

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES HOWARD HAYES, JR.,

Appellant,

v.

THE STATE OF NEVADA,

Respondent.

Electronically Filed
Jul 02 2019 09:31 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

Case No. 78590

RESPONDENT'S APPENDIX

MICHAEL SANFT, ESQ.
Nevada Bar #008245
Sanft Law
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State of Nevada

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Counsel for Appellant

Counsel for Respondent

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CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on 2nd day of July, 2019. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

AARON D. FORD
Nevada Attorney General

MICHAEL SANFT, ESQ.
Counsel for Appellant

CHARLES W. THOMAN
Chief Deputy District Attorney

/s/ J. Garcia

Employee, Clark County
District Attorney's Office


CLERK OF THE COURT

1 **NOTC**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MICHAEL R. DICKERSON
6 Deputy District Attorney
7 Nevada Bar #13476
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 JAMES HOWARD HAYES, aka,
13 James Howard Hayes, Jr., #2796708
14 Defendant.

CASE NO: C-16-315718-1

DEPT NO: XII

15 **NOTICE OF INTENT TO SEEK PUNISHMENT AS**
16 **A HABITUAL CRIMINAL**

17 TO: JAMES HOWARD HAYES, aka, James Howard Hayes, Jr., Defendant; and

18 TO: KELLI DEVANEY-SAUTER, DEPUTY PUBLIC DEFENDER,

19 Counsel of Record:

20 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that pursuant to NRS
21 207.010, the STATE OF NEVADA will seek punishment of Defendant JAMES HOWARD
22 HAYES, aka, James Howard Hayes, Jr., as a habitual criminal in the event of a felony
23 conviction in the above-entitled action.

24 That in the event of a felony conviction in the above-entitled action, the STATE OF
25 NEVADA will ask the court to sentence Defendant JAMES HOWARD HAYES, aka, James
26 Howard Hayes, Jr. as a habitual criminal based upon the following felony convictions, to-wit:

27 ///

28 ///

RA 000001

1 1. That on or about 2007, the Defendant was convicted in the State of Texas,
2 for the crime of TWO (2) counts of FRAUDULENT USE/POSSESSION OF PERSONAL
3 IDENTIFICATION INFORMATION (felony).

4 2. That on or about 2007, the Defendant was convicted in the State of Texas,
5 for the crime of TWO (2) counts of CREDIT CARD ABUSE (felony).

6 3. That on or about 2011, the Defendant was convicted in the State of
7 Nevada, for the crime of ATTEMPT POSSESSION OF CREDIT OR DEBIT CARD
8 WITHOUT CARDHOLDER'S CONSENT (felony) in C270308.

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

11 BY



12 MICHAEL R. DICKERSON
13 Deputy District Attorney
14 Nevada Bar #13476

15 **CERTIFICATE OF ELECTRONIC FILING**

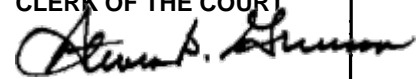
16 I hereby certify that service of NOTICE OF INTENT TO SEEK PUNISHMENT AS
17 A HABITUAL CRIMINAL, was made this 18th day of November, 2016, by Electronic Filing
18 to:

19 KELLI DEVANEY-SAUTER, Deputy Public Defender
20 EMAIL: kelli.devaney-sauter@clarkcountynv.gov;
 pdclerk@clarkcountynv.gov

21 

22 Secretary for the District Attorney's Office
23
24
25
26
27

28 13F10723X/mlb/L-2



1 NOTC
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MICHAEL R. DICKERSON
6 Deputy District Attorney
7 Nevada Bar #013476
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-

CASE NO: C-16-315718-1

12 JAMES HOWARD HAYES, aka,
13 James Howard Hayes, Jr., #2796708
14 Defendant.

DEPT NO: XII

15 **AMENDED NOTICE OF INTENT TO SEEK PUNISHMENT AS**
16 **A HABITUAL CRIMINAL**

17 TO: JAMES HOWARD HAYES, aka, James Howard Hayes, Jr., Defendant; and

18 TO: JESSICA W. MURPHY, Deputy Public Defender, Counsel of Record:

19 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that pursuant to NRS
20 207.010, the STATE OF NEVADA will seek punishment of Defendant JAMES HOWARD
21 HAYES, aka, James Howard Hayes, Jr., as a habitual criminal in the event of a felony
22 conviction in the above-entitled action.

23 That in the event of a felony conviction in the above-entitled action, the STATE OF
24 NEVADA will ask the court to sentence Defendant JAMES HOWARD HAYES, aka, James
25 Howard Hayes, Jr. as a habitual criminal based upon the following felony convictions, to-wit:

26 ///

27 ///

28
RA 000003

1 1. That on or about 2007, the Defendant was convicted in the State of Texas,
2 for the crime of CREDIT CARD ABUSE (Felony) in Case No. 108378501010.

3 2. That on or about 2011, the Defendant was convicted in the State of
4 Nevada, for the crime of ATTEMPT POSSESSION OF CREDIT OR DEBIT CARD
5 WITHOUT CARDHOLDER'S CONSENT (Category E Felony) in Case No. C270308.

6 3. That on or about 2017, the Defendant was convicted in the State of
7 Nevada, for the crime of BURGLARY (Category B Felony) in Case No. C315125.

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

10 BY 

11 MICHAEL R. DICKERSON
12 Deputy District Attorney
 Nevada Bar #013476

13
14 **CERTIFICATE OF ELECTRONIC FILING**

15 I hereby certify that service of AMENDED NOTICE OF INTENT TO SEEK
16 PUNISHMENT AS A HABITUAL CRIMINAL, was made this 27th day of August, 2017,
17 by Electronic Filing to:

18 JESSICA W. MURPHY, Deputy Public Defender
19 EMAIL: murphyjw@clarkcountynv.gov;
20 pdclerk@clarkcountynv.gov

21 
22 Secretary for the District Attorney's Office

23
24
25
26
27
28 13F10723Xpm/L-2

Steven D. Grierson

1 **MOT**
2 **STEVEN B. WOLFSON**
3 **Clark County District Attorney**
4 **Nevada Bar #001565**
5 **MICHAEL R. DICKERSON**
6 **Deputy District Attorney**
7 **Nevada Bar #13476**
8 **200 Lewis Avenue**
9 **Las Vegas, Nevada 89155-2212**
10 **(702) 671-2500**
11 **Attorney for Plaintiff**

DEPARTMENT XIX
NOTICE OF HEARING
DATE 2/4/19 TIME 8:30 AM
APPROVED BY *ML*

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

12 JAMES HOWARD HAYES,
13 aka James Howard Hayes, Jr. #2796708
14 Defendant.

CASE NO: C-16-315718-1

DEPT NO: XIX

15 **STATE'S NOTICE OF MOTION AND MOTION TO REVOKE BAIL**

16 DATE OF HEARING: February 4, 2019
17 TIME OF HEARING: 8:30 AM

18 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County
19 District Attorney, through MICHAEL R. DICKERSON, Deputy District Attorney, and files
20 this Notice Of Motion And Motion To Revoke Bail.

21 This Motion is made and based upon all the papers and pleadings on file herein, the
22 attached points and authorities in support hereof, and oral argument at the time of hearing, if
23 deemed necessary by this Honorable Court.

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DATED this 31st day of January, 2019.

BY /s/ MICHAEL R. DICKERSON
MICHAEL R. DICKERSON
Deputy District Attorney
Nevada Bar #13476

STATEMENT OF THE CASE

I understand and agree that, if I fail to interview with the Department of Parole and Probation (P&P), fail to appear at any subsequent hearings in this case, or an independent magistrate, by affidavit review, confirms probable cause against me for new criminal charges including reckless driving or DUI, but excluding minor traffic violations, the State will have the unqualified right to argue for any legal sentence and term of confinement allowable for the crime(s) to which I am pleading guilty, including the use of any prior convictions I may have to increase my sentence as an habitual criminal to five (5) to twenty (20) years, Life without the possibility of parole, Life with the possibility of parole after ten (10) years, or a definite twenty-five (25) year term with the possibility of parole after ten (10) years.

1 (GPA at 2:1-9 (emphasis added)).

2 Prior to the GPA being entered, the State filed Amended Notice of Intent to Seek
3 Punishment as a Habitual Criminal on August 29, 2017. That notice lists the Defendant's prior
4 convictions as follows:

- 5 1. That on or about 2007, the Defendant was convicted in the State of Texas,
6 for the crime of CREDIT CARD ABUSE (Felony) in Case No. 108378501010.
- 7 2. That on or about 2011, the Defendant was convicted in the State of
8 Nevada, for the crime of ATTEMPT POSSESSION OF CREDIT OR DEBIT
9 CARD WITHOUT CARDHOLDER'S CONSENT (Category E Felony) in Case
10 No. C270308.
- 11 3. That on or about 2017, the Defendant was convicted in the State of
12 Nevada, for the crime of BURGLARY (Category B Felony) in Case No.
13 C315125.

14 (Amended Notice of Intent to Seek Punishment as a Habitual Criminal, August 29, 2017).

15 The Defendant is currently scheduled to be sentenced by Your Honor on March 6, 2019.

16 **STATEMENT OF FACTS AND RELEVANT BACKGROUND**

17 **1. The Instant Case – Excalibur Hotel and Casino Burglary**

18 The underlying facts of the this case stem from April 9, 2013, when victim Joshua
19 Jarvis was sleeping his hotel room at the Excalibur Hotel and Casino while on vacation here
20 in Las Vegas, Nevada. (See Reporter's Transcript of Proceedings Preliminary Hearing
21 6/14/16). Mr. Jarvis awoke to hear some "rattling," then notice the Defendant inside the hotel
22 room searching through luggage. Mr. Jarvis "freaked out," jumped out of bed and asked the
23 Defendant who he was. Id. Defendant immediately attempted to run for the door. Id. Mr.
24 Jarvis, a United States military Special Forces operator, proceeded to stop the Defendant, pat
25 him down, and detain him. Defendant then apologized to Mr. Jarvis multiple times. Id. Mr.
26 Jarvis photographed the Defendant and the Defendant's Nevada identification, then allowed
27 the Defendant to leave. Id. Security and police officers eventually responded to Mr. Jarvis'
28 hotel room and an arrest warrant was subsequently issued for the Defendant for the crimes of
Burglary and Attempt Grand Larceny.

//

1 The Defendant remained at large and the arrest warrant active until April 2, 2016, when
2 the Defendant was arrested at the Harrah's Hotel and Casino perpetrating yet another burglary
3 of a hotel room.

4 **2. Case No. C315125 – Harrah's Hotel and Casino Burglary**

5 On April 2, 2016, Harrah's security investigators were conducting an integrity check at
6 the Harrah's Hotel and Casino. (See Docket of Case No. C315125: Transcript of Proceedings
7 Jury Trial - Day 1, January 9, 2017; Transcript of Proceedings Jury Trial - Day 2, January 10,
8 2017). An integrity check occurs when hotel security investigators stage a room to appear
9 occupied, including placing money and other valuable items within. Id. The investigators left
10 the door slightly ajar, to make it appear as if a guest may have forgotten to close the door, and
11 conducted surveillance on the hotel room. Id. While conducting surveillance, security
12 investigators observed Defendant James Hayes walk down the hallway, push the door open,
13 and walk into the hotel room. Id. Once inside, Defendant surveyed the items inside, and
14 subsequently stole \$350 in bait money from a wallet inside the room. Id. Defendant then
15 proceeded to search through the other items, including luggage, in the room before leaving.
16 Security investigators subsequently detained the Defendant with the bait money in his
17 possession. Id. Defendant did not have permission to be inside the hotel room or take
18 property. Id. The Defendant was arrested and charged with Burglary of the Harrah's hotel
19 room.

20 On January 10, 2017, following jury trial in which the Defendant testified untruthfully
21 about his entry into the hotel room, a jury found the Defendant guilty of Burglary. On
22 February 23, 2017, the court sentenced the Defendant to 21 to 72 months in prison. The
23 Defendant was released to parole on October 1, 2018.

24 **3. LVMPD Event 190100120467 – Mirage Hotel Burglary**

25 On January 26, 2019, the Defendant yet again committed another hotel-room burglary,
26 this time at the Mirage Hotel in a room occupied by victim James McGroth. (See Exhibit 1 –
27 Declaration of Arrest, 190100120467; Exhibit 2 – Voluntary Statement of James McGroth;
28 Exhibit 3 – Show-up Witness Instructions of McGroth identification of Defendant; Exhibit 4

– Voluntary Statement of Ryan Erhart; Exhibit 5 – Voluntary Statement of James Huang). Approximately 2:00 A.M., the Defendant entered Mr. McGroth’s room, saw Mr. McGroth, said “sorry” and exited. Id. The Defendant was uncooperative with security when contacted in the hotel and gave a story that he was meeting a friend in valet. Id. The story did not check out, as security escorted the Defendant to valet and there was no friend located there. Id. The Defendant was also found in possession of a Mirage hotel room key, but was not found to be currently, or ever in history, a Mirage hotel guest. Id.

In Las Vegas Township Justice Court case number 19F01534X, The Defendant has been charged by way of Criminal Complaint with Burglary. On January 27, 2019, Justice of the Peace De La Garza found probable cause for the charge. (See Exhibit 6 - Court Minutes, 19F01534X, 1/27/19).

A status check in that matter is scheduled to be heard on February 2, 2019, regarding Defendant's revocation of bail in this case. The Defendant is currently being held in the Clark County Detention Center on the aforementioned charge with no bail and is scheduled for preliminary hearing on February 12, 2019.

ARGUMENT

Pursuant to NRS 178.487:

Every release on bail with or without security is conditioned upon the defendant's good behavior while so released, and upon a showing that the proof is evident or the presumption great that the defendant has committed a felony during the period of release, the defendant's bail may be revoked, after a hearing, by the magistrate who allowed it or by any judge of the court in which the original charge is pending. Pending such revocation, the defendant may be held without bail by order of the magistrate before whom the defendant is brought after an arrest upon the second charge.

Here, the underlying event charged in 19F01534X, which are detailed for Your Honor in the sworn declarations attached as Exhibit 1 through 5 show the proof is evident and the presumption great that the Defendant has committed a felony during the period of his release from custody in the instant case. Probable cause has been found on that charge by an independent magistrate. As a result, the condition precedent in the Guilty Plea Agreement has been met for the State to regain the right to argue at sentencing and seek habitual criminal

1 treatment. The State will be arguing for habitual criminal treatment and, therefore,
2 incarceration in the Nevada Department of Corrections. Accordingly, the State requests
3 revocation of the Defendant's release in the instant case in light of Defendant's continued
4 felony criminal behavior.

5 **CONCLUSION**

6 In light of the foregoing, the State respectfully requests the Court to grant State's
7 Motion to Revoke Bail and hold the Defendant in custody without bail until he can be
8 sentenced in the instant case.

9 DATED this 31st day of January, 2019.

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

12 BY /s/ MICHAEL R. DICKERSON
13 MICHAEL R. DICKERSON
14 Deputy District Attorney
Nevada Bar #13476

15
16 **CERTIFICATE OF ELECTRONIC FILING**

17 I hereby certify that service of the foregoing, was made this 31st day of January, 2019,
18 by Electronic Filing to:

19 MICHAEL SANFT, ESQ.
20 E-mail Address: michael@sanftlaw.com

21 /s/ Laura Mullinax
22 Secretary for the District Attorney's Office
23
24
25
26
27

28 MRD/llm/M-4

Exhibit 1

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT
DECLARATION OF ARREST REPORT**

TCR1003254

☐ County Jail ☐ City Jail ☐ Adult ☐ Juvenile Bureau: CCAC

ID# 2796708		EVENT # LLV190100120467		ARRESTEE'S NAME (LAST) HAYES		(FIRST) JAMES		(MIDDLE) HOWARD		SSN#
RACE B	SEX M	DOB 2/2/1970	HGT 5'10"	WGT 220	HAIR BLK	EYES BRO	POB TOLEDO			
ARRESTEE'S ADDRESS 4735 DECKOW						CITY LAS VEGAS		STATE NV	ZIP CODE 89169	
OCCURRED DATE: 1/26/2019		TIME: 02:00		ARREST DATE: 1/26/2019		TIME: 03:45		LOCATION OF ARREST (NUMBER, STREET, CITY, STATE, ZIP CODE) 3400 LAS VEGAS BLVD S LAS VEGAS NEVADA 89		
LOCATION OF CRIME (NUMBER, STREET, CITY, STATE, ZIP CODE) 3400 LAS VEGAS BLVD S LAS VEGAS NEVADA 89109										
CHARGES / OFFENSES PC - JC - 50442 - F - ATT BURGLARY										
CONNECTING REPORTS (TYPE OR EVENT NUMBER) FELONY ARREST PACKET										

The undersigned makes the following declarations subject to the penalty of perjury and says: That I am a peace officer with the Las Vegas Metropolitan Police Department, Clark County, Nevada, being so employed for a period of approximately 2 year(s).

That I learned the following facts and circumstances which lead me to believe that the above named subject committed or was committing the offenses above at the location of 3400 LAS VEGAS BLVD S LAS VEGAS NEVADA 89109 and that the offense(s) occurred at approximately 02:00 hours on the 26th day of January, 2019.

Details for Probable Cause:

(Body Worn Camera Available)

On January 26th, 2019 while operating as marked patrol units 7M94, Officers E. Varsin P#16252 and A. Fox P#16559 along with marked patrol unit 7M96, Officers L. Jex P#16622 and D. McElroy P#16995 responded to a call for service at The Mirage Hotel 3400 S Las Vegas Blvd reference a subject in custody for a possible attempted burglary.

Upon officers arrival we made contact with Mirage hotel security. Security stated that a victim had called the front desk and reported a black male that had entered his room without his permission while he was sleeping. Hotel security had a subject in custody that had been identified via his California Driver's License as HAYES, JAMES DOB 2/2/1970. Mirage Security Officer Apolonio Batoon said that around 0256 hours via security surveillance footage, Hayes was seen entering elevator bank 9-16 and then seen exiting from elevator bank 2-8. Security said that this means that Hayes had to have taken the elevator to another floor in order to enter at one bank and exit at another.

Security Officer Brandon Huang was contacted and stated the following:

On 26 January 2019 at approximately 0300 I, Security Officer Brandon Huang, responded to a report of a man entering a persons room without permission. The man refused to identify himself and attempted to leave property. At main valet Officer Erhart read the man a trespass warning in accordance with NRS 207.200. Control instructed us to bring the man to processing. He refused and was placed in mechanical restraints. I secured and double locked the restraints. We walked back to the processing without further issue.

Officers than made contact with the victim who identified himself verbally as McGroth, James DOB 4/18/1958. McGroth stated the following:

I was asleep at approximately 2:00 AM on 1/26/19. I heard my door open. A man walked in approximately 5 feet into my room. I was startled and sat up in bed. The man was dark complected and wearing a white jacket. The man saw me. He
Wherefore, Declarant prays that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charges are a felony or gross misdemeanor) or for trial (if charges are misdemeanor).

Arresting Officer: E VARSIN

P#: 16252

LVMPD 802 (Rev 02/18) Word 2013

RA 000012

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

CONTINUATION REPORT

SCOPE ID: 2796708 EVENT #: LLV190100120467
Page 2 of 2

said "sorry" then left my room and closed door.

Officers then conducted a Show-Up Witness (via LVMPD 497) with McGroth and he stated the following:

I was asked to identify subject. He appeared to be the man that entered my room at approx 2 AM. He was also wearing the same white jacket I saw. I am approximately 80% sure this was same person.

Hayes was read his Miranda Rights via LVMPD 148 at 0331 hours by Officer Fox, to which he replied "yes". When asked about what took place tonight, he stated he had nothing to say. Security also told officers that when Hayes was confronted he told security that he was meeting a friend in valet, but when they escorted him to valet there was no friend there. Once Hayes was escorted back to security located on him was a Mirage Hotel room key. However security stated that Hayes was not located in their system as a hotel guest, nor was he ever a hotel guest at Mirage

Hayes is a two time convicted ex-felon in Nevada for Burglary and Att/Poss CC W/O Owner's Consent. He is also a two time convicted ex-felon in Texas for Fraud Use/Poss of Identifying Info and Credit Card Abuse.

Due to the fact that Hayes by night entered a hotel room without the owners consent with the intent to commit grand or petit larceny, assault or battery on any person or any felony, or to obtain money or property by false pretenses, he was arrested and charged with Attempted Burglary. Hayes was transported to CCDC where he was booked accordingly.

***** End *****

Wherefore, Declarant prays that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charges are a felony or gross misdemeanor) or for trial (if charges are misdemeanor).

Arresting Officer: E VARSIN

P#: 16252

LVMPD 602 (Rev 02/18) Word 2013

RA 000013

Exhibit 2

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT

Event #

190100120467

THIS PORTION TO BE COMPLETED BY OFFICER

Specific Crime <u>ATTEMPT BURGLARY</u>	Date Occurred <u>01-26-2019</u>	Time Occurred <u>0300</u>
Location of Occurrence <u>3400 S LAS VEGAS BLVD LV NV 89109 THE MIRAGE</u>	Sector/Beat <u>M2</u>	<input type="checkbox"/> City <input checked="" type="checkbox"/> County

Your Name (Last / First / Middle) <u>X McGroth / James / J</u>						Date of Birth <u>4/18/58</u>		Social Security # _____	
Race <u>Cauc.</u>	Sex <u>M</u>	Height <u>6'</u>	Weight _____	Hair _____	Eyes _____	Work Sched. (Hours) _____	(Days Off) _____	Business / School <u>Customatic</u>	
Residence Address: (Number & Street)			Bldg./Apt.#	City	State		Zip Code		Res. Phone: _____
Bus. (Local) Address: (Number & Street)			Bldg./Apt.#	City	State		Zip Code		Bus. Phone: _____
Best place to contact you during the day			Best time to contact you during the day				Occupation _____		
							Depart Date (if visitor) _____		
Can You Identify the Suspect?						<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			

DETAILS X I was asleep at approximately 2:00 AM on 1/26/19. I heard my door open. A man walked in approximately 5' into my room. I was startled and sat up in bed. The man was dark complexioned and wearing a white jacket. The man saw me. He said "sorry" then left my room and closed door.

I HAVE READ THIS STATEMENT AND I AFFIRM TO THE TRUTH AND ACCURACY OF THE FACTS CONTAINED HEREIN. THIS STATEMENT WAS COMPLETED AT (LOCATION) 3400 S LAS VEGAS BLVD LV NV 89109 THE MIRAGE ON THE 26TH DAY OF January AT 0359 (AM / PM), 2019.

Witness/Officer: [Signature]
(SIGNATURE)Witness/Officer: E. VARSIN
(PRINTED)P# 16252SIGNATURE OF PERSON GIVING STATEMENT X Jim McGroth 0000015

Exhibit 3

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT
SHOW-UP WITNESS INSTRUCTIONS**

EVENT #: 190100120467

NAME: JAMES J. Mc Giverty

INTERVIEWED BY: A. FOX

ADDRESS: 3400 S. LAS VEGAS BLVD LV NV 89109

LOCATION: THE MIRAGE

PHONE NUMBER: _____

DATE: 01-26-2019

TIME: 0333

"In a moment I am going to show you a person who is being detained. This person may or may not be a person who committed the crime now being investigated. The fact that this person is detained should not cause you to believe or guess that he/she is guilty. You do not have to identify anyone. It is just as important to free innocent persons from suspicion as it is to identify those who are guilty. Please keep in mind that clothing can be easily changed. Please do not talk to anyone other than police officers while viewing this person. You must make up your own mind and not be influenced by other witnesses, if any. When you have viewed the person, please tell me whether or not you can make identification. If you can, tell me in your own words how sure you are of your identification. Please do not indicate in any way to other witnesses that you have or have not made an identification. Thank you."

James J. McGiverty
Witness Signature

1-26-19 03:33
Date/Time

Statement:

I was asked to identify subject. He appeared to be the man that entered my room at approx 2AM. He was also wearing the same white jacket I saw. I am approximately 80% sure this was same person.

James J. McGiverty
Witness Signature

1-26-19 0342
Date/Time

[Signature]
Officer Signature

01-26-2019 0342
Date/Time

*** Below to be completed ONLY after Show-Up has been completed and NOT in the presence of the witness. ***

Detainee Name: <u>HAYES, JAMES</u>		DOB: <u>2/4/92</u>	ID or SSN: <u>104 279,708</u>
Address: <u>4735 DECKOW E #21</u>		City: <u>LV NV</u>	Phone Number: _____
Mode of transportation used to take witness to Show-Up:			
<input type="checkbox"/> Marked Patrol Unit	<input type="checkbox"/> Unmarked Unit	<input type="checkbox"/> Private Conveyance	<input checked="" type="checkbox"/> Other <u>SECURITY OFFICE</u>
# of Officers present at Show-Up: <u>2</u>		Uniformed <u>2</u> Plain Clothes _____	
Lighting Conditions:			
<input type="checkbox"/> Daytime	<input checked="" type="checkbox"/> Nighttime	with <input type="checkbox"/> Spotlights <input type="checkbox"/> Streetlight	<input checked="" type="checkbox"/> Other <u>LOCATED IN ROOM SECURITY OFFICE</u>
Identification Made: <input checked="" type="checkbox"/> Yes/ <input type="checkbox"/> No		Suspect Arrested: <input checked="" type="checkbox"/> Yes/ <input type="checkbox"/> No	Arresting Officer P# <u>16252</u>

RA 000017

Exhibit 4

Page 1 of 1LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT

Event #

19010020467

THIS PORTION TO BE COMPLETED BY OFFICER

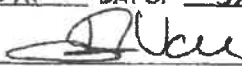
Specific Crime <u>ATTEMPT BURGLARY</u>	Date Occurred <u>01-26-19</u>	Time Occurred <u>0300</u>
Location of Occurrence <u>3400 S. LAS VEGAS BLVD. LV, NV 89109 MIRAGE</u>	Sector/Beat <u>M2</u>	<input type="checkbox"/> City <input checked="" type="checkbox"/> County

Your Name (Last / First / Middle) <u>ERHART, RYAN, ALEX</u>						Date of Birth <u>02-11-1978</u>		Social Security #	
Race <u>WHITE</u>	Sex <u>M</u>	Height <u>6'0"</u>	Weight <u>220 lbs</u>	Hair <u>BRN.</u>	Eyes <u>BRN.</u>	Work Sched. (Hours)	(Days Off)	Business / School <u>THE MIRAGE</u>	
Residence Address: (Number & Street) <u>3400 S. LAS VEGAS BLVD</u>				Bldg./Apt.# <u></u>	City <u>LAS VEGAS</u>	State <u>NV</u>	Zip Code <u>89109</u>	Res. Phone: <u>702-71-7175</u>	
Bus. (Local) Address: (Number & Street) <u>3400 S. LAS VEGAS BLVD</u>				Bldg./Apt.# <u></u>	City <u>LAS VEGAS</u>	State <u>NV</u>	Zip Code <u>89109</u>	Occupation <u>SECURITY</u>	Depart. Date (If visitor)
Best place to contact you during the day <u>THE MIRAGE</u>						Best time to contact you during the day		Can You Identify the Suspect? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	

DETAILS On Saturday 1/26/18, at approximately 0300 hrs, I made contact with a middle aged black male adult in front of the Atrium and requested to see his legal I.D. The subject in question claimed his I.D. was in his vehicle. He claimed to be meeting a friend in the main Valet. When we arrived in main Valet, I informed him that he was going to be trespassed from the property. I then read the subject in question the NRS. 207.200 trespass. ^{Dispatch} ~~Control~~ then instructed myself and Security Officer Huang to place the subject in mechanical restraints, and escort him to processing for questioning. I used the rear wrist lock to restrain the subject so he could be placed in ~~a~~ mechanical restraints.

I HAVE READ THIS STATEMENT AND I AFFIRM TO THE TRUTH AND ACCURACY OF THE FACTS CONTAINED HEREIN. THIS STATEMENT WAS COMPLETED AT (LOCATION) 3400 S. LAS VEGAS BLVD. LV, NV 89109 ON THE 26TH DAY OF JANUARY AT 0359 (AM / PM), 2019.

Witness/Officer:


(SIGNATURE)Witness/Officer:
LVMPD 05 (REV. 6-08)E. VARSINO
(PRINTED)P# 16252
SIGNATURE OF PERSON GIVING STATEMENT

RA 000019

Exhibit 5

Page 1 of 1

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT

Event # 190100120467

THIS PORTION TO BE COMPLETED BY OFFICER	
Specific Crime <u>ATTEMPT BURGLARY</u>	Date Occurred <u>01-26-2019</u>
Location of Occurrence <u>3400 S. LAS VEGAS BLVD LV NV 89109 THE MIRAGE</u>	Time Occurred <u>0300</u>
	Sector/Beat <u>MZ</u>
	<input type="checkbox"/> City <input checked="" type="checkbox"/> County

Your Name (Last / First / Middle) <u>Huang, Brandon, James</u>						Date of Birth		Social Security #	
Race	Sex	Height	Weight	Hair	Eyes	Work Sched. (Hours)	(Days Off)	Business / School	
Residence Address: (Number & Street)			Bldg./Apt.#		City	State	Zip Code	Res. Phone:	
Bus. (Local) Address: (Number & Street)			Bldg./Apt.#		City	State	Zip Code	Bus. Phone:	
<u>3400 S Las Vegas Blvd.</u>					<u>Las Vegas</u>	<u>NV</u>	<u>89109</u>	Occupation	
Best place to contact you during the day <u>Mirage</u>			Best time to contact you during the day <u>2245-0665</u>			Can You Identify the Suspect? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			

DETAILS On 26 January 2019 at approximately 0300 I, Security Officer Brandon Huang, responded to a report of a man entering a person's room without permission. The man refused to identify himself and attempted to leave property. At main valet officer Erhart read the man a trespass warning in accordance with NRS.207.200. Control instructed us to bring the man to processing. He refused and was placed in mechanical restraints. I secured and double locked the restraints. We walked back to processing without further issue.

I HAVE READ THIS STATEMENT AND I AFFIRM TO THE TRUTH AND ACCURACY OF THE FACTS CONTAINED HEREIN. THIS STATEMENT WAS COMPLETED AT (LOCATION) Mirage ON THE 26 DAY OF January AT 0329 (AM / PM), Am.

Witness/Officer:

[Signature]
(SIGNATURE)

Witness/Officer:

E. VARSIN
(PRINTED)

P# 16252

LVMPD 86 (REV. 8-08)

[Signature]
SIGNATURE OF PERSON GIVING STATEMENT
RA000021

Exhibit 6

**Justice Court, Las Vegas Township
Clark County, Nevada**

Department: PC

Court Minutes



L010455593

PC19F01534X State of Nevada vs. HAYES JR, JAMES HOWARD

**1/27/2019 9:00:00 AM Initial Appearance Justice
Court (PC Review)**

Result: Matter Heard

PARTIES PRESENT:	State Of Nevada	Fattig, John
	Defendant	HAYES JR, JAMES HOWARD

Judge: De La Garza, Melisa

Court Clerk: Cardenas, Pompeya

PROCEEDINGS

Hearings: 1/29/2019 8:30:00 AM: Status Check on Filing of Criminal Complaint

Added

Events: **Probable Cause Found**

72-Hour Hearing Completed

Counsel Provisionally Appointed

J. Robison, Esq- Public Defender provisionally appointed for limited purposes of first appearance hearing.

Bail Argument Heard

The Court has heard arguments from the prosecution and defense counsel regarding custody of the Defendant

Bail Reset - Cash or Surety

Counts: 001 - \$0.00/\$0.00 Total Bail

Motion to Continue - State

Granted

**Continued for Status Check on filing of Criminal
Complaint**

Felony/Gross Misdemeanor

COURT MINUTES

March 06, 2019

C-16-315718-1 State of Nevada
 vs
 James Hayes

March 06, 2019 08:30 AM Sentencing

HEARD BY: Kephart, William D. COURTROOM: RJC Courtroom 16B

COURT CLERK: Emmons, Shannon; Everett, Tia

RECORDER: Erickson, Christine

REPORTER:

PARTIES PRESENT:

James Howard Hayes	Defendant
Michael W. Sanft	Attorney for Defendant
Michael Dickerson	Attorney for Plaintiff
State of Nevada	Plaintiff

JOURNAL ENTRIES

DEFT. HAYES ADJUDGED GUILTY of ATTEMPT GRAND LARCENY (F). Matter argued and submitted. Exhibits presented. (see worksheets). Court FINDS State has sufficiently met the requirements of NRS 207.010. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee and a \$3.00 DNA Collection fee; Deft. SENTENCED UNDER the SMALL HABITUAL STATUTE to a MINIMUM of SIXTY (60) MONTHS and a MAXIMUM of ONE HUNDRED SEVENTY-FOUR (174) MONTHS in the Nevada Department of Corrections (NDC); CONSECUTIVE to case number C315125; with TEN (10) DAYS credit for time served. FURTHER ORDERED, \$150.00 DNA Analysis fee including testing to determine genetic markers WAIVED as previously ordered.

NDC