

1           **12. Counsel was not ineffective for allegedly failing to investigate as a whole.**

2           Next, Defendant argues that counsel was ineffective because he failed to adequately  
3 investigate certain issues that Defendant allegedly raised with counsel prior to trial. Petition at  
4 37-42. First, Defendant argues that counsel was ineffective for failing to investigate and solely  
5 relied on the State's version of events. Id. Second, Defendant reasserts his earlier claim that  
6 counsel was ineffective for failing to acquire phone bills that proved that the cellphones located  
7 in his home belonged to his girlfriend and other family members. Id. Third, Defendant claims  
8 he was prejudiced when counsel failed to get a copy of an alleged email that was sent to  
9 detectives describing the gray Dodge Charger. Id. Fourth, Defendant claims counsel was  
10 ineffective for not talking to a witness who allegedly saw Detective Abell "snooping around"  
11 Defendant's apartment prior to Defendant's arrest. Id. Fifth, Defendant, for a third time, claims  
12 counsel as ineffective for not retesting the State's DNA evidence. Id. Sixth counsel was  
13 ineffective for failing to pre-trial any of the alleged victims. Id. Seventh, counsel was  
14 ineffective for not hiring a foot impression expert to rebut the State's expert. Id. Eighth,  
15 counsel was ineffective for not "putting on a proper defense." Id. All of Defendant's claims  
16 are meritless as he fails to demonstrate his counsel's performance was deficient and resulted  
17 in prejudice.

18           A defendant who contends his attorney was ineffective because he did not adequately  
19 investigate must show how a better investigation would have rendered a more favorable  
20 outcome probable. Molina, 120 Nev. at 192, 87 P.3d at 538. Here, Defendant's first and eighth  
21 claims are dismissed under Hargrove because they are belied by the record. Defendant  
22 overlooks the fact that counsel delivered a thorough opening statement where he methodically  
23 attacked the State's theory of the case and evidence. See Trial Transcript, Day 4, at 25-31.  
24 Indeed, during his opening counsel emphasized that there were no eyewitnesses that could  
25 identify Defendant as the perpetrator. Id. at 26. Moreover, the record reveals that during  
26 closing argument counsel attempted to stir reasonable doubt in the minds of the jury and  
27 continued to reject the State's theory of the case. Trial Transcript, Day 12, at 108-128. As  
28 demonstrated by the record, to argue that counsel simply accepted the State's theory of the

1 case or that he failed to present a “proper defense” is disingenuous. Therefore, Defendant’s  
2 claims are denied.

3 With respect to his second claim, under Molina Defendant bears the burden of showing  
4 how a better investigation would have rendered a more favorable outcome. As discussed supra,  
5 it is unclear what further investigation regarding the cellphones would have revealed. Again,  
6 Defendant *assumes* that if counsel had contacted the cellphone companies they would have  
7 provided counsel with ownership information regarding the various cellphones. Defendant  
8 does not even provide this Court with documentation that counsel could have deduced  
9 ownership over the cellphones by simply subpoenaing “phone bills.” Therefore, he fails to  
10 show that a more favorable outcome would have been probable and his argument is a bare and  
11 naked assertion that is denied under Hargrove and Molina.

12 Regarding the third claim, Defendant fails to satisfy his burden as he has not provided  
13 this Court with a copy of what Defendant describes in his Petition as an “alleged email.”  
14 Petition at 37. Defendant does not show that this “alleged email” would have been admissible  
15 as evidence nor does he demonstrate that had the email been admitted it would have assisted  
16 in rendering a more favorable outcome for Defendant at trial. Molina, 120 Nev. at 192, 87 P.3d  
17 at 538. Therefore, his claim is denied.

18 Defendant’s fourth claim also fails. Defendant asserts, without presenting any evidence,  
19 that Detective Abell was “snooping around” his apartment and that had counsel investigated  
20 there would have been a witness to testify as such. Petition at 40. Defendant further avers that  
21 such witness would have discredited the detective’s testimony and shown to the jury that the  
22 detectives were “fabricating evidence.” Id. Again, Defendant bears the burden of showing how  
23 this witness would have led to a more favorable outcome at trial. However, this is a bare and  
24 naked assertion. For example, Defendant does not provide a sworn affidavit from such witness  
25 or any supporting evidence to prove that the detectives fabricated evidence. As such, this claim  
26 denied under Hargrove and Molina.

27 Defendant’s fifth and seventh claims also lack merit. This is particularly true because,  
28 as addressed supra, counsel filed a motion to retest the DNA and it was retested. Due to

1 counsel's efforts the DNA results came back as inconclusive rather than a "positive partial"  
2 match. Therefore, it is unclear that retesting the DNA for a third time could have yielded a  
3 more favorable result for Defendant. Similarly, Defendant argues that counsel should have  
4 hired a foot impression expert, however, Defendant provides no analysis as to what exactly a  
5 private expert would have testified to.<sup>4</sup> Therefore, Defendant's claims are denied as he fails to  
6 satisfy his burden under Molina.

7 Regarding, Defendant's sixth claim, Defendant provides no evidence to support his  
8 claim that counsel never pre-trialed any witnesses. Defendant appears to argue that counsel  
9 simply "sat down" during Jamie Schoebel's ("Jaime") testimony and did not cross-examine  
10 her in an effort to impeach her credibility. Petition at 41-42. However, this is belied by the  
11 record. The record demonstrates that counsel did cross-examine her about her prior grand jury  
12 testimony. Contrary to Defendant's bare and naked assertion counsel was able to get Jaime to  
13 admit that she had inconsistently testified between the grand jury and trial. Trial Transcript,  
14 Day 4, at 85-86. Therefore, because Defendant's claim is predicated on bare and naked  
15 assertions that are repelled by the record, his claim fails under Hargrove. Overall, Defendant  
16 fails to demonstrate his counsel's performance was deficient or resulting prejudice. Moreover,  
17 Defendant fails to satisfy burden under Molina. Accordingly, this Court denies all of  
18 Defendant's claims in their entirety.

19 **13. Counsel was not ineffective for failing to impeach the DNA expert with an email**  
20 **she sent to Detective Abell.**

21 Next, Defendant argues counsel was ineffective because he should have impeached the  
22 DNA expert with an email in which she stated that she could not find "anything linking the  
23 car to a Robbery or the items recovered from the car to the robbery." Petition at 69-70; Petition  
24

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25 <sup>4</sup> It is likely that counsel made a strategic decision not to hire a foot impression expert. This is  
26 supported by the fact that the record demonstrates that counsel spent a considerable amount of  
27 time cross-examining the State's forensic examiner of footwear and tire evidence, Mr.  
28 Gilkerson. Trial Transcript, Day 8, at 136-156; See Doyle, 116 Nev. at 160, 995 P.2d at 473  
(reasoning that "[c]ounsel's strategy decisions are not subject to challenge absent  
extraordinary circumstances.").

1 Exhibit 8. Defendant concludes by arguing that if the jury had seen this email they would have  
2 concluded that Detective Abell influenced the DNA expert's report. Id.

3 Here, Defendant reasserts the issue regarding DNA and their corresponding reports. As  
4 discussed supra, counsel was not ineffective regarding the DNA reports. Counsel's strategy  
5 was a reasonably objective one as he filed a motion to retest the DNA. The retested DNA  
6 rendered a favorable result for Defendant as it came back inconclusive. Therefore, counsel  
7 strategically decided that admitting the two conflicting DNA reports would have value because  
8 the jury could determine if the State's DNA evidence was reliable. As such, absent an  
9 extraordinary circumstance, counsel's strategic decisions are not subject to challenge. Doyle,  
10 116 Nev. at 160, 995 P.2d at 473. Assuming, *arguendo*, that counsel was deficient because he  
11 failed to impeach the detective with this email, Defendant fails to show that "but for" counsel's  
12 error there is a reasonable probability that the result of trial would have been different.  
13 McNelson, 15 Nev. at 403, 990 P.2d at 1268. Defendant cannot bear his burden of  
14 demonstrating prejudice under Strickland. Riley, 110 Nev. at 646, 878 P.2d at 278 (reasoning  
15 that defendants carry the "affirmative burden of establishing prejudice."). Defendant provides  
16 no evidence that had the jury considered this email the outcome at trial would have been  
17 different. This is particularly true considering that there was a significant amount of evidence  
18 tying Defendant to the robberies. In fact, the Nevada Supreme Court affirmed all, but three, of  
19 Defendant's convictions on a sufficiency of the evidence claim on direct appeal. See Hobson  
20 v. State, Docket No. 71419 (Order of Affirmance, June 1, 2018). Therefore, Defendant's claim  
21 is denied.

22 **14. Counsel was not ineffective for failing to object jury instruction 43.**

23 Lastly, Defendant argues that counsel was ineffective for failing to object to jury  
24 instruction 43 which addressed the corroboration of accomplice testimony. Petition at 71-73.  
25 Defendant's argument lacks merit.

26 Here, Defendant fails to present a cogent argument as to how counsel should have  
27 challenged the jury instruction. Additionally, jury instruction 43 is a standard instruction.  
28 Therefore, counsel cannot be deemed ineffective for failing to lodge a futile objection to such

1 instruction. Ennis, 122 Nev. at 706, 137 P.3d at 1103. As such, Defendant's claim is denied.

2 **III. THE COURT FINDS THAT DEFENDANT'S REMAINING CLAIMS ARE**  
3 **IMPROPERLY RAISED IN A POST-CONVICTION PETITION FOR WRIT**  
4 **OF HABEAS CORPUS AND/OR BARRED BY THE LAW OF THE CASE**

5 In addition to the ineffective assistance of counsel claims raised above, Defendant  
6 improperly raises the following claims in his Petition: (1) the district court abused its discretion  
7 by allowing hearsay; (2) the district court abused its discretion when it allowed trial to  
8 commence without Detective Flynn and Detective Turner available to testify; (3) that the  
9 district court erred in denying Defendant's pre-trial Petition for Writ of Habeas Corpus; (5)  
10 that the district court abused its discretion in denying Defendant's proposed jury instructions;  
11 (6) that the district court abused its discretion in denying Defendant's Motion to Dismiss  
12 during trial; (7) that there was prosecutorial misconduct; (8) that there was a Brady violation  
13 with respect to cash seized from Defendant's home; (9) that there was prosecutorial  
14 misconduct in not giving the Grand Jury a kidnapping instruction; and (10) that the State used  
15 all of the DNA evidence during testing and fabricated a DNA report.

16 The Court finds that Defendant's remaining claims, one-ten, are waived because  
17 Defendant failed to raise them on direct appeal. NRS 34.810(1) reads:

18 The court shall dismiss a petition if the court determines that:

19 (a) The petitioner's conviction was upon a plea of guilty or guilty  
20 but mentally ill and the petition is not based upon an allegation  
21 that the plea was involuntarily or unknowingly or that the plea was  
22 entered without effective assistance of counsel.

23 (b) The petitioner's conviction was the result of a trial and the  
24 grounds for the petition could have been:

25 (2) Raised in a direct appeal or a prior petition for a writ of habeas  
26 corpus or postconviction relief.

27 The Nevada Supreme Court has held that "challenges to the validity of a guilty plea and claims  
28 of ineffective assistance of trial and appellate counsel must first be pursued in post-conviction  
proceedings.... [A]ll other claims that are appropriate for a direct appeal must be pursued on  
direct appeal, or they will be *considered waived in subsequent proceedings*." Franklin v. State,  
110 Nev. 750, 752, 877 P.2d 1058, 1059 (1994) (emphasis added) (disapproved on other

1 grounds by Thomas v. State, 115 Nev. 148, 979 P.2d 222 (1999)). “A court must dismiss a  
2 habeas petition if it presents claims that either were or could have been presented in an earlier  
3 proceeding, unless the court finds both cause for failing to present the claims earlier or for  
4 raising them again and actual prejudice to the petitioner.” Evans v. State, 117 Nev. 609, 646-  
5 47, 29 P.3d 498, 523 (2001). Defendant cannot establish good cause because the facts and law  
6 were available for his direct appeal. Additionally, he cannot establish prejudice to ignore his  
7 procedural default because the underlying claims are meritless. Defendant’s claims are nothing  
8 more than naked assertions under Hargrove. He has done nothing to demonstrate that he could  
9 not pursue any particular claim on direct appeal because of a deficient record.

10 **IV. DEFENDANT REQUEST FOR AN EVIDENTIARY HEARING IS**  
11 **DENIED**

12 NRS 34.770 determines when a defendant is entitled to an evidentiary hearing. It reads:

- 13 1. The judge or justice, upon review of the return, answer and all  
14 supporting documents which are filed, shall determine whether an  
15 evidentiary hearing is required. A petitioner must not be  
16 discharged or committed to the custody of a person other than the  
17 respondent unless an evidentiary hearing is held.  
18 2. If the judge or justice determines that the petitioner is not  
19 entitled to relief and an evidentiary hearing is not required, he shall  
20 dismiss the petition without a hearing.  
21 3. If the judge or justice determines that an evidentiary hearing is  
22 required, he shall grant the writ and shall set a date for the hearing.

23 The Nevada Supreme Court has held that if a petition can be resolved without  
24 expanding the record, then no evidentiary hearing is necessary. Marshall v. State, 110 Nev.  
25 1328, 885 P.2d 603 (1994); Mann v. State, 118 Nev. 351, 356, 46 P.3d 1228, 1231 (2002). A  
26 defendant is entitled to an evidentiary hearing if his petition is supported by specific factual  
27 allegations, which, if true, would entitle him to relief unless the factual allegations are repelled  
28 by the record. Marshall, 110 Nev. at 1331, 885 P.2d at 605; see also Hargrove, 100 Nev. at  
503, 686 P.2d at 225 (holding that “[a] defendant seeking post-conviction relief is not entitled  
to an evidentiary hearing on factual allegations belied or repelled by the record”). “A claim is  
‘belied’ when it is contradicted or proven to be false by the record as it existed at the time the

1 claim was made.” Mann, 118 Nev. at 354, 46 P.3d at 1230 (2002). It is improper to hold an  
2 evidentiary hearing simply to make a complete record. See State v. Eighth Judicial Dist.  
3 Court, 121 Nev. 225, 234, 112 P.3d 1070, 1076 (2005) (“The district court considered itself  
4 the ‘equivalent of . . . the trial judge’ and consequently wanted ‘to make as complete a record  
5 as possible.’ This is an incorrect basis for an evidentiary hearing.”).

6 Further, the United States Supreme Court has held that an evidentiary hearing is not  
7 required simply because counsel’s actions are challenged as being unreasonable strategic  
8 decisions. Harrington v. Richter, 131 S. Ct. 770, 788 (2011). Although courts may not indulge  
9 post hoc rationalization for counsel’s decision making that contradicts the available evidence  
10 of counsel’s actions, neither may they insist counsel confirm every aspect of the strategic basis  
11 for his or her actions. Id. There is a “strong presumption” that counsel’s attention to certain  
12 issues to the exclusion of others reflects trial tactics rather than “sheer  
13 neglect.” Id. (citing Yarborough v. Gentry, 540 U.S. 1, 124 S. Ct. 1 (2003)). Strickland calls  
14 for an inquiry in the objective reasonableness of counsel’s performance, not counsel’s  
15 subjective state of mind. 466 U.S. at 688, 104 S. Ct. at 2065.

16 Here, trial counsel was not ineffective. Moreover, Defendant’s ineffective assistance of  
17 counsel claims are not complex. Regarding Defendant’s other claims, most of them are  
18 improperly raised in his Petition because such claims were either previously considered on  
19 direct appeal or were waived. Therefore, there is no need to expand the record and Defendant’s  
20 request for an evidentiary is hereby denied.

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**ORDER**

THEREFORE, IT IS HEREBY ORDERED that Defendant's Petition for Post-Conviction Relief shall be, and it is, hereby denied.

DATED this 21<sup>st</sup> day of March, 2019.

Will K. [Signature]  
DISTRICT JUDGE

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

BY

[Signature]  
CAL THOMAN  
Chief Deputy District Attorney  
Nevada Bar #12649

**CERTIFICATE OF MAILING**

I hereby certify that service of the above and foregoing was made this 21<sup>st</sup> day of March, 2019, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

TONY HOBSON, 1165963  
S.D.C.C.  
PO BOX 208  
INDIAN SPRINGS, NV 89070

BY

E. Del Padre  
E. DEL PADRE  
Secretary for the District Attorney's Office

ed/GCU



*Steven D. Grierson*

Tony Hobson ID NO. 1165963

SOUTHERN DESERT CORRECTIONAL CTN.  
20825 COLD CREEK RD.  
P.O. BOX 208  
INDIAN SPRINGS, NV 89070

DISTRICT COURT  
CLARK COUNTY, NEVADA

Tony Hobson  
petitioner  
v.  
State of Nevada  
Respondent

CASE NO.: A-18-784448-W

DEPT. NO.: XIX

DOCKET: \_\_\_\_\_

(Notice of Appeal)

COMES NOW, petitioner Tony Hobson, herein above respectfully  
moves this Honorable Court ~~that~~ that notice is hereby given that  
petitioner (Tony Hobson) hereby appeals to Supreme Court of Nevada  
from District Court ruling and all appealable rulings.

This Motion is made and based upon the accompanying Memorandum of Points and  
Authorities,

DATED: this 29 day of March, 2019

BY: Tony Hobson 1165963

Tony Hobson # 1165963  
Defendant In Proper Personam

RECEIVED  
APR 03 2019

**CERTIFICATE OF SERVICE BY MAILING**

I, Tony Hobson, hereby certify, pursuant to NRCP 5(b), that on this 23  
day of march, 20 19, I mailed a true and correct copy of the foregoing, "

Notice of appeal"

by placing document in a sealed pre-postage paid envelope and deposited said envelope in the  
United State Mail addressed to the following:

Steven D. Harrison  
Attn: at court  
200 Lewis Avenue  
Las Vegas, NV 89106

Supreme Court of Nevada  
Office of Clerk  
200 S. Carson St., Suite 201  
Carson City, NV 89401

CC:FILE

DATED: this 23 day of march, 20 19.

Tony Hobson # 1163903  
/s/ Propria Personam  
Post Office Box 208, S.D.C.C.  
Indian Springs, Nevada 89018  
**IN FORMA PAUPERIS:**

78728

Iron Springs NV 89470

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100-44130-2

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Figure 1

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10/10/11

Steven Dhierson  
Clerk of Court  
200 Leas Avenue / 3rd floor  
Las Vegas NV 89103



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6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**  
7 **STATE OF NEVADA IN AND FOR**  
8 **THE COUNTY OF CLARK**

9 TONY HOBSON,

10 Plaintiff(s),

11 vs.

12  
13 STATE OF NEVADA; WARDEN JERRY  
14 HOWELL,

15 Defendant(s),

Case No: A-18-784448-W

Dept No: XIX

16  
17 **CASE APPEAL STATEMENT**

18 1. Appellant(s): Tony Hobson

19 2. Judge: William D. Kephart

20 3. Appellant(s): Tony Hobson

21 Counsel:

22  
23 Tony Hobson #1165963  
24 P.O. Box 208  
Indian Springs, NV 89070

25 4. Respondent (s): State of Nevada; Warden Jerry Howell

26 Counsel:

27 Steven B. Wolfson, District Attorney  
28 200 Lewis Ave.

Las Vegas, NV 89155-2212

5. Appellant(s)'s Attorney Licensed in Nevada: N/A  
Permission Granted: N/A

Respondent(s)'s Attorney Licensed in Nevada: Yes  
Permission Granted: N/A

6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No

7. Appellant Represented by Appointed Counsel On Appeal: N/A

8. Appellant Granted Leave to Proceed in Forma Pauperis\*\*: N/A  
*\*\*Expires 1 year from date filed*  
Appellant Filed Application to Proceed in Forma Pauperis: No  
Date Application(s) filed: N/A

9. Date Commenced in District Court: November 13, 2018

10. Brief Description of the Nature of the Action: Civil Writ

Type of Judgment or Order Being Appealed: Civil Writ of Habeas Corpus

11. Previous Appeal: No

Supreme Court Docket Number(s): N/A

12. Child Custody or Visitation: N/A

13. Possibility of Settlement: Unknown

Dated This 5 day of April 2019.

Steven D. Grierson, Clerk of the Court

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk  
200 Lewis Ave  
PO Box 551601  
Las Vegas, Nevada 89155-1601  
(702) 671-0512

cc: Tony Hobson

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Writ of Habeas Corpus**

**COURT MINUTES**

**February 25, 2019**

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A-18-784448-W	Tony Hobson, Plaintiff(s)
	vs.
	State of Nevada, Defendant(s)

---

<b>February 25, 2019</b>	<b>8:30 AM</b>	<b>Petition for Writ of Habeas Corpus</b>
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**HEARD BY:** Kephart, William D.

**COURTROOM:** RJC Courtroom 16B

**COURT CLERK:** Tia Everett  
Shannon Emmons

**RECORDER:** Christine Erickson

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Court noted, Defendant is not present and in the custody of the Nevada Department of Corrections.

Court noted Defendant is claiming ineffective counsel on the grounds that counsel failed to object or ask for mistrial during trial on issue about receipts. COURT FINDS, the claim is suitable for summary denial as Defendant has failed to provide any facts and/or support the claim.

Court noted, Defendant is claiming ineffective counsel on the grounds that counsel failed to raise NRS175.2910 in a pre trial petition regarding Codefendant testimony. COURT FINDS, the claim is belied by the record and claim is insufficient to warrant any relief.

Court noted, Defendant is claiming ineffective counsel on the grounds that counsel failed to raise perjury of Detective Abell during his testimony. COURT FINDS, Defendant provides no evidence to support his assertion; therefore this is a bare naked claim.

Court noted, Defendant is claiming ineffective counsel on the grounds that counsel failed to object to the DNA report. COURT FINDS, this was a strategic move by defense counsel as Defense counsel

PRINT DATE: 04/25/2019

Page 1 of 3

Minutes Date: February 25, 2019

requested the results be retested.

Court noted, Defendant is claiming ineffective counsel on the grounds that counsel failed to object to the admission of photographs. COURT FINDS, defendant fails to state how any better investigation would have resulted in a more favorable outcome in this matter therefore Defendant fails to state a basis for objection and the likelihood of its success.

Court noted, Defendant is claiming ineffective counsel on the grounds that counsel failed to independently test DNA evidence. COURT FINDS, Defense counsel was successful on a pre trial motion to have the DNA re-tested which did show conflicting information with the previous test to Defendant s benefit; however, counsel made a strategic decision not to have the DNA re-tested which was a reasonable decision.

Court noted, Defendant is claiming ineffective counsel on the grounds that counsel failed to subpoena all alleged victims. COURT FINDS, Defendant has failed to provide any information as to what he would anticipate to get for the alleged victims, how they would support his defense and/or his allegations; therefore this is a bare naked claim.

Court noted, Defendant is claiming ineffective counsel on the grounds that counsel failed to subpoena the JAG officer. COURT FINDS, Mr. Johns was subject to cross examination and the issue was sufficiently covered.

Court noted, Defendant is claiming ineffective counsel on the grounds that counsel failed to raise the confrontational clause. COURT FINDS, fails to provide any information to support the claim and is summarily denied.

Court noted, Defendant is claiming ineffective counsel on the grounds that counsel failed, to subpoena Detective Flynn. COURT FINDS, defendant has failed to provide any information to support the claim.

Court noted, Defendant is claiming ineffective counsel on the grounds that counsel failed to call Officer Mohler. COURT FINDS, this claim is meritless and belied by the record; Defense counsel made a strategic decision as the blue bag in question was found by a different officer.

Court noted, Defendant is claiming ineffective counsel on the grounds that counsel failed to investigate. COURT FINDS, this claim is meritless as Defendant fails to demonstrate how counsel s performance was deficient and would result in any prejudice to Defendant.

Court noted, Defendant is claiming ineffective counsel on the grounds that counsel failed to impeach State s DNA expert sent to Detective Abell. COURT FINDS, Defendant fails to show but for counsel s error there was a reasonable probability that the outcome of the trial would have been different. Further Defendant was unable to overcome any claims of insufficiency of evidence brought on direct appeal.

Court noted, Defendant is claiming ineffective counsel on the grounds that counsel failed to object to Jury Instruction number 43. COURT FINDS, Defendant fails put forth any argument on how counsel should have challenged the jury instruction; jury instruction was a proper instruction and any objection would have been futile.

COURT FINDS, Defendants remaining claims are denied as they are improperly raised and barred by law of the case.

COURT ORDERED, Defendant s Petition for Writ of Habeas Corpus shall be DENIED; state to prepare the order.



# Certification of Copy and Transmittal of Record

State of Nevada }  
County of Clark } SS:

Pursuant to the Supreme Court order dated April 17, 2019, I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, do hereby certify that the foregoing is a true, full and correct copy of the complete trial court record for the case referenced below. The record comprises four volumes with pages numbered 1 through 902.

TONY HOBSON,

Plaintiff(s),

vs.

STATE OF NEVADA; WARDEN JERRY  
HOWELL,

Defendant(s),

Case No: A-18-784448-W

Dept. No: XIX

now on file and of record in this office.

**IN WITNESS THEREOF**, I have hereunto  
Set my hand and Affixed the seal of the  
Court at my office, Las Vegas, Nevada  
This 25 day of April 2019.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

# IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed  
Apr 25 2019 12:57 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

TONY LEE HOBSON,  
Appellant(s),

vs.

THE STATE OF NEVADA,  
Respondent(s),

Case No: A-18-784448-W

Docket No: 78528

# RECORD ON APPEAL VOLUME 4

ATTORNEY FOR APPELLANT  
TONY HOBSON #1165963,  
PROPER PERSON  
P.O. BOX 208  
INDIAN SPRINGS, NV 89070

ATTORNEY FOR RESPONDENT  
STEVEN B. WOLFSON,  
DISTRICT ATTORNEY  
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LAS VEGAS, NV 89155-2212

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2	11/13/2018	PETITION FOR WRIT OF HABEAS CORPUS (POST- CONVICTION); PETITIONER REQUEST EVIDENTIARY HEARING (CONTINUATION)	241 - 294
2	01/25/2019	STATE'S RESPONSE TO DEFENDANT'S POST-CONVICTION PETITION FOR WRIT OF HABEAS CORPUS	348 - 376
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3	02/21/2019	UNFILED DOCUMENT(S) - INMATE CORRESPONDENCE W/COPIES OF UNFILED SUBPOENAS - CIVIL (UNABLE TO PROCESS: RETURN LETTER, MISSING SIGNATURE) (CONTINUATION)	481 - 507
2	11/13/2018	UNFILED DOCUMENT(S) - UNISSUED SUBPOENA - CIVIL DUCES TECUM (CONFIDENTIAL)	317 - 333

### Arrestees

1572645 11-85 218

Phones  
Cellular

(702) 273-6823

Notes:

## Other Entities

## Properties

Type: Currency, Coins, Securities, Cash

Status	Stolen	Quantity	100.00	Value	100.00	Color	Green
Description	US CURRENCY						
Manufacturer	US	Model		Serial No./VIN			
Vehicle Year		Body Type					
Lic Plate #		Lic Plate State		Lic Plate Exp			
Insurance Company							
Owner	V - 7 Eleven						
Notes:	MIXED US CURRENCY STOLEN DURING THE COMMISSION OF THIS CRIME.						

## Detailed Property Information

Length	Width	Height
Horse Power	Propulsion Serial #	
Caliber	Barrel Length	
Features		

## Recovered Property Information

Recovered Date	Recovered Value
Recovered Location	Recovered Reason
Recovered By	Recovered Stock #
Owner Type	Released To
Insurance Rep.	Tow Company

## Solvability

Criminalistics Work Was Performed  
Witness Present - Other

## Modus Operandi

MO General		Surrounding Area	Corner
Occupied?	Yes	Specific Premise	Parking Lot
General Premise	Convenience Store		
MO Against Property			
Entry Point	Door	Exit Point	Door
			North
Entry/Attempt Method	Entry Tool	Vehicle Entry	
Safe Entry	Suspect Actions	Additional Factors	Victim of Similar Crime
	Covered		Similar Crimes In
	Hands(Gloves, etc)		Neighborhood
	Selective In Loot		Yes
Victim Location	Electronic Locks	Video Surveillance	
Maid	Inspectress		
MO Against People			
Victim-Suspect Relationship	Pre-Incident Contact		
Victim Condition	Suspect Solicited/Offered		
Suspect Pretended to Be	Suspect Actions		
Sexual Acts	Vehicle Involvement		

## Narrative

At approximately 2301 hours on today's date the 7 Eleven convenience store located at 4581 E. Charleston was robbed. Two unknown black male adults entered this business and held the store clerk at this time, a Darnell Butler at Gun and knife point. The first suspect was wearing gray footwear, black pants, black t-shirt, gray hooded sweatshirt with an imitation "Burberry" type pattern lining, red banana wrapped around his face/neck area, wearing red gloves, armed with a black semi-auto handgun with what appeared to be a stainless steel barrel, standing approximately 5' 10" tall. The second subject was a black male adult wearing black footwear, pants t-shirt, hooded sweatshirt, gray and red

gloves, red bandana around his face, armed with what appeared to be a knife according to Butler. Both subjects entered the business from the front north facing store doors. the first subject entered the business with out the red bandana covering his face. this first subject wearing the gray hooded sweatshirt appeared to have a goatee with sharp facial features. This first suspect immediately instructed the clerk who was present in the store that " This is a stick-up give me all the money." Then clerk was then directed to around the front of the register area to behind the register area and told to open the register drawer which Butler did.

The suspects then grabbed approximately \$100.00 in mixed U.S. Currency from the register drawer of this 7 Eleven location. The suspects then exited the business and headed eastbound towards an unknown location. Butler then pushed the store panic alarm and contacted LVMPD Dispatch to advised them of this incident and to have officers respond. Patrol officers and Robbery responded to this location. Store owner notified and reviewed the store surveillance cameras of captured evidence of this robbery. Criminalistics technician W. Speas P#5228 responded and photographed the scene of this crime. Robbery will be gathering video evidence the following business day.

#### Patrol Follow-Up

Officer J. Vance P#8004, was attempting to locate any potential suspect "lay-off" vehicles in the immediate vicinity of the victim business to this event. Officer Vance contacted a suspicious black male adult at Wisconsin and Lucky Street, just south of the 7 Eleven. This black male adult was later identified as Wesley, Juan Ma Gale (DOB:08/17/74, NV DL- 1402389367). Wesley attempted to avoid officer contact by parking his cold plated vehicle in the driveway of 4841 Wisconsin. Wesley stated that he knew the family of the address where he parked his vehicle. However, contact was made with the residence of this address and the residence stated that they did not know Wesley. Wesley later admitted that he was parked at this address to avoid police contact due to his vehicle being "cold plated." Consent to search Wesley's vehicle was obtained and no articles related to the robbery were located with in Wesley's 1998 Cadillac Deville.



Las Vegas Metropolitan Police  
Department  
400 S. Martin Luther King Blvd.  
Las Vegas, NV 89106



Arrest / Detective Report

Case Report No.: **LLV141101004101**

### Administrative

Location **6130 W Lake Mead Blvd Las Vegas, NV 89108** Sector / Beat **V6**  
Occurred On (Date / Time) **Saturday 11/01/2014 11:02:00 PM** Or Between (Date / Time)  
Reporting Officer **14082 - Forson, C.** Reported On **11/01/2014**  
Entered By **14082 - Forson, C.** Entered On **11/01/2014 11:27:43 PM**  
Supervisor **08880 - Houchen, J.** Follow Up Pro Squad **NW 12** Follow Up  
Jurisdiction **Las Vegas, City of** Report Type **Officer Created - Sgt Approval** Disposition **Active**  
Route To:  
Connecting Reports **Voluntary Statement** Related Cases

Assisting Officers:  
**08880 - Houchen, Joshua M** SGT  
**14073 - Pearson, Kyle S** Officer  
**08744 - Abell, Jeffery C** Detective  
**14402 - Tucker, Kristan** ID Specialist  
**06015 - Turner, Linda A** Detective

### Offenses

**Robbery, E/DW(F)-NRS 200.380**  
Completed **Yes** Hate/Bias **None (No Bias)** Domestic Violence **No**  
Entry Premises Entered Type Security Tools  
Weapons **Handgun** Location Type **Restaurant**  
**Knife/Cutting Instrument (Icepick, Ax, Etc.)**  
Criminal Activities **None/Unknown**

### Victims

Name: **Pool, Shannon**

Victim Type **Individual** Written Statement **Yes** Can ID Suspect **No**  
Victim of **50138 - Robbery, E/DW(F)-NRS 200.380** Domestic Battery **No**  
SSN DOB **04/14/1971** Age **43** Sex **Female** Race **White**  
Height **5' 6"** Weight **185** Hair Color **Blond** Eye Color **Brown**  
Employer/School **Pizza Hut**  
Occupation/Grade  
DLN DL State Work Schedule  
Resident **Resident** DL Country  
Injury **None Observed** Tourist Departure Date  
Injury Weapons **Handgun**  
**Knife/Cutting Instrument (Icepick, Ax, Etc.)**

Addresses  
Residence **2437 Charteroak St Las Vegas, NV 89108 Clark USA**  
Business **6130 W. Lk Mead Las Vegas, NV 89108 Clark USA**

Phones  
Cellular **(702) 288-3125**  
Business/Work **(702) 648-9011**

Email

Offender Relationships  
**S - Unknown** **None**  
**S - Unknown** **None**  
**S - Unknown** **None**

Domestic Violence Information  
Relationship to Suspect  
Intimate Relationship  
Voluntary Statement  
Injury Severity  
Photos Taken  
Primary Aggressor **Determined**  
Drug/Alcohol Involvement  
DV Information Provided  
Medical Attention

Notes:

1/7/2015 11:04 PM

LLV141101004101

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Injury Severity  
Photos Taken

Medical Attention

Notes:

## Suspects

Name: Unknown

Written Stmt. Alerts Non-English Language

Aliases  
Moniker

Scope ID DOB Age 20-30 SSN  
Race Black or African American Build Thin Handedness  
Sex Male Height 6' 3" - 6' 4" Weight 160 - 190 Hair Color Bald Eye Color

Employer/School Occupation/Grade  
Hair Length Hair Style Eyes  
Complexion Facial hair Teeth  
Appearance Injury/Condition  
Speech manner Speech Characteristics  
DLN DL State DL Country  
Resident Tourist Departure Place of Birth  
Habitual Offender Status MO Factors  
Primary Means of Attack/Weapon Weapon Features  
Employer/School Occupation/Grade

Scars, Marks and Tattoos  
Addresses

Phones

Domestic Violence Information  
TPO in Effect Drug/Alcohol Involvement Voluntary Statement  
Injury Severity Medical Attention DV Info provided  
Photos Taken Suspect Demeanor

Notes:

Name: Unknown

Written Stmt. Alerts Non-English Language

Aliases  
Moniker

Scope ID DOB Age 20-30 SSN  
Race Black or African American Build Thin Handedness  
Sex Male Height 5' 8" - 5' 10" Weight 150 - 175 Hair Color Eye Color

Employer/School Occupation/Grade  
Hair Length Hair Style Eyes  
Complexion Facial hair Teeth  
Appearance Injury/Condition  
Speech manner Speech Characteristics  
DLN DL State DL Country  
Resident Tourist Departure Place of Birth  
Habitual Offender Status MO Factors  
Primary Means of Attack/Weapon Knife/Cutting Instrument (Icepick, Ax, Etc.) Weapon Features  
Employer/School Occupation/Grade

Scars, Marks and Tattoos  
Addresses

Phones

Domestic Violence Information  
TPO in Effect Drug/Alcohol Involvement Voluntary Statement  
Injury Severity Medical Attention DV Info provided  
Photos Taken Suspect Demeanor

Notes:

Name: Unknown

Written Siml. Alerts Non-English Language

Aliases  
Moniker

Scope ID DOB Age 00-100 SSN  
Race Black or African American Build Heavy Handedness  
Sex Male Height Weight 200 - 250 Hair Color Eye Color  
Employer/School Occupation/Grade  
Hair Length Hair Style Eyes  
Complexion Facial hair Teeth  
Appearance Injury/Condition  
Speech manner Speech Characteristics  
DLN DL State DL Country  
Resident Tourist Departure Place of Birth  
Habitual Offender Status MO Factors  
Primary Means of Attack/Weapon Weapon Features  
Employer/School Occupation/Grade

Scars, Marks and Tattoos  
Addresses

Phones

Domestic Violence Information  
TPO in Effect Drug/Alcohol Involvement Voluntary Statement  
Injury Severity Medical Attention DV Info provided  
Photos Taken Suspect Demeanor

Notes:

## Arrestees

## Witnesses

## Other Entities

## Properties

Type: Currency, Coins, Securities, Cash

Status Stolen Quantity 1 Value 160.00 Color  
Description \$160 in US currency/Various denominations  
Manufacturer Model Serial No./VIN  
Vehicle Year Body Type Lic Plate State Lic Plate Exp  
Lic Plate #  
Insurance Company  
Owner  
Notes:

### Detailed Property Information

Length Width Height  
Horse Power Propulsion Serial #  
Caliber Barrel Length  
Features

### Recovered Property Information

Recovered Date Recovered Value  
Recovered Location Recovered Reason  
Recovered By Recovered Stock #  
Owner Type Released To  
Insurance Rep. Tow Company

Type: Computers and Office Equipment

Status Stolen Quantity 1 Value 1,000.00 Color

Description	Rectangular mechanical cash drawer	Model	Serial No.	WIN
Manufacturer		Body Type		
Vehicle Year		Lic Plate State	Lic Plate Exp	
Lic Plate #				
Insurance Company				
Owner				
Notes:				

#### Detailed Property Information

Length	Width	Height
Horse Power	Propulsion Serial #	
Caliber	Barrel Length	
Features		

#### Recovered Property Information

Recovered Date	Recovered Value
Recovered Location	Recovered Reason
Recovered By	Recovered Stock #
Owner Type	Released To
Insurance Rep.	Tow Company

#### Solvability

Criminalistics Work Was Performed  
 Significant MO Is Present  
 Stolen Property Is Traceable, (Identifiable)  
 Suspect Can Be Described  
 Witness Present - Victim

#### Modus Operandi

MO General		Surrounding Area	Middle of Block
Occupied?	Yes	Specific Premise	Room
General Premise	Fast Food Restaurant		
MO Against Property			
Entry Point	Exit Point		Entry Location
Entry/Attempt Method	Entry Tool		Vehicle Entry
Safe Entry	Suspect Actions		Additional Factors
Victim Location	Electronic Locks		Video Surveillance
Maid	Inspectress		
MO Against People			
Victim-Suspect Relationship	Pre-Incident Contact		None
Victim Condition	Suspect Solicited/Offered		
Suspect Pretended to Be	Suspect Actions		Had Victim Lie Down
			Multiple Suspects
			Pulled/Held/Grabbed Victim
			Suspect's Face Concealed
Sexual Acts	Vehicle Involvement		

#### Narrative

On 11/11/14 at 2302 Hrs, I, Officer C. Forson, P# 14082, while operating as marked patrol unit 1V12, was dispatched to a silent robbery alarm from the Pizza Hut located at 6130 W. Lake Mead Blvd, Las Vegas Nv 89108. Upon recall to the business it was confirmed to be an actual robbery.

Upon making contact with the employees, Shannon Poole DOB 4/14/71, Daniel Haffner DOB 11/15/79 and George Thimakis 1/28/84 stated that they were all present and victims of the robbery. Shannon, Daniel and George were in the rear of the business finishing orders. No one heard anyone enter the business, and all three were taken by surprise when 2 black males began yelling and knocking things over in the business. Suspect #1 was described as in his 20's, 6'3- 6'4, thin build, wearing a black bandana over his face, a black hat with a yellow 'P' on it and a red brim, and dark clothing on. He was also wearing white, possible motorcycle type gloves. Suspect #1 had a small black revolver, and yelled at all three employees to get down on the ground, advising that no one would get hurt so long as no one tried anything. Suspect #2 was described as a black male, in his 20's, 5'8- 5'10, also thin build wearing a black hoodie, a dark bandana over his face, and black and red leather gloves. Suspect #2 was in possession of a large knife, possibly a construction or dry wall type of knife, not a kitchen knife with a approximately 6' blade.

As suspect #1 was ordering the employees to the floor, suspect #2 physically grabbed Shannon by the arm to force her to her knees. Suspect #1 then demanded access to that safe, however they were advised that the manager was not present and no one there had access.

Suspect #2 then moved around to the front of the store to the register as suspect # 1 demanded a key for the register. Again he was advised that the manager had the only key and the present employees did not. They then heard a loud crashing noise coming from the register area as suspect #2 took the entire register from the counter, causing the rest of the equipment to fall to the ground. Suspect # 2 then called for suspect #1 and they both left the store. Daniel got up to see which way they went, and did not see them in the area. The only thing of note Daniel observed was a gold or champagne Ford vehicle (possibly a Taurus) leaving the parking lot, travelling north bound on Jones. Daniel stated the vehicle did not stop at the edge of the parking lot and instead rolled out, but was not travelling at a high rate of speed.

Daniel advised that there was \$160 in the register, and the register itself is of unknown value, possible approximately \$1000. ID specialist K. Mackler P# 14402 responded to process the scene. A shoe foot print was found on the front counter where one of the suspects jumped the counter to the register.

Robbery Detectives L. Turner P# 6015 and J. Abell P# 8744 responded to further the investigation. Upon review of the business' video, a third suspect was seen out front of the business acting as a lookout. Suspect #3 was described as a heavyset black male wearing a white bandana over his face, and a gray zip up hoodie sweater, black pants and black shoes. He also had blue latex gloves on.

Patrol Follow-Up

Las Vegas Metropolitan Police  
Department  
400 S. Martin Luther King Blvd.  
Las Vegas, NV 89106



Arrest / Detective Report

Case Report No.: LLV141103003888

Administrative

Location 5105 E.sahara Ave LV, NV 89121 Sector/Beat J2  
Occurred On (Date / Time) Monday 11/03/2014 10:55:00 PM Or Between (Date / Time)  
Reporting Officer 13582 - Viray, L. Reported On 11/03/2014  
Entered By 13582 - Viray, L. Entered On 11/03/2014 11:26:41 PM  
Supervisor 07938 - Auten, L. Follow Up Pro Squad SE 13 Follow Up  
Jurisdiction Clark County Report Type Officer Created - Sgt Approval Disposition Active  
Route To: Related Cases UNK  
Connecting Reports Victim Information Guide  
Voluntary Statement

Assisting Officers:  
07938 - Auten, Isaac E SGT  
09003 - Moore, William M Officer  
08427 - Felabon, Adam M ID Specialist  
06845 - Long, Kristen Detective  
07465 - Walrauch, Theodore P Detective

Offenses

Robbery, E/DW(F)-NRS 200.380  
Completed Yes Hate/Bias Unknown (Offenders Motivation Not Known) Domestic Violence No  
Entry Premises Entered Type Security Tools  
Weapons Handgun Location Type Other/Unknown  
Knife/Cutting Instrument (Icepick, Ax, Etc.)  
Criminal Activities

Battery W/Dw(F)-NRS 200.481.2E  
Completed Yes Hate/Bias Unknown (Offenders Motivation Not Known) Domestic Violence No  
Entry Premises Entered Type Security Tools  
Weapons Handgun Location Type Other/Unknown  
Criminal Activities

Victims

Name: PIZZA HUT

Victim Type Business Written Statement Can ID Suspect  
Victim of 50138 - Robbery, E/DW(F)-NRS 200.380 Domestic Battery  
SSN DOB Age Sex Eye Color Race  
Height Weight Hair Color  
Employer/School Work Schedule  
Occupation/Grade DLN DL State DL Country  
Resident Tourist Departure Date  
Injury Injury Weapons

Addresses  
Business 5105 E.sahara Ave LV, NV 89121

Phones  
Business/Work (702) 457-2634

Email

Offender Relationships  
Domestic Violence Information  
Relationship to Suspect Primary Aggressor Determined  
Intimate Relationship Drug/Alcohol Involvement  
Voluntary Statement DV Information Provided  
Injury Severity Medical Attention  
Photos Taken

Notes:

Name: FARAONE, TREVOR

11/7/2015 11:05 PM

LLV141103003888

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Victim Type **Individual** Written Statement **No** Can ID Suspect **No**  
Victim of **50223 - Battery W/Dw(F)-NRS 200.481.2E** Domestic Battery **No**

SSN **DOB 08/26/1979** Age **35** Sex **Male** Race **White**  
Height **6' 2"** Weight **177** Hair Color **Brown** Eye Color **Blue**  
Employer/School **PIZZA HUT**  
Occupation/Grade **MANAGER** Work Schedule  
DLN **DL State** DL Country  
Resident **Resident** Tourist Departure Date  
Injury **Apparent Minor Injury** Injury Weapons **Handgun**

Addresses  
Business **5105 E.sahara Ave LV, NV 89121**

Phones  
Business/Work **(702) 457-2634**

Email

Offender Relationships  
Domestic Violence Information  
Relationship to Suspect **Primary Aggressor Determined**  
Intimate Relationship **Drug/Alcohol Involvement**  
Voluntary Statement **DV Information Provided**  
Injury Severity **Medical Attention**  
Photos Taken

Notes:

Name: **CARMICHAEL ASHLEY**

Victim Type **Individual** Written Statement **Yes** Can ID Suspect **No**  
Victim of **50138 - Robbery, E/DW(F)-NRS 200.380** Domestic Battery **No**

SSN **DOB 12/22/1993** Age **20** Sex **Female** Race **White**  
Height **5' 6"** Weight **120** Hair Color **Brown** Eye Color **Blue**  
Employer/School **PIZZA HUT**  
Occupation/Grade **CLERK** Work Schedule  
DLN **DL State** DL Country  
Resident **Resident** Tourist Departure Date  
Injury **None Observed** Injury Weapons **Handgun**

Addresses  
Business **5105 E.sahara Ave LV, NV 89121**

Phones  
Business/Work **(702) 457-2634**

Email

Offender Relationships  
Domestic Violence Information  
Relationship to Suspect **Primary Aggressor Determined**  
Intimate Relationship **Drug/Alcohol Involvement**  
Voluntary Statement **DV Information Provided**  
Injury Severity **Medical Attention**  
Photos Taken

Notes:

Name: **BROWN, GUY**

Victim Type **Individual** Written Statement **No** Can ID Suspect **No**  
Victim of **50138 - Robbery, E/DW(F)-NRS 200.380** Domestic Battery **No**

SSN **DOB 08/02/1962** Age **52** Sex **Male** Race **White**  
Height **5' 11"** Weight **185** Hair Color **Brown** Eye Color **Green**  
Employer/School **PIZZA HUT**  
Occupation/Grade **DELIVERY** Work Schedule  
DLN **DL State** DL Country  
Resident **Resident** Tourist Departure Date  
Injury **None Observed** Injury Weapons **Knife/Cutting Instrument (Icepick, Ax, Etc.)**

Addresses



Business 5106 E.sahara Ave LV, NV 89121

Phones  
Business/Work (702) 457-2634

Email

Offender Relationships  
Domestic Violence Information  
Relationship to Suspect  
Intimate Relationship  
Voluntary Statement  
Injury Severity  
Photos Taken

Primary Aggressor Determined  
Drug/Alcohol Involvement  
OV Information Provided  
Medical Attention

Notes:

## Suspects

## Arrestees

## Witnesses

Witness Name: BAGWELL, THOMAS

Written Statement	Yes	Can ID Suspect	No	Testify
SSN	DOB 07/01/1992	Age 22	Race White	
Sex Male	Height 5' 11"	Weight 280	Hair Color Blond	Eye Color Blue

Addresses  
Business 5106 E.sahara Ave LV, NV 89121

Phones  
Business/Work (702) 457-2634

Notes:

## Other Entities

## Properties

Type: Currency, Coins, Securities, Cash

Status Stolen	Quantity \$260.	Value 260.00	Color
Description CASH			
Manufacturer	Model	Serial No./VIN	
Vehicle Year	Body Type	Lic Plate Exp	
Lic Plate #	Lic Plate State		
Insurance Company			
Owner V - PIZZA HUT			

Notes:

## Detailed Property Information

Length	Width	Height
Horse Power	Propulsion Serial #	
Caliber	Barrel Length	
Features		

## Recovered Property Information

Recovered Date	Recovered Value
Recovered Location	Recovered Reason
Recovered By	Recovered Stock #
Owner Type	Released To
Insurance Rep.	Tow Company

Type: Misc. (Cell Phones, Ammo, Worthless Doc, Items not listed)

Status	Stolen	Quantity	1	Value	140.00	Color	Black
Description	CELLPHONE						
Manufacturer	APPLE	Model	IPHONE 4S	Serial No	WVN		
Vehicle Year		Body Type					
Lic Plate #		Lic Plate State		Lic Plate Exp			
Insurance Company							
Owner	V - CARMICHAEL, ASHLEY						
Notes:							

#### Detailed Property Information

Length	Width	Height
Horse Power	Propulsion Serial #	
Caliber	Barrel Length	
Features		

#### Recovered Property Information

Recovered Date	Recovered Value
Recovered Location	Recovered Reason
Recovered By	Recovered Stock #
Owner Type	Released To
Insurance Rep.	Tow Company

#### Solvability

Criminalistics Work Was Performed  
Physical Evidence is Present

#### Modus Operandi

MO General		Surrounding Area	Other
Occupied?	Yes	Specific Premise	Other
General Premise	Other		
MO Against Property			
Entry Point	Door	Exit Point	Door
			North
Entry/Attempt Method	Open for Business	Entry Tool	Other
Safe Entry	Other	Suspect Actions	Covered Hands(Gloves, etc)
			No
Victim Location	On the Premises	Electronic Locks	No
Maid		Inspectress	
MO Against People		Pre-Incident Contact	None
Victim-Suspect Relationship		Suspect Solicited/Offered	
Victim Condition	Other	Suspect Actions	Had Victim Lie Down
Suspect Pretended to Be			Hit/Assaulted During Act
			Multiple Suspects
Sexual Acts		Vehicle Involvement	

#### Narrative

On 11/03/14 at approximately 2255 hours, PR Trevor Faraone, while working as manager of Pizza Hut located at 5101 E. Sahara Ave. LV NV 89121 was in the back kitchen area of the business with other two employees, Ashley Carmichael and Thomas Bagwell when he heard a male voice yelled "Get in the ground" at least three times. Faraone said at this point he saw a male subject with all black clothing and a red bandana over his face standing in the kitchen. Faraone said the suspect then yelled "Where's the safe?". Faraone then pointed to the suspect where the location of the safe is. Faraone said the suspect pointed a dark gray handgun, unknown type, to his head and told him to open the safe. Faraone walked over to the safe and that's when he noticed a second male subject wearing all dark clothing, standing over where Carmichael and Bagwell were laying down. Faraone tried to open the safe and told the first suspect that the safe is a time lock safe. Suspect one then hit Faraone twice in the back of his head with the handgun and told him to open the cash drawer. Faraone opened the cash drawer then suspect one flipped the trash can, took the plastic liner and ordered Faraone to place the cash in the plastic bag, the cash was approximately \$200.00. Suspect one then yelled at suspect two to empty the pockets of all the victims. Suspect two took Carmichael's iPhone 4's from her pants pocket. At this point, another employee, Guy Brown just came back from delivery, and was surprised to see the suspects inside the store and the employees were on the ground. Brown said the second suspect pointed a small silver pocket knife towards him and demanded money. Second suspect then reached inside Brown's pants pocket and took approximately \$60.00 cash from his delivery. Suspect then left towards the back door of the store.

---

First suspect was described as tall, skinny, dark skin black male adult, black hoody, red bandana over his face, black jeans and black boots, wearing black gloves, armed with unknown type of dark gray handgun. Second suspect was a black male adult, 6'0, 200 lbs, wearing all dark clothing, wearing a black ski mask, wearing black gloves with red on the palm side, armed with a silver pocket knife.

**Patrol Follow-Up**

Robbery arrived on scene and ID also processed the scene. Video will be available at a later time.

Las Vegas Metropolitan Police  
Department  
400 S. Martin Luther King Blvd.  
Las Vegas, NV 89106



Case Report No.: LLV141104000062

Arrest / Detective Report

Administrative

Location 4258 E Charleston Blvd LV, NV 89110 Sector / Beat 01  
Occurred On (Date / Time) Tuesday 11/04/2014 12:00:00 AM Or Between (Date / Time)  
Reporting Officer 14731 - Dulatre, S. Reported On 11/04/2014  
Entered By 14731 - Dulatre, S. Entered On 11/04/2014 12:47:37 AM  
Supervisor 08272 - Oliver, F. Follow Up Pro Squad NE 14 Follow Up  
Jurisdiction Las Vegas, City of Report Type Officer Created - Sgt Approval Disposition Active  
Route To: Related Cases  
Connecting Reports Body Camera Video  
Voluntary Statement  
Victim Information Guide

Assisting Officers:

13761 - Hearrell, Charles E Officer  
07917 - Shrum, Shelley K ID Specialist  
07465 - Weirauch, Theodore P Detective

Offenses

Robbery, E/DW(F)-NRS 200.380

Completed Yes Hate/Bias Unknown (Offenders Motivation Not Known) Domestic Violence No  
Entry Premises Entered Type Security Tools  
Weapons Handgun Location Type Restaurant  
Criminal Activities

Kidnapping, 1st Degree(F)-NRS 200.310.1

Completed Yes Hate/Bias Domestic Violence No  
Entry Premises Entered Type Security Tools  
Weapons Location Type Restaurant  
Criminal Activities

Victims

Name: Secha, Idania

Victim Type Individual Written Statement No Can ID Suspect No  
Victim of 50051 - Kidnapping, 1st Degree(F)-NRS 200.310.1 Domestic Battery No  
50138 - Robbery, E/DW(F)-NRS 200.380

SSN DOB 05/16/1982 Age 32 Sex Female Race White  
Height 5' 2" Weight 140 Hair Color Brown Eye Color Brown  
Employer/School Little Caesars  
Occupation/Grade Manager Work Schedule  
DLN DL State DL Country  
Resident Resident Tourist Departure Date  
Injury None Observed Injury Weapons Handgun

Addresses

Residence 2272 S Nellis Blvd LV, NV 89122 Clark USA

Phones

Cellular (702) 379-1081  
Business/Work (702) 438-7422

Email

Offender Relationships

S - Unknown None

S - Unknown None

Domestic Violence Information

Relationship to Suspect Primary Aggressor Determined  
Intimate Relationship Drug/Alcohol Involvement  
Voluntary Statement DV Information Provided  
Injury Severity Medical Attention  
Photos Taken

Notes:

11/7/2015 11:06 PM

LLV141104000062

Page 1 of 4

Name: Dorame, James

Victim Type Individual Written Statement No Can ID Suspect No  
Victim of 50051 - Kidnapping, 1st Degree(F)-NRS 200.310.1 Domestic Battery No

SSN 601-92-6607 DOB 09/24/1972 Age 42 Sex Male Race White  
Height 6' 1" Weight 180 Hair Color Black Eye Color Brown  
Employer/School  
Occupation/Grade  
DLN DL State Work Schedule  
Resident Nonresident DL Country  
Injury Tourist Departure Date  
Injury Weapons

Addresses  
Residence 15820 N 25th Ave #8208 Phoenix, AZ 85023

Phones

Email

Offender Relationships  
Domestic Violence Information  
Relationship to Suspect Primary Aggressor Determined  
Intimate Relationship Drug/Alcohol Involvement  
Voluntary Statement DV Information Provided  
Injury Severity Medical Attention  
Photos Taken

Notes:

## Suspects

Name: Unknown

Written Stmt. No Alerts Non-English Language

Aliases  
Moniker

Scope ID DOB Age 00 SSN  
Race Black or African American Build Thin Handedness  
Sex Male Height 6' 0" - 6' 1" Weight 150 - 170 Hair Color Eye Color

Employer/School Occupation/Grade  
Hair Length Hair Style Eyes  
Complexion Facial hair Teeth  
Appearance Injury/Condition  
Speech manner Speech Characteristics  
DLN DL State DL Country Place of Birth  
Resident Tourist Departure  
Habitual Offender Status MO Factors

Primary Means of Attack/Weapon Handgun Weapon Features Large Frame Revolver  
Employer/School Occupation/Grade

Scars, Marks and Tattoos  
Addresses

Phones

Domestic Violence Information  
TPO in Effect Drug/Alcohol Involvement Voluntary Statement  
Injury Severity Medical Attention DV Info provided  
Photos Taken Suspect Demeanor

Notes:

Name: Unknown

Written Stmt. No Alerts Non-English Language

Aliases  
Moniker

Scope ID  
 Race **Black or African American** DOB  
 Sex **Male** Height **6' 0" - 6' 1"** Weight **150 - 170** Age **00** Build **Thin** SSN  
 Hair Color  
 Handedness  
 Eye Color  
 Employer/School  
 Hair Length  
 Complexion  
 Appearance  
 Speech manner  
 DLN  
 Resident  
 Habitual Offender Status  
 Primary Means of Attack/Weapon  
 Employer/School  
 Scars, Marks and Tattoos  
 Addresses  
 Phones  
 Domestic Violence Information  
 TPO in Effect  
 Injury Severity  
 Photos Taken  
 Hair Style  
 Facial hair  
 Injury/Condition  
 Speech Characteristics  
 DL State  
 Tourist Departure  
 DL Country  
 Place of Birth  
 MO Factors  
 Weapon Features  
 Occupation/Grade  
 Large Frame  
 Revolver  
 Drug/Alcohol Involvement  
 Medical Attention  
 Suspect Demeanor  
 Voluntary Statement  
 DV Info provided

Notes:

## Arrestees

## Witnesses

## Other Entities

## Properties

Type: **Misc. (Cell Phones, Ammo, Worthless Doc, Items not listed)**

Status **Stolen** Quantity **1** Value **750.00** Color **White**  
 Description **Smartphone**  
 Manufacturer **Samsung** Model **Galaxy S5** Serial No./VIN  
 Vehicle Year Body Type Lic Plate State Lic Plate Exp  
 Insurance Company  
 Owner  
 Notes:

## Detailed Property Information

Length Width Height  
 Horse Power Propulsion Serial #  
 Caliber Barrel Length  
 Features

## Recovered Property Information

Recovered Date Recovered Value  
 Recovered Location Recovered Reason  
 Recovered By Recovered Stock #  
 Owner Type Released To  
 Insurance Rep. Tow Company

## Solvability

Criminalistics Work Was Performed  
 Significant MO is Present  
 Stolen Property is Traceable, (Identifiable)  
 Witness Present - Victim

## Modus Operandi

<b>MO General</b>		<b>Surrounding Area</b>		<b>Middle of Block</b>	
Occupied?	Yes	Specific Premise		Room	
General Premise	Restaurant				
MO Against Property					
Entry Point	Door	Exit Point	Door	Entry Location	Door South
Entry/Attempt Method	Other	Entry Tool		Vehicle Entry	
Safe Entry		Suspect Actions	Covered Hands(Gloves, etc) Used Lookout/Accomplice	Additional Factors	
Victim Location	Work/School	Electronic Locks	No	Video Surveillance	Yes
Maid		Inspectress			
<b>MO Against People</b>		<b>Pre-Incident Contact</b>			
Victim-Suspect Relationship		Suspect Solicited/Offered			
Victim Condition		Suspect Actions		Had Victim Lie Down Moved Victim's Location Suspect's Face Concealed	
Suspect Pretended to Be					
Sexual Acts		Vehicle Involvement			

## Narrative

On 11/04/14 at approximately 0000 hours Idania Sacba and Jesus Dorame were inside of the Little Caesars located at 4258 E. Charleston LV, NV 89110 conducting paperwork and receiving deliveries, when two unknown black male adults walked into the restaurant. The first subject was described as a black male 6'0 - 6'1 thin build approximately 150-170 pounds wearing a black beanie, black sweatshirt, black gloves, unknown colored pants, and a black cloth covering his face. The second subject was described as a black male 6'0 - 6'1 thin build approximately 150-170 pounds wearing a multi colored long sleeve shirt, unknown pants, and covering his face with a black cloth and black gloves.

After entering the store through the front door which was propped open, the second male pointed a large frame black revolver handgun to the side of Jesus and walked him around to the area near the registered and told him to not look at him and get down on the ground. Jesus stated he complied with the demands.

The first subject then walked to the back of the store to the area that Idania was sitting completing paperwork. Idania stated the the male walked up to her and pointed a large framed black revolver type handgun at her and told her, "Give me the money, all I want is the money." Idania told the male that she does not have any access to the safe at this time. The male then noticed Idania's white Samsung Galaxy S5 on the table and grabbed it and told Idania to walk toward the safe. Idania complied with the demands but was unable to open the safe.

After taking Idania's Samsung and realizing that the safe was not going to open both males left the store in an unknown direction or mode of travel.

### Patrol Follow-Up

Robbery detective responded and conducted taped interview with Idania.  
ID responded and processed the scene.  
VIG given to victim.

Las Vegas Metropolitan Police  
Department  
400 S. Martin Luther King Blvd.  
Las Vegas, NV 89106



Arrest / Detective Report

Case Report No.: LLV141115003869

### Administrative

Location **4505 E Bonanza Las Vegas, NV 89110** Sector / Beat **G2**  
Occurred On (Date / Time) **Saturday 11/15/2014 10:42:00 PM** Or Between (Date / Time)  
Reporting Officer **14721 - Van Dyke, J.** Reported On **11/15/2014**  
Entered By **14721 - Van Dyke, J.** Entered On **11/15/2014 11:20:05 PM**  
Supervisor **08458 - Veldez, C.** Follow Up **Pro Squad NE 14** Follow Up  
Jurisdiction **Las Vegas, City of** Report Type **Officer Created - Sgt Approval** Disposition **Active**  
Route To:  
Connecting Reports **Body Camera Video**  
**Victim Information Guide**  
**Voluntary Statement**

Assisting Officers:  
**13510 - Rocha, Bryan** Officer  
**14402 - Tucker, Kristan** ID Specialist  
**08744 - Abell, Jeffery C** Detective  
**05297 - De Palma, Philip H** Detective

### Offenses

**Robbery, E/DW(F)-NRS 200.380**  
Completed **Yes** Hate/Bias **None (No Bias)** Domestic Violence **No**  
Entry **Premises Entered** Type Security **Tools**  
Weapons **Handgun** Location Type **Restaurant**  
Criminal Activities **None/Unknown**

### Victims

Name: **Urbina, Jeronimo**

Victim Type **Individual** Written Statement **Yes** Can ID Suspect **No**  
Victim of **50138 - Robbery, E/DW(F)-NRS 200.380** Domestic Battery **No**  
SSN **530-97-4504** DOB **10/19/1996** Age **18** Sex **Male** Race **White**  
Height **5' 7"** Weight **147** Hair Color **Black** Eye Color **Brown**  
Employer/School **Popeyes**  
Occupation/Grade **Shift Manager** Work Schedule  
DLN **DL State** DL Country  
Resident **Resident** Tourist Departure Date  
Injury **None Observed** Injury Weapons **Handgun**

Addresses  
Residence **578 Roxella Ln Apt 8 Las Vegas, NV 89110 Clark USA**

Phones  
Cellular **(702) 408-5892**

Email

Offender Relationships  
S - Suspect, #1 **Victim Was Stranger**  
S - Suspect, #2 **Victim Was Stranger**

Domestic Violence Information  
Relationship to Suspect **Primary Aggressor Determined**  
Intimate Relationship **Drug/Alcohol Involvement**  
Voluntary Statement **DV Information Provided**  
Injury Severity **Medical Attention**  
Photos Taken

Notes:

Name: **Aguilar, Karina**

Victim Type **Individual** Written Statement **Yes** Can ID Suspect **Yes**  
Victim of **50138 - Robbery, E/DW(F)-NRS 200.380** Domestic Battery **No**

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SSN 608-98-1928 DOB 04/26/1997 Age 17 Sex Female Race White  
 Height 5' 2" Weight 138 Hair Color Brown Eye Color Green  
 Employer/School Popeyes  
 Occupation/Grade Employee Work Schedule  
 DLN DL State DL Country  
 Resident Resident Tourist Departure Date  
 Injury Apparent Minor Injury Injury Weapons Handgun  
 Personal Weapons (Hands, Feet, Teeth, etc.)

Addresses  
 Residence 2751 E Bonanza Rd Apt 104h Las Vegas, NV 89101 Clark USA

Phones

Email

Offender Relationships  
 S - Suspect, #1 Victim Was Stranger

S - Suspect, #2 Victim Was Stranger

Domestic Violence Information  
 Relationship to Suspect Primary Aggressor Determined  
 Intimate Relationship Drug/Alcohol Involvement  
 Voluntary Statement DV Information Provided  
 Injury Severity Medical Attention  
 Photos Taken

Notes:

Name: Popeyes

Victim Type Business Written Statement Can ID Suspect  
 Victim of 50138 - Robbery, E/DW(F)-NRS 200.380 Domestic Battery

SSN DOB Age Sex Eye Color Race  
 Height Weight Hair Color  
 Employer/School  
 Occupation/Grade Work Schedule  
 DLN DL State DL Country  
 Resident Tourist Departure Date  
 Injury Injury Weapons

Addresses  
 Business 4505 E Bonanza Las Vegas, NV 89110 Clark USA

Phones  
 Business/Work (702) 631-8441

Email

Offender Relationships  
 Domestic Violence Information  
 Relationship to Suspect Primary Aggressor Determined  
 Intimate Relationship Drug/Alcohol Involvement  
 Voluntary Statement DV Information Provided  
 Injury Severity Medical Attention  
 Photos Taken

Notes:

## Suspects

Name: Suspect #1

Written Stmt. No Alerts Non-English No Language

Aliases  
 Moniker

Scope ID DOB Age 25-30 SSN  
 Race Black or African American Build Medium Handedness  
 Sex Male Height 6' 0" - 6' 2" Weight 170 - 180 Hair Color Black Eye Color

Employer/School Occupation/Grade

Hair Length		Hair Style		Eyes	
Complexion	Medium	Facial hair		Teeth	
Appearance		Injury/Condition			
Speech manner		Speech Characteristics		Not Unusual	
DLN		DL State		DL Country	
Resident	Unknown	Tourist Departure		Place of Birth	
				Entered Building Known to Be Occupied	
				Forced Victim to Ground or Floor	
				Inflicted Injury	
Habitual Offender Status		MO Factors		Suspect Armed	
				Suspect Wore Gloves	
				Vandalized Premises	
				Wore Mask	
Primary Means of Attack/Weapon	Handgun	Weapon Features		Revolver	
Employer/School		Occupation/Grade			
Scars, Marks and Tattoos					
Addresses					
Phones					
Domestic Violence Information		Drug/Alcohol Involvement		Voluntary Statement	
TPO in Effect		Medical Attention		DV Info provided	
Injury Severity		Suspect Demeanor			
Photos Taken					

Notes:

Name: Suspect #2

Written Stmt.	No	Alerts		Non-English		Language	
Aliases							
Moniker							
Scope ID		DOB		Age	0	SSN	
Race	Unknown	Height		Build		Handedness	
Sex	Unknown	Weight		Hair Color		Eye Color	
Employer/School				Occupation/Grade			
Hair Length		Hair Style				Eyes	
Complexion		Facial hair				Teeth	
Appearance				Injury/Condition			
Speech manner				Speech Characteristics			
DLN		DL State		DL Country			
Resident		Tourist Departure				Place of Birth	
Habitual Offender Status				MO Factors			
Primary Means of Attack/Weapon				Weapon Features			
Employer/School				Occupation/Grade			
Scars, Marks and Tattoos							
Addresses							
Phones							
Domestic Violence Information		Drug/Alcohol Involvement		Voluntary Statement			
TPO in Effect		Medical Attention		DV Info provided			
Injury Severity		Suspect Demeanor					
Photos Taken							

Notes:

No description on Suspect #2

## Arrestees

## Witnesses

Witness Name: Vazquez, Johana

Written Statement	Yes	Can ID Suspect	No	Testify	
SSN	680-05-5664	DOB	02/16/1997	Age	17
Sex	Female	Height	5' 8"	Weight	150
				Hair Color	Brown
				Race	White
				Eye Color	Brown
Addresses					
Residence		801 Hyattsville St Las Vegas, NV	89110 Clark USA		

Phones  
Cellular (702) 981-9164

Notes:

Witness Name: Ornelas, Angelica

Written Statement	Yes	Can ID Suspect	No	Testify					
SSN	621-76-8487	DOB	10/11/1984	Age	20	Race	White	Eye Color	Brown
Sex	Female	Height	5' 5"	Weight	140	Hair Color	Brown		

Addresses  
Residence 2252 Castleberry Ln Las Vegas, NV 89158 Clark USA

Phones  
Cellular (702) 542-4673

Notes:

Witness Name: Talango, Juan

Written Statement	No	Can ID Suspect	No	Testify					
SSN		DOB	07/03/1964	Age	50	Race	White	Eye Color	Brown
Sex	Male	Height	5' 9"	Weight	160	Hair Color	Brown		

Addresses  
Business 4505 E Bonanza Las Vegas, NV 89110 Clark USA

Phones  
Business/Work (702) 531-8441

Notes:

## Other Entities

### Properties

Type: Misc. (Cell Phones, Ammo, Worthless Doc, Items not listed)

Status	Destroyed/Damaged/Vandalized	Quantity	1	Value	500.00	Color	Silver or Aluminum
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Description	Exterior building door (Glass)	Model	Serial No./VIN
Manufacturer		Body Type	
Vehicle Year		Lic Plate State	Lic Plate Exp
Lic Plate #			
Insurance Company			
Owner	V - Popeyes		

Notes:

### Detailed Property Information

Length	Width	Height
Horse Power	Propulsion Serial #	
Caliber	Barrel Length	
Features		

### Recovered Property Information

Recovered Date	Recovered Value
Recovered Location	Recovered Reason
Recovered By	Recovered Stock #
Owner Type	Released To
Insurance Rep.	Tow Company

Type: Currency, Coins, Securities, Cash

Status	Stolen	Quantity	1	Value	2,000.00	Color
Description	Cash stolen from safe					
Manufacturer	Model	Serial No./VIN				
Vehicle Year	Body Type					

Lic Plate #	Lic Plate State	Lic Plate Exp
Insurance Company		
Owner	V - Popeyes	
Notes:	Unknown amount of cash, possibly \$1,000-2,000	

#### Detailed Property Information

Length	Width	Height
Horse Power	Propulsion Serial #	
Caliber	Barrel Length	
Features		

#### Recovered Property Information

Recovered Date	Recovered Value
Recovered Location	Recovered Reason
Recovered By	Recovered Stock #
Owner Type	Released To
Insurance Rep.	Tow Company

#### Solvability

Criminalistics Work Was Performed  
 Physical Evidence is Present  
 Significant MO is Present  
 Suspect Can Be Described  
 Witness Present - Victim  
 Witness Present - Other

#### Modus Operandi

MO General		Surrounding Area	Middle of Block
Occupied?	Yes	Specific Premise	Room
General Premise	Fast Food Restaurant		
MO Against Property			
Entry Point	Exit Point		Entry Location
Entry/Attempt Method	Entry Tool		Vehicle Entry
Safe Entry	Suspect Actions		Additional Factors
Victim Location	Electronic Locks		Video Surveillance
Maid	Inspectress		
MO Against People			
Victim-Suspect Relationship		Pre-Incident Contact	Opening/Closing-Business
Victim Condition	Under 18	Suspect Solicited/Offered	
Suspect Pretended to Be		Suspect Actions	Forced Entry
			Had Victim Bag Property
			Hit/Assaulted During Act
			Moved Victim's Location
			Multiple Suspects
			Other
			Suspect's Face Concealed
Sexual Acts		Vehicle Involvement	

#### Narrative

Body Camera Video Available.  
 On 11/15/14 at approximately 2245 hours, I Officer J. Van Dyke P# 14721 operating as marked patrol unit 1G3 responded to Popeyes 4505 E Bonanza Rd Las Vegas, NV 89110 reference a Robbery With Deadly Weapon.

Upon my arrival I spoke with the employees, who described the suspect black male adult, late 20's, 6'0-6'2, medium build, wearing a gray hoodie, red bandana over his face, black baseball cap, black jeans, and red gloves.

One of the employees, Karina Aguilar DOB 4/26/97, stated her left ankle was sprained and requested medical. City of Las Vegas Fire Dept. Reacus 108 treated injury on scene.

Aguilar stated to me that at approximately 2240 hours, she was behind the counter closing the restaurant when she heard Suspect #1 kick the glass on the west entry door to the business, causing the glass to shatter. The door was already locked, as the business was closed. The male ran around the counter towards Aguilar, and Aguilar attempted to run away from him towards the rear of the business. The suspect kicked and pushed her to the ground, pointed a gray-colored handgun at her face (possibly a revolver) and shouted "where's the fucking safe open the fucking safe!" He then forced her towards the back of the store towards the safe. Aguilar sprained her left ankle when she fell and

sustained minor injuries. Aguilar states that she was afraid for her safety, and she was crying and still visibly shaken up while I was talking to her.

Jeronimo Urbina DOB 10/19/86, the shift manager, states he was in the rear of the business when he heard what sounded like dishes breaking, and he started to come towards the front to see what happened, when he saw Aguilar and other employees running towards him shouting "He's got a gun!" Urbina states that he also attempted to run away from the Suspect, but when the Suspect pointed the gun at him and shouted "Where's the fucking safe open the fucking safe," he felt his life was in danger and was fearful for his safety. Out of fear, Urbina went towards the safe and opened it for the Suspect. The Suspect demanded that Urbina put the money in a bag, pointing towards a plastic grocery bag from Cardenas Grocery Store. Urbina placed the cash from the safe into the plastic bag, approximately \$1,000-2,000 and the Suspect took the bag and yelled for everyone to get on the ground. He then left the store through the rear (south) exit. Urbina stated that while the Suspect was running out, he was shouting something like "Let's go let's go let's get outta here" indicating he may have been shouting towards an accomplice who was outside the store, perhaps a lookout or getaway driver.

Officers also spoke to the restaurant cook, Juan Telngo DOB 7/3/64, who stated he was attempting to run out the back door after he heard the other employees shouting about a Suspect with a gun. He attempted to exit through the rear (south) door, but felt there was somebody braced up against the door preventing it from opening so he could not get out. Telngo did not see the second suspect outside.

Other employees Johana Vasquez DOB 2/16/97 and Angelica Ornelas DOB 10/11/94 were also present inside the store and witnessed the Robbery.

#### Patrol Follow-Up

ID responded and processed the scene. Robbery Detectives Abell P# 8744 and De Palma P# 5297 also responded.

Video surveillance is available, just needs to be burned to DVD by Store Manager. Video should be available tomorrow (11/16/14), or Monday (11/17/14). Video is only inside the store; no cameras outside the store.

Las Vegas Metropolitan Police  
Department  
400 S. Martin Luther King Blvd.  
Las Vegas, NV 89106



Arrest / Detective Report

Case Report No.: LLV141117000096

Administrative

Location 2599 S Nellis Blvd Las Vegas, NV 89121 Sector / Beat J1  
Occurred On (Date / Time) Sunday 11/16/2014 12:42:35 AM Or Between (Date / Time)  
Reporting Officer 09828 - Walt, M. Reported On 11/16/2014  
Entered By 09828 - Walt, M. Entered On 11/16/2014 10:53:35 PM  
Supervisor 07938 - Auten, I. Follow Up Pro Squad SE 13 Follow Up  
Jurisdiction Clark County Report Type Officer Created - Sgt Approval Disposition Active  
Route To: Related Cases  
Connecting Reports Voluntary Statement

Assisting Officers:  
13672 - Charlton, Noreen B ID Specialist

Offenses

ROBBERY WITH A DEADLY WEAPON

Completed Yes Hate/Bias Domestic Violence No  
Entry Premises Entered Type Security Tools  
Weapons Location Type Restaurant  
Criminal Activities

Att Kidnapping, 1st Degree, EDW(F)-NRS 200.310.1

Completed Yes Hate/Bias Unknown (Offenders Motivation Not Known) Domestic Violence No  
Entry Premises Entered Type Security Tools  
Weapons Handgun Location Type Restaurant  
Criminal Activities

Victims

Name: Burger King

Victim Type Business Written Statement Can ID Suspect  
Victim of 200.380B - ROBBERY WITH A DEADLY WEAPON Domestic Battery

SSN DOB Age Sex Eye Color Race  
Height Weight Hair Color  
Employer/School  
Occupation/Grade Work Schedule  
DLN DL State DL Country  
Resident Tourist Departure Date  
Injury Injury Weapons

Addresses  
Business 2599 S Nellis Blvd Las Vegas, NV 89121 Clark USA

Phones  
Business/Work (702) 432-1168

Email

Offender Relationships  
Domestic Violence Information  
Relationship to Suspect  
Intimate Relationship  
Voluntary Statement  
Injury Severity  
Photos Taken

Primary Aggressor Determined  
Drug/Alcohol Involvement  
DV Information Provided  
Medical Attention

Notes:

Name: Soto De Mason, Sonja

Victim Type Individual Written Statement Yes Can ID Suspect No  
Victim of 200.380B - ROBBERY WITH A DEADLY WEAPON Domestic Battery No  
50086 - Att Kidnapping, 1st Degree, EDW(F)-NRS 200.310.1

SSN 602-30-8915 DOB 08/14/1957 Age 57 Sex Female Race White  
Height 5' 3" Weight 160 Hair Color Black Eye Color Brown  
1/7/2015 11:07 PM LLV141117000096

Employer/School	Burger King	Work Schedule
Occupation/Grade		
DLN	DL State	DL Country
Resident	Resident	Tourist Departure Date
Injury	None Observed	Injury Weapons Handgun

Addresses  
Residence 4801 E Sahara #83 Las Vegas, NV 89121 Clark USA

Phones  
Cellular (702) 772-6768

Email

Offender Relationships  
S - Unknown None  
S - Unknown None  
S - Unknown None

Domestic Violence Information	Primary Aggressor Determined
Relationship to Suspect	Drug/Alcohol Involvement
Intimate Relationship	DV Information Provided
Voluntary Statement	Medical Attention
Injury Severity	
Photos Taken	

Notes:

Name: Combs, Come!!

Victim Type	Individual	Written Statement	Yes	Can ID Suspect	No
Victim of	200.380B - ROBBERY WITH A DEADLY WEAPON			Domestic Battery	No
	50088 - Att Kidnapping, 1st Degree, E/DW(F)-NRS 200.310.1				
SSN	566-78-7651	DOB	03/30/1980	Age	34
Height	5' 9"	Weight	165	Hair Color	Black
Employer/School	Burger King	Sex	Male	Eye Color	Brown
Occupation/Grade		Race	Black or African American		
DLN		Work Schedule			
Resident	Resident	DL Country			
Injury	None Observed	Tourist Departure Date			
		Injury Weapons	Handgun		

Addresses  
Residence 6076 Spyglass Dr #8 Las Vegas, NV 89142 Clark USA

Phones

Email

Offender Relationships  
S - Unknown None  
S - Unknown None  
S - Unknown None

Domestic Violence Information	Primary Aggressor Determined
Relationship to Suspect	Drug/Alcohol Involvement
Intimate Relationship	DV Information Provided
Voluntary Statement	Medical Attention
Injury Severity	
Photos Taken	

Notes:

Name: Romero-Galano, Jose

Victim Type	Individual	Written Statement	Yes	Can ID Suspect	No
Victim of	200.380B - ROBBERY WITH A DEADLY WEAPON			Domestic Battery	No
	50088 - Att Kidnapping, 1st Degree, E/DW(F)-NRS 200.310.1				
SSN		DOB	04/13/1998	Age	18
Height	5' 6"	Weight	140	Hair Color	Black
		Sex	Male	Eye Color	Brown
		Race	White		

Employer/School	Burger King	Work Schedule
Occupation/Grade		DL Country
DLN	DL State	Tourist Departure Date
Resident	Resident	Injury Weapons
Injury	None Observed	Handgun

Addresses  
Residence 4767 Sacks Las Vegas, NV 89122 Clark USA

Phones

Email

Offender Relationships	
S - Unknown	None
S - Unknown	None
S - Unknown	None

Domestic Violence Information	
Relationship to Suspect	Primary Aggressor Determined
Intimate Relationship	Drug/Alcohol Involvement
Voluntary Statement	DV Information Provided
Injury Severity	Medical Attention
Photos Taken	

Notes:

## Suspects

Name: Unknown

Written Stmt.	No	Alerts		Non-English	No	Language
Aliases						
Moniker						
Scope ID	DOB		Age	20-30	SSN	
Race	Black or African American		Build	Thin		Handedness
Sex	Male	Height	6' 4"	Hair Color	Black	Eye Color
Employer/School		Weight	220	Occupation/Grade		Brown
Hair Length		Hair Style				Eyes
Complexion		Facial hair				Teeth
Appearance	Casual Clothes		Injury/Condition			
	Coat/Jacket					
	Bandana mask					
Speech manner	Not Unusual		Speech Characteristics	Not Unusual		
DLN		DL State		DL Country		
Resident	Unknown	Tourist Departure				Place of Birth
Habitual Offender Status			MO Factors			Forced Victim to Ground or Floor
						Suspect Armed
						Suspect Wore Gloves
						Vandalized Premises
Primary Means of Attack/Weapon	Knife/Cutting Instrument (Icepick, Ax, Etc.)		Weapon Features			
Employer/School			Occupation/Grade			
Scars, Marks and Tattoos						
Addresses						
Phones						
Domestic Violence Information						
TPO in Effect		Drug/Alcohol Involvement				Voluntary Statement
Injury Severity		Medical Attention				DV Info provided
Photos Taken		Suspect Demeanor				

Notes:

Name: Unknown

Written Stmt.	No	Alerts		Non-English	No	Language
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### Witnesses

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**Other Entities**

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**Properties**

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Type: Misc. (Cell Phones, Ammo, Worthless Doc, Items not listed)

Status	Destroyed/Damaged/Vandalized	Quantity	1	Value	500.00	Color
Description	Front glass door					
Manufacturer		Model		Serial No./VIN		
Vehicle Year		Body Type				
Lic Plate #		Lic Plate State		Lic Plate Exp		
Insurance Company						
Owner	V - Burger King					
Notes:						

**Detailed Property Information**

Length	Width	Height
Horse Power	Propulsion Serial #	
Caliber	Barrel Length	
Features		

**Recovered Property Information**

Recovered Date	Recovered Value
Recovered Location	Recovered Reason
Recovered By	Recovered Stock #
Owner Type	Released To
Insurance Rep.	Tow Company

**Solvability**

---

Significant MO is Present  
Suspect Can Be Described  
Criminalistics Work Was Performed  
Witness Present - Victim

**Modus Operandi**

---

MO General		Surrounding Area	Middle of Block
Occupied?	Yes	Specific Premise	Room
General Premise	Fast Food Restaurant		
MO Against Property			
Entry Point	Door	Exit Point	Door
			Entry Location
Entry/Attempt Method		Entry Tool	Rear
Safe Entry		Suspect Actions	West
		Covered Hands(Gloves, etc)	
		Malicious Damage	
Victim Location	Work/School	Electronic Locks	No
Maid		Inspectress	
MO Against People			
Victim-Suspect Relationship		Pre-Incident Contact	None
Victim Condition		Suspect Solicited/Offered	
Suspect Pretended to Be		Suspect Actions	Forced Entry
			Had Victim Lie Down
			Hit/Assaulted During Act
			Malicious Damage
			Multiple Suspects
			Moved Victim's Location
			Suspect's Face Concealed
Sexual Acts		Vehicle Involvement	Suspect A Pedestrian
			Victim A Pedestrian

**Narrative**

---

On 0042 hrs Employees of Burger King at 2599 S Nellis Blvd Las Vegas, NV 89121 heard the front south door window get smashed out. Romero-Catano told his coworkers, Combs and Soto De Mason to go out the back employee exit doors. As Combs opened the door he was punched in the face and forced back inside by a suspect holding a revolver handgun.

As Combs went to the ground Romero-Catano saw the male with the handgun and hit Combs so he turned around and ran outside to the front of the store and called 911.

While the first suspect had Combs at gunpoint two other suspects enter the back employee exit doors. The two suspects went to the front of the store to see if there was anymore employees. Both of them return to the back and found Soto De Mason hiding in a back room. While one of the suspect was holding a large knife both subjects had Soto De Mason walk up to the front but Soto De Mason told them she was not able to get into any of the registers both suspects went to the back where the third suspect was holding Combs at gunpoint still and all three suspects left the Burger King.

Robbery Det Nelson P#6825 responded and advised was related to Windbreaker series. ID responded and took digitals.

Patrol Follow-Up

Las Vegas Metropolitan Police  
Department  
400 S. Martin Luther King Blvd.  
Las Vegas, NV 89106



Arrest / Detective Report

Case Report No.: **LLV141117000114**

### Administrative

Location **990 N Nellis Las Vegas, NV 89110** Sector / Beat **G3**  
Occurred On (Date / Time) **Monday 11/17/2014 12:57:00 AM** Or Between (Date / Time)  
Reporting Officer **13658 - Robinson, J.** Reported On **11/17/2014**  
Entered By **13658 - Robinson, J.** Entered On **11/17/2014 1:21:24 AM**  
Supervisor **08272 - Oliver, F.** Follow Up Pro Squad **NE 14** Follow Up  
Jurisdiction **Clark County** Report Type **Officer Created - Sgt Approval** Disposition **Active**  
Route To:  
Connecting Reports **Voluntary Statement**  
**Victim Information Guide**

Assisting Officers:  
**13819 - Franco, Michael** Officer  
**07917 - Shrum, Shelley K** ID Specialist  
**08708 - Matlock, Ronald S** Detective

### Offenses

#### Robbery, E/DW(F)-NRS 200.380

Completed **Yes** Hate/Bias **Unknown (Offenders Motivation Not Known)** Domestic Violence **No**  
Entry **Premises Entered** Type Security **Tools**  
Weapons **Handgun** Location Type **Restaurant**  
**Blunt Object (Club, Hammer, etc.)**  
Criminal Activities

#### Battery W/Dw(F)-NRS 200.481.2E

Completed **Yes** Hate/Bias **Unknown (Offenders Motivation Not Known)** Domestic Violence **No**  
Entry **Premises Entered** Type Security **Tools**  
Weapons **Handgun** Location Type **Restaurant**  
Criminal Activities

#### Burglary While Poss Of Gun/Dw(F)-NRS 205.060.4

Completed **Yes** Hate/Bias **Unknown (Offenders Motivation Not Known)** Domestic Violence **No**  
Entry **Forcible** Premises Entered Type Security **Dead Bolts** Tools  
**Camera**  
**Exterior Lights**  
Weapons Location Type **Restaurant**  
Criminal Activities

#### Kidnapping, 1st Degree, E/DW(F)-NRS 200.310.1

Completed **Yes** Hate/Bias **Unknown (Offenders Motivation Not Known)** Domestic Violence **No**  
Entry **Premises Entered** Type Security **Tools**  
Weapons **Blunt Object (Club, Hammer, etc.)** Location Type **Restaurant**  
**Handgun**  
Criminal Activities

### Victims

Name: **Wendy's**

Victim Type **Business** Written Statement Can ID Suspect  
Victim of **50138 - Robbery, E/DW(F)-NRS 200.380** Domestic Battery  
**50426 - Burglary While Poss Of Gun/Dw(F)-NRS 205.060.4**

SSN DOB Age Sex Eye Color Race  
Height Weight Hair Color  
Employer/School  
Occupation/Grade Work Schedule  
DLN DL State DL Country  
Resident Tourist Departure Date  
Injury Injury Weapons

Addresses  
Business **990 N Nellis Las Vegas, NV 89110**

Phones  
Cellular **(702) 452-9890**

Email

11/17/2015 11:07 PM

LLV141117000114

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Offender Relationships  
Domestic Violence Information  
Relationship to Suspect  
Intimate Relationship  
Voluntary Statement  
Injury Severity  
Photos Taken

Primary Aggressor Determined  
Drug/Alcohol Involvement  
DV Information Provided  
Medical Attention

Notes:

Name: Morquin, Noemy

Victim Type	Individual	Written Statement	Yes	Can ID Suspect	No
Victim of	50138 - Robbery, E/DW(F)-NRS 200.380			Domestic Battery	No
	50055 - Kidnapping, 1st Degree, E/DW(F)-NRS 200.310.1				

SSN	623-88-3498	DOB	10/19/1996	Age	19	Sex	Female	Race	White
Height	4' 11"	Weight	130	Hair Color	Black		Eye Color	Brown	
Employer/School									
Occupation/Grade						Work Schedule			
DLN		DL State		DL Country					
Resident	Resident			Tourist Departure Date					
Injury	None Observed			Injury Weapons		Blunt Object (Club, Hammer, etc.)			
						Handgun			

Addresses  
Residence 5900 W Tropicana # 143 Las Vegas, NV 89103

Phones  
Cellular (702) 622-8790

Email

Offender Relationships  
S - Unknown 1 None  
S - Unknown 2 None  
S - Unknown 3 None

Domestic Violence Information  
Relationship to Suspect  
Intimate Relationship  
Voluntary Statement  
Injury Severity  
Photos Taken

Primary Aggressor Determined  
Drug/Alcohol Involvement  
DV Information Provided  
Medical Attention

Notes:

Name: Fannon, Janie

Victim Type	Individual	Written Statement	Yes	Can ID Suspect	No
Victim of	50138 - Robbery, E/DW(F)-NRS 200.380			Domestic Battery	No
	50055 - Kidnapping, 1st Degree, E/DW(F)-NRS 200.310.1				

SSN	453-25-8013	DOB	09/27/1973	Age	41	Sex	Female	Race	White
Height	5' 4"	Weight	120	Hair Color	Brown		Eye Color	Brown	
Employer/School	Wendys								
Occupation/Grade						Work Schedule			
DLN		DL State		DL Country					
Resident	Resident			Tourist Departure Date					
Injury	None Observed			Injury Weapons		Blunt Object (Club, Hammer, etc.)			
						Handgun			

Addresses  
Residence 5369 Floating Flower Ave Las Vegas, NV 89139

Phones  
Cellular (469) 203-3608  
Business/Work (702) 452-8980

Email

Offender Relationships

S - Unknown 1 None  
 S - Unknown 2 None  
 S - Unknown 3 None

**Domestic Violence Information**

Relationship to Suspect	Primary Aggressor	Determined
Intimate Relationship	Drug/Alcohol Involvement	
Voluntary Statement	DV Information Provided	
Injury Severity	Medical Attention	
Photos Taken		

Notes:

**Name: Lopez, Jesus**

Victim Type	Individual	Written Statement	Yes	Can ID Suspect	No
Victim of	50138 - Robbery, E/DW(F)-NRS 200.380			Domestic Battery	No
	50055 - Kidnapping, 1st Degree, E/DW(F)-NRS 200.310.1				

SSN	530-89-9513	DOB	10/17/1995	Age	19	Sex	Male	Race	White
Height	5' 6"	Weight	138	Hair Color	Black	Eye Color	Brown		
Employer/School	Wendys								
Occupation/Grade									
DLN		DL State		DL Country		Work Schedule			
Resident	Resident			Tourist Departure Date					
Injury	None Observed			Injury Weapons	Blunt Object (Club, Hammer, etc.)	Handgun			

**Addresses**  
 Residence 3213 El Morro Ave Las Vegas, NV 89101  
 Business 990 N Nellis Las Vegas, NV 89110

**Phones**  
 Cellular (702) 504-5045  
 Business/Work (702) 452-9990

**Email**

**Offender Relationships**

S - Unknown 1 None  
 S - Unknown 2 None  
 S - Unknown 3 None

**Domestic Violence Information**

Relationship to Suspect	Primary Aggressor	Determined
Intimate Relationship	Drug/Alcohol Involvement	
Voluntary Statement	DV Information Provided	
Injury Severity	Medical Attention	
Photos Taken		

Notes:

**Name: Maddaford, Anthony**

Victim Type	Individual	Written Statement	Yes	Can ID Suspect	No
Victim of	50138 - Robbery, E/DW(F)-NRS 200.380			Domestic Battery	No
	50055 - Kidnapping, 1st Degree, E/DW(F)-NRS 200.310.1				

SSN	488-88-8984	DOB	01/03/1984	Age	30	Sex	Male	Race	White
Height	6' 2"	Weight	185	Hair Color	Brown	Eye Color	Hazel		
Employer/School	Wendys								
Occupation/Grade									
DLN		DL State		DL Country		Work Schedule			
Resident	Resident			Tourist Departure Date					
Injury	None Observed			Injury Weapons	Blunt Object (Club, Hammer, etc.)	Handgun			

**Addresses**  
 Residence 802 Crazy Horse Way Las Vegas, NV 89110  
 Business 990 N Nellis Las Vegas, NV 89110

Phones  
Cellular (702) 531-5784  
Business/Work (702) 452-9990

Email

Offender Relationships  
S - Unknown 1 None  
S - Unknown 2 None  
S - Unknown 3 None

Domestic Violence Information  
Relationship to Suspect Primary Aggressor Determined  
Intimate Relationship Drug/Alcohol Involvement  
Voluntary Statement DV Information Provided  
Injury Severity Medical Attention  
Photos Taken

Notes:

Name: Mendoza, Juan

Victim Type Individual Written Statement Yes Can ID Suspect No  
Victim of 50138 - Robbery, E/DW(F)-NRS 200.380 Domestic Battery No  
50223 - Battery W/Dw(F)-NRS 200.481.2E  
50055 - Kidnapping, 1st Degree, E/DW(F)-NRS 200.310.1

SSN 615-58-0176 DOB 08/12/1992 Age 22 Sex Male Race White  
Height 6' 0" Weight 202 Hair Color Brown Eye Color Brown  
Employer/School Wendys Work Schedule  
Occupation/Grade  
DLN DL State DL Country  
Resident Resident Tourist Departure Date  
Injury Apparent Minor Injury Injury Weapons Blunt Object (Club, Hammer, etc.)  
Handgun

Addresses  
Residence 3055 S Nellis #1109 Las Vegas, NV 89121

Phones  
Cellular (702) 234-8501  
Business/Work (702) 452-9990

Email

Offender Relationships  
S - Unknown 1 None  
S - Unknown 2 None  
S - Unknown 3 None

Domestic Violence Information  
Relationship to Suspect Primary Aggressor Determined  
Intimate Relationship Drug/Alcohol Involvement  
Voluntary Statement DV Information Provided  
Injury Severity Medical Attention  
Photos Taken

Notes:

## Suspects

Name: Unknown 1

Written Stmt. Alerts Non-English Language

Aliases  
Moniker

Scope ID DOB Age 20-30 SSN  
Race Black or African American Build Thin Handedness  
Sex Male Height 5' 7" Weight Hair Color Eye Color

Employer/School  
 Hair Length  
 Complexion  
 Appearance  
 Speech manner  
 DLN  
 Resident  
 Habitual Offender Status  
 Primary Means of Attack/Weapon  
 Employer/School  
 Scars, Marks and Tattoos  
 Addresses  
 Phones  
 Domestic Violence Information  
 TPO in Effect  
 Injury Severity  
 Photos Taken  
 Notes:

Hair Style  
 Facial hair  
 Injury/Condition  
 Speech Characteristics  
 DL State  
 Tourist Departure  
 Blunt Object (Club, Hammer, etc.)  
 MO Factors  
 Weapon Features  
 Occupation/Grade  
 DL Country  
 Place of Birth  
 Drug/Alcohol Involvement  
 Medical Attention  
 Suspect Demeanor  
 Voluntary Statement  
 DV Info provided

Name: Unknown 2

Written Stmt. Alerts Non-English Language  
 Aliases  
 Moniker  
 Scope ID DOB Age 20-30 SSN  
 Race Black or African American Build Thin  
 Sex Male Height 6' 1" Weight Hair Color Handedness  
 Employer/School Occupation/Grade Eye Color Brown  
 Hair Length Hair Style  
 Complexion Facial hair  
 Appearance Injury/Condition  
 Speech manner Speech Characteristics  
 DLN DL State DL Country  
 Resident Tourist Departure Place of Birth  
 Habitual Offender Status MO Factors  
 Primary Means of Attack/Weapon Blunt Object (Club, Hammer, etc.) Weapon Features  
 Employer/School Occupation/Grade  
 Scars, Marks and Tattoos  
 Addresses  
 Phones  
 Domestic Violence Information  
 TPO in Effect  
 Injury Severity  
 Photos Taken  
 Notes:

Drug/Alcohol Involvement  
 Medical Attention  
 Suspect Demeanor  
 Voluntary Statement  
 DV Info provided

Name: Unknown 3

Written Stmt. Alerts Non-English Language  
 Aliases  
 Moniker  
 Scope ID DOB Age 20-30 SSN  
 Race Black or African American Build Heavy  
 Sex Female Height 5' 6" Weight Hair Color Handedness  
 Employer/School Occupation/Grade Eye Color Brown  
 Hair Length Hair Style  
 Complexion Facial hair  
 Appearance Injury/Condition  
 Speech manner Speech Characteristics  
 DLN DL State DL Country  
 Resident Tourist Departure Place of Birth  
 Habitual Offender Status MO Factors



Primary Means of Attack/Weapon Employer/School	Handgun	Weapon Features Occupation/Grade	Blue Steel
Scars, Marks and Tattoos			
Addresses			
Phones			
Domestic Violence Information			
TPO in Effect	Drug/Alcohol Involvement	Voluntary Statement	
Injury Severity	Medical Attention	DV Info provided	
Photos Taken	Suspect Demeanor		

Notes:

## Arrestees

## Witnesses

## Other Entities

## Properties

Type: Currency, Coins, Securities, Cash

Status	Stolen	Quantity	unk	Value	1,000.00	Color
Description	approx. \$1,000 in US currency					
Manufacturer		Model		Serial No./VIN		
Vehicle Year		Body Type				
Lic Plate #		Lic Plate State		Lic Plate Exp		
Insurance Company						
Owner	V - Wendy's					
Notes:						

## Detailed Property Information

Length	Width	Height
Horse Power	Propulsion Serial #	
Caliber	Barrel Length	
Features		

## Recovered Property Information

Recovered Date	Recovered Value
Recovered Location	Recovered Reason
Recovered By	Recovered Stock #
Owner Type	Released To
Insurance Rep.	Tow Company

## Solvability

Physical Evidence Is Present  
Criminallistics Work Was Performed  
Suspect Can Be Described  
Witness Present - Other  
Witness Present - Victim

## Modus Operandi

MO General					
Occupied?	Yes		Surrounding Area	Corner	
General Premise	Fast Food Restaurant		Specific Premise	Room	
MO Against Property					
Entry Point	Door	Exit Point	Door	Entry Location	Door East South Rear
Entry/Attempt Method	Smash and Grab	Entry Tool	Other	Vehicle Entry	
Safe Entry	Key/Combination	Suspect Actions	Covered	Additional Factors	Similar Crimes In

.... ..

Victim Location	On the Premises	Electronic Locks	Hands(Gloves, etc)	Video Surveillance	Neighborhood
Maid		Inspectress	No		Yes
MO Against People			Pre-Incident Contact	None	
Victim-Suspect Relationship			Suspect Solicited/Offered		
Victim Condition			Suspect Actions	Forced Entry	
Suspect Pretended to Be				Had Victim Lie Down	
				Hit/Assaulted During Act	
				Moved Victim's Location	
				Multiple Suspects	
				Pulled/Held/Grabbed Victim	
				Suspect's Face Concealed	
Sexual Acts			Vehicle Involvement		

## Narrative

On 11-17-14 at 00:57 hours Morroquin was sitting inside the Wendy's lobby on her phone awaiting her boyfriend (Lopez) to get off. The lobby was closed and secure as the business was closing down. While Morroquin was on her phone Suspect #1 had a black metal object, pointed it at her, and told her to get up. Morroquin was in disbelief at what was occurring and did not move. Suspect #1 then pulled her up out of her chair and shoved her escorting her to the back of the business behind the counter. Once behind the door they encountered Fannon, Lopez, and Maddaford who were working. Fannon, Lopez, and Maddaford noticed at this time that there were two additional suspects Unknown #2 and Unknown #3 all wearing gloves.

Suspects #1 and #2 the worked together to control Morroquin, Fannon, Lopez, and Maddaford by forcing them over near the stove and deep fryer and ordering them to lay down. Mendoza is the night manager and was coming out of the business as this was occurring. Mendoza was then confronted by Unknown #2 and #3 at gun point and ordered to get back in the office and open the safe. Mendoza was shocked at what was occurring and unable to process the order initially. At this time Unknown 2 yelled, "You think this is a game?" and demand Mendoza to open the safe. Unknown #3 then pistol whipped Mendoza in the face causing a laceration to his upper right eyebrow. Once struck, Mendoza complied and went back into the office as Unknown #2 and #3 followed. Mendoza opened the safe and tried to put the money into a bag for them. Unknown #2 pushed Mendoza out of the way reached in and grabbed the money (approximately \$1,000) and loaded it into a blue duffel style bag.

All suspects then exited the business through the rear Northeast corner exit near the managers office. They then left the area in an unknown direction with an unknown mode of travel. At this time Morroquin phoned police to report the crime.

Officer Franco and I responded to the scene. Upon arrival the front common access doors were closed and locked. We walked around and discovered the Southeast side rear glass door smashed out (entry point). We entered the business and began clearing it. Inside the business we located Morroquin, Fannon, Lopez, Maddaford, and Mendoza hidden in the back of the business.

### Patrol Follow-Up

Related to robbery at 2599 S. Nellis (Burger King) under LVMPD event # LLV141117000090.

C17 responded and processed the scene. R13 also advised and responded. Video was able to be viewed but is of very poor quality.

Las Vegas Metropolitan Police  
Department  
400 S. Martin Luther King Blvd.  
Las Vegas, NV 89106



Arrest / Detective Report

Case Report No.: LLV141121000119

Administrative

Location 7150 W. Lk Mead Las Vegas, NV 89128 Sector / Beat V6  
Occurred On (Date / Time) Friday 11/21/2014 12:55:00 AM Or Between (Date / Time)  
Reporting Officer 08716 - Hager, D. Reported On 11/21/2014  
Entered By 08716 - Hager, D. Entered On 11/21/2014 1:52:21 AM  
Supervisor 07071 - Hansen, J. Follow Up Pro Squad NW 13 Follow Up  
Jurisdiction Las Vegas, City of Report Type Officer Created - Sgt Approval Disposition Active  
Route To: Related Cases  
Connecting Reports Voluntary Statement

Assisting Officers:  
07628 - Robertson, Jeremy P Officer  
13177 - Klosterman, Olivia J ID Specialist

Offenses

Robbery, E/DW(F)-NRS 200.380

Completed Yes Hate/Bias None (No Bias) Domestic Violence No  
Entry Premises Entered Type Security Tools  
Weapons Handgun Location Type Restaurant  
Criminal Activities

Assault, W/Dw(F)-NRS 200.471.2B

Completed Yes Hate/Bias None (No Bias) Domestic Violence No  
Entry Premises Entered Type Security Tools  
Weapons Handgun Location Type Restaurant  
Criminal Activities

Kidnapping, 1st Degree(F)-NRS 200.310.1

Completed Yes Hate/Bias Domestic Violence No  
Entry Premises Entered Type Security Tools  
Weapons Location Type Restaurant  
Criminal Activities

Victims

Name: Wendy's

Victim Type Business Written Statement Can ID Suspect  
Victim of 50138 - Robbery, E/DW(F)-NRS 200.380 Domestic Battery  
SSN DOB Age Sex Eye Color Race  
Height Weight Hair Color  
Employer/School  
Occupation/Grade Work Schedule  
DLN DL State DL Country  
Resident Tourist Departure Date  
Injury Injury Weapons

Addresses  
Residence 7150 W. Lk Mead Las Vegas, NV 89128 Clark USA

Phones  
Business/Work (702) 363-1695

Email

Offender Relationships  
Domestic Violence Information  
Relationship to Suspect  
Intimate Relationship  
Voluntary Statement  
Injury Severity  
Photos Taken

Primary Aggressor Determined  
Drug/Alcohol Involvement  
DV Information Provided  
Medical Attention

Notes:

Name: Hubbard, Jessica  
1/7/2016 11:08 PM

LLV141121000119

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Victim Type Individual Written Statement Yes Can ID Suspect Yes  
 Victim of 50201 - Assault, W/Dw(F)-NRS 200.471.2B Domestic Battery No  
 50138 - Robbery, E/DW(F)-NRS 200.380  
 50051 - Kidnapping, 1st Degree(F)-NRS 200.310.1

SSN 478-17-8965 DOB 07/18/1989 Age 25 Sex Female Race White  
 Height 5' 4" Weight 226 Hair Color Blond Eye Color Green  
 Employer/School Wendy's  
 Occupation/Grade Manager  
 DLN DL State Work Schedule  
 Resident Resident DL Country  
 Injury None Observed Tourist Departure Date  
 Injury Weapons Handgun

Addresses  
 Residence 2881 Rancho, Apt 1002 Las Vegas, NV 89130 Clark USA

Phones  
 Cellular (702) 752-9047  
 Business/Work (702) 383-1885

Email

Offender Relationships  
 S - Unknown 1 None  
 S - Unknown 2 None

Domestic Violence Information  
 Relationship to Suspect Primary Aggressor Determined  
 Intimate Relationship Drug/Alcohol Involvement  
 Voluntary Statement DV Information Provided  
 Injury Severity Medical Attention  
 Photos Taken

Notes:

## Suspects

Name: Unknown 1

Written Stmt. No Alerts Non-English Language

Aliases  
 Moniker

Scope ID DOB Age 25-30 SSN  
 Race Black or African American Build  
 Sex Male Height 6' 0" Weight Hair Color Black Handedness Right  
 Eye Color Brown  
 Employer/School Occupation/Grade  
 Hair Length Medium Hair Style Curly Eyes  
 Complexion Dark Facial hair Full Beard Teeth  
 Appearance Injury/Condition  
 Speech manner Speech Characteristics  
 DLN DL State DL Country  
 Resident Tourist Departure Place of Birth  
 Habitual Offender Status MO Factors  
 Primary Means of Attack/Weapon Handgun Weapon Features Revolver  
 Employer/School Occupation/Grade

Scars, Marks and Tattoos  
 Addresses

Phones

Domestic Violence Information  
 TPO in Effect Drug/Alcohol Involvement Voluntary Statement  
 Injury Severity Medical Attention DV Info provided  
 Photos Taken Suspect Demeanor

Notes:

Name: Unknown 2

Written Stmt. No Alerts Non-English Language

**Aliases  
Moniker**

Scope ID                      DOB                      Age   **25-30**                      SSN  
Race   **Black or African American**  
Sex   **Male**                      Height   **5' 8"**                      Weight                      Build                      Handedness  
Employer/School                      Hair Color   **Black**                      Eye Color   **Brown**  
Hair Length                      Occupation/Grade  
Complexion   **Dark**                      Hair Style                      Eyes  
Appearance                      Facial hair                      Teeth  
Speech manner                      Injury/Condition  
DLN                      DL State                      DL Country                      Speech Characteristics  
Resident                      Tourist Departure                      Place of Birth  
Habitual Offender Status                      MO Factors  
Primary Means of Attack/Weapon   **None**                      Weapon Features  
Employer/School                      Occupation/Grade

Scars, Marks and Tattoos  
Addresses

Phones

Domestic Violence Information  
TPO in Effect                      Drug/Alcohol Involvement                      Voluntary Statement  
Injury Severity                      Medical Attention                      DV Info provided  
Photos Taken                      Suspect Demeanor

Notes:

**Arrestees**

**Witnesses**

Witness Name: Moreles, Jorge

Written Statement   **Yes**                      Can ID Suspect   **No**                      Testify  
SSN   **618-90-4546**                      DOB   **05/22/1996**                      Age   **18**                      Race   **Unknown**  
Sex   **Male**                      Height   **5' 11"**                      Weight   **230**                      Hair Color   **Brown**                      Eye Color   **Brown**

Addresses  
Residence                      **4833 Integrity Las Vegas, NV 89128 Clark USA**

Phones  
Cellular                      **(702) 330-2867**

Notes:

**Other Entities**

**Properties**

Type:   **Currency, Coins, Securities, Cash**

Status   **Stolen**                      Quantity   **1**                      Value   **200.00**                      Color  
Description   **US Currency**  
Manufacturer                      Model                      Serial No./VIN  
Vehicle Year                      Body Type                      Lic Plate State  
Lic Plate #                      Lic Plate Exp  
Insurance Company  
Owner   **V - Wendy's**  
Notes:

**Detailed Property Information**

Length                      Width                      Height  
Horse Power                      Propulsion Serial #  
Caliber                      Barrel Length  
Features

**Recovered Property Information**

Recovered Date	Recovered Value
Recovered Location	Recovered Reason
Recovered By	Recovered Stock #
Owner Type	Released To
Insurance Rep.	Tow Company

Type: Misc. (Cell Phones, Ammo, Worthless Doc, items not listed)

Status	Destroyed/Damaged/Vandalized	Quantity	1	Value	400.00	Color	.
Description	Glass Panel Door						
Manufacturer		Model		Serial No./VIN			
Vehicle Year		Body Type					
Lic Plate #		Lic Plate State		Lic Plate Exp			
Insurance Company							
Owner	V - Wendy's						
Notes:							

#### Detailed Property Information

Length	Width	Height
Horse Power	Propulsion Serial #	
Caliber	Barrel Length	
Features		

#### Recovered Property Information

Recovered Date	Recovered Value
Recovered Location	Recovered Reason
Recovered By	Recovered Stock #
Owner Type	Released To
Insurance Rep.	Tow Company

#### Solvability

Suspect Can Be Described  
Physical Evidence Is Present  
Witness Present - Other

#### Modus Operandi

MO General		Surrounding Area	Corner
Occupied?	Yes	Specific Premise	Room
General Premise	Fast Food Restaurant		
MO Against Property			
Entry Point	Door	Exit Point	Door
Entry/Attempt Method		Entry Tool	Rock/Brick
Safe Entry		Suspect Actions	Melicious Damage
			Selective In Loot
Victim Location	On the Premises	Electronic Locks	Video Surveillance
Maid		Inspectress	Yes
MO Against People		Pre-Incident Contact	Opening/Closing Business
Victim-Suspect Relationship		Suspect Solicited/Offered	
Victim Condition		Suspect Actions	Forced Entry
Suspect Pretended to Be			Hit/Assaulted During Act
			Multiple Suspects
			Suspect's Face Concealed
Sexual Acts		Vehicle Involvement	

#### Narrative

On 11-21-14, at approximately 0055 hours, a call was received at LVMPD dispatch in reference to two subjects were seen breaking the glass door to the Wendy's located at 7150 W. Lake Mead, Las Vegas, NV, 89128.

At approximately 0057 hours, Officer J. Robertson P#7626, working as marked unit 1V, arrived at the 7150 W. Lake Mead location. Upon arrival Officer Robertson made contact with the manager the Wendy's identified as, Jessica Hubbard, 07-18-89. Hubbard stated that at approximately 0055 hours, she was in the main office area and heard glass breakage. Shortly after she was approached by two black male adults. One of the suspects was described as: in his mid twenties, 6', medium build, wearing a black and yellow surgical mask, grey hooded

swabbing, black pants, and armed with a black revolver. The other suspect was described as: being in his mid twenties, wearing a red bandana, blue sweatshirt, 5'8, medium build, and carrying a cardboard box. Both suspects gathered up all the employees from the store and moved them to the Office. The suspect with the revolver then approached Hubbard, placed the revolver to her head, and had her empty the cash from the safe and place it into the cardboard box totalling approximately 200.00 in US currency. Both suspects then told the employees to remain in the office, and they ran from the store northbound through the parking lot towards the apartment complex located at 2150 N. Tenaya, Las Vegas, NV, 89128. No vehicle was seen leaving the area with the suspects inside. Hubbard also stated the suspects took the phones inside the business and dropped them in the chill pot, so the employee's could not call the police.

ID Specialist O. KLOSTERMAN P#13177, responded and processed the scene.

Patrol Follow-Up  
 Detective Candias P#5116 was notified in reference to the robbery. A voicemail message was also left with SGT Krumme P#7167. This event is possibly related to the "windbreaker" series. The business does have video but, it will not be available till after 0800 hours.

Las Vegas Metropolitan Police  
Department  
400 S. Martin Luther King Blvd.  
Las Vegas, NV 89106



Arrest / Detective Report

Case Report No.: LLV141123003576

### Administrative

Location **7380 W Cheyenne Las Vegas, NV 89128** Sector / Beat **X1**  
Occurred On (Date / Time) **Sunday 11/23/2014 11:07:27 PM** Or Between (Date / Time)  
Reporting Officer **06082 - Cahoon, G.** Reported On **11/23/2014**  
Entered By **06062 - Cahoon, G.** Entered On **11/23/2014 11:57:34 PM**  
Supervisor **08090 - Meyers, R.** Follow Up **Pro Squad NW 11** Follow Up  
Jurisdiction **Las Vegas, City of** Report Type **Officer Created - Sgt Approval** Disposition **Active**  
Route To: **Related Cases LLV141123003630**  
Connecting Reports **Victim Information Guide**  
**Voluntary Statement**

Assisting Officers:  
**13451 - Grego-Smith, Malik O** Officer  
**14302 - Carter, Jason L** Officer  
**05746 - Lanson, Karl J** Detective  
**14402 - Tucker, Kristen** ID Specialist

### Offenses

**Robbery, E/DW(F)-NRS 200.380**  
Completed **Yes** Hate/Bias **Unknown (Offenders Motivation Not Known)** Domestic Violence **No**  
Entry **Premises Entered** Type Security **Tools**  
Weapons **Handgun** Location Type **Restaurant**  
**Handgun - Automatic**  
Criminal Activities

### Victims

Name: **El Pollo Loco**

Victim Type **Business** Written Statement **Can ID Suspect**  
Victim of **50138 - Robbery, E/DW(F)-NRS 200.380** Domestic Battery

SSN **DOB** Age **Sex** Race  
Height **Weight** Hair Color **Eye Color**  
Employer/School **Work Schedule**  
Occupation/Grade **DLN** DL Country  
Resident **Tourist Departure Date**  
Injury **Injury Weapons**

Addresses  
Business **7380 W Cheyenne Las Vegas, NV 89128 Clark USA**

Phones  
Business/Work **(702) 658-6564**

Email

Offender Relationships  
Domestic Violence Information  
Relationship to Suspect **Primary Aggressor Determined**  
Intimate Relationship **Drug/Alcohol Involvement**  
Voluntary Statement **DV Information Provided**  
Injury Severity **Medical Attention**  
Photos Taken

Notes:

Name: **Lopez, Laura**

Victim Type **Individual** Written Statement **Yes** Can ID Suspect **No**  
Victim of **50138 - Robbery, E/DW(F)-NRS 200.380** Domestic Battery **No**

SSN **530-83-2523** DOB **03/22/1994** Age **20** Sex **Female** Race **Unknown**  
Height **Weight** Hair Color **Eye Color**  
Employer/School **El Pollo Loco** Work Schedule  
Occupation/Grade **Manager**  
11/20/15 11:09 PM LLV141123003576



DLN	DL State	DL Country
Resident	Resident	Tourist Departure Date
Injury	None Observed	Injury Weapons
		Handgun
		Handgun - Automatic

Addresses	
Business	7380 W Cheyenne Las Vegas, NV 89128 Clark USA
Residence	1832 Double Delight NLV, NV 89030 Clark USA

Phones	
Business/Work	(702) 658-6564
Cellular	(702) 816-6237

Email

Offender Relationships	
Domestic Violence Information	
Relationship to Suspect	Primary Aggressor Determined
Intimate Relationship	Drug/Alcohol Involvement
Voluntary Statement	DV Information Provided
Injury Severity	Medical Attention
Photos Taken	

Notes:

Name: Silva-Rios, Yanaile

Victim Type	Individual	Written Statement	Yes	Can ID Suspect	Yes
Victim of	50138 - Robbery, E/DW(F)-NRS 200.380			Domestic Battery	No

SSN	DOB	12/08/1992	Age	21	Sex	Female	Race	Unknown
Height	Weight		Hair Color		Eye Color			
Employer/School	El Pollo Loco							
Occupation/Grade					Work Schedule			
DLN	DL State				DL Country			
Resident	Resident				Tourist Departure Date			
Injury	None Observed				Injury Weapons	Handgun		
						Handgun - Automatic		

Addresses	
Business	7380 W Cheyenne Las Vegas, NV 89128 Clark USA
Residence	4124 Maple HI Las Vegas, NV 89128 Clark USA

Phones	
Business/Work	(702) 658-6564
Cellular	(702) 403-7428

Email

Offender Relationships	
Domestic Violence Information	
Relationship to Suspect	Primary Aggressor Determined
Intimate Relationship	Drug/Alcohol Involvement
Voluntary Statement	DV Information Provided
Injury Severity	Medical Attention
Photos Taken	

Notes:

Name: Lopez, Luis

Victim Type	Individual	Written Statement	Yes	Can ID Suspect	No
Victim of	50138 - Robbery, E/DW(F)-NRS 200.380			Domestic Battery	No

SSN	DOB	05/08/1995	Age	19	Sex	Male	Race	Unknown
Height	Weight		Hair Color		Eye Color			
Employer/School	El Pollo Loco							
Occupation/Grade					Work Schedule			
DLN	DL State				DL Country			
Resident	Resident				Tourist Departure Date			
Injury	None Observed				Injury Weapons	Handgun		
						Handgun - Automatic		

Addresses	
Business	7380 W Cheyenne Las Vegas, NV 89128 Clark USA

Residence 1832 Double Delight NLV, NV 89030 Clark USA

Phones  
Business/Work (702) 658-6564  
Cellular (702) 689-0345

Email

Offender Relationships  
Domestic Violence Information  
Relationship to Suspect  
Intimate Relationship  
Voluntary Statement  
Injury Severity  
Photos Taken

Primary Aggressor Determined  
Drug/Alcohol Involvement  
DV Information Provided  
Medical Attention

Notes:

Name: Bautista, Hernandez Sergio

Victim Type Individual Written Statement Yes Can ID Suspect Yes  
Victim of 60138 - Robbery, E/DW(F)-NRS 200.380 Domestic Battery No

SSN DOB 09/08/1988 Age 28 Sex Male Race Unknown  
Height Weight Hair Color Eye Color  
Employer/School El Pollo Loco Work Schedule  
Occupation/Grade DL State DL Country  
DLN Tourist Departure Date  
Resident Resident Injury Weapons Handgun  
Injury None Observed Handgun - Automatic

Addresses  
Business 7380 W Choyene Las Vegas, NV 89128 Clark USA  
Residence 1001 N Pecos. Apt 51 Las Vegas, NV 89101 Clark USA

Phones  
Business/Work (702) 658-6564  
Cellular (702) 612-4847

Email

Offender Relationships  
Domestic Violence Information  
Relationship to Suspect  
Intimate Relationship  
Voluntary Statement  
Injury Severity  
Photos Taken

Primary Aggressor Determined  
Drug/Alcohol Involvement  
DV Information Provided  
Medical Attention

Notes:

## Suspects

Name: Unknown

Written Stmt. No Alerts Non-English Language

Aliases  
Moniker

Scope ID DOB Age 20 SSN Medium Handedness  
Race Black or African American Build Medium Eye Color  
Sex Male Height 5' 9" Weight Hair Color Occupation/Grade  
Employer/School Hair Length Hair Style Eyes  
Complexion Facial hair Teeth  
Appearance Injury/Condition  
Speech manner Profane / Abusive Speech Characteristics  
DLN DL State DL Country Place of Birth  
Resident Tourist Departure  
Habitual Offender Status MO Factors  
Primary Means of Attack/Weapon Handgun - Automatic Weapon Features  
Employer/School Occupation/Grade

Scars, Marks and Tattoos  
Addresses

Phones

Domestic Violence Information  
TPO in Effect  
Injury Severity  
Photos Taken

Drug/Alcohol Involvement  
Medical Attention  
Suspect Demeanor

Voluntary Statement  
DV Info provided

Notes:

Name: Unknown

Written Stmt. **No** Alerts Non-English Language

Aliases  
Moniker

Scope ID DOB Age **20** SSN  
Race **Black or African American** Build **Medium** Handedness  
Sex **Male** Height **5' 9"** Weight Hair Color Eye Color  
Employer/School Occupation/Grade  
Hair Length Hair Style Eyes  
Complexion Facial hair Teeth  
Appearance Injury/Condition  
Speech manner Speech Characteristics  
DLN DL State DL Country  
Resident Tourist Departure Place of Birth  
Habitual Offender Status MO Factors  
Primary Means of Attack/Weapon **Handgun** Weapon Features **Revolver**  
Employer/School Occupation/Grade

Scars, Marks and Tattoos  
Addresses

Phones

Domestic Violence Information  
TPO in Effect  
Injury Severity  
Photos Taken

Drug/Alcohol Involvement  
Medical Attention  
Suspect Demeanor

Voluntary Statement  
DV Info provided

Notes:

## Arrestees

## Witnesses

## Other Entities

## Properties

Type: **Currency, Coins, Securities, Cash**

Status **Stolen** Quantity **1** Value **1,750.00** Color  
Description **Currency**  
Manufacturer Model Serial No./VIN  
Vehicle Year Body Type Lic Plate State Lic Plate Exp  
Lic Plate #  
Insurance Company  
Owner **V - El Pollo Loco**  
Notes: **Currency was both cash and change.**

### Detailed Property Information

Length Width Height  
Horse Power Propulsion Serial #  
Caliber Barrel Length  
Features

### Recovered Property Information

Recovered Date	Recovered Value
Recovered Location	Recovered Reason
Recovered By	Recovered Stock #
Owner Type	Released To
Insurance Rep.	Tow Company

Type: Misc. (Cell Phones, Ammo, Worthless Doc, Items not listed)

Status	Stolen	Quantity	1	Value	00.00	Color
Description	cell phone					
Manufacturer	Apple	Model	I-Phone	Serial No./VIN		
Vehicle Year		Body Type		Lic Plate Exp		
Lic Plate #		Lic Plate State				
Insurance Company						
Owner	V - Lopez, Laura					
Notes:	Cell phone taken from victim, the phone number is 702-816-6237					

#### Detailed Property Information

Length	Width	Height
Horse Power	Propulsion Serial #	
Caliber	Barrel Length	
Features		

#### Recovered Property Information

Recovered Date	Recovered Value
Recovered Location	Recovered Reason
Recovered By	Recovered Stock #
Owner Type	Released To
Insurance Rep.	Tow Company

#### Solvability

Criminalistics Work Was Performed  
 Significant MO is Present  
 Physical Evidence is Present  
 Suspect Can Be Described  
 Witness Present - Victim

#### Modus Operandi

MO General		Surrounding Area	Middle of Block
Occupied?	Yes	Specific Premise	Room
General Premise	Restaurant		
MO Against Property			
Entry Point	Door	Exit Point	Door
			East
Entry/Attempt Method	Bodily Force	Entry Tool	Vehicle Entry
Safe Entry		Suspect Actions	Additional Factors
		Covered Hands(Gloves, etc)	
		Cut/Discon, Phone Cord	
		Selective in Loot	
Victim Location	On the Premises	Electronic Locks	Video Surveillance
Maid		Inspectress	Yes
MO Against People		Pre-Incident Contact	Opening/Closing-Business
Victim-Suspect Relationship		Suspect Solicited/Offered	
Victim Condition		Suspect Actions	Forced Entry
Suspect Pretended to Be			Had Victim Bag Property
			Moved Victim's Location
			Multiple Suspects
			Picked Pocket
			Suspect's Face Concealed
Sexual Acts		Vehicle Involvement	

#### Narrative

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On 11-23-14 at about 2309 hours I Officer G. Cahoon P#6062 who was operating as marked patrol unit 1x31 responded to 7330 W. Cheyenne Las Vegas, Nevada, 89128 (El Pollo Loco) in reference to a robbery call. Officer Grego-Smith P# 13451 who was operating as marked patrol unit 1x24, as well as Officer J. Carter P#14302 who was operating as marked patrol unit 1v45 also responded.

Upon our arrival we made contact with the 4 employee's who were at the business cleaning up after closing. I spoke to El Pollo Loco Manager Laura Lopez. She stated to me the business had been closed about an hour. She stated that employee Silva-Rios, Yanais had exited out a rear door to go to her vehicle. While Silva-Rios stepped out, Lopez said she heard a crash and thought it was the ice machine. Lopez looked around the counter towards the front door when she observed the glass door was shattered and suspect 1 a BMA in dark clothing and a surgical mask and a semi-auto pistol jumping over the counter yelling for everyone to get on the floor. This suspect also smashed the telephone that was in the office

At that same time a second BMA came in the back door with Silva-Rios, he was wearing a grey hoodie and black pants he was brandishing a revolver. Both suspects cursed at the 4 employees yelling at them to get on the ground. Employee Bautista-Hernandez, Sergio stated the second BMA with the revolver pointed it at his head telling him to get on the ground. All employees then got on the ground. The first BMA that had come over the counter took the manager Lopez to the officer and made her open the safe, to which she complied, Lopez stated she was scared for her life. Lopez stated that the suspect had a blue bag (reusable from Walmart) in which she placed the money into. She stated he even scooped some of the money out. He then told stated to open the register but the Lopez told him there was no money in it. The BMA suspect then patted down Lopez and removed her cell phone. Both suspects then ran out the back door in a unknown direction. The four employees waited about one minute before calling police.

Upon our arrival I checked the interior of the business. ID was contacted and did respond. The El Pollo Loco does have video inside the business but they won't be able to access it till tomorrow. Officer Grego-Smith check with the storage business behind the El Pollo Loco for video they might have. Robbery Detective Lorton responded to the call. While on this call at about 2327 a second robbery came out to a Taco Bell located at Lake Mead and Del Webb with the same suspect descriptions.

#### Patrol Follow-Up

Officer Grego-Smith watched video from the Storage business. He observed a light colored vehicle pull onto the cul de sac adjacent to the El Pollo Loco and park with the lights out at 2251 hours. The vehicle is seen leaving the area and heading Westbound on Cheyenne at about 2307 hours. Officer Grego-Smith stated that you can't see what type of vehicle it is. You could not identify the suspects.

ID tech stated she was able to get 3 really good shoe prints from the counter where suspect one jumped across.

Victim Lopez did not have a tracking device on her phone, so it was unable to be tracked.

Las Vegas Metropolitan Police  
Department  
400 S. Martin Luther King Blvd.  
Las Vegas, NV 89106



Arrest / Detective Report

Case Report No.: LLV141123003630

## Administrative

Location	9480 W Lake Mead Blvd LVN, 89134	Sector / Beat	V2
Occurred On (Date / Time)	Sunday 11/23/2014 11:27:00 AM	Or Between (Date / Time)	
Reporting Officer	14302 - Carter, J.	Reported On	11/23/2014
Entered By	14302 - Carter, J.	Entered On	11/23/2014 11:58:03 PM
Supervisor	08090 - Meyers, R.	Follow Up	Pro Squad NW 12
Jurisdiction	Las Vegas, City of	Report Type	Officer Created - Sgt Approval
Route To:		Disposition	Active
Connecting Reports		Related Cases	

Assisting Officers:  
08073 - Landers, Jeremy A      Officer

## Offenses

### Robbery(FI-NRS 200.380)

Completed	Yes	Hate/Bias	Unknown (Offenders Motivation Not Known)	Domestic Violence	No
Entry		Premises Entered	Type Security	Tools	
Weapons	Handgun		Location Type	Restaurant	
Criminal Activities					

### Kidnapping, 1st Degree(FI-NRS 200.310.1)

Completed	Yes	Hate/Bias		Domestic Violence	No
Entry		Premises Entered	Type Security	Tools	
Weapons			Location Type	Restaurant	
Criminal Activities					

### Burglary, (1st)(F)-NRS 205.060.2

Completed	Yes	Hate/Bias	Unknown (Offenders Motivation Not Known)	Domestic Violence	
Entry	Forcible	Premises Entered	Type Security	Tools	Other
Weapons			Location Type	Alarm System	
Criminal Activities				Dead Bolts	
				Exterior Lights	
				Restaurant	

## Victims

Name: Taco Bell

Victim Type	Business	Written Statement	Can ID Suspect
Victim of	60424 - Burglary, (1st)(F)-NRS 205.060.2		Domestic Battery
SSN	DOB	Age	Sex
Height	Weight	Hair Color	Eye Color
Employer/School			
Occupation/Grade			Work Schedule
DLN	DL State		DL Country
Resident			Tourist Departure Date
Injury			Injury Weapons

Addresses  
Business      9480 W Lake Mead Blvd LVN, 89134

Phones  
Business/Work      (702) 360-8085

Email

Offender Relationships  
Domestic Violence Information  
Relationship to Suspect  
Intimate Relationship  
Voluntary Statement  
Injury Severity  
Photos Taken

Primary Aggressor Determined  
Drug/Alcohol Involvement  
DV Information Provided  
Medical Attention

Notes:

**Name: GONZALEZ-APARICIO, VANESSA MARIE**

Victim Type	Individual	Written Statement	Can ID Suspect
Victim of	50137 - Robbery(F)-NRS 200.380		Domestic Battery
	50051 - Kidnapping, 1st Degree(F)-NRS 200.310.1		No

SSN	613-32-4778	DOB	08/01/1989	Age	25	Sex	Female	Race	White
Height		Weight		Hair Color		Eye Color			
Employer/School	Taco Bell @ 9480 W Lake Mead Blvd								
Occupation/Grade									
DLN	1602343888	DL State	Nevada	DL Country		Work Schedule			
Resident	Resident					Tourist Departure Date			
Injury	None Observed					Injury Weapons	Handgun		

Addresses  
Residence 1801 Amboy Dr 89108

Phones

Email

Offender Relationships  
Domestic Violence Information  
Relationship to Suspect  
Intimate Relationship  
Voluntary Statement  
Injury Severity  
Photos Taken

Primary Aggressor Determined  
Drug/Alcohol Involvement  
DV Information Provided  
Medical Attention

Notes:

**Name: WARD, JAMMIE RASHONE**

Victim Type	Individual	Written Statement	Can ID Suspect
Victim of	50137 - Robbery(F)-NRS 200.380		Domestic Battery
			No

SSN	530-82-3861	DOB	01/24/1978	Age	36	Sex	Female	Race	Black or African American
Height		Weight		Hair Color		Eye Color			
Employer/School	Taco Bell @ 9480 W LAKE MEAD BLVD								
Occupation/Grade									
DLN	2608840898	DL State	Nevada	DL Country		Work Schedule			
Resident	Resident					Tourist Departure Date			
Injury	None Observed					Injury Weapons	Handgun		

Addresses  
Residence 1555 Balzar Ave Apt 123 LVN, 89168

Phones

Email

Offender Relationships  
Domestic Violence Information  
Relationship to Suspect  
Intimate Relationship  
Voluntary Statement  
Injury Severity  
Photos Taken

Primary Aggressor Determined  
Drug/Alcohol Involvement  
DV Information Provided  
Medical Attention

Notes:

**Name: HADEED, HOLLY KATHERINE**

Victim Type	Individual	Written Statement	Can ID Suspect
Victim of	50137 - Robbery(F)-NRS 200.380		Domestic Battery
	50051 - Kidnapping, 1st Degree(F)-NRS 200.310.1		No

SSN	530-83-2370	DOB	09/25/1994	Age	20	Sex	Female	Race	White
Height		Weight		Hair Color		Eye Color			
Employer/School	Taco Bell @ 9480 W LAKE MEAD BLVD								
Occupation/Grade									
DLN	1404465739	DL State	Nevada	DL Country		Work Schedule			
Resident	Resident					Tourist Departure Date			
Injury	None Observed					Injury Weapons	Handgun		

Addresses  
Residence 6209 Don Gaspar LVN, 89108

Phones

Email

Offender Relationships  
Domestic Violence Information  
Relationship to Suspect  
Intimate Relationship  
Voluntary Statement  
Injury Severity  
Photos Taken

Primary Aggressor Determined  
Drug/Alcohol Involvement  
DV Information Provided  
Medical Attention

Notes:

## Suspects

Name: #1. Suspect

Written Stmt.	Alerts	Non-English	Language
Aliases			
Moniker			
Scope ID	DOB	Age 20-30	SSN
Race Black or African American		Build Thin	Handedness
Sex Male	Height 6' 0"	Hair Color Black	Eye Color Brown
Employer/School	Weight	Occupation/Grade	
Hair Length	Hair Style		Eyes
Complexion	Facial hair		Teeth
Appearance		Injury/Condition	
Speech manner		Speech Characteristics	
DLN	DL State	DL Country	
Resident	Tourist Departure		Place of Birth
Habitual Offender Status		MO Factors	
Primary Means of Attack/Weapon	Handgun	Weapon Features	Blue Steel
Employer/School		Occupation/Grade	

Scars, Marks and Tattoos  
Addresses

Phones

Domestic Violence Information		
TPO in Effect	Drug/Alcohol Involvement	Voluntary Statement
Injury Severity	Medical Attention	DV Info provided
Photos Taken	Suspect Demeanor	

Notes:

Name: #2. Suspect

Written Stmt.	Alerts	Non-English	Language
Aliases			
Moniker			
Scope ID	DOB	Age 20-30	SSN
Race Black or African American		Build Thin	Handedness
Sex Male	Height 5' 5"	Hair Color Black	Eye Color Brown
Employer/School	Weight	Occupation/Grade	
Hair Length	Hair Style		Eyes
Complexion	Facial hair		Teeth
Appearance		Injury/Condition	
Speech manner		Speech Characteristics	
DLN	DL State	DL Country	
Resident	Tourist Departure		Place of Birth
Habitual Offender Status		MO Factors	
Primary Means of Attack/Weapon	Handgun	Weapon Features	Blue Steel
Employer/School		Occupation/Grade	

Scars, Marks and Tattoos  
Addresses



**Phones****Domestic Violence Information**

TPO in Effect  
Injury Severity  
Photos Taken

Drug/Alcohol Involvement  
Medical Attention  
Suspect Demeanor

Voluntary Statement  
DV Info provided

Notes:

**Arrestees****Witnesses****Other Entities****Properties**

Type: Misc. (Cell Phones, Ammo, Worthless Doc, items not listed)

Status	Stolen	Quantity	1	Value	200.00	Color
Description	Smart Phone					
Manufacturer	Apple	Model	iPhone	Serial No./VIN		
Vehicle Year		Body Type				
Lic Plate #		Lic Plate State		Lic Plate Exp		
Insurance Company						
Owner	V - GONZALEZ-APARICIO, VANESSA MARIE					
Notes:						

**Detailed Property Information**

Length	Width	Height
Horse Power	Propulsion Serial #	
Caliber	Barrel Length	
Features		

**Recovered Property Information**

Recovered Date	Recovered Value
Recovered Location	Recovered Reason
Recovered By	Recovered Stock #
Owner Type	Released To
Insurance Rep.	Tow Company

Type: Electronics (TV, Music, CD/DVD Players, etc...)

Status	Destroyed/Damaged/Vandalized	Quantity	1	Value	Color
Description	land line telephone				
Manufacturer	Model	Serial No./VIN			
Vehicle Year	Body Type				
Lic Plate #	Lic Plate State	Lic Plate Exp			
Insurance Company					
Owner	V - Taco Bell				
Notes:					

**Detailed Property Information**

Length	Width	Height
Horse Power	Propulsion Serial #	
Caliber	Barrel Length	
Features		

**Recovered Property Information**

Recovered Date	Recovered Value
Recovered Location	Recovered Reason
Recovered By	Recovered Stock #
Owner Type	Released To
Insurance Rep.	Tow Company

Type: Misc. (Cell Phones, Ammo, Worthless Doc, Items not listed)

Status	Destroyed/Damaged/Vandalized	Quantity	1	Value	Color
Description	plate glass door				
Manufacturer		Model		Serial No./VIN	
Vehicle Year		Body Type			
Lic Plate #		Lic Plate State		Lic Plate Exp	
Insurance Company					
Owner	V - Taco Bell				
Notes:					

#### Detailed Property Information

Length	Width	Height
Horse Power	Propulsion Serial #	
Caliber	Barrel Length	
Features		

#### Recovered Property Information

Recovered Date	Recovered Value
Recovered Location	Recovered Reason
Recovered By	Recovered Stock #
Owner Type	Released To
Insurance Rep.	Tow Company

#### Solvability

Criminalistics Work Was Performed  
Physical Evidence Is Present  
Significant MO Is Present  
Suspect Can Be Described  
Witness Present - Victim

#### Modus Operandi

MO General Occupied?	Yes	Surrounding Area Specific Premise	Middle of Block Room
General Premise	Fast Food Restaurant		
MO Against Property			
Entry Point	Door	Exit Point	Door
Entry/Attempt Method	Smash and Grab	Entry Tool	Vehicle Entry
Safe Entry		Suspect Actions	Used Lookout/Accomplice
Victim Location	On the Premises	Electronic Locks Inspectress	Video Surveillance
Maid			Yes
MO Against People			
Victim-Suspect Relationship		Pre-Incident Contact	None
Victim Condition		Suspect Solicited/Offered	
Suspect Pretended to Be		Suspect Actions	Forced Entry
			Moved Victim's Location
			Multiple Suspects
			Pulled/Held/Grabbed Victim
Sexual Acts		Vehicle Involvement	

#### Narrative

On November 23rd, 2014 at approximately 2320 hours, three female employees, Vanessa Gonzalez, Jammie Ward and Holly Hadeed, were working the night shift at the Taco Bell located at 9480 W Lake Mead BLVD, Las Vegas, NV 89135. The three were cleaning the restaurant after closing at 2300 hours. The business was locked and secured.

The three women were located within the kitchen and office area of the restaurant when they heard a loud crashing sound coming from the restaurant's lobby. Gonzalez went to investigate the source of the noise. Once she entered the lobbies register area, she came face to face with suspect #1; a black male, approximately 6' tall, thin build, 20s, wearing a grey hoodie and black work style pants. He was wearing a white cloth workshop or medical style respirator mask over his face, and was carrying a black and silver automatic handgun. He stated "Open the safe," which alerted the two other women that they were being robbed.

Immediately, the three women ran to the rear exit door located at the back of the kitchen. When they opened the rear door to escape, they were stopped by a second black male; suspect #2, described as approximately 5'5" tall, thin build, 20s, wearing similar clothing and mask and carrying a similarly style handgun. He grabbed Gonzalez' sweat shirt, ordered them back into the business, and pulled Gonzalez back through the door along with Hadeed. While suspect #2 had a hold of Gonzalez, Ward was able to make an escape on foot where she hid in bushes next to the Fresh & Easy located east of the Taco Bell.

The two subjects forced Gonzalez and Hadeed into the office while pointing their handguns at them. Suspect #1 stated "Open the fucking safe," while pointing his handgun at her head. Gonzalez and Hadeed told the suspects only the morning manager had access to the safe. Suspect #1 stated "Stop fucking playing with me" several times while suspect #2 stated "I know she knows how to open it."

Although Gonzalez did not know the code for the safe, she attempted to buy time and tried several codes to no avail. While she attempted to miraculously open the safe, suspect #2 made statements they were running out of time. While suspect #1 held the women at gunpoint, suspect #2 destroyed the business' land line phone, and took Gonzalez' cell phone from her. After it was obvious the safe could not be opened, the two suspects fled the area in a white late model Dodge Charger, with black stripes and black rims.

It should be noted that the suspects description, modus operandi and vehicle matched the robbery suspects from a previous robbery which occurred approximately 20 minutes earlier at the El Polo Loco located at 7380 W Cheyenne under event #141123003576.

#### Patrol Follow-Up

ID and Robbery Det.'s responded to and processed the scene.

Las Vegas Metropolitan Police  
Department  
400 S. Martin Luther King Blvd.  
Las Vegas, NV 89106



Arrest / Detective Report

Case Report No.: **LLV141124003628**

### Administrative

Location **6121 Vegas Dr LVN, 89108** Sector / Beat **V5**  
Occurred On (Date / Time) **Monday 11/24/2014 11:01:00 PM** Or Between (Date / Time)  
Reporting Officer **10065 - Bone, A.** Reported On **11/24/2014**  
Entered By **10065 - Bone, A.** Entered On **11/24/2014 11:40:51 PM**  
Supervisor **07071 - Hansen, J.** Follow Up Pro Squad **NW 12** Follow Up  
Jurisdiction **Las Vegas, City of** Report Type **Officer Created - Sgt Approval** Disposition **Active**  
Route To:  
Connecting Reports **Photo Attached**  
**Victim Information Guide**  
**Voluntary Statement**

Assisting Officers:  
**08167 - Reiner, Jennifer C** ID Specialist  
**09884 - Marty-Pagan, Jorge J** Officer  
**04774 - Spotto, Lance L** Detective

### Offenses

**Robbery, E/DW(F)-NRS 200.380**  
Completed **Yes** Hate/Bias **None (No Bias)** Domestic Violence **No**  
Entry Premises Entered Type Security Tools  
Weapons **Handgun** Location Type **Restaurant**  
Criminal Activities

### Victims

Name: **Popeyes**

Victim Type **Business** Written Statement Can ID Suspect  
Victim of **50138 - Robbery, E/DW(F)-NRS 200.380** Domestic Battery  
SSN DOB Age Sex Eye Color Race  
Height Weight Hair Color  
Employer/School Occupation/Grade Work Schedule  
DLN DL State DL Country  
Resident Tourist Departure Date  
Injury Injury Weapons

Addresses  
Business **6121 Vegas Dr LVN, 89108 clerk USA**

Phones

Email

Offender Relationships  
Domestic Violence Information  
Relationship to Suspect Primary Aggressor Determined  
Intimate Relationship Drug/Alcohol Involvement  
Voluntary Statement DV Information Provided  
Injury Severity Medical Attention  
Photos Taken

Notes:

### Suspects

Name: **Unknown**

Written Stmt. **No** Alerts Non-English Language

Aliases  
Moniker



Written Statement		Yes	Can ID Suspect		No	Testify				
SSN	550-09-7202		DOB	02/19/1997		Age	17	Race	White	
Sex	Female		Height	5' 4"		Weight		Hair Color	Brown	
										Eye Color
										Brown
Addresses										
Business		6121 Vegas Dr LVN, 89108 clark USA								
Residence		6701 Burgundy Way LVN, 89107 clark USA								
Phones										
Notes:										

Written Statement	Yes	Can ID Suspect					Testify		
SSN		DOB	05/17/1997		Age	17	Race	White	
Sex	Female	Height	5' 1"	Weight	135	Hair Color	Brown	Eye Color	Brown
Addresses									
Residence		6300 Bristol Way LVN, 89107 clark USA							
Business		6121 Vegas Dr LVN, 89108 clark USA							
Phones									
Cellular		(702) 622-1616							
Notes:									

Written Statement	Yes	Can ID Suspect	Testify
SSN 680-01-3837		DOB 05/27/1997	Age 17
Sex Male		Height 5' 10"	Weight 155
		Hair Color	Race Brown
			White
			Eye Color
			Brown
Addresses			
Business		8121 Vegas Dr LVN, 89108 clark USA	
Residence		6313 Mint Frost Way LVN, 89108 clark USA	
Phones			
Cellular		(702) 847-2341	
Business/Work		(702) 631-1875	
Notes:			

Written Statement	Yes	Can ID Suspect						Testify	
SSN		DOB	04/21/1996		Age	18	Race	White	
Sex	Male	Height		Weight	175	Hair Color	Black		Eye Color
Addresses									Black
Business		6121 Vegas Dr LVN, 89108 clark USA							
Residence		6727 Vegas Dr LVN, 89108 clark USA							
Phones									
Cellular		(702) 272-5458							
Notes:									

Written Statement	Yes	Can ID Suspect						Testify	
SSN		DOB	07/29/1992	Age	22	Race	White		
Sex	Female	Height	5' 1"	Weight	142	Hair Color	Brown	Eye Color	Brown
Addresses									
Business		6121 Vegas Dr LVN, 89109 clark USA							

Residence 3308 N Pecos Rd #d LVN, 89115 clark USA

Phones  
Cellular (702) 408-1581

Notes:

## Other Entities

### Properties

Type: Misc. (Cell Phones, Ammo, Worthless Doc, Items not listed)

Status	Stolen	Quantity	1	Value	200.00	Color	
Description	Smart Phone						
Manufacturer		Model	Galaxy	Serial No.	WIN		
Vehicle Year		Body Type					
Lic Plate #		Lic Plate State		Lic Plate Exp			
Insurance Company							
Owner	W - Gomez, Alma						
Notes:							

#### Detailed Property Information

Length	Width	Height
Horse Power	Propulsion Serial #	
Caliber	Barrel Length	
Features		

#### Recovered Property Information

Recovered Date	Recovered Value
Recovered Location	Recovered Reason
Recovered By	Recovered Stock #
Owner Type	Released To
Insurance Rep.	Tow Company

Type: Currency, Coins, Securities, Cash

Status	Stolen	Quantity	?	Value	2,088.59	Color	Green
Description	a total of \$2088.59						
Manufacturer	US Govt.	Model		Serial No.	WIN		
Vehicle Year		Body Type					
Lic Plate #		Lic Plate State		Lic Plate Exp			
Insurance Company							
Owner	V - Popeyes						
Notes:	\$800 from the safe and \$1288.59 from the registers.						

#### Detailed Property Information

Length	Width	Height
Horse Power	Propulsion Serial #	
Caliber	Barrel Length	
Features		

#### Recovered Property Information

Recovered Date	Recovered Value
Recovered Location	Recovered Reason
Recovered By	Recovered Stock #
Owner Type	Released To
Insurance Rep.	Tow Company

### Solvability

Criminallistics Work Was Performed  
Physical Evidence Is Present  
Significant MO Is Present  
Stolen Property Is Traceable, (Identifiable)  
Suspect Can Be Described  
Witness Present - Other

## Modus Operandi

MO General				Surrounding Area	Corner
Occupied?	Yes			Specific Premise	
General Premise	Fast Food Restaurant				
MO Against Property					
Entry Point	Door	Exit Point	Door	Entry Location	Door Front South Rear West
Entry/Attempt Method	Bodily Force Climbed In/Over/Thru Other	Entry Tool		Vehicle Entry	
Safe Entry		Suspect Actions	Covered Hands(Gloves, etc) Knew Loc./Hidden Valuables Malicious Damage Ransacked Selective In Loot Took Time/Methodical	Additional Factors	Similar Crimes In Neighborhood
Victim Location	Work/School	Electronic Locks	No	Video Surveillance	
Maid		Inspectress			
MO Against People		Pre-Incident Contact		Opening/Closing-Business	
Victim-Suspect Relationship		Suspect Solicited/Offered		Forced Entry	
Victim Condition		Suspect Actions		Had Victim Lie Down	
Suspect Pretended to Be				Had Victim Bag Property	
				Malicious Damage	
				Multiple Suspects	
				Suspect's Face Concealed	
Sexual Acts		Vehicle Involvement			

## Narrative

On 11/24/14 at 2300 hours, 1 black male adult broke the front south door to the Pepeyes fast food restaurant on 6121 Vegas Dr, LVN 89108. The male suspect had a silver handgun in his hand as he made his way into the business. 5 employees were inside closing the store and cleaning. The Manager Alma heard the glass break on the door and ran back to the other employees. Alma told them somebody broke in and she was telling them to go out of the back emergency door. They tried to open the door but it wasn't opening. They pushed harder and there was another black male waiting for the door to open. The male suspect grabbed one of the employees and pushed them all back in.

They all started walking towards the front as the 2nd suspect had them all at gun point. The 1st suspect made his way behind the counter and had Alma show him where the safe was. He gave alma the blue bag and told her to open the bag and fill it with the money from the safe and the cash registers. As Alma was getting the cash, one suspect was down with her and the other suspect was standing up. They had the other employees get down on the ground. When the suspects got the bag back, they took Alma's cell phone and ran out of the emergency door. The employees waited for them to leave then called 911.

### Patrol Follow-Up

One of the employees stated in their statement that the suspect that entered from the front, was carrying an ax along with his handgun. ID responded and took photos of the scene. Due to the suspects wearing gloves, no finger/hand prints were retrieved. There was no surveillance video. The suspects got \$800 from the safe and \$1288.59 from the register totaling \$2088.59.



Exhibit 12

12

Exhibit 12

<b>Las Vegas Metropolitan Police Department</b> <b>Forensic Laboratory</b>  <b>Report of Examination</b>  <b>Biology/DNA Forensic Casework</b>		<b>Distribution Date:</b> September 9, 2015 <b>Agency:</b> LVMPD <b>Location:</b> Robbery/Homicide Bureau <b>Primary Case #:</b> 141125-4029 <b>Additional Cases:</b> 141124-3628 <b>Incident:</b> Robbery, Robbery WDW <b>Requester:</b> Jeffery C Abell <b>Lab Case #:</b> 15-01887.2
<b>Subject(s):</b>	Tony Hobson (Suspect) Brandon Starr (Suspect) Donte Johns (Suspect)	

The following evidence was examined and results are reported below.

Lab Item #	Impound Pkg #	Impound Item #	Description
Item 2	013572 - 8	9	Red and black gloves
Item 2.1			• Right glove – Swabbing of the inside
Item 2.2			• Left glove – Swabbing of the inside
Item 3		10	Left grey & red glove – Swabbing of the inside
Item 4		11	Knit gloves
Item 4.1			• One glove – Swabbing of the outside
Item 4.1.1			– Swabbing of the inside
Item 4.1.2			• One glove – Swabbing of the outside
Item 4.2			– Swabbing of the inside
Item 4.2.1			
Item 4.2.2			
Item 5		12	Yellow mask – Swabbing of the entire item
Item 9	013572 - 5	3	Axe – Swabbing of the handle
Item 6	013572 - 10	15	Left "Snap-on" glove – Swabbing of the inside
Item 7		16	Yellow mask – Swabbing of the entire item
Item 8		17	Right "Snap-on" glove – Swabbing of the inside
Item 10	013572 - 13	22	Revolver swab
Item 11		23	Ruger swab
Item 12		24	Magazine swab
Item 13		25	Axe swab
Item 1*	008744 - 1	1	Reference standard from Brandon Starr
Item 2*	008744 - 1	1	Reference standard from Donte Johns
Item 3*	008744 - 1	1	Reference standard from Tony Hobson

\*Evidence booked under event 141124-3628

#### DNA Results and Conclusions:

Item 2.1, Item 2.2, Item 3, Item 4.1.1, Item 4.1.2, Item 4.2.1, Item 4.2.2, Item 5, Item 9, Item 6, Item 7, Item 8, Item 10, Item 11, Item 12, Item 13, Item 1\*, Item 2\*, and Item 3\* were subjected to PCR amplification at the following STR genetic loci: D8S1179, D21S11, D7S820, CSF1PO, D3S1358, TH01, D13S317, D16S539, D2S1338, D19S433, vWA, TPOX, D18S51, D5S818, and FGA. The sex-determining Amelogenin locus was also examined.

**Lab Item 2.1**

The DNA profile obtained from the swabbing of the inside of the right red and black glove (Item 2.1) is consistent with a distinguishable mixture of at least four individuals with at least one being a male. The full major DNA profile obtained is consistent with Brandon Starr (Item 1\*). The probability of randomly selecting an unrelated individual from the general population having a DNA profile that is consistent with the full major DNA profile obtained from the evidence sample is approximately 1 in 87.4 quintillion. Donte Johns (Item 2\*) and Tony Hobson (Item 3\*) are excluded as possible contributors to the full major DNA profile obtained. The full major DNA profile will be searched against the Local DNA Index System (CODIS) and then uploaded to the National DNA Index System (CODIS) for comparison. You will be notified if there is a match. Due to the limited data available, no conclusions can be made regarding the minor component.

**Lab Item 2.2**

The DNA profile obtained from the swabbing of the inside of the left red and black glove (Item 2.2) is consistent with an indistinguishable mixture of at least three individuals with at least one being male. Due to the limited data available, no additional conclusions can be made regarding this mixture DNA profile.

**Lab Item 3**

The DNA profile obtained from the swabbing of the inside of the left grey and red glove (Item 3) is consistent with a distinguishable mixture of at least four individuals with at least one being a male. The full major DNA profile obtained is consistent with Brandon Starr (Item 1\*). The probability of randomly selecting an unrelated individual from the general population having a DNA profile that is consistent with the full major DNA profile obtained from the evidence sample is approximately 1 in 87.4 quintillion. Donte Johns (Item 2\*) and Tony Hobson (Item 3\*) are excluded as possible contributors to the full major DNA profile obtained. Due to the limited data available, no conclusions can be made regarding the minor component.

**Lab Item 4.1.1**

The DNA profile obtained from the swabbing of the outside of one knit glove (Item 4.1.1) is consistent with a distinguishable mixture of at least three individuals with at least one being a male. The full major DNA profile obtained is consistent with Donte Johns (Item 2\*). The probability of randomly selecting an unrelated individual from the general population having a DNA profile that is consistent with the full major DNA profile obtained from the evidence sample is approximately 1 in 369 sextillion. Brandon Starr (Item 1\*) and Tony Hobson (Item 3\*) are excluded as possible contributors to the full major DNA profile obtained. The full major DNA profile will be searched against the Local DNA Index System (CODIS) and then uploaded to the National DNA Index System (CODIS) for comparison. You will be notified if there is a match. Due to the limited data available, no conclusions can be made regarding the minor component.

**Lab Item 4.1.2**

A DNA profile was not obtained from the swabbing of the inside of one knit glove (Item 4.1.2).

**Lab Item 4.2.1**

The DNA profile obtained from the swabbing of the outside of one knit glove (Item 4.2.1) is consistent with a distinguishable mixture of at least three individuals with at least one being a male. The partial major DNA profile obtained is consistent with Donte Johns (Item 2\*). The probability of randomly selecting an unrelated individual from the general population having a DNA profile that is consistent with the partial major DNA profile obtained from the evidence sample is approximately 1 in 454 million. Brandon Starr (Item 1\*) and Tony Hobson (Item 3\*) are excluded as possible contributors to the partial major DNA profile obtained. Due to the limited data available, no conclusions can be made regarding the minor component.

**Lab Item 4.2.2**

A DNA profile was not obtained from the swabbing of the inside of one knit glove (Item 4.2.2).

**Lab Item 5**

The DNA profile obtained from the swabbing of the yellow mask (Item 5) is consistent with a distinguishable mixture of at least four individuals with at least one being a male. The full major DNA profile obtained is consistent with Brandon Starr (Item 1\*). The probability of randomly selecting an unrelated individual from the general population having a DNA profile that is consistent with the full major DNA profile obtained from the evidence sample is approximately 1 in 87.4 quintillion. Donte Johns (Item 2\*) and Tony Hobson (Item 3\*) are excluded as possible contributors to the full major DNA profile obtained. Due to the limited data available, no conclusions can be made regarding the minor component.

**Lab Item 9**

The DNA profile obtained from the swabbing of the axe handle (Item 9) is consistent with an indistinguishable mixture of at least three individuals with at least one being male. Due to the limited data available, no additional conclusions can be made regarding this mixture DNA profile.

**Lab Item 6**

The DNA profile obtained from the swabbing of the inside of the left "Snap-on" glove (Item 6) is consistent with a distinguishable mixture of at least four individuals with at least one being a male. The partial major DNA profile obtained is consistent with Tony Hobson (Item 3\*). The probability of randomly selecting an unrelated individual from the general population having a DNA profile that is consistent with the partial major DNA profile obtained from the evidence sample is approximately 1 in 39.5 billion. Brandon Starr (Item 1\*) and Donte Johns (Item 2\*) are excluded as possible contributors to the partial major DNA profile obtained. Due to the limited data available, no conclusions can be made regarding the minor component.

**Lab Item 7**

The DNA profile obtained from the swabbing of the yellow mask (Item 7) is consistent with an indistinguishable mixture of at least four individuals with at least one being male. Due to the complexity of the data available, no additional conclusions can be made regarding this mixture DNA profile.

**Lab Item 8**

The DNA profile obtained from the swabbing of the inside of the right "Snap-on" glove (Item 8) is consistent with a distinguishable mixture of at least three individuals with at least one being a male. The partial major DNA profile obtained is consistent with Tony Hobson (Item 3\*). The probability of randomly selecting an unrelated individual from the general population having a DNA profile that is consistent with the partial major DNA profile obtained from the evidence sample is approximately 1 in 400 quintillion. Brandon Starr (Item 1\*) and Donte Johns (Item 2\*) are excluded as possible contributors to the partial major DNA profile obtained. The partial major DNA profile will be searched against the Local DNA Index System (CODIS) and then uploaded to the National DNA Index System (CODIS) for comparison. You will be notified if there is a match. Due to the limited data available, no conclusions can be made regarding the minor component.

**Lab Item 10**

The partial DNA profile obtained from the revolver swab (Item 10) is consistent with Brandon Starr (Item 1\*). The probability of randomly selecting an unrelated individual from the general population having a DNA profile that is consistent with the partial DNA profile obtained from the evidence sample is approximately 1 in 193 million. Donte Johns (Item 2\*) and Tony Hobson (Item 3\*) are excluded as possible contributors to the partial DNA profile obtained.

**Lab Item 11**

The partial DNA profile obtained from the Ruger swab (Item 11) is consistent with originating from a single contributor. Due to the limited data available, no additional conclusions can be made regarding this partial DNA profile.

**Lab Item 12**

The partial DNA profile obtained from the magazine swab (Item 12) is consistent with originating from a single contributor. Due to the limited data available, no additional conclusions can be made regarding this partial DNA profile.

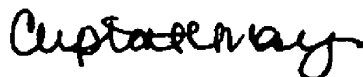
**Lab Item 13**

The partial DNA profile obtained from the axe swab (Item 13) is consistent with originating from a single contributor. Due to the limited data available, no additional conclusions can be made regarding this partial DNA profile.

Statistical probabilities were calculated using the recommendations of the National Research Council (NRC II) utilizing the FBI database (J Forensic Sci 44 (6) (1999): 1277-1286 and J Forensic Sci doi: 10.1111/1556-4029.12806; J Forensic Sci 46 (3) (2001) 453-489 and Forensic Science Communications 3 (3) (2001)). The probability that has been reported is the most conservative value obtained from the US Caucasian (CAU), African American (BLK), and Southwest Hispanic (SWH) population databases. These numbers are an estimation for which a deviation of approximately +/- 10-fold may exist. All random match probabilities, combined probability of inclusions/exclusions, and likelihood ratios calculated by the LVMPD are truncated to three significant figures.

The evidence is returned to secure storage.

---This report does not constitute the entire case file. The case file may be comprised of worksheets, images, analytical data and other documents.---



Crystal May, #9288  
Forensic Scientist II

09/07/2015

- END OF REPORT -

<b>Las Vegas Metropolitan Police Department</b> <b>Forensic Laboratory</b>  <b>Report of Examination</b>  <b>Biology/DNA Forensic Casework</b>		<b>Distribution Date:</b> May 5, 2016 <b>Agency:</b> LVMPD <b>Location:</b> Robbery/Homicide Bureau <b>Primary Case #:</b> 141125-4029 <b>Additional Cases:</b> 141124-3628 <b>Incident:</b> Robbery, Robbery WDW <b>Requester:</b> Jeffery C Abell <b>Lab Case #:</b> 15-01887.4 <b>Supplemental 1</b>
<b>Subject(s):</b>	Tony Hobson (Suspect) Brandon Starr (Suspect) Donte Johns (Suspect)	

This report does not supercede nor replace the original report dated September 7<sup>th</sup>, 2015. This report is being issued in compliance with a Court Order issued for Court Case No. C-14-303022-1 and signed by District Judge William Kephart on May 2<sup>nd</sup>, 2016.

All profiles associated with CODIS entries will stand as they were originally interpreted.

The reinterpreted results are reported below.

Refer to the original report issued by FS II Crystal May P# 9288 dated 9/7/2015 for related information.
*Evidence booked under event 141124-3628

### DNA Results and Conclusions:

#### Lab Item 2.1

The DNA profile obtained from the swabbing of the inside of the right red and black glove (Item 2.1) is consistent with a mixture of four individuals with at least one being a male. Due to the complexity of the data available, no additional conclusions can be made regarding this mixture DNA profile.

#### Lab Item 2.2

The DNA profile obtained from the swabbing of the inside of the left red and black glove (Item 2.2) is consistent with a mixture of at least three individuals with at least one being male. Due to the limited data available, no additional conclusions can be made regarding this mixture DNA profile.

#### Lab Item 3

The DNA profile obtained from the swabbing of the inside of the left grey and red glove (Item 3) is consistent with a mixture of four individuals with at least one being a male. The full major DNA profile obtained is consistent with Brandon Starr (Item 1\*). The probability of randomly selecting an unrelated individual from the general population having a DNA profile that is consistent with the full major DNA profile obtained from the evidence sample is approximately 1 in 87.4 quintillion. Donte Johns (Item 2\*) and Tony Hobson (Item 3\*) are excluded as possible contributors to the full major DNA profile obtained. Due to the limited data available, no conclusions can be made regarding the minor component.

#### Lab Item 4.1.1

The DNA profile obtained from the swabbing of the outside of one knit glove (Item 4.1.1) is consistent with a mixture of three individuals with at least one being a male. The full major DNA profile obtained is consistent with Donte Johns (Item 2\*). The probability of randomly selecting an unrelated individual from the general population having a DNA profile that is consistent with the full major DNA profile obtained from the evidence sample is approximately 1 in 369 sextillion. Brandon Starr (Item 1\*) and Tony Hobson (Item 3\*) are excluded as possible contributors to the full major DNA profile obtained. Due to the limited data available, no conclusions can be made regarding the trace component.

#### Lab Item 4.1.2

A DNA profile was not obtained from the swabbing of the inside of one knit glove (Item 4.1.2).

#### Lab Item 4.2.1

The DNA profile obtained from the swabbing of the outside of one knit glove (Item 4.2.1) is consistent with a mixture of three individuals with at least one being a male. Due to the complexity of the data available, no additional conclusions can be made regarding this mixture DNA profile.

#### Lab Item 4.2.2

A DNA profile was not obtained from the swabbing of the inside of one knit glove (Item 4.2.2).

**Lab Item 5**

The DNA profile obtained from the swabbing of the yellow mask (Item 5) is consistent with a mixture of four individuals with at least one being a male. Due to the complexity of the data available, no additional conclusions can be made regarding this mixture DNA profile.

**Lab Item 9**

The DNA profile obtained from the swabbing of the axe handle (Item 9) is consistent with a mixture of at least three individuals with at least one being male. Due to the limited data available, no additional conclusions can be made regarding this mixture DNA profile.

**Lab Item 6**

The DNA profile obtained from the swabbing of the inside of the left "Snap-on" glove (Item 6) is consistent with a mixture of three individuals with at least one being a male. Due to the complexity of the data available, no additional conclusions can be made regarding this mixture DNA profile.

**Lab Item 7**

The DNA profile obtained from the swabbing of the yellow mask (Item 7) is consistent with a mixture of at least four individuals with at least one being male. Due to the complexity of the data available, no additional conclusions can be made regarding this mixture DNA profile.

**Lab Item 8**

The DNA profile obtained from the swabbing of the inside of the right "Snap-on" glove (Item 8) is consistent with a mixture of three individuals with at least one being a male. The partial major DNA profile obtained is consistent with Tony Hobson (Item 3\*). The probability of randomly selecting an unrelated individual from the general population having a DNA profile that is consistent with the partial major DNA profile obtained from the evidence sample is approximately 1 in 1.54 quadrillion. Brandon Starr (Item 1\*) and Donte Johns (Item 2\*) are excluded as possible contributors to the partial major DNA profile obtained. Due to the limited data available, no conclusions can be made regarding the minor component.

**Lab Item 10**

The partial DNA profile obtained from the revolver swab (Item 10) is consistent with Brandon Starr (Item 1\*). The probability of randomly selecting an unrelated individual from the general population having a DNA profile that is consistent with the partial DNA profile obtained from the evidence sample is approximately 1 in 193 million. Donte Johns (Item 2\*) and Tony Hobson (Item 3\*) are excluded as possible contributors to the partial DNA profile obtained.

**Lab Item 11**

The partial DNA profile obtained from the Ruger swab (Item 11) is consistent with originating from a single contributor. Due to the limited data available, no additional conclusions can be made regarding this partial DNA profile.

**Lab Item 12**

The partial DNA profile obtained from the magazine swab (Item 12) is consistent with originating from a single male contributor. Due to the limited data available, no additional conclusions can be made regarding this partial DNA profile.

**Lab Item 13**

The partial DNA profile obtained from the axe swab (Item 13) is consistent with originating from a single contributor. Due to the limited data available, no additional conclusions can be made regarding this partial DNA profile.

Statistical probabilities were calculated using the recommendations of the National Research Council (NRC II) utilizing the FBI database (J Forensic Sci 44 (6) (1999): 1277-1286 and J Forensic Sci doi: 10.1111/1556-4029.12806; J Forensic Sci 46 (3) (2001) 453-489 and Forensic Science Communications 3 (3) (2001)). The probability that has been reported is the most conservative value obtained from the US Caucasian (CAU), African American (BLK), and Southwest Hispanic (SWH) population databases. These numbers are an estimation for which a deviation of approximately +/- 10-fold may exist. All random match probabilities, combined probability of inclusions/exclusions, and likelihood ratios calculated by the LVMPD are truncated to three significant figures.

---This report does not constitute the entire case file. The case file may be comprised of worksheets, images, analytical data and other documents.---

Supplemental 1

Primary Event #: 141125-4029  
Lab Case #: 15-01887.4

*Crystal May*

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Crystal May, #8268  
Forensic Scientist II

- END OF REPORT -

Exhibit 13

13

Exhibit 13



1 MS. MERCER: No, Your Honor.

2 MR. TANASI: I don't think so, Your Honor.

3 MR. MANINGO: Well --

4 (Pause in the proceedings)

5 MR. TANASI: Judge, could we the Court's indulgence  
6 for one second? We might be able to streamline things.

7 THE COURT: Okay.

8 (Pause in the proceedings)

9 MR. TANASI: Okay. So Judge, I think there is an  
10 issue with one witness. I guess, we can put it on the record  
11 now and --

12 THE COURT: Okay.

13 MR. TANASI: -- and maybe the defense can figure  
14 out a way. But Detective Turner in this case is the  
15 detective who impounds the items from the apartment that's  
16 ultimately searched, which we haven't gotten to yet, but  
17 we're getting there, I think, tomorrow Detective Abell.

18 Detective Turner, in her reports, gives  
19 conflicting, contradicting versions of where the Popeye's  
20 receipts were found. And so that's a very critical piece of  
21 evidence in this case. And so what we have just learned in  
22 trying to serve Detective Turner, is that she's out of town,  
23 she's in Hawaii until Monday, and I think she's got -- and  
24 could be available here on Tuesday of next week.

25 We ran this by the State, and in an effort to see

1 if we could admit those two reports from Detective Turner,  
2 which reference statements made by Detective Abell, but also  
3 a contradiction made by Detective Flynn as to where --  
4 actually, I take that back. Detective Turner notes the  
5 receipts are found in two different places, and she says she  
6 gets both of them from Detective Abell.

7 THE COURT: Okay, so Detective Abell tells her I  
8 found -- or something was found in one place, something was  
9 found in another place?

10 MR. TANASI: Same thing was found in two different  
11 places.

12 THE COURT: Okay.

13 MR. TANASI: And so the issue, obviously, is now  
14 with her not being available to testify, we kind of went into  
15 this assuming that Detective Turner would be a critical  
16 witness the State would call. We didn't anticipate the  
17 travel issue; otherwise, she wouldn't necessarily have been  
18 noticed, we at least believe in the State's notice of  
19 witnesses. We did notice her on our own as an endorsement,  
20 you know, to all of our witnesses as well, but then like I  
21 said, we've just now learned that she won't be here until  
22 Tuesday. So our request is --

23 THE COURT: Did you subpoena her?

24 MR. TANASI: We did. We served her.

25 THE COURT: Okay. When did you tell her to be

1 here?

2 MR. TANASI: Well, I'd have to defer to --

3 MR. MANINGO: Your Honor, we --

4 MR. TANASI: -- co-counsel on that.

5 MR. MANINGO: -- served her last week. We asked  
6 her to be here on the -- be available as of the 16th, today.

7 THE COURT: Uh-huh.

8 MR. MANINGO: She then responded to my office with  
9 that she had travel plans from the 16th through the 23rd or  
10 24th and she faxed over to my office, and I apologize, I  
11 don't have it with me right now, just a confirmation of her  
12 unavailability.

13 THE COURT: When did you serve her?

14 MR. MANINGO: We're thinking it was Tuesday of last  
15 week, Your Honor.

16 THE COURT: Okay. So what are you proposing?

17 MR. TANASI: I'd like to admit Detective Turner's  
18 reports through Detective Abell as --

19 THE COURT: Okay.

20 MR. TANASI: -- substantive evidence and notice --

21 THE COURT: Well, do you think Detective Abell will  
22 not -- I mean, will be saying something different than what  
23 you would already have from --

24 MR. TANASI: I don't know that. I mean, it's said  
25 two different ways in two different reports so I don't know

1 what Detective Abell's --

2 THE COURT: Okay. Well --

3 MR. TANASI: -- what his position is.

4 THE COURT: Okay. Okay, clear me up again.

5 MR. TANASI: Sure.

6 THE COURT: Detective Abell did one report?

7 MS. MERCER: No. Detective Turner authored two  
8 reports. She did one property impound report, in which she  
9 inverted items 4 and 5. She did an officer's report  
10 documenting the search warrant who was present during the  
11 execution of the search warrant, what items of evidence were  
12 found where, which is correct. The evidence was photographed  
13 in place by a crime scene analyst.

14 Detective Abell, I can make representations to the  
15 Court, noticed the typo in her property impound report and  
16 told her to correct it. So he's aware of the typo.

17 THE COURT: So Detective Abell's --

18 MS. MERCER: And they can question --

19 THE COURT: -- the one that actually did the --

20 MS. MERCER: No, he caught the typo in her --

21 THE COURT: Oh, and he told --

22 MS. MERCER: -- report.

23 THE COURT: -- her to correct it?

24 MS. MERCER: So he can testify to the error --

25 THE COURT: Okay.

1 MS. MERCER: -- but, I mean, the reports themselves  
2 are hearsay. That's the State's position.

3 MR. MANINGO: And that's what's going to -- that's  
4 what we're going to deal with when we try to get into that  
5 discrepancy with Detective Abell, because Detective Flynn,  
6 per Turner's report, says that these receipts were found in  
7 one place. Detective Abell says they were found in another.  
8 Detective Abell, per the State, is the one who says to  
9 Detective Turner, you made a mistake, but yet, we haven't  
10 heard from Detective Flynn either.

11 THE COURT: Okay. Did Detective Turner find these  
12 receipts?

13 MR. MANINGO: Detective Turner, I believe, took a  
14 picture of them at the same location, correct me if I'm  
15 wrong, that --

16 MS. MERCER: That was a crime scene analyst..

17 MR. TANASI: -- Detective Abell said that they were  
18 located at.

19 THE COURT: Okay. So she takes a picture of --

20 MS. MERCER: Your Honor, she does not photograph.

21 The crime scene analyst Vandering (phonetic) --

22 MR. MANINGO: Oh, pardon me, I didn't mean to  
23 misspeak.

24 THE COURT: Okay. Okay, so Detective Turner didn't  
25 find anything? She didn't --

1 MR. MANINGO: No. But she --  
2 THE COURT: She's reporting what someone told her?  
3  
4 MS. MERCER: Correct.  
5 MR. TANASI: Two different ways.  
6 THE COURT: Okay, so Detective Flynn told her it  
7 was one place --  
8 MR. TANASI: Correct.  
9 THE COURT: -- Detective Abell told her it was  
10 another place.  
11 MR. TANASI: Correct.  
12 THE COURT: Detective Abell then tells her to  
13 correct it?  
14 MR. TANASI: We don't know that, Your Honor.  
15 MR. MANINGO: That's what we just learned today.  
16 MR. TANASI: That's what we just learned --  
17 THE COURT: Okay.  
18 MR. TANASI: -- but --  
19 THE COURT: But you have Detective Flynn coming in?  
20 MR. TANASI: We don't. Again --  
21 THE COURT: Did you subpoena Detective Flynn?  
22 MR. TANASI: We did not. We did not.  
23 THE COURT: Because if he's the one telling  
24 Detective Turner where the items are, even if Detective  
25 Turner was testifying, it would be hearsay.

1 MR. TANASI: But it's Detective Turner's report  
2 indicating where she learned and what she discovered.

3 THE COURT: That someone told her.

4 MR. TANASI: Again, it's her report. It would be  
5 fair game in her report.

6 THE COURT: Yeah, but would -- does the report say  
7 Detective Flynn is the one that found it that told --

8 MR. MANINGO: Yes.

9 THE COURT: -- Detective Turner --

10 MR. MANINGO: Yes.

11 MS. MERCER: I --

12 THE COURT: Then why wouldn't you subpoena  
13 Detective Flynn if he's the one that actually found it in  
14 another area that's not --

15 MR. TANASI: Because we don't have Detective  
16 Flynn's report, we have Detective Turner's report.

17 THE COURT: But doesn't it say in the report that  
18 Detective Flynn told me it was here and that's what I wrote?

19 MR. TANASI: All it says is item 4, which is the  
20 receipts, was located by Detective Flynn from a nightstand  
21 drawer in the master bedroom.

22 THE COURT: Okay.

23 MR. TANASI: It doesn't get into the conversation.  
24 And again, substantively, as a report from Detective Turner,  
25 we could have admitted both and had her explain how she got

1 this information.

2 THE COURT: Have you done anything at all to try to  
3 contact Detective Flynn?

4 MR. MANINGO: Not yet.

5 MR. TANASI: We have not, Your Honor.

6 THE COURT: Is Detective Flynn available, do you  
7 know?

8 MS. MERCER: I don't know. We didn't subpoena him,  
9 to my knowledge. And if we did, we didn't pretrial him  
10 because we didn't plan on calling him.

11 THE COURT: Reach out to him tonight, if you can.  
12 I'm going to ask the State to try to help you with that. And  
13 see if you can get Detective Flynn in here because, I mean,  
14 if Detective Flynn's the one that actually saying he found  
15 it --

16 MR. TANASI: And I understand the Court's position.  
17 I guess, I would just point out, though, if Detective Flynn  
18 turns around and says no, that's not true, that's not what I  
19 said, I can't --

20 THE COURT: Okay.

21 MR. TANASI: -- impeach Detective Flynn with  
22 Detective Turner's --

23 THE COURT: Well, I think you can -- I will --  
24 under these circumstances --

25 MR. TANASI: Unless Your Honor allows it.



1 THE COURT: -- let's see whether or not you have  
2 Detective Flynn, fir of all, okay?  
3 MR. TANASI: Okay.  
4 THE COURT: Let's go from there.  
5 MR. TANASI: Okay.  
6 THE COURT: I think I -- my position would be that  
7 I think you'd be able to ask him if it would surprise him to  
8 know that -- you know, okay, I'll give you how I would do it.  
9 MR. TANASI: Okay.  
10 THE COURT: Detective Flynn, we heard your  
11 testimony, DA, DA, DA, DA, DA. You said you found something  
12 in a nightstand. Did you tell anybody that? No, I didn't  
13 find it in the nightstand. No, I didn't tell anybody that.  
14 Well, who is Detective Turner?  
15 MR. TANASI: Turner.  
16 MR. MANINGO: Turner.  
17 THE COURT: Well, were you aware that she made a  
18 report in this -- did you make a report, Detective Flynn?  
19 No, I didn't. So Detective Turner would have been making the  
20 report. Were you aware that she said that you told her that  
21 she found it in a nightstand? You know, that's --  
22 MR. TANASI: If Your Honor --  
23 THE COURT: -- the way you get it.  
24 MR. TANASI: If Your Honor's okay with that line of  
25 questioning with Detective Flynn --

1 THE COURT: I --  
2 MR. TANASI: -- but I think --  
3 THE COURT: But see if you can get him.  
4 MR. TANASI: Sure, sure.  
5 THE COURT: I think that would be the most  
6 appropriate person, though, to talk to anyhow because he'd be  
7 the one to be saying whether or not he found it there or he  
8 didn't or and he told her something to that effect. I don't  
9 know what -- I mean, that's the -- I think that's the best --  
10 let's see if you can get him first.  
11 MR. TANASI: Okay.  
12 THE COURT: All right? And --  
13 MS. MERCER: For the record, I -- Detective Abell's  
14 the one that found the receipts, which is the one that --  
15 THE COURT: No, no, no, no, I understand that, but  
16 if somebody's saying another detective found it, I think you  
17 have a right to ask him, did you find -- no, I didn't -- you  
18 know, I -- that's what I anticipate is probably going to say  
19 no, I didn't find it. Were you aware that Detective Turner  
20 did a report saying you found it?  
21 MR. TANASI: Right. If Your Honor's okay with that  
22 line of questioning, that solves the problem.  
23 THE COURT: Well, I think since you were already  
24 talking about who's doing reports and not doing reports and  
25 they rely on other individuals doing the reports, I think

1 that's fair.  
2 MR. TANASI: Okay.  
3 THE COURT: So I -- let's --  
4 MR. MANINGO: We'll start there.  
5 THE COURT: -- go from -- let's step over that  
6 hurdle first. Let's see if he's even here.  
7 MR. TANASI: Okay.  
8 THE COURT: I mean, and if not, then we may be  
9 waiting until next week.  
10 MR. TANASI: Okay.  
11 MR. MANINGO: Thank you, sir.  
12 MR. TANASI: Thank you, Judge.  
13 THE COURT: We're offer the record.  
14 (Court recessed at 4:52 P.M., until Tuesday,  
15 May 17, 2016, at 11:32 A.M.)

16 \* \* \* \* \*

17 CERTIFICATE

18 ATTEST: I hereby certify that I have truly and correctly  
19 transcribed the audio/visual proceedings in the above-  
20 entitled case to the best of my ability.

21 *Julie Lord*  
22

23 \_\_\_\_\_  
24 JULIE LORD, INDEPENDENT TRANSCRIBER  
25

Exhibit 14

14

Exhibit 14

1 A. He was.

2 Q. Did he acknowledge that he understood those  
3 rights?

4 A. Yes.

5 Q. During the course of that interview did he  
6 indicate to you that he had in fact been the get-away  
7 driver in the Popeye's robbery?

8 A. Yes.

9 Q. And he was able to provide you with details  
10 that were consistent with what had occurred in the  
11 course of that robbery; correct?

12 A. Yes.

13 Q. Did he indicate to you that he in fact  
14 received a hundred dollars for the role that he played  
15 in that robbery?

16 A. Well, he said he received some money, a  
17 hundred dollars for a phone bill.

18 Q. And gas?

19 A. And gas.

20 Q. One second please.

21 The photographs that were shown on the  
22 second page of that exhibit of the suspects, those were  
23 photographs taken on November 25, 2014, correct? The  
24 seconds page of Grand Jury Exhibit 21. Top row right  
25 photograph and bottom.

000073

Exhibit 15

15

Exhibit 15

1 (Pause in the proceedings)

2 MR. MANNINGO: I'll make a record, briefly, Your  
3 Honor.

4 THE COURT: Okay.

5 MR. MANNINGO: I believe there was question and  
6 answer while Ms. Lobo was questioning Detective Weirauch  
7 going into the Donte Johns' interview. Ms. Mercer for the  
8 State objected, I believe. I believe her only objection at  
9 the time was to hearsay. The question and answer with the  
10 witness on the stand proceeded. I asked and interrupted Ms.  
11 Lobo to approach the bench where I suggested to the Court  
12 that the sustained objections should have been overruled  
13 because per hearsay, it was not hearsay because it was not  
14 necessarily being offered for the truth of the matter  
15 asserted, but was going towards the effect on the listener  
16 and how the conversation was progressing during the  
17 interview.

18 I also threw in there that it shouldn't have been  
19 precluded testimony because Donte Johns at one point was an  
20 alleged co-conspirator in his testimony. I mean, reference  
21 as to what he said during that interview would have been  
22 appropriate. And you then overruled my statements.

23 MS. MERCER: And Your Honor, it was State's  
24 position that it wasn't being offered for the effect it had  
25 on the listener because Detective Weirauch wasn't even the

1 lead investigating detective on this case, (A).

2 (B), as to co-conspirator statements, we -- at this  
3 point, they were all in custody because the conspiracy ended.  
4 So those statements were no longer statements of a  
5 co-conspirator in furtherance of that conspiracy, which is  
6 the hearsay exception that we were referring to.

7 THE COURT: Okay. Yeah, I sustained the objection;  
8 however, we had a discussion at the bench with regards to the  
9 specific questioning that Mr. Tanasi had. Questions that he  
10 had requested about statements made by Mr. Johns that went to  
11 the fact that he was in the military. And then later there  
12 was -- he was going to be asking questions about having a  
13 discussion with the JAG officer.

14 So I sustained that objection in light of the fact  
15 that it would have been hearsay for Mr. Johns. It's somewhat  
16 different than the hearsay that was being elicited by Ms.  
17 Lobo. However, I think that because we had a bench  
18 conference, Mr. Manningo actually was addressing the issue  
19 involving the statement made about the JAG officer as well.

20 So are you --

21 MR. MANNINGO: I think I addressed both things,  
22 Your Honor. And I'll let --

23 THE COURT: Okay.

24 MR. MANNINGO: -- I'll let Mr. Tanasi follow up --

25 THE COURT: Okay.



1 MR. MANNINGO: -- but I believe we had that  
2 discussion, and my recollection is, Your Honor, that we are  
3 at liberty to call back Detective Weirauch in the event that  
4 Donte Johns takes the stand and testifies that he had no  
5 communications with a JAG officer or that Mr. Johns never  
6 denied the events of this case.

7 In that event, I -- if that were to happen, I think  
8 Your Honor gave us leave to call Detective Weirauch back.

9 THE COURT: Yeah, my understanding was, is that the  
10 statement was made to him and that Detective Weirauch  
11 actually contacted the JAG officer or the JAG officer  
12 contacted Weirauch?

13 MR. TANASI: Yeah, the JAG officer relayed what was  
14 told to him by Donte Johns, which was denying --

15 THE COURT: Okay.

16 MR. TANASI: -- his involvement in the case.

17 MS. MERCER: For the --

18 MR. TANASI: And I'd -- we'll just put --

19 MS. MERCER: I'm sorry.

20 MR. TANASI: -- for the record, sorry, that it's  
21 the same basis, legal basis, in that it's the effect of the  
22 listener and not offered for the truth of the matter  
23 asserted. So it's not hearsay.

24 THE COURT: Well --

25 MS. MERCER: And I would just object because I

1 don't believe that it is effect on the listener. It doesn't  
2 explain why he did anything, A.

3 B, it's still hearsay. If he wants to get into the  
4 prior inconsistent statement, I provided him the name and  
5 contact information of the JAG officer who Donte Johns  
6 actually spoke to, and he should have subpoenaed him.

7 THE COURT: Yeah. Well, I'm going to allow you  
8 because I do believe it will be a prior inconsistent  
9 statement. The difference in between that statement and what  
10 was -- what Ms. Lobo was eliciting had to do with the actual  
11 statement involving his involvement in the crime so that's  
12 why I sustained it as a hearsay.

13 But I'm going to allow you to -- if in the event  
14 Mr. Johns testifies and you ask him those questions and he  
15 denies it, I'll allow you for impeachment purposes to elicit  
16 the statement that was made. Although, I know the State's  
17 objection is it's hearsay from the JAG officer, but under the  
18 circumstances, I believe under a general exception, I believe  
19 that the JAG officer making that statement to the detective,  
20 I believe, would be -- there's sufficient grounds that it  
21 would be truthful. So that's why I do believe it is hearsay,  
22 but I do believe there's a exception to it as well.

23 So I will allow you to question -- either of you  
24 question Mr. Johns in that regard.

25 MR. TANASI: Okay.


Exhibit 16

16

Exhibit 16

LAS VEGAS METROPOLITAN  
POLICE DEPARTMENT  
**PROPERTY REPORT**

Date of LVMPD Possession	Time of LVMPD Possession	Page(s)
11-26-14	2330	1 OF 1

Incident Search Warrant		Event# LLV 1 4 1 1 2 6 - 3 0 9 1									
<input checked="" type="checkbox"/> EVIDENCE <input type="checkbox"/> Felony <input type="checkbox"/> Gross Misd <input type="checkbox"/> Misd List Other Related Event #s (if any)		<input type="checkbox"/> NO EVIDENTIARY VALUE <input type="checkbox"/> No Owner Identified <input type="checkbox"/> Destroy <input type="checkbox"/> Return to DMV		<input type="checkbox"/> SAFEKEEPING Must Provide Owner Info in Persons Section and Identify Owner # For Each Item Listed.		FIREARM IMPOUNDED DUE TO <input type="checkbox"/> Temporary Protective Order (TPO) <input type="checkbox"/> Extended Order of Protection					
Impounding Officer (Print Name) L. Turner		Unit R08	P# / Initials 16015t		Task Force Officers from Other Jurisdiction PRINT LVMPD SGT Name & P#						
Supervisor Approving (Signature) 		Unit 679R	P# / Initials T7167K								

PERSONS: (S) SUSPECT / (V) VICTIM / (O) OWNER / (F) FINDER									
<input checked="" type="checkbox"/> S <input type="checkbox"/> V # 1	<input type="checkbox"/> O <input type="checkbox"/> F	Last Name Hobson	First Name, MI Tony	DOB 7-7-89	Phone # Unknown	Charge(s) RWDW, Burglary W/ Firearm, Conspiracy Robbery, Kidnap			
		Street Address 3955 E. Charleston #250	City LV	State NV	Zip Code 89104	Arrest Date 11-25-14	ID# 5992420		
<input checked="" type="checkbox"/> S <input type="checkbox"/> V #	<input type="checkbox"/> O <input type="checkbox"/> F	Last Name Starr	First Name, MI Brandon	DOB 5-29-88	Phone # Unknown	Charge(s) RWDW, Burglary W/ Firearm, Conspiracy Robbery, Kidnap			
		Street Address 269 Pictorial St	City Palmdale	State CA	Zip Code 93550	Arrest Date 11-25-14	ID# 7014732		
<input checked="" type="checkbox"/> S <input type="checkbox"/> V #	<input type="checkbox"/> O <input type="checkbox"/> F	Last Name Johns	First Name, MI Donte	DOB 3-22-94	Phone # Unknown	Charge(s) RWDW, Burglary W/ Firearm, Conspiracy Robbery, Kidnap			
		Street Address 5563 Oarvin Faus CT	City LV	State NV	Zip Code 89148	Arrest Date 11-25-14	ID# 7014733		
FIELD RELEASE ONLY	Released Item(s) #	By Officer P# & Initials		Date Released	Released to Owner (Above Person) #	Owner's Signature			

Remarks (Relating to Impound)

All items recovered from inside 3955 E. Charleston #250 Las Vegas, NV. 89104 during the execution of a lawful search warrant. Item #1 was located in living room by Detective Abell. Items #2 & #3 were located by Detective Scimmenti from a hallway cabinet. Item #4 was located by Detective Flynn from a nightstand drawer in the master bedroom. Item #5 was located by Detective Abell in the kitchen garbage can.

PKGS	ITEMS	OWNER'S	MAKE OF	MODEL	COLOR	SERIAL # / QAN State & Gov. Issued IDs	QTY	PROPERTY DESCRIPTION * Firearms MUST List: 1) Barrel Length, 2) Capacity / Magazine, 3) Caliber, 4) Action Type (S/A, Auto, Bolt, Revolver, Etc.)
1	1		Shaka		Gry		1	Hooded jacket
2	2				Blk &		1	Pittsburgh Pirates Baseball cap
2	3				Red		1	Cincinnati Reds Baseball cap
2	4						3	Popeye's receipts
2	5						1	Paperwork in name Tony Hobson

Exhibit 17

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Exhibit 17

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INST

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

TONY LEE HOBSON,  
BRANDON STAR, and  
DONTÉ JOHNS.

Defendants.

GRAND JURY INSTRUCTIONS

000087

EXH. 2

12-11-14

1 a co-conspirator that follows as one of the probable and natural consequences of the object  
2 of the conspiracy even if it was not intended as part of the original plan and even if he was  
3 not present at the time of the commission of such act.  
4

5 **Aiding and Abetting**

6 - Anyone who knowingly & with criminal intent aids and abets in the commission of  
7 the crime with the intent that the crime be committed is regarded as a principal in the crime.

8 - A person aids and abets the commission of a crime if he knowingly & with criminal  
9 intent aids, promotes, encourages or instigates by act and/or advice, the commission of such  
10 crime with the intention that the crime be committed.  
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000089

1 **Deadly Weapon**

2 "Deadly weapon" means any instrument which, if used in the ordinary manner  
3 contemplated by its design and construction, will or is likely to cause substantial bodily harm  
4 or death; any weapon, device, instrument, material or substance which, under the  
5 circumstances in which it is used, attempted to be used or threatened to be used, is readily  
6 capable of causing substantial bodily harm or death.

8 **Deadly Weapon**

9 You are instructed that a firearm is a deadly weapon.

11 **Firearm**

12 You are instructed that "firearm" includes any firearm that is loaded or unloaded and  
13 operable or inoperable. "Firearm" includes:

- 14 1. Any device designed to be used as a weapon from which a projectile may be  
15 expelled through the barrel by the force of any explosion or other form of combustion.
- 16 2. Any device used to mark the clothing of a person with paint or any other  
17 substance; and
- 18 3. Any device from which a metallic projectile, including any ball bearing or pellet,  
19 may be expelled by means of spring, gas, air or other force.

000090



1 **Robbery**

2       Robbery is the unlawful taking of personal property from the person of another, or in  
3 his presence, against his will, by means of force or violence or fear of injury, immediate or  
4 future, to his person or property, or the person or property of a member of his family, or of  
5 anyone in his company at the time of the robbery. Such force or fear must be used to obtain  
6 or retain possession of the property, to prevent or overcome resistance to the taking, or to  
7 facilitate escape, in either of which cases the degree of force is immaterial if used to compel  
8 acquiescence to the taking of or escaping with the property.

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1 **Burglary**

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3 Every person who, by day or night, enters any automobile, with the intent to commit a  
4 robbery therein is guilty of Burglary.

5 Every person who commits the crime of burglary, who has in his possession or gains  
6 possession of any deadly weapon at any time during the commission of the crime, at any  
7 time before leaving the structure, or upon leaving the structure, is guilty of burglary while in  
8 possession of a deadly weapon.  
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000092

1 **Attempt**

2 The elements of an attempt to commit a crime are:

- 3 (1) The intent to commit the crime;  
4 (2) Performance of some act towards its commission; and  
5 (3) Failure to consummate its commission.

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000093

1 **Conspiracy**

2 Conspiracy is an agreement or mutual understanding between two or more persons to  
3 commit a crime. To be guilty of conspiracy, a defendant must intend to commit, or to aid in  
4 the commission of, the specific crime agreed to. The crime is the agreement to do something  
5 unlawful; it does not matter whether it was successful or not.

6 Conspiracy is an agreement or mutual understanding between two or more persons to  
7 commit a crime. To be guilty of conspiracy, a defendant must intend to commit, or to aid in  
8 the commission of, the specific crime agreed to. The crime is the agreement to do something  
9 unlawful; it does not matter whether it was successful or not.

10 It is not necessary in proving a conspiracy to show a meeting of the alleged  
11 conspirators or the making of an express or formal agreement. The formation and existence  
12 of a conspiracy may be inferred from all circumstances tending to show the common intent  
13 and may be proved in the same way as any other fact may be proved, either by direct  
14 testimony of the fact or by circumstantial evidence, or by both direct and circumstantial  
15 evidence.

16 Evidence of the commission of an act which furthered the purpose of an alleged  
17 conspiracy is not, in itself, sufficient to prove that the person committing the act was a  
18 member of such a conspiracy.

19 If a number of persons enter into an agreement to commit an illegal act then that  
20 agreement is known in law as a conspiracy. If a conspiracy is established, and the purpose  
21 thereof is to commit a dangerous felony, then each member of the conspiracy is responsible  
22 and liable for the acts of the other member or members.

23 Each member of a criminal conspiracy is liable for each act and bound by each  
24 declaration of every other member of the conspiracy if the act or the declaration is in  
25 furtherance of the object of the conspiracy.

26 The act of one conspirator pursuant to or in furtherance of the common design of the  
27 conspiracy is the act of all conspirators. Every conspirator is legally responsible for an act of  
28

000088

Exhibit 18

18 <sup>pages</sup>

Exhibit 18

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

**VOLUNTARY STATEMENT**

PAGE 14

EVENT #: LLV141124003628

STATEMENT OF: DONTÉ JOHNS

A: I have no idea what they're doing.

TW: You know they're doing a robbery. I know you're not stupid. He got outta that car with a mask tonight. Wearin' the same stuff he does every night. Nothin' would've been different. The only thing woulda been different - why it didn't happen is 'cause the cops were there. You're not showing any remorse, Donte. You're also not owning up for your responsibility, for your actions. It's childlike. What's the last one you guys did?

A: Buffalo, I believe, it was, um, what the hell was that - Popeye's.

TW: Popeye's?

A: Was it Popeye's?

TW: How much money did you guys get?

A: I have no idea. I don't talk about it.

TW: Where did you park at?

A: On the street.

TW: Do you remember what street it was? Was it a house, like a residential street or a business street?

A: It was business.

TW: How far away from the store? Like a football field? Two football fields? Super close?

A: Mm-hm.

TW: Do you remember what time that happened? You said Buffalo, do you know

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

**VOLUNTARY STATEMENT**

PAGE 15

EVENT #: LLV141124003628

STATEMENT OF: DONTÉ JOHNS

what the cross street was on Buffalo?

A: I do not.

TW: All right. What happened before that?

A: That goes blank.

Q: No, it doesn't. People don't suffer from am- amnesia at your age.

TW: Tell him about that one then, how long were they outta the car?

A: 20 seconds.

TW: Can you actually see 'em the entire time?

A: No.

TW: How did they break the window?

A: I have no idea.

TW: What were they carrying with them when they get outta the car?

A: I don't know. They - it's not in my car, or, well at least I thought, right?

TW: It's your car.

A: Yeah, supposed to know what's in it.

TW: Exactly. They - okay. So, when they're comin' out of the place, they walkin' casually or are they runnin'?

A: Mm, I just have my doors unlocked, and I don't - I'm faced the other way.

TW: Always the same people, right?

A: I'm sorry?

TW: Always the same people, right?

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT**  
**VOLUNTARY STATEMENT**  
**PAGE 16**

**EVENT #: LLV141124003628**  
**STATEMENT OF: DONTE JOHNS**

A: No more, no less.

TW: Okay. How many you think you've done?

A: It's probably been the second, or third. Third.

TW: Third that night?

A: No. Third.

TW: Total? You're lying. You lie again, I walk outta that door. You're wasting my time if you're lying. You think we're good enough to catch you on the second one? No. Do you think we're good enough to figure out, hey, that's the car let's wait for them to do one on the second one? No. We're not that good. We know how many you've done. We can show you pictures, we're not gonna play that route because we're not gonna pull remorse out of you. I'm not gonna try to help you look like you're sorry. If none of that comes freely, you're not sorry. You're calculated and planning. So far, you haven't shown any remorse. You've shown respect, but not remorse. Does that make sense?

A: Yes, sir.

TW: Okay. People that feel sorry for what they did, they're like, it flows. It just comes out. They tell the truth, like, they're just pukin' the truth out. They tell how many they've done. They explain why and they just, and they let it flow 'cause they're honestly sorry. That - you've been in custody now for a while, that should start sinkin' in if you're ever gonna be sorry. Nobody's coming back tomorrow to get this from you. I can't tell if you're slightly sorry because you got caught or sorry



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STATEMENT OF: DONTÉ JOHNS

because of whatcha did. How many have you done?

A: Um, it has to be three or four, that's all I can remember.

TW: I'm a man of my word, man. I'm walkin' out. You wanna talk to me before tomorrow's (unintelligible).

Q: This is your opportunity to tell the truth, man.

A: I'm counting backwards. I'm trying to figure that out.

Q: Because this is the only (unintelligible). We're not doing this, you know. Um, he's right, y- y- this is your opportunity to be honest.

A: All right. I am, sir.

Q: Totally, straight up honest.

A: I'm being honest.

Q: Easier to get it all out of the way at once, uh, then for us to come back and start just poundin' you later with the charges for other stuff. Just put it all together, that way we can tell the DAs and the judges he was honest, straightforward, sorry for what he did. Are you sorry?

A: Yes, sir. Completely.

Q: Well, then. Help me paint that picture, because right now, I can't - I can't see that picture of you being sorry. Um, this is your opportunity to give us your side of the story and what - what occurred, why, uh, was it your brother? Was it his plan? Did he drag you into this? 'Cause I don't think you planned it, 'cause you're in the military, right?

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**STATEMENT OF: DONTÉ JOHNS**

A: Yes, sir.

Q: Who's your first sergeant? You got a gunny sergeant?

A: First Sgt. Gunner Burney

Q: Burney? Okay. 'Cause I was in the military for 23 years. I know bein' in the military you gotta have some moral compass, right?

A: Yes, sir.

Q: You gotta be an upstanding individual for them to even take you in the military. You know, you show respect loyalty, and I know it's your brother, but somehow you got dragged into this. Um, so, right now I'm giving you that opportunity to be remorseful, tell me the truth, what occurred. We - we know what occurred, but it's - it's better coming from you, it really is. Because we can paint the picture from our picture, 'cause our picture is very bad. So, I need your side of the story because if I just write my side of the story, as my partner said, it's awful. Okay? 'Cause what they did inside was horrible. So, I need to know what, totally honest from you, what occurred and what happened so I can paint your picture and not just what I know and what I've read, and what I've talked to. 'Cause I talked to all the victims. You know, I talked to all the people that were in the store. I've heard what their side of the story, the terror that they went through. You know, their tears when they're trying to re-live what just happened to 'em. You know, it's not good gettin' a gun pointed straight for your head and you think your life's over. You know, you're not gonna see your kids again. So what happens if he

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

**VOLUNTARY STATEMENT**

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STATEMENT OF: DONTE JOHNS

accidentally discharged that firearm and puts a bullet in her head? Then you're goin' down for murder. Luckily, that didn't happen in this case. So that's why I need your side of the story so I can - I can write what you tell me, because if I - I don't want to write just what I know of all the things, because then it makes you look really, really, really bad. So I need your side of the story so at least I can write your side of the story. 'Cause there's two sides to every story, you know that, right?

A: Yes, sir.

Q: Okay. So, I need you to dig down deep in that military, when you went in the military, you know, you made pledges, right?

A: Yes, sir.

Q: To be honest, trustworthy, loyal, right?

A: Yes, sir.

Q: Respectful, fight for your country, right?

A: Yes, sir.

Q: Well, I need you to be that person now and tell me the truth, all right? And we'll go through 'em, one at a time. And then, if you would like, I'll - I'll even let you write your apology letter to the victims, which looks really good, especially if you're really sorry. If you're not sorry, then don't do it. You know, that's up to you. Um, so, let's start with the one last night at Buffalo. That was at which one? Popeye's?

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**STATEMENT OF: DONTE JOHNS**

A: I believe it was Popeye's.

Q: Okay. What time of day was that?

A: After 10.

Q: After 10? Okay - pm or am?

A: pm.

Q: And you said Buffalo?

A: Yes.

Q: You know - you know what side of Buffalo?

A: I do not.

Q: East side of town? Middle town? West side of town? How did you get there?

A: 95 North.

Q: You took 95 North?

A: Yes, sir.

Q: Where is your house at?

A: Um, I actually go to my brother's, 'cause he just had his baby. So I'm usually over there a lot.

Q: Over at - and that was Tony?

A: Yes.

Q: Is that his real name, Tony Hopkins?

A: Yes.

Q: Okay. And where does Tony live? Which part of town.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

**VOLUNTARY STATEMENT**

PAGE 21

EVENT #: LLV141124003628

STATEMENT OF: DONTE JOHNS

A: Um, off Charleston.

Q: Charleston? You know where at off Charleston?

A: Mm, 95.

Q: Charleston and 95?

A: Mm-hm.

Q: Is it an apartment complex or a house?

A: Apartment.

Q: Okay. So you were at his house? Does he got kids?

A: Yes.

Q: How many kids he got?

A: Three.

Q: Three? Has he been in trouble before?

A: Yes.

Q: Okay. So you were over at his house and you all left his house and went straight to Popeye's?

A: Yes.

Q: Okay. And what happened - what occurred at Popeye's?

A: Just, they went in, they came out, and I drove them home.

Q: Okay, who went in?

A: Um, two individuals. Him and another - another guy.

Q: Tony and the other guy - what's his name?

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**VOLUNTARY STATEMENT**  
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STATEMENT OF: DONTE JOHNS

A: I have no idea. Bo.

Q: Huh?

A: Bo.

Q: Bo?

A: I think Frebow.

Q: Frebow?

A: Bo.

Q: B-O-W?

A: B-O, I believe.

Q: Is that a street name?

A: I think so.

Q: Who's friends with Bo? Tony?

A: Mm-hm. I don't know him, but I only know him by Bo.

Q: Okay. So, how long have you known Bo?

A: Six years.

Q: Six years? And Tony, you all have the same mother?

A: Yes.

Q: Okay. Okay, so Tony and Bo go in to the Popeye's. Uh, what are they wearing  
last night?

A: Black.

Q: Black?

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**VOLUNTARY STATEMENT**

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STATEMENT OF: DONTE JOHNS

A: Black (unintelligible)

Q: Black what?

A: Mm.

Q: What's Tony wearing?

A: Black hoodie, black pants. Same thing as always.

Q: Same thing he's wearing tonight?

A: Yes.

Q: Exactly?

A: I don't really (unintelligible) to be honest, I really don't pay attention to that. Try  
not to - I don't want to be involved, I just don't wanna do it.

Q: Okay. How about Bo, what was he wearing? Same thing as he's wearing  
tonight?

A: Yes.

Q: Okay. What, uh, what weapons did each one have? Tony had what?

A: I don't know. They, um, I just got a knife in my pocket that I always carry.

Q: You got a knife in your pocket?

A: Yes. It's a small, in my palm. As far as they, uh - I ain't - I don't see weapons at  
all.

Q: Well, the weapons come from the car. They're in your car, so where do - where  
do they keep the weapons at?

A: Perhaps in the trunk.

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STATEMENT OF: DONTÉ JOHNS

- Q: Okay. So, when you leave the house, do they put the weapons in the trunk?
- A: Uh, they usually take, uh, yeah, probably.
- Q: You know.
- A: Yes.
- Q: Okay. So, does Tony keep the weapons at his house or does Bo keep the weapons at his house?
- A: I'm not sure.
- Q: Or does each one keep their weapons.
- A: I have no idea where they keep those things.
- Q: Okay, but you go straight from Tony's house to Popeye's, right? Do you pick up Bo, or is Bo at Tony's house?
- A: He's at Tony's house.
- Q: Does Bo live there, or does he just...
- A: I believe he lives somewhere else.
- Q: He lives somewhere else?
- A: I believe so.
- Q: Is Bo always at Tony's house when you pick him up, or do you have to go pick up Bo?
- A: He's always there.
- Q: He's always there? Okay. So the weapons come out of Tony's house. Obviously, they have to, right? 'Cause you don't keep 'em in your car, right?



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**VOLUNTARY STATEMENT**  
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EVENT #: LLV141124003628  
STATEMENT OF: DONTE JOHNS

- A: No.
- Q: All right, so they transport the weapons out of his house, his apartment, right?
- A: Mm-hm.
- Q: And they put 'em in your trunk?
- A: Yes.
- Q: 'Cause I know you've seen 'em right?
- A: Yes.
- Q: Seen 'em actually put 'em in the trunk.
- A: I've seen 'em go through the trunk and then they ask me to pop the trunk.
- Q: Okay, so every time you all leave to go do one of these licks, they pop the trunk?
- A: Yes.
- Q: Okay. All right. And, on all the events, did you all switch up cars a lot, or did you always use your car, or did you use somebody else's car?
- A: Always from my, when I drove, which I can only remember four - four or five.
- Q: Well, there's more. Four or five.
- A: It would only be my car for the four.
- Q: Or five.
- A: Four or five.
- Q: Okay. Well, there's actually more than that. So...
- A: Is there?
- Q: Yes.

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**STATEMENT OF: DONTE JOHNS**

- A: I have no idea of those.
- Q: Okay, so we'll get through the ones you do know, and then, uh, so they went into Pop- Tony and Bo went into Popeye's. How long were they in the store?
- A: 30 seconds.
- Q: 30 seconds?
- A: 30 to 60.
- Q: All right.
- A: I don't know when they actually go in.
- Q: All right, so where did you drop them off at at Popeye's?
- A: Side street. I don't know the side street - Magoo's?
- Q: Magoo's? Is that the street?
- A: No, it's a bar.
- Q: It's a bar? Okay. Okay, so you dropped them off at the bar and they walk over to Popeye's? So the bar close to Popeye's? Pretty close.
- A: It's a side street to the bar, and then Popeye's is across the street.
- Q: Okay, the bar's across the street from Popeye's. So they went across the street?
- A: I parked on the Popeye's, I was just saying Magoo's 'cause I don't know the street name. I just remember Magoo's being right there.
- Q: Okay. So you parked on the street? And then they walked over to Popeye's?
- A: Mm-hm.
- Q: Okay. And then when they came back, what did they have? How much?

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**VOLUNTARY STATEMENT**  
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STATEMENT OF: DONTE JOHNS

A: I don't know about the amount of money.

Q: You don't know?

A: That's for gas and to pay the phone bill.

Q: You asked for gas money? So how much did they give you total?

A: 100 dollars.

Q: That's it?

A: I don't - I don't wanna be a part of this.

Q: Okay, so they give you 100 dollars for gas and a phone bill?

A: Mm-hm.

Q: Okay.

A: I don't tell 'em it's for that.

Q: Huh?

A: I don't tell them that.

Q: Right, but that's what it's for, right?

A: Mm-hm.

Q: Okay. I mean, you gotta have gas to get around, right? It's all the way over on Buffalo, is it? 95 and Buffalo, right?

A: Mm-hm. Somewhere around there.

Q: Somewhere around there. You get off of 95 though, right, somewhere right?

You remember the street you got off on?

A: Mm, I don't.

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EVENT #: LLY141124003628  
STATEMENT OF: DONTÉ JOHNS

- Q: Okay.
- A: Could be Cheyenne.
- Q: Cheyenne? That's way over on the west end side of town, right.
- A: Close to Summerlin?
- Q: To Cimarron?
- A: I have no i- I don't know my way around Vegas.
- Q: 1412 E. Hacienda. Where is - where is exactly is Ha- where's that at?
- A: Mm, UNLV.
- Q: Oh, downtown? Down off the strip?
- A: Mm-hm.
- Q: Okay. All right, I know what you're talkin' about now. Is that an apartment?
- A: Yes, unit C.
- Q: Were they carrying anything else besides, uh, weapons?
- A: No.
- Q: Did they, uh, what kind - what kind of gloves were they wearing?
- A: Black.
- Q: Black? Any other colors?
- A: Not that I could tell. Maybe black and gray.
- Q: All right, after the Popeye's, what did you all do?
- A: Went home.
- Q: Okay. Well, then how about before the Popeye's?

Exhibit 19

19

Exhibit 19

PETITIONER'S Brother DOOTE charger



No Black stripe No Blk rims

Black  
Stripe



See report from <sup>(Exhibit</sup> 11  
robbery after El Polo  
loco witness describe  
white charger black  
stripe black rims

Charger from video footage  
El polo loco

**CERTIFICATE OF SERVICE BY MAILING**

I, Tony Hobson, hereby certify, pursuant to NRCP 5(b), that on this 4<sup>th</sup>  
day of Feb, 20 19 I mailed a true and correct copy of the foregoing, "1<sup>st</sup> Amended writ of habeas corpus (post conviction)"  
by placing document in a sealed pre-postage paid envelope and deposited said envelope in the  
United State Mail addressed to the following:

STEVEN D CIERSON  
CLERK OF COURT  
200 LEWIS AVENUE 3RD FLOOR  
LAS VEGAS NV 89159

CC:FILE

DATED: this 4 day of Feb, 2019.

Tony Hobson 1168963  
2019 #1168963  
/s/ Propria Personam  
Post Office Box 208, S.D.C.C.  
Indian Springs, Nevada 89018  
IN FORMA PAUPERIS:





1 **FCL**  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
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11 Attorney for Plaintiff

7 DISTRICT COURT  
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,  
10 Plaintiff,

11 -vs-

12 TONY LEE HOBSON,  
13 #5992420

14 Defendant.

CASE NO: A-18-784448-W

DEPT NO: XIX

15 **FINDINGS OF FACT, CONCLUSIONS OF**  
16 **LAW AND ORDER**

17 DATE OF HEARING: February 25, 2018  
18 TIME OF HEARING: 8:30 AM

19 THIS CAUSE having come on for hearing before the Honorable WILLIAM D.  
20 KEPHART, District Judge, on the 25<sup>th</sup> day of February, 2018, the Petitioner being present, the  
21 Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney,  
22 by and through FRANK LOGRIPPO, Deputy District Attorney, and the Court having  
23 considered the matter, including briefs, transcripts, arguments of counsel, and documents on  
24 file herein, now therefore, the Court makes the following findings of fact and conclusions of  
25 law:

26 ///

27 ///

28 ///

///

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

2 **STATEMENT OF THE CASE**

3 On December 12, 2014, Tony Lee Hobson ("Defendant"), Brandon Starr ("Defendant  
4 Starr"), and Donte Johns ("Defendant Johns") (collectively, "Defendants") were charged by  
5 way of Indictment as follows: Conspiracy to Commit Robbery (Category B Felony - NRS  
6 200.380, 199.480); Burglary While in Possession of a Firearm (Category B Felony - NRS  
7 205.060); First Degree Kidnapping (Category A Felony - NRS 200.310, 200.320); and  
8 Robbery With Use of a Deadly Weapon (Category B Felony - NRS 200.380, 193.165), for a  
9 single armed robbery incident that occurred on November 24, 2014. Bail was set at  
10 \$1,000,000.00 for each of the Defendants.

11 On February 20, 2015, the State filed an eighty-two (82) count Superseding  
12 Indictment. On April 24, 2015, the State filed a Second Superseding Indictment charging  
13 Defendant with the following: Counts 1, 8, 11, 16, 22, 26, 33, 37, 44, 48, 60, and 68, –  
14 Burglary While In Possession Of A Deadly Weapon; Counts 2, 9, 12, 17, 23, 27, 34, 38, 45,  
15 49, 52, 54, 61, 69, and 81 – Conspiracy to Commit Robbery; Counts 3-7, 10, 13-15, 18-21,  
16 24-25, 28-32, 39-43, 46-47, 50-51, 56-59, 64, 66, 72, 74, 76, 78, and 80 – Robbery With Use  
17 of a Deadly Weapon; Counts 35-36, and 82 – Attempt Robbery With Use of a Deadly Weapon  
18 (Category B Felony - NRS 200.380, 193.330, 193.165); Counts 53, 62, and 70 – Conspiracy  
19 to Commit Kidnapping (Category B Felony - NRS 200.310, 200.320, 199.480); Counts 55,  
20 63, 65, 71, 73, 75, 77, and 79 – First Degree Kidnapping With Use of a Deadly Weapon  
21 (Category A Felony - NRS 200.310, 200.320, 193.165); and Count 67 – Attempt First Degree  
22 Kidnapping With Use of a Deadly Weapon (Category B Felony - NRS 200.310, 200.320,  
23 193.330, 193.165). The Superseding Indictments covered a series of fourteen (14) armed  
24 robberies that occurred on or between October 28, 2014, and November 25, 2014.

25 On March 18, 2015, Defendant filed a Pre-trial Petition for Writ of Habeas Corpus. The  
26 State filed a return on April 17, 2015. Defendant's Petition was denied on May 18, 2015.  
27  
28

1 After several continuances due to discovery issues, trial commenced on May 5, 2016,  
2 before the Honorable William Kephart. On May 25, 2016, the jury returned a guilty verdict on  
3 69 felony and 2 gross misdemeanor counts.<sup>1</sup>

4 Defendant was sentenced on September 8, 2016 and a Judgment of Conviction was  
5 entered on September 20, 2016, in which Defendant was adjudicated guilty as follows:  
6 COUNTS 1, 8, 11, 16, 22, 33, 37, 44, 48, 52, 60, and 68 BURGLARY WHILE IN  
7 POSSESSION OF A DEADLY WEAPON (Category B Felony); COUNTS 2, 9, 12, 17, 23,  
8 34, 38, 45, 49, 54, 61, 69 and 81 CONSPIRACY TO COMMIT ROBBERY (Category B  
9 Felony); COUNTS 3, 4, 5, 6, 7, 10, 13, 14, 15, 18, 19, 20, 21, 24, 25, 39, 40, 41, 42, 43, 46,  
10 47, 50, 51, 56, 57, 58, 59, 64, 66, 72, 74, 76, 78 and 80 ROBBERY WITH USE OF A  
11 DEADLY WEAPON (Category B Felony); COUNTS 35, 36, and 82 ATTEMPT ROBBERY  
12 WITH USE OF A DEADLY (Category B Felony); COUNT 55 FALSE IMPRISONMENT  
13 WITH USE OF A DEADLY WEAPON (Category B Felony); COUNTS 63 and 65 SECOND  
14 DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON (Category B Felony);  
15 COUNTS 71, 73, 75, 77 and 79 FALSE IMPRISONMENT (Gross Misdemeanor).

16 Defendant was sentenced as follows: as to COUNT 1 - 12-84 months; as to COUNT 2  
17 - 12-36 months; as to COUNT 3 - 24-84 months; plus a CONSECUTIVE term of 12-60  
18 months for use of a deadly weapon; as to COUNT 4 -24-84 months; plus a CONSECUTIVE  
19 12-60 months for use of a deadly weapon; as to COUNT 5 - 24-84 months; plus a  
20 CONSECUTIVE 12-60 months for use of a deadly weapon; as to COUNT 6 - 24-84 months;  
21 plus a CONSECUTIVE term of 12-60 months for use of a deadly weapon; as to COUNT 7 -  
22 24-84 months; plus a CONSECUTIVE term 12-60 months for use of a deadly weapon;  
23 COUNTS 1- 7 CONCURRENT with EACH OTHER; COUNT 8 - 12-84 months; as to  
24 COUNT 9 - 12-36 months; as to COUNT 10 - 24-84 months; plus a CONSECUTIVE term  
25 of 12-60 months for use of a deadly weapon; COUNTS 8-10 CONCURRENT with EACH  
26 OTHER and CONSECUTIVE to COUNT 7; as to COUNT 11 - 12-84 months; as to COUNT  
27 12 - 12-36 months; as to COUNT 13 - 24-84 months; plus a CONSECUTIVE term of a 12-

28 \_\_\_\_\_  
<sup>1</sup> Defendant was found not guilty of the following counts: 26-32, 53, 62, 67, and 70.

1 60 months for use of a deadly weapon; as to COUNT 14 – 24-84 months; plus a  
2 CONSECUTIVE term of 12-60 months for use of a deadly weapon; as to COUNT 15 – 24-84  
3 months; plus a CONSECUTIVE term of 12 to 60 months for use of a deadly weapon;  
4 COUNTS 11-15 CONCURRENT with EACH OTHER and CONSECUTIVE to COUNT 10;  
5 as to COUNT 16 – 12-84 months; as to COUNT 17 – 12-36 months; as to COUNT 18 – 24-  
6 84 months; plus a CONSECUTIVE term of 12-60 months for use of a deadly weapon; as to  
7 COUNT 19 – 24-84 months; plus a CONSECUTIVE term of 12-60 months for use of a deadly  
8 weapon; as to COUNT 20 – 24-84 months; plus a CONSECUTIVE term 12-60 months for use  
9 of a deadly weapon; as to COUNT 21 – 24-84 months; plus a CONSECUTIVE term of 12-60  
10 months for use of a deadly weapon; COUNTS 16-21 CONCURRENT with EACH OTHER  
11 and CONSECUTIVE to COUNT 15; as to COUNT 22 – 12-84 months; as to COUNT 23 –  
12 12-36 months; as to COUNT 24 – 24-84 months; plus a CONSECUTIVE term 12-60 months  
13 for use of a deadly weapon; as to COUNT 25 – 24-84 months; plus a CONSECUTIVE term  
14 of 12-60 months for use of a deadly weapon; COUNTS 22-25 CONCURRENT with EACH  
15 OTHER and CONSECUTIVE to COUNT 21; as to COUNT 33 – 12-84 months; as to COUNT  
16 34 – 12-36 months; as to COUNT 35 – 24-84 months; plus a CONSECUTIVE term of a  
17 MINIMUM 12-60 months for use of a deadly weapon; as to COUNT 36 – 24-84 months; plus  
18 a CONSECUTIVE term of 12-60 months for use of a deadly weapon; COUNTS 33-36  
19 CONCURRENT with EACH OTHER and CONSECUTIVE to COUNT 25; as to COUNT 37  
20 – 12-84 months; as to COUNT 38 – 12-36 months; as to COUNT 39 – 24-84 months; plus a  
21 CONSECUTIVE term of 12-60 months for use of a deadly weapon; as to COUNT 40 – 24-84  
22 months; plus a CONSECUTIVE term of 12-60 months for use of a deadly weapon; as to  
23 COUNT 41 -24-84 months; plus a CONSECUTIVE term of 12-60 month for use of a deadly  
24 weapon; as to COUNT 42 – 24-84 months; plus a CONSECUTIVE term of a 12-60 months  
25 for use of a deadly weapon; as to COUNT 43 – 24-84 months; plus a CONSECUTIVE term  
26 of 12-60 months for use of a deadly weapon; COUNTS 37-43 CONCURRENT with EACH  
27 OTHER and CONSECUTIVE to COUNT 36; as to COUNT 44 – 12-84 months; as to COUNT  
28 45 – 12-36 months; as to COUNT 46 – 24-84 months; plus a CONSECUTIVE term of 12-60

1 months for use of a deadly weapon; as to COUNT 47 – 24-84 months; plus a CONSECUTIVE  
2 term of 12-60 months for use of a deadly weapon; COUNTS 44-47 CONCURRENT with  
3 EACH OTHER and CONSECUTIVE to COUNT 43; as to COUNT 48 – 12-84 months; as to  
4 COUNT 49 – 12-36 months; as to COUNT 50 – 24-84 months; plus a CONSECUTIVE term  
5 of 12-60 months for use of a deadly weapon; as to COUNT 51 - 24-84 months; plus a  
6 CONSECUTIVE term of 12-60 month for use of a deadly weapon; COUNTS 48-51  
7 CONCURRENT with EACH OTHER and CONSECUTIVE to COUNT 47; as to COUNT 52  
8 – 12-84 months; as to COUNT 54 -12-36 months; as to COUNT 55 - 12-36 months; as to  
9 COUNT 56 – 24-84 months; plus a CONSECUTIVE term 12-60 months for use of a deadly  
10 weapon; as to COUNT 57 – 24-84 months; plus a CONSECUTIVE term of 12-60 months for  
11 use of a deadly weapon; as to COUNT 58 – 24-84 months; plus a CONSECUTIVE term of  
12 12-60 months for use of a deadly weapon; as to COUNT 59 – 24-84 months; plus a  
13 CONSECUTIVE term of 12-60 months for use of a deadly weapon; COUNTS 52-59  
14 CONCURRENT with EACH OTHER and CONSECUTIVE to COUNT 51; as to COUNT 60  
15 – 12-84 months; as to COUNT 61 – 12-36 months; as to COUNT 63 – 24-84 months; plus a  
16 CONSECUTIVE term of a 12-60 month for use of a deadly weapon; as to COUNT 64 – 24-  
17 84 months; plus a CONSECUTIVE term of 12-60 months for use of a deadly weapon; as to  
18 COUNT 65 – 24-84 months; plus a CONSECUTIVE term of a MINIMUM of 12-60 months  
19 for use of a deadly weapon; as to COUNT 66 – 24-84 months; plus a CONSECUTIVE term  
20 of 12-60 months for use of a deadly weapon; COUNTS 60-66 CONCURRENT with EACH  
21 OTHER and CONSECUTIVE to COUNT 59; as to COUNT 68 - 12-84 months; as to COUNT  
22 69 – 12-36 months; as to COUNT 71 - 364 days in the Clark County Detention Center; as to  
23 COUNT 72 - to 24-84 months; plus a CONSECUTIVE term of 12-60 months for use of a  
24 deadly weapon; as to COUNT 73 – 24-84 months; plus a CONSECUTIVE term of a 12-60  
25 months for use of a deadly weapon; as to COUNT 74 – 24-84 months; plus a CONSECUTIVE  
26 term of 12-60 month for use of a deadly weapon; as to COUNT 75 - 364 days in the Clark  
27 County Detention Center; as to COUNT 76 – 24-84 months; plus a CONSECUTIVE term of  
28 12-60 months for use of a deadly weapon; as to COUNT 77 – 364 days in the Clark County

1 Detention Center; as to COUNT 78 – 24-84 months; plus a CONSECUTIVE term of 12-60  
2 months for use of a deadly weapon; as to COUNT 79 – 364 day in the Clark County Detention  
3 Center; as to COUNT 80 – 24-84 months; plus a CONSECUTIVE term of 12-60 months for  
4 use of a deadly weapon; COUNTS 68-80 CONCURRENT with EACH OTHER and  
5 CONSECUTIVE to COUNT 66; as to COUNT 81 - 12-36 months; as to COUNT 82 – 24-84  
6 months; plus a CONSECUTIVE term of 12-60 months for use of a deadly weapon; COUNTS  
7 81 and 82 CONCURRENT with EACH OTHER and CONSECUTIVE to COUNT 80; with  
8 six hundred fifty four (654) days of credit for time served. Defendant was sentenced to the  
9 Nevada Department of Corrections to an aggregate term of 1,824 months with a minimum  
10 parole eligibility of 444 months. A Judgment of Conviction (“JOC”) was filed on September  
11 20, 2016.<sup>2</sup>

12 On October 5, 2016, Defendant filed a Notice of Appeal. On April 26, 2017, Defendant  
13 filed his opening brief. On August 24, 2017, the State filed its answering brief. On June 1,  
14 2018, the Nevada Supreme Court affirmed in part and reversed in part Defendant’s Judgment  
15 of Conviction. The Nevada Supreme Court reversed three of Defendant’s robbery counts (25,  
16 39, and 66). Remittitur was issued on June 26, 2018.

17 On November 13, 2018, Defendant filed the instant Petition for Writ of Habeas Corpus  
18 (“Petition”). The State responded on February 14, 2019. The district court heard this matter  
19 and denied Defendant’s Petition on February 25, 2019.

#### 20 **STATEMENT OF THE FACTS**

21 Beginning in October of 2014, Las Vegas Metropolitan Police Department (“Metro”)  
22 detectives began investigating a series of armed robbery incidents with similar M.O. and  
23 suspect descriptions. See Defendant’s Presentence Investigation Report (“PSI”), filed August  
24

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25 <sup>2</sup> A clerical error was later noted, and an Amended Judgment of Conviction was filed January  
26 9, 2017 reflecting that he was sentenced as to Count 36- sixty (60) months with a minimum  
27 parole eligibility of twelve (12) months, plus a consecutive sentence of sixty (60) months with  
28 a minimum parole eligibility of twelve (12) months. The error did not affect his aggregate  
sentence.

1 23, 2016, at 5-6. On October 28, 2014, two suspects entered an El Pollo Loco restaurant  
2 through an open rear door and ordered all the employees to the ground. Id. The suspects took  
3 approximately \$1,000 in cash from a safe. Id. They also pistol whipped an employee, punched  
4 a pregnant female in the side of the stomach, and punched another employee in the back of the  
5 neck. Id.

6 On October 29, 2014, two suspects entered a 7-11 and took \$100 in cash out of the  
7 registers. Id. On November 1, 2014, two male suspects entered a Pizza Hut and ordered the  
8 employees to the ground. Id. One of the suspects took the entire register off the counter and  
9 both suspects then fled from the business. Id. The employees estimated there was a total of  
10 \$160 in the register. Id. A review of surveillance footage later revealed a third suspect entered  
11 the business and acted as a lookout. Id. On November 3, 2014, two male suspects entered a  
12 Pizza Hut, jumped over the counter and forced all the employees to the ground. Id. They then  
13 took approximately \$200 in cash from the register, along with an employee's cell phone, cash  
14 and pocket knife. Id. One of the suspects pistol whipped the manager before they both fled out  
15 the rear door of the business. Id. Surveillance video from a nearby business showed a gray  
16 Dodge Charger pull into the complex and park just east of the Pizza Hut. Id. On November 4,  
17 2014, two male suspects entered a Little Caesar's and demanded the safe to be opened. Id. The  
18 employee advised the suspects he did not have access to the safe. Id. One of the suspects then  
19 took the employee's cell phone. Id. A gray Charger was once again seen near the business and  
20 was no longer present after the robbery. Id.

21 On November 15, 2014, a male suspect entered a Popeyes by kicking in a glass door,  
22 armed with a handgun. Id. An employee attempted to flee out a back door and was confronted  
23 by a second male suspect. Id. The first suspect ordered the manager to open the safe at  
24 gunpoint. Id. The suspect then took approximately \$2,000 in cash before fleeing. Id. On  
25 November 17, 2014, a male suspect entered a Burger King by breaking the window to the front  
26 door. Id. The employees ran out the back door where one of the employees was hit in the face  
27 and knocked to the ground by a second male suspect. Id. The second suspect then produced a  
28 revolver, held an employee down on the ground and stated, "Where is the money at? I'm gonna

1 kill him if I don't get the money." Id. The manager ran out of the business and contacted police.  
2 Id. The first suspect, along with a third suspect, then grabbed one of the employees and  
3 demanded the money from the safe and registers. Id. Ultimately, the suspects left by running  
4 out the back door without any money. Id. That same day, three suspects entered a Wendy's by  
5 breaking the side glass door of the business. Id. One of the suspects approached a female sitting  
6 in the lobby, grabbed her by sweatshirt and forced her to the back area. Id. The store manager  
7 was struck in the head with a handgun and forced to open the safe. Id. The manager then  
8 removed the cash and placed it in the bag the suspects had brought with them. Id. All three  
9 suspects then ran out the side emergency exit. Id.

10 On November 21, 2014, two male suspects entered a Wendy's by breaking the glass  
11 door to the business. Id. Both suspects gathered the employees and moved them to the office.  
12 Id. One of the suspects approached the manager placed the revolver to her head and had her  
13 empty approximately \$200 in cash from the safe. Id. On November 23, 2014, two male  
14 suspects entered an El Pollo Loco by breaking the glass door. Id. One of the employees fled  
15 out the back door and was met by the second male suspect who then forced the employee back  
16 inside the business. Id. The suspects forced the manager to open the safe and took  
17 approximately \$2,050 in cash. Id. Later that day, two male suspects entered a Taco Bell by  
18 breaking the glass door. Id. The employees fled to the rear exit door where they were stopped  
19 by one of the suspects. Id. However, one of the employees was able to escape while two other  
20 employees were forced into the office at gunpoint. Id. The first suspect told the employee to  
21 "open the fucking safe," while pointing his handgun at her head. Id. Both employees told the  
22 suspects they did not have access. Id. The two suspects then fled the area in a Dodge Charger.  
23 Id. Lastly, on November 24, 2014, a male suspect broke the front door of a Popeyes location  
24 and entered with a handgun. Id. The employees immediately ran to the back exit and were met  
25 by a second suspect who forced them back into the business at gunpoint. Id. The first suspect  
26 gave the manager a bag and demanded she fill it with the money from the safe and cash  
27 registers. Id. The suspects then took the bag along with the manager's cell phone as they ran  
28 out the emergency door. Id.



1 On November 25, 2014, a detective familiar with the investigation observed a gray  
2 Dodge Charger matching the suspect vehicle pull into a Taco Bell parking lot. Id. A short time  
3 later a male, later identified as the Defendant Starr, exited the rear passenger side of the vehicle  
4 wearing a mask covering his face. Id. Defendant Starr then opened the trunk and was standing  
5 next to it when patrol units arrived. Id. Defendant Starr was taken into custody, along with the  
6 Defendant and Defendant Johns. Id. In the open trunk of the Charger the detective observed a  
7 two-foot long ax and a semi-automatic firearm. Id. Several other items were later located in  
8 the vehicle including a Smith and Wesson revolver, gloves, surgical masks, folding pocket  
9 knives and clothing which matched the suspects' clothing in the robberies. Id.

10 Upon questioning, Defendant Johns confessed to being the getaway driver for several  
11 robberies. Id. He also admitted that Defendant Starr and Defendant would enter the businesses  
12 and conduct the robberies. Id. Defendant Johns told authorities that he stayed in the vehicle at  
13 all times and never entered any of the businesses during the robberies. Id. Defendant Johns  
14 had detailed knowledge of the robberies and stated that Defendant and Defendant Starr showed  
15 him the firearms used in the robberies. Id. Defendant and Defendant Starr were uncooperative  
16 and refused to speak with detectives. Id. Defendant and Defendant Starr were both wearing  
17 clothing which matched the suspects' clothing seen on surveillance videos from multiple  
18 robbery events. Id. Based on the above facts, Defendant was arrested, transported to the Clark  
19 County Detention Center, and booked accordingly.

#### 20 ANALYSIS

21 In his Petition Defendant claims that counsel was ineffective for (1) not objecting and  
22 not seeking a mistrial regarding incriminating receipts found at Defendant's residence; (2)  
23 failing to raise the issue that accomplice testimony was not corroborated under NRS  
24 175.291(1) in a pre-trial Petition; (3) not arguing that there were inconsistencies between  
25 Defendant Johns' statements to police and Detective Abell's testimony at the first grand jury  
26 proceeding; (4) not objecting to two DNA reports that were offered into evidence; (5) failing  
27 to object to the admission of photographs; (6) not independently testing DNA or hiring a DNA  
28 expert; (7) failing to subpoena all the alleged victims; (8) not subpoenaing a JAG officer; (9)

1 not raising a violation of the Confrontation Clause issue on direct appeal; (10) failing to  
2 subpoena Detective Flynn; (11) not subpoenaing Officer Mohler; (12) failing to investigate;  
3 (13) failing to impeach the DNA expert with an email she sent Detective Abell; and (14) failing  
4 to challenge jury instruction 43 regarding the corroboration of accomplice testimony.

5 **I. STANDARD OF REVIEW FOR INEFFECTIVE ASSISTANCE OF**  
6 **COUNSEL**

7 The Sixth Amendment to the United States Constitution provides that, “[i]n all criminal  
8 prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his  
9 defense.” The United States Supreme Court has long recognized that “the right to counsel is  
10 the right to the effective assistance of counsel.” Strickland v. Washington, 466 U.S. 668, 686,  
11 104 S. Ct. 2052, 2063 (1984); see also State v. Love, 109 Nev. 1136, 1138, 865 P.2d 322, 323  
12 (1993).

13 To prevail on a claim of ineffective assistance of trial counsel, a defendant must prove  
14 he was denied “reasonably effective assistance” of counsel by satisfying the two-pronged  
15 Strickland test. 466 U.S. at 686-87, 104 S. Ct. at 2063-64. See also Love, 109 Nev. at 1138,  
16 865 P.2d at 323. Under the Strickland test, a defendant must show first that his counsel's  
17 representation fell below an objective standard of reasonableness, and second, that but for  
18 counsel's errors, there is a reasonable probability that the result of the proceedings would have  
19 been different. 466 U.S. at 687-88, 694, 104 S. Ct. at 2065, 2068; Warden, Nevada State  
20 Prison v. Lyons, 100 Nev. 430, 432, 683 P.2d 504, 505 (1984) (adopting the Strickland two-  
21 part test). “[T]here is no reason for a court deciding an ineffective assistance claim to approach  
22 the inquiry in the same order or even to address both components of the inquiry if the defendant  
23 makes an insufficient showing on one.” Strickland, 466 U.S. at 697, 104 S. Ct. at 2069.

24 The court begins with the presumption of effectiveness and then must determine  
25 whether the defendant has demonstrated by a preponderance of the evidence that counsel was  
26 ineffective. Means v. State, 120 Nev. 1001, 1011, 103 P.3d 25, 32 (2004). “Effective counsel  
27 does not mean errorless counsel, but rather counsel whose assistance is ‘[w]ithin the range of  
28 competence demanded of attorneys in criminal cases.’” Jackson v. Warden, 91 Nev. 430, 432,

1 537 P.2d 473, 474 (1975).

2 “There are countless ways to provide effective assistance in any given case. Even the  
3 best criminal defense attorneys would not defend a particular client in the same way.”  
4 Strickland, 466 U.S. at 689, 104 S. Ct. at 689. “Strategic choices made by counsel after  
5 thoroughly investigating the plausible options are almost unchallengeable.” Dawson v. State,  
6 108 Nev. 112, 117, 825 P.2d 593, 596 (1992); see also Ford v. State, 105 Nev. 850, 853, 784  
7 P.2d 951, 953 (1989). In essence, the court must “judge the reasonableness of counsel's  
8 challenged conduct on the facts of the particular case, viewed as of the time of counsel's  
9 conduct.” Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. Counsel cannot be ineffective for  
10 failing to make futile objections or arguments. See Ennis v. State, 122 Nev. 694, 706, 137 P.3d  
11 1095, 1103 (2006). Trial counsel has the “immediate and ultimate responsibility of deciding if  
12 and when to object, which witnesses, if any, to call, and what defenses to develop.” Rhyne v.  
13 State, 118 Nev. 1, 8, 38 P.3d 163, 167 (2002).

14 Based on the above law, the role of a court in considering allegations of ineffective  
15 assistance of counsel is “not to pass upon the merits of the action not taken but to determine  
16 whether, under the particular facts and circumstances of the case, trial counsel failed to render  
17 reasonably effective assistance.” Donovan v. State, 94 Nev. 671, 675, 584 P.2d 708, 711  
18 (1978). This analysis does not mean that the court should “second guess reasoned choices  
19 between trial tactics nor does it mean that defense counsel, to protect himself against  
20 allegations of inadequacy, must make every conceivable motion no matter how remote the  
21 possibilities are of success.” Id. To be effective, the constitution “does not require that counsel  
22 do what is impossible or unethical. If there is no bona fide defense to the charge, counsel  
23 cannot create one and may disserve the interests of his client by attempting a useless charade.”  
24 United States v. Cronin, 466 U.S. 648, 657 n.19, 104 S. Ct. 2039, 2046 n.19 (1984).

25 Even if a defendant can demonstrate that his counsel's representation fell below an  
26 objective standard of reasonableness, he must still demonstrate prejudice and show a  
27 reasonable probability that, but for counsel's errors, the result of the trial would have been  
28 different. McNelson v. State, 115 Nev. 396, 403, 990 P.2d 1263, 1268 (1999) (citing

1 Strickland, 466 U.S. at 687, 104 S. Ct. at 2064). “A reasonable probability is a probability  
2 sufficient to undermine confidence in the outcome.” Id. (citing Strickland, 466 U.S. at 687-89,  
3 694, 104 S. Ct. at 2064-65, 2068). “The defendant carries the affirmative burden of  
4 establishing prejudice.” Riley v. State, 110 Nev. 638, 646, 878 P.2d 272, 278 (1994). A  
5 habeas corpus petitioner must prove the factual allegations underlying his ineffective-  
6 assistance claim by a preponderance of the evidence. Means v. State, 120 Nev. 1001, 1012,  
7 103 P.3d 25, 33 (2004).

8 Further, there is a strong presumption that appellate counsel's performance was  
9 reasonable and fell within “the wide range of reasonable professional assistance.” See United  
10 States v. Aguirre, 912 F.2d 555, 560 (2nd Cir. 1990); citing Strickland, 466 U.S. at 689, 104  
11 S. Ct. at 2065. A claim of ineffective assistance of appellate counsel must also satisfy the two-  
12 prong test set forth by Strickland. Kirksey v. State, 112 Nev. 980, 998, 923 P.2d 1102, 1114  
13 (1996). In order to satisfy Strickland's second prong, the defendant must show that the omitted  
14 issue would have had a reasonable probability of success on appeal. Id.

15 The professional diligence and competence required on appeal involves “winnowing  
16 out weaker arguments on appeal and focusing on one central issue if possible, or at most on a  
17 few key issues.” Jones v. Barnes, 463 U.S. 745, 751-52, 103 S. Ct. 3308, 3313 (1983). In  
18 particular, a “brief that raises every colorable issue runs the risk of burying good arguments .  
19 . . in a verbal mound made up of strong and weak contentions.” Id. at 753, 103 S. Ct. at 3313.  
20 For judges to second-guess reasonable professional judgments and impose on appointed  
21 counsel a duty to raise every 'colorable' claim suggested by a client would disserve the very  
22 goal of vigorous and effective advocacy.” Id. at 754, 103 S. Ct. at 3314.

23 Lastly, the Nevada Supreme Court has held “that a habeas corpus petitioner must prove  
24 the disputed factual allegations underlying his ineffective-assistance claim by a preponderance  
25 of the evidence.” Id. Furthermore, claims of ineffective assistance of counsel asserted in a  
26 petition for post-conviction relief must be supported with specific factual allegations, which if  
27 true, would entitle the petitioner to relief. Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222,  
28 225 (1984). “Bare” and “naked” allegations are not sufficient, nor are those belied and repelled

1 by the record. Id. NRS 34.735(6) states in relevant part, “[Petitioner] *must* allege specific facts  
2 supporting the claims in the petition[.] . . . Failure to allege specific facts rather than just  
3 conclusions may cause your petition to be dismissed.” (emphasis added).

4 A defendant who contends his attorney was ineffective because he did not adequately  
5 investigate must show how a better investigation would have rendered a more favorable  
6 outcome probable. Molina v. State, 120 Nev. 185, 192, 87 P.3d 533, 538 (2004).

7 **II. DEFENDANT DID NOT RECEIVE INEFFECTIVE ASSISTANCE OF**  
8 **COUNSEL**

9 Defendant raises 14 claims regarding ineffective assistance of counsel in his Petition.  
10 Therefore, the Court addresses each argument in turn.

11 **1. Counsel was not ineffective for not objecting or seeking a mistrial.**

12 Defendant argues that counsel was ineffective because he failed to call Detective Flynn  
13 as a witness. Petition at 1. Defendant avers that calling Detective Flynn as a witness was  
14 necessary because an alleged discrepancy existed between the detectives. Id. Specifically,  
15 Defendant claims that Detective Abell said the receipts were found in the “trash can” while,  
16 according to Defendant, Detective Turner and Flynn would have testified that the receipts were  
17 found elsewhere in the home. Id. at 2-3. Defendant’s arguments are unpersuasive.

18 Here, Defendant’s argument assumes rather than demonstrates that calling the other  
19 detectives would have rendered favorable testimony for his case. Under Hargrove, Defendant’s  
20 claim is thus a bare and naked assertion that is suitable for summary denial. 100 Nev. at 502,  
21 686 P.2d at 225. Further, objecting or moving for mistrial would have been futile. Assuming  
22 counsel would have been successful at impeaching each of the detectives, the impeachment  
23 value would have been extremely minimal. This is particularly true because, ultimately, the  
24 receipts were found where Defendant was staying. Therefore, the exact location where they  
25 were found would have been immaterial. Moreover, the location of where the receipts were  
26 found in the home would not have made the evidence inadmissible and would not have  
27 changed the fact that numerous pieces of evidence were also found in the home linking  
28 Defendant to the crimes.

1 As such, Defendant's bare and naked assertions regarding trial counsel's performance  
2 fail to show that counsel, by a preponderance of evidence, was deficient in his performance  
3 and Defendant was prejudiced by such performance. Indeed, any objection by trial counsel  
4 would have been futile, and counsel cannot be ineffective for failing to raise futile issues or  
5 motions. Ennis, 122 Nev. at 706, 137 P.3d at 1103. Therefore, Defendant's bare and naked  
6 assertions fail under Hargrove, 100 Nev. at 502, 686 P.2d at 225. Accordingly, because  
7 Defendant fails to meet either Strickland prong, his claims are denied.

8 **2. Counsel was not ineffective for not raising NRS 175.291 in a pre-trial petition.**

9 Next, Defendant argues counsel was ineffective because he failed to raise NRS 175.291  
10 in a pre-trial Petition. Petition at 4-7. Defendant argues that if counsel had raised this issue the  
11 Court would have found that Defendant Johns testimony was not corroborated. Id. Defendant's  
12 argument lacks merit.

13 Here, Defendant ignores that aside from accomplice testimony, which is alleged to be  
14 uncorroborated by a defendant, the State can satisfy the statutory requirement by showing that  
15 a substantial amount of evidence tends to connect the defendant to the crime. See Cutler v.  
16 State, 566 P.2d 809, 93 Nev. 329 (1977); Evans v. State, 944 P.2d 253, 113 Nev. 885 (1997).  
17 In this case, there were numerous pieces of evidence connecting Defendant to the crime. These  
18 included evidence gathered from the Dodge Charger, Defendant's home, and the still images  
19 from the surveillance videos. Further, counsel filed a 32-page pre-trial petition with numerous  
20 exhibits. See Pretrial Petition, filed March 18, 2015. This lengthy petition raised several claims  
21 that were more meritorious than the issue Defendant, in hindsight, wanted raised. In fact, in  
22 Defendant's Petition, he concedes that counsel raised "numerous issues" and challenged the  
23 following: the kidnapping charge, lack of probable cause, hearsay testimony, best evidence,  
24 and "many other issues." Petition at 4. Claims of ineffective assistance of counsel asserted in  
25 a petition for post-conviction relief must be supported with specific factual allegations, which  
26 if true, would entitle the defendant to relief. Hargrove, 100 Nev. at 502, 686 P.2d at 225.  
27 Defendant's claims that NRS 175.291 would have been successful if it was raised in a pre-trial  
28 petition are simply bare and naked allegations that are insufficient to warrant relief. Id.

1 Therefore, because counsel's strategy was a reasonably objective one and Defendant fails to  
2 demonstrate that he was prejudiced by counsel's strategy, his claim is denied in its entirety.

3 **3. Counsel was not ineffective for failing to raise perjury of Detective Abell during**  
4 **his testimony at the first grand jury proceeding.**

5 Next, Defendant argues that counsel was ineffective for not challenging, in the pre-trial  
6 petition, the fact that Detective Abell presented the grand jury with "perjured false testimony."  
7 Petition at 9. Defendant claims that there were inconsistencies between Defendant Johns'  
8 statements to police and Detective Abell's testimony at trial. Id. at 9-12.

9 Here, Defendant boldly asserts that Detective Abell provided the grand jury with  
10 perjured testimony. However, Defendant provides no evidence to support his assertion.  
11 Therefore, this is a bare and naked claim that is suitable for denial under Hargrove. Moreover,  
12 raising this argument would have been futile because Detective Abell's testimony was not  
13 false. See Ennis (reasoning that counsel cannot be ineffective for failing to make futile  
14 arguments). 122 Nev. at 706, 137 P.3d at 1103. Rather, this was general testimony regarding  
15 the extensive robbery series that focused on the similarities in suspect description, clothing,  
16 vehicles, and Modus Operandi. Therefore, Defendant's bare and naked assertions that Detective  
17 Abell presented false testimony are insufficient to warrant relief. Additionally, Defendant fails  
18 to show, by a preponderance of evidence, that trial counsel was deficient in his decision not to  
19 raise a futile argument. Accordingly, Defendant fails to meet either Strickland prong and his  
20 claims is denied.

21 **4. Counsel was not ineffective for not objecting to the introduction of the DNA**  
22 **reports.**

23 Next, Defendant argues that counsel was ineffective because he failed to object to two  
24 DNA reports that were admitted at trial. Petition at 15. Defendant claims that prior to trial  
25 counsel was successful in filing a motion asking for a retest of the DNA that had come back  
26 as a "positive partial" match. Id. Once retested, the DNA came back as "inconclusive." Id.

27 Here, counsel made a strategic decision to allow two conflicting DNA reports into  
28 evidence in an effort to establish reasonable doubt. Counsel's strategy was reasonable because

1 by admitting the two reports the jury could have concluded that the State's own DNA evidence  
2 was conflicted. See Doyle v. State, 116 Nev. 148, 160, 995 P.2d 465, 473 (2000) (reasoning  
3 that "[c]ounsel's strategy decisions are not subject to challenge absent extraordinary  
4 circumstances."). Additionally, Defendant's assertion is bare and naked because he fails to  
5 allege on what basis counsel should have objected and that such objection had a reasonable  
6 likelihood of success. This is particularly significant because both reports were admissible and,  
7 ultimately, admitted. Since Defendant has failed to show that counsel's performance was  
8 deficient, and does not demonstrate how the result of the trial would have been more favorable  
9 had counsel objected, his claim fails under either Strickland prong. Accordingly, this claim is  
10 denied.

11 **5. Counsel was not ineffective for failing to object to the admission of a**  
12 **photograph**

13  
14 Next, Defendant appears to argue that counsel was ineffective because he should have  
15 objected to the admission of series of photographs depicting various cellphones and several  
16 hundreds of dollars. Petition, 17-21; Petition, Exhibit 7. Defendant maintains that the  
17 cellphones belonged to his girlfriend and other family members. Id. With respect to the money  
18 depicted in Exhibit 7, Defendant appears to claim that it was his and that he gave it to his  
19 girlfriend to take care of his children. Id. Defendant concludes that counsel was ineffective for  
20 not subpoenaing records from cellphone companies that would have demonstrated that the  
21 cellphones were not stolen. Further, Defendant also avers counsel was ineffective for not filing  
22 a motion to suppress the photographs of the cellphones and money. Defendant's arguments  
23 are unpersuasive.

24 Preliminarily, a defendant who contends his attorney was ineffective because he did not  
25 adequately investigate must show how a better investigation would have rendered a more  
26 favorable outcome probable. Molina, 120 Nev. at 192, 87 P.3d at 538. Here, it is unclear what  
27 further investigation would have yielded with respect to the photographs depicting the  
28 cellphones and money. Again, Defendant's arguments *assume* rather than *demonstrate* that if



1 counsel had reached out to T-Mobile or Sprint, he would have confirmed Defendant's theory  
2 that the cellphones found at his home belonged to his "girlfriend and family members" and  
3 thus, a more favorable outcome would have been probable. Petition at 17. However,  
4 Defendant, in his Petition, did not include any cellphone records from T-Mobile or Sprint  
5 indicating that the phones belonged to his girlfriend and family members. Therefore,  
6 Defendant's claim is a bare and naked assertion that should preclude review by this Court  
7 under Hargrove and Molina. Lastly, Defendant fails to state a basis for an objection and the  
8 likelihood of success had counsel objected. Accordingly, because Defendant has not shown  
9 that further investigation regarding the photographs would have rendered a more favorable  
10 outcome, Defendant's claim is denied.

11 **6. Counsel was not ineffective for not independently testing the DNA or hiring a**  
12 **DNA expert to testify.**

13 Next, Defendant appears to argue that counsel was ineffective because he should have  
14 tested the DNA independently and hired a DNA expert to rebut the State's DNA expert's  
15 testimony. Petition at 22-24. Defendant's argument lacks merit.

16 Here, as discussed supra in Section II, 4, counsel was successful in filing a motion to  
17 retest the DNA. The retested DNA results concluded that the DNA evidence was conflicting.  
18 In light of this fact, counsel likely made a reasonably strategic decision to not hire a DNA  
19 expert or independently retest the evidence. Indeed, counsel likely concluded that doing so  
20 would have yielded inculpatory results rather than conflicting reports based on the State's  
21 evidence. As Defendant mentioned in his Petition, counsel instead relied on cross-examination  
22 to address the differences in the DNA test results. Petition at 22-24. Moreover, this is a bare  
23 and naked assertion as Defendant fails to allege what retesting would have yielded, what an  
24 expert would have testified to, and that having such expert testimony would have rendered a  
25 more favorable outcome at trial. As Defendant has not retested the DNA and provided such  
26 results to the Court, this claim is precluded from review under Hargrove and Molina.  
27 Accordingly, Defendant's claim is denied.

28 //

1           **7. Counsel was not ineffective for not subpoenaing all the alleged victims.**

2           Next, Defendant claims that counsel was ineffective because he failed to call every  
3 alleged victim in this case. Petition at 25-26. Defendant claims that the victims only testified  
4 about some, but not all of the evidence and that counsel should have subpoenaed victims that  
5 were unavailable or were not called by the State. *Id.* Defendant's arguments are unpersuasive.

6           Here, Defendant's claim is bare and naked and is denied under Hargrove and Molina.  
7 This is particularly true because Defendant does not present any evidence demonstrating that  
8 if counsel called other witnesses their testimony would have been instrumental in rendering a  
9 more favorable outcome at trial. In fact, Defendant fails to identify which witnesses he would  
10 have called and what evidence each witness would have testified to. Bare claims, such as this  
11 one, are insufficient to demonstrate that a petitioner is entitled to relief. *See Molina*, 120 Nev.  
12 at 192, 87 P.3d at 538 (a defendant claiming counsel did not conduct an adequate investigation  
13 must specify what a more thorough investigation would have uncovered); *see*  
14 *also Hargrove*, 100 Nev. at 502-03, 686 P.2d at 225 (explaining that bare and naked claims  
15 are insufficient to demonstrate that a petitioner is entitled to relief). Lastly, counsel probably  
16 chose not to call such witnesses as they were likely going to provide testimony that would  
17 have negatively impacted Defendant's interests. *See Doyle*, 116 Nev. at 160, 995 P.2d at 473.  
18 Therefore, without a showing of extraordinary circumstances, counsel's strategic decisions are  
19 not subject to challenge. *Id.* As such Defendant fails to demonstrate his counsel's performance  
20 was deficient or resulting prejudice. Accordingly, this Court denies Defendant's claim.

21           **8. Counsel was not ineffective for failing to subpoena a JAG Officer.**

22           Next, Defendant argues that counsel was ineffective when he failed to subpoena a JAG  
23 Officer. Petition at 28. Defendant argues that the JAG Officer should have been subpoenaed  
24 at trial because Defendant overheard counsel say that Defendant Johns had a conversation with  
25 an alleged JAG Officer that would have benefited Defendant. *Id.* Specifically, Defendant  
26 claims that days after Defendant Johns gave the police his statement, Defendant Johns had a  
27 conversation with a JAG Officer where he admitted that he "had nothing to do with the  
28 robbery's [sic] and that he didn't in fact take the [Defendant] and [Defendant] Starr to any of

1 the robbery's [sic]." Id. Defendant's argument lacks merit.

2 Hearsay is an out-of-court statement that is offered to prove "the truth of the matter  
3 asserted" in the statement. NRS 51.035. Generally, hearsay is inadmissible at trial, unless an  
4 exception to the hearsay rule is applicable. NRS 51.065. Here, it is unclear what Defendant  
5 overheard. Defendant describes in his Petition the incident where he overheard his attorney,  
6 allegedly, talking about a conversation between Defendant Johns and the JAG Officer as:  
7 counsel "mentioned something about a JAG Officer." Petition at 28. Defendant then goes on  
8 to conclude that if the JAG Officer was subpoenaed he would have testified to the details of  
9 the conversation first-hand. Petition at 29. Defendant is mistaken because the rules of evidence  
10 would not allow this testimony. Indeed, the self-serving out-of-court statement of a co-  
11 conspirator to a JAG officer is inadmissible hearsay. Defendant does not provide any exception  
12 to the hearsay rules and one is not applicable. Asking counsel to subpoena the JAG Officer  
13 would have been futile and, therefore, counsel cannot be ineffective. Ennis, 122 Nev. at 706,  
14 137 P.3d at 1103. Accordingly, Defendant's claim is denied.

15 **9. Appellate counsel was not ineffective for not raising an alleged violation of the**  
16 **Confrontation Clause on appeal.**

17 Next, Defendant claims trial counsel moved to dismiss all counts regarding victims that  
18 did not appear to testify at trial. Petition at 30-31. Specifically, Defendant claims that appellate  
19 counsel was ineffective because she failed to raise this issue that was preserved on appeal.<sup>3</sup> Id.

20 Under NRS 34.735, a petition for post-conviction relief must set forth specific  
21 allegations. "Bare" and "naked" allegations are not sufficient to warrant post-conviction relief,  
22 nor are those belied and repelled by the record. Hargrove, 100 Nev. at 502, 686 P.2d at 225.  
23 Moreover, under Molina, a defendant who contends his attorney was ineffective because he  
24 did not adequately investigate must show how a better investigation would have rendered a  
25 more favorable outcome probable. 120 Nev. at 192, 87 P.3d at 538.

26  
27 <sup>3</sup> To clarify, Defendant framed his claim as a violation of the Confrontation Clause. However,  
28 this was not a Confrontation Clause issue. Rather, it appeared that Defendant, on direct appeal,  
wanted counsel to raise the issue that the district court abused its discretion when it denied  
Defendant's motion for mistrial.

1 Here, Defendant makes a bare and naked assertion and his claim is suitable for summary  
2 denial under Hargrove. This is particularly true because Defendant fails to identify the  
3 witnesses, testimony, and counts in question that should have been included in his direct  
4 appeal. Further, Defendant's claim also fails to meet the two-prong Strickland test. Defendant  
5 has not shown that appellate counsel was deficient nor has Defendant demonstrated that the  
6 omission of this issue would have had a reasonable probability of success on appeal. Kirksey,  
7 112 Nev. at 998, 923 P.2d at 1114. Accordingly, Defendant's claim fails under either  
8 Strickland prong and, his claim is denied.

9 **10. Counsel was not ineffective for not calling Detective Flynn as a witness.**

10 Next, Defendant argues that counsel was ineffective because he should have  
11 subpoenaed Detective Flynn as a witness. Petition at 32-34. Defendant avers that Detective  
12 Flynn found incriminating receipts in Defendant's home while executing a search warrant and  
13 his testimony could have been used to discredit Detective Abell. Id. Specifically, Defendant  
14 maintains that Detective Flynn would have testified that he found the receipts in the bedroom  
15 instead of the trashcan located in the home. Id. Defendant's arguments are unpersuasive.

16 Here, Defendant reasserts his ineffective assistance of counsel argument raised above  
17 in Section II, 1. As discussed supra, Defendant assumes that Detective Flynn would have  
18 testified that he found the receipts in a different location within the home. At most, this  
19 testimony would have provided minimal impeachment value. Primarily, because the receipts  
20 were ultimately found in the home within a trashcan located in the kitchen. See Trial  
21 Transcript, Day 10, at 148-149. Therefore, this claim is a bare and naked assertion that is  
22 suitable for summary denial under Hargrove. 100 Nev. at 502, 686 P.2d at 225. Additionally,  
23 it is likely that counsel made a strategic decision when he opted not to call Detective Flynn  
24 because he knew there was minimal impeachment value in the fact that the receipts were found  
25 in a trashcan rather than in the bedroom. See Doyle, 116 Nev. at 160, 995 P.2d at 473.  
26 Defendant's bare and naked assertions regarding trial counsel's performance fail to show that  
27 counsel, by a preponderance of evidence, was deficient in his performance and Defendant was  
28 prejudiced by such performance. Indeed, any objection by trial counsel would have been futile

1 because the location of where the receipts were found is immaterial to the question of whether  
2 such evidence, along with other incriminating evidence found in the home, was admissible.  
3 Ennis, 122 Nev. at 706, 137 P.3d at 1103. Therefore, Defendant's bare and naked assertions  
4 fail under Hargrove. 100 Nev. at 502, 686 P.2d at 225. Accordingly, because Defendant fails  
5 to meet either Strickland prong, his claims are denied.

6 **11. Counsel was not ineffective for not calling Officer Mohler as a witness.**

7 Next, Defendant argues counsel was ineffective because he failed to subpoena Officer  
8 Mohler. Petition at 35-36. Defendant claims that Officer Mohler was the one who searched  
9 Defendant during his arrest and found a blue bag. Id. Defendant concludes by arguing that if  
10 Officer Mohler testified he would have discredited Detective Matlock who testified that he  
11 searched Defendant and found the blue bag. Id. Defendant's arguments are meritless and are  
12 belied by the record.

13 Here, similar to claims 1 and 10, Defendant attempts to show that counsel was  
14 ineffective by arguing a minor detail. However, Defendant's claim is a bare and naked one  
15 that fails under Hargrove. At trial, Detective Matlock testified that *after* Defendant was  
16 arrested and once he was being escorted away, Detective Matlock noticed that Defendant "had  
17 a blue bag in his front waistband." Trial Transcript, Day 8, at 38:17. Therefore, Defendant's  
18 claim that Detective Matlock searched him is belied by the record.

19 Additionally, counsel made a strategic choice not to call Officer Mohler. This is  
20 particularly true because on cross-examination counsel spent a considerable amount of time  
21 attempting to undermine Detective Matlock's testimony regarding the blue bag. Id. at 54-59.  
22 In fact, the first line of questioning on cross-examination involved the details of when the  
23 Detective saw the blue bag. Id. Lastly, this minor detail does not alter the fact that Defendant  
24 was arrested and found in possession of the blue bag. Consequently, counsel's strategic  
25 decision to thoroughly cross-examine Detective Matlock and not call the arresting officer does  
26 not prove he was ineffective. Rather, it shows counsel made a reasonable strategic decision  
27 that, absent extraordinary circumstances, is not challengeable by Defendant. See Doyle, 116  
28 Nev. at 160, 995 P.2d at 473. Accordingly, Defendant's claim is denied.

1           **12. Counsel was not ineffective for allegedly failing to investigate as a whole.**

2           Next, Defendant argues that counsel was ineffective because he failed to adequately  
3 investigate certain issues that Defendant allegedly raised with counsel prior to trial. Petition at  
4 37-42. First, Defendant argues that counsel was ineffective for failing to investigate and solely  
5 relied on the State's version of events. Id. Second, Defendant reasserts his earlier claim that  
6 counsel was ineffective for failing to acquire phone bills that proved that the cellphones located  
7 in his home belonged to his girlfriend and other family members. Id. Third, Defendant claims  
8 he was prejudiced when counsel failed to get a copy of an alleged email that was sent to  
9 detectives describing the gray Dodge Charger. Id. Fourth, Defendant claims counsel was  
10 ineffective for not talking to a witness who allegedly saw Detective Abell "snooping around"  
11 Defendant's apartment prior to Defendant's arrest. Id. Fifth, Defendant, for a third time, claims  
12 counsel as ineffective for not retesting the State's DNA evidence. Id. Sixth counsel was  
13 ineffective for failing to pre-trial any of the alleged victims. Id. Seventh, counsel was  
14 ineffective for not hiring a foot impression expert to rebut the State's expert. Id. Eighth,  
15 counsel was ineffective for not "putting on a proper defense." Id. All of Defendant's claims  
16 are meritless as he fails to demonstrate his counsel's performance was deficient and resulted  
17 in prejudice.

18           A defendant who contends his attorney was ineffective because he did not adequately  
19 investigate must show how a better investigation would have rendered a more favorable  
20 outcome probable. Molina, 120 Nev. at 192, 87 P.3d at 538. Here, Defendant's first and eighth  
21 claims are dismissed under Hargrove because they are belied by the record. Defendant  
22 overlooks the fact that counsel delivered a thorough opening statement where he methodically  
23 attacked the State's theory of the case and evidence. See Trial Transcript, Day 4, at 25-31.  
24 Indeed, during his opening counsel emphasized that there were no eyewitnesses that could  
25 identify Defendant as the perpetrator. Id. at 26. Moreover, the record reveals that during  
26 closing argument counsel attempted to stir reasonable doubt in the minds of the jury and  
27 continued to reject the State's theory of the case. Trial Transcript, Day 12, at 108-128. As  
28 demonstrated by the record, to argue that counsel simply accepted the State's theory of the

1 case or that he failed to present a “proper defense” is disingenuous. Therefore, Defendant’s  
2 claims are denied.

3 With respect to his second claim, under Molina Defendant bears the burden of showing  
4 how a better investigation would have rendered a more favorable outcome. As discussed supra,  
5 it is unclear what further investigation regarding the cellphones would have revealed. Again,  
6 Defendant *assumes* that if counsel had contacted the cellphone companies they would have  
7 provided counsel with ownership information regarding the various cellphones. Defendant  
8 does not even provide this Court with documentation that counsel could have deduced  
9 ownership over the cellphones by simply subpoenaing “phone bills.” Therefore, he fails to  
10 show that a more favorable outcome would have been probable and his argument is a bare and  
11 naked assertion that is denied under Hargrove and Molina.

12 Regarding the third claim, Defendant fails to satisfy his burden as he has not provided  
13 this Court with a copy of what Defendant describes in his Petition as an “alleged email.”  
14 Petition at 37. Defendant does not show that this “alleged email” would have been admissible  
15 as evidence nor does he demonstrate that had the email been admitted it would have assisted  
16 in rendering a more favorable outcome for Defendant at trial. Molina, 120 Nev. at 192, 87 P.3d  
17 at 538. Therefore, his claim is denied.

18 Defendant’s fourth claim also fails. Defendant asserts, without presenting any evidence,  
19 that Detective Abell was “snooping around” his apartment and that had counsel investigated  
20 there would have been a witness to testify as such. Petition at 40. Defendant further avers that  
21 such witness would have discredited the detective’s testimony and shown to the jury that the  
22 detectives were “fabricating evidence.” Id. Again, Defendant bears the burden of showing how  
23 this witness would have led to a more favorable outcome at trial. However, this is a bare and  
24 naked assertion. For example, Defendant does not provide a sworn affidavit from such witness  
25 or any supporting evidence to prove that the detectives fabricated evidence. As such, this claim  
26 denied under Hargrove and Molina.

27 Defendant’s fifth and seventh claims also lack merit. This is particularly true because,  
28 as addressed supra, counsel filed a motion to retest the DNA and it was retested. Due to

1 counsel's efforts the DNA results came back as inconclusive rather than a "positive partial"  
2 match. Therefore, it is unclear that retesting the DNA for a third time could have yielded a  
3 more favorable result for Defendant. Similarly, Defendant argues that counsel should have  
4 hired a foot impression expert, however, Defendant provides no analysis as to what exactly a  
5 private expert would have testified to.<sup>4</sup> Therefore, Defendant's claims are denied as he fails to  
6 satisfy his burden under Molina.

7 Regarding, Defendant's sixth claim, Defendant provides no evidence to support his  
8 claim that counsel never pre-trialed any witnesses. Defendant appears to argue that counsel  
9 simply "sat down" during Jamie Schoebel's ("Jaime") testimony and did not cross-examine  
10 her in an effort to impeach her credibility. Petition at 41-42. However, this is belied by the  
11 record. The record demonstrates that counsel did cross-examine her about her prior grand jury  
12 testimony. Contrary to Defendant's bare and naked assertion counsel was able to get Jaime to  
13 admit that she had inconsistently testified between the grand jury and trial. Trial Transcript,  
14 Day 4, at 85-86. Therefore, because Defendant's claim is predicated on bare and naked  
15 assertions that are repelled by the record, his claim fails under Hargrove. Overall, Defendant  
16 fails to demonstrate his counsel's performance was deficient or resulting prejudice. Moreover,  
17 Defendant fails to satisfy burden under Molina. Accordingly, this Court denies all of  
18 Defendant's claims in their entirety.

19 **13. Counsel was not ineffective for failing to impeach the DNA expert with an email**  
20 **she sent to Detective Abell.**

21 Next, Defendant argues counsel was ineffective because he should have impeached the  
22 DNA expert with an email in which she stated that she could not find "anything linking the  
23 car to a Robbery or the items recovered from the car to the robbery." Petition at 69-70; Petition  
24

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25 <sup>4</sup> It is likely that counsel made a strategic decision not to hire a foot impression expert. This is  
26 supported by the fact that the record demonstrates that counsel spent a considerable amount of  
27 time cross-examining the State's forensic examiner of footwear and tire evidence, Mr.  
28 Gilkerson. Trial Transcript, Day 8, at 136-156; See Doyle, 116 Nev. at 160, 995 P.2d at 473  
(reasoning that "[c]ounsel's strategy decisions are not subject to challenge absent  
extraordinary circumstances.").



1 Exhibit 8. Defendant concludes by arguing that if the jury had seen this email they would have  
2 concluded that Detective Abell influenced the DNA expert's report. Id.

3 Here, Defendant reasserts the issue regarding DNA and their corresponding reports. As  
4 discussed supra, counsel was not ineffective regarding the DNA reports. Counsel's strategy  
5 was a reasonably objective one as he filed a motion to retest the DNA. The retested DNA  
6 rendered a favorable result for Defendant as it came back inconclusive. Therefore, counsel  
7 strategically decided that admitting the two conflicting DNA reports would have value because  
8 the jury could determine if the State's DNA evidence was reliable. As such, absent an  
9 extraordinary circumstance, counsel's strategic decisions are not subject to challenge. Doyle,  
10 116 Nev. at 160, 995 P.2d at 473. Assuming, *arguendo*, that counsel was deficient because he  
11 failed to impeach the detective with this email, Defendant fails to show that "but for" counsel's  
12 error there is a reasonable probability that the result of trial would have been different.  
13 McNelson, 15 Nev. at 403, 990 P.2d at 1268. Defendant cannot bear his burden of  
14 demonstrating prejudice under Strickland. Riley, 110 Nev. at 646, 878 P.2d at 278 (reasoning  
15 that defendants carry the "affirmative burden of establishing prejudice."). Defendant provides  
16 no evidence that had the jury considered this email the outcome at trial would have been  
17 different. This is particularly true considering that there was a significant amount of evidence  
18 tying Defendant to the robberies. In fact, the Nevada Supreme Court affirmed all, but three, of  
19 Defendant's convictions on a sufficiency of the evidence claim on direct appeal. See Hobson  
20 v. State, Docket No. 71419 (Order of Affirmance, June 1, 2018). Therefore, Defendant's claim  
21 is denied.

22 **14. Counsel was not ineffective for failing to object jury instruction 43.**

23 Lastly, Defendant argues that counsel was ineffective for failing to object to jury  
24 instruction 43 which addressed the corroboration of accomplice testimony. Petition at 71-73.  
25 Defendant's argument lacks merit.

26 Here, Defendant fails to present a cogent argument as to how counsel should have  
27 challenged the jury instruction. Additionally, jury instruction 43 is a standard instruction.  
28 Therefore, counsel cannot be deemed ineffective for failing to lodge a futile objection to such

1 instruction. Ennis, 122 Nev. at 706, 137 P.3d at 1103. As such, Defendant's claim is denied.

2 **III. THE COURT FINDS THAT DEFENDANT'S REMAINING CLAIMS ARE**  
3 **IMPROPERLY RAISED IN A POST-CONVICTION PETITION FOR WRIT**  
4 **OF HABEAS CORPUS AND/OR BARRED BY THE LAW OF THE CASE**

5 In addition to the ineffective assistance of counsel claims raised above, Defendant  
6 improperly raises the following claims in his Petition: (1) the district court abused its discretion  
7 by allowing hearsay; (2) the district court abused its discretion when it allowed trial to  
8 commence without Detective Flynn and Detective Turner available to testify; (3) that the  
9 district court erred in denying Defendant's pre-trial Petition for Writ of Habeas Corpus; (5)  
10 that the district court abused its discretion in denying Defendant's proposed jury instructions;  
11 (6) that the district court abused its discretion in denying Defendant's Motion to Dismiss  
12 during trial; (7) that there was prosecutorial misconduct; (8) that there was a Brady violation  
13 with respect to cash seized from Defendant's home; (9) that there was prosecutorial  
14 misconduct in not giving the Grand Jury a kidnapping instruction; and (10) that the State used  
15 all of the DNA evidence during testing and fabricated a DNA report.

16 The Court finds that Defendant's remaining claims, one-ten, are waived because  
17 Defendant failed to raise them on direct appeal. NRS 34.810(1) reads:

18 The court shall dismiss a petition if the court determines that:

19 (a) The petitioner's conviction was upon a plea of guilty or guilty  
20 but mentally ill and the petition is not based upon an allegation  
21 that the plea was involuntarily or unknowingly or that the plea was  
22 entered without effective assistance of counsel.

23 (b) The petitioner's conviction was the result of a trial and the  
24 grounds for the petition could have been:

25 (2) Raised in a direct appeal or a prior petition for a writ of habeas  
26 corpus or postconviction relief.

27 The Nevada Supreme Court has held that "challenges to the validity of a guilty plea and claims  
28 of ineffective assistance of trial and appellate counsel must first be pursued in post-conviction  
proceedings.... [A]ll other claims that are appropriate for a direct appeal must be pursued on  
direct appeal, or they will be *considered waived in subsequent proceedings.*" Franklin v. State,  
110 Nev. 750, 752, 877 P.2d 1058, 1059 (1994) (emphasis added) (disapproved on other

1 grounds by Thomas v. State, 115 Nev. 148, 979 P.2d 222 (1999)). “A court must dismiss a  
2 habeas petition if it presents claims that either were or could have been presented in an earlier  
3 proceeding, unless the court finds both cause for failing to present the claims earlier or for  
4 raising them again and actual prejudice to the petitioner.” Evans v. State, 117 Nev. 609, 646-  
5 47, 29 P.3d 498, 523 (2001). Defendant cannot establish good cause because the facts and law  
6 were available for his direct appeal. Additionally, he cannot establish prejudice to ignore his  
7 procedural default because the underlying claims are meritless. Defendant’s claims are nothing  
8 more than naked assertions under Hargrove. He has done nothing to demonstrate that he could  
9 not pursue any particular claim on direct appeal because of a deficient record.

10 **IV. DEFENDANT REQUEST FOR AN EVIDENTIARY HEARING IS**  
11 **DENIED**

12 NRS 34.770 determines when a defendant is entitled to an evidentiary hearing. It reads:

- 13 1. The judge or justice, upon review of the return, answer and all  
14 supporting documents which are filed, shall determine whether an  
15 evidentiary hearing is required. A petitioner must not be  
16 discharged or committed to the custody of a person other than the  
17 respondent unless an evidentiary hearing is held.  
18 2. If the judge or justice determines that the petitioner is not  
19 entitled to relief and an evidentiary hearing is not required, he shall  
20 dismiss the petition without a hearing.  
21 3. If the judge or justice determines that an evidentiary hearing is  
22 required, he shall grant the writ and shall set a date for the hearing.

23 The Nevada Supreme Court has held that if a petition can be resolved without  
24 expanding the record, then no evidentiary hearing is necessary. Marshall v. State, 110 Nev.  
25 1328, 885 P.2d 603 (1994); Mann v. State, 118 Nev. 351, 356, 46 P.3d 1228, 1231 (2002). A  
26 defendant is entitled to an evidentiary hearing if his petition is supported by specific factual  
27 allegations, which, if true, would entitle him to relief unless the factual allegations are repelled  
28 by the record. Marshall, 110 Nev. at 1331, 885 P.2d at 605; see also Hargrove, 100 Nev. at  
503, 686 P.2d at 225 (holding that “[a] defendant seeking post-conviction relief is not entitled  
to an evidentiary hearing on factual allegations belied or repelled by the record”). “A claim is  
‘belied’ when it is contradicted or proven to be false by the record as it existed at the time the

1 claim was made.” Mann, 118 Nev. at 354, 46 P.3d at 1230 (2002). It is improper to hold an  
2 evidentiary hearing simply to make a complete record. See State v. Eighth Judicial Dist.  
3 Court, 121 Nev. 225, 234, 112 P.3d 1070, 1076 (2005) (“The district court considered itself  
4 the ‘equivalent of . . . the trial judge’ and consequently wanted ‘to make as complete a record  
5 as possible.’ This is an incorrect basis for an evidentiary hearing.”).

6 Further, the United States Supreme Court has held that an evidentiary hearing is not  
7 required simply because counsel’s actions are challenged as being unreasonable strategic  
8 decisions. Harrington v. Richter, 131 S. Ct. 770, 788 (2011). Although courts may not indulge  
9 post hoc rationalization for counsel’s decision making that contradicts the available evidence  
10 of counsel’s actions, neither may they insist counsel confirm every aspect of the strategic basis  
11 for his or her actions. Id. There is a “strong presumption” that counsel’s attention to certain  
12 issues to the exclusion of others reflects trial tactics rather than “sheer  
13 neglect.” Id. (citing Yarborough v. Gentry, 540 U.S. 1, 124 S. Ct. 1 (2003)). Strickland calls  
14 for an inquiry in the objective reasonableness of counsel’s performance, not counsel’s  
15 subjective state of mind. 466 U.S. at 688, 104 S. Ct. at 2065.

16 Here, trial counsel was not ineffective. Moreover, Defendant’s ineffective assistance of  
17 counsel claims are not complex. Regarding Defendant’s other claims, most of them are  
18 improperly raised in his Petition because such claims were either previously considered on  
19 direct appeal or were waived. Therefore, there is no need to expand the record and Defendant’s  
20 request for an evidentiary is hereby denied.

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1 ORDER

2 THEREFORE, IT IS HEREBY ORDERED that Defendant's Petition for Post-  
3 Conviction Relief shall be, and it is, hereby denied.

4 DATED this 21<sup>st</sup> day of March, 2019.

5  
6 Will K. K.  
DISTRICT JUDGE

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

9  
10 BY

CAL THOMAN  
11 Chief Deputy District Attorney  
Nevada Bar #12649

12  
13 CERTIFICATE OF MAILING

14 I hereby certify that service of the above and foregoing was made this 21<sup>st</sup> day of  
15 March, 2019, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

16 TONY HOBSON, 1165963  
17 S.D.C.C.  
18 PO BOX 208  
INDIAN SPRINGS, NV 89070

19  
20 BY

E. Del Padre  
21 E. DEL PADRE  
22 Secretary for the District Attorney's Office  
23  
24  
25  
26  
27

28 ed/GCU



1 NEO

2 **DISTRICT COURT**  
3 **CLARK COUNTY, NEVADA**

4  
5 TONY HOBSON,

6 Petitioner,

Case No: A-18-784448-W

Dept No: XIX

7 vs.

8 STATE OF NEVADA: ET AL,

9 Respondent,

**NOTICE OF ENTRY OF FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER**

10  
11 **PLEASE TAKE NOTICE** that on March 21, 2019, the court entered a decision or order in this matter, a  
12 true and correct copy of which is attached to this notice.

13 You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you  
14 must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is  
15 mailed to you. This notice was mailed on March 25, 2019.

16 STEVEN D. GRIERSON, CLERK OF THE COURT

17 /s/ Debra Donaldson

18 Debra Donaldson, Deputy Clerk

19 CERTIFICATE OF E-SERVICE / MAILING

20 I hereby certify that on this 25 day of March 2019, I served a copy of this Notice of Entry on the  
21 following:

22 ☒ By e-mail:  
23 Clark County District Attorney's Office  
Attorney General's Office – Appellate Division-

24 ☒ The United States mail addressed as follows:  
25 Tony Hobson # 1165963  
26 P.O. Box 208  
Indian Springs, NV 89070-0208

27 /s/ Debra Donaldson

28 Debra Donaldson, Deputy Clerk



1 **FCL**  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 CAL THOMAN  
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7 Nevada Bar #12649  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

7 DISTRICT COURT  
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,  
10 Plaintiff,

11 -vs-

12 TONY LEE HOBSON,  
13 #5992420

14 Defendant.

CASE NO: A-18-784448-W

DEPT NO: XIX

15 **FINDINGS OF FACT, CONCLUSIONS OF**  
16 **LAW AND ORDER**

17 DATE OF HEARING: February 25, 2018  
18 TIME OF HEARING: 8:30 AM

19 THIS CAUSE having come on for hearing before the Honorable WILLIAM D.  
20 KEPHART, District Judge, on the 25<sup>th</sup> day of February, 2018, the Petitioner being present, the  
21 Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney,  
22 by and through FRANK LOGRIPPO, Deputy District Attorney, and the Court having  
23 considered the matter, including briefs, transcripts, arguments of counsel, and documents on  
24 file herein, now therefore, the Court makes the following findings of fact and conclusions of  
25 law:

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

2 **STATEMENT OF THE CASE**

3 On December 12, 2014, Tony Lee Hobson ("Defendant"), Brandon Starr ("Defendant  
4 Starr"), and Donte Johns ("Defendant Johns") (collectively, "Defendants") were charged by  
5 way of Indictment as follows: Conspiracy to Commit Robbery (Category B Felony - NRS  
6 200.380, 199.480); Burglary While in Possession of a Firearm (Category B Felony - NRS  
7 205.060); First Degree Kidnapping (Category A Felony - NRS 200.310, 200.320); and  
8 Robbery With Use of a Deadly Weapon (Category B Felony - NRS 200.380, 193.165), for a  
9 single armed robbery incident that occurred on November 24, 2014. Bail was set at  
10 \$1,000,000.00 for each of the Defendants.

11 On February 20, 2015, the State filed an eighty-two (82) count Superseding  
12 Indictment. On April 24, 2015, the State filed a Second Superseding Indictment charging  
13 Defendant with the following: Counts 1, 8, 11, 16, 22, 26, 33, 37, 44, 48, 60, and 68, –  
14 Burglary While In Possession Of A Deadly Weapon; Counts 2, 9, 12, 17, 23, 27, 34, 38, 45,  
15 49, 52, 54, 61, 69, and 81 – Conspiracy to Commit Robbery; Counts 3-7, 10, 13-15, 18-21,  
16 24-25, 28-32, 39-43, 46-47, 50-51, 56-59, 64, 66, 72, 74, 76, 78, and 80 – Robbery With Use  
17 of a Deadly Weapon; Counts 35-36, and 82 – Attempt Robbery With Use of a Deadly Weapon  
18 (Category B Felony - NRS 200.380, 193.330, 193.165); Counts 53, 62, and 70 – Conspiracy  
19 to Commit Kidnapping (Category B Felony - NRS 200.310, 200.320, 199.480); Counts 55,  
20 63, 65, 71, 73, 75, 77, and 79 – First Degree Kidnapping With Use of a Deadly Weapon  
21 (Category A Felony - NRS 200.310, 200.320, 193.165); and Count 67 – Attempt First Degree  
22 Kidnapping With Use of a Deadly Weapon (Category B Felony - NRS 200.310, 200.320,  
23 193.330, 193.165). The Superseding Indictments covered a series of fourteen (14) armed  
24 robberies that occurred on or between October 28, 2014, and November 25, 2014.

25 On March 18, 2015, Defendant filed a Pre-trial Petition for Writ of Habeas Corpus. The  
26 State filed a return on April 17, 2015. Defendant's Petition was denied on May 18, 2015.  
27  
28



1 After several continuances due to discovery issues, trial commenced on May 5, 2016,  
2 before the Honorable William Kephart. On May 25, 2016, the jury returned a guilty verdict on  
3 69 felony and 2 gross misdemeanor counts.<sup>1</sup>

4 Defendant was sentenced on September 8, 2016 and a Judgment of Conviction was  
5 entered on September 20, 2016, in which Defendant was adjudicated guilty as follows:  
6 COUNTS 1, 8, 11, 16, 22, 33, 37, 44, 48, 52, 60, and 68 BURGLARY WHILE IN  
7 POSSESSION OF A DEADLY WEAPON (Category B Felony); COUNTS 2, 9, 12, 17, 23,  
8 34, 38, 45, 49, 54, 61, 69 and 81 CONSPIRACY TO COMMIT ROBBERY (Category B  
9 Felony); COUNTS 3, 4, 5, 6, 7, 10, 13, 14, 15, 18, 19, 20, 21, 24, 25, 39, 40, 41, 42, 43, 46,  
10 47, 50, 51, 56, 57, 58, 59, 64, 66, 72, 74, 76, 78 and 80 ROBBERY WITH USE OF A  
11 DEADLY WEAPON (Category B Felony); COUNTS 35, 36, and 82 ATTEMPT ROBBERY  
12 WITH USE OF A DEADLY (Category B Felony); COUNT 55 FALSE IMPRISONMENT  
13 WITH USE OF A DEADLY WEAPON (Category B Felony); COUNTS 63 and 65 SECOND  
14 DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON (Category B Felony);  
15 COUNTS 71, 73, 75, 77 and 79 FALSE IMPRISONMENT (Gross Misdemeanor).

16 Defendant was sentenced as follows: as to COUNT 1 - 12-84 months; as to COUNT 2  
17 - 12-36 months; as to COUNT 3 - 24-84 months; plus a CONSECUTIVE term of 12-60  
18 months for use of a deadly weapon; as to COUNT 4 -24-84 months; plus a CONSECUTIVE  
19 12-60 months for use of a deadly weapon; as to COUNT 5 - 24-84 months; plus a  
20 CONSECUTIVE 12-60 months for use of a deadly weapon; as to COUNT 6 - 24-84 months;  
21 plus a CONSECUTIVE term of 12-60 months for use of a deadly weapon; as to COUNT 7 -  
22 24-84 months; plus a CONSECUTIVE term 12-60 months for use of a deadly weapon;  
23 COUNTS 1- 7 CONCURRENT with EACH OTHER; COUNT 8 - 12-84 months; as to  
24 COUNT 9 - 12-36 months; as to COUNT 10 - 24-84 months; plus a CONSECUTIVE term  
25 of 12-60 months for use of a deadly weapon; COUNTS 8-10 CONCURRENT with EACH  
26 OTHER and CONSECUTIVE to COUNT 7; as to COUNT 11 - 12-84 months; as to COUNT  
27 12 - 12-36 months; as to COUNT 13 - 24-84 months; plus a CONSECUTIVE term of a 12-

28 \_\_\_\_\_  
<sup>1</sup> Defendant was found not guilty of the following counts: 26-32, 53, 62, 67, and 70.

1 60 months for use of a deadly weapon; as to COUNT 14 – 24-84 months; plus a  
2 CONSECUTIVE term of 12-60 months for use of a deadly weapon; as to COUNT 15 – 24-84  
3 months; plus a CONSECUTIVE term of 12 to 60 months for use of a deadly weapon;  
4 COUNTS 11-15 CONCURRENT with EACH OTHER and CONSECUTIVE to COUNT 10;  
5 as to COUNT 16 – 12-84 months; as to COUNT 17 – 12-36 months; as to COUNT 18 – 24-  
6 84 months; plus a CONSECUTIVE term of 12-60 months for use of a deadly weapon; as to  
7 COUNT 19 – 24-84 months; plus a CONSECUTIVE term of 12-60 months for use of a deadly  
8 weapon; as to COUNT 20 – 24-84 months; plus a CONSECUTIVE term 12-60 months for use  
9 of a deadly weapon; as to COUNT 21 – 24-84 months; plus a CONSECUTIVE term of 12-60  
10 months for use of a deadly weapon; COUNTS 16-21 CONCURRENT with EACH OTHER  
11 and CONSECUTIVE to COUNT 15; as to COUNT 22 – 12-84 months; as to COUNT 23 –  
12 12-36 months; as to COUNT 24 – 24-84 months; plus a CONSECUTIVE term 12-60 months  
13 for use of a deadly weapon; as to COUNT 25 – 24-84 months; plus a CONSECUTIVE term  
14 of 12-60 months for use of a deadly weapon; COUNTS 22-25 CONCURRENT with EACH  
15 OTHER and CONSECUTIVE to COUNT 21; as to COUNT 33 – 12-84 months; as to COUNT  
16 34 – 12-36 months; as to COUNT 35 – 24-84 months; plus a CONSECUTIVE term of a  
17 MINIMUM 12-60 months for use of a deadly weapon; as to COUNT 36 – 24-84 months; plus  
18 a CONSECUTIVE term of 12-60 months for use of a deadly weapon; COUNTS 33-36  
19 CONCURRENT with EACH OTHER and CONSECUTIVE to COUNT 25; as to COUNT 37  
20 – 12-84 months; as to COUNT 38 – 12-36 months; as to COUNT 39 – 24-84 months; plus a  
21 CONSECUTIVE term of 12-60 months for use of a deadly weapon; as to COUNT 40 – 24-84  
22 months; plus a CONSECUTIVE term of 12-60 months for use of a deadly weapon; as to  
23 COUNT 41 -24-84 months; plus a CONSECUTIVE term of 12-60 month for use of a deadly  
24 weapon; as to COUNT 42 – 24-84 months; plus a CONSECUTIVE term of a 12-60 months  
25 for use of a deadly weapon; as to COUNT 43 – 24-84 months; plus a CONSECUTIVE term  
26 of 12-60 months for use of a deadly weapon; COUNTS 37-43 CONCURRENT with EACH  
27 OTHER and CONSECUTIVE to COUNT 36; as to COUNT 44 – 12-84 months; as to COUNT  
28 45 – 12-36 months; as to COUNT 46 – 24-84 months; plus a CONSECUTIVE term of 12-60

1 months for use of a deadly weapon; as to COUNT 47 – 24-84 months; plus a CONSECUTIVE  
2 term of 12-60 months for use of a deadly weapon; COUNTS 44-47 CONCURRENT with  
3 EACH OTHER and CONSECUTIVE to COUNT 43; as to COUNT 48 – 12-84 months; as to  
4 COUNT 49 – 12-36 months; as to COUNT 50 – 24-84 months; plus a CONSECUTIVE term  
5 of 12-60 months for use of a deadly weapon; as to COUNT 51 - 24-84 months; plus a  
6 CONSECUTIVE term of 12-60 month for use of a deadly weapon; COUNTS 48-51  
7 CONCURRENT with EACH OTHER and CONSECUTIVE to COUNT 47; as to COUNT 52  
8 – 12-84 months; as to COUNT 54 -12-36 months; as to COUNT 55 - 12-36 months; as to  
9 COUNT 56 – 24-84 months; plus a CONSECUTIVE term 12-60 months for use of a deadly  
10 weapon; as to COUNT 57 – 24-84 months; plus a CONSECUTIVE term of 12-60 months for  
11 use of a deadly weapon; as to COUNT 58 – 24-84 months; plus a CONSECUTIVE term of  
12 12-60 months for use of a deadly weapon; as to COUNT 59 – 24-84 months; plus a  
13 CONSECUTIVE term of 12-60 months for use of a deadly weapon; COUNTS 52-59  
14 CONCURRENT with EACH OTHER and CONSECUTIVE to COUNT 51; as to COUNT 60  
15 – 12-84 months; as to COUNT 61 – 12-36 months; as to COUNT 63 – 24-84 months; plus a  
16 CONSECUTIVE term of a 12-60 month for use of a deadly weapon; as to COUNT 64 – 24-  
17 84 months; plus a CONSECUTIVE term of 12-60 months for use of a deadly weapon; as to  
18 COUNT 65 – 24-84 months; plus a CONSECUTIVE term of a MINIMUM of 12-60 months  
19 for use of a deadly weapon; as to COUNT 66 – 24-84 months; plus a CONSECUTIVE term  
20 of 12-60 months for use of a deadly weapon; COUNTS 60-66 CONCURRENT with EACH  
21 OTHER and CONSECUTIVE to COUNT 59; as to COUNT 68 - 12-84 months; as to COUNT  
22 69 – 12-36 months; as to COUNT 71 - 364 days in the Clark County Detention Center; as to  
23 COUNT 72 - to 24-84 months; plus a CONSECUTIVE term of 12-60 months for use of a  
24 deadly weapon; as to COUNT 73 – 24-84 months; plus a CONSECUTIVE term of a 12-60  
25 months for use of a deadly weapon; as to COUNT 74 – 24-84 months; plus a CONSECUTIVE  
26 term of 12-60 month for use of a deadly weapon; as to COUNT 75 - 364 days in the Clark  
27 County Detention Center; as to COUNT 76 – 24-84 months; plus a CONSECUTIVE term of  
28 12-60 months for use of a deadly weapon; as to COUNT 77 – 364 days in the Clark County

1 Detention Center; as to COUNT 78 – 24-84 months; plus a CONSECUTIVE term of 12-60  
2 months for use of a deadly weapon; as to COUNT 79 – 364 day in the Clark County Detention  
3 Center; as to COUNT 80 – 24-84 months; plus a CONSECUTIVE term of 12-60 months for  
4 use of a deadly weapon; COUNTS 68-80 CONCURRENT with EACH OTHER and  
5 CONSECUTIVE to COUNT 66; as to COUNT 81 - 12-36 months; as to COUNT 82 – 24-84  
6 months; plus a CONSECUTIVE term of 12-60 months for use of a deadly weapon; COUNTS  
7 81 and 82 CONCURRENT with EACH OTHER and CONSECUTIVE to COUNT 80; with  
8 six hundred fifty four (654) days of credit for time served. Defendant was sentenced to the  
9 Nevada Department of Corrections to an aggregate term of 1,824 months with a minimum  
10 parole eligibility of 444 months. A Judgment of Conviction (“JOC”) was filed on September  
11 20, 2016.<sup>2</sup>

12 On October 5, 2016, Defendant filed a Notice of Appeal. On April 26, 2017, Defendant  
13 filed his opening brief. On August 24, 2017, the State filed its answering brief. On June 1,  
14 2018, the Nevada Supreme Court affirmed in part and reversed in part Defendant’s Judgment  
15 of Conviction. The Nevada Supreme Court reversed three of Defendant’s robbery counts (25,  
16 39, and 66). Remittitur was issued on June 26, 2018.

17 On November 13, 2018, Defendant filed the instant Petition for Writ of Habeas Corpus  
18 (“Petition”). The State responded on February 14, 2019. The district court heard this matter  
19 and denied Defendant’s Petition on February 25, 2019.

#### 20 **STATEMENT OF THE FACTS**

21 Beginning in October of 2014, Las Vegas Metropolitan Police Department (“Metro”)  
22 detectives began investigating a series of armed robbery incidents with similar M.O. and  
23 suspect descriptions. See Defendant’s Presentence Investigation Report (“PSI”), filed August  
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25 <sup>2</sup> A clerical error was later noted, and an Amended Judgment of Conviction was filed January  
26 9, 2017 reflecting that he was sentenced as to Count 36- sixty (60) months with a minimum  
27 parole eligibility of twelve (12) months, plus a consecutive sentence of sixty (60) months with  
28 a minimum parole eligibility of twelve (12) months. The error did not affect his aggregate  
sentence.

1 23, 2016, at 5-6. On October 28, 2014, two suspects entered an El Pollo Loco restaurant  
2 through an open rear door and ordered all the employees to the ground. Id. The suspects took  
3 approximately \$1,000 in cash from a safe. Id. They also pistol whipped an employee, punched  
4 a pregnant female in the side of the stomach, and punched another employee in the back of the  
5 neck. Id.

6 On October 29, 2014, two suspects entered a 7-11 and took \$100 in cash out of the  
7 registers. Id. On November 1, 2014, two male suspects entered a Pizza Hut and ordered the  
8 employees to the ground. Id. One of the suspects took the entire register off the counter and  
9 both suspects then fled from the business. Id. The employees estimated there was a total of  
10 \$160 in the register. Id. A review of surveillance footage later revealed a third suspect entered  
11 the business and acted as a lookout. Id. On November 3, 2014, two male suspects entered a  
12 Pizza Hut, jumped over the counter and forced all the employees to the ground. Id. They then  
13 took approximately \$200 in cash from the register, along with an employee's cell phone, cash  
14 and pocket knife. Id. One of the suspects pistol whipped the manager before they both fled out  
15 the rear door of the business. Id. Surveillance video from a nearby business showed a gray  
16 Dodge Charger pull into the complex and park just east of the Pizza Hut. Id. On November 4,  
17 2014, two male suspects entered a Little Caesar's and demanded the safe to be opened. Id. The  
18 employee advised the suspects he did not have access to the safe. Id. One of the suspects then  
19 took the employee's cell phone. Id. A gray Charger was once again seen near the business and  
20 was no longer present after the robbery. Id.

21 On November 15, 2014, a male suspect entered a Popeyes by kicking in a glass door,  
22 armed with a handgun. Id. An employee attempted to flee out a back door and was confronted  
23 by a second male suspect. Id. The first suspect ordered the manager to open the safe at  
24 gunpoint. Id. The suspect then took approximately \$2,000 in cash before fleeing. Id. On  
25 November 17, 2014, a male suspect entered a Burger King by breaking the window to the front  
26 door. Id. The employees ran out the back door where one of the employees was hit in the face  
27 and knocked to the ground by a second male suspect. Id. The second suspect then produced a  
28 revolver, held an employee down on the ground and stated, "Where is the money at? I'm gonna

1 kill him if I don't get the money." Id. The manager ran out of the business and contacted police.  
2 Id. The first suspect, along with a third suspect, then grabbed one of the employees and  
3 demanded the money from the safe and registers. Id. Ultimately, the suspects left by running  
4 out the back door without any money. Id. That same day, three suspects entered a Wendy's by  
5 breaking the side glass door of the business. Id. One of the suspects approached a female sitting  
6 in the lobby, grabbed her by sweatshirt and forced her to the back area. Id. The store manager  
7 was struck in the head with a handgun and forced to open the safe. Id. The manager then  
8 removed the cash and placed it in the bag the suspects had brought with them. Id. All three  
9 suspects then ran out the side emergency exit. Id.

10 On November 21, 2014, two male suspects entered a Wendy's by breaking the glass  
11 door to the business. Id. Both suspects gathered the employees and moved them to the office.  
12 Id. One of the suspects approached the manager placed the revolver to her head and had her  
13 empty approximately \$200 in cash from the safe. Id. On November 23, 2014, two male  
14 suspects entered an El Pollo Loco by breaking the glass door. Id. One of the employees fled  
15 out the back door and was met by the second male suspect who then forced the employee back  
16 inside the business. Id. The suspects forced the manager to open the safe and took  
17 approximately \$2,050 in cash. Id. Later that day, two male suspects entered a Taco Bell by  
18 breaking the glass door. Id. The employees fled to the rear exit door where they were stopped  
19 by one of the suspects. Id. However, one of the employees was able to escape while two other  
20 employees were forced into the office at gunpoint. Id. The first suspect told the employee to  
21 "open the fucking safe," while pointing his handgun at her head. Id. Both employees told the  
22 suspects they did not have access. Id. The two suspects then fled the area in a Dodge Charger.  
23 Id. Lastly, on November 24, 2014, a male suspect broke the front door of a Popeyes location  
24 and entered with a handgun. Id. The employees immediately ran to the back exit and were met  
25 by a second suspect who forced them back into the business at gunpoint. Id. The first suspect  
26 gave the manager a bag and demanded she fill it with the money from the safe and cash  
27 registers. Id. The suspects then took the bag along with the manager's cell phone as they ran  
28 out the emergency door. Id.

1 On November 25, 2014, a detective familiar with the investigation observed a gray  
2 Dodge Charger matching the suspect vehicle pull into a Taco Bell parking lot. Id. A short time  
3 later a male, later identified as the Defendant Starr, exited the rear passenger side of the vehicle  
4 wearing a mask covering his face. Id. Defendant Starr then opened the trunk and was standing  
5 next to it when patrol units arrived. Id. Defendant Starr was taken into custody, along with the  
6 Defendant and Defendant Johns. Id. In the open trunk of the Charger the detective observed a  
7 two-foot long ax and a semi-automatic firearm. Id. Several other items were later located in  
8 the vehicle including a Smith and Wesson revolver, gloves, surgical masks, folding pocket  
9 knives and clothing which matched the suspects' clothing in the robberies. Id.

10 Upon questioning, Defendant Johns confessed to being the getaway driver for several  
11 robberies. Id. He also admitted that Defendant Starr and Defendant would enter the businesses  
12 and conduct the robberies. Id. Defendant Johns told authorities that he stayed in the vehicle at  
13 all times and never entered any of the businesses during the robberies. Id. Defendant Johns  
14 had detailed knowledge of the robberies and stated that Defendant and Defendant Starr showed  
15 him the firearms used in the robberies. Id. Defendant and Defendant Starr were uncooperative  
16 and refused to speak with detectives. Id. Defendant and Defendant Starr were both wearing  
17 clothing which matched the suspects' clothing seen on surveillance videos from multiple  
18 robbery events. Id. Based on the above facts, Defendant was arrested, transported to the Clark  
19 County Detention Center, and booked accordingly.

#### 20 ANALYSIS

21 In his Petition Defendant claims that counsel was ineffective for (1) not objecting and  
22 not seeking a mistrial regarding incriminating receipts found at Defendant's residence; (2)  
23 failing to raise the issue that accomplice testimony was not corroborated under NRS  
24 175.291(1) in a pre-trial Petition; (3) not arguing that there were inconsistencies between  
25 Defendant Johns' statements to police and Detective Abell's testimony at the first grand jury  
26 proceeding; (4) not objecting to two DNA reports that were offered into evidence; (5) failing  
27 to object to the admission of photographs; (6) not independently testing DNA or hiring a DNA  
28 expert; (7) failing to subpoena all the alleged victims; (8) not subpoenaing a JAG officer; (9)

1 not raising a violation of the Confrontation Clause issue on direct appeal; (10) failing to  
2 subpoena Detective Flynn; (11) not subpoenaing Officer Mohler; (12) failing to investigate;  
3 (13) failing to impeach the DNA expert with an email she sent Detective Abell; and (14) failing  
4 to challenge jury instruction 43 regarding the corroboration of accomplice testimony.

5 **I. STANDARD OF REVIEW FOR INEFFECTIVE ASSISTANCE OF**  
6 **COUNSEL**

7 The Sixth Amendment to the United States Constitution provides that, “[i]n all criminal  
8 prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his  
9 defense.” The United States Supreme Court has long recognized that “the right to counsel is  
10 the right to the effective assistance of counsel.” Strickland v. Washington, 466 U.S. 668, 686,  
11 104 S. Ct. 2052, 2063 (1984); see also State v. Love, 109 Nev. 1136, 1138, 865 P.2d 322, 323  
12 (1993).

13 To prevail on a claim of ineffective assistance of trial counsel, a defendant must prove  
14 he was denied “reasonably effective assistance” of counsel by satisfying the two-pronged  
15 Strickland test. 466 U.S. at 686-87, 104 S. Ct. at 2063-64. See also Love, 109 Nev. at 1138,  
16 865 P.2d at 323. Under the Strickland test, a defendant must show first that his counsel's  
17 representation fell below an objective standard of reasonableness, and second, that but for  
18 counsel's errors, there is a reasonable probability that the result of the proceedings would have  
19 been different. 466 U.S. at 687-88, 694, 104 S. Ct. at 2065, 2068; Warden, Nevada State  
20 Prison v. Lyons, 100 Nev. 430, 432, 683 P.2d 504, 505 (1984) (adopting the Strickland two-  
21 part test). “[T]here is no reason for a court deciding an ineffective assistance claim to approach  
22 the inquiry in the same order or even to address both components of the inquiry if the defendant  
23 makes an insufficient showing on one.” Strickland, 466 U.S. at 697, 104 S. Ct. at 2069.

24 The court begins with the presumption of effectiveness and then must determine  
25 whether the defendant has demonstrated by a preponderance of the evidence that counsel was  
26 ineffective. Means v. State, 120 Nev. 1001, 1011, 103 P.3d 25, 32 (2004). “Effective counsel  
27 does not mean errorless counsel, but rather counsel whose assistance is ‘[w]ithin the range of  
28 competence demanded of attorneys in criminal cases.’” Jackson v. Warden, 91 Nev. 430, 432,



1 537 P.2d 473, 474 (1975).

2 “There are countless ways to provide effective assistance in any given case. Even the  
3 best criminal defense attorneys would not defend a particular client in the same way.”  
4 Strickland, 466 U.S. at 689, 104 S. Ct. at 689. “Strategic choices made by counsel after  
5 thoroughly investigating the plausible options are almost unchallengeable.” Dawson v. State,  
6 108 Nev. 112, 117, 825 P.2d 593, 596 (1992); see also Ford v. State, 105 Nev. 850, 853, 784  
7 P.2d 951, 953 (1989). In essence, the court must “judge the reasonableness of counsel’s  
8 challenged conduct on the facts of the particular case, viewed as of the time of counsel’s  
9 conduct.” Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. Counsel cannot be ineffective for  
10 failing to make futile objections or arguments. See Ennis v. State, 122 Nev. 694, 706, 137 P.3d  
11 1095, 1103 (2006). Trial counsel has the “immediate and ultimate responsibility of deciding if  
12 and when to object, which witnesses, if any, to call, and what defenses to develop.” Rhyne v.  
13 State, 118 Nev. 1, 8, 38 P.3d 163, 167 (2002).

14 Based on the above law, the role of a court in considering allegations of ineffective  
15 assistance of counsel is “not to pass upon the merits of the action not taken but to determine  
16 whether, under the particular facts and circumstances of the case, trial counsel failed to render  
17 reasonably effective assistance.” Donovan v. State, 94 Nev. 671, 675, 584 P.2d 708, 711  
18 (1978). This analysis does not mean that the court should “second guess reasoned choices  
19 between trial tactics nor does it mean that defense counsel, to protect himself against  
20 allegations of inadequacy, must make every conceivable motion no matter how remote the  
21 possibilities are of success.” Id. To be effective, the constitution “does not require that counsel  
22 do what is impossible or unethical. If there is no bona fide defense to the charge, counsel  
23 cannot create one and may disserve the interests of his client by attempting a useless charade.”  
24 United States v. Cronin, 466 U.S. 648, 657 n.19, 104 S. Ct. 2039, 2046 n.19 (1984).

25 Even if a defendant can demonstrate that his counsel’s representation fell below an  
26 objective standard of reasonableness, he must still demonstrate prejudice and show a  
27 reasonable probability that, but for counsel’s errors, the result of the trial would have been  
28 different. McNelson v. State, 115 Nev. 396, 403, 990 P.2d 1263, 1268 (1999) (citing

1 Strickland, 466 U.S. at 687, 104 S. Ct. at 2064). “A reasonable probability is a probability  
2 sufficient to undermine confidence in the outcome.” Id. (citing Strickland, 466 U.S. at 687-89,  
3 694, 104 S. Ct. at 2064-65, 2068). “The defendant carries the affirmative burden of  
4 establishing prejudice.” Riley v. State, 110 Nev. 638, 646, 878 P.2d 272, 278 (1994). A  
5 habeas corpus petitioner must prove the factual allegations underlying his ineffective-  
6 assistance claim by a preponderance of the evidence. Means v. State, 120 Nev. 1001, 1012,  
7 103 P.3d 25, 33 (2004).

8 Further, there is a strong presumption that appellate counsel's performance was  
9 reasonable and fell within “the wide range of reasonable professional assistance.” See United  
10 States v. Aguirre, 912 F.2d 555, 560 (2nd Cir. 1990); citing Strickland, 466 U.S. at 689, 104  
11 S. Ct. at 2065. A claim of ineffective assistance of appellate counsel must also satisfy the two-  
12 prong test set forth by Strickland. Kirksey v. State, 112 Nev. 980, 998, 923 P.2d 1102, 1114  
13 (1996). In order to satisfy Strickland's second prong, the defendant must show that the omitted  
14 issue would have had a reasonable probability of success on appeal. Id.

15 The professional diligence and competence required on appeal involves “winnowing  
16 out weaker arguments on appeal and focusing on one central issue if possible, or at most on a  
17 few key issues.” Jones v. Barnes, 463 U.S. 745, 751-52, 103 S. Ct. 3308, 3313 (1983). In  
18 particular, a “brief that raises every colorable issue runs the risk of burying good arguments .  
19 . . in a verbal mound made up of strong and weak contentions.” Id. at 753, 103 S. Ct. at 3313.  
20 For judges to second-guess reasonable professional judgments and impose on appointed  
21 counsel a duty to raise every 'colorable' claim suggested by a client would disserve the very  
22 goal of vigorous and effective advocacy.” Id. at 754, 103 S. Ct. at 3314.

23 Lastly, the Nevada Supreme Court has held “that a habeas corpus petitioner must prove  
24 the disputed factual allegations underlying his ineffective-assistance claim by a preponderance  
25 of the evidence.” Id. Furthermore, claims of ineffective assistance of counsel asserted in a  
26 petition for post-conviction relief must be supported with specific factual allegations, which if  
27 true, would entitle the petitioner to relief. Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222,  
28 225 (1984). “Bare” and “naked” allegations are not sufficient, nor are those belied and repelled

1 by the record. Id. NRS 34.735(6) states in relevant part, “[Petitioner] *must* allege specific facts  
2 supporting the claims in the petition[.] . . . Failure to allege specific facts rather than just  
3 conclusions may cause your petition to be dismissed.” (emphasis added).

4 A defendant who contends his attorney was ineffective because he did not adequately  
5 investigate must show how a better investigation would have rendered a more favorable  
6 outcome probable. Molina v. State, 120 Nev. 185, 192, 87 P.3d 533, 538 (2004).

7 **II. DEFENDANT DID NOT RECEIVE INEFFECTIVE ASSISTANCE OF**  
8 **COUNSEL**

9 Defendant raises 14 claims regarding ineffective assistance of counsel in his Petition.  
10 Therefore, the Court addresses each argument in turn.

11 **1. Counsel was not ineffective for not objecting or seeking a mistrial.**

12 Defendant argues that counsel was ineffective because he failed to call Detective Flynn  
13 as a witness. Petition at 1. Defendant avers that calling Detective Flynn as a witness was  
14 necessary because an alleged discrepancy existed between the detectives. Id. Specifically,  
15 Defendant claims that Detective Abell said the receipts were found in the “trash can” while,  
16 according to Defendant, Detective Turner and Flynn would have testified that the receipts were  
17 found elsewhere in the home. Id. at 2-3. Defendant’s arguments are unpersuasive.

18 Here, Defendant’s argument assumes rather than demonstrates that calling the other  
19 detectives would have rendered favorable testimony for his case. Under Hargrove, Defendant’s  
20 claim is thus a bare and naked assertion that is suitable for summary denial. 100 Nev. at 502,  
21 686 P.2d at 225. Further, objecting or moving for mistrial would have been futile. Assuming  
22 counsel would have been successful at impeaching each of the detectives, the impeachment  
23 value would have been extremely minimal. This is particularly true because, ultimately, the  
24 receipts were found where Defendant was staying. Therefore, the exact location where they  
25 were found would have been immaterial. Moreover, the location of where the receipts were  
26 found in the home would not have made the evidence inadmissible and would not have  
27 changed the fact that numerous pieces of evidence were also found in the home linking  
28 Defendant to the crimes.

1 As such, Defendant's bare and naked assertions regarding trial counsel's performance  
2 fail to show that counsel, by a preponderance of evidence, was deficient in his performance  
3 and Defendant was prejudiced by such performance. Indeed, any objection by trial counsel  
4 would have been futile, and counsel cannot be ineffective for failing to raise futile issues or  
5 motions. Ennis, 122 Nev. at 706, 137 P.3d at 1103. Therefore, Defendant's bare and naked  
6 assertions fail under Hargrove, 100 Nev. at 502, 686 P.2d at 225. Accordingly, because  
7 Defendant fails to meet either Strickland prong, his claims are denied.

8 **2. Counsel was not ineffective for not raising NRS 175.291 in a pre-trial petition.**

9 Next, Defendant argues counsel was ineffective because he failed to raise NRS 175.291  
10 in a pre-trial Petition. Petition at 4-7. Defendant argues that if counsel had raised this issue the  
11 Court would have found that Defendant Johns testimony was not corroborated. Id. Defendant's  
12 argument lacks merit.

13 Here, Defendant ignores that aside from accomplice testimony, which is alleged to be  
14 uncorroborated by a defendant, the State can satisfy the statutory requirement by showing that  
15 a substantial amount of evidence tends to connect the defendant to the crime. See Cutler v.  
16 State, 566 P.2d 809, 93 Nev. 329 (1977); Evans v. State, 944 P.2d 253, 113 Nev. 885 (1997).  
17 In this case, there were numerous pieces of evidence connecting Defendant to the crime. These  
18 included evidence gathered from the Dodge Charger, Defendant's home, and the still images  
19 from the surveillance videos. Further, counsel filed a 32-page pre-trial petition with numerous  
20 exhibits. See Pretrial Petition, filed March 18, 2015. This lengthy petition raised several claims  
21 that were more meritorious than the issue Defendant, in hindsight, wanted raised. In fact, in  
22 Defendant's Petition, he concedes that counsel raised "numerous issues" and challenged the  
23 following: the kidnapping charge, lack of probable cause, hearsay testimony, best evidence,  
24 and "many other issues." Petition at 4. Claims of ineffective assistance of counsel asserted in  
25 a petition for post-conviction relief must be supported with specific factual allegations, which  
26 if true, would entitle the defendant to relief. Hargrove, 100 Nev. at 502, 686 P.2d at 225.  
27 Defendant's claims that NRS 175.291 would have been successful if it was raised in a pre-trial  
28 petition are simply bare and naked allegations that are insufficient to warrant relief. Id.

1 Therefore, because counsel's strategy was a reasonably objective one and Defendant fails to  
2 demonstrate that he was prejudiced by counsel's strategy, his claim is denied in its entirety.

3 **3. Counsel was not ineffective for failing to raise perjury of Detective Abell during**  
4 **his testimony at the first grand jury proceeding.**

5 Next, Defendant argues that counsel was ineffective for not challenging, in the pre-trial  
6 petition, the fact that Detective Abell presented the grand jury with "perjured false testimony."  
7 Petition at 9. Defendant claims that there were inconsistencies between Defendant Johns'  
8 statements to police and Detective Abell's testimony at trial. Id. at 9-12.

9 Here, Defendant boldly asserts that Detective Abell provided the grand jury with  
10 perjured testimony. However, Defendant provides no evidence to support his assertion.  
11 Therefore, this is a bare and naked claim that is suitable for denial under Hargrove. Moreover,  
12 raising this argument would have been futile because Detective Abell's testimony was not  
13 false. See Ennis (reasoning that counsel cannot be ineffective for failing to make futile  
14 arguments). 122 Nev. at 706, 137 P.3d at 1103. Rather, this was general testimony regarding  
15 the extensive robbery series that focused on the similarities in suspect description, clothing,  
16 vehicles, and Modus Operandi. Therefore, Defendant's bare and naked assertions that Detective  
17 Abell presented false testimony are insufficient to warrant relief. Additionally, Defendant fails  
18 to show, by a preponderance of evidence, that trial counsel was deficient in his decision not to  
19 raise a futile argument. Accordingly, Defendant fails to meet either Strickland prong and his  
20 claims is denied.

21 **4. Counsel was not ineffective for not objecting to the introduction of the DNA**  
22 **reports.**

23 Next, Defendant argues that counsel was ineffective because he failed to object to two  
24 DNA reports that were admitted at trial. Petition at 15. Defendant claims that prior to trial  
25 counsel was successful in filing a motion asking for a retest of the DNA that had come back  
26 as a "positive partial" match. Id. Once retested, the DNA came back as "inconclusive." Id.

27 Here, counsel made a strategic decision to allow two conflicting DNA reports into  
28 evidence in an effort to establish reasonable doubt. Counsel's strategy was reasonable because

1 by admitting the two reports the jury could have concluded that the State's own DNA evidence  
2 was conflicted. See Doyle v. State, 116 Nev. 148, 160, 995 P.2d 465, 473 (2000) (reasoning  
3 that "[c]ounsel's strategy decisions are not subject to challenge absent extraordinary  
4 circumstances."). Additionally, Defendant's assertion is bare and naked because he fails to  
5 allege on what basis counsel should have objected and that such objection had a reasonable  
6 likelihood of success. This is particularly significant because both reports were admissible and,  
7 ultimately, admitted. Since Defendant has failed to show that counsel's performance was  
8 deficient, and does not demonstrate how the result of the trial would have been more favorable  
9 had counsel objected, his claim fails under either Strickland prong. Accordingly, this claim is  
10 denied.

11 **5. Counsel was not ineffective for failing to object to the admission of a**  
12 **photograph**

13  
14 Next, Defendant appears to argue that counsel was ineffective because he should have  
15 objected to the admission of series of photographs depicting various cellphones and several  
16 hundreds of dollars. Petition, 17-21; Petition, Exhibit 7. Defendant maintains that the  
17 cellphones belonged to his girlfriend and other family members. Id. With respect to the money  
18 depicted in Exhibit 7, Defendant appears to claim that it was his and that he gave it to his  
19 girlfriend to take care of his children. Id. Defendant concludes that counsel was ineffective for  
20 not subpoenaing records from cellphone companies that would have demonstrated that the  
21 cellphones were not stolen. Further, Defendant also avers counsel was ineffective for not filing  
22 a motion to suppress the photographs of the cellphones and money. Defendant's arguments  
23 are unpersuasive.

24 Preliminarily, a defendant who contends his attorney was ineffective because he did not  
25 adequately investigate must show how a better investigation would have rendered a more  
26 favorable outcome probable. Molina, 120 Nev. at 192, 87 P.3d at 538. Here, it is unclear what  
27 further investigation would have yielded with respect to the photographs depicting the  
28 cellphones and money. Again, Defendant's arguments *assume* rather than *demonstrate* that if

1 counsel had reached out to T-Mobile or Sprint, he would have confirmed Defendant's theory  
2 that the cellphones found at his home belonged to his "girlfriend and family members" and  
3 thus, a more favorable outcome would have been probable. Petition at 17. However,  
4 Defendant, in his Petition, did not include any cellphone records from T-Mobile or Sprint  
5 indicating that the phones belonged to his girlfriend and family members. Therefore,  
6 Defendant's claim is a bare and naked assertion that should preclude review by this Court  
7 under Hargrove and Molina. Lastly, Defendant fails to state a basis for an objection and the  
8 likelihood of success had counsel objected. Accordingly, because Defendant has not shown  
9 that further investigation regarding the photographs would have rendered a more favorable  
10 outcome, Defendant's claim is denied.

11 **6. Counsel was not ineffective for not independently testing the DNA or hiring a**  
12 **DNA expert to testify.**

13 Next, Defendant appears to argue that counsel was ineffective because he should have  
14 tested the DNA independently and hired a DNA expert to rebut the State's DNA expert's  
15 testimony. Petition at 22-24. Defendant's argument lacks merit.

16 Here, as discussed supra in Section II, 4, counsel was successful in filing a motion to  
17 retest the DNA. The retested DNA results concluded that the DNA evidence was conflicting.  
18 In light of this fact, counsel likely made a reasonably strategic decision to not hire a DNA  
19 expert or independently retest the evidence. Indeed, counsel likely concluded that doing so  
20 would have yielded inculpatory results rather than conflicting reports based on the State's  
21 evidence. As Defendant mentioned in his Petition, counsel instead relied on cross-examination  
22 to address the differences in the DNA test results. Petition at 22-24. Moreover, this is a bare  
23 and naked assertion as Defendant fails to allege what retesting would have yielded, what an  
24 expert would have testified to, and that having such expert testimony would have rendered a  
25 more favorable outcome at trial. As Defendant has not retested the DNA and provided such  
26 results to the Court, this claim is precluded from review under Hargrove and Molina.  
27 Accordingly, Defendant's claim is denied.

28 //

1           **7. Counsel was not ineffective for not subpoenaing all the alleged victims.**

2           Next, Defendant claims that counsel was ineffective because he failed to call every  
3           alleged victim in this case. Petition at 25-26. Defendant claims that the victims only testified  
4           about some, but not all of the evidence and that counsel should have subpoenaed victims that  
5           were unavailable or were not called by the State. *Id.* Defendant's arguments are unpersuasive.

6           Here, Defendant's claim is bare and naked and is denied under Hargrove and Molina.  
7           This is particularly true because Defendant does not present any evidence demonstrating that  
8           if counsel called other witnesses their testimony would have been instrumental in rendering a  
9           more favorable outcome at trial. In fact, Defendant fails to identify which witnesses he would  
10          have called and what evidence each witness would have testified to. Bare claims, such as this  
11          one, are insufficient to demonstrate that a petitioner is entitled to relief. *See Molina*, 120 Nev.  
12          at 192, 87 P.3d at 538 (a defendant claiming counsel did not conduct an adequate investigation  
13          must specify what a more thorough investigation would have uncovered); *see*  
14          also Hargrove, 100 Nev. at 502-03, 686 P.2d at 225 (explaining that bare and naked claims  
15          are insufficient to demonstrate that a petitioner is entitled to relief). Lastly, counsel probably  
16          chose not to call such witnesses as they were likely going to provide testimony that would  
17          have negatively impacted Defendant's interests. *See Doyle*, 116 Nev. at 160, 995 P.2d at 473.  
18          Therefore, without a showing of extraordinary circumstances, counsel's strategic decisions are  
19          not subject to challenge. *Id.* As such Defendant fails to demonstrate his counsel's performance  
20          was deficient or resulting prejudice. Accordingly, this Court denies Defendant's claim.

21           **8. Counsel was not ineffective for failing to subpoena a JAG Officer.**

22          Next, Defendant argues that counsel was ineffective when he failed to subpoena a JAG  
23          Officer. Petition at 28. Defendant argues that the JAG Officer should have been subpoenaed  
24          at trial because Defendant overheard counsel say that Defendant Johns had a conversation with  
25          an alleged JAG Officer that would have benefited Defendant. *Id.* Specifically, Defendant  
26          claims that days after Defendant Johns gave the police his statement, Defendant Johns had a  
27          conversation with a JAG Officer where he admitted that he "had nothing to do with the  
28          robbery's [sic] and that he didn't in fact take the [Defendant] and [Defendant] Starr to any of



1 the robbery's [sic]." Id. Defendant's argument lacks merit.

2 Hearsay is an out-of-court statement that is offered to prove "the truth of the matter  
3 asserted" in the statement. NRS 51.035. Generally, hearsay is inadmissible at trial, unless an  
4 exception to the hearsay rule is applicable. NRS 51.065. Here, it is unclear what Defendant  
5 overheard. Defendant describes in his Petition the incident where he overheard his attorney,  
6 allegedly, talking about a conversation between Defendant Johns and the JAG Officer as:  
7 counsel "mentioned something about a JAG Officer." Petition at 28. Defendant then goes on  
8 to conclude that if the JAG Officer was subpoenaed he would have testified to the details of  
9 the conversation first-hand. Petition at 29. Defendant is mistaken because the rules of evidence  
10 would not allow this testimony. Indeed, the self-serving out-of-court statement of a co-  
11 conspirator to a JAG officer is inadmissible hearsay. Defendant does not provide any exception  
12 to the hearsay rules and one is not applicable. Asking counsel to subpoena the JAG Officer  
13 would have been futile and, therefore, counsel cannot be ineffective. Ennis, 122 Nev. at 706,  
14 137 P.3d at 1103. Accordingly, Defendant's claim is denied.

15 **9. Appellate counsel was not ineffective for not raising an alleged violation of the**  
16 **Confrontation Clause on appeal.**

17 Next, Defendant claims trial counsel moved to dismiss all counts regarding victims that  
18 did not appear to testify at trial. Petition at 30-31. Specifically, Defendant claims that appellate  
19 counsel was ineffective because she failed to raise this issue that was preserved on appeal.<sup>3</sup> Id.

20 Under NRS 34.735, a petition for post-conviction relief must set forth specific  
21 allegations. "Bare" and "naked" allegations are not sufficient to warrant post-conviction relief,  
22 nor are those belied and repelled by the record. Hargrove, 100 Nev. at 502, 686 P.2d at 225.  
23 Moreover, under Molina, a defendant who contends his attorney was ineffective because he  
24 did not adequately investigate must show how a better investigation would have rendered a  
25 more favorable outcome probable. 120 Nev. at 192, 87 P.3d at 538.

26  
27 <sup>3</sup> To clarify, Defendant framed his claim as a violation of the Confrontation Clause. However,  
28 this was not a Confrontation Clause issue. Rather, it appeared that Defendant, on direct appeal,  
wanted counsel to raise the issue that the district court abused its discretion when it denied  
Defendant's motion for mistrial.

1 Here, Defendant makes a bare and naked assertion and his claim is suitable for summary  
2 denial under Hargrove. This is particularly true because Defendant fails to identify the  
3 witnesses, testimony, and counts in question that should have been included in his direct  
4 appeal. Further, Defendant's claim also fails to meet the two-prong Strickland test. Defendant  
5 has not shown that appellate counsel was deficient nor has Defendant demonstrated that the  
6 omission of this issue would have had a reasonable probability of success on appeal. Kirksey,  
7 112 Nev. at 998, 923 P.2d at 1114. Accordingly, Defendant's claim fails under either  
8 Strickland prong and, his claim is denied.

9 **10. Counsel was not ineffective for not calling Detective Flynn as a witness.**

10 Next, Defendant argues that counsel was ineffective because he should have  
11 subpoenaed Detective Flynn as a witness. Petition at 32-34. Defendant avers that Detective  
12 Flynn found incriminating receipts in Defendant's home while executing a search warrant and  
13 his testimony could have been used to discredit Detective Abell. Id. Specifically, Defendant  
14 maintains that Detective Flynn would have testified that he found the receipts in the bedroom  
15 instead of the trashcan located in the home. Id. Defendant's arguments are unpersuasive.

16 Here, Defendant reasserts his ineffective assistance of counsel argument raised above  
17 in Section II, 1. As discussed supra, Defendant assumes that Detective Flynn would have  
18 testified that he found the receipts in a different location within the home. At most, this  
19 testimony would have provided minimal impeachment value. Primarily, because the receipts  
20 were ultimately found in the home within a trashcan located in the kitchen. See Trial  
21 Transcript, Day 10, at 148-149. Therefore, this claim is a bare and naked assertion that is  
22 suitable for summary denial under Hargrove. 100 Nev. at 502, 686 P.2d at 225. Additionally,  
23 it is likely that counsel made a strategic decision when he opted not to call Detective Flynn  
24 because he knew there was minimal impeachment value in the fact that the receipts were found  
25 in a trashcan rather than in the bedroom. See Doyle, 116 Nev. at 160, 995 P.2d at 473.  
26 Defendant's bare and naked assertions regarding trial counsel's performance fail to show that  
27 counsel, by a preponderance of evidence, was deficient in his performance and Defendant was  
28 prejudiced by such performance. Indeed, any objection by trial counsel would have been futile

1 because the location of where the receipts were found is immaterial to the question of whether  
2 such evidence, along with other incriminating evidence found in the home, was admissible.  
3 Ennis, 122 Nev. at 706, 137 P.3d at 1103. Therefore, Defendant's bare and naked assertions  
4 fail under Hargrove. 100 Nev. at 502, 686 P.2d at 225. Accordingly, because Defendant fails  
5 to meet either Strickland prong, his claims are denied.

6 **11. Counsel was not ineffective for not calling Officer Mohler as a witness.**

7 Next, Defendant argues counsel was ineffective because he failed to subpoena Officer  
8 Mohler. Petition at 35-36. Defendant claims that Officer Mohler was the one who searched  
9 Defendant during his arrest and found a blue bag. Id. Defendant concludes by arguing that if  
10 Officer Mohler testified he would have discredited Detective Matlock who testified that he  
11 searched Defendant and found the blue bag. Id. Defendant's arguments are meritless and are  
12 belied by the record.

13 Here, similar to claims 1 and 10, Defendant attempts to show that counsel was  
14 ineffective by arguing a minor detail. However, Defendant's claim is a bare and naked one  
15 that fails under Hargrove. At trial, Detective Matlock testified that *after* Defendant was  
16 arrested and once he was being escorted away, Detective Matlock noticed that Defendant "had  
17 a blue bag in his front waistband." Trial Transcript, Day 8, at 38:17. Therefore, Defendant's  
18 claim that Detective Matlock searched him is belied by the record.

19 Additionally, counsel made a strategic choice not to call Officer Mohler. This is  
20 particularly true because on cross-examination counsel spent a considerable amount of time  
21 attempting to undermine Detective Matlock's testimony regarding the blue bag. Id. at 54-59.  
22 In fact, the first line of questioning on cross-examination involved the details of when the  
23 Detective saw the blue bag. Id. Lastly, this minor detail does not alter the fact that Defendant  
24 was arrested and found in possession of the blue bag. Consequently, counsel's strategic  
25 decision to thoroughly cross-examine Detective Matlock and not call the arresting officer does  
26 not prove he was ineffective. Rather, it shows counsel made a reasonable strategic decision  
27 that, absent extraordinary circumstances, is not challengeable by Defendant. See Doyle, 116  
28 Nev. at 160, 995 P.2d at 473. Accordingly, Defendant's claim is denied.