23 circumstances where closure would be appropriate. I don't
24 know what took place, so I don't know what happened in
25 chambers.

1 We believe we're entitled under the First
2 Amendment and case decided by the U.S. Supreme Court to
3 have a hearing prior to when the court closes matters in
4 this case and takes a court reporter in chambers or closes
5 the courtroom.

6 THE COURT: I will indicate that the Court is
7 familiar with the instance that precipitated the letter.
8 However, the Court never convened court and then recessed.
9 The Court was supposed to start. Counsel notified the
10 clerk they wanted to meet with the Court in chambers prior
11 to the court hearing taking place. Furthermore, good
12 practice, and Supreme Court Rule 250, requires that the
13 Court not have any conversations with counsel without a
14 court reporter present. So the mere fact that a court
15 reporter is present does not mean, in the context of this
16 kind of a case, that the Court is conducting evidentiary
17 business or having a hearing, per se.

18 The clerk did notify the Court that Mr.
19 Henderson requested permission to be present in chambers.
20 The Court, of course, had no idea why counsel wanted to
21 meet with me, and denied that request and said that the
22 record would be available, because the transcript of all
23 proceedings is public in this case unless it's
24 specifically sealed. That was not sealed. And it was
25 made available within, I think, 24 hours or so. So that

1 was the instance that took place.

2 Based upon Mr. Bartlett's request today to
3 have a hearing prior to any in chambers meeting to afford
4 the press an opportunity to be heard, I think that is of
5 significance and could significantly delay the case if I
6 were to grant it. And I don't know if I have to grant it
7 or if it's necessary to grant it, and I think it is
8 appropriate to grant Mr. Gregory's motion to allow this to
9 be codified in the form of a formal motion, without taking
10 action.

11 So I'm going to grant Mr. Gregory's motion.
12 However, I am going to allow for a shortened response
13 time. If the motion is formally filed and served on the
14 parties, then I will allow for a shortened response time,
15 other than what would normally be in a civil case, which
16 of course would put us outside of the trial in this case.

17 So I will try to accommodate the newspaper's
18 desire to have this matter heard, with still accommodating
19 counsel's ability to respond.

20 So I will not take action and require a
21 response from either party until Mr. Bartlett files his
22 written motion.

23 MR. BARTLETT: Thank you, Your Honor.

24 THE COURT: Anything further?

25 MR. GREGORY: Other than does the Court have

1 our next court date?

2 THE COURT: I'm sure the clerk does. I don't
3 have it off the top of my head.

4 MR. STANTON: I believe it's next week, Your
5 Honor.

6 THE COURT: The clerk, on a cursory review of
7 the calendar on the computer, shows the next hearing being
8 August 30th, when we will begin the jury selection
9 process, with the questionnaires. But I don't know if
10 there's other things scheduled or that need to be
11 scheduled.

12 MR. GREGORY: I wasn't sure either. That's
13 why I was asking.

14 THE COURT: It would probably be appropriate
15 for counsel to talk to the court clerk at the conclusion
16 of this hearing. She'll have time to carefully look at
17 the record and see if there is a hearing. And if there
18 isn't one, and it would be prudent to have one, I will ask
19 that she put it on calendar at your request.

20 MR. GREGORY: Thank you, Your Honor.

21 THE COURT: Mr. Gammick.

22 MR. GAMMICK: Your Honor, after the last
23 trial, if the Court will recall, I brought up at one time
24 the questionnaire that was used by the Court, the
25 supplemental questionnaire, and the questions that were

1 asked on that. Would the Court still entertain some
2 suggestions? I understand the Court is going to use one.
3 I'm not going to rehash that. But I think the wording of
4 a couple of the questions that we proposed and the court
5 ultimately did use last time did cause some grief that
6 could be avoided if they were reworded or some changes
7 made.

8 Would the Court entertain us furnishing
9 something like that to the Court and defense with some
10 changes to the questionnaire that was used last time?

11 THE COURT: The questionnaire has not been
12 prepared yet, so it would still be appropriate if you and
13 Mr. Gregory and Mr. Bosler and Mr. Specchio were to
14 evaluate that and make a request either jointly or
15 independently, but the questionnaire will be prepared very
16 shortly. So the timing, we are moving forward very
17 quickly here towards the utilization.

18 It won't happen until the week before we use
19 the questionnaire, but it won't happen the morning of the
20 use of the questionnaire either.

21 MR. GAMMICK: If I ask cut-off date of maybe
22 a week from today, the 18th, would that be fine for the
23 Court?

24 THE COURT: That would be fine for the Court.

25 MR. GREGORY: Cut-off date for what?

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THE COURT: To request any changes.

MR. GAMMICK: Any changes to the supplemental questionnaire.

THE COURT: And that would be for the defense, too, if you have some other request to make.

MR. BOSLER: Thank you, Your Honor.

MR. GREGORY: Thank you, Your Honor.

THE COURT: Anything further?

Court's in recess.

(Recess taken.)

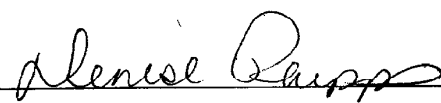
1 STATE OF NEVADA,)
2) ss.
3 COUNTY OF WASHOE.)

4 I, DENISE PHIPPS, Official Reporter of the
5 Second Judicial District Court of the State of Nevada, in
6 and for the County of Washoe, do hereby certify;

7 That I was present in Department No. 4 of the
8 above-entitled Court on August 11, 1999 and took verbatim
9 stenotype notes of the proceedings had in the matter
10 entitled herein;

11 That the foregoing transcript is a full, true
12 and correct transcription of my stenotype notes of said
13 proceedings.

14 DATED: At Reno, Nevada, this 12th day of
15 August, 1999.

16 
17 _____
18 DENISE PHIPPS, CCR #234

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Exhibit 72

Exhibit 72

FILED

Code No. 4185

AUG 30 1999

AMY HARVEY, CLERK
By: [Signature]
DEPUTY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE HONORABLE CONNIE STEINHEIMER, DISTRICT JUDGE

-cOo-

THE STATE OF NEVADA,)	
)	
Plaintiff,	)	Case No. CR98-0516
	)	Dept. No. 4
vs.	)	June 23, 1999
)	
SIAOSI VANISI,)	
)	
Defendant.)	
)	

Decision on Motion to Relieve Counsel
August 30, 1999
Reno, Nevada

APPEARANCES:

For the Plaintiff: RICHARD A. GAMMICK
District Attorney
DAVID L. STANTON
Chief Deputy District Attorney
75 Court Street
Reno, Nevada 89520

For the Defendant: MICHAEL R. SPECCHIO
Public Defender
STEPHEN GREGORY
and JEREMY BOSLER
Deputies Public Defender
One South Sierra Street
Reno, Nevada

The Defendant: SIAOSI VANISI
Reported by: ERIC V. NELSON, CCR No. 57

ORIGINAL

SIERRA NEVADA REPORTERS (775) 329-6560

1544

RENO, NEVADA, MONDAY, AUGUST 30, 1999, 10:05 A.M.

-o0o-

THE COURT: This is the time set for originally questionnaire preparation and initial jury selection. Based upon the motion that was filed and argued last week, the Court has issued an order under seal today. The order that was issued under seal is sealed and has been provided to counsel.

There is a subsequent order issued today also to handle the logistics that are required by the Court's order that was filed under seal.

The Court has filed an order this date under seal denying defendant counsel's ex parte Nevada Supreme Court Rule 172 motion to withdraw.

The Court believes that counsel for the defendant may disagree with the Court's findings and conclusions. In order to give counsel an opportunity to seek a different opinion or become fully prepared to go forward with the defense of the defendant as ordered by this Court in the sealed order, the defendant's trial is continued for two weeks.

Preliminary jury selection and questionnaire distribution that was to begin this morning at 10:00 a.m. shall occur Monday, September 14th, 1999, at 10:00 a.m.

SIERRA NEVADA REPORTERS (775) 329-6560

1545

1 Trial is continued from September 7th, 1999, at 10:00 a.m.,
2 to September 21st, 1999, at 10:00 a.m.

3 Counsel is informed by this order that the
4 Court expects counsel to be fully prepared to proceed with
5 the defendant's defense on the above dates absent stay in
6 the proceedings from the Nevada Supreme Court.

7 You have two weeks, gentlemen. Court is in
8 recess.

9 MR. GAMMICK: Excuse me, Your Honor, may we be
10 heard on this?

11 THE COURT: What? May you be heard on what?

12 MR. GAMMICK: On this court date set, time and
13 everything else? We were never asked about calendars,
14 convenience, other trials --

15 THE COURT: That's right.

16 MR. GAMMICK: -- witnesses, nothing.

17 THE COURT: That's right, Mr. Gammick. We were
18 set for three weeks in this case. You're still within your
19 three week window.

20 MR. GAMMICK: To start the trial, Your Honor,
21 we are. We have witnesses who are not only from out of
22 state and out of this country, we have witnesses who have
23 already scheduled school to start out of state. I do not
24 know at this time if they are even going to be available to
25 be here.

1 We have another death penalty case that starts
2 the first part of October that involves Mr. Stanton that we
3 do not know at this time, since we weren't told about any of
4 this, whether or not we're going to be able to move that
5 trial or do anything with that. So you have made some moves
6 here this morning that have put the State in some real
7 jeopardy.

8 THE COURT: Mr. Gammick, the motion that was
9 filed was not filed by the Court's desires. I cannot do
10 anything about the motion that was filed by counsel or the
11 content of the hearing that was heard outside your presence.

12 I cannot give you better information on that
13 because that proceeding is sealed by order of the Supreme
14 Court. I can tell you that I'm not going to have any more
15 continuances in this case. We cannot go out further. We
16 will only end up with more motions, more problems, more
17 consideration.

18 Counsel must, however, be given an opportunity
19 to writ this to the Supreme Court, if that's what they want
20 to do.

21 Based upon what went on in the hearing, I must
22 have the ability to control counsel's behavior in this case,
23 and they must be assured that what they are doing is
24 appropriate. If they want to contest my order, the place to
25 do it is at the Supreme Court, not in the course of the

1 trial.

2 I'm telling you this decision is made in the
3 best interests of the people of this county. If you have a
4 significant scheduling problem, you may ask for relief. Now
5 is probably not the time to do it because you just received
6 notice of this.

7 If you need relief, we'll talk about it. But I
8 assure you that any further delays will not act in the
9 people's benefit or Mr. Vanisi's, and that is why the Court
10 is acting expeditiously in only allowing a two-week
11 continuance.

12 MR. GAMMICK: Your Honor, I appreciate the fact
13 of what the Court is doing and everything, but I'm trying to
14 point out to the Court, the Court may feel this is in the
15 People's best benefit, but there are other people who have
16 some kind of input to that, including the District
17 Attorney's Office. What I'm saying right now is I may very
18 well be back.

19 When you sit here and say there will be no
20 other grounds for continuances or no other relief, you may
21 have put this case in some extreme jeopardy here. I don't
22 know yet. I can't answer that because we didn't have any
23 advance notice that this was coming.

24 I am not objecting to the Court, the order the
25 Court has made. I'm not objecting to the closed hearing.

1 I'm not objecting to any of that because I understand all of
2 that.

3 It's just the Court came in, continued this on
4 its own motion for two weeks without giving us any notice or
5 asking us if we could do that, not even a matter of
6 convenience, or whether or not it is possible to do it then.
7 I don't know that at this time.

8 So the Court is going to allow us to come back
9 in once we determine whether we will be ready to go, I'm
10 happy with that answer. That would be fine, Your Honor. I
11 have no problem with that.

12 THE COURT: What you are going to have to do is
13 you are going to have to balance the concerns of particular
14 witnesses with the concerns of the Court and the Supreme
15 Court rule that requires this case to be tried
16 expeditiously. Currently we're at 18 months from date of
17 offense.

18 MR. GAMMICK: I'm fully aware of that, Your
19 Honor. If you recall in January, we requested a quicker
20 setting in September, and at this time I'm objecting to a
21 continuance because I don't know what impact this is going
22 to have, and I have got a lot of experience in this area,
23 and we are balancing all of that, and we're going to bring
24 this man to justice, and that's what we're here for.

25 MR. STANTON: Your Honor, can I ask that the

1 Court's order include the witnesses that have previously
2 been served for the trial date of September 7th be held to
3 the subpoenas, in case the State has any difficulty with
4 some of the witnesses?

5 THE COURT: All witnesses are held to their
6 original subpoenas. If there is any question on behalf of
7 the defense or the State as to being able to hold those
8 witnesses, the Court will hold a hearing on the date
9 originally set, September 7th at 10:00 a.m. to have those
10 witnesses present and the Court admonish them and hold them
11 to their subpoenas.

12 MR. GAMMICK: Thank you, Your Honor, and we
13 will get back to the Court hopefully today, maybe tomorrow
14 at the latest, and we'll advise defense if we don't have any
15 problem with making that date.

16 THE COURT: Anything further?

17 MR. GREGORY: No, Your Honor.

18 THE COURT: Court is in recess.

19 (10:12 a.m., court adjourned.)
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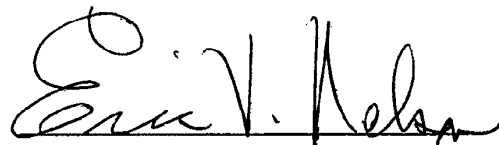
STATE OF NEVADA,)
)
COUNTY OF WASHOE.)

I, ERIC V. NELSON, Certified Court Reporter of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe, do hereby certify:

That I was present in Department No. 4 of the above-entitled Court and took stenotype notes of the proceedings entitled herein, and thereafter transcribed the same into typewriting as herein appears;

That the foregoing transcript is a full, true and correct transcription of my stenotype notes of said proceedings.

DATED: At Reno, Nevada, this 30th day of August, 1999.



ERIC V. NELSON, CCR No. 57

Exhibit 73

Exhibit 73

SVan1s12JDC04393

1

FILED

Case No. CR98-0516

'99 MAY 18 P1 55

Dept. No. 4

S. Crawford

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE
THE HONORABLE CONNIE STEINHEIMER, DISTRICT JUDGE

--oOo--

THE STATE OF NEVADA, IN CHAMBERS REVIEW

Plaintiff, May 12, 1999

-vs- Reno, Nevada

SIAOSI VANISI,

Defendant. /

APPEARANCES:

For the Plaintiff: RICHARD A. GAMMICK
Washoe County District Attorney
Washoe County Courthouse
Reno, Nevada

For the Defendant: STEPHEN GREGORY
& JEREMY BOSLER
Deputy Public Defenders
195 South Sierra Street
Reno, Nevada

The Defendant: SIAOSI VANISI

Reported by: Nicole Alexander, CCR #446

ORIGINAL

SIERRA NEVADA REPORTERS - (775) 329-6560

10/18

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AA05062

1 RENO, NEVADA; WEDNESDAY, MAY 12, 1999; 9:07 A.M.

2 -o0o-

3
4 THE COURT: Let the record reflect that we're
5 convened in chambers. Will everyone please make their
6 appearances on the record.

7 MR. BOSLER: Jeremy Bosler.

8 MR. GREGORY: Steve Gregory for Mr. Vanisi.

9 SERGEANT KELLY: Sergeant Kelly of the sheriffs
10 office.

11 SERGEANT LARIVIERE: Sergeant Ty Lariviere of the
12 sheriffs office.

13 CAPTAIN GANYON: Captain Jim Ganyon, sheriffs
14 office, detention.

15 MR. GAMMICK: Richard Gammick, District Attorney.

16 THE COURT: I think you asked for the meeting,
17 Mr. Gammick.

18 MR. GAMMICK: Well, it's my understanding that
19 Mr. Gregory and/or Mr. Bosler were up at the sheriffs
20 department and made some comments about the way that Mr. Vanisi
21 was being treated by the sheriffs department and how that was
22 interfering with attorney/client relationships and how it was
23 going to lead to some major problems.

24 So we decided to just ask for a court hearing so
25 that if there are problems we can get them voiced and we can

1 have a hearing and we can decide what's going on here and if
2 there are going to be any future problems.

3 THE COURT: I don't know anything about it.

4 MR. GREGORY: I don't either, Judge.

5 THE COURT: Is there a complaint about the way
6 Mr. Vanisi has been --

7 MR. GREGORY: Judge, we, as, an accommodation to
8 the sheriffs department because of some troubles that they were
9 having with Mr. Vanisi last week -- we were asked by one of
10 the sergeants -- I believe it was Sergeant Dickson, to go up
11 and talk to Lieutenant Wise, Captain Healy, and I don't know
12 who the other lieutenant was. So as an accommodation to the
13 sheriffs department, we went up to talk to them. That's it in
14 a nutshell.

15 Now, let me tell you what we have done. As soon as
16 we were notified that Mr. Vanisi was involved in some unusual
17 behavior, I immediately went up to the jail. He was in the
18 infirmary. I calmed him down. They were able to take him back
19 to the S.H.U., which is where he's held. He was coherent. He
20 was able to go back into his cell.

21 The following afternoon, Mr. Bosler and I went and
22 saw him. And although at times he seemed to be distracted, he
23 appeared fine to me. I saw him again the following day, and he
24 was lucid. He was like he was prior to the beginning of these
25 incidents which started the first part of April between

1 Mr. Vanisi and the sheriffs department.

2 I went to the trouble of giving my card -- and I'm
3 not going to say to who -- because you know the sheriffs
4 department has, like all law enforcement agencies, they tend to
5 punish people who don't do their jobs. But it was given to
6 them with my phone number on it. And I told them if he starts
7 to show what they consider bizarre behavior or unusual
8 behavior, they are to call me any time of the day or night, and
9 I will go and I will diffuse the situation for them.

10 The next I hear is that apparently they called the
11 court, did not contact me and/or Mr. Bosler, and moved
12 Mr. Vanisi to the Nevada State Prison. Now, that potential
13 movement was part of a conversation that I had with the captain
14 and two lieutenants, who are not here, by the way, to create
15 some sort of a hiatus, give everybody a rest of no more than a
16 week is what we agreed to initially. That was put on the back
17 burner to give me an opportunity to deal with Mr. Vanisi.

18 Also under consideration, since the
19 sheriffs department -- and I understand they're SOPs and
20 they've got to go by the book. But one of these prisoners,
21 especially in the S.H.U., doesn't follow instructions, then
22 there is a punishment, if you will, that follows. And it's as
23 sure as the sun coming up.

24 However, they only have like four things that they
25 can punish him for in the S.H.U., right? I mean, they get

1 their tier time, they get their shower and soap, pencil,
2 whatever.

3 What else, Captain? What other privileges do they
4 have in the S.H.U.?

5 CAPTAIN GANYON: Telephone privileges.

6 MR. GREGORY: Yeah. Whatever. I asked them to do
7 me a favor in assisting them to get Mr. Vanisi under control to
8 hold off on their discipline, their inevitable discipline that
9 had to come because of his behavior that started last Tuesday.

10 They indicated to me, although they didn't agree to
11 it, that they would think it over, that that's something they
12 could do is put the discipline off to give me an opportunity to
13 deal with Mr. Vanisi.

14 Now, these punishments -- Mr. Vanisi's complaint --
15 and I will say this for the record, is that he follows the
16 rules and then gets accused of not following the rules. And
17 that upsets him. It's not an excuse for what he does when he's
18 upset, banging on the walls and hollering. But that upsets
19 him. But he prides himself on being a rule follower up at the
20 jail. Now, he's eccentric, to be sure. The guy must go
21 through a ton of kites, Captain? Is that a fair thing to say?

22 CAPTAIN GANYON: Yes.

23 MR. GREGORY: How many did he have? About this
24 thick?

25 SERGEANT KELLY: His file is approximately this

1 thick. I have a number of his kites on my desk today that I
2 have yet to answer. And most of them are just nonsense. But
3 he just continually writes everybody.

4 MR. GREGORY: Here's the problem. I asked them
5 months ago to allow Mr. Vanisi to have legal pads because
6 that's how he keeps himself amused. He writes. They did not
7 want to do that for security purposes. So they give him the
8 kites which -- and over and above that, he has a right to a
9 kite. But he writes short stories, Judge. And he's just
10 prolific.

11 That's another thing they agreed to. They agreed
12 that they would, to try to diffuse this situation, take the
13 back off of legal pads and let me give him legal pads so that
14 he can just write and write and write so they don't have to go
15 through the red tape.

16 Now, I really don't understand why we're here.
17 Mr. Gammick's accusations are based on what was told to him by
18 the captain and the two lieutenants. That's not correct.
19 That's not what I said. What I said was is that since the
20 first of April, it's been difficult for me to communicate with
21 Mr. Vanisi about the case because of all of these ancillary
22 things that we're dealing with and the fact that he is so
23 upset. And I told them that if this keeps going on, we're
24 going to reach a situation where I can't communicate with him
25 at all.

1 And that's the extent of my contact with the -- my
2 voluntary contact to try to help out with the sheriffs
3 department, Your Honor. I made no threats, no accusations.
4 And I think the good captain will admit that as far as my
5 conduct up at the jail -- I do ECR on a daily basis -- that I
6 never miss an opportunity to tell my inmates to follow whatever
7 instructions that the guards give them and to cooperate with
8 the guards.

9 MR. GAMMICK: May I have my original statement read
10 back, please?

11 (Requested portion read by the reporter.)

12 MR. GAMMICK: I believe that's what Mr. Gregory
13 just said. I'm not in here making accusations or accusing
14 anybody of bad conduct. What I have been told is that there
15 were some comments made that because of what's happening at the
16 jail, we're going to have some interference and have some
17 future problems on attorney/client relationships. Here we
18 are.

19 THE COURT: As I understand -- why don't we have
20 an update from the jail in term of Mr. Vanisi's current housing
21 situation.

22 CAPTAIN GANYON: Judge, I'm Captain Jim Ganyon, in
23 charge of operations for the jail. Last week, I was in Santa
24 Rosa at a jail management class. And Captain Healy, who is in
25 charge of services, was at the jail. And Lieutenant Wise, who

1 is my DRT commander, was acting on my behalf.

2 Last week, there were several instances of
3 Mr. Vanisi being disruptive and acting out as far as banging on
4 the door and different instrumentalities within his jail cell,
5 refusing to walk down when told, not obeying orders, and so
6 forth.

7 Eventually, he was moved to the infirmary, moved
8 back to his cell on Saturday, which was the big event. The
9 detention response team was required to extricate him from his
10 cell.

11 And at that time, Lieutenant Wise, who was the
12 acting commander on my behalf, in my absence, I believe,
13 notified the court and requested permission that maybe
14 Mr. Vanisi should be moved to the Nevada State Prison for
15 safekeeping for now. And that's kind of where we're at.

16 When I returned to work this week, I was briefed by
17 Captain Healy that there had been a conversation with
18 Mr. Gregory, and we -- I contacted Sergeant Kelly, who is in
19 charge of classification, and we prepared a time line for
20 defense for the District Attorney's office showing the events
21 from the time that he was booked during -- in January of 1998
22 up until last Saturday was the last incident -- the number of
23 instances that the have occurred in the jail of Inmate Vanisi
24 acting in a bizarre manner and acting out.

25 Just to respond to Mr. Gregory's one comment, as

1 the commander, if you can keep me apprised of some of your
2 concerns, I can ensure that some of your requests will be
3 looked into and taken care of adequately.

4 As far as I know, I've never received any written
5 or oral communications from you as to how you want to
6 facilitate this communication between you and your client and
7 what the sheriffs detention staff needs to do to assist in that
8 manner. So I'd kind of like to ask that maybe in the future,
9 particularly when Mr. Vanisi comes back, if you can just deal
10 with me face to face or by telephone.

11 MR. GREGORY: You know, I'd appreciate that,
12 Captain. And my concern also is that I make agreements with
13 one shift that don't seem to be reported to the next shift.
14 And, you know, that shift has seen Vanisi taken away and bound
15 up. And they have no idea why he's back, just that he's back.
16 They don't know that it's been diffused. And I do have some
17 concerns with that aspect of the operation, that not everybody
18 knows what's going on over there, in all fairness.

19 Now, I need to -- may I ask the captain a
20 question, Judge? I'm confused.

21 THE COURT: Yes. And he can answer if he wants.
22 Whatever. Go ahead and ask.

23 MR. GREGORY: You indicated there was an
24 extrication on Saturday?

25 CAPTAIN GANYON: He had refused to come out of his

1 cell, and that's the incident that led up to his.

2 MR. GREGORY: He wasn't out on tier time? Because
3 the sergeant, I believe -- or did you indicate that he was out
4 on tier time and barricaded and refused to go back in or
5 something like that?

6 SERGEANT KELLY: That's correct. And then after he
7 finally was -- Lieutenant Wise talked to him for about 30
8 minutes, and he finally agreed to lock down, and then they
9 removed him from the cell to transport him.

10 MR. GREGORY: Sergeant, do you know why I wasn't
11 contacted?

12 SERGEANT KELLY: My instructions at that time were
13 to contact Captain Healy. We did that. Lieutenant Wise
14 responded. I did not have any indication that we were to
15 contact you immediately. I did agree to contact your office as
16 well as Mr. Stanton after we moved Mr. Vanisi, but not prior to
17 that.

18 SERGEANT LARIVIERE: And was that on Saturday.

19 SERGEANT KELLY: That's correct.

20 MR. GREGORY: There was an extrication on Tuesday.
21 I don't know if you're aware of that.

22 CAPTAIN GANNON: The 4th.

23 MR. GREGORY: The 4th or the 5th.

24 CAPTAIN GANNON: May 4th or the 6th.

25 That's when -- yes. The 6th.

1 MR. GREGORY: Thursday he was fine. He wasn't
2 pulled out Thursday.

3 CAPTAIN GANNON: Do you have a copy of this here?

4 MR. GREGORY: Yeah, I have your report here.

5 THE COURT: How much longer do you think --

6 JUDGE KOSACH: I have a question. I have a
7 question. I'm in the middle of a calendar, Department Eight.
8 My public defender leaves because he's got a meeting this
9 morning. Is this case more important than any God damned case
10 around? What's the deal? Everybody bends over for this case
11 or something like that? To hell with this stuff.

12 MR. GAMMICK: We're on the record.

13 JUDGE KOSACH: I don't care. I want to be on the
14 record.

15 THE COURT: Judge, I was told by the public
16 defender that he had a hearing at 8:30. He had five of the
17 seven things. Apparently, the first two were heard. I didn't
18 call this meeting. This is Mr. Vanisi's death penalty case.

19 JUDGE KOSACH: I don't care. I don't care.
20 There's lot of death penalty cases. Let's work the damn thing
21 out. I've got to move everything now, and I have a trial.
22 This case is not more important than anybody else's, period.

23 THE COURT: How much longer do you need to go
24 through?

25 MR. GREGORY: I just want to understand, you know,

1 what we're going to do. Judge, I'd already told the sheriffs
2 department that I have no problems keeping Mr. Vanisi in the
3 Nevada State Prison if they need a hiatus until our hearing
4 June 1 because I'm not going to need him.

5 THE COURT: Well, what do we have June 1?

6 MR. BOSLER: A motions hearing.

7 THE COURT: A motions hearing?

8 MR. GREGORY: Yes, ma'am.

9 THE COURT: And you want him back before that?

10 MR. GREGORY: Yes, ma'am.

11 THE COURT: But you don't need him before that?

12 MR. GREGORY: No, ma'am.

13 THE COURT: Okay. Well, then, let's leave him at
14 the prison until then, and we'll have the hearing, and then we
15 can reevaluate at that time whether or not he needs to be here
16 during the summer or he needs to be down there.

17 MR. GREGORY: Well, just for the record, Your
18 Honor, I've gone through that. And I went through that with
19 Mr. Geary. To spend a half hour with Mr. Geary normally took
20 three and a half to four hours.

21 MR. BOSLER: At the prison, you mean?

22 MR. GREGORY: Yes. I mean, going down there and
23 coming back and the time we had to wait to see him. And I
24 cannot prepare a defense under those circumstances. So, I
25 mean, if we're considering keeping Mr. Vanisi at the prison,

1 then we should consider hiring private counsel for
2 him because --

3 THE COURT: Well, we'll talk about that.

4 MR. GREGORY: -- because Mr. Bosler and I -- I
5 just want the record to reflect.

6 THE COURT: We will. And the record reflects what
7 Mr. Specchio, who I understand is still the Public Defender in
8 this county, has previously agreed to. So let's not start
9 making any threats. I think the situation is diffused for
10 now.

11 I will decide in June, and you'll be given an
12 opportunity to have a hearing in June. We'll decide what's
13 going to happen from there. We'll work on this. And we'll
14 continue to work to see that Mr. Vanisi can be available for
15 the defense as much as possible. But it's going to have to be
16 a safe environment for both him, the people housing him, and
17 the other inmates. So it's going to be always a balancing
18 test.

19 Now, Mr. Bosler, I think that you're going to have
20 to make an apology to Judge Kosach.

21 MR. BOSLER: I will.

22 THE COURT: At least for why since you all knew you
23 were supposed to be here and Mr. Gregory said that you had to
24 be present, both of you had to be present, why there wasn't
25 somebody from the public defenders office who could cover your

1 cases for Judge Kosach and what was going on. But I think
2 you're going to have to make an apology. I'll certainly
3 explain my situation. I don't know how much I had to do with
4 this.

5 MR. GREGORY: I'll also talk to the judge.

6 THE COURT: I hope you explain that I didn't know
7 that he was the only one.

8 MR. GREGORY: I will indeed, Judge.

9 THE COURT: I certainly didn't know we were holding
10 up a jury trial. So please take care of that. And for now,
11 Mr. Vanisi will remain at the Nevada State Prison.

12 MR. GAMMICK: A couple of things I'd like to say
13 now that we've had all of this. One is Mr. Vanisi is not
14 present here. I didn't think anyone felt it was necessary to
15 bring him up here from the prison to discuss this particular
16 issue.

17 THE COURT: And it's my understanding, Mr. Gregory,
18 you stipulated to that earlier.

19 MR. GREGORY: That's correct, Your Honor.

20 THE COURT: But that you wanted both counsel
21 present.

22 MR. GAMMICK: Number two is that I furnished the
23 court with a memorandum --

24 THE COURT: Yes.

25 MR. GAMMICK: -- from Captain Ganyon, dated

1 May 11th, 1999.

2 THE COURT: The clerk will mark that.

3 MR. GAMMICK: This is a two-and-a-half page
4 synopsis of all of the activity with Mr. Vanisi since he's been
5 incarcerated at the Washoe County Jail. And I did hand a copy
6 of this to Mr. Gregory, too, this morning.

7 We've requested from the sheriffs department all of
8 the reports referred to in this synopsis and all of the
9 videotapes. And we will have those to the defense in the next
10 couple of days.

11 The other thing I want to mention or the thing that
12 I'm concerned about long-term here is I understand
13 Mr. Gregory's concerns, and I understand the complications this
14 type of activity will create. But Mr. Vanisi has rules that he
15 has to live by. Those are rules that are laid out. There are
16 repercussions for violating those rules.

17 In fact, I will commend the sheriffs department for
18 the way they have handled Mr. Vanisi considering everything
19 he's been doing and the reports I've read.

20 What I am concerned about here is Mr. Vanisi, due
21 to his acting up and due to what he is doing, is going to
22 create these problems. And when we get to that point, we can
23 definitely brief it. But I do not believe that a defendant can
24 create that type of situation and take advantage of it.

25 That is my concern. That's why we're here this

1 morning is that he has had a vast amount of incidences at the
2 jail. That is starting to interfere with the attorneys being
3 able to see him and talk to him in a meaningful way. But I
4 want this pointed out that he has rules to live by, and he has
5 rules that he has follow, and he is not doing so at the
6 prison. Ergo, he's down at the Nevada State Prison. And we'll
7 deal with this again when he needs to come back up here, I
8 guess.

9 MR. GREGORY: Just so that the record is clear,
10 some of the rule violations -- easy, Jeremy. He's
11 pissed anyway.

12 Some of the rule violations are that Mr. Vanisi
13 likes to wear a toga. Sometimes he wears his underwear on his
14 head. Sometimes he sits in his cell nude. And these bring
15 about discipline and punishment. It's nothing overtly violent
16 by Mr. Vanisi. And with that --

17 MR. GAMMICK: Let's talk about the other night when
18 he almost kicked in a steel door in his cell and he was causing
19 such a disruption up there for three or four hours that other
20 prisoners were getting involved in that. They finally had to
21 sedate Mr. Vanisi to bring him back under control. Those are
22 the kind of situations that we're concerned about.

23 There are between 800 and 1,200 prisoners in that
24 jail at any given time. Mr. Vanisi, if he wants to do all of
25 this odd stuff, he creates disruption for the security up there

1 and for other prisoners. There are rules to follow. If
2 Mr. Gregory and Bosler can convince him of that, it would help
3 everybody that he has to follow the rules.

4 MR. GREGORY: Just so the record is clear, I think
5 the captain knows I have worked my butt off to aid the
6 sheriffs department --

7 THE COURT: Gentlemen, I don't really think we need
8 to worry about this on the record.

9 MR. GREGORY: Sorry, Judge.

10 THE COURT: Thank you. The issue here is that we
11 have moved Mr. Vanisi for now. If there's future problems, we
12 will take action. You're comfortable with his being in the
13 prison from now until June 1st?

14 MR. GREGORY: Yes, ma'am.

15 THE COURT: We will document -- I'm sure the jail
16 has documented the problems. And there is no question that in
17 the documentation there was significant disruption and
18 dangerous situations that were reported to me.

19 Now, there may also be bizarre behavior of being
20 naked, wearing the underwear on his head, urinating on the cell
21 block, etcetera. There is other bizarre behavior, but there
22 are also allegations of dangerous situations. So we do have to
23 keep this in perspective.

24 I don't think we have to hold up Mr. Bosler.
25 Really, we could have been out of here and held his calendar

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1 only about 15 minutes. But if it helps, I'm available to hear
2 anything if he still hasn't sent everybody out of there, and I
3 would be glad to -- you can bring your cases up here, and I'll
4 hear them while he starts his trial.

5 MR. BOSLER: I appreciate that, Your Honor.

6 THE COURT: Go ahead and go see if you can do some
7 damage control. Thank you, gentlemen.

8 (Proceedings concluded at 9:25 a.m.)

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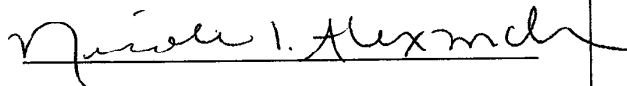
1 STATE OF NEVADA,)
) ss.
 2 COUNTY OF WASHOE.)

3 I, NICOLE ALEXANDER, Certified Court Reporter of
 4 the Second Judicial District Court, in and for the County of
 5 Washoe, State of Nevada, do hereby certify:

6 That I was present in the above-entitled court on
 7 May 12, 1999, and took stenotype notes of the proceedings
 8 entitled THE STATE OF NEVADA, Plaintiff, versus SIAOSI VANICI,
 9 Defendant, Case No. CR98-0516, and thereafter transcribed them
 10 into typewriting as herein appears;

11 That the foregoing transcript is a full, true and
 12 correct transcription of my stenotype notes of said hearing.

13
 14
 15 DATED: At Reno, Nevada, this 18th day of May,
 16 1995.

17
 18 

19 NICOLE ALEXANDER, CCR #446
 20
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Exhibit 81

Exhibit 81

1 RENO, NEVADA; FRIDAY, NOVEMBER 6, 1998; 3:00 P.M.

2 -oOo-

3 THE COURT: This is the time set for a status
4 conference. Let the record reflect counsel is present along
5 with Mr. Vanisi. It's Case Number CR98-0516.

6 I've had an opportunity to review the reports
7 from the psychologists, psychiatrists that we
8 re-appointed. Has counsel had an opportunity to review the
9 report from Dr. Lewis and Dr. Rich?

10 MR. GAMMICK: Yes, Your Honor.

11 MR. SPECCHIO: Yes, Your Honor.

12 THE COURT: Okay. At this time the Court is
13 prepared to make a finding with regard to the competency of
14 Mr. Vanisi to assist counsel and proceed to trial.

15 Does counsel have any objection to that
16 finding?

17 MR. GAMMICK: No, Your Honor.

18 MR. SPECCHIO: No, Your Honor.

19 THE COURT: Then the clerk will enter that
20 finding in the minutes of the Court.

21 Counsel, how is everything else going?

22 MR. GAMMICK: Your Honor, the only other thing
23 I'd request on the competency, and I'm sure the Court's doing
24 it, is just to make sure the two reports are part of the
25 official court record; that they do become entered there for

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1 future purposes.

2 THE COURT: Yes. Now, we normally hold the
3 reports in a confidential envelope. Do you want them held
4 someplace else?

5 MR. GAMMICK: No. I just want to make sure
6 they do stay with the record because this seems to be the big
7 issue at this time in other cases of competency and whether
8 or not it's been evaluated. I just want to make sure they
9 are available in the future.

10 THE COURT: It may make sense to go ahead and
11 have them marked as exhibits by the court clerk, and they're
12 admitted.

13 MR. SPECCHIO: That's fine, Your Honor.

14 THE COURT: Then that will be the order.

15 MR. GAMMICK: Your Honor, as far as everything
16 else, I know Mr. Stanton and Mr. Specchio have been in touch
17 on quite a few things. I believe we've worked out a lot of
18 the issues that we had before the motion hearings, as far as
19 witnesses and how we're going to proceed, and a lot of that's
20 been solved. What hasn't been will be, so everything's
21 moving fine.

22 The only other question that I have today is,
23 we did receive some correspondence with respect to
24 Mr. Vanisi. We did furnish that to Mr. Specchio. And in
25 that he talks about hiring a private attorney.

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1 My understanding is to this extent he doesn't
2 really have the finances to do that. But I just want to
3 clear that up just for sure today if we can, so that we still
4 have the trial date in January. So we don't have any
5 problems with that.

6 THE COURT: Okay. Mr. Specchio?

7 MR. SPECCHIO: Yes, Your Honor. I've prepared
8 a copy of the letter. That's Mr. Vanisi's letter to his
9 wife, so I'm going to give that to him. I've advised him
10 that everything that he writes to anyone, any communications
11 are being provided to the State.

12 There is the issue with regard to the financial
13 status. I -- Mr. Vanisi is without funds, as far as I'm
14 concerned. I have spoken to his wife. I have spoken to him.
15 I don't think there are any assets in which he could retain
16 counsel. I have no problem if you want to address him.

17 THE COURT: Mr. Vanisi, stand up.

18 You understand that I have appointed counsel to
19 represent you?

20 THE DEFENDANT: You have appointed counsel.

21 THE COURT: Mr. Specchio was appointed to
22 represent you. Do you understand that?

23 THE DEFENDANT: Well, I understand you
24 appointing Mr. Specchio for me. I just want to know, are
25 there any other options that I can choose from?

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1 THE COURT: No. You can hire your own counsel,
2 if you so desire to do so. But other than that, the Public
3 Defender's Office and Mr. Specchio is who I have appointed to
4 represent you. They're very competent.

5 I understand Mr. Specchio has associated a
6 couple of, another two attorneys in on the case. You now
7 have three very competent attorneys working on your case.

8 THE DEFENDANT: Well, before -- I'd like to
9 just discuss the letter here.

10 THE COURT: I have not seen the letter.

11 THE DEFENDANT: Oh. I'll just pretty much
12 summarize the letter. The letter is simply just reflecting
13 how I feel and so on and so forth to my wife at the current
14 situation because my communication with her is very limited.
15 We're unable to see each other, to discuss certain situations
16 of where to go.

17 It's now October. What's the month? November,
18 and the trial is scheduled for January. So as I mentioned
19 that I -- my wife and I have very little communication to
20 where I want to proceed, so I wrote down a letter, you know,
21 just discussing, communicating with her through letters of
22 what I should do, of what decisions I should make and where I
23 should proceed, if I want to have the counsel that you
24 appointed for me.

25 My wife, on the other hand, doesn't coincide.

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1 I'm comfortable with Mr. Specchio representing me. It's my
2 wife, on the other hand, who does not coincide with my
3 feelings. She wants to have me reconsider possibly selling
4 land that I do have at this point, which I need to get a hold
5 of.

6 So she wants me to get a private attorney.
7 That's her decision. That's what she wants. My situation
8 is, since the State is seeking the death penalty, I've got to
9 just, you know, for the sake of my wife because she is the
10 other half of me, I've got to just let her inter-lead into my
11 life or interpose or --

12 You know, normally in the beginning I told her,
13 No, Specchio is fine; I'll go with Specchio. But now I've,
14 you know, change of heart is where I'm at at this point.

15 I never listened to my wife, and I think it's
16 time that I should reconsider listening to my wife, her last
17 request or her request and see where we need to go. And
18 that's the purpose of the letter.

19 And, plus, I've heard that Specchio has also
20 counseled me that I should be careful of what I should write
21 down. But, you know, sometimes I've just got to -- I'm not a
22 private person to where I want to just -- so the letter was
23 just simply trying to communicate to her my feelings.

24 THE COURT: Mr. Specchio has given you good
25 advice. Anything you write down while you're in custody will

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1 be reviewed by the State, and anything you say can and will
2 be used against you in the case. So remember that and follow
3 Mr. Specchio's instructions to you, whatever they may be.

4 I'm also going to tell you now that if you
5 decide you want to hire private counsel, you have to do it
6 immediately because your trial is in January. And although
7 Mr. Specchio and his team have preserved all of your rights
8 and have filed the motions any other lawyer would file, if
9 another attorney wants to get involved in this case, it's
10 going to have to be immediately.

11 And you're also going to have to seriously look
12 at the costs involved. It's not a simple inexpensive case
13 that your new attorney will be involved with. So I will not
14 continue your case just because you're looking around for
15 another lawyer or just because you think you might want to
16 hire somebody else.

17 If your wife or you want to hire someone, it
18 must be done immediately. It will not be the basis for a
19 request of continuance.

20 THE DEFENDANT: Your Honor, I'm not -- I know
21 for sure that I don't want to stand trial in January.

22 THE COURT: You do not know, or you do know?

23 THE DEFENDANT: I do know that I don't want to
24 stand trial in January. And if there is an option that I
25 have to represent myself for a later date, I will do so.

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1 THE COURT: I won't give you another day, even
2 if you represented yourself. I'm not going to give you a
3 continuance. It's set. It's ready to go. If you want to
4 represent yourself, we can set this for a hearing and I'll
5 canvass you and see if you're competent to represent
6 yourself.

7 THE DEFENDANT: I didn't hear. What did you
8 say about the competency tests?

9 THE COURT: There is special things that you
10 have to understand to be competent to represent yourself. In
11 the case where the State is seeking the death penalty, it's
12 pretty difficult for someone to represent themselves. That
13 would be a very improvident decision for you to make. That
14 means it's a very bad decision for you to try to do that.

15 THE DEFENDANT: What would I need to qualify to
16 have the Court deem me as competent to represent myself?

17 THE COURT: Why don't you think about it this
18 weekend, talk to Mr. Specchio and see if you really want to
19 represent yourself. And we'll have a hearing next week, and
20 we'll see if you're competent to represent yourself, if
21 that's the decision you make.

22 Either way, I'm telling you right now, you're
23 not going to get a continuance. Either Mr. Specchio and his
24 team will be representing you, or you could be representing
25 yourself. Either way, you're going to trial in January. So

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1 you're not going to get a continuance just because you change
2 attorneys.

3 Either making it yourself or finding somebody
4 else to represent you instead of Mr. Specchio, that's not
5 going to get you a continuance. The only thing that would
6 allow for a continuance is if there was a legal basis for
7 your case to be continued. Right now I see none.

8 THE DEFENDANT: Let me just --

9 THE COURT: Set this over for a hearing.

10 We're going to set it for a hearing. You think
11 about what you want to do, meet with Mr. Specchio this
12 weekend.

13 THE DEFENDANT: I have one more question, Your
14 Honor.

15 THE COURT: Uh-huh.

16 THE DEFENDANT: For some magical reason an
17 attorney appears tomorrow, what then -- how will that change
18 the scheduling for trial in January?

19 THE COURT: I'm sure they could still be ready
20 to go.

21 THE DEFENDANT: It would still be -- it would
22 still be -- so I just want to make sure that it's clear that
23 January trial is in concrete. It's already set in concrete.

24 THE COURT: Yes.

25 THE DEFENDANT: Nothing can change it.

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1 THE COURT: Unless there is a legal reason to
2 continue your case.

3 THE DEFENDANT: And is there a legal reason?
4 Can you disclose some of the legal reasons?

5 THE COURT: I can't think of one. We have all
6 your hearings scheduled. We have pretrial hearings already
7 set. Maybe if there was some motion that required it in
8 November, but I don't think that I know of any.

9 You know how many times you've been coming back
10 to see me every few months and we've been talking with your
11 counsel and the DA? That's why we've been doing that, so
12 that there would be no delays.

13 THE DEFENDANT: Yes, I understand the times
14 that I've come to visit you, Your Honor. I understand that
15 fully. I just wanted to see if there's -- what legal
16 condition that could extend the January trial, and I guess
17 I'll have to talk about that with Mr. Specchio.

18 THE COURT: Yes. And we'll see you back on
19 Monday morning.

20 THE CLERK: November 9th at 11:00.

21 THE COURT: Can counsel make that?

22 MR. GAMMICK: Your Honor, I've got two meetings
23 set right now at 10:00 o'clock, and both of them will
24 probably carry over.

25 MR. SPECCHIO: I have that same problem, Judge.

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1 I've got a department head meeting.

2 THE COURT: You have a county commission issue?

3 MR. SPECCHIO: Yeah. It's a department head
4 meeting with the county manager on it.

5 MR. GAMMICK: That's one of the meetings.
6 That's at 10:00 o'clock. And the other meeting I have is
7 with Senator Washington and some other people.

8 MR. SPECCHIO: I don't have to meet with any
9 politicians, Judge, but maybe Tuesday morning would be better
10 or even Thursday, Judge. Wednesday's the holiday, right?

11 THE COURT: Right, Wednesday's the holiday.
12 Can you make Tuesday at 11:00?

13 MR. GAMMICK: Yes, Your Honor.

14 THE COURT: Does that work out all right for
15 you, Mr. Specchio?

16 MR. SPECCHIO: I'll make it work, Judge.

17 THE COURT: Then we'll see you all back on
18 Tuesday morning.

19 MR. SPECCHIO: That's the 10th, right?

20 THE COURT: Correct.

21 MR. SPECCHIO: 11:00 on the 10th?

22 THE COURT: Not 11:00 on the -- never
23 mind. Yes, when the clerk told us. Let's give it to us
24 again.

25 THE CLERK: November 10th at 11:00 o'clock.

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THE COURT: Okay.

MR. SPECCHIO: I'll be here.

THE COURT: Thank you.

Court's in recess.

(Proceedings concluded at 3:14 p.m.)

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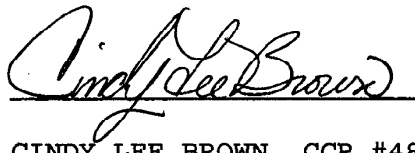
1 STATE OF NEVADA,)
 2) ss.
 3 COUNTY OF WASHOE.)
 4

5 I, CINDY LEE BROWN, Certified Court Reporter of
 6 the Second Judicial District Court, in and for the County of
 7 Washoe, State of Nevada, do hereby certify;

8 That I was present in the above-entitled court
 9 on November 6, 1998, and took verbatim stenotype notes of the
 10 proceedings entitled THE STATE OF NEVADA, Plaintiff, versus,
 11 SIAOSI VANISI, Defendant, Case No. CR98-0516, and thereafter
 12 transcribed the same into typewriting, as herein appears;

13 That the foregoing transcript is a full, true
 14 and correct transcription of my stenotype notes of said
 15 hearing.

16 Dated at Reno, Nevada, this 22nd day of
 17 November, 1998.

18 
 19

20 CINDY LEE BROWN, CCR #486
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Exhibit 82

Exhibit 82

SVan1312JDC03927

Case No. 98-0516

Dept. No. 4

FILED

'98 NOV 13 P1:52

BETTY L. LEE, CLERK
BY: [Signature]
DEPUTY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE
THE HONORABLE CONNIE STEINHEIMER, DISTRICT JUDGE

-oOo-

THE STATE OF NEVADA,)	
)	
Plaintiff,	)	HEARING REGARDING COUNSEL
)	
vs.	)	November 10, 1998
)	
SIAOSI VANISI,	)	Reno, Nevada
)	
Defendant.)	
)	

APPEARANCES:

For the Plaintiff:

RICHARD ALLEN GAMMICK
District Attorney
DAVID L. STANTON
Deputy District Attorney
Washoe County Courthouse
Reno, Nevada

For the Defendant:

MICHAEL R. SPECCHIO
Public Defender
One S. Sierra Street
Reno, Nevada

The Defendant:

SIAOSI VANISI

Reported by:

ERIC V. NELSON, CCR No. 57

ORIGINAL

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AA05096

1 RENO, NEVADA, TUESDAY, NOVEMBER 10, 1998, 11:00 A.M.

2 -oOo-

3 THE COURT: This is the time set for Mr. Vanisi
4 to make a determination if he wants to represent himself.

5 Mr. Specchio, have you had an opportunity to
6 discuss his decision with the court last week --

7 MR. SPECCHIO: Yes, Your Honor.

8 THE COURT: -- with him?

9 MR. SPECCHIO: I have.

10 THE COURT: Is it your understanding that he
11 wants to proceed with a request to represent himself?

12 MR. SPECCHIO: I don't think so. But I think
13 maybe the court ought to address Mr. Vanisi.

14 THE COURT: Mr. Vanisi, you had an opportunity
15 to consult with Mr. Specchio?

16 THE DEFENDANT: Yes.

17 THE COURT: Have you consulted with him?

18 THE DEFENDANT: Yes.

19 THE COURT: Is it your desire to proceed with
20 an inquiry and represent yourself?

21 THE DEFENDANT: No, it's not, Your Honor.

22 THE COURT: You think it's best just to stay
23 with the attorneys that you have and move forward?

24 THE DEFENDANT: Yes, I do, Your Honor.

25 THE COURT: Then we'll go ahead and do that,

1 Mr. Vanisi. We currently -- go ahead and you can be seated.
2 We have hearings set. Mr. Stanton.

3 MR. STANTON: Yes, Your Honor. If I could ask
4 the court to conduct just a brief additional canvass of
5 Mr. Vanisi.

6 My review of the Nevada Supreme Court's
7 addressing this issue also contemplates from between now and
8 the time of trial, maybe during trial into the penalty
9 phase, decisions by defendants to represent themselves and
10 that the Court absent some basis can completely deny that
11 request solely based on the fact that it would require a
12 continuance. Since Mr. Vanisi has expressed his unequivocal
13 desire to have counsel represent him from the Public
14 Defender's Office, I wonder if you could just conduct a
15 brief inquiry of Mr. Vanisi that he understands and knows
16 that from here on out, any request to change his counsel
17 that will result in a delay of the proceedings will be
18 denied on that basis alone.

19 In addition, Mr. Gammick brought up a fact
20 that at the last hearing there was some inquiry or intention
21 that was evidenced by a letter that we received and have
22 provided to defense counsel that Mr. Vanisi had expressed a
23 desire to other individuals about retaining his own counsel.
24 If the court could briefly inquire as to what his intent in
25 that regard is and that if he understands the ramifications

1 of not electing that decision now or addressing that issue
2 now, will potentially and most likely prohibit him from
3 substituting counsel at the last minute and cause a delay of
4 the trial.

5 THE COURT: I think I covered that at the last
6 hearing with Mr. Vanisi. We specifically discussed his
7 wife's desire to hire counsel or not, and I did indicate to
8 Mr. Vanisi there would be no continuances. If he wanted to
9 hire private counsel, he had to do it immediately. So I
10 have covered that aspect of it at the last hearing with
11 Mr. Vanisi.

12 And I think I covered, Mr. Vanisi, with you
13 that there won't be any continuances. We talked about that.
14 And the need to move forward with the trial date and that
15 this was your opportunity to elect to represent yourself and
16 that that wouldn't result in a continuance, but we would
17 just make the decision now. And is that your understanding
18 of what we talked about before?

19 THE DEFENDANT: Well, I understand that, you
20 know, today was to inform the court if I was going to
21 represent myself or if I was going to retain a private
22 attorney. And so I came today with the answer of I'm going
23 to stay with Specchio for this time.

24 If something were to arise in the future, then
25 I would have to address that in the court. Because I'm

1 limited on what I can do with criminal procedure and the
2 laws and the statutes of Nevada. So at this point my
3 addressing to the State is that at this point, that's what
4 we're doing. I'm going with Specchio. If anything else
5 arises, I will have to address that within that amount of
6 time.

7 But I do understand that January 11 is set, the
8 Court date is set at that time. So that's what I'm aware
9 of. That's what I have addressed, and you told me, and I
10 have understood it. Thank you, Your Honor.

11 THE COURT: Okay. Now one of the other pieces
12 that I want to make sure you understand is that the Nevada
13 Supreme Court has said that a timely request to represent
14 yourself will be considered by the court, but if you ask
15 after -- now you have decided you want to have an attorney
16 represent you, and for now it's Mr. Specchio, which I
17 understand that. If you were to ask me, for instance,
18 December 30th to represent yourself, I could and would deny
19 that request because it would require a continuance of your
20 trial.

21 Do you understand that?

22 THE DEFENDANT: Yes, I understand that you have
23 the discretion, Your Honor, to make that decision.

24 THE COURT: And you understand the Supreme
25 Court has basically told me that that's the way I should

1 exercise that discretion, if it would require a continuance,
2 would be to deny you either replacement attorney or
3 representing yourself at the last minute.

4 THE DEFENDANT: Yes, I understand that's what
5 the Supreme Court has informed you.

6 THE COURT: Now, I will tell you that remember
7 that I will certainly listen to any of your concerns that
8 may arise. And you should bring those concerns up to the
9 court if you have a significant concern. Again, I want to
10 remind you that your communications outside of the jail, and
11 I know Mr. Specchio has informed you of those communications
12 and the fact that your letters that you write will be
13 reviewed by the State. Remember that.

14 And we'll see you back at your next hearing.

15 Counsel have anything further? Anything
16 further?

17 MR. STANTON: Not from the State, Your Honor.

18 MR. SPECCHIO: Nothing further.

19 THE COURT: Thank you, counsel. We'll see you
20 back at the next hearing. Court is in recess.

21 (Recess adjourned at 11:05 a.m.)

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1 STATE OF NEVADA,)

2)

3 COUNTY OF WASHOE.)

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I, ERIC V. NELSON, Certified Shorthand Reporter
of the Second Judicial District Court of the State of
Nevada, in and for the County of Washoe, do hereby certify:

That I was present in Department No. 4 of the
above-entitled Court and took stenotype notes of the
proceedings entitled herein, and thereafter transcribed the
same into typewriting as herein appears;

That the foregoing transcript is a full, true
and correct transcription of my stenotype notes of said
proceedings.

DATED: At Reno, Nevada, this 11th day of June,
1998.



ERIC V. NELSON, CCR No. 57

Exhibit 89

Exhibit 89

Case No. CR98-0516

Dept. No. 4

FILED

JAN 15 1999

AMY HARVEY
By: *[Signature]*
DEPUTY CLERK

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE HONORABLE CONNIE STEINHEIMER, DISTRICT JUDGE

-oOo-

THE STATE OF NEVADA,)	
)	
Plaintiff,	)	TRIAL
)	
vs.	)	January 14, 1999
	)	VOLUME 4
SIAOSI VANISI,	)	Reno, Nevada
)	
Defendant.)	

APPEARANCES:

For the Plaintiff: RICHARD A. GAMMICK
District Attorney
DAVID L. STANTON
Chief Deputy District Attorney
75 Court Street
Reno, Nevada 89520

For the Defendant: MICHAEL R. SPECCHIO
Public Defender
STEPHEN GREGORY
and JEREMY BOSLER
Deputies Public Defender
One South Sierra Street
Reno, Nevada

The Defendant: SIAOSI VANISI

Reported by: ERIC V. NELSON, CCR No. 57

ORIGINAL

SIERRA NEVADA REPORTERS (702) 329-6560

I N D E X

<u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
SATEKI "TEKI" TAUKEUVEA	690	736		
JOHN E. OAKES	762			
MARIA LOSA LOUIS	766	791		
PRISCILLA LUPE ENDEMANN	801			
MANAMOUI PEUA	817	828	831	
METUISELA DANIEL TAUVELI	834	851	862	
JIM DUNCAN	863			

<u>EXHIBITS:</u>	<u>Marked for Identification</u>	<u>Admitted into Evidence</u>
36.		692
20-A		810
20-B		810
30-A through 30-G	834	
8		849
24-D		874
21		880
23-A		885
23-B		885
11		885
25		886
29-A		897
29-B		897
15-B		898
15-C		898
15-D		898
22		900
26		900
16		901
16-A		901
16-B		901

RENO, NEVADA, THURSDAY, JANUARY 14, 1999, 10:28 A.M.

-o0o-

(Whereupon, the following proceedings were held in open court, in the presence of the jury.)

THE COURT: Good morning, ladies and gentlemen of the jury.

THE JURY: Good morning.

THE COURT: Counsel, are you able to stipulate to the presence of the jury?

MR. GAMMICK: Yes, Your Honor.

MR. SPECCHIO: Yes, Your Honor.

THE COURT: Thank you. You may proceed.

MR. STANTON: Your Honor, the State would call its next witness, Sateki Taukiuvea.

SATEKI TAUKIUVEA

called as a witness on behalf of the Plaintiff,

having been first duly sworn,

was examined and testified as follows:

DIRECT EXAMINATION

BY MR. STANTON:

Q Sir, if you could turn and face me. Pull that microphone as close as you can to you. Could you please state your full name and spell your first and last name for the court reporter?

1 A Sateki Taukiuvea. S-A-T-E-K-I.
2 Last name is T-A-U-K-I-U-V-E-A.
3 Q Do you have a name that friends call you?
4 A Yeah. Teki.
5 Q Teki, how old are you?
6 A Nineteen.
7 Q And I want to draw you back to approximately
8 one year ago. Do you recall on January 19th of 1998, being
9 interviewed by two Reno detectives at the Reno Police
10 Department?
11 A Yes.
12 Q And you brought with you today a transcript of
13 that interview?
14 A Yes.
15 Q Have you had occasion to review that
16 transcript?
17 A Not really.
18 Q Is the portions that you have reviewed an
19 accurate -- is it an accurate rendition of the questions
20 that were asked and the answers that you gave?
21 A Yeah.
22 Q On January 12th, 1998, where were you working?
23 A At UNR.
24 Q What were you doing at UNR?
25 A Campus dining.

SIERRA NEVADA REPORTERS (702) 329-6560

1 Q Where is the campus dining facilities that you
2 worked at?

3 A It's on South Virginia.

4 Q What is the name of the building where you
5 worked?

6 A Crossroads.

7 Q How long had you worked there as of January
8 12th, 1998?

9 A Three years.

10 Q What did you do there on campus dining?

11 A I was beverage waiter.

12 Q A beverage waiter?

13 A Yeah.

14 Q Now, at some time in January of 1998, did you
15 meet an individual by the name of Siaosi Vanisi?

16 A Yes.

17 Q Prior to January of 1998, had you ever met him
18 before?

19 A No.

20 Q From the date of January 13th, that is the date
21 of the murder of Sergeant Sullivan, do you remember when
22 that occurred?

23 A Yeah.

24 MR. STANTON: Your Honor, Exhibit No. 36 has
25 been marked. It is a blown-up calendar of January 1998. I

1 move for its admission.

2 MR. SPECCHIO: No objection, Your Honor.

3 THE COURT: That's Exhibit 36. It's admitted.
4 (Exhibit No. 36 admitted.)

5 BY MR. STANTON:

6 Q Mr. Taukiueva, if you could take a look at
7 Exhibit No. 36, the month of January 1998. I'll represent
8 to you that on Monday night, the 12th of January, and into
9 just past the midnight hours of Tuesday, January 13th, is
10 when Sergeant George Sullivan was murdered on the UNR
11 campus. With that map or that chart of January as a
12 reference, could you tell this Court when you first met
13 Mr. Vanisi?

14 A I'm not sure.

15 Q How many days?

16 A I don't know. I don't want to take a guess.

17 Q Was it a week, a month?

18 A I would say about a week.

19 Q About a week.

20 A Yeah.

21 Q You had never met him before that?

22 A No.

23 Q Do you see Mr. Vanisi in court today?

24 A Yeah.

25 Q Could you please point out where he is in the

1 courtroom and what he is wearing?

2 A He's wearing a gray suit, blue tie.

3 Q Could you point to him?

4 A (Indicating.)

5 Q Is he the individual sitting at counsel table?

6 A Yeah.

7 Q Does he look today like when you first met him?

8 A No.

9 Q How did he look when you first met him?

10 A He had long hair, a wig, and just full beard.

11 Q 24-A and 24-B, if they haven't been already

12 moved for admission, I think they have been. 24-A, do you

13 recognize that photograph?

14 A Yeah.

15 Q Is that how he looked?

16 A Yes.

17 Q And did you ever see him in this condition,

18 24-B?

19 A I don't remember.

20 Q Relative to when you first saw him,

21 Mr. Taukiuvea, you said he had a wig on. Could you describe

22 that?

23 A It was just long, and a beanie.

24 Q Did he have anything on top of the wig?

25 A Like a headband.

1 Q And where did you meet him? Where physically
2 were you when you met him?

3 A I don't remember.

4 Q Do you remember anything about the Mormon
5 church on Buena Vista and Imperial?

6 A Yeah.

7 Q I'm sorry?

8 A Yeah. Yes.

9 Q Does that remind you of where you may have
10 first met him?

11 A Yes.

12 Q That's what you told the police?

13 A Yes.

14 Q And he was wearing this wig and the beanie.
15 Did you see anything else as far as a weapon on him when you
16 first saw him at that church?

17 A I don't remember .

18 Q At the time that you met Mr. Vanisi, did you
19 have a girlfriend?

20 A Yes.

21 Q What was her name?

22 A Renee.

23 Q What is Renee's last name?

24 A Peaua.

25 Q Miss Peaua, was she related to the defendant,

1 Mr. Vanisi?

2 A Yes.

3 Q What relations were they?

4 A I'm not sure.

5 Q Was your girlfriend Renee Peaua the closest
6 relative or the closest friend Mr. Vanisi had in Reno?

7 A Yeah.

8 MR. SPECCHIO: Objection, Your Honor. I'm not
9 so sure he is qualified to answer that question.

10 MR. STANTON: Just from his perspective.

11 THE COURT: You can ask him if he knows of any
12 other relatives or if they were relatives, as far as he
13 knows.

14 BY MR. STANTON:

15 Q Let me rephrase my question to you,
16 Mr. Taukiuvea. From your perspective, from what you knew
17 and what you observed of the defendant here in Reno for the
18 entire time that you saw him here, who was his closest
19 relative and the person that he was closest to?

20 A His family down here.

21 Q Pardon me?

22 A His family down here.

23 Q Who was his family down here?

24 A Renee's family.

25 Q The Peaua family?

1 A Yeah.

2 Q Where do they live?

3 A On Sterling Way.

4 Q Now, during the course of your seeing

5 Mr. Vanisi on that day in the church, was there anything

6 that stood out in your mind as far as how he was acting or

7 behaving?

8 A No.

9 Q He was fine?

10 A Yeah.

11 Q Didn't notice anything unusual?

12 A No.

13 Q Exhibit 6, can you see that from where you are

14 sitting?

15 A Yes.

16 Q Is that how the defendant looked?

17 A Yes.

18 Q Almost exactly; correct?

19 A Uh-huh.

20 Q You have to answer out loud.

21 A Yes.

22 Q That's with his wig and the beanie on?

23 A Yes.

24 Q Did he have a full beard?

25 A Yes.

1 Q You saw this later on, didn't you?

2 A Well, what do you mean?

3 Q On the television?

4 A No.

5 Q You didn't see this?

6 A No. I heard about it.

7 Q But you never saw that composite drawing?

8 A No.

9 Q On Friday night, which would be January 9th,

10 did you have occasion to be at Losa's house and see the

11 defendant, Mr. Vanisi?

12 A Yes.

13 Q Do you know Losa's full name?

14 A Losa Louis.

15 Q Where does Miss Louis live?

16 A On Rock Boulevard.

17 Q 1098 Rock Boulevard, apartment number A?

18 A Yeah.

19 Q You were there?

20 A Yes.

21 Q And do you go over there frequently?

22 A Yes.

23 Q Why?

24 A Because they are friends of mine.

25 Q Who else lives at Losa Louis' house?

1 A Corina, Bill and Masi.

2 Q Who is Corina, Bill and Masi?

3 A They are brothers and sisters.

4 Q Of Losa?

5 A Yeah.

6 Q And Masi would be spelled M-A-S-I?

7 A Yes.

8 Q On the 9th of January, did you see the

9 defendant with a weapon?

10 A I'm not sure.

11 Q You're not sure?

12 A Yeah.

13 Q Would reviewing the transcript of your

14 interview with the police remind you of what you said?

15 A Yes.

16 Q And is your memory better, Mr. Taukiuvea, of

17 the events of what occurred around that time today or back

18 when you talked to the police?

19 A Probably back when I talked with the police.

20 Q If you would, and counsel, to his transcript,

21 turn, Mr. Taukiuvea, to page 26. Do you have that

22 transcript in front of you?

23 A Yes.

24 Q In order to give you the frame of reference of

25 time, if you would go to page 24 first because it's a couple

1 pages back where they lay the foundation or discuss with you
2 the time.

3 I direct your attention to lines 19 where
4 questioned by Detective Dreher, down to line 38. Do you see
5 that, Mr. Taukiuvea?

6 A Yes.

7 Q Could you read that to yourself, those lines?
8 Just tell me when you are done reading it.

9 Are you done?

10 A Uh-huh.

11 Q So at this point you say it's Friday that you
12 are over at Losa's house?

13 A Yes.

14 Q Now, if you could turn to page 26 and directing
15 your attention to lines 13 through 37. If you could read
16 those to yourself and tell me when you are done reading
17 them.

18 A All right.

19 Q When the detectives asked you on the Friday,
20 January 9th, at Losa's house of seeing the defendant, they
21 ask you whether or not he was carrying any weapon with him.

22 A Uh-huh.

23 Q What did you say to the detectives then?

24 A He did.

25 Q What kind of weapon did he have on him?

1 A He had a hatchet, an ax, little ax.

2 Q Could you describe that little ax as you

3 remember seeing it on the defendant, what it looked like?

4 A It was just about so big and had a black

5 handle.

6 Q You are indicating approximately 18, 20 inches?

7 A Yeah.

8 Q It had a black handle on it? Where was the

9 defendant carrying it when you saw him?

10 A On his right side.

11 Q How was he carrying it? Was it in something?

12 A It was like in his pants.

13 Q Tucked inside his waistband?

14 A Tucked inside his pants.

15 Q And did you ask the defendant why he had the

16 hatchet?

17 A No. I don't remember.

18 Q Showing you Exhibit 21, take a close look at

19 that, Mr. Taukiueva. Does that appear to be the same size,

20 dimension, color, characteristics of the weapon you saw on

21 the defendant?

22 A Yes.

23 Q If you would direct your attention once again

24 to your transcript, Mr. Taukiueva, page 26, line 39. The

25 very bottom of that page, a question is posed to you by

1 Detective Dreher. Could you read that question to yourself?

2 A Page 26?

3 Q Yes. Very last line of that page. Do you see

4 the question that he asked you?

5 A Yeah.

6 Q If you could turn to page 27. I'd like you to

7 read from line 20, or line 1 through line 27 to yourself.

8 A Okay.

9 Q Now, Detective Dreher asked you a specific

10 question about whether or not he told you, he being

11 Mr. Vanisi, why he was carrying the ax. And you responded

12 that he didn't tell you, just like you testified here;

13 correct? You have to answer out loud.

14 A Yes.

15 Q In fact, that wasn't true, was it?

16 A No.

17 Q The defendant had told you why he was carrying

18 the ax, didn't he?

19 A Yes.

20 Q And then on that same page, line 27, the

21 detectives confront you with that fact, and they say, "Yes,

22 he did tell you, Mr. Taukiuvea." What did you tell the

23 police the second time they asked you, when they confronted

24 you with the fact they didn't think you were truthful about

25 why Mr. Vanisi told you he was carrying the hatchet?

1 A He said he wanted to kill a cop.

2 Q That's what you told the police during the
3 interview?

4 A Yes.

5 Q He told you something else, didn't he, about
6 why he wanted to kill a cop, beyond just killing a cop,
7 didn't he?

8 A Yes.

9 Q And the police then confront you with that,
10 right after your answer that you just gave, they confront
11 you again and they say, didn't he say something else? What
12 did Mr. Vanisi tell you beyond wanting to kill a cop, as to
13 why he had the hatchet?

14 A That he wanted to kill a cop.

15 Q Anything else?

16 A That he wanted his badge and radio.

17 Q Anything else besides his badge and his radio?

18 A And his gun.

19 Q That's what you told the police there on line
20 22 and 23; correct?

21 A Yes.

22 Q Is that the truth?

23 A Yes.

24 Q Who else was present in the Losa Louis home
25 when Mr. Vanisi made this statement?

1 A Me, Losa, Corina, Bill, Masi and Laki.
2 Q Was he trying to -- did he whisper this to you?
3 A Whisper what?
4 Q That he wanted to kill a cop, take his badge,
5 radio, gun?
6 A No.
7 Q He said it out loud?
8 A Yeah.
9 Q Wasn't trying to hide it?
10 A Uh-huh.
11 Q Was he trying to hide what he was saying?
12 A No.
13 Q All those other people that you just mentioned
14 were present and could potentially overhear what he said;
15 correct?
16 A Yes.
17 Q How many times did he tell you that day that he
18 wanted to kill a cop?
19 A He said it a lot of times.
20 Q Do you remember how many times?
21 A No.
22 Q Was it more than five?
23 A I would think so.
24 Q I'd like to turn your attention to page 29 of
25 that transcript. Directing your attention to the final line

1 on 40, question posed to you by Detective Dreher, if you
2 could read that question to yourself, and then turn the page
3 to page 30, and read lines 1 through 6 to yourself.

4 You gave a description to the detectives about
5 how many times or kind of an impression of how often
6 Mr. Vanisi was talking about killing a cop. What was that
7 impression, how many times, as the words that you used to
8 the detectives?

9 A He was just bragging about it.

10 Q The cop, Detective Dreher, asked you, "Okay,
11 tell us, elaborate, what do you mean?" Beginning on line 5
12 and 6, what was your response? You can read it out loud.

13 A Read it out loud?

14 Q Yes, lines 5 and 6, your response to Detective
15 Dreher's: "Okay, tell us, elaborate, what you mean when you
16 said blabbing."

17 A Like every time he talked, you know, it would
18 be like, I got to do this, I have to kill a cop. I have to
19 do this, you know.

20 Q So he was constantly saying this?

21 A Uh-huh.

22 Q Was the conversation about killing cops when
23 you brought it up, or was this something he brought up on
24 his own?

25 A Brought up on his own.

1 Q What did you think about that when you first
2 heard it?

3 A I thought he was just joking.

4 Q Did there come a time that, Mr. Taukiuvea,
5 where Mr. Vanisi talked to you about going to Wal-Mart and
6 purchasing a hatchet?

7 A No.

8 Q You don't remember that? You have to answer
9 out loud.

10 A No.

11 Q Could you turn to page 32 of the transcript?
12 Actually page 31. Directing your attention to lines 25
13 through 27. He told you he went to Wal-Mart with some other
14 people?

15 A Yes.

16 Q Was one of those people he mentioned
17 specifically to you Mele Mavani?

18 A Yes.

19 Q Did he ever tell you why he went to Wal-Mart?

20 A No.

21 Q On Monday, the 12th of January, did you have
22 occasion to be at Losa Louis' house at approximately 10:00
23 a.m.?

24 A Yes.

25 Q Who was there at Miss Louis' house on that day

1 and that time?

2 A Same people.

3 Q Do you know a Priscilla Endemann?

4 A Yes.

5 Q Was she there?

6 A I'm not sure.

7 Q Turn to page 36 of your transcript, if you

8 would. Starting at line 1 through line 21. Do you remember

9 now who was at Losa's house at that time?

10 A Yes.

11 Q Was Priscilla Endemann there?

12 A Yes.

13 Q Who is Priscilla Endemann?

14 A That was Laki's girlfriend at that time.

15 Q That is Laki, L-A-K-I?

16 A Yes.

17 Q He is a friend as well?

18 A Yes.

19 Q Do you know his full name?

20 A No.

21 Q You just know him as Laki?

22 A Yeah.

23 Q He is Priscilla's boyfriend?

24 A At that time.

25 Q And Priscilla was there, Priscilla Endemann?

1 A Yes.

2 Q And Laki is there?

3 A Yes.

4 Q Was Losa there?

5 A Yes.

6 Q Was Mr. Vanisi there?

7 A Yes.

8 Q On that day, later on in the evening, did that
9 same general group go to a restaurant called Bully's at
10 McCarran and Mae Ann?

11 A What day is this?

12 Q It would have been around or about the 12th of
13 January or the previous Sunday, the 11th.

14 A No.

15 Q It wasn't the 12th?

16 A No.

17 Q It was Sunday, the 11th?

18 A Yeah.

19 Q There is an incident involving you going with
20 the defendant to look for a cop to kill. Was that the night
21 that you went to Bully's?

22 A No. We went to Bully's on Saturday.

23 Q And the incident in Sparks with the defendant
24 looking for a cop to kill occurred Sunday?

25 A Yes.

- 1 Q Did you see the defendant on Saturday when you
- 2 went to Bully's with the hatchet?
- 3 A Yes.
- 4 Q Where was he carrying the hatchet?
- 5 A Same place.
- 6 Q Describe it again?
- 7 A On his right side.
- 8 Q In his pants?
- 9 A In his pants.
- 10 Q And you went to Bully's to play pool?
- 11 A Yes.
- 12 Q Did the defendant carry the hatchet into
- 13 Bully's with him?
- 14 A Yes.
- 15 Q Underneath the coat?
- 16 A Yes.
- 17 Q What kind of coat was he wearing?
- 18 A He had a red burgundy jacket.
- 19 Q How long did the jacket come down? How long on
- 20 Mr. Vanisi's body did it come?
- 21 A Probably past, between -- to his knees.
- 22 Q I show you 23-A and -B. Do you recognize the
- 23 burgundy leather jacket in these photographs?
- 24 A Yeah.
- 25 Q Is that the jacket he was wearing?

1 A Yes.

2 Q Do you recognize where these photographs were

3 taken?

4 A Losa's house.

5 Q On Saturday night, when you went to Bully's and

6 any time during that evening, did you ever hear the

7 defendant make any statements about wanting to kill a cop

8 that night?

9 A I don't remember it.

10 Q You're not sure if he did one way or another?

11 A No.

12 Q On Sunday night, I'd like to talk to you,

13 Mr. Taukiuvea, about the incident that occurred with you and

14 Mr. Vanisi driving around looking for a cop to kill. Do you

15 remember that?

16 A Yes.

17 Q Is that pretty clear in your mind?

18 A A little bit.

19 Q Prior to you getting into the car with

20 Mr. Vanisi, where were you at?

21 A At Losa's house.

22 Q How did it come that you and Mr. Vanisi, just

23 you two, ended up in a car?

24 A I don't remember.

25 Q You don't remember? Do you remember what time

1 of evening it was?

2 A No.

3 Q Was it in the evening?

4 A Yeah, it was in the nighttime.

5 Q Whose car were you in?

6 A In my car.

7 Q Who was driving?

8 A Me.

9 Q When did the subject come up about killing a
10 cop? Before you got into the car or after you got into the
11 car?

12 A After.

13 Q And where were you going prior to the subject
14 being brought up about killing a cop?

15 A I don't remember.

16 Q You don't remember? But it's just you and
17 Mr. Vanisi?

18 A Yes.

19 Q You're driving?

20 A Yes.

21 Q Who is the first person that brings up the
22 subject about killing a cop?

23 A He is.

24 Q The same as he had done a couple days before?

25 A Yes.

1 Q What did you think this time?

2 A I thought he was serious.

3 Q What made -- excuse me. What made you think he

4 was serious this time?

5 A I don't know. Just the way he said it.

6 Q Was it different than the way he said it before

7 or what made it different?

8 A Just because it was just me and him.

9 Q How was he dressed?

10 A The same.

11 Q Describe it again.

12 A He had the burgundy jacket, ax, with the long

13 hair.

14 Q Dressed like that?

15 A Yes.

16 Q Where is the ax?

17 A On his right side.

18 Q Did there come a time where you saw a police

19 officer?

20 A Yes.

21 Q Where were you physically in your vehicle when

22 you saw this police officer?

23 A We were at an intersection.

24 Q What was the intersection of the streets?

25 A Oddie and El Rancho.

1 Q If you could turn to that transcript at page
2 112. Directing your attention to page 112 to lines 9
3 through 11. If you turn to the page 111, one page before,
4 lines 6 through 13, you also discuss the location at that
5 portion of the interview. Do you remember where, what the
6 intersections, the precise streets were when you saw this
7 police officer?

8 A It was on Oddie and Silverada.

9 Q There is a couple of landmarks that you gave to
10 the police, Paradise Park and the Jack-in-the-Box that was
11 nearby?

12 A Uh-huh.

13 Q What police officer did you see? What agency
14 and what did that police officer look like?

15 A He was from Sparks.

16 Q Sparks police officer?

17 A Yeah.

18 Q How do you know that?

19 A Because he was in a white car.

20 Q He was in a marked patrol unit?

21 A Yeah.

22 Q Was he in uniform?

23 A Yeah.

24 Q Was he white?

25 A Yeah.

1 Q What did the defendant say when he saw that
2 police officer driving in front of the intersection right in
3 front of your car?

4 A He told me to follow him.

5 Q When he said to follow him, why do you think
6 the defendant, based upon what he had said to you, wanted
7 you to follow that police car?

8 A I don't know. To do it.

9 Q Do what?

10 A To kill him.

11 Q Did you follow him?

12 A No.

13 Q What did you tell the defendant?

14 A I don't remember.

15 Q You don't remember what you told him?

16 A Huh-uh.

17 Q Did you tell him you wanted to follow him?

18 A No. I told him I didn't want to.

19 Q What did he say after you told him that you
20 didn't want to follow him?

21 A I don't remember.

22 Q Turn to page 113. If you would direct your
23 attention, sir, to lines 23 through 38.

24 At line 31, the detective is asking you what
25 happens after you were to follow him, and your response on

1 line 34, read that out loud, please.

2 A "He wanted me to drop him off and leave."

3 Q Leave him?

4 A Yeah.

5 Q The detective asked you, "Drop him off where"?
6 What was your response?

7 A "Where the cop was at."

8 Q Specifically he told you to do several things.
9 That line, line 38, read it verbatim, what you said.

10 A "Wherever he stopped at, the cop, and leave."

11 Q He wanted you to follow him, drop him off
12 wherever the cop stopped and then leave; is that correct?

13 A Yes.

14 Q And Mr. Vanisi told you that?

15 A Yes.

16 Q Is that what indeed he told you on that night?
17 Sunday night?

18 A Yes.

19 Q Mr. Taukiuvea, I want to now direct your
20 attention to Monday evening, January 12th, 1998. Sir, on
21 that evening, did you happen to be with the defendant at
22 Losa's house?

23 A Yes.

24 Q About 10:30 in the evening?

25 A In the evening?

1 Q Yes.

2 A No.

3 Q You don't remember that?

4 A I don't remember.

5 Q If you turn to page 44. Direct your attention
6 to that page, lines 25 through 40. This is the night that
7 he asked you for the ride to Sterling, to the Sterling
8 address, the Peaua home. There is some confusion about in
9 your mind when you talk to the detectives whether it is
10 Sunday night or Monday night.

11 A . Yeah.

12 Q Now, if officer -- Sergeant Sullivan is
13 murdered just after midnight on Monday, the 12th, into the
14 13th of January, that Monday night, the 12th of January, at
15 10:30 at night, were you at Losa's house with the defendant?

16 A 10:30?

17 Q Yes.

18 A On Monday?

19 Q Yes.

20 A I took him home at 10:30, around that time.

21 Q So prior to you taking him home, prior to
22 10:30, you and Mr. Vanisi were at Losa Louis' house at 1098
23 Rock, apartment number A?

24 A Yes.

25 Q And who asked you to drop him off at the

1 Sterling Way address?

2 A He did.

3 Q Mr. Vanisi?

4 A Yes.

5 Q Did you have a car?

6 A Yes.

7 Q Did he?

8 A No.

9 Q At any time when you saw Mr. Vanisi here in

10 Reno during the month of January, did you ever see him in a

11 car that he owned or driving one?

12 A No.

13 Q When you dropped Mr. Vanisi off at the Peaua

14 home on Sterling Way on Monday night, January 12th, 1998,

15 how was he dressed?

16 A The same.

17 Q Red jacket?

18 A Yeah.

19 Q Wig and beanie?

20 A Yes.

21 Q Did he have the hatchet with him?

22 A Yes.

23 Q Can you describe what kind of pants he was

24 wearing?

25 A Brown corduroys.

1 Q What kind of shirt did he have?

2 A Purple shirt.

3 Q I show you Exhibit 29-B. Do you see that
4 purple shirt there?

5 A Yes.

6 Q Does that look like the shirt he was wearing?

7 A Yes.

8 Q Once again with Exhibit 6, that's how he looked
9 when you dropped him off at Sterling Way, Monday night,
10 10:30 p.m.?

11 A Yes.

12 Q After dropping Mr. Vanisi off at the Peaua
13 home, this is the home of your girlfriend; correct?

14 A Yes.

15 Q You knew the home pretty well?

16 A Yes.

17 Q Did you see your girlfriend there that night?

18 A No.

19 Q Did you go in the home at all?

20 A No.

21 Q After you dropped off Mr. Vanisi, where did you
22 go?

23 A I went back to Losa's house.

24 Q What did you do when you arrived back at Losa's
25 house?

1 A I fell asleep.

2 Q Who else was in Losa Louis' home when you came

3 back and fell asleep?

4 A Losa, Corina, Laki, Bill, Masi.

5 Q Everybody is there?

6 A Yeah.

7 Q Was anybody awake when you came back?

8 A Yeah.

9 Q Who was?

10 A Losa and Corina and Laki.

11 Q Laki?

12 A Yeah.

13 Q Where did you go to sleep inside Losa Louis'

14 home?

15 A In the boys' room.

16 Q Is that one of the bedrooms?

17 A Yeah.

18 Q Anybody else sleeping in the room?

19 A Yeah. Bill and Masi.

20 Q The younger boys?

21 A Yeah.

22 Q How old are Bill and Masi?

23 A I don't know.

24 Q As old as you or younger?

25 A Younger.

1 Q And where was Losa and Corina when you came
2 into the apartment?

3 A They were on the computer.

4 Q And where is the computer? Where were they
5 working at in the apartment?

6 A It is in the kitchen.

7 Q Did you talk to them?

8 A No. Just came in and sat down.

9 Q You went to bed?

10 A Uh-huh.

11 Q What time were -- did you awake, after going to
12 bed?

13 A I don't remember. I don't remember. .

14 Q Do you remember telling the detectives it was
15 approximately 1:30 in the morning?

16 A Yes.

17 Q Does that sound approximately correct?

18 A Yes.

19 Q What awoke you?

20 A When Vanisi came in the door.

21 Q The defendant, Siaosi Vanisi?

22 A Uh-huh.

23 Q And when he walked through the door, what
24 caused you to wake up?

25 A Just the door.

1 Q Did you get a good look at him?

2 A A little bit.

3 Q Did he look any different from what you
4 previously described here in Exhibit 6 when he walked
5 through the door at 1:30 in the morning?

6 A I don't remember.

7 Q You don't remember. Do you remember telling
8 the police how he looked?

9 A No.

10 Q If you could turn to page 51 of the transcript.
11 I direct your attention to -- you need the frame of
12 reference of the whole or the first portion of page 51, but
13 specifically lines 19 through 27.

14 Do you remember now how he was different from
15 the way he was dressed when you dropped him off at the Peaua
16 home?

17 A Yes.

18 Q What was different about it?

19 A He didn't have his wig.

20 Q Didn't have his wig. Did you see him with a
21 hatchet?

22 A No.

23 Q And was he carrying anything?

24 A He had a plastic bag.

25 Q Did you see that beanie or the bandana that was

1 on top of the wig?

2 A I don't remember.

3 Q Look to lines 25 and 27. Did he have the

4 beanie?

5 A No.

6 Q And you said he was carrying something?

7 A Yeah. A plastic bag.

8 Q What kind of plastic bag?

9 A Raley's shopping plastic bag.

10 Q What color was it?

11 A White.

12 Q Did you see what was inside of it?

13 A No.

14 Q I show you Exhibits 22 and 26. First 22. Does

15 that appear to be the same color, shape and size plastic bag

16 that he was carrying?

17 A Yes.

18 Q And showing you 26, same thing with that

19 plastic bag inside that cabinet?

20 A Yes.

21 Q You couldn't see what was in the bag?

22 A No.

23 Q You told the police that you had some

24 description of what was inside the bag. Do you remember

25 what you told the police?

1 A No.

2 Q Turn to page 135, if you would, of your
3 transcript. Directing your attention to lines 19 through
4 37. Do you remember what additional description you gave to
5 the police about the contents of that plastic bag?

6 A That it was black.

7 Q The items inside the bag appeared to be black
8 to you?

9 A Yes.

10 Q You indicated to the detectives that the bag
11 was somewhat see-through, it was light enough that you could
12 see a portion through the bag?

13 A Yes.

14 Q And it appeared to be black?

15 A Yes.

16 Q Did the bag appear to be full?

17 A I don't remember.

18 Q Was that the truth you told to the police?

19 A Yes.

20 Q Is that the best of your recollection today,
21 your memory today, that indeed it was black items in that
22 white plastic bag?

23 A Yes.

24 Q When Mr. Vanisi walked into the apartment at
25 1:30, did he ask anything of you?

1 A He asked me for my car keys.
2 Q Where was your car parked?
3 A In front of the apartment.
4 Q What kind of car was it?
5 A It's an '86 Cutlass.
6 Q And did you give him the keys?
7 A Yes.
8 Q And what did he do after you gave him the keys?
9 A He went outside.
10 Q How long was he outside?
11 A I don't remember.
12 Q Was it more than half an hour?
13 A I couldn't -- I don't remember.
14 Q He came back into the apartment?
15 A Yes.
16 Q And when he came back into the apartment, was
17 he carrying the same plastic bag?
18 A Yes.
19 Q Do you remember him carrying the bag back into
20 the apartment?
21 A Yes.
22 Q Are you certain of that?
23 A Yes.
24 Q When you awoke, did you go to sleep the next --
25 after he came back into the apartment?

1 A Yeah.

2 Q Where did Mr. Vanisi sleep?

3 A In the living room, I think.

4 Q Where did you sleep?

5 A I was in the room, the boys' room.

6 Q When you awoke the next morning, was Mr. Vanisi

7 there?

8 A Yes.

9 Q Do you have any idea how Mr. Vanisi got back to

10 the Losa Louis home on Rock Boulevard from Sterling?

11 A I don't remember.

12 Q Do you know?

13 A Yes.

14 Q You didn't take him?

15 A No.

16 Q And the only way you know is from hearing it

17 from other people?

18 A Yes.

19 Q You don't have personal knowledge --

20 A Yes.

21 Q -- of how he got back; correct?

22 A Right.

23 Q The next morning, what time did you get up,

24 Mr. Taukiuvea? Do you remember?

25 A No.

1 Q That Tuesday, the 13th of January, you first
2 hear about Sergeant Sullivan being murdered; correct?

3 A Yes.

4 Q How did you first hear about the news of his
5 murder?

6 A Everyone was talking about it.

7 Q Who is everyone?

8 A Losa and everybody.

9 Q What time of day did you first hear about the
10 murder?

11 A About when I woke up.

12 Q In the morning?

13 A Uh-huh.

14 Q Did there come a time on Tuesday morning when
15 you were with the defendant, Mr. Vanisi, at a church?

16 A Yes.

17 Q At that time did you directly ask Mr. Vanisi if
18 he killed a police officer?

19 A I don't remember.

20 Q Sir, if you could turn to the transcript, page
21 53. The police detectives ask you several times the day
22 that they interviewed you about whether or not Mr. Vanisi
23 told you anything the following morning, Tuesday, the 13th
24 of January, about the murder of Sergeant Sullivan; and you
25 initially told them several different times Mr. Vanisi never

1 told you anything. Is that a fair summarization of what you
2 told the police?

3 A Yes.

4 Q And you were lying to the police?

5 A I don't remember.

6 Q Well, you told the police that Mr. Vanisi never
7 said anything to you Tuesday morning about killing Sergeant
8 Sullivan; right?

9 A Yes.

10 Q Initially. Then you changed your story.

11 A Yes.

12 Q After they asked you several times and they
13 told you that they didn't think you were being truthful;
14 right?

15 A Yes.

16 Q Now, after they confronted you several
17 different times, you tell them about an incident that took
18 place at the church on Tuesday morning when it was just you
19 and Mr. Vanisi alone. Do you remember that?

20 A Yes.

21 Q Can you tell the ladies and gentlemen of this
22 jury what you asked Mr. Vanisi that morning when you were
23 alone with him, at the church?

24 A I don't remember.

25 Q Would you please turn your attention to page 54

1 of your transcript. Line 1 through line 14. Does that help
2 you remember?

3 A Yes.

4 Q What did Mr. Vanisi -- what did you ask
5 Mr. Vanisi?

6 A I asked him if he did it.

7 Q What did he say?

8 A He said no.

9 Q Then what did you say?

10 A I don't remember.

11 Q You don't remember. Did he show you something?

12 A Yes.

13 Q What did he show you?

14 A A gun.

15 Q What kind of gun was it?

16 A I don't know.

17 Q I show you Exhibit 15-A. Does that look
18 familiar to you?

19 A Yes.

20 Q Is that the gun that he showed you or what
21 appears to be the gun he showed you?

22 A Yes.

23 Q Same size, same general color?

24 A Yes.

25 Q What did you -- what precisely did he say when

1 he showed you the gun; do you remember?

2 A No.

3 Q Would you turn to page 54, line 38? What did
4 he say when he showed you the gun?

5 A "Look what I have."

6 Q Where was the gun on Mr. Vanisi's person?

7 A It was in his pocket.

8 Q Did it seem to you that he knew how to operate
9 that gun?

10 A No.

11 Q Why is that?

12 A I don't know. Just the way he was holding it.

13 Q Didn't seem to know much about guns?

14 A Yeah.

15 Q What did you tell Mr. Vanisi after he showed
16 you the gun?

17 A I don't remember.

18 Q Turn to page 55, lines 13 through 23. After he
19 tells you, Look what I got, what do you tell him?

20 A I told him he was crazy.

21 Q What did he say after you told him he was
22 crazy?

23 A Nothing.

24 Q I'd like to direct your attention to page 55,
25 Mr. Taukiueva, to line 15. Do you see that in quotes about

1 Mr. Vanisi in that line, what he said?

2 A Yes.

3 Q Read that aloud, please.

4 A "This is the first time I had a gun."

5 Q That is what Mr. Vanisi told you?

6 A Yes.

7 Q Is that the truth?

8 A I don't remember.

9 Q You don't remember him saying that?

10 A Yeah, I do.

11 Q Was your memory better back when you were
12 talking to the police about what he said --

13 A Yes.

14 Q -- than it is today?

15 A Yes.

16 Q In that same line, line 15, you say that you
17 then tell Mr. Vanisi, You're crazy.

18 A Yes.

19 Q And the detective asked you down at line 21,
20 "What did he say back?" Meaning Mr. Vanisi. "What did he
21 say back to you when you told him he was crazy?"

22 And you said, "He said nothing. But he did
23 something." What did he do?

24 A He just giggled.

25 Q Did you ask him how he got the gun?

1 A I don't remember.

2 Q Directing your attention to page 55, line 33
3 through 35. When the police asked you about what Mr. Vanisi
4 said about how he got the gun, you told them he didn't tell
5 you how he got the gun.

6 A Yes.

7 Q That was a lie, wasn't it?

8 A Yes.

9 Q He did tell you how he got the gun, didn't he?

10 A I don't remember.

11 Q You don't remember. Do you remember what you
12 told the police?

13 A No.

14 Q Turn to the next page. Lines 1 through 5.
15 What did he tell you?

16 A He said he did it.

17 Q Did what?

18 A I don't know.

19 Q You don't know? He shows you the gun, he tells
20 you that this is the first time he's gotten a gun. You tell
21 him he is crazy. He giggles. Then you ask him how he got
22 the gun, and you don't remember what he told you about how
23 he got the gun?

24 A He probably killed a cop.

25 Q You say probably killed a cop. Do you remember

1 what Mr. Vanisi told you?

2 A He said he was going to.

3 Q Well, at the time that he is showing you this
4 gun and this conversation is going on, where are you?

5 A We're in the Mormon church.

6 Q Where in the Mormon church?

7 A In the bathroom.

8 Q Who else is present?

9 A Just me and him.

10 Q Just you and him. I direct your attention to
11 page 57, lines 13 through 24. Mr. Taukiuvea, specifically
12 lines 15 through 16, the police detectives ask you whether
13 or not on that date, the 13th of January, in the bathroom at
14 the Mormon church, you ask Mr. Vanisi whether or not he
15 killed the police officer. What did Mr. Vanisi say?

16 A He said yes.

17 Q He said, Yeah, I did it?

18 A Yes.

19 Q How was Mr. Vanisi acting that morning when he
20 was telling you this, besides giggling?

21 A I don't remember.

22 Q Was he nervous, calm, agitated, excited?

23 A I don't remember.

24 Q You don't remember. Who was the first person
25 to approach the subject about the gun and showing you the

1 gun? Was it you or was it him?

2 A What do you mean?

3 Q You are in the bathroom. Who first brings
4 up -- how did you find out that he had a gun? Did you ask
5 him first or does he say something to you?

6 A He just pulls it out.

7 Q Page 75, Mr. Taukiuvea, line 18 through 20.
8 Specifically at line -- it would be probably -- appears to
9 you to be line 19. Are there any quotes in that line
10 starting with, "Hey, Teki?" What did you tell the police
11 was his exact words?

12 A "Check this out."

13 Q "Hey, Teki, check this out." And then he shows
14 you the gun?

15 A Yes.

16 Q Do you know of a dog that is a family dog at
17 the Peaua home at Sterling Way?

18 A Yes.

19 Q What is the name of the dog?

20 A Doobie.

21 Q Can you describe that dog?

22 A It's a black and white dog.

23 Q Black and white dog?

24 A Yeah.

25 Q It is a big dog, small dog?

1 A Big.

2 Q And did Mr. Vanisi tell you whether or not he
3 was with Doobie at the time that he committed these murders?

4 A I don't remember.

5 Q Turn to page 96 and 97, if you would,
6 Mr. Taukiuvea. Directing your attention on line 40, do you
7 want to read a couple lines above that to kind of get the
8 sense of where you are in this conversation with detectives?
9 Finish up with page 96 and read half way down page 97.

10 A He said, "I'm lucky because Doobie is a nice
11 dog, sniffed his way home."

12 Q What did that mean?

13 A That he walked him home.

14 Q The dog of the Peauas, Doobie, Mr. Vanisi told
15 you after the murder, helps him find his way home by
16 sniffing his way back to the Peaua home?

17 A Yes.

18 Q Mr. Taukiuvea, have you ever been convicted of
19 a felony?

20 A A felony?

21 Q Yes.

22 A I don't know.

23 Q You don't know? Were you arrested by Sparks
24 Police Department for a charge?

25 A Yes.

1 Q When was that?

2 A I don't remember.

3 Q How long ago was it?

4 A A year ago.

5 Q Was it before the events that we're talking
6 about now?

7 A It was after.

8 Q You were arrested after?

9 A After, if I remember correctly.

10 Q Well, Mr. Taukiuvea, the night that you talked
11 to the police, the police thought you had a warrant out for
12 your arrest?

13 A Yes. That's when I got arrested.

14 Q But you had previously been arrested by the
15 police for the actual offense; correct?

16 A Yes.

17 Q So maybe I'm confusing you, and I apologize if
18 I am. The night that you were interviewed by the police,
19 January 19th, 1998, the police thought you had an
20 outstanding warrant because you failed to appear on a court
21 date.

22 A Uh-huh.

23 Q That court date was involving charges that you
24 had already been arrested on?

25 A Yes.

1 Q And is that all correct?

2 A Yes.

3 Q How long before talking to the police on
4 January 12th, 1998, had you been arrested by the police
5 initially for the first time regarding those charges?

6 A I don't remember.

7 Q Was it days, months?

8 A Months.

9 Q So sometime in 1997, you were arrested by the
10 police; is that correct?

11 A Yes.

12 Q Do you remember what those charges were?

13 A Burglary.

14 Q Possession of stolen property?

15 A Yes.

16 Q Grand larceny? And what were you ultimately
17 convicted for?

18 A Possession.

19 Q Possession of stolen property?

20 A Yeah.

21 Q And you're on probation on that charge as you
22 sit here today?

23 A Yes.

24 Q And this offense that you were arrested on, the
25 possession of stolen property that you were convicted of,

1 occurred in 1997?

2 A Yes.

3 Q And when you were arrested in 1997, did the
4 police take your fingerprints?

5 A Yes.

6 MR. STANTON: No further questions at this
7 time, Your Honor.

8 THE COURT: Cross-examination.

9 MR. SPECCHIO: Thank you, Your Honor.

10 **CROSS-EXAMINATION**

11 BY MR. SPECCHIO:

12 Q Let me understand. How many times have you
13 been arrested for felony charges?

14 A Just that one time.

15 Q Okay. So when Mr. Stanton tells you that you
16 were arrested before the death of Sergeant Sullivan, that's
17 the only one?

18 A Yes.

19 Q And then you went to court I think on
20 January 29th of last year, didn't you? Like this day right
21 here?

22 A I don't remember.

23 Q Sergeant Sullivan was killed midnight here?

24 A Uh-huh.

25 Q Is that the 12th and 13th?

1 A Yes.

2 Q You gave your statement that you have in front
3 of you, isn't the date January 19th? Isn't the date on that
4 January 19th, the date of the statement?

5 A I don't know.

6 Q Look over here where it says 1/19/98.

7 A Yes.

8 Q So that would be here.

9 A Yes.

10 Q So you knew at least on the 19th of January
11 that you would be a witness in this case?

12 A Yes.

13 Q And you went to court on the 29th -- do you
14 remember going to court on the 29th? Is that about right?

15 A I don't remember.

16 Q You don't remember a lot of things, huh?

17 A No. It's been a year, a long time.

18 Q I mean, you don't even remember stuff like what
19 anybody said to anybody or things like wanting to kill a cop
20 and all that? You don't remember any of that?

21 A What do you mean?

22 Q It didn't stick out in your mind? You
23 indicated 43 times on your direct examination that you
24 didn't remember, which you might have been asked 47
25 questions, which means to me that this was not necessarily

1 an event in your life that you wanted to recall.

2 A I don't know what you mean.

3 Q Okay. We'll go through it by the numbers. All

4 right?

5 A All right.

6 Q You are a student at UNR?

7 A No.

8 Q You were a student at UNR January of '98?

9 A No.

10 Q You just work there?

11 A Yes.

12 Q Okay. How long did you work there?

13 A For about three years.

14 Q Always doing the same thing?

15 A Yes.

16 Q And your normal hours would be what?

17 A 4:00 to 8:00.

18 Q 4:00 in the afternoon to 8:00 at night?

19 A Yes.

20 Q During that time I guess you got to know the

21 workings of people that work at UNR?

22 A Yes.

23 Q You saw UNR police officers before?

24 A Yes.

25 Q You saw them in your place of business?

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1 A Yes.

2 Q You knew the routines that they had?

3 A No.

4 Q You didn't?

5 A No.

6 Q You never saw any police officers parked in a

7 certain location?

8 A No.

9 Q Were there police officers on duty while you

10 were working?

11 A I don't know.

12 Q Who is Chiatra Hanke?

13 A That was my ex-girlfriend.

14 Q And she was your girlfriend back in January;

15 right, of last year?

16 A During this?

17 Q Yes.

18 A No.

19 Q No? Renee was your girlfriend?

20 A Yes.

21 Q You didn't have two very close friends, Chiatra

22 and Renee, at the same time?

23 A No.

24 Q When you talk about Masi --

25 A Masi.