IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTHONY TERRELL BARR, Appellant, vs. THE STATE OF NEVADA, Respondent.	No. 78295

Motion to Exceed Page Limit or Type-Volume Limitation

Per NRAP 32(a)(7):

> (i) The court looks with disfavor on motions to exceed the applicable page limit or type-volume limitation, and therefore, permission to exceed the page limit or type-volume limitation will not be routinely granted. A motion to file a brief that exceeds the applicable page limit or type-volume limitation will be granted only upon a showing of diligence and good cause. […]
>
> (ii) A motion seeking an enlargement of the page limit or type-volume limitation for a brief shall be filed on or before the brief's due date and shall be accompanied by a declaration stating in detail the reasons for the motion and the number of additional pages, words, or lines of text requested. A motion to exceed the type-volume limitation shall be accompanied by a certification as required by Rule 32(a)(9)(C) as to the line or word count.
>
> (iii) The motion shall also be accompanied by a single copy of the brief the applicant proposes to file.

Appellant does understand that exceptions from page limits is viewed with disfavor. However, the trial that Appellant had involved five robberies, including one he wasn't charged in. The trial took eight days with dozens of witnesses

including lay and police. There were number trial errors and proper recitationof facts and authorities necessitated the extralength.

Certificate of Compliance

1. I hereby certify that this brief complies with the formatting requirementsof NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the typestyle requirements of NRAP 32(a)(6) because this brief has been prepared ina proportionally spaced typeface using Microsoft Word 2008 for Mac, version12.3.6 (130206) in 14 point Times New Roman style;

2. I further certify that this brief complies only WITH THE PERMISSIONOF NEVADA SUPREME COURT TO MAKE AN EXCEPTION FROM the page-or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of thebrief exempted by NRAP 32(a)(7)(C), it iseither:

[ ] Proportionately spaced, has a typeface of 14 points or more, andcontains words;or

[ ] Monospaced, has 10.5 or fewer characters per inch,andcontains_____words or_____lines of text;or

[X] Does exceed 30 pages FOR A TOTAL OF 99PAGES.

PROCEDURAL HISTORY

On December 13, 2018 Appellant was found guilty after an eight-day trial. Trial Court sentenced him on January 29, 2019 to the following: COUNT 1 - CONSPIRACY TO COMMIT BURGLARY- TO THREE HUNDRED SIXTY-FOUR (364) in the Clark County Detention Center (CCDC); COUNT 2 - CONSPIRACY TO COMMIT ROBBERY- TO A MINIMUM OF TWELVE (12) MONTHS AND A MAXIMUM OF FORTY-EIGHT (48) MONTHS to run CONCURRENT with Count 1; COUNT 5 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON- TO A MINIMUM OFTHIRTY-SIX (36) MONTHS AND A MAXIMUM OF ONE HUNDRED TWENTY (120) MONTHS to run CONCURRENT to Count 2; COUNT 6 - ROBBERY WITH USE OF A DEADLY WEAPON- TO LIFE WITHOUT THE POSSIBILITY OF PAROLE plus a CONSECUTIVE term of a MINIMUM OF THIRTY-SIX (36) AND A MAXIMUM OF ONE HUNDRED TWENTY (120) MONTHS for use of a deadly weapon; COUNT 7 - ROBBERY WITH USE OF A DEADLY WEAPON- TO LIFE WITHOUT THE POSSIBILITY OF PAROLE plus a CONSECUTIVE term of a MINIMUM OF THIRTY-SIX (36) MONTHS AND A MAXIMUM OF ONE HUNDRED TWENTY (120) MONTHS for use of a deadly weapon to run CONSECUTIVE to Count 6; COUNT 8 - BURGLARY WHILEIN POSSESSION OF A DEADLY WEAPON- TO A MINIMUM OF THIRTY-SIX

(36) MONTHS AND A MAXIMUM OF ONE HUNDRED TWENTY(120) MONTHS to run CONCURRENT with Count 5; COUNT 9 - ROBBERYWITH USE OF A DEADLY WEAPON- TO LIFE WITHOUT THE POSSIBILITYOF PAROLE plus a CONSECUTIVE term of A MINIMUM OF THIRTY-SIX (36) MONTHS AND A MAXIMUM OF ONE HUNDRED TWENTY (120)MONTHS for use of a deadly C-18-335500-2 PRINT DATE: 02/25/2019 Page 3 of 4Minutes Date: January 29, 2019 weapon to run CONSECUTIVE to Count 7; COUNT 10- ROBBERY WITH USE OF A DEADLY WEAPON- TO LIFE WITHOUTTHE POSSIBILITY OF PAROLE plus a CONSECUTIVE term of A MINIMUM OF THIRTY-SIX (36) MONTHS AND A MAXIMUM OF ONEHUNDRED TWENTY (120) MONTHS for use of a deadly weapon to run CONSECUTIVEto Count 9; COUNT 11 - BURGLARY WHILE IN POSSESSION OF ADEADLY WEAPON- A MINIMUM OF THIRTY-SIX (36) MONTHS AND AMAXIMUM OF ONE HUNDRED TWENTY (120) MONTHS to run CONCURRENTwith Count 8; COUNT 12 - ROBBERY WITH USE OF A DEADLY WEAPON-TO LIFE WITHOUT THE POSSIBILITY OF PAROLE plus a CONSECUTIVEterm of A MINIMUM OF THIRTY-SIX (36) MONTHS AND A MAXIMUM OFONE HUNDRED TWENTY (120) MONTHS for use of a deadly weapon torun CONSECUTIVE to Count 10; COUNT 13 - ROBBERY WITH USE OFA DEADLY WEAPON- TO LIFE WITHOUT THE POSSIBILITY OFPAROLE

plus a CONSECUTIVE term of A MINIMUM OF THIRTY-SIX (36) MONTHS AND A MAXIMUM OF ONE HUNDRED TWENTY (120) MONTHS to run CONSECUTIVE to Count 12; COUNT 14 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON- A MINIMUM OF THIRTY-SIX (36) MONTHS AND A MAXIMUM OF ONE HUNDRED TWENTY (120) MONTHS to run CONCURRENT with Count 11; COUNT 15 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON- A MINIMUM OF THIRTY-SIX (36) MONTHS AND A MAXIMUM OF ONE HUNDRED TWENTY (120) MONTHS to run CONCURRENT with Count 14; COUNT 16 - ROBBERY WITH USE OF A DEADLY WEAPON- TO LIFE WITHOUT THE POSSIBILITY OF PAROLE plus a CONSECUTIVE term of A MINIMUM OF THIRTY-SIX (36) MONTHS AND A MAXIMUM OF ONE HUNDRED TWENTY (120) MONTHS for useof a deadly weapon to run CONSECUTIVE to Count 13; COUNT 17 - ROBBERY WITH USE OF A DEADLY WEAPON- A MINIMUM OF THIRTY-SIX (36) MONTHS AND A MAXIMUM OF ONE HUNDRED TWENTY (120) MONTHS plus a CONSECUTIVE term of A MINIMUM OF THIRTY-SIX (36) MONTHS AND A MAXIMUM OF ONE HUNDRED TWENTY (120) MONTHS for useof a deadly weapon to run CONSECUTIVE to Count 16; COUNT 18 - ASSAULT WITH A DEADLY WEAPON- A MINIMUM OF TWELVE (12) MONTHS AND A MAXIMUM OF FORTY-EIGHT (48) MONTHS to runCONCURRENT

with Count 17; COUNT 19 - ASSAULT WITH A DEADLY WEAPON- TOA MINIMUM OF TWELVE (12) MONTHS AND A MAXIMUM OFFORTY-EIGHT (48) MONTHS to run CONCURRENT with Count 18; COUNT 20-ASSAULT WITH A DEADLY WEAPON- TO A MINIMUM OF TWELVE(12) MONTHS AND A MAXIMUM OF FORTY-EIGHT (48) MONTHS torun CONCURRENT with Count 19; COUNT 21 - ASSAULT WITH ADEADLY WEAPON, VICTIM 60 YEARS OF AGE OR OLDERTO A MINIMUMOF TWELVE (12) MONTHS AND A MAXIMUM OF FORTY-EIGHT(48)

Judgement of Conviction was filed on February 28, 2019. Counsel filed Notice of Appeal and Case Appeal Statement for Mr. Barr on March 5, 2019and Request for Transcripts on March 8, 2019. Appellant filed Motionfor Enlargement of Time for filing of Docketing Statement on April 1, 2019.Supreme Court granted motion on April 17, 2019. Appellant filed Docketing Statementand Motion for Enlargement of Time on April 26, 2019. Supreme Courtgranted motion and directed Appellant to file proper docketing statement on May 6,2019. Appellant filed Docketing Statement on May 20, 2019. Supreme Courtissued Notice to File Opening Brief and Appendix on July 26,2019.

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CONCLUSION

Counsel for Appellant is requesting exceed page limit or type-volume limitation for the reason stated above.

DATED this Tuesday, September 17, 19

/s/ Jeannie Hua
Jeannie N. Hua,
Esq. Nevada Bar No.
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Counsel for the Appellant

AFFIDAVIT OF JEANNIE HUA, ESQ., COUNSEL FOR THEAPPELLANT

I, Jeannie Hua, hereby declarethat:

1. I am Counsel of record for Appellate in thiscase.

2. Appellant's trial comprised of four robberies.

3. Each robbery involved multiple lay witnesses and lawenforcement.

4. The trial took eightdays

5. The record was replete with trialerrors.

6. The Appellant was sentenced and resentenced after initial sentencing, addingyet more trial errors.

7. To properly address the trial error involved Appellant had to do a recitationof facts as well as cite relevantauthorities.

8. Unfortunately to do the above made meeting the page limit difficult ifnot impossible.

9. Appellant's counsel also has a duty to give Appellant effective assistancefo counsel.

10. To eliminate for leave out issues on appeal is to force Appellant's counselto give ineffective assistance of counsel to Appellant, violating his6th amendment right torepresentation.

11. For the reasons cited above, Appellant's counsel is respectfullyrequesting permission to exceed the page limit for Appellant's OpeningBrief.

DATED Tuesday, September 17, 19

/s/ Jeannie Hua, Esq.

_____

Declarant
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TRANSMISSION VIA FACSIMILE

I, Jeannie Hua, hereby certify, that on Tuesday, September 17, 19, I sent via facsimile a true and correct copy of Motion for Clarification to:

Clark County District Attorney's Office
702-455-2294

/s/ Jeannie Hua
Law Office of Jeannie Hua

Nevada Supreme Court

State of Nevada, Plaintiff

v.

Anthony Barr, Appellant

Docket Number 78295

NRAP 26.1 Disclosure

The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a), and must be disclosed. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

Jeannie Hua, Esq., Attorney of record for Appellant, Anthony Barr

Clark County District Attorney's Office for the State of Nevada

Table of Contents

Table of Authorities

Jurisdictional statement

The basis for the Supreme Court's or Court of Appeals' jurisdiction is NRS 177.015(3)

The Judgment of Conviction was filed on February 27, 2019. The Notice of Appeal was filed on March 5, 2019.

The appeal is from a jury verdict in Eighth Judicial District Court.

Routing Statement

Per NRAP 17(b)(2)(A), "appeals from a judgment of conviction based on a jury verdict that do not involve a conviction for any offenses that are category A or B felonies are presumptively assigned to Court of Appeals." Since this case involves Category B felonies, this case is not presumptively assigned to Court of Appeals.

Relevant Issues

I. Trial court violated Appellant's right to 14th Amendment Due Process rights under the United State's Constitution and Article One, Section Eight of the Nevada Constitution by proceeding with sentencing even though Presentencing Investigation Report contained inaccuracies and basing his sentencing decision from facts not on record.

II. The Trial Court erred by failed to sever the four robberies charged by the State, violating Appellant's 14th Amendment under the United State's Constitution and Article One, Section Eight of the Nevada Constitution.

III. The Trial Court erred by failing to sever the Appellant's case from Codefendant's case, violating Appellant's 14th Amendment under the United State's Constitution and Article One, Section Eight of the Nevada Constitution

IV. The trial Court erred by admitting inadmissible character evidence of bad acts, violating Appellant's 14th Amendment under the United State's Constitution and Article One, Section Eight of the Nevada Constitution.

V. Trial Court erred by violating Appellant's right to confrontation, violating Appellant's 14th Amendment under the United State's Constitution and Article One, Section Eight of the Nevada Constitution.

VI. Trial Court erred by allowing unqualified experts to testify regarding tracker and google map, violating Appellant's 14th Amendment under the United State's Constitution and Article One, Section Eight of the Nevada Constitution.

VII. The State violated Appellant's right to due process by failing to properly preserved material evidence, violating Appellant's 14th Amendment under the United State's Constitution and Article One, Section Eight of the Nevada Constitution.

VIII. Trial Court erred by allowing the State to amend information after trial started, violating Appellant's 14th Amendment under the United State's Constitution and Article One, Section Eight of the Nevada Constitution.

IX. The State failed to present sufficient evidence at trial, violating Appellant's 14th Amendment under the United State's Constitution and Article One, Section Eight of the Nevada Constitution.

X. Appellant's right to a fair trial was violated by cumulative errors, violating Appellant's 14th Amendment under the United State's Constitution and Article One, Section Eight of the Nevada Constitution.

(citations to the record where the issue was raised and resolved)

Statement of the Case

State charged Appellant with three counts of Robbery, three counts of Burglary, three counts of Conspiracy to Commit Robbery, and three counts of Conspiracy to Commit Burglary by way of Complaint filed on August 16, 2018. State filed an Amended Complaint on October 4, 2018 and charged Appellant with one count of Conspiracy to Commit Burglary, one count of Conspiracy to Commit Robbery, five counts of Burglary While in Possession of a Deadly Weapon, eight counts of Robbery with Use of a Deadly Weapon, and three counts of Assault with a Deadly Weapon. Preliminary hearing took place on October 10, 2018. State filed

Notice of Intent to Seek Punishment as a Habitual Criminal and/or Felon on October23, 2018. Initial arraignment took place on October 24, 2018. Information was filed on October 23, 2018 including one count of Conspiracy to Commit Burglary, one count of Conspiracy to Commit Robbery, five counts of Burglary while in Possession of a Deadly Weapon, seven counts of Robbery with Use of a Deadly Weapon, three counts of Assault with Use of a Deadly Weapon, one count of Assault with a Deadly Weapon, Victim 60 Years of Age or Older, one count of Carrying Concealed Pneumatic Gun, one county of Preventing or Dissuading Witnesses or Victims from Reporting Crime or Commencing Prosecution. Jury Trial took place on December 3, 2018. Information was amended on December 11, 2008 in open court. Jury arrived at a verdict on December 13, 2018. Second Amended Information was filed on December 31, 2018. Appellant was sentenced on January 29, 2019. Case was back on calendar on February 4, 2019 for clarification of sentence. Notice of Appeal and Case Appeal Statement were filed on March 5, 2019.

Statement of Facts

I. Codefendant's Robbery on July 17, 2018 at U.S. Bank, 1440 Paseo Verde Parkway

Amie Carr was a teller at U.S. Bank, 1440 Paseo Verde Parkway in Henderson Nevada on July 17th 2018. (Day 2, p. 53). Around 11:30 am, a man walked to her window and handed her a note. (Day 2, p.57, ls. 19-24). The note stated that he had a weapon, to not pull any alarms, and to give him $4,500.00. (Day 2, p.61, ls. 4-5, p. 62, ls.9-10). She gave him all the money in her drawer. (Day 2, pp. 57-58, ls. 25-7). The man was black, had a sweaty neck, wore big aviator glasses. (Day 2, p. 59, ls.15-18). The man took the money and left. Ms. Carr waited for him to leave, then she told the assistant manager, Shirley Shaffer, she was just robbed. The assistant manager locked the door. (Day 2, p.63, ls. 3-13).

Shirley Shaffer testified that she worked as the Assistant Manager at U.S. Bank, 1440 Paseo Verde Parkway on July 17, 2018. After Ms. Carr, the teller, told Ms. Shaffer that Ms. Carr was just robbed, Ms. Shaffer locked the door. (Day 2, p.82, l.13-18). Ms. Shaffer then called security and was told by security to call 911. (Day 2, p.84, ls.14-15).

II. Robbery on July 23, 2018 at U.S. Bank on 10565 Eastern Avenue

Alex Orellana testified that he was a Universal banker at U.S. Bank on July 23, 2018 at the U.S. Bank branch on 10565 Eastern Ave. (Day 2, p. 92, ls. 14-25). He noticed two customers that looked suspicious to him. (Day 2, p. 98, ls.16-20). Mr. Orellana identified Appellant and Codefendant in court. (Day 2, p. 100, ls. 8-

15). He notified Mathew Pedroza, another teller, regarding his concern. (Day 2, p. 99, l.10). Mr. Orellana testified Mathew Pedroza went up to the two black men to ask if they wanted a beverage and to check them out. Mr. Orellana testified that one of the black men wore black Air Force Ones, jeans. He testified that the other one was wearing a track sweater, a doo-rag, a hat, sunglasses and a flannel styled button-up shirt (Day 2, p.120, ls.12-16).

Mathew Pedroza testified that he was working at U.S. Bank located at 10565 Eastern Ave on July 23, 2018. (Day 2, p. 130, l.25, p131, l.1, p.132, ls. 16-18). He saw two black men walk into the bank. (Day 2, p.132, l.22-24). He described them as a little taller than himself. He testified that his own height was 5'10". (Day 2, p. 133, ls.12-15). Mr. Pedroza didn't remember anyone messaging him about the two black men. (Day 2, p.137, l. 12-15).

Chelsey Gritton testified that she was the bank manager at U.S. Bank at 10565 South Eastern Avenue on July 23, 2018. (Day 2, p. 139, ls.7-12). She identified Appellant and Codefendant as the two men who robbed her bank but couldn't identify them separately as to who did what during the robbery. (Day 2, p.154, ls. 13-25, p. 155, ls. 1-25, p.156, ls. 1-7, p. 157, l. 1-25, p. 158, l.1).

Melanie Terada testified that she was a teller at U.S. Bank on 10565 Eastern Avenue on July 23, 2018. (Day 3, p.10, ls.12-15, p11, ls. 18-20). Ms. Terada testified that around 10:00 am, two black men entered the bank. One went to her

window and asked for money. (Day 3, p.11, ls.6-21). The man who went to her window was wearing a collared shirt and regular glasses. (Day 3, p.11, ls.22-25, p.12, ls.1-10). However, when shown the video of the robbery during her testimony, Ms. Terada then testified that the man was wearing a polo. (Day 3, p. 26, ls. 20-24). The man took a note from his pocket and showed her. The note stated that he had a gun and to take out her cash. (Day 3, p. 13, ls.13-21, p.14, ls.21-25, p.15, ls. 1-3, 25, p.16, l.1). Ms. Terada took all the money out of her first drawer and placed it on the counter. (Day 3, p.13, ls.23-25, p.14, l.1). After taking the money off the counter, the man asked for money from her second drawer. (Day 3, p. 14, ls. 8-12). Ms. Terada took all the money out of her second drawer and placed it on the counter. (Day 3, p. 14, ls. 11-18). After taking the money from the second drawer from the counter, the man left. (Day 3, p. 16, ls.8-10). After the man left, Ms. Terada called 911. (Day 3, p.17, ls. 9-14).

Allyson Santomauro testified that she was a teller at U.S. Bank on 10565 Eastern Ave. on July 23, 2018. (Day 3, p. 31, ls. 13-25). She testified that at around 10:00 am, an African-American male with a hat and a white jacket with red stripe approached her window. (Day 3, p. 33, ls. 4-7). The man handed her a note instructing her to give him all her money from both drawers and “no bullshit.” (Day 3, p. 32, ls. 18-21, p. 34, ls. 7-8, p. 35, ls. 5-6). While viewing the video of the robbery, the State pointed out that the man had glasses hanging on the jacket

and Ms. Santomauro agreed. (Day 3, p. 41, ls. 3-5). Ms. Santomauro then identified Codefendant, wearing a blue button shirt as the man who robbed her. (Day 3, p. 43, ls.19-25). On cross examination, Ms. Santomauro testified that she was not asked at preliminary hearing if she could identify him in court. (Day 3, p. 44, ls. 15-25, p.45, ls. 1-3).

Jacob Feedar testified that he was the manager of the Trader Joe's on Eastern. (Day 3, p. 149, ls. 9-16). On July 23, 2018, he saw two black males behind Trader Joe's around 10:30 am. (Day 3, p. 150, ls. 21-25, p. 151, ls. 8-10). One male was wearing a do-rag. One was wearing a red or white shirt or red and white shirt. Both were wearing jeans and were slender. (Day 3, p.152, ls. 14-20).

III. Robbery on July 31, 2018 at Bank of the West on 701 North Valle Verde

Manny Senz testified that he worked as a loan officer at Bank of the West on 701 North Valle Verde on July 31, 2018. (Day 3, p. 57, ls. 19-20, p. 58, ls. 9-11, p. 60, l. 25, p. 61, ls. 1-2). He noticed a black man walk into the bank, followed by the entry of a second black man. (Day 3, p. 68, ls. 13-22). The larger one was dressed in a long dress and had long multicolored wig or hair. (Day 3, p. 61, ls. 5-8, p. 62, ls. 1-9). He saw the second black man wearing a baseball cap and a white towel around his neck. (Day 3, p. 63, ls. 3-17). Even though the two black men had arrived and left separately, he assumed they were together because they both stood

at the island. (Day 3, p. 68, ls. 17-25). He locked the doors after he was messaged about the robbery. (Day 3, p. 65, ls. 20-22). When asked on cross examination, while Mr. Senz was able to identify Appellant and Codefendant, he couldn't tell which one was wearing the female clothing and which one had the white towel. (Day 3, p. 70, ls. 3-19).

Nur Begum testified that she was a teller at Bank of the West on 702 North Valle Verde on July 31, 2018. (Day 3, p. 72, ls. 4-16, 21-24). After Ms. Begum finished entering information on her computer, she called up her next customer. A black man with a towel around his neck walked up to her and gave her a note. The note stated that he had a gun, to give him all her money, and not to do anything "funny." (Day 3, p. 75, ls. 15-18, p. 78, ls. 2-6). During the robbery, she saw a black man with a big wig she previously saw standing with the man with the towel at the island watching her. (Day 3, p. 78, ls. 17-20, 24-25). After she gave him the money, he left, and Ms. Begum sent an instant message to Manny Senz regarding the robbery. (Day 3, p. 77, ls. 11-14, p. 80, ls. 2-3, p. 87, l. 9-10). She then went to the drive up window and saw the two men run to the right of the building, up the hill. (Day 3, p. 80, ls. 7-9, p. 88, l. 8-10). On cross examination, Ms. Begum was asked if she remembered telling the police that the man who robbed her was 5'5". Ms. Begum said she may have, she wasn't sure. (Day 3, p. 88, ls. 23-25). Ms.

Begum was asked if she remembered testifying at the preliminary hearing that the man was 5'10". She said she wasn't sure. (Day 3, 90, ls. 15-24).

Mary Grace Mones testified that she was a teller at Bank of the West on 701 North Valle Verde on July 31, 2019. (Day 3, p. 95, ls. 19-20, p. 96, ls. 16-18). She testified that about 11:40 am, a black man wearing a wig, approached her window, placed a black bag on her station and showed her a note. The note instructed her to give him all her money, that he has a bomb tied in the bag. (Day 3, p. 101, ls.9-10). After she read the note, he folded it up and put the note back in the bag. (Day 3, p. 98, ls. 18-25, p.99, ls. 6-7). Ms. Mones described the man as having broad shoulders, wearing a long wig that was black on top and white on the bottom. (Day 3, p. 99, l. 25, p. 100, ls. 1-5). Ms. Mones asked to read the note again and the man handed the note for her to read. When she asked to read it the third time, the man just told her to give him all her money. (Day 3, p. 101, ls. 13-21). Ms. Mones put all her money from her top drawer onto the counter The man picked up the money, placed it in his bag, and walked away. (Day 3, p. 101, ls. 23-25, p. 102, ls. 1-7).

On cross examination by Codefendant's counsel, Ms. Mones recalled that the man was five feet and five inches, chocolate brown in complexion, with eye brows that stood out. (Day 3, p. 109, ls. 9-25). Ms. Mones couldn't identify the man who robbed her in the courtroom. (Day 3, p. 111, ls. 18-25).

Regina Coleman testified that she was a teller at Bank of the West on July 31, 2018. (Day 3, p. 113, ls. 12-25). Ms. Coleman testified that a man with a towel was already in the bank by the time she arrived. (Day 3, p. 132, ls.19-21). Ms. Coleman testified that she walked by the man with the towel and the hat on her way to her station. (Day 3, p. 134, ls. 7-17). Then a woman approached her while she was still signing onto her computer so Ms. Coleman asked her to step back in line. (Day 3, p. 116, ls. 16-25, p. 132, ls. 20-21). After a staring match, the man went to Grace Mones' station. Ms. Coleman described the man as wearing a black and white wig, half jacket vest, blue or black legging, a long burgundy dress, and gold sandals. (Day 3, p. 117, ls. 14-25). When she heard from the two other tellers that they were just robbed, she saw a man holding a door open for the man dressed like a woman. They both ran out the door. (Day 3, p. 120, ls. 14-16, 22-25, p. 121, ls. 1-2). Ms. Coleman described the man holding the door for the man dressed like a woman as a black man wearing a baseball cap, towel around his neck and had a little afro. (Day 3, p. 121, ls. 16-25). She saw that he had marks such as moles or pimples on his face. (Day 3, p. 127, ls. 15-19). Both men ran to the right of the building up the hill towards the church area. (Day 3, p. 124, ls. 5-12).

On cross examination, Ms. Coleman remembers that she had told the police had very dark skin and wore a hat. (Day 3, p. 129, ls. 1-25). And one of them was

five feet six or seven. (Day 3, p. 130, ls. 16-18). Ms. Coleman identified the man with the towel as Appellant and the man dressed as a woman as Codefendant.

IV. Robbery on August 6, 2018 at U.S Bank in Smith's Food and Drug on 55 South Valle Verde, Henderson

David Kranz testified that he worked as an assistant manager at Smith's Food and Drug on 55 South Valle Verde, Henderson on August 6, 2018. (Day 4, p. 3-25, p. 18, ls. 1-2). He saw two men in white T-shirts and asked them if he could be of assistance. (Day 4, p. 30, ls. 18-25 p. 31, ls. 1-10). One of the men asked for help finding crayons for his child. He showed them where the crayons were and left. (Day 4, p. 19, ls. 18). When he was informed of the robbery at U.S. Bank and given the suspects' descriptions, he believed the two men he helped were the robbers. (Day 4, p. 18, ls. 6-25). He turned over the store's surveillance videos to the police of the two men he helped. (Day 4, p. 19, ls. 2-4). The video showed one of the men picking up crayons and placing them back down. (Day 4, p. 25, ls. 16-19). He testified that the man who picked up the crayons was barely taller than him. (Day 4, p. 33, ls. 7-12).

Navaal Ali testified that he worked at Smith's on August 6, 2018 as the non-foods manager. (Day 4, p. 38, ls. 22-24). Mr. Kranz asked her to help two men who were looking for twistable crayons. (Day 4, p. 39, l. 25, p. 40, ls. 3-8). She showed

them and left. Later on, she found a pack of twistable crayons left on a shelf with other products and she placed the pack back to the proper shelf. (Day 4, p. 45, ls. 1-3).

Meghan Zitzmann testified that she was a universal banker at U.S. Bank at 55 South Valle Verde Drive, Henderson on August 6th, 2018. (Day 4, p. 56, ls. 21-25, p. 57, ls. 14-15). She testified that two black men walked into the bank. (Day 4, p. 58, 18-21). One black man walked to Ms. Zitzmann and showed her a note. (Day 4, p. 59, ls. 3-6). Because the man was shaking the note, Ms. Zitzmann couldn't read it. (Day 4, p. 59, ls. 12-14). The man told her to give him everything or he'll shoot her. (Day 4, p. 59, ls. 15-20). She gave over all her money and he took it. (Day 4, p. 59, ls. 21-22). He then told her he'll shoot her if she pressed the alarm. (Day 4, p. 60, ls. 14-16). After she gave him all her bills, he asked for more money so she gave him all her quarters. (Day 4, p. 60, ls. 19-25, p. 61, l. 1). After he left with the other black man she pressed the alarm and called 911. (Day 4, p. 61, l. 25, p. 62, ls. 1-4). She told the 911 operator that one of the men wore a maroon shirt. They were both around five foot five inches or five foot six inches in height. (Day 4, p. 72, ls. 18-24).

Sunny Shay Cortner testified that she was a universal teller at U.S. Bank at 55 South Valle Verde Drive, Henderson on August 6th, 2018. (Day 4, p. 77, ls. 13-25, p. 79, ls. 2-3). Two black men, five foot six to five foot eight in height and

around one hundred and thirty, one hundred and fifty pounds, entered the bank. (Day 4, p. 80, ls. 18-23). One went up to her and showed her a note. (Day 4, p. 79, ls. 17-20). She couldn't read the note because it was upside down. (Day 4, p. 80, ls. 4-6). The man then said to give him all her money. (Day 4, p. 80, ls.10-12). Once she gave him all her money, the man said it wasn't enough. (Day 4, p. 79, ls. 21-22). She told him she didn't have anymore and showed him her top drawer containing only coins. (Day 4, p. 79, ls. 23-24). He refused the coins and she showed him her other drawer, which was empty. (Day 4, p. 79, l. 25, p.80, l.1, 16). Before leaving, he told her to not say anything or move or he'll shoot her. (Day 4, p. 80, ls. 1-2). On cross examination with Codefendant's counsel, Ms. Cortner recalled that she told the police that one of the black men wore a maroon shirt. (Day 4, p. 85, ls. 11-17). On cross with Appellant's trial counsel, Ms. Cortner testified that she remembered the man who robbed her had tattoos on his face. (Day 4, p. 86, ls. 3-7). Then she admitted that she told the police that the men had no tattoos but that she was shown a photograph of one of the men who robbed the bank with tattoo on his face a couple of weeks before the trial. (Day 4, p 86, ls. 17-21, p. 88, ls. 12-13, p. 89, ls. 9-13).

V. Robbery on August 9, 2018 at U.S. Bank on 801 East Charleston Boulevard

Vincent Rotolo testified that he owned a pizza shop and that on August 9, 2018, he was at U.S. Bank on 801 East Charleston Boulevard meeting with Kerri Pedroza and Michael Irish, employees of the bank. (Day 5, p. 57, ls. 2-12). He heard someone command them to get down on the floor. (Day 5, p. 59, ls .20-22). He froze then heard another command to get down on the floor so he got down on the floor. (Day 5, p. 59, l. 25, p. 60, l.1). He saw a skinny tall black man, about five foot eleven, standing behind him to the left with a semi automatic gun. (Day 5, p. 60, ls. 17-25, p. 61, 1-18). He could hear another voice saying "give me money." (Day 5, p. 62, ls. 2-3). Michael Irish was in front of him and when Mr. Irish got up, he got up and realized the robbery was over. (Day 5, p. 65, ls. 8-11).

Seventy six year old Teri Williams was at U.S. Bank on 801 East Charleston Boulevard on August 9th, 2018. (Day 5, p. 190, ls. 4-25). She saw two thin black males walk past her. One walked to a teller's window and one walked around the bank with his gun. (Day 5, p. 194, ls. 5-8). The man with the gun had dark pants on. (Day 5, p. 201, ls. 12-16). The man pointed a gun and told her to get down. (Day 5, p .195, ls. 1-7). She got down but not all the way. (Day 5, p. 195, ls. 16-21). Then she saw the two men run out with a yellow bag. (Day 5, p. 199, ls. 2-12). She identified Codefendant as the man with the gun in court. (Day 5, p. 200, ls. 14-25).

Claudia Ruacho testitied that she was a teller at U.S Bank on 801 East Charleston on August 9th, 2018. (Day 5, p. 207, ls. 1-11). She was helping a customer when a man stood in front of her and demanded money. (Day 5, p. 209, ls. 1-5). The man was black, tall, and skinny. (Day 5, p. 209, ls. 6-20). She saw there was another man behind him with a gun. (Day 5, p. 211, ls. 1-9). She empty her drawer and shoved money under the glass barrier. (Day 5, p. 209, ls. 23-25, p. 210, ls. 1-3). Then one of the men told her to turn around. She turned around and stayed that way until the two customers by her window told her the men left. (Day 5, p. 212, ls. 15-19, 25, p. 213, ls. 4-13).

Jada Copeland testified that she was working as a teller on August 9, 2018 at U.S. Bank on 801 East Charleston Avenue. (Day 6, p. 18, ls. 11-25, p. 19, 3-5). She saw two black men, regular build, around five feet ten inches to six feet in height. One went to her window and told her to give him all her money. (Day 6, p. 21, ls. 11-25, p. 22, ls. 1-16). She emptied her second drawer and slid all the money to him under the slot. (Day 6, p. 22, ls. 16-19, p. 23, ls. 19-23). Meanwhile, the man went to the next window and she saw Claudia give him all her money. Then he went back to Ms. Copeland's window to take her money. (Day 6, p. 24, ls. 5-25). She saw that he placed all the money into a yellow bag. (Day 6, p. 25, ls. 14-17, p. 26, ls. 4-7, 22-23). She saw the other man in the lobby and didn't see a gun on him until he left with the man who took the money from her. (Day 6, p. 27, 2-

20). Before they left, she was told to turn around and she did so. (Day 6, p. 31, ls. 12-18).

Kerri Pedroza testified that she worked at U.S. Bank on 801 East Charleston Avenue on August 9th, 2018. (Day 5, 244, ls. 7-10). She noticed two men standing in the middle of the bank looking at each other. (Day 5, p. 245, ls. 14-16). Then she saw one man take out a gun and told everyone to get on the floor. When people didn't comply, he told them again. (Day 5, p. 245, ls. 17-25). After she got under a desk, she heard the man with the gun say. "Hurry up G, Let's go." (Day 5, p. 249, ls. 5-9). She saw that one of the men was wearing red sneakers. (Day 5, p. 249, ls. 17-20).

Michael Irish testified that he was the branch manager at U.S. Bank at 801 East Charleston Avenue on August 9, 2018. (Day 5, p. 251, ls. 2-23). He saw two black men at least five feet seven inches in height, thin in built, walk in. (Day 5, p. 259, ls. 2-17). He saw them go to the check writing stand then he saw that one of them took out a gun. (Day 5, p. 260, ls. 1-3). The man with the gun told everyone to get on the ground. (Day 5, p. 260, ls. 21-22). When he didn't get on the ground, the man told him to get on the ground again. (Day 5, p. 261, ls. 20-25). Mr. Irish then got onto his knees. He saw the other man at the teller windows demanding and taking money from them. (Day 5, p. 262, ls. 20-25). He didn't see them leave. (Day 5, p. 263, ls. 3-7).

VI. Testimony regarding prior bad acts

Officer Raymond Cuevas testified that he worked patrol for Downtown Area Command with the Las Vegas Metropolitan Police Department. (Day 3, p. 236, ls. 14-18). On April 25, 2018 he stopped a maroon colored Grand Marquis at Casino Center and Fremont for method of display. The car didn't have a front license plate. (Day 3, p. 237, ls. 11-25). Anthony Barr was driving the vehicle and Sabrina Henderson was in the front passenger seat. (Day 3, p. 238, ls. 11-18).

Officer Grant Okinaka testified that he worked for the Las Vegas Metropolitan Police Department on May 3, 2018. He stopped a Mercury Grand Marquis red or maroon in color on that date. There were two black males and a black female in the car. (Day 3, p. 245, ls. 2-10). He couldn't remember who was driving the vehicle. (Day 3, p. 245, ls. 11-12). Only from the prosecutor's leading question did Officer Okinaka remember that the driver was Anthony Barr and the female passenger was Sabrina Henderson. (Day 3, p. 246, ls. 9-14). He stopped the car because the car either had unregistered plates or didn't have plates at all. (Day 3, p. 246, ls. 19-25). Only from prosecutor's leading question did the jury learn that not only did the car had unregistered plates but that Appellant didn't have a proper driver's license. (Day 3, p. 249, ls. 4-8).

Detective Frank Rycraft testified that he was working as an officer on June 8, 2018. He stopped a red Mercury Grand Marquis for unregistered vehicle with no plates. (Day 3, p. 252, l. 11-14, p. 253, ls. 16-23). Sabrina Henderson was the driver and Anthony Barr was in the back seat. (Day 3, p. 254, ls. 2-17).

Officer Benjamin Baldassarre testified that on June 12, 2018, he stopped a Mercury Grand Marquis, red or maroon in color. (Day 4, p. 6, ls. 13-21). He stopped the car because it was unregistered. (Day 4, p. 7, ls. 6-8). Anthony Barr was the driver and Sabrina Henderson was the passenger. (Day 4, p. 7, ls. 18-24). He issued a citation for unregistered vehicle, no driver's license and no proof of insurance. (Day 4, p. 9, ls. 3-8).

Officer Timothy Mcateer testified that on Jun 12, 2018, he assisted Officer Baldassarre on a stop. (Day 4, p. 11, ls. 18-24). The stop was performed upon a red or maroon Mercury Grand Marquis with Anthony Barr as the driver and Sabrina Henderson as the passenger. (Day 4, p. 12, ls. 13-25). The prosecutor asked Officer Mcateer watch the recording of the stop from his body camera and comment on the condition of the car, the lack of rims and the baldness of the tires. (Day 4, p. 15, ls. 2-7).

VII. Testimony on investigation of the robberies

Meghan Bone testified that she was a crime scene analyst with the Henderson Police Department. (Day 3, p. 159, ls.13-15). On July 17, 2018, she was called to process the scene at U.S. Bank at 1440 Paseo Verde Parkway. (Day 3, p. 160, ls. 15-18). She took photographs and took latent fingerprints off of the door. (Day 3, p. 164, ls. 19-21). On July 23, 2018, she was called to process a scene at U.S. Bank at 10565 South Eastern Avenue, Henderson. (Day 3, p. 170, ls. 4-7). She took latent prints off of the desk countertop areas. (Day 3, p. 174, ls. 18-25, p. 175, ls. 1-4). She took prints off of the customer side of station one. (Day 3, p. 176, ls. 3-25). On July 31, she was called out to Bank of the West at 701 North Valley Verde, Henderson to process a scene. (Day 3, p. 177, ls. 22-25, p. 178, ls. 2-3). She took latent prints from top of the check writing and withdrawal slip counter. (Day 3, p. 182, ls. 292).

Randi Newbold testified that she is a crime scene analyst for the Henderson Police Department. (Day 4, p. 97, ls. 13-16). On August 6, 2018, she processed the scene at U.S. Bank inside the Smith's. (Day 4, p. 99, l. 25, p. 100, l. 1). She took prints off of a package of twistable crayons that one of the black men, helped by David Kranz and Navaal Ali, was seen on video handling. (Day 4, p. 104, ls. 5-6).

Tanya Hiner testified that she is a forensic scientist with the City of Henderson Police Department. She was given prints collected from the four robberies and asked to make matches. She matched a print from the July 31, 2018, Bank of the West, 701 North Valle Verde robbery. She matched a print from the check writing counter inside of the Bank of the West location to the Codefendant. (Day 4, p. 156, ls. 9-15, p. 159, ls. 24-25, p. 160, ls. 1-2). She also matched a fingerprint taken off of the twistable crayons by CSA Randi Newbold from the robbery on August 6, 2018 at U.S. Bank located inside of Smith's Food and Drug to Codefendant's prints. (Day 4, p. 169, ls. 16-18, Day 5, p. 11, ls. 24-25, p. 12, ls. 1-3). She also matched the prints off of the bank note collected by CSA Newbold from the August 6, 2018 robbery at U.S. Bank and matched the prints to Codefendant. (Day 5, p. 17, ls. 22-24, p. 18, ls.1-25, p. 19, ls. 1-9).

Dennis Ozawa testified that he was a detective with the Henderson Police Department. (Day 3, p. 190, ls. 9-13). He was called out to the bank robbery at U.S. Bank at 1440 Paseo Verde Drive in Henderson on July 17, 2018. (Day 3, p. 191, ls. 5-11). On July 23, 2018, he was called to the robbery at U.S. Bank at 10565 South Eastern Avenue in Henderson. (Day 3, p. 200, ls. 11-17). Detective Ozawa saw similarities between the two robberies. (Day 3, p. 201, ls. 3-25). They obtained videos from Seafood City, Trader Joe's and At Home recorded on July 23, 2018. (Day 3, p. 206, ls. 12-25). From the Seafood City video, the two suspects

can be seen running north through the parking lot. (Day 3, p. 207, ls. 17-25). Detective Ozawa obtained video from Domain Apartments, also in the vicinity of U.S. Bank, Seafood City, and At Home. (Day 3, p. 209, ls. 9-13). Video from Domain Apartments show the two suspects towards the front of the complex. Then the video shows the suspects walking through the mail area and towards the northwest corner. (Day 3, p. 212, ls. 2-25).

Detective Ozawa was called out to Bank of the West on 701 North Valle Verde Avenue. (Day 3, p. 215, ls. 11-16). They obtained video from Anthem Realty, located to the right of the bank and up the hill. (Day 3, p. 217, ls. 11-25). The video shows a red or maroonish vehicle with the rear driver side door opened. One of the suspects from the Bank of the West robbery came out of the car. The suspect was wearing the same clothes and wig from the robbery. The other passenger door then opens and the other suspect came out. (Day 3, p. 218, ls. 10-25). The video further shows the same two subjects enter the car and the car driven off. (Day 3, p. 219, ls. 19-25, p. 220, ls. 1-3). Detective Omaza testified that his partner checked the police databases for Grand Marquis. (Day 3, p. 221, ls. 18-25). His partner traced a maroon, reddish Grand Marquis that was stopped multiple times. His partner, Detective Lippisch obtained body cam footage from Las Vegas Metropolitan Police Department. (Day 3, p. 222, ls. 1-6). Detective Ozawa viewed

the video and saw that the paint on the car was oxidized and fading. The car had tinted windows with a tow hitch in the back. (Day 3, p. 223, ls. 2-8).

Karl Lippisch testified that he was a detective with the City of Henderson Police Department. He viewed a surveillance video from the Bank of the West robbery at 701 North Valle Verde, Henderson of two men he believed to be the suspects get out and back into a 1992 to 1994 Mercury Grand Marquis. (Day 5, p. 74, ls. 3-20). So Detective Lippisch looked through databases for the car. (Day 5, p. 74, ls. 21-25). He found a 1994 Mercury Grand Mrquis that had been stopped four times by Las Vegas Metropolitan police in April, May, and twice in June of 2018. (Day 5, p. 75, ls. 1-5). When Detective Lippisch looked into the stops, he discovered that the car was stopped for the same reasons and the same people were in the car. (Day 5, p. 80, ls. 22-25, p. 80, ls. 1-2). He obtained the body footage of the stops and matched the car from the stops to the car at the robbery. (Day 5, p. 81, ls. 3-12). He saw Appellant and Sabrina Henderson were in the stops. (Day 5, p. 83, ls. 5-11). From the footage, he determined that Appellant matched the descriptions from the robberies. (Day 5, p. 86, ls. 16-23). He also saw a woman matching Sabrina Henderson's descriptors on video at the Smith's right before the U.S. Bank at 55 South Valle Verde Drive, robbery on August 6, 2018. (Day 5, p. 95, ls 23-25, p. 96, ls. 1-5).

It was around that time when Detective also received the latent print match by Tanya Hiner from the Bank of the West robbery that came back to a Travis Alexander Phillips. (Day 5, p. 110, ls. 24-25, p. 112, ls. 1-5). Detective was able to determine that the name was an aka for Damien Alexander Phillips, Codefendant. (Day 5, p. 112, ls. 5-13). Another detective found Cofendant's Facebook account and recognized a picture of Aviator Suites. (Day 5, p. 113, ls. 14-25, p. 114, l. 1). Detective Lippisch applied for and obtained a warrant for a tracking device for the Mercury Grand Marquis. (Day 5, p. 115, ls. 24-25, p. 116, ls. 1-4). He located the Mercury Grand Marquis at Aviator Suites on August 8, 2018. (Day 5, p. 115, ls. 24-25, p. 116, ls. 1-18). He saw Appellant, Codefendant, Sabrina Henderson and a woman later identified as Melissa Summlears leave Aviator Suites, load items in the car, enter the car, and leave. (Day 5, p. 116, ls. 22-25, p. 117, p. 117, ls. 1-4). The car has tinted windows. The car in the video did not. (Day 5, p. 117, ls. 20-25). When the car left the Aviator Suites, Detective Lippisch followed the car. (Day 5, p. 118, ls. 24-25). The car went to Building C of Circus Circus Manor. They unloaded items from the car into a room in Building C before Sabrina left. (Day 5, p. 118, ls. 19-25, p. 119, ls. 1-2). Detective Lippisch followed the car. The car stopped at Clark County Detention Center and Ms. Summlears left. Ms. Henderson drove to a parking lot and used her phone. (Day 5, p 120, ls. 12-17). She then drove to a gas station and picked Ms. Summlears back up at Clark County

Detention Center. She drove to Jack in the Box on Main Street. They bought food and returned to Circus Circus Manor. (Day 5, p. 120, l. 25).

Christopher Gutierrez testified that he works for the City of Henderson Police Department as a detective. On August 8, 2018, he was assigned to place a tracking device on the Mercury Grand Marquis in question with Detective Stier. (Day 5, p. 123, ls. 21-25, p. 124, ls. 3-15). Codefendant's and Appellant's counsels were unable to cross examine Detective Gutierrez about the device and the steps taken to install the device onto the car. (Day 5, p. 127, ls. 22-25, p. 128, ls. 1-18).

After the tracking devise was installed, Detective Lippisch confirmed it was active and ended surveillance on the Mercury Grand Marquis. (Day 5, p. 130, ls. 21-25). On August 9, 2018 at 9:14 am, Detective Lippisch received a notification on his phone that the Mercury Grand Marquis was moving with a link of an online map showing the car's location and movement. (Day 5, p. 131, ls. 3-25, p. 134, ls. 8-10). From the tracker, Detective Lippisch saw that the car went from Circus Circus Manor to westbound Sahara and pulled into a business area. He pulled up google map and saw that the car was close to a Bank of the West and a Nevada State Bank. (Day 5, p. 134, ls. 21-25, p. 135, ls. 1-25). The detective, with the assistance of the tracking device and google map, tracked the car to a gas station, then to Sterling Sahara Apartments at 1655 East Sahara Avenue. It was at the apartment is where they then got a visual. (Day 5, p. 140, ls. 18-25, p. 141, ls. 1-

11). The car was there for twenty three minutes. Detective Lippisch looked up the location on google map and saw that there is a U. S. Bank within a Smith's Food and Drugs nearby. (Day 5, p. 144, ls. 14-25). When asked if Google map is always right, Detective Lippisch answered that when he used it, it had always been accurate. However, he can't testify if it's always going to be right or not. (Day 5, p. 147, ls. 4-7). From the Sterling Sahara Apartments at 1655 East Sahara Avenue, the maroon or red Mercury Grand Marquis went eastbound on Sahara, turned around at McLeod and headed towards Maryland Parkway. (Day 5, p. 148, ls. 11-15). The car then headed south on Maryland Parkway, then right before Desert Inn, turned around and headed northbound. (Day 5, p. 149, ls. 14-20). The car then turns westbound onto East Franklin right before Charleston. (Day 5, p. 152, ls. 10-13). From East Franklin, the car went northbound on South Eighth Street. South Eighth Street turned into Park Paseo at Charleston. (Day 5, p. 149, ls. 21-25, p. 152, ls. 16-22). From Park Paseo, the car turned eastbound on Garces and turned right into an alley between Eighth and Ninth Streets. (Day 5, p. 152, ls. 21-25). Using google map, Detective Lippisch saw that the car was close to U. S. Bank on 801 East Charleston Avenue. (Day 5, p. 149, ls. 23-25, p. 150, ls. 1-3, p. 151, ls. 9-10). The car was actually located behind 626 South Nineth Street and was there for eight minutes. (Day 5, p. 154, ls. 12-14, p. 155, ls. 3-7). The car then went to 705 East St. Louis Avenue. (Day 5, p. 155, ls. 15-17). Appellant, Codefendant, Sabrina

Henderson, and Melissa Summlears were arrested. (Day 5, p. 157, ls. 15-17). The shirt Appellant was wearing had make up stains around the collar. (Day 5, p. 161, ls. 10-12). When Appellant was arrested, he had make up on his face, hiding his tattoos. (Day 5, p. 161, ls. 15-23).

On cross examination, Codefendant's counsel attempted to question Detective Lippisch regarding the tracker. When the State objected, the trial court called counsel to the bench and the questioning regarding the tracker stopped. (Day 5, p. 168, ls. 16-21). On cross examination by Appellant's trial counsel, Detective Lippisch explained that the tracker worked by satellite but he's not an expert on the actual mechanics of the device. (Day 5, p. 175, ls. 11-14).

The trial court placed on record outside the presence of the jury that Appellant's trial counsel had wanted to cross examine regarding the location of the tracker device. The State objected because they didn't want criminals to learn how trackers are used by the police. (Day 5, p. 268, ls. 8-25).

Jeff Smith testified that he was a senior crime scene analyst with the Las Vegas Metropolitan Police Department. He was called to process a scene on August 9, 2018 at 606 Bonita Avenue. He took photos of money strewn around the back yard. (Day 5, p. 221, ls. 12-16). Then he went to 701 East St. Louis Avenue where he took photographs of more loose bills. (Day 5, p. 225, ls. 14-24). He also took photographs of people taken into custody pursuant to the August 9, 2018

robbery. He testified that Appellant was not compliant and refused to let his pictures be taken. (Day 5, p. 230, ls. 5-13). He then went to U.S. Bank at 801 East Charleston. He took photos and took latent fingerprints off of the two teller windows, the counters, and the entrance/exit. (Day 5, p. 232, ls. 8-14).

Christopher Worley testified that he's a detective with the City of Henderson Police Department. (Day 6, p. 35, ls. 13-16). He was asked to help with surveillance on a Mercury Grand Marquis. He was told by Detective Lippisch that the car was at 2540 South Maryland Parkway on August 9, 2018. (Day 6, p. 36, ls. 4-8, ls. 16-21, p. 38, ls. 3-10, 23-25, p. 39, l.1). He saw Appellant and Codefendant walk to the entrance of Smith's Food and Drugs, where a U.S. Bank was located within, and look around. (Day 6, p. 41, ls. 8-19). Then they walked to a Chase bank then back towards the entrance of Smith's and then around to the back of Smith's. (Day 6, p. 48, p. 1-13). He was told that the car was leaving and eventually arrived at 801 East Charleston Avenue. (Day 6, p. 49, ls. 12-15). When he arrived at the location, he saw Appellant and Codefendant walk into the U.S. Bank at 801 East Charleston Avenue. (Day 6, p. 50, ls. 2-10). He parked the car around the corner. (Day 6, p. 51, ls. 22-25). From his parked car, a couple of minutes later, Detective Worley saw Appellant and Codefendant run out of U.S. Bank and cross over Gass Avenue. (Day 6, p. 52, ls. 20-25). He stayed where he was and then learned that the car was on Bonneville Avenue. (Day 6, p. 53, ls. 12-

17). He followed the car to 705 St. Louis and watched Appellant and Codefendant run out the back of the car. (Day 6, p. 55, ls. 11-16). While on St. Louis, he saw Apellant running. So he drove towards Bonita, got out of the car, and drew his gun on Appellant as Appellant was coming over a wall and holding a yellow bag. (Day 6, p. 56, ls. 16-25, p. 57, ls. 1-5). When Detective Worley ordered Appellant to stop, Appellant jumped back over the wall. (Day 6, p. 57, ls. 2-10). Detective Worley jumped over the wall in pursuit and saw the yellow bag with money spilt from it on the ground. (Day 6, p. 61, ls. 10-14). He stayed with the money until metro took custody. (Day 6, p. 62, ls. 5-10).

Will Hubbard testified that he's a detective with the Las Vegas Metropolitan Police Department. He was part of the surveillance team for the Mercury Grand Marquis on August 9, 2018. He responded to 2540 South Maryland Parkway on that day. He saw the two suspects walk from the front of Smith's to Chase Bank. (Day 6, p. 78, ls. 7-9). Then they walked back to the Smith's to Sterling Apartments where the address is located. (Day 6, p. 78, ls. 16-23). The car started moving and he followed the car to 801East Charleston. (Day 6, p. 80, ls. 15-19). He watched the two suspects walk into the bank and run out a short time later carry a yellow bag. (Day 6, p. 83, ls. 1-5).

Joseph Ebert testified that he was a detective with the City of Henderson. On August 8, 2018, he went to Aviator Suites at 4244 North Las Vegas Boulevard to

confirm the location of a photo posted by Codefendant on Facebook. (Day 6, p. 94, ls. 5-24). While at Aviator Suites, he saw the suspect vehicle arrive and Appellant, Codefendant and Sabrina Henderson exit the car. (Day 6, p. 95, ls. 23-25). They went into an apartment upstairs and then Codefendant exited the upstairs apartment and entered a downstairs apartment downstairs. (Day 6, p. 97, ls. 17-20). They took property out of both apartments and left in the Mercury Grand Marquis. (Day 6, p. 98, ls. 10-25). He followed the car to Circus Circus. (Day 6, p. 100, ls. 23-25, p. 101, l. 1). He went to Aviator Suites on August 9, 2018 and found that Codefendant and someone named Vidal rented apartments 142 and 242. (Day 6, p. 102, ls. 5-21). He then went to 2540 South Maryland Parkway because he was told that the car was there and saw the red Mercury Grand Marquis. (Day 6, p. 103, ls. 20-25, p. 104, ls. 9-10, 23-25). He saw Appellant and Codefendant exit from the car and walk towards Smith's. (Day 6, p. 105, ls. 23-25, p. 106, ls. 1-8). He watched them walk to the front of the Smith's, stand there talking to each other for a minute, walk into Smith's and walk out. (Day 6, p. 107, ls. 17-25). As they walked to Chase, Detective Ebert drove to where the red or maroon Mercury Grand Marquis was parked. He saw that Appellant and Codefendant walked back to the car and followed them to the backside of U.S. Bank at 801 East Charleston Avenue right outside of the alley the car turned in. (Day 6, p. 109, ls. 7-16). He watched Melissa Sommlear walk out of the alley towards the bank and then walk

back into the alley. (Day 6, p. 111, ls. 10-19, p. 113, ls. 1-9). He saw Appellant and Codefendant walk out of the alley towards the bank. (Day 6, p. 113, ls. 9-13). He then saw them running to the backside of the bank. (Day 6, p. 115, ls. 16-25). He saw them get back into the car. (Day 6, p. 142, ls. 22-24). He drove across Charleston, up Gass, right on Ninth Street looking for the car. (Day 6, p. 116, ls. 2-6). Right when he got to Ninth Street, the car passed in front of him and he pulled behind the car. (Day 6, p. 116, ls. 17-25). (Day 6, p. 116, ls. 3-20). He called for back up and a patrol car responded. The Mercury Grand Marquis was stopped at 705 St. Louis. (Day 6, p. 120, ls. 20-23). He saw two men got out the back and ran off. (Day 6, p. 120, ls. 24-25, p. 121, l. 1, 6-10). He took the driver, Sabrina Henderson and the front passenger, Melissa Sommlear into custody. (Day 6, p. 121, l. 25, p. 122, ls. 1-5). He looked into the red or maroon Mercury Grand Marquis and saw a hand gun on the rear floor board on the driver's side. (Day 6, p. 122, ls. 15-18).

He went back to Aviator Suites and interviewed Jasmine Moorehead and Jakari Miller. (Day 6, p. 123, ls. 11-15). Mr. Miller sent Detective Ekert a video via email. (Day 6, p. 123, ls. 18-20, p. 124, ls. 6-9). The video depicted a man similar in description to Codefendant, wearing a black and white wig and a dress. (Day 6, p. 142, ls. 22-25, p. 143, ls. 1-5).

David Brooks testified that he works for Las Vegas Metropolitan Police Department assigned to the air unit. (Day 6, 146, ls. 18-25). On August 9, 2018, he received a call to assist with a robbery at U.S. Bank at 801 East Charleston. (Day 6, p. 149, ls. 13-16). He located the red or maroon Mercury Grand Marquis around St. Louis Street and saw two suspects running from the car. (Day 6, p. 150, ls. 17-25, p. 151, ls. 1-2, p. 153, ls. 11-14).

Lee Damschen testified that he worked for Las Vegas Metropolitan Police Department as a police officer. (Day 6, p. 160, ls. 17-20). He was called to respond to a robbery of U.S. Bank at 801 East Charleston and to locate a red or maroon Mercury Grand Marquis He eventually ended up at 705 St Louis Street on August 9, 2018. (Day 6, p. 164, 13-15, 22-25, p. 165, ls. 1-3). He saw two black males jump out of the backseat from the driver's side. (Day 6, p. 165, 4-9). He saw that one of the men had a yellow bag in his hand. (Day 6, p. 166, ls. 1-4).

Brian Farrington testified that he worked for Las Vegas Metropolitan Police Department as a police officer. On August 9, 2018, he was called to the robbery at U.S. Bank at 801 East Charleston and ended up establishing perimeter at Eighth Street and Canoso to watch for the suspects. (Day 6, p. 175 ls. 21-25). By then, the red or maroon Mercury Grand Marquis had already been stopped and the suspects fled. (Day 6, p. 171, ls. 21-25). He saw a black male running north across Canosa.

(Day 6, p. 172, ls. 20-23). He took Codefendant into custody. (Day 6, p. 184, ls. 3-12).

Manuel Papazian testified that he worked for Las Vegas Metropolitan Police Department as a police officer. He responded to the robbery at U.S. Bank at 801 East Charleston. He drove to where the red Mercury Grand Marquis was stopped. (Day 6, p. 188, ls. 12-25). He then drove eastbound on St. Louis looking for the suspects. He apprehended one of the suspects later identified as Appellant. He noticed Appellant had make up on his face. (Day 6, p 195, ls. 1-3). While being handcuffed, Appellant's face touched the hood of Officer Papazian's patrol car and left make up marks on the hood. (Day 6, p.196, ls. 1-5). Officer Papazian testified that he spoke to Appellant in the car and told him they know who he was. Appellant didn't give his name. (Day 6, p. 197, ls. 19-24). Officer Papazian testified that while they were in the patrol car, Appellant volunteered that the two females in the Mercury Grand Marquis didn't know anything. (Day 6, p. 199, ls. 18-25, p. 200, ls. 8-13). Officer Papazian didn't read him the Miranda warning. (Day 6, p. 201, ls. 4-7).

Stephan Parrish testified that he worked for Las Vegas Metropolitan Police Department as a police officer. (Day 6, p. 201, ls. 17-25). On August 9, 2018, he responded to the robbery at U.S. Bank on 801 East Charleston. (Day 6, p. 202, ls.

9-14). He located the money along the path the suspects were seen to have gone in the area of 701 St. Louis. (Day 6, p. 203, ls. 1-4, p. 204, ls. 8-21).

David Miller testified that he was a detective at the Las Vegas Metropolitan Police Department. (Day 6, p. 210, ls. 14-17). He took custody of the money found at 606 Bonita and 701 St Louis. (Day 6, p. 211, ls. 7-24). On cross examination by Appellant's trial counsel, Detective Miller testified that he did not get the owner's permission to enter 606 Bonita or 701 St. Louis nor interview the occupants regarding the money found in the backyards of both addresses. (Day 6, p. 216, 15-25, p. 217, ls. 13-25, p. 218, ls. 1-3).

In the seventh day of the trial, the State moved to amend the information to include the name, Vincent Rotolo to Count 20 to replace "unnamed customer." (Day 7, p. 8, ls. 16-25, p. 9, ls. 1-15). The State also moved to amend the information to change the listed dates on page two, line four from "between July 17, 2018 to August 6, 2018" to "between July 17, 2018 to August 9, 2018." No objection by Appellant or Codefendant's counsels and the information was amended. (Day 6, p. 9, ls. 16-25).

Terry Dycus testified that he was the property manager at Aviator Suite. (Day 7, p. 83, ls. 8-10). He testified that Codefendant rented out room 242 and Mr. Holman rented out room 142. (Day 7, p. 84, ls. 2-14).

Michael Cromwell testified that he worked as a crime scene analyst with the City of Henderson Police Department. On August 9, 2018, he was called to work a scene at Circus Circus, 2080 South Las Vegas Boulevard. Room 2404. (Day 7, p. 93, ls. 20-25, p. 94, ls. 1-7, p. 95, ls. 1-7). He took photographs and impounded a make up bag and a receipt showing Sabrina Henderson rented out the room. (Day 7, p. 96, ls 23-25, p. 97, ls. 1-8, p. 102, ls. 9-14). Then he went to Aviator Suites and took photographs there. (Day 7, p. 102, ls. 15-19). He also took photos of the red or maroon Mercury Grand Marquis. He took a photo of the BB gun on the read floorboard. (Day 7, 110, ls. 13-23). He also impounded the BB gun. (Day 7, p. 111, ls. 2-20). When questioned about the condition of the impounded red or maroon Mercury Grand Marquis, CSI Cromwell testified that the doors, the trunk and the hood were sealed, however, the windows were left opened. (Day 7, p. 118, ls. 3-14).

Roy Wilcox testified that he worked as a forensic scientist for the Metropolitan Police Department. (Day 7, p. 125, ls. 11-15). He testified that he tested a gun impounded pursuant to the robberies. (Day 7, p. 129, ls. 7-11). He testified that the gun worked but there was a leak. (Day 7, p. 135, ls. 19-25, p. 136, ls. 1-20, p. 141, ls. 10-25). On cross examination by Appellant's trial counsel, the BB gun only worked when a new CO2 cartridge was placed in it. (Day 7, p. 142,

ls. 13-25). However, there was a spent cartridge inside when he received the BB gun for testing. (Day 7, p. 132, ls. 19-22).

In rebuttal argument, the State asked the jury to estimate his height from their seated position and write it down. (Day 8, p. 64, ls. 7-21).

IX. Testimony by uncharged accomplices

Jaszman Moorehead testified that she met Codefendant and Vidal Holman eight months prior to trial. Codefendant and Mr. Holman were cousins. (Day 7, p. 12, ls. 15-23, p. 13, ls. 9-11, p. 14, ls. 11-13). She became romantically involved with Mr. Holman and they moved in together at Aviator Suite in mid June of 2018. (Day 7, p. 15, ls. 4-13). They moved into a downstairs apartment, and Codefendant and Jakari moved to an upstairs apartment. (Day 7, p. 15, ls. 23-25, p. 16, ls. 1-12). She met Appellant around July of 2018. (Day 7, p. 16, l. 25, p. 17, ls. 3-5). Appellant was living with Codefendant at the upstairs apartment. (Day 7, p. 17, ls. 22-25, p. l. 1). She noticed Codefendant came into money around the third rent payment. (Day 7, p. 18, ls. 2-25, p. 19, ls. 1-4). She heard Codefendant talk about coming into money from carrying out “licks.” (Day 7, p. 19, ls. 23-25, p. 20, ls. 1-15). She understood “licks” meant robbing people. (Day 7, p. 20, ls. 10-15). She

once saw a picture of Codefendant wearing a wig and women's clothes on Jakari's cellular telephone. (Day 7, p. 20, ls. 16-25, p. 23, ls. 7-10). She noticed Appellant would wear make up to cover up his face tattoos. (Day 7, p. 21, ls. 2-9). When she saw photos of the robbery shown on the new, she asked Codefendant about them. Codefendant told her to not worry about it and that he didn't care if he got caught. (Day 7, p. 25, ls. 3-25, p. 26, ls. 1-4). She had also seen Appellant and Codefendant with a handgun while living at Aviator Suites. (Day 7, p. 27, ls. 23-25, p. 28, ls. 1-12). In the beginning part of August, she knew they had a room at Circus Circus. (Day 7, p. 27, ls. 13-19). The last time she saw Codefendant, he had asked where his gun was, grabbed it, and left with Appellant. (Day 7, p. 27, ls. 23-25, p. 28, ls. 1-7). Before he left, he asked Ms. Moorehead to go with them. When she refused, he told her her life would be over if she told anyone what she knew. (Day 7, p.28, ls. 18-25, p. 29, ls. 1-9). She saw that Codefendant had red pajama pants, gray shirt, and a do-rag. Appellant had a towel around his neck, white shirt and blue jeans. Appellant however, did not have make up on, his tattoos were visible. (Day 7, p. 29, ls. 10-14, p. 43, ls. 7-24). She testified that Appellant owned a red car and that his girlfriend, Sabrina or "Sweet Pea" would ride with him a great deal in the car. (Day 7, p. 30, ls. 3-15). And on the last day she saw them, they all left in Appellant's red car. (Day 7, p. 30, ls. 16-20). The State then showed her photographs and videos from the three robberies and she identified Appellant and

Codefendant in all of them. (Day 7, p. 31-39). On cross, Ms. Moorhead described her boyfriend Mr. Holman as tall, thin, light skinned black man. (Day 7, p. 44, ls. 10-19). On cross examination with Appellant's trial counsel, Ms. Moorehead testified that she had seen Appellant with money laying down on the floor once. (Day 7, p. 50, ls. 9-18). Appellant was placing money on Sabrina Henderson and taking photos of her. (Day 7, p. 54, ls. 14-23).

Vidal Holman testified that he's known Codefendant for eight years. (Day 7, p. 62, ls. 2-6). He refers to Codefendant as his counsin. (Day 7, p. 62, ls. 7-8). He testified that he met Ms. Mooreland around June of 2018. (Day 7, p. 63, ls. 21-23). He testified that they moved to a downstairs apartment at Aviator Suites around July of 2018. (Day 7, p. 64, ls. 22-25, p. 65, ls. 1-2). Codefendant lived in the apartment upstairs from them. (Day 7, p. 65, ls. 3-5). Around July and August, he knew that Codefendant had a job as a nurse. (Day 7, p. 66, ls. 16-22). Codefendant started to pay for Mr. Holman's rent the second week they moved in. (Day 7, p. 68, ls. 22-25, p. 69, 1-3). The State then showed Mr. Holman, photographs and videos from the robberies and he identified Appellant, Codefendant, as well as the red or maroon Mercury Grand Marquis in all of them. (Day 7, p. 73, ls. 1-25, p. 75, ls. 8-25, p. 76, ls. 1-1-4, 18-25, p. 77-78). On cross examination by Appellant's trial attorney, Mr. Holman testified that he found an air soft gun and kept it in his apartment. (Day 7, p. 80, ls. 12-25).

X. Appellant's sentencing and resentencing

On Appellant's sentencing on January 29, 2019, Judge Smith instead of Judge Adair, the trial judge presided over the sentencing. Appellant's trial counsel objected to sentencing on that day because Appellant just got to review it on the same date and found inaccuracies in his criminal record. (Sent. trans. P. 4, ls. 15-17). Judge Smith responded that he's not taking Appellant's criminal record into consideration. (Sent. Trans. P. 4, ls. 18-20). Appellant objected to the sentencing because he found social security numbers listed that weren't his. (Sent. Trans. P. 7, ls. 9-11). Appellant also objected because there were misdemeanor convictions and fugitive charges attributed to him that should not have been. (Sent. Trans. P. 8, ls. 6-9). Appellant's trial counsel renewed his objection for sentencing and requested a continuance to correct the Presentencing Investigation Report. (Sent. Trans. P. 8, ls. 18-25). Appellant's trial counsel also pointed out that Judge Adair should preside over the sentencing because the trial took two weeks and included fifty plus witnesses. He asked for the trial judge to preside over the sentencing because the trial judge would be more knowledgeable regarding the case. (Sent. Trans. p. 8, l. 25, p. 9, ls. 1-4). Appellant further objected because he needed more time to review and understand the PSI since he's only had a third grade education level. (Sent. Trans. p. 9, ls. 16-20).

The State spoke up and pointed out that Appellant and Codefendant have invoked their speedy trial rights. While he called it a strategy, by asking the sentencing judge to not grant a continuance because both Appellant and Codefendant had exercised their right to trial and right to a speedy trial. The State asked the sentencing court to punish the Appellant the same way the Appellant had "punished" the State by exercising his right to a speedy trial. (Sent. Trans. p. 9, ls. 21-25, p. 10, ls.1-2). The State then went into further detail about how Appellant and Codefendant exercised their right to a speedy trial. (Sent. Trans. p. 10, ls. 12-25, p. 11, 1-12). The sentencing judge responded by pressing on with the sentencing. (Sent. Trans. P. 11, ls. 15-16).

Codefendant's counsel at sentencing argued that his client should not be penalized for exercising his right to trial because he was forced to go to trial by Appellant refusing to take the contingent offer. (Sent. Trans. p. 22, ls. 23-25, p. 23, ls 1-8). Appellant was sentenced to 364 days in the Clark County Detention Center for Count one, count 2, concurrent 12 to 48 months in department of Corrections, count 3, a concurrent 36 to 120 months, count 4, robbery with use, 36 to 120 plus 36 to 120, consecutive, concurrent to counts 1, 2, and 3, count 5, 26 to 120 months, concurrent to count 4, count 5, 36 to 120 months, concurrent to count 4, count 6, consecutive 36 to 120 plus 36 to 120 for robbery with use, count 7, 36 to 120 for robbery with use, consecutive, count 8, 36 to 120 concurrent, count 9, robbery with

use, 36 to 120 months, plus 36 to 120 months, count 10, a consecutive 36 to 120 months plus 36 to 120 months, count 11 36 to 120 months concurrent to the consecutive times, count 12, 36 to 120 plus 36 to 120 for robbery with use, consecutive to the other robbery with the use, 1, 2, 3, 4, 5; count 13, robbery with the use, 36 to 120, plus 36 to 120 consecutive to the other robberies, count 14, 36 to 120, count 15, 36 to 120, both concurrent to the consecutive time, count 16, 36 to 120 plus 36 to 120 for the robbery with the use, consecutive to the other robberies with the use, count 17, 36 to 120 plus 36 to 120 consecutive to the other robberies with the use, count 18, 12 to 48 months, count 19, 12 to 48 months concurrent, count 20, 12 to 48 months, concurrent, count 21, 12 to 48. 174 days credit for time served. Appellant was sentenced as habitual criminal and given life without the possibility of parole. (Sent. Trans. P. 26, ls. 17-25, p. 27-28). The sentencing court failed to sentence Appellant on count 22.

On February 22, 2019, sentencing judge sentenced Appellant on count 22 to 12-48 concurrent to all other counts. (Sent. Trans. p. 3, ls. 16-20). Also, on State's motion, sentencing court struck the sentences imposed on counts 3 and 4 because Appellant wasn't named on the information for those counts. (Sent. Trans. p. 3, 20-25). And the State further requested that as to the burglary while in possession counts, for Appellant to be adjudicated under the violent habitual criminal statute and to run concurrent with the other counts. (Sent. Trans. P. 4, ls. 2-12).

Summary of the Argument

Trial court erred by agreeing with the State to punish the Appellant for exercising his speedy trial rights by not delaying with his sentencing and proceeding even though Presentencing Investigation Report contained inaccuracies. Trial court erred by stating that he wasn't going to base his sentencing decision on Appellant's criminal record, and by failing to state any basis for his decision, the only conclusion left to draw would be that his sentencing decision was not based upon any facts on record.

Trial court erred by failing to sever the four robberies charged by the State. The robberies did not fall under any of the exceptions for inadmissible evidence of prior bad acts, the prejudice from the joinder was greater than any probative value. The spill over effect of boot strapping the evidentiary weaker robberies to the stronger robberies prejudiced Appellant.

Trial court erred by failing to sever the Appellant's case from Codefendant's case because evidence was stronger for conviction for Codefender's charges. Appellant's was forced to be tried with the jury hearing Codefendant's lone robbery on July 17, 2018. More victims identified Codefendant at the robberies. The three finger print matches at two of the robberies came back as a match to Codefendant. Codefendant's defense was antagonistic to Appellants. This was

shown when Codefendant picked up where the State left off in convincing trial court to deny Appellant's request for continuance of sentencing because he forced the State to go to trial by invoking his speedy trial right. Codefendant jumped on the bandwagon and pointed out that Codefendant was likewise punished by Appellant' because he refused to take a contingent offer. Codefendant also elicited testimony identifying Appellant for a couple of the robberies from his cross examination of the victims.

Trial court erred by admitting inadmissible character evidence of bad acts, that didn't fall under any exceptions for inadmissible character evidence for prior bad acts, depriving Appellant of a fair trial.

Trial ourt erred by violating Appellant's right to confrontation, by limiting cross examination regarding trackers and google map used in conjunction to trace Appellant's car. By not allowing Appellant's trial counsel to question and challenge the method, mechanics, and reliability of technology and science the State used to gather evidence against Appellant, Appellant's right to confrontation was violated.

Trial Court erred by allowing unqualified experts to testify regarding tracker and google map. The testimonies by law enforcement regarding the use of the tracker and google map in conjunction with the tracker amounted to scientific testimony. The State failed to file a notice of witnesses for those detectives that

testified about the use of trackers. The trial court failed to hold a hearing to determine if they qualify as expert witnesses. The trial court erred by allowing lay witnesses to testify to knowledge within the realm of experts.

The State violated Appellant's right to due process by failing to properly preserved material evidence, when the State impounded the main evidence against Appellant, the red or maroon Mercury Grand Marquis with the windows still opened, destroying what forensic evidence belonging to alternative suspects.

Trial Court erred by allowing the State to amend information after trial started. Failing to serve notice to Appellant as to the identify of the victim in count twenty two and fixing the dates when the robberies occurred. The defects in the information prejudiced Appellant since he was handicapped as to his defense from the lack of notice.

The State failed to present sufficient evidence at trial, with scant, conflicting descriptions of the suspects, suggestive in court identifications, and testimony from uncharged accomplices with motivation to lie.

Appellant's right to a fair trial was violated by cumulative errors, from failure to continue sentencing to correct PSI, basing sentencing decision on facts not on record, to joinder of offenses and Codefendant, admitting inadmissible character evidence of Appellant's traffic offenses, to limiting cross examination regarding tracker and google map reliability and method, to allowing unqualified

experts to testify regarding such technical evidence of tracker and google map, to the State failing to properly preserve material and exculpatory evidence in the form of the red or maroon Mercury Grand Marquis to allowing the State to amend the information on the seventh day of trial.

Argument

I. Trial court erred by agreeing with the State to punish the Appellant for exercising his speedy trial rights by not delaying with his sentencing and proceeding even though Presentencing Investigation Report contained inaccuracies.

A. Standard of Review

"The district court has wide discretion in its sentencing decision. *See Chavez v. State, 125 Nev. 328, 348, 213 P.3d 476 (2000).* We will not interfere with the sentence imposed by the district court "so long as the record does not demonstrate prejudice resulting from consideration of information or accusations founded on facts supported only by impalpable or highly suspect evidence." Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159 (1976)." Holly v. State, Id. at p. 1.

B. Argument

On Appellant's sentencing on January 29, 2019, Appellant's trial counsel objected to sentencing proceeding on that day because Appellant just got to review

it on the same date and found inaccuracies in his criminal record. (Sent. trans. P. 4, ls. 15-17). Judge Smith responded that he's not taking Appellant's criminal record into consideration. (Sent. Trans. p. 4, ls. 18-20). Appellant objected to the sentencing because he found social security numbers listed that weren't his. (Sent. Trans. p. 7, ls. 9-11). Appellant also objected because there were misdemeanor convictions and fugitive charges attributed to him that should not have been. (Sent. Trans. p. 8, ls. 6-9). Appellant's trial counsel renewed his objection for sentencing and requested a continuance to correct the Presentencing Investigation Report. (Sent. Trans. p. 8, ls. 18-25). Appellant further objected because he needed more time to review and understand the PSI since he's only had a third grade education level. (Sent. Trans. p. 9, ls. 16-20).

The State spoke up and pointed out that Appellant and Codefendant have invoked their speedy trial rights. While he called it a strategy, by asking the sentencing judge to not grant a continuance because both Appellant and Codefendant had exercised their right to trial and right to a speedy trial. The State asked the sentencing court to punish the Appellant the same way the Appellant had "punished" the State by exercising his right to a speedy trial. (Sent. Trans. p. 9, ls. 21-25, p. 10, ls.1-2). The State then went into further detail about how Appellant and Codefendant exercised their right to a speedy trial. (Sent. Trans. p. 10, ls. 12-

25, p. 11, 1-12). The sentencing judge responded by pressing on with the sentencing. (Sent. Trans. P. 11, ls. 15-16).

Codefendant's counsel at sentencing argued that his client should not be penalized for exercising his right to trial because he was forced to go to trial by Appellant refusing to take the contingent offer. (Sent. Trans. p. 22, ls. 23-25, p. 23, ls 1-8). Appellant was sentenced to 364 days in the Clark County Detention Center for Count one, count 2, concurrent 12 to 48 months in department of Corrections, count 3, a concurrent 36 to 120 months, count 4, robbery with use, 36 to 120 plus 36 to 120, consecutive, concurrent to counts 1, 2, and 3, count 5, 26 to 120 months, concurrent to count 4, count 5, 36 to 120 months, concurrent to count 4, count 6, consecutive 36 to 120 plus 36 to 120 for robbery with use, count 7, 36 to 120 for robbery with use, consecutive, count 8, 36 to 120 concurrent, count 9, robbery with use, 36 to 120 months, plus 36 to 120 months, count 10, a consecutive 36 to 120 months plus 36 to 120 months, count 11 36 to 120 months concurrent to the consecutive times, count 12, 36 to 120 plus 36 to 120 for robbery with use, consecutive to the other robbery with the use, 1, 2, 3, 4, 5; count 13, robbery with the use, 36 to 120, plus 36 to 120 consecutive to the other robberies, count 14, 36 to 120, count 15, 36 to 120, both concurrent to the consecutive time, count 16, 36 to 120 plus 36 to 120 for the robbery with the use, consecutive to the other robberies with the use, count 17, 36 to 120 plus 36 to 120 consecutive to the other

robberies with the use, count 18, 12 to 48 months, count 19, 12 to 48 months concurrent, count 20, 12 to 48 months, concurrent, count 21, 12 to 48. 174 days credit for time served. Appellant was sentenced as habitual criminal and given life without the possibility of parole. (Sent. Trans. P. 26, ls. 17-25, p. 27-28). On February 22, 2019, sentencing judge sentenced Appellant on count 22 to 12-48 concurrent to all other counts. (Sent. Trans. p. 3, ls. 16-20). Also, on State's motion, sentencing court struck the sentences imposed on counts 3 and 4 because Appellant wasn't named on the information for those counts. (Sent. Trans. p. 3, 20-25). And the State further requested that as to the burglary while in possession counts, for Appellant to be adjudicated under the violent habitual criminal statute and to run concurrent with the other counts. (Sent. Trans. P. 4, ls. 2-12).

The Nevada Supreme Court in Blankenship v. State, 132 Nev.Adv.Rep. 50, 375 P.3d 407 (2016) held that trial court erred by not correcting the Presentencing Investigator Report before sentencing. As a result, his PSI recommended prison time. Defendant objected at sentencing to the mistake in the PSI and trial court failed to correct the PSI. The trial court sentenced him to 12-32 months in Nevada Department of Corrections. The Nevada Supreme Court reasoned that by failing to correct the PSI, the PSI recommendation relied on faulty calculations, which constituted impalpable and highly suspect evidence and remanded the case for defendant to be resentenced.

Here, Appellant had asked for a number of inaccuracies in his PSI so he could be sentenced on accurate information. Instead, the sentencing court commented that he wasn't going to rely on Appellant's criminal record and proceeded to sentence Appellant to life without the possibility of parole for being a habitual criminal. Per Blankenship, Appellant's case should be remanded back to trial court for a new sentencing hearing.

The Court in Holley v. State, 2019 Nev. App. Unpub. Lexis 269, 2019 WL 1277497 held that trial court erred when it based its sentencing on information not supported by the record. Defendant in Holley left a note threatening to kill a politician. At sentencing, the trial court commented on how defendant broke into the politician office and mass shootings. In ruling for defendant, the Court reasoned that because the only evidence in the record is that defendant left a threatening court, the rest of trial court's comments wasn't supported by the record. Thus, the sentence was a result of prejudice from consideration of facts supported only by impalpable or highly suspect evidence. The Court remanded defendant's case for resentencing.

Here, by commenting that he's not planning to base Appellant's sentencing on Appellant's criminal record, sentencing court admitted that he's basing his sentencing decision facts not on record and instead, on impalpable and highly

suspect evidence per Blankenship. Thus, Appellant's case should be remanded for a sentencing hearing.

After Appellant was sentenced, the State placed the matter back on calendar even though trial court no longer had jurisdiction over Appellant's case. At the second sentencing, State asked the trial court to strike the sentences imposed for counts three and four because Appellant wasn't charged with those counts and to sentence Appellant on count 22 to 12-48 concurrent to all other counts. (Sent. Trans. p. 3, ls. 16-20). And the State further requested that as to the burglary while in possession counts, for Appellant to be adjudicated under the violent habitual criminal statute and to run concurrent with the other counts. (Sent. Trans. P. 4, ls. 2-12).

The Court in Bryant v. State, 435 P.3d 1230 (2019) held that trial court erred by resentencing defendant to a higher sentence. The State moved for sentencing reconsideration and claimed it mistakenly thought it didn't have supporting records for habitual criminal treatment at sentencing. Trial court increased the sentence to five to fifteen years. Defendant filed a motion for reconsideration, arguing that trial court lack jurisdiction. Trial court denied defendant's motion. The court ruled for defendant and reasoned that "[trial] court only had jurisdiction to modify the sentence if it was based on a mistake of fact about Bryant's criminal history that worked to his extreme detriment." *Citing to Edwards v. State, 112 Nevada 704,*

708, 918 P.2d 321 (1996). It could not modify the sentence based on mistakes that may have worked to the State's detriment." Id. The Court remanded defendant's case for resentencing.

Here, because trial court no longer had jurisdiction over Appellant's case, it erred by giving Appellant a higher sentence. Thus, this Court should remand Appellant's case for resentencing.

The Court in Clark v. State, 109 Nev. 426, 851, P.2d 426 (1993) held that trial court erred by failing to adjudicate defendant as a habitual criminal before sentencing him as a habitual criminal. In Clark, the jury found defendant guilty of failure to appear. At sentencing, the trial court found the allegations of being a habitual criminal to be true. The Court ruled that finding the allegations of habitual criminal status to be true is not the same as adjudication of the allegation of habitual criminal status. Further, the Court found that the trial court may not have realized that habitual criminal adjudication was discretionary. Trial court failed to make a record of why it would be just and proper for defendant to be punished as a habitual criminal. The Court remanded defendant's case to be resentenced.

Here, trial court failed to state Appellant was adjudicated as habitual criminal. Trial court only acknowledged that the State had submitted certified copies of Judgment of Conviction. (Sent. Trans. p. 7, l. 21) and asked whether State wanted him to sentence Appellant as a habitual. (Sent. Trans. p. 28, ls. 16-

17). Per Clark, since trial court never adjudicated Appellant as a habitual criminal, Appellant's case should be remanded for a resentencing.

When Appellant asked the court for a continuance, the State spoke up and pointed out that Appellant and Codefendant have invoked their speedy trial rights. While he called it a strategy, by asking the sentencing judge to not grant a continuance because both Appellant and Codefendant had exercised their right to trial and right to a speedy trial. The State asked the sentencing court to punish the Appellant the same way the Appellant had "punished" the State by exercising his right to a speedy trial. (Sent. Trans. p. 9, ls. 21-25, p. 10, ls.1-2). The State then went into further detail about how Appellant and Codefendant exercised their right to a speedy trial. (Sent. Trans. p. 10, ls. 12-25, p. 11, 1-12). The sentencing judge responded by pressing on with the sentencing and sentencing Appellant to life without the possibility of parole. (Sent. Trans. P. 11, ls. 15-16).

"It is well established that a sentencing court may not punish a defendant for exercising his constitutional rights and that vindictiveness must play no part in the sentencing of a defendant." Sorter v. State, 2016 Nev. App. Unpub. Lexis 29, 2016 WL 1615679 (2016) *citing to Mitchell v. State, 114 Nev. 1417, 1428, 971 P.2d 813 (1998), overruled on other grounds by Sharma v. State, 118 Nev 648, 655, 56 P.3d 868 (2002) and Rosky v. State, 121 Nev. 184, 190, 111 P.3d 690 (2005).* "The

defendant has the burden to provide evidence that the district court sentenced him vindictively. *Citing to Rosky*.

During Appellant's request for a continuance because PSI had mistakes in his criminal record, trial court commented that he will not base his sentencing decision on Appellant's criminal record. After the State asked the trial court to not grant Appellant a continuance because Appellant insisted on speedy trial, the trial court denied Appellant the continuance and sentenced Appellant to life without parole as a habitual criminal. The trial court failed to state any basis for his decision other than the sentencing won't be based on Appellant's incorrect criminal record. Absent any showing on record that trial court's basis for the most extreme sentence of life without possibility of parole was based on facts on record, after denial of his motion to continue, the only conclusion is that Appellant was punished for exercising his speedy trial right. Per Sorter, Mitchell, and Rosky Appellant requests this Court to remand his case for a new sentencing hearing.

II. Trial Court erred by failing to sever the four robberies

A. Standard of Review

"Generally, a party's failure to object to or request an instruction precludes appellate review. Flanagan v. State, 112 Nev. 1409, 1423, 930 P.2d 691 (1996); Green v. State, 119 Nev. 542, 545, 80 P.3d 93 (2003) (failure to clearly object to a

jury instruction generally precludes review). There is an exception to this rule, however, if a plain and obvious error occurred that is so serious, it affected the defendant's substantial rights. Green, 119 Nev. at 545. "In conducting plain error review, we must examine whether there was 'error,' whether the error was 'plain' or clear, and whether the error affected the defendant's substantial rights." Id. To demonstrate plain error, the appellant has the burden of demonstrating actual prejudice. Id. "A necessary antecedent to invoking the plain error doctrine is to determine whether error occurred at all." People v. Walker, 2012 IL App (2d) 110288, 982 N.E.2d 269, 273, 367 Ill. Dec. 591 (Ill. App. Ct. 2012); see also Archanian v. State, 122 Nev. 1019, 1031, 145 P.3d 1008 (2006)(the first step in conducting plain error analysis is to consider whether an error exists)."

B. Argument

The Court in Tabish v. State, 119 Nev. 293, 72 P.3d 584 (2003) held that trial court erred by failing to sever charges. The State charged defendant in Tabish with charges relating to three separate incidents. First was the robbery and murder of Ted Binion. Second was the removal of silver from an underground vault in Pahrump. Third was the kidnapping, beating, and extortion of Leo Casey. Jury found defendant guilty of all charges. Defendant appealed and argued that the joinder of charges was prejudicial and deprived him of a fair trial. The Court ruled for defendant and reasoned that the Binion counts and the Casey counts weren't

similar enough to be admissible under common scheme or plan. The joinder wasn't for judicial economy because codefendants from the Casey incident had their own separate trials. The two incidents weren't part of the same story because an ordinary witness can describe the act in controversy or the crime charged without referring to the other act or crime. The Court also found that the two incidents weren't cross admissible because the prejudice outweighed any probative value. For the reasons state, the Court reversed the convictions of the counts from the Binion incident because of prejudice from the joinder. However, the Court affirmed the convictions of the counts from the Casey incident because the prejudicial effect from the joinder was harmless.

While Tabish Court arrived at its decision under the abuse of discretion standard and the applicable standard of review here in plain error, Tabish still applies. The five robberies weren't similar enough to be admissible under common scheme or plan or identity. The joinder was for the sake of judicial economy, however, it was outweighed by the resulting prejudicial value. The five incidents weren't part of the same story because an ordinary witness can describe the act in controversy or the crime charged without referring to the other act or crime. The Court also found that the five incidents weren't cross admissible because the prejudice outweighed any probative value. Per Binion, and under the plain error analysis, even with Appellant's failure to object, the error from the joinder of

robbery charges was a plain and obvious error. The error from the joinder was so serious, it affected Appellant's substantial due process rights. Per Tabish, Appellant requests this Court to reverse his convictions and sever the counts from each five robberies.

III. Trial Court erred by failing to sever Defendant's trial from Codefendant's

A. Standard of Review

"Generally, a party's failure to object to or request an instruction precludes appellate review. Flanagan v. State, 112 Nev. 1409, 1423, 930 P.2d 691 (1996); Green v. State, 119 Nev. 542, 545, 80 P.3d 93 (2003) (failure to clearly object to a jury instruction generally precludes review). There is an exception to this rule, however, if a plain and obvious error occurred that is so serious, it affected the defendant's substantial rights. Green, 119 Nev. at 545. "In conducting plain error review, we must examine whether there was 'error,' whether the error was 'plain' or clear, and whether the error affected the defendant's substantial rights." Id. To demonstrate plain error, the appellant has the burden of demonstrating actual prejudice. Id. "A necessary antecedent to invoking the plain error doctrine is to determine whether error occurred at all." People v. Walker, 2012 IL App (2d) 110288, 982 N.E.2d 269, 273, 367 Ill. Dec. 591 (Ill. App. Ct. 2012); see also

Archanian v. State, 122 Nev. 1019, 1031, 145 P.3d 1008 (2006)(the first step in conducting plain error analysis is to consider whether an error exists).

B. Argument

"NRS 174.165 provides that a defendant is entitled to a severed trial if he presents a sufficient showing of facts demonstrating that substantial prejudice would result from a joint trial. Generally, "where persons have been jointly indicted they should be tried jointly, absent compelling reasons to the contrary." The ultimate issue for a court is "whether the jury can reasonably be expected to compartmentalize the evidence as it relates to separate defendants. Further, a court making this decision "must consider not only the possible prejudice to the defendant but also the possible prejudice to the Government resulting from two time consuming, expensive and duplicitous trials." Rowland v. State, 118 Nev. 31, 44, 39 P.3d 114 (2002).

The error was the joinder of Appellant's charges with Codefendant's. The error was plain and clear because Codefendant's defense was antagonistic to Appellant's and the jury could not compartmentalize and clearly separate the evidence against Appellant and Codefendant. Further, there was much more evidence against Codefendant versus Appellant.

Tanya Hiner testified that she is a forensic scientist with the City of Henderson Police Department. She was given prints collected from the four

robberies and asked to make matches. She matched a print from the July 31, 2018, Bank of the West, 701 North Valle Verde robbery. She matched a print from the check writing counter inside of the Bank of the West location to the Codefendant. (Day 4, p. 156, ls. 9-15, p. 159, ls. 24-25, p. 160, ls. 1-2). She also matched a fingerprint taken off of the twistable crayons by CSA Randi Newbold from the robbery on August 6, 2018 at U.S. Bank located inside of Smith's Food and Drug to Codefendant's prints. (Day 4, p. 169, ls. 16-18, Day 5, p. 11, ls. 24-25, p. 12, ls. 1-3). She also matched the prints off of the bank note collected by CSA Newbold from the August 6, 2018 robbery at U.S. Bank and matched the prints to Codefendant. (Day 5, p. 17, ls. 22-24, p. 18, ls.1-25, p. 19, ls. 1-9).

There were no fingerprint matches at any scenes of the robbery, matched to Appellant. Plus, it was Codefendant who posted a photo on facebook with the apartment where he and Appellant were found. But the most convincing evidence of prejudice suffered by Appellant is that Appellant was forced to be tried with a robbery that he wasn't charged with. So the State, by bootstrapping Appellant's counts with Codefendants was able to convict Appellant of all robbery counts by the spillover effect of prejudice from evidence against the Codefendant.

Evidence that Codefendant's defense was antagonistic included Codefendant's counsel pointing out to the sentencing judge that it was Appellant's fault they had to go to trial and invoke their speedy trial rights because Appellant

was the one who didn't want to accept State's contingent offer. As a result, Appellant was sentenced to life without the possibility of parole. (Sent. Trans. p. 22, ls. 23-25, p. 23, ls 1-8). The error of joinder was plain and clear and Appellant's substantial due process rights were prejudiced by the error.

IV. Trial Court erred by allowing inadmissible character evidence be entered into evidence

A. Standard of Review

"Generally, a party's failure to object to or request an instruction precludes appellate review. Flanagan v. State, 112 Nev. 1409, 1423, 930 P.2d 691 (1996); Green v. State, 119 Nev. 542, 545, 80 P.3d 93 (2003) (failure to clearly object to a jury instruction generally precludes review). There is an exception to this rule, however, if a plain and obvious error occurred that is so serious, it affected the defendant's substantial rights. Green, 119 Nev. at 545. "In conducting plain error review, we must examine whether there was 'error,' whether the error was 'plain' or clear, and whether the error affected the defendant's substantial rights." Id. To demonstrate plain error, the appellant has the burden of demonstrating actual prejudice. Id. "A necessary antecedent to invoking the plain error doctrine is to determine whether error occurred at all." People v. Walker, 2012 IL App (2d) 110288, 982 N.E.2d 269, 273, 367 Ill. Dec. 591 (Ill. App. Ct. 2012); see also

Archanian v. State, 122 Nev. 1019, 1031, 145 P.3d 1008 (2006)(the first step in conducting plain error analysis is to consider whether an error exists).

B. Argument

1. First bad act

Officer Raymond Cuevas testified that he worked patrol for Downtown Area Command with the Las Vegas Metropolitan Police Department. (Day 3, p. 236, ls. 14-18). On April 25, 2018 he stopped a maroon colored Grand Marquis at Casino Center and Fremont for method of display. The car didn't have a front license plate. (Day 3, p. 237, ls. 11-25). Anthony Barr was driving the vehicle and Sabrina Henderson was in the front passenger seat. (Day 3, p. 238, ls. 11-18).

2. Second bad act

Officer Grant Okinaka testified that he worked for the Las Vegas Metropolitan Police Department on May 3, 2018. He stopped a Mercury Grand Marquis red or maroon in color on that date. There were two black males and a black female in the car. (Day 3, p. 245, ls. 2-10). He couldn't remember who was driving the vehicle. (Day 3, p. 245, ls. 11-12). Only from the prosecutor's leading question did Officer Okinaka remember that the driver was Anthony Barr and the female passenger was Sabrina Henderson. (Day 3, p. 246, ls. 9-14). He stopped the car because the car either had unregistered plates or didn't have plates at all. (Day 3, p. 246, ls. 19-25). Only from prosecutor's leading question did the jury learn that

not only did the car had unregistered plates but that Appellant didn't have a proper driver's license. (Day 3, p. 249, ls. 4-8).

3. Third bad act

Detective Frank Rycraft testified that he was working as an officer on June 8, 2018. He stopped a red Mercury Grand Marquis for unregistered vehicle with no plates. (Day 3, p. 252, l. 11-14, p. 253, ls. 16-23). Sabrina Henderson was the driver and Anthony Barr was in the back seat. (Day 3, p. 254, ls. 2-17).

4. Fourth bad act

Officer Benjamin Baldassarre testified that on June 12, 2018, he stopped a Mercury Grand Marquis, red or maroon in color. (Day 4, p. 6, ls. 13-21). He stopped the car because it was unregistered. (Day 4, p. 7, ls. 6-8). Anthony Barr was the driver and Sabrina Henderson was the passenger. (Day 4, p. 7, ls. 18-24). He issued a citation for unregistered vehicle, no driver's license and no proof of insurance. (Day 4, p. 9, ls. 3-8).

5. Fifth bad act

Officer Timothy Mcateer testified that on Jun 12, 2018, he assisted Officer Baldassarre on a stop. (Day 4, p. 11, ls. 18-24). The stop was performed upon a red or maroon Mercury Grand Marquis with Anthony Barr as the driver and Sabrina Henderson as the passenger. (Day 4, p. 12, ls. 13-25). The prosecutor asked Officer

Mcateer watch the recording of the stop from his body camera and comment on the condition of the car, the lack of rims and the baldness of the tires. (Day 4, p. 15, ls. 2-7).

B. Argument

Trial court erred by not conducting an Petrocelli hearing to determine if these bad acts are admissible. Even though Appellant did not object to the admissio of these bad acts, the error of admitting them was error. The errors were plain and clear. Appellant suffered prejudice as a result of these error. The bad acts did not fall under any of the exceptions to inadmissible character evidence. Even if the State argued they are relevant as to identity, the trial court failed to determine whether the probative value was outweighed by prejudicial value. The State had in court identifications of Appellant, lessening the evidentiary value of these bad acts and increasing the prejudice.

In Richmond v. State, 118 Nev. 924, 59 P.3d 1249 (2002), the Court held that trial court erred by admitting uncharged alleged victim's testimony of sexual molestation was not admissible character evidence under motive, common scheme or plan, or relevant and not harmless error.

In Diomampo v. State, 124 Nev. 414, 185 P.3d 1031 (2008), this Court held trial court erred by allowing the admission of officer's testimony that

methamphetamine users supported their habits by committing robberies was inadmissible character evidence.

In Taylor v. State, 109 Nev. 849, 858 P.2d 843 (1993), the Court held that witness testimony that a unrelated child had sat on the defendant's lap was inadmissible character evidence because it did not tend to increase or decrease the probability of the existence of any fact necessary to prove that defendant committed the act of lewdness on the victim.

In Roever v. State, 114 Nev. 867, 963 P.2d 503 (1998), the Court held that trial court erred by admitting witnesses testimonies that defendant told her that she had watched her mother murdered in a tub, snapped her baby's neck, scalped an African American schoolgirl and cut out the school girl's teeth during a blackout, and gutted an exbeau; eye witnesses testimonies that defendant attacked her exhusband; killed a classmate, had a personality disorder, had blackouts, drank excessively, neglected her children and tried to kill the witness with a knife, attached a woman in a bar with a cue stick, thief and a liar and bit a witnesses's sister were all inadmissible character evidence because the prejudicial effect outweighed the probative value.

In Rembert v. State, 104 Nev. 680, 766 P.2d 890 (1988), this Court held that prosecutor's impeachment of how defendant was fired from his job was inadmissible character evidence because it was irrelevant.

In Meek v. State, 112 Nev. 1288, this Court remanded because trial court failed to conduct a Petrocelli hearing.

In Hubbard v. State, 134 Nev.Adv.Rep. 54, 422 P.3d 1260 (2018), this Court held that Defendant's burglary conviction was inadmissible character evidence because intent was not at issue.

In all case cited above, because trial court erred by admitting prejudical prior bad acts, the convictions were reversed and remanded for a new trial except for Meeks where the remand was to hold a Petrocelli hearing. Per authorities cites, Appellant's case should be remanded for a Petrocelli hearing and/or a new trial. The error of admission of all these prior bad acts were plain and clear and Appellant suffered prejudiced from the errors.

V. Trial Court erred by violating Appellant's right to confrontation

A. Standard of Review

"To amount to plain error, the "error must be so unmistakable that it is apparent from a casual inspection of the record." Id. (quoting Garner v. State, 116 Nev. 770, 783, 6P.3d 1013 (2000), overruled on other grounds by Sharma v. State, 118 Nev. 648, 56 P.3d 868 (2002). [Defendant] "must demonstrate that the error was prejudicial in order to prove that it affected his substantial rights." Vega v. State, 126 Nev. 332, 334, 236 P.3d 632 (2010)

B. Argument

Christopher Gutierrez testified that he works for the City of Henderson Police Department as a detective. On August 8, 2018, he was assigned to place a tracking device on the Mercury Grand Marquis in question with Detective Stier. (Day 5, p. 123, ls. 21-25, p. 124, ls. 3-15). Codefendant's and Appellant's counsels were unable to cross examine Detective Gutierrez about the device and the steps taken to install the device onto the car. (Day 5, p. 127, ls. 22-25, p. 128, ls. 1-18).

Detective Lippisch testified that he worked for the Henderson Police Department. As part of his investigation, he used the tracker and google map to track the red or maroon Mercury Grand Marquis. When asked if Google map is always right, Detective Lippisch answered that when he used it, it had always been accurate. However, he can't testify if it's always going to be right or not. (Day 5, p. 147, ls. 4-7).

On cross examination, Codefendant's counsel attempted to question Detective Lippisch regarding the tracker. When the State objected, the trial court called counsel to the bench and the questioning regarding the tracker stopped. (Day 5, p. 168, ls. 16-21). On cross examination by Appellant's trial counsel, Detective Lippisch explained that the tracker worked by satellite but he's not an expert on the actual mechanics of the device. (Day 5, p. 175, ls. 11-14).

The trial court placed on record outside the presence of the jury that Appellant's trial counsel had wanted to cross examine regarding the location of the tracker device. The State objected because they didn't want criminals to learn how trackers are used by the police. (Day 5, p. 268, ls. 8-25).

"Under Crawford v. Washington, 541 U.S. 36, 124 S.Ct.1354 (2004), the testimonial statement of an otherwise unavailable witness is inadmissible "unless the defendant had an opportunity to previously cross examine the witness regarding the witness's statement." Medina v. State, 122 Nev. 346, 353, 143 P.3d 471 (2006).

In Melendez Diaz v. Massachusette, 557 U.S. 305, 129 S.Ct. 2527 (2009), the United States Supreme Court concluded that the admission of a forensic analysts' affidavits that reported that a seized substance was cocaine, without the analysts themselves being subject to cross examination, violated the defendant's right to confrontation. The government's claim that the analysts' affidavits should not be subject to the confrontation clause because they represent "neutral and scientific testing," the Court concluded that confrontation of the analysts would beneficial to "test the analysts' honesty, proficiency and methodology – the features that are commonly the focus in the cross examination of experts." Id. The threshold question in evaluating a confrontation right under Crawford and Melendez Diaz is whether the statement was testimonial in nature. A statement is

testimonial if it "would lead an objective witness" to reasonably believe "that the statement would be available for use at a later trial."" Medina, 122 Nev. at 354, 143 P.3d at 476 (quoting Flores v. State, 121 Nev. 706, 719, 120 P.3d 1170 (2005) (quoting Crawford, 541 U.S. at 52). Vega v. State, 126 Nev. 332, 236 P.3d 632 (2010) (doctor testifying about a nursed sexual abuse examination report violated defendant's right to confrontation because defendant did not get the opportunity to cross examine her).

The Court in Santana v. State, 2015 Nev. Unpub. Lexis 576 held that defendant's right to confrontation was violated when trial court allowed witness to testify to an out of court statement of a nontestifying witness that was testimonial. The jury in Santana convicted defendant of second degree murder with the use of a deadly weapon, and two counts of attempted murder with use of a deadly weapon.

During trial, a detective testified that a nontestifying witness had identified defendant at the scene of the crime and described defendant's neck tattoo. The Court, in ruling for defendant, reasoned that the out of court hearsay statement was testimonial because an objective witness reasonably would believe that the statement would be available for use at a later trial. The Court found that because defendant did not get the opportunity to cross examine the nontestifying witness, his right to confront was violated. The Court found that the error was not harmless. For a federal constitutional error to be harmless, the Court must be able to

conclude that it was harmless beyond a reasonable doubt by determining beyond a reasonable doubt that the error did not contribute to the verdict. Medina v. State, 122 Nev 346, 355, 143 P.3d 471 (2006). The factors involved include importance of testimony to state's case, whether the testimony was cumulative, whether other evidence corroborated the witness's testimony, and the overall strength of the State's case. Id. The Court found that defendant's confession was full of improbable statements, the only eye witness admitted to taking three medication and drank vodka that morning. Even if the admissible portions of State's evidence could support the conviction, the evidence was not overwhelming. The Court reversed defendant's convictions and remanded the case to trial court.

In Ramlez v. State 114 Nev. 550, 958 P.2d 724 (1998), this Court held that trial court erred by admitting investigating officer's testimony regarding the factual conclusions of an examining of a nontestifying physician's medical report, not in evidence, that defendant sexually assaulted the victim was testimonial and a violation of defendant's right to confrontation.

While the cases cited above involved the testimonial statements of nonavailable witnesses, the violation to confrontation is the same as the one suffered by Appellant. By not being allowed to ask about the mechanics and science behind how the tracker worked, Appellant was not able to test and challenge the reliability of such devices. The State's interest in not letting

"criminals" know what trackers look like, how they're installed, and how they work is not based on law or any legal precedence. Their interest in secrecy is outweighed by Appellant's constitutional right to confront witnesses testifying against him and the inability of Appellant's trial counsel to ask questions regarding the tracker is akin to unavailability of the witnesses as to evidence on the tracker. While the cases cited above are under the abuse of discretion standard, those cases still apply. The error was trial court not allowing Appellant's counsel to question and challenge the reliability of the tracker as well as google map. The error was plain and clear from the record because the trial court made a record of its decision. Appellant suffered substantial prejudice from the violation of his confrontation rights because it was the tracker in conjunction with google map that allowed law enforcement to track down Appellant and Codefendant after the robbery on August 9, 2018. Per authorities cited above, this Court should remand Appellant's case to trial court for a retrial.

VI. Trial Court erred by allowing unqualified experts to testify regarding tracker and google map

A. Standard of Review

"Generally, a party's failure to object to or request an instruction precludes appellate review. Flanagan v. State, 112 Nev. 1409, 1423, 930 P.2d 691 (1996);

Green v. State, 119 Nev. 542, 545, 80 P.3d 93 (2003) (failure to clearly object to a jury instruction generally precludes review). There is an exception to this rule, however, if a plain and obvious error occurred that is so serious, it affected the defendant's substantial rights. Green, 119 Nev. at 545. "In conducting plain error review, we must examine whether there was 'error,' whether the error was 'plain' or clear, and whether the error affected the defendant's substantial rights." Id. To demonstrate plain error, the appellant has the burden of demonstrating actual prejudice. Id. "A necessary antecedent to invoking the plain error doctrine is to determine whether error occurred at all." People v. Walker, 2012 IL App (2d) 110288, 982 N.E.2d 269, 273, 367 Ill. Dec. 591 (Ill. App. Ct. 2012); see also Archanian v. State, 122 Nev. 1019, 1031, 145 P.3d 1008 (2006)(the first step in conducting plain error analysis is to consider whether an error exists).

B. Argument

"If scientific, technical or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by special knowledge, skill, experience, training or education may estify to matters within the scope of such knowledge." NRS 50.275.

The use of tracker in conjunction with google map qualifies as scientific and technical evidence. What they are, how it works, and whether they are reliable are facts that the jury needed to determine facts in issue in this trial. Trial court erred

by allow the State to offer the testimonies of the detectives without qualifying them as expert witnesses.

"Clearly, before a witness may testify as to his or her expert opinion, the district court must first determine that the witness is indeed a qualified expert. See e.g., Fernandez v. Admirand, 108 Nev. 963, 969, 843 P.2d 354 (1992) (stating that once a witness is qualified as an expert, he or she may testify to all matters within his or her experience or training); Houston Exploration v. Meredith, 102 Nev. 510, 513, 728 P.2d 437 (1986) (indicating that the proffered expert testimony may be admitted only after the witness is qualified as an expert). The Court in Mulder v. State, 116 Nev 1, 992 P.2d 845 (2000) found that proposed defense's expert witness was not qualified to testify as a fingerprint expert. Most of his experience was with document examination. Court found that admission of defense expert's testimony was error, but since it favored the defense, the error was harmless.

But the error was not harmless here. The detectives testimonies about the use of trackers in conjunction with google map lead them to Appellant's red or maroon Mercury Grand Marquis and to his eventual arrest. The error of allowing unqualified detectives to testify as experts was plain and clear on the record. The prejudice Appellant suffered as a result was substantial.

"Furthermore, the facts on which an expert opinion is based must permit of reasonably certain deductions as distinguished from mere conjectures.

Notwithstanding a tendency toward the extension of the field of admissibility of expert testimony which is based upon established or generally recognized scientific principles or discoveries, it is essential that the principle or discovery from which a deduction is to be made shall have been sufficiently established to have gained general acceptance in its particular field of science." Beasley v. State, 81 Nev. 431, 437, 404 P.2d 911 (1965). In Beasley, this Court held that trial court erred by permitting an expert to testify as to the time that defendant's fingerprints were left on the victim's automobile because the expert had not performed a control test to determine the time the prints were left.

Here, no control tests were conducted as to the reliability of the tracker and the accuracy of the tracker and google map. Per Beasely, this Court should remand Appellant's case back to trial court for a retrial because the plain and clear error substantially prejudiced Appellant.

"Under NRS 174.234(1)(a), both defense counsel and the prosecution must submit to each other, at least five days prior to trial, written notice of all witnesses they intend to call. Further, under NRS 174.234(2), written notice of expert witnesses must be filed and served upon the opposition at least twenty one days before trial. Pursuant to NRS 174. 295(2), the remedy for a violation of the discovery provisions of NRS 174.234 is that the district court "may order the party to permit the discovery or inspection of materials not previously disclosed, grant a

continuance, or prohibit the party from introducing in evidence the material not disclosed, or it may enter such other order as it deems just under the circumstances. When addressing discovery violations, the district court must be cognizant that defendants have the constitutional right to discredit their accuser, and this right "can be but limitedly circumscribed." Therefore, to protect this constitutional right, there is a strong presumption to allow the testimony of even late disclosed witnesses, and evidence should be admitted when it goes to the heart of the case. However, the district court must also balance this right against "not only the waste of judicial time factor, but must take particular care not to permit annoying, harassing, humiliating and purely prejudicial attacks unrelated to credibility." Sampson v. State,121 Nev 820, 827, 122 P.3d 1255 (2005).

Here, the State failed to file written notice of expert witnesses for any of the detectives that testified regarding the use of the tracker in conjunction with google map. Trial court erred by still allowing their unnoticed unqualified expert testimony. The error was plain and clear on record and prejudiced Appellent by their admission. Per Sampson, this Court should remand Appellant's case for retrial.

VII. Destruction of evidence/failure to preserve evidence

A. Standard of Review

"A conviction may be reversed when the State loses evidence if (1) the defendant is prejudiced by the loss or, (2) the evidence was "lost" in bad faith by the government. Howard v. State, 95 Nev. 580, 582, 600 p.2d 214 (1979). Appellant alleges that she has been prejudiced, and it is her burden to show "that it could be reasonably anticipated that the evidence sought would be exculpatory and material to appellant's defense." Boggs v. State, 95 Nev. 911, 913, 604 P.2d 107 (1979). In describing this test of materiality, the Supreme Court in United State v. Agurs, 427 U.S. 97, 112-113 (1976), stated that the lost evidence "must be evaluated in the context of the entire record." The question is whether when so evaluated a reasonable doubt exists which was not otherwise present." Sparks v. State, 104 Nev 316, 319, 759 P.2d 180 (1988).

B. Argument

"The loss of material and potentially exculpatory evidence by a law enforcement agency can deprive a defendant of the opportunity to corroborate his or her testimony, thereby severely prejudicing the defense." "While indicating that the defendant bore the burden of showing that the lost evidence was material and exculpatory, we determine that the evidence was indeed material to the guilt or innocence of the defendant. Cook v. State, 114 Nev 120, 953 P.2d 712 (1998).

Michael Cromwell testified that he worked as a crime scene analyst with the City of Henderson Police Department. He also took photos of the red or maroon

Mercury Grand Marquis. When questioned about the condition of the impounded red or maroon Mercury Grand Marquis, CSI Cromwell testified that the doors, the trunk and the hood were sealed, however, the windows were left opened. (Day 7, p. 118, ls. 3-14).

In Cook, the Court reversed defendant's conviction because the police failed to preserve the pants and undergarments of the alleged raped victim. Those items were material and exculpatory showing force or the lack of force.

In Sessions v. State, 106 Nev 186, 789 P.2d 1242 (1990), this Court held that the destruction of marijuana by the police prejudiced defendant because the evidence was material and exculpatory and reversed defendant's conviction.

"A conviction may be reversed when the State loses evidence if (1) the defendant is prejudiced by the loss or, (2) the evidence was "lost" in bad faith by the government. Howard v. State, 95 nev. 580, 582, 600 P.2d 214 (1979). In describing this test of materiality, the Supreme Court in United States v. Agurs, 427 U.S. 97, 112-113, stated that the lost evidence "must be evaluated in the context of the entire record." The question is whether when so evaluated a reasonable doubt exists which was not otherwise present. In Sparks v. State, 104 Nev 316, 318,759 P.2d 180 (1988), the Court held that because law enforcement failed to maintain chain of custody of a material and exculpatory handgun defendant claimed victim used to hit her was impounded without testing for blood,

hair or any chemical tests. The gun was material and exculpatory because it was relevant to defendant's claim of self defense. Case was reversed and charges dismissed.

Here, by leaving the windows opened when the red or maroon Mercury Grand Marquis was impounded, the police left the car opened to the elements. Since the car was the main evidence against the Appellant, the car was material. Since forensic evidence such as fingerprints, hair, and DNA evidence from other sources in the car would be affected by being exposed to the elementary, any exculpatory evidence of other people involved in the robbery instead of Appellant would be marred and altered by the negligence of law enforcement. Because law enforcement failed to preserve material and exculpatory evidence and Appellant suffered prejudice as a result, this court should remand Appellant's case to trial court for a retrial.

VIII. Trial Court erred by allowing the State to amend information after trial started

A. Standard of Review

"Generally, a party's failure to object to or request an instruction precludes appellate review. Flanagan v. State, 112 Nev. 1409, 1423, 930 P.2d 691 (1996); Green v. State, 119 Nev. 542, 545, 80 P.3d 93 (2003) (failure to clearly object to a

jury instruction generally precludes review). There is an exception to this rule, however, if a plain and obvious error occurred that is so serious, it affected the defendant's substantial rights. Green, 119 Nev. at 545. "In conducting plain error review, we must examine whether there was 'error,' whether the error was 'plain' or clear, and whether the error affected the defendant's substantial rights." Id. To demonstrate plain error, the appellant has the burden of demonstrating actual prejudice. Id. "A necessary antecedent to invoking the plain error doctrine is to determine whether error occurred at all." People v. Walker, 2012 IL App (2d) 110288, 982 N.E.2d 269, 273, 367 Ill. Dec. 591 (Ill. App. Ct. 2012); *see also Archanian v. State, 122 Nev. 1019, 1031, 145 P.3d 1008 (2006)*(the first step in conducting plain error analysis is to consider whether an error exists).

B. Argument

"NRS 173.095(1) allows the district court to permit the amendment of information "at any time before verdict or finding if no additional or different offense is charged and if substantial rights of the defendant are not prejudiced." NRS 173.075(1) requires an information to contain a "plain, concise and definite written statement of the essential facts constituting the offense charged." Such statement must include a characterization of the crime and such description of the particular act alleged to have been committed by the accused as will enable him properly to defend against the accusation, and the description of the offense must

be sufficiently full and complete to accord to the accused his constitutional right to due process of law." Simpson v. Eighth Judicial Dist.Court, 88 Nev. 654, 660, 503 P.2d 1225 (1972) distinguished on other grounds by Sheriff, Nye Cty v. Aesoph, 100 Nev 477, 686 P.2d 237 (1984).

In the seventh day of the trial, the State moved to amend the information to include the name, Vincent Rotolo to Count 20 to replace "unnamed customer." (Day 7, p. 8, ls. 16-25, p. 9, ls. 1-15). The State also moved to amend the information to change the listed dates on page two, line four from "between July 17, 2018 to August 6, 2018" to "between July 17, 2018 to August 9, 2018." No objection by Appellant or Codefendant's counsels and the information was amended. (Day 6, p. 9, ls. 16-25).

The State in Manning v. State, 445 P.3d 219 (2019) alleged that defendant increased a bet unlawfully. The trial court allowed the state to amend the complaint from defendant unlawfully increasing his bet "after the winning hand had been determined" to increasing his bet "after acquiring knowledge of the outcome of the game." Defendant was convicted and sentenced under the large habitual criminal treatment with possibility of parole after ten years. Since the evidence show that defendant had increased his bet after receiving his cards but before the winning hand was determined, the change in information prejudiced defendant's substantial rights. The Court in Manning cited Jennings v. State, 116 Nev. 488, 490, 998 P.2d

557 (2000)(explaining that a criminal defendant's substantial rights were prejudiced by an amendment to the information because "the Sixth Amendment and Article 1, Section 8 of the Nevada Constitution both guarantee a criminal defendant a fundamental right to be clearly informed of the nature and cause of the charges in order to permit adequate preparation of a defense."). The Court reversed defendant's conviction and remanded the case for a new trial. Manning v. State, 445 P.3d 219 (2019).

Here, trial court erred by allowing the State to amend its information after all the lay witnesses testified. Since the information failed to inform who the victim was in count twenty two, and didn't include the correct dates of incidents, the information was flaws as to notice. Because trial court's error was plain and clear on the record and Appellant was prejudiced by the lack of notice prior to trial, this Court should strike the amendment, reverse the conviction for count twenty two and remand the count back to trial court for retrial.

IX. There was insufficient evidence for the jury to find Appellant guilty

A. Standard of Review

The standard of review for sufficiency of evidence upon appeal, in a criminal case, is whether the jury, acting reasonably, could have been convinced of the defendant's guilt beyond a reasonable doubt. Edwards v. State, 90 Nev. 255,

258-259, 524 P.2d 328 (1974). It is the jury's function, not that of the reviewing court, to assess the weight of the evidence and determine the credibility of witnesses. Walker v. State, 91 Nev. 724, 726, 542 P.2d 438 (1975)." Doyle v. State, 112 Nev. 879, 891, 921 P.2d 901 (1996).

B. Argument

"It is axiomatic that the State must prove every element of a crime beyond a reasonable doubt. Because of the right to due process afforded in our constitutions, and because of "the significance that our society attaches to the criminal sanction and thus to liberty itself," we cannot sustain a conviction where the record is wholly devoid of evidence of an element of a crime." Batin v State, 118 Nev. 61, 64-65, 38 P.3d 880 (2002).

"It is axiomatic that the State must prove every element of a crime beyond a reasonable doubt. Because of the right to due process afforded in our constitutions, and because of "the significance that our society attaches to the criminal sanction and thus to liberty itself," we cannot sustain a conviction where the record is wholly devoid of evidence of an element of a crime. Our insistence that the State prove every element of a charged offense beyond a reasonable doubt serves an imperative function in our criminal justice system: "to give 'concrete substance' to the presumption of innocence, to ensure against unjust convictions, and to reduce the risk of factual error in a criminal proceeding." Id.

In Batin, State accused defendant of stealing money from slot machines at a casino where he was employed as a slot mechanic. Jury convicted him of three counts of embezzlement. The Court held that there was insufficient evidence of an essential element of the crime of embezzlement. An essential element to embezzlement was that he was entrusted with the money in the slot machines. Defendant was a slot mechanic, his job duties didn't include being entrusted with the money in the slot machines. Batin v. State, 118 Nev. 61, 64-65, 38 P.3d 880 (2002).

Here, the State has failed to show sufficient evidence of identity in any of the robberies. As to the robbery on July 23, 2018, Alex Orellana testified that he was a Universal banker at the U.S. Bank branch on 10565 Eastern Ave. (Day 2, p. 92, ls. 14-25). Mr. Orellana testified that one of the black men wore black Air Force Ones, jeans and the other one was wearing a track sweater, a doo-rag, a hat, sunglasses and a flannel styled button-up shirt (Day 2, p.120, ls.12-16). He offered no description of height or built but identified Appellant and Codefendant in court, where the identification was suggestive since the position of seating for both indicate that they were the ones on trial.

Mathew Pedroza testified that he was working at U.S. Bank. (Day 2, p. 130, l.25, p131, l.1, p.132, ls. 16-18). He described the two black men as a little taller

than himself. He testified that his own height was 5'10". (Day 2, p. 133, ls.12-15). He was not asked to make any identification in court.

Chelsey Gritton testified that she was the bank manager at U.S. Bank. Without testifying to the descriptions of the two men in the robbery, she identified Appellant and Codefendant but couldn't identify them separately as to who did what during the robbery. (Day 2, p.154, ls. 13-25, p. 155, ls. 1-25, p.156, ls. 1-7, p. 157, l. 1-25, p. 158, l.1).

Melanie Terada testified that she was a teller at U.S. Bank. (Day 3, p.10, ls.12-15, p11, ls. 18-20). She testified that the man who went to her window was wearing a collared shirt and regular glasses. (Day 3, p.11, ls.22-25, p.12, ls.1-10). However, when shown the video of the robbery during her testimony, Ms. Terada then testified that the man was wearing a polo. (Day 3, p. 26, ls. 20-24). She was not asked to identify anyone.

Allyson Santomauro testified that she was a teller at U.S. (Day 3, p. 31, ls. 13-25). She testified that an African-American male with a hat and a white jacket with red stripe approached her window. (Day 3, p. 33, ls. 4-7). While viewing the video of the robbery, the State pointed out that the man had glasses hanging on the jacket and Ms. Santomauro agreed. (Day 3, p. 41, ls. 3-5). Without testifying regarding the description of the two men, Ms. Santomauro identified Codefendant, wearing a blue button shirt as the man who robbed her. (Day 3, p. 43, ls.19-25). On

cross examination, Ms. Santomauro testified that she was not asked at preliminary hearing if she could identify him in court. (Day 3, p. 44, ls. 15-25, p.45, ls. 1-3).

Jacob Feedar testified that he was the manager of the Trader Joe's on Eastern. (Day 3, p. 149, ls. 9-16). On July 23, 2018, he saw two black males behind Trader Joe's around 10:30 am. (Day 3, p. 150, ls. 21-25, p. 151, ls. 8-10). One male was wearing a do-rag. One was wearing a red or white shirt or red and white shirt. Both were wearing jeans and were slender. (Day 3, p.152, ls. 14-20). He was not asked to make any identification in court.

As to the robbery on July 31, 2018, Manny Senz testified that he worked as a loan officer at Bank of the West on 701 North Valle Verde on July 31, 2018. (Day 3, p. 57, ls. 19-20, p. 58, ls. 9-11, p. 60, l. 25, p. 61, ls. 1-2). He testified that the larger of the two men was dressed in a long dress and had long multicolored wig or hair. (Day 3, p. 61, ls. 5-8, p. 62, ls. 1-9). He testified that the second black man wearing a baseball cap and a white towel around his neck. (Day 3, p. 63, ls. 3-17). When asked on cross examination, while Mr. Senz was able to identify Appellant and Codefendant, he couldn't tell which one was wearing the female clothing and which one had the white towel. (Day 3, p. 70, ls. 3-19).

Nur Begum testified that she was a teller at Bank of the West. (Day 3, p. 72, ls. 4-16, 21-24). She testified that one of the black man had a towel around his neck. She testified that the other man had a big wig. (Day 3, p. 78, ls. 17-20, 24-

25). On cross examination, Ms. Begum was asked if she remembered telling the police that the man who robbed her was 5'5". Ms. Begum said she may have, she wasn't sure. (Day 3, p. 88, ls. 23-25). Ms. Begum was asked if she remembered testifying at the preliminary hearing that the man was 5'10". She said she wasn't sure. (Day 3, 90, ls. 15-24).

Mary Grace Mones testified that she was a teller at Bank of the West. (Day 3, p. 95, ls. 19-20, p. 96, ls. 16-18). She testified that one of the man as having broad shoulders, wearing a long wig that was black on top and white on the bottom. (Day 3, p. 99, l. 25, p. 100, ls. 1-5). On cross examination by Codefendant's counsel, Ms. Mones recalled that the man was five feet and five inches, chocolate brown in complexion, with eye brows that stood out. (Day 3, p. 109, ls. 9-25). Ms. Mones couldn't identify the man who robbed her in the courtroom. (Day 3, p. 111, ls. 18-25).

Regina Coleman testified that she was a teller at Bank of the West. (Day 3, p. 113, ls. 12-25). Ms. Coleman testified that one of the men had a towel. She also testified that the other man was wearing a black and white wig, half jacket vest, blue or black legging, a long burgundy dress, and gold sandals. (Day 3, p. 117, ls. 14-25). Ms. Coleman described the man holding the door for the man dressed like a woman as a black man wearing a baseball cap, towel around his neck and had a little afro. (Day 3, p. 121, ls. 16-25). She saw that he had marks such as moles or

pimples on his face. (Day 3, p. 127, ls. 15-19). On cross examination, Ms. Coleman remembers that she had told the police had very dark skin and wore a hat. (Day 3, p. 129, ls. 1-25). And one of them was five feet six or seven. (Day 3, p. 130, ls. 16-18). Ms. Coleman identified the man with the towel as Appellant and the man dressed as a woman as Codefendant.

As to the robbery on August 6, 2018, David Kranz testified that he worked as an assistant manager at Smith's Food and Drug on 55 South Valle Verde, Henderson on August 6, 2018. (Day 4, p. 3-25, p. 18, ls. 1-2). He testified that one of the men in white t shirts who picked up the crayons was barely taller than him. (Day 4, p. 33, ls. 7-12). He was not asked to make identification in court.

Meghan Zitzmann testified that she was a universal banker at U.S. Bank located inside of Smith's Food and Drug. (Day 4, p. 56, ls. 21-25, p. 57, ls. 14-15). She testified that one of the black men wore a maroon shirt. They were both around five foot five inches or five foot six inches in height. (Day 4, p. 72, ls. 18-24). She was not asked to make identification in court.

Sunny Shay Cortner testified that she was a universal teller at U.S Bank. (Day 4, p. 77, ls. 13-25, p. 79, ls. 2-3). She testified that two black men, five foot six to five foot eight in height and around one hundred and thirty, one hundred and fifty pounds, entered the bank. (Day 4, p. 80, ls. 18-23). On cross examination with Codefendant's counsel, Ms. Cortner recalled that she told the police that one of the

black men wore a maroon shirt. (Day 4, p. 85, ls. 11-17). On cross with Appellant's trial counsel, Ms. Cortner testified that she remembered the man who robbed her had tattoos on his face. (Day 4, p. 86, ls. 3-7). Then she admitted that she told the police that the men had no tattoos but that she was shown a photograph of one of the men who robbed the bank with tattoo on his face a couple of weeks before the trial. (Day 4, p 86, ls. 17-21, p. 88, ls. 12-13, p. 89, ls. 9-13). She was not asked to make identification in court.

As to the robbery on August 9, 2018, Vincent Rotolo testified that the robber was a skinny tall black man, about five foot eleven. (Day 5, p. 60, ls. 17-25, p. 61, 1-18). He was not asked to make identification in court.

Seventy six year old Teri Williams was at U.S. Bank. (Day 5, p. 190, ls. 4-25). She saw two thin black males walk past her. The man with the gun had dark pants on. (Day 5, p. 201, ls. 12-16). She identified Codefendant as the man with the gun in court. (Day 5, p. 200, ls. 14-25).

Claudia Ruacho testified that she was a teller at U.S Bank. (Day 5, p. 207, ls. 1-11). She testified the robber was black, tall, and skinny. (Day 5, p. 209, ls. 6-20).

Jada Copeland testified that she was working as a teller at U.S. Bank. (Day 6, p. 18, ls. 11-25, p. 19, 3-5). She saw two black men, regular build, around five feet ten inches to six feet in height. She was not asked to make identification in court.

Kerri Pedroza testified that she worked at U.S. Bank. (Day 5, 244, ls. 7-10). She testified that one of the men was wearing red sneakers. (Day 5, p. 249, ls. 17-20). She was not asked to make identification in court.

Michael Irish testified that he was the branch manager at U.S. Bank. (Day 5, p. 251, ls. 2-23). He saw two black men at least five feet seven inches in height, thin in built, walk in. (Day 5, p. 259, ls. 2-17). He was not asked to make identification in court.

The victims in the July 23, 2018 robberies gave scant and conflicting identifying information as to the robbers' appearances. While two of them, after shown the video of the robbery were able to make the suggestive in court identification of Appellant and Codefendant, the other four witnesses did not make any in court identifications. Two out of five victims, after being shown photos and videos from the robbery from the July 31, 2018 robberies made the suggestive in court identifications but one of them didn't know who was which robber. None of the victims from the August 6, 2018 robbery identified Appellant or Codefendant. For the August 9, 2018 robbery, none of the victims identified Appellant. Only one victim identified Codefendant. Two uncharged accomplices were asked to identify Appellant and Codefendant from videos of all robberies. However, their motive to lie in order to escape prosecution make their identifications suspect and of little evidentiary value.

Similar to Batin, where the Court reversed defendant's conviction because the State failed to show sufficient evidence for an element of the crime, here, the State also failed to show the element of identification. In all of the robberies, most victims couldn't make identifications even after being shown photos and videos of the robberies. And the in court identifications were suggestive. Because the State failed to show sufficient evidence of identify, this Court should remand Appellant's case for retrial.

In the alternative, even if this Court find that sufficient evidence exists to sustain convictions on all counts, the evidence offered by State was so conflicting, Appellant's case should be remanded for retrial.

In State v. Purcell, 110 Nev 1389, 887 P.2d 276 (1994), the State charged defendant with one count of lewdness with a minor and two counts of sexual assault upon the thirteen year old victim. The state's only evidence was victim's testimony. Defense witnesses testified to victim's history of lying and the lack of opportunity for defendant to commit the sexual acts alleged by the state. After jury convicted defendant of all counts, defendant moved for a new trial and trial court granted it citing to conflicting evidence and that the verdict was not based on substantial evidence. State appealed and argued that trial court failed to state what conflicts the trial court based it ruling on. This Court found that while the evidence was sufficient to support the charged, the victim's credibility and the lack

opportunity showed that under the totality of the evidence, the evidence was conflicting and failed to prove the defendant guilty beyond a reasonable doubt.

Even though Appellant's trial counsel did not file a motion for a new trial and thus the analysis goes under the plain error standard of review, Purcell still applies. Considering victims' conflicting descriptions of the robbers, the suggestive in court identifications, and the testimonies of uncharged accomplices with high motivation to lie, this court should find that the conflict in evidence was plain on the record, and the errors so prejudiced Appellant that he was deprived of a fair trial and the right to be found guilty beyond a reasonable doubt.

X. Cumulative errors

A. Standard of Review

"When evaluating a claim of cumulative error, we consider the following factors (1) whether the issue of guilt is close, (2) the quantity and character of the error, and (3) the gravity of the crime charged." Valdez, 124 Nev. at 1195, 196 P.3d at 481."

B. Argument

This Court should reverse Appellant's convictions because of the following cumulative errors. Trial court erred by proceeding with sentencing even though Presentencing Investigation Report contained inaccuracies. Trial court erred by

basing his sentencing decision from facts not on record. Trial court erred by failing to sever the four robberies charged by the State. Trial court erred by failing to sever the Appellant's case from Codefendant's case. Trial court erred by admitting inadmissible character evidence of bad acts of Appellant's traffic offenses. Trial Court erred by violating Appellant's right to confrontation when limiting Appellant's trial counsel's ability to cross examine anything about the tracker and google map. Trial Court erred by allowing unqualified experts to testify regarding tracker and google map. The State, by leaving the windows opened in the red or maroon Mercury Grand Marquis, failed to properly preserve material evidence. Trial Court erred by allowing the State to amend information after trial started. State failed to present sufficient evidence at trial.

In Avila-Granados v. State, 2019 Nev. Upub. Lexis 820, the Court reversed and remanded defendant's case because of cumulative errors including detective's testimony regarding his experience with sexual assault victims' behavior, refusing defendant's proposed jury instruction on consent, and the prosecutor using the word "rape" and commenting on defendant's lack of respect for women.

In Morales v. State 122 Nev 966, 972, 143 P.3d 463 (2006), the Court reversed and remand for new trial because several improper statements by prosecutor during closing arguments were cumulative errors. In Sipasas v. State 102 Nev 119, 122-125, 716 P.2d 231 (1986), the Court held that improper

admission of photograph per NR 50.125(1)(d) not used to refresh recollection and prosecutor's improper comment regarding a defense witness were cumulative error and required reversal and remand for a new trial. Pursuant to the authorities cited above, Appellant should have his convictions reversed and case remanded for new trial because the errors committed by trial court and the State amounted to cumulative errors.

Conclusion

Appellant respectfully request this Court to consider reversing his convictions and remanding the case back to trial court for retrial or resentencing.

1. I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word 2008 for Mac, version 12.3.6 (130206) in 14 point Times New Roman style;

2. I further certify that this brief complies with the page- or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is either:

[ ] Proportionately spaced, has a typeface of 14 points or more, and contains _____ words; or

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[ ] Does not exceed _____ pages.

3. Finally, I hereby certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any

improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

Dated this 16th day of September, 2019.

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