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LEONARD RAY WOODS,
Appellant,
v.
THE STATE OF NEVADA,
Respondent.

No. 78816

Electronically Filed
Feb 13 2020 10:55 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

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Counsel for Respondent

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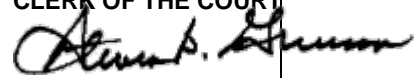
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RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,
vs.
LEONARD RAY WOODS,
Defendant.

CASE#: C-15-309820-1
DEPT. III

BEFORE THE HONORABLE DOUGLAS W. HERNDON, DISTRICT COURT JUDGE
WEDNESDAY, NOVEMBER 15, 2017

**RECORDER'S TRANSCRIPT OF HEARING:
DEFENDANT'S PRO PER MOTION TO DISMISS COUNSEL AND
APPOINTMENT OF ALTERNATE COUNSEL**

APPEARANCES:

For the State: JEFFREY S. ROGAN, ESQ.
Chief Deputy District Attorney

For the Defendant: JORDAN S. SAVAGE, ESQ.
JULIA M. MURRAY, ESQ.
Deputy Public Defenders

RECORDED BY: SARA RICHARDSON, COURT RECORDER

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Las Vegas, Nevada, Wednesday, November 15, 2017

[Hearing began at 10:19 a.m.]

THE COURT: Okay. Mr. Woods' matter is on calendar. It is 309820.

I thought you guys weren't coming?

MS. MURRAY: He thought that he was stopping by for a ruling and he just thought he had timed that correctly.

THE COURT: Oh, oh, no, no, no.

So you can leave. I'll call you.

MR. ROGAN: Thank you.

I'll be out front.

THE COURT: Okay. Thank you.

MS. MURRAY: I'll let you know.

THE COURT: All right. And for the record that was Mr. Rogan. We've excused Mr. Rogan. So we just have the defense attorneys, Ms. Murray and Mr. Savage, as well as Mr. Woods present.

Okay. So, Mr. Woods, I have your motion to dismiss counsel. First, I just wanted to give you, before I ask anything of you or your attorneys, an opportunity, if there was anything else that you wanted to tell me about the motion.

THE DEFENDANT: Yes, sir.

THE COURT: Okay.

THE DEFENDANT: First, I apologize for taking up any extra of your time this morning.

1 THE COURT: That's okay.

2 THE DEFENDANT: I wrote it down because I didn't want to
3 forget anything. So if you could bear with me while I read.

4 THE COURT: Okay.

5 THE DEFENDANT: Okay. Your Honor, I fired Murray as
6 counsel back in December of 2015, in effect that she still being forced
7 upon me as counsel is a violation of my constitutional rights. Especially
8 since through my motions have I shown incompetence, ineffective
9 assistance, conflict of interest, and a serious lack of trust, communication,
10 understanding of what she says and does that have made this
11 attorney-client relationship deteriorate beyond repair.

12 I have written to the Nevada State Bar my issues and concerns,
13 to which counsel not only told me she didn't appreciate me writing to the
14 bar about her, she then retaliated against me on my next court date by
15 saying in front of Judge Leavitt that she didn't think I wanted a white
16 woman defending me, which was obvious an attempt to prejudice the
17 judge, the Court, against me, especially since race had never been a topic
18 of any of our previous discussions.

19 Now, she just wrote me a letter basically saying that if I brought
20 these issues up in this court, she would say that I've said before that,
21 excuse me, white people smell and that somehow this case is rigged
22 against me because the victim was white, which is absurd especially since
23 I have biracial children.

24 Your Honor, I have never heard statements come from a public
25 defender like this before. So how can I possibly get a fair or thorough

1 defense from someone with this mindset? As a matter of fact, that should
2 be the epitome of conflict of interest.

3 I also have a lawsuit pending in the George Lloyd -- George
4 Lloyd Courthouse right now, which I have the paperwork with me,
5 against the Public Defender's Office and Murray, which it also constitute a
6 conflict of interest.

7 I have asked over and over for motions to be filed on my behalf
8 but she refuses. One motion filed in these two years. I have asked for
9 her to subpoena evidence which she also refuses. I can count on one
10 hand the many times she came to see me in the last two years. And I
11 haven't seen an investigator since March of 2016. All which can be
12 verified by the CCDC records.

13 She states that I didn't want to see the investigator when I have
14 been asking him and her for certain evidence for two years.

15 And speaking of an investigation, my case has been so poorly
16 investigated it's pathetic. And it's frightening to think that I'm being
17 pushed toward a trial with really no defense at all. I have bogus gun
18 charges against me from a house I didn't live in, the police actually took
19 my Nevada driver's license, which is on my property right now, with my
20 address on it. And no one, not the police, the DA, the detectives,
21 investigators, or the public defender ever went to this house -- to my
22 house to verify my residence. Again, no investigation as to why.

23 These guns had no DNA, no fingerprints, constructive
24 possession, dominion or control, they were not on my person or in the car
25 I was driving. Again, no investigation or motion to dismiss or suppress

1 this.

2 The police report even said I was a transient. So how could I
3 live in this house if I was even homeless by their own account? The
4 person whose house this belonged to on this particular date had a felony
5 fugitive warrant out of San Diego. Again, no investigation of the
6 homeowner or the failure to arrest her.

7 Supposedly a warrant was issued for these guns and my cell
8 phone, a warrant that still hasn't been seen by me or the public defender,
9 even though she tried to pass me the paper -- some papers that said they
10 were the warrant but they obviously weren't.

11 Pictures that was supposed to be taken by my cell phone that
12 the DA is trying to use against me, even though they are unlawfully and
13 illegally obtain, inadmissible and fruit of poison -- the poisonous tree
14 evidence. Because, one, I had no cell phone service on that particular
15 date, which can still be verified through Metro PCS right now. Again, no
16 investigation.

17 And, two, no warrant has yet to be shown for a search, seizure,
18 or scope of my phone. A case of double jeopardy, not investigated.

19 When I was being charged in Judge Goodman's court, Case
20 Number PFC10603; and Judge Leavitt's court, Case Number, the number
21 that I'm on right now, C-15-309820-1; at the same time between
22 October 2015 and June 2016 for the exact same charges.

23 When I pointed this out to counsel she never appeared to any of
24 Judge Goodman's court dates. I have the paperwork with me, again, right
25 now to show this.

1 And isn't the DA supposed to wait for a case to be over in one
2 courtroom before he or she can try you for the exact same charges in
3 another court?

4 The victim on this case has records from the San Diego Police
5 Department of her husband trying to kill her twice in the same manner that
6 she was eventually killed. Evidence that I found through my family and
7 brought to the counsel that has never been brought to the Court's
8 attention.

9 The victim also has cell phone record that show death threats
10 from her kid's father and a co-worker from the You Dirty Dog she used to
11 work at. And, again, none of these people have been investigated nor
12 has my cell phone ever been -- nor has her cell phone ever been
13 subpoenaed.

14 When I saw my face that night on TV I didn't run and hide. I
15 didn't try to leave the state. I went to the police and told them, you're
16 looking for the wrong man, thinking I was doing the right thing. I asked for
17 a lawyer and the right not to say anything further. Instead I was told I
18 wasn't under arrest but handcuffed for my safety. Never was I ever
19 Mirandized, a fact that is still somehow being neglected, before taken to
20 the detective's interrogation.

21 And, by the way, Judge Leavitt ordered the dash and body
22 cams from this night, the video of the detective interview, and the warrant
23 to be provided by the next court date, which still hasn't been provided.

24 Every test known to man was done on my nude body and
25 clothing, no blood, DNA, hair, fibers, nothing to indicate I ever did anything

1 to anyone has been found then or since. Just the witness who says she
2 thinks it was me but stated that night she couldn't actually see who she
3 believed was a robber at the time. Again, a witness never interviewed or
4 investigated.

5 Your Honor, I have went about these motions, as the law state I
6 should have, to dismiss counsel. Yet I still endured this hardship when
7 there's an obvious, serious problem here. I don't want any special
8 privileges or favors, only the rights to defend my life fairly and justly, which
9 I'm not getting from this counsel.

10 Why should I have to go to the penitentiary because of unfair
11 and unlawful tactics used by the DA and public defender to come back
12 years later on an appeal to get the justice I deserve right now?

13 I know I can prove my innocence beyond a reasonable doubt
14 but with this counsel that's not going to happen and that's not justice.

15 Thank you.

16 THE COURT: All right. Ms. Murray or Mr. Savage.

17 MS. MURRAY: Yes. I mean, I don't know how much the Court
18 wants to hear. I'm happy to respond to each of the items raised in turn, as
19 I did with Mr. Woods. I'm happy to answer any questions the Court has
20 but.

21 THE COURT: Well, I mean, why don't you just talk, if you
22 would, about preparing for trial.

23 MS. MURRAY: Of course.

24 THE COURT: Things of that nature.

25 MS. MURRAY: Of course.

1 THE COURT: I mean, a lot of what you're saying, Mr. Woods,
2 honestly is complaints about how you think evidence would be viewed at
3 the time of trial by somebody. So when you're, you know, making
4 statements to me about, hey, there's no DNA or fingerprints on these
5 guns, that's not really anything for the attorneys. You're just saying I'm
6 frustrated that there isn't DNA or fingerprints and I still got to face these
7 charges.

8 Well, that's -- that's a trial issue. I mean, that's just, you know, a
9 fact question for a jury to listen to and decide whether you're guilty of
10 anything or not.

11 I understand the complaints you're making about whether you
12 think your attorneys have done what they need to do in investigating and
13 filing motions and things like that.

14 I'll tell you up front, before they even speak, that you have to
15 always remember, and this can be really frustrating for a defendant, and I
16 understand that. But you have to always remember that there's two things
17 that you get to decide regardless of any advice they give you, you get to
18 decide whether you're going to accept a negotiation or not and you get to
19 decide whether you're going to testify at trial or not.

20 No matter what they tell you about whether to do one of those
21 two things or not, your decision is the thing that rules the day.

22 On pretty much everything else, they've got to have the
23 autonomy and the ability as the attorney to decide what they think is the
24 best thing to do in your case. A lot of times there's going to be a rub over
25 that.

1 An attorney does not have an obligation to file a motion every
2 time a defendant says I want you to file this motion. They've got to file
3 motions that they think are not frivolous, that they think have some merit,
4 and they've got to file them when they think it's the right time to file them
5 as well. It's not always that they want to disclose something to the State
6 at a time that you may think they need to be filing a motion.

7 Does that make sense?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: All right. So just kind of keep that in mind as I
10 listen to what they're going to say.

11 So, Ms. Murray.

12 MS. MURRAY: Of course.

13 As far as the investigation goes, this case has been staffed by
14 not only myself but also Mr. Savage, as well as a mitigation specialist and
15 an investigator since --

16 THE COURT: Okay.

17 MS. MURRAY: -- about a week after I was appointed on this
18 case, following the arrest.

19 We have spoken to every witness whose name has been
20 provided to me by Mr. Woods. Some of these witnesses were provided to
21 me in the context of his belief that they could provide potential alibi
22 information, some in the form of character, some in format of relationship
23 history.

24 THE COURT: Okay.

25 MS. MURRAY: We have interviewed all of the people that we

1 were provided names for that we were able to locate contact information
2 for.

3 THE COURT: Okay.

4 MS. MURRAY: As far as witnesses that remain outstanding to
5 be spoken to, we have recently made contact with the daughter of the
6 decedent's biological father, who I'd been attempting to contact for
7 approximately two years now.

8 THE COURT: Okay.

9 MS. MURRAY: We have a trip scheduled, to do in person
10 interviewing with him, which is currently scheduled for Monday of next
11 week.

12 THE COURT: Okay.

13 MS. MURRAY: That would be out of state, it's in California.

14 THE COURT: That's -- did you say that's the deceased victim's
15 father?

16 MS. MURRAY: No, it's the ex --

17 THE COURT: The ex-husband?

18 MS. MURRAY: -- the -- the father of the decedent's daughter.

19 THE COURT: Okay. So the gentleman that Mr. Woods was
20 just referring to a moment ago?

21 MR. MURRAY: No.

22 THE DEFENDANT: No.

23 MS. MURRAY: No, that's yet another individual.

24 THE COURT: That's another; okay.

25 MS. MURRAY: That individual, I believe it would be for obvious

1 reasons, does not want to speak with us.

2 THE COURT: Okay.

3 MS. MURRAY: I cannot force someone to speak with us.

4 THE COURT: Okay.

5 MS. MURRAY: I have been able to do criminal history
6 background investigation into both the decedent, as well as that individual,
7 and I have informed Mr. Woods of the results of that investigation.

8 THE COURT: Okay.

9 MS. MURRAY: That was done through my mitigation specialist
10 and my investigator.

11 THE COURT: Okay.

12 MS. MURRAY: As far as the decedent's daughter, who is the
13 eyewitness that he mentioned that the State alleges made a particular
14 statement at the crime scene, I cannot communicate with her directly as
15 she is a minor and currently in the care of a extended family member in
16 the State of California and I've had no ability to get to her as she is a
17 minor. And I can't show up at her school or show up at her front door and
18 demand access to her.

19 THE COURT: Got it.

20 Is she with a family member of the decedent?

21 MS. MURRAY: Correct.

22 THE COURT: Okay.

23 MS. MURRAY: She's with an aunt who I don't know the exact --
24 they say aunt.

25 THE COURT: Okay.

1 MS. MURRAY: I don't know beyond that.

2 THE COURT: All right.

3 All you know is they -- they don't want to talk to you?

4 MS. MURRAY: Correct.

5 THE COURT: Okay.

6 MS. MURRAY: I have subpoenaed the cell phone records of
7 that minor child, the decedent, another phone number that was provided
8 to me, and have received responses from Sprint, AT&T, and T-Mobile on
9 those phone records.

10 The dispute on this area would be that what we receive when
11 we subpoena phone records is not everything that's in a physical phone --

12 THE COURT: Right.

13 MS. MURRAY: -- if you have access to the physical phone.

14 THE COURT: Right.

15 MS. MURRAY: I can see phone call information back and forth
16 on some, there's, you know, I can then do contact matching and things of
17 that nature. But none of the information that I received had things like
18 SMS or text history messaging at the time that we were -- the subpoenas
19 were responded to.

20 THE COURT: And there -- is there a phone in evidence in this
21 case that --

22 MS. MURRAY: There is currently one -- there are phones that
23 they allege belong to Mr. Woods in evidence.

24 THE COURT: Okay.

25 MS. MURRAY: That phone there was a Metro dump done on.

1 THE COURT: Okay.

2 MS. MURRAY: I have the information from that dump.

3 THE COURT: Okay.

4 MS. MURRAY: I have sent an investigator over with those CD's
5 to go over that information with Mr. Woods so that we can determine
6 whether or not something additional needs to happen there.

7 THE COURT: Okay.

8 MS. MURRAY: That meeting was shut down by Mr. Woods and
9 he asked my investigator to leave.

10 THE COURT: Okay.

11 MS. MURRAY: I do not --

12 THE DEFENDANT: That's a false statement.

13 THE COURT: Hold on, hold on. I'll let you -- I'll let you talk in a
14 moment again.

15 MS. MURRAY: -- I do not have the -- the phone that he, in my
16 belief is most concerned over, is the phone that belongs to the minor that
17 resides in California.

18 THE COURT: Okay.

19 MS. MURRAY: He is under the belief that I have the ability to
20 subpoena her physical phone from her person.

21 THE COURT: Okay.

22 MS. MURRAY: Which I've explained to him numerous times I
23 have no mechanism for doing, for a whole variety of reasons.

24 THE COURT: Okay.

25 MS. MURRAY: Most simply I'm not law enforcement and don't

1 have the ability to put --

2 THE COURT: Understood.

3 MS. MURRAY: -- to compel private citizens to give me their
4 personal belongings, particularly minor children in other states.

5 THE COURT: Okay.

6 MS. MURRAY: So that is the issue regarding the phones.

7 The issue related to the search warrants, Mr. Woods is correct.
8 I haven't seen a search warrant. I filed a discovery motion 18 months
9 ago, they were ordered to produce them. I have done follow-up e-mails,
10 phone calls, requested to see the detective's notebook. I've been asking
11 for them. As recently as two weeks ago the State contacted me and said
12 that they were now meeting with detectives because they too have not
13 seen these search warrants.

14 THE COURT: Okay.

15 MS. MURRAY: Last time we were in court the detective -- or
16 excuse me, Mr. Rogan had me bring him a jump drive and they are in the
17 process currently of downloading everything that Metro had scanned into
18 their detective notebook system.

19 THE COURT: Okay.

20 MS. MURRAY: But I have not seen it.

21 If --

22 THE COURT: So is there -- is there something in the reports
23 that tells you-all that search warrants were done?

24 MS. MURRAY: There are search warrant --

25 THE COURT: Not the searches but search warrants were

1 done?

2 MS. MURRAY: For certain. There are search warrants returns.

3 THE COURT: Okay.

4 MS. MURRAY: And I can disclose to the Court that the reason
5 we've made, I mean, not that there'd ever be a reason why you wouldn't
6 make a to-do --

7 THE COURT: Right.

8 MS. MURRAY: -- over a missing search warrant.

9 THE COURT: Right.

10 MS. MURRAY: But the reason why it's particularly important
11 here is that the search warrant -- the initial -- I'm -- the original that you
12 write down --

13 THE COURT: Okay.

14 MS. MURRAY: -- before you serve the warrant --

15 THE COURT: Right.

16 MS. MURRAY: -- has partial serial numbers and notes that
17 things were shaved off of guns. It's --

18 THE COURT: Okay.

19 MS. MURRAY: -- unfathomable to me that someone would
20 know that before executing a search wherein they would locate these
21 items.

22 THE COURT: Okay.

23 MS. MURRAY: So there's some timing issues that are highly
24 suspicious and --

25 THE COURT: Okay.

1 MS. MURRAY: -- we have not seen the telephonic
2 conversation that supposedly takes place between the searching
3 detective and the justice of the peace who ultimately signs the search
4 warrant.

5 So we have some questions as to the timing of when was the
6 search warrant sought, when was it obtained, and when was the search
7 conducted.

8 THE COURT: Okay.

9 MS. MURRAY: Depending on what information comes forward,
10 if no information comes forward I'll obviously be moving to suppress these
11 items for search violations and their inability to provide these reports.

12 THE COURT: Got it.

13 MS. MURRAY: If the information comes in and it confirms the
14 timeline that we have some suspicions regarding, I would file motions of
15 that nature.

16 Right --

17 THE COURT: But you don't want to -- you don't want to file a
18 motion to suppress only to get an opposition that attaches a search
19 warrant and say, hey --

20 MS. MURRAY: Well --

21 THE COURT: -- there's a search warrant here.

22 MS. MURRAY: -- and quite frankly I don't think I have grounds
23 until I know that I've completed the investigation --

24 THE COURT: Got it.

25 MS. MURRAY: -- into whether or not that exists.

1 THE COURT: Okay.

2 MS. MURRAY: The issue related to whether or not I've
3 investigated the home wherein the guns were located. There are two
4 crime scenes alleged in this case. There's an incident that occurs in July
5 wherein there's one set of charges that have been alleged against
6 Mr. Woods.

7 THE COURT: Right.

8 MS. MURRAY: And then there's a subsequent murder in late
9 August wherein he is alleged to be the person who has committed that
10 murder.

11 These two incidents are filed as one case because the State
12 alleges some jail phone calls that were made during arrest in July of
13 motive basis to this murder that ultimately happens in August.

14 THE COURT: Okay.

15 MS. MURRAY: The crime scene that he's referring to, the
16 home that he's referring to, I have the address of the actual home. We've
17 been out there. It was a rental property. We've been given very little
18 information by anyone that's there. Other than, we don't know these
19 people, we cleared out their stuff, they're gone, I don't know, sorry lady.

20 THE COURT: Okay.

21 MS. MURRAY: There was a second address that we were
22 provided information on.

23 THE COURT: So assumedly that home that we're talking
24 about, the guns, is searched after the homicide?

25 MS. MURRAY: It's searched prior.

1 THE COURT: Prior.

2 MS. MURRAY: It's searched in July.

3 THE COURT: Okay.

4 MS. MURRAY: It's two distinct cases --

5 THE COURT: Got it.

6 MS. MURRAY: -- originally.

7 THE COURT: All right.

8 MS. MURRAY: There -- which will lead to another issue in a

9 moment.

10 THE COURT: So pretty much just the homicide, Count 1, is the

11 August issue and everything else is the July?

12 MS. MURRAY: That's correct.

13 MR. SAVAGE: Correct.

14 THE COURT: Got it; okay.

15 MS. MURRAY: There was another home address, a local

16 residential address that was provided to us that we've also attempted to

17 obtain information on but we've had trouble in being able to do so.

18 THE COURT: Okay.

19 MS. MURRAY: Due to lack of cooperation with people who

20 own that home.

21 The issue regarding the two cases, there was originally an

22 arrest in July.

23 THE COURT: Okay.

24 MS. MURRAY: There was a pre-complaint number generated.

25 THE COURT: Okay.

1 MS. MURRAY: Prior to anything being filed in that case, there
2 was a 72 hour court appearance, Mr. Woods was released, there was no
3 criminal complaint filed.

4 THE COURT: Okay.

5 MS. MURRAY: They were continuing to do investigation into
6 those July counts.

7 THE COURT: Got it.

8 MS. MURRAY: He was never appointed counsel on that case.

9 Fast forward to the filing and the arrest related to the murder,
10 the State filed it all as one case.

11 THE COURT: Got it.

12 MS. MURRAY: Including the July charges.

13 THE COURT: And did that get filed in Goodman's court as well
14 or no?

15 MS. MURRAY: No, it went through -- it originally was filed as --
16 I don't recall where it went originally but because there's a DV allegation
17 related to the murder it rolled into Tobiason.

18 THE COURT: Got it; okay.

19 MS. MURRAY: Into the domestic violence courts.

20 THE COURT: Okay.

21 MS. MURRAY: At that time, roughly within a week or two of
22 that, Mr. Woods did notify me, hey, they're taking me to this other
23 courtroom, they're taking me to Judge Goodman's courtroom.

24 THE COURT: Okay.

25 MS. MURRAY: I did contact the department. I did check the

1 justice court Odyssey. I did speak to the DA. And if you look it up in the
2 justice court Odyssey system, you will see that that case has always been
3 closed out because it was an error in a duplicate filing where the case was
4 actually proceeding in another justice court.

5 THE COURT: So it was closed out --

6 MS. MURRAY: Via administrative --

7 THE COURT: -- it was closed out but it was never actually
8 started.

9 MS. MURRAY: Correct; he was never arraigned and he was
10 never --

11 THE COURT: Because there was no complaint filed.

12 MS. MURRAY: -- never arraigned, never filed, never nothing.

13 THE COURT: Got it; okay.

14 MS. MURRAY: I did explain to Mr. Woods that I work for the
15 county. I appear on cases that I am appointed on.

16 THE COURT: Right.

17 MS. MURRAY: I did take those extra steps because it was
18 important that that case not linger and appear that he had multiple cases.
19 But I never represented him on anything related to anything in
20 Judge Goodman's courtroom. And I did explain that to him.

21 And he is correct, I did not make any court appearances on that
22 case and that was for reasons that it was not a case I'm appointed on.

23 THE COURT: Okay.

24 MS. MURRAY: I did make the contacts to the department and
25 the State though and make sure that that case did not continue through

1 the system.

2 THE COURT: Okay.

3 MS. MURRAY: The issue related to the evidentiary concerns
4 he has related to the guns and to what I believe he's referring to when he
5 states I won't file motions, it's really one issue. I won't move to dismiss
6 evidence that I believe the argument against is fact natured. I've
7 explained to him the difference between a fact argument and a legal
8 argument, when I believe it's appropriate to file a motion and when I do
9 not.

10 But I just don't feel we communicate well. So I know he doesn't
11 trust that I'm telling him the truth but that is what I have done on that topic.
12 And he is correct, I have not filed anything in relation to that.

13 THE COURT: Okay.

14 MS. MURRAY: At this stage the only motions that I've filed are
15 my -- I filed discovery motions. We also had a couple of discovery status
16 checks prior to moving into this department. We've continued to raise
17 discovery issues on this particular case. I also filed a motion in relation to
18 everything that he brought up regarding his statement and that motion
19 was granted and his statement was suppressed.

20 THE COURT: Right. I recall that.

21 MS. MURRAY: So I -- I've explained to him a couple of times, I
22 don't know why we continue to talk about the statement as it has been
23 suppressed at this point.

24 THE COURT: Was that statement videotaped or was it just
25 audiotape?

1 MS. MURRAY: We're still looking into that. As far as I know, all
2 I've ever received on it is the written transcript.

3 THE COURT: Transcript.

4 MS. MURRAY: So I know it was audio.

5 THE COURT: Okay.

6 MS. MURRAY: I have not seen any video on it. I have not
7 seen any body cameras related to anything to it.

8 THE COURT: Okay.

9 MS. MURRAY: I'm not aware of any dash camera related to it.
10 We did ask for all these items, they were all ordered to be produced, all I
11 can do in this context is rely on the representations that are being made,
12 which is they don't exist. And if we find out later they did exist, raise those
13 issues.

14 THE COURT: Well, obviously; okay.

15 MS. MURRAY: As of backup step, there was some question
16 over whether or not the initial vehicle that -- or the initial officers involved
17 were potential Taxicab Authority officers, as opposed to Metro. There
18 was some speculation that that's maybe why these things didn't exist. I
19 can say that I have done a -- a complete investigation through the Taxicab
20 Authority. I've sent numerous subpoenas and been in contact with their
21 records department and they have assured me that they have nothing.
22 They've eliminated themselves as a possible reason for why there's no
23 dash camera or body cam.

24 And I'm satisfied with the information that they've provided me
25 on that. So I think if they exist, it is truly an issue that Metro has these

1 items.

2 As for these allegations related to bar complaints, lawsuits,
3 things of that nature, I, quite frankly, don't recall having any conversation
4 with Mr. Woods related to bar complaints or anything of that nature. I am
5 certainly familiar with the fact that a client, when they're upset, that's one
6 of the number of things that they can do within their small things that they
7 have available to them to be able to voice a complaint.

8 I can't think of a time when I've had any sort of personal
9 reaction to that. In fact, I think I'm maybe one of the odd attorneys out
10 there that welcome things like PRC complaints and all the rest of it.
11 Because as far as I'm concerned, if there's a flaw, go ahead and point it
12 out. I don't mind that.

13 THE COURT: Well, I mean, you-all, and just so you know,
14 Mr. Woods, because they work with the Public Defender's Office they're
15 insulated in a way that a private attorney isn't. I mean, you can file bar
16 complaints, you can sue 'em in federal court, that doesn't cost them any
17 money or anything, that doesn't in and of itself create a conflict.

18 If a private attorney has to then go out and, you know, hire
19 counsel to represent 'em or do something with a malpractice carrier, that
20 may create some type of conflict.

21 But just the mere fact of suing your attorney or filing a bar
22 complaint in and of itself doesn't create a conflict. I think there's a lot of
23 people that think that that action in and of itself is a conflict but it really
24 isn't.

25 What about --

1 MS. MURRAY: The --

2 THE COURT: -- well, go ahead.

3 MS. MURRAY: I'm sorry, there was just one more thing I
4 wanted to address.

5 The idea that I would have done something retaliatory towards
6 that is just inaccurate. The comment that he is referring to where he says
7 I made a comment to Judge Levitt that I did not believe he wanted a white
8 woman representing him. I did make that comment.

9 THE COURT: Okay.

10 MS. MURRAY: I was posed a direct question by Judge Leavitt
11 as to -- in a hearing, exactly like this, this is roughly the fourth.

12 THE COURT: Right.

13 MS. MURRAY: Third, fourth, I don't remember exactly. I was
14 posed a direct question as to why I believed we were having the level of
15 disconnect in our ability to communicate on this case and why we were
16 continuing to have the same issues pop up over and over again.

17 THE COURT: Okay.

18 MS. MURRAY: I said I believe there's this issue. I said that. I
19 stand behind the fact that I said that. I've explained to him numerous
20 times what caused me to say that.

21 When he says that I wrote him a letter that explains that
22 statement, he is referring to a letter that I wrote him recently in response
23 to this motion, and a similar letter that I've written him every time he has
24 filed one of these motions, which is I item by item go through and respond
25 to what's been raised.

1 THE COURT: Okay.

2 MS. MURRAY: And invite future communication, if necessary.

3 There have been, especially in the early onset of this case,
4 there were frequent conversations between the two of us, with other
5 individuals in the room, wherein issues related to his belief of my ability to
6 handle this particular case came into question.

7 THE COURT: Okay.

8 MS. MURRAY: They were not related to experience or training
9 or, you know, prior casework or any of that nature, it was related to
10 whether he believed the witnesses that he believed needed to be spoken
11 to would speak to me --

12 THE COURT: Okay.

13 MS. MURRAY: -- for reasons that relate to my being a white
14 woman.

15 THE COURT: Okay.

16 MS. MURRAY: I never in any way, shape, or form have made a
17 racially slanderous statement towards him as he alleged. I've -- I mean,
18 he can read the other paragraph I wrote in the letter, if he like, which is
19 how this -- I mean, I find such conduct, behavior, and statements to be
20 utterly repugnant.

21 I would absolutely never. I cannot think of a time in my entire
22 life where I've used a statement of that nature. And we've had a
23 conversation related to that as well where I explained to him that, you
24 know, you might see me in one context because you don't know anything
25 about me, but you have no idea where I'm from, where I've lived, what I've

1 done, what I've been exposed to. And we talked about some very specific
2 details of that at one point in an effort for him to understand that I am not
3 just some outsider to a world that doesn't have any idea of what I'm
4 dealing with.

5 THE COURT: Okay.

6 MS. MURRAY: And the fact that I have a very lengthy
7 background of dealing with clients, witnesses, and family members in a
8 vast array of social economic and racial situations.

9 THE COURT: Okay.

10 MS. MURRAY: So in that context, you know, I mean, I, quite
11 frankly, don't know what more I can say on that.

12 To me, the bottom line here is that -- well, I don't feel I have any
13 conflict in this case. Mr. Savage does not feel he has any conflict in this
14 case.

15 THE COURT: Okay.

16 MS. MURRAY: I could not look the Court in the eye --

17 THE COURT: Okay. And just for the record, how long have
18 you been on it, Jordan?

19 MR. SAVAGE: Since just about the beginning.

20 THE COURT: In justice court as well?

21 MR. SAVAGE: Correct.

22 THE COURT: Okay. All right. I'm sorry, go ahead.

23 MS. MURRAY: There was -- the State had been indicating they
24 were intending to file death in this case so I immediately --

25 THE COURT: Okay.

1 MS. MURRAY: -- affiliated 250 counsel.

2 THE COURT: Okay.

3 MS. MURRAY: I don't think in the ten plus years I've practiced
4 out here, in the time I spent working as a student practitioner in Cook
5 County, and the time I've spent in DC, I don't think I've ever had a client
6 relationship where my clients been so distrustful of me and the team
7 working. I do not know if that is a distinct issue that relates to us and the
8 way that the case has been handled. I don't know if that's personality
9 driven. I don't know.

10 But I can tell the Court that I've -- I've certainly been in
11 situations where someone has moved to dismiss or where, you know,
12 there's been some issues that have arisen, but I've truly never had a
13 situation with a client where I feel like no matter what efforts been
14 extended to communicate that there is something that potentially I am
15 failing on or I am not able to do that continues to have him feel the exact
16 same way as he felt over 18 months ago now.

17 So it does cause me concern from that positioning --

18 THE COURT: And that's been there --

19 MS. MURRAY: -- that he so severely --

20 THE COURT: -- since the beginning?

21 MS. MURRAY: Yes, I mean, this began almost -- I don't recall if
22 there were issues prior to leaving justice court or if it was immediately
23 following the move into district court.

24 THE COURT: Okay.

25 MS. MURRAY: But I can tell you that from the very beginning

1 it's not been an easy relationship. And I don't fault him for that. I don't
2 have any, you know, I mean, he can have any number of reasons why
3 that might be the case.

4 But I -- I do feel the Court needs to know that I've -- I've never
5 once come in on one of these and said, there is a breakdown and I don't
6 know how to fix it.

7 THE COURT: Right.

8 MS. MURRAY: And that is the position I find myself in. There
9 is a true breakdown. He genuinely does not trust me. And I don't know
10 what I can do to repair that.

11 THE COURT: Okay. He really didn't mention it as much today
12 but part of what was in the motion was complaints about visitation as well,
13 whether it was --

14 MS. MURRAY: There had -- we've discussed the visitation
15 issues. I think that when he, in his mind, creates what's visitation, he
16 thinks me personally needing to be there to visit. However, I consider
17 visitation to be a visit with me, a visit with Jordan, a visit with Emily, a visit
18 with Ruben.

19 THE COURT: Sure.

20 MS. MURRAY: We're a team. I consider a visit to be the days
21 that, you know, I've called him from my desk and done a video conference
22 or, you know, on occasion it's just a phone call. So I do believe that any
23 time there's been something to be done, we've had a visit. Every time I've
24 written him a letter, I have invited, if there's more, please let me know,
25 send me a letter back, we'll come by and see you.

1 THE COURT: Okay.

2 MS. MURRAY: There have been visits refused. There have
3 been phone calls where we have been hung up on. And when I say, we,
4 I'm speaking of the team. I have not directly been hung up on.

5 So I think the visitation issue is a two-way street. And I think
6 that sometimes there's a belief and I have the ability to be over there once
7 a week and, you know, every minute giving an update as to what's going
8 on with the case. But the reality of our caseloads and our practice prohibit
9 that.

10 THE COURT: Right.

11 MS. MURRAY: It would be completely ideal. I don't think we'd
12 have any client-relationship issues if we were able to truly put in the level
13 of FaceTime that, you know, a smaller caseload would allow.

14 THE COURT: When was the visit that you mentioned earlier
15 with the investigator that was stopped prematurely?

16 MS. MURRAY: That one was prior -- my investigator was -- oh,
17 my investigator was also on FMLA for a work related issue for a number
18 of months. But he is back now and I did let Mr. Woods know that.

19 That was on -- I don't know if I brought that memo with me. It
20 was prior to him going on his -- on the FMLA, which I believe began in
21 May. I want to say it was roughly in March but I am guessing and --

22 THE COURT: Okay. But some time earlier this year?

23 MS. MURRAY: Or late last year. I honestly don't recall off the
24 top of my head.

25 THE COURT: Okay.

1 MS. MURRAY: And since then -- the most recent contact was
2 with -- well, that wasn't with one of us, it was with my mitigation specialist
3 and that call was terminated by Mr. Woods.

4 THE COURT: Okay. So, and I know you've -- you've -- you've
5 talked about Mr. Woods' difficulties with you-all, which I -- which I --

6 MS. MURRAY: And I don't want to characterize him as
7 difficulties.

8 THE COURT: -- I mean, candidly I view it as you're not saying
9 that you have any difficulties with him, any animosity towards him, any
10 problem working with him but that recognizing that there has been some
11 disconnect on his behalf with you-all since way back when.

12 MS. MURRAY: But in no way do I want to say that it's a
13 difficulty, an obstruction as to a negative --

14 THE COURT: No, no, no, I'm not saying that.

15 MS. MURRAY: -- any of that. I mean, I think it's truly there is a
16 communication issue that has created and/or fostered --

17 THE COURT: Right.

18 MS. MURRAY: -- this situation. I mean, the gun motion issue
19 is a perfect example or the justice court duplicate case filing --

20 THE COURT: Right.

21 MS. MURRAY: -- I mean that's another perfect example. I
22 mean, he does -- he believes it needs to be done in a particular fashion.
23 I've explained to him why I think that, you know, those situations are
24 different and we can have that conversation until we are both voiceless
25 and blue in the face. And I do not think that that information is clearly

1 communicated.

2 So I have concerns when things, like, if the State were to ever
3 make an offer in this case, which they've never done, but if the State were
4 to make an offer in this case, I have concerns over whether or not he
5 would candidly listen to my positioning, my teams positioning, and validly
6 engage in those conversations. I have concerns over issues relating to
7 particular witnesses where I can't communicate clearly to him why I need
8 to know a particular thing for whatever reason that is.

9 And I'm being very honest with the Court --

10 THE COURT: No, I get it.

11 MS. MURRAY: -- this is not an issue that I've had in the past
12 but it is an issue that I think has arisen in this case.

13 THE COURT: What is your position right now about our trial
14 date?

15 MS. MURRAY: That is still dependent on where this discovery
16 is with the State. I mean, the State tells me that they need a, you know,
17 16 plus gig jump drive to download new information for me.

18 THE COURT: Right.

19 MS. MURRAY: If that's truly full of what ends up being new
20 information, I'm not going to be ready in six weeks. If it's not truly full of
21 new information and it's duplicative stuff and it's a matter of filing one
22 more motion related to the search issues and the guns, then potentially
23 we would be ready.

24 I can say that we've consulted with the experts that we believe
25 are necessary, with the exception of one that we've still been tossing

1 around. That is something that I think if we decided we wanted to move
2 with, we'd still be in time to do it. I am scheduled to also trial -- try Darius
3 Sorrells the same time frame in January. That is 100 percent prepared
4 and ready to go and there -- we'll be in here tomorrow morning letting you
5 know that. That case --

6 THE COURT: Is that in my department or is that another new
7 case that's getting assigned out?

8 MS. MURRAY: It is not new. I do believe it's in front of you.
9 Give me one moment.

10 THE COURT: What was the gentleman's name, I'm sorry?

11 MS. MURRAY: Darius Sorrells. It's a double homicide from -- I
12 apologize, it's in Togliatti.

13 THE COURT: Oh, okay.

14 MS. MURRAY: Yeah, and we're set to begin on January 16th
15 and this is scheduled to begin on January 22nd. And Sorrells is, as I said,
16 a double homicide --

17 THE COURT: Okay.

18 MS. MURRAY: -- that has a very high likelihood of going into a
19 penalty phase.

20 THE COURT: Okay.

21 MS. MURRAY: It's a not -- it's an NGRI case. So it'll be time
22 intensive with experts.

23 THE COURT: So let's -- will you grab the DA for me real quick,
24 Greg, see if Rogan's still out there.

25 THE DEFENDANT: Your Honor --

1 THE COURT: I'm going to let you talk again, don't worry.

2 MS. MURRAY: I do know that the State has not yet
3 subpoenaed witnesses. They were waiting to see what happened here --

4 THE COURT: No, I'm sure.

5 MS. MURRAY: -- to be able to address these issues. We
6 discussed that last week.

7 THE MARSHAL: No, Judge, he's not out there anymore.

8 THE COURT: All right. I just wanted to ask him about the
9 discovery issue.

10 MS. MURRAY: My phones buzzing which might be related to
11 that.

12 THE COURT: All right.

13 MS. MURRAY: It is.

14 THE COURT: All right.

15 MS. MURRAY: He said he had to run to his office. And if I just
16 send a text when you're ready, he'll be right back.

17 THE COURT: Oh, all right. Well, I just wanted to ask him about
18 the discovery stuff, but we can do that at a separate time, if I need to.

19 Okay. Mr. Woods, what would you like to say?

20 THE DEFENDANT: Your Honor, I'm not as eloquently spoken
21 as she is. Half of that stuff she just told you was false. You can even
22 check the transcripts. There was no direct question about. She just made
23 that racist statement off the top of her head. That's in the transcript. I've
24 never had a DV case. I don't know what she's talking about on that. I
25 have --

1 THE COURT: It's the nature of the homicide here. Because
2 the nature of the homicide is that you're alleged to have killed somebody
3 that you were in a relationship with that creates a domestic violence
4 aspect that makes the case track a certain way.

5 THE DEFENDANT: Okay. I wasn't in the relationship. It was a
6 past relationship. We had split up.

7 THE COURT: You're talking about things --

8 THE DEFENDANT: But what I'm saying is --

9 THE COURT: -- that don't involve your attorney. She's just
10 telling you why your case went to a certain judge in justice court.

11 THE DEFENDANT: Okay. Well, why I am -- these was two
12 separate cases. Why are they even together? There should have been a
13 motion to sever these cases. This is one case over here; an alleged case
14 over here.

15 THE COURT: Okay.

16 THE DEFENDANT: I should have been fighting this case still if
17 I was gonna be fighting it in Judge Goodman's court. I have the papers
18 right here that said I was going to this court date. Not just one court date,
19 it was like four different court dates that lasted over a year's worth of time.

20 THE COURT: Okay.

21 THE DEFENDANT: To where they finally denied the case.

22 THE COURT: And they do that, they will status check a case to
23 see if the State's going to actually file a charge in that case. That doesn't
24 mean they represent you there. That's the Court running a series of
25 status checks to see if the DA is going to pursue a case against you or

1 not.

2 THE DEFENDANT: How can -- how can I be fighting the same
3 charges in both courts?

4 THE COURT: Because --

5 THE DEFENDANT: That's what I didn't understand also.

6 THE COURT: Okay. That's frustrating. I get it. But it happens,
7 where an arrest generates something in justice court, but then the State
8 may decide to file something separately that includes a bunch of different
9 things.

10 And so this -- this first thing is sitting over here and the Court,
11 Judge Goodman, has an obligation to keep -- keep it on calendar to see,
12 is this going to be a case in my court or not? Meanwhile the State is
13 going against you over here.

14 So that's frustrating and it's confusing, but it's not anything they
15 are appointed to or involved in.

16 What's important is that charges don't get filed and prosecuted
17 for the same thing in two courts. And I'm comfortable, and I had looked at
18 that before, that you were never approved for charges in front of
19 Judge Goodman, there's nothing there for that aspect.

20 THE DEFENDANT: These visits, she's saying she visited me.
21 Your Honor, again, it's going to be looked up in the CCDC records, I
22 haven't seen that investigator. I don't know why she's saying that.
23 There's -- you can look it up in there, since March of 2016. I don't know
24 why she's saying I'm hanging up on people and I'm -- there's only one
25 incident that was true that she said I denied the visit. That's one particular

1 time. And that was right before I tried to dismiss her because I thought it
2 was going to be over with so why even have this visit.

3 THE COURT: Well, so -- so --

4 MS. MURRAY: Your Honor, I actually --

5 THE DEFENDANT: Like I said, I can count on one hand --

6 MS. MURRAY: -- haven't attempted to visit him since this was
7 filed.

8 THE DEFENDANT: -- the times that she's seen me in two
9 years.

10 THE COURT: Hold on, hold on one sec.

11 I'm sorry, what?

12 MS. MURRAY: I have not attempted to see him since this
13 motion was filed. I responded in writing in lieu of making a visit. And I
14 believe I did the same on the last one because I don't find such meetings
15 to be fruitful.

16 THE COURT: Okay.

17 MS. MURRAY: I invited him to contact me, if he wanted me to
18 come visit.

19 THE COURT: Okay.

20 MS. MURRAY: I did not go.

21 THE COURT: All right. Why -- why do you --

22 MS. MURRAY: Nor did I send any member of the team.

23 THE COURT: -- why-- let me ask you this, Mr. Woods, I mean,
24 as your attorneys have explained and I can see looking back in the case
25 that that there have been complaints by you about the attorneys since

1 pretty much we got into district court.

2 So what was it from so long ago that caused you to, you know,
3 have this issue with your attorneys?

4 THE DEFENDANT: The very first issue?

5 THE COURT: Yeah, I mean, from way back --

6 THE DEFENDANT: When she stood up in court --

7 THE COURT: -- from way back when.

8 THE DEFENDANT: -- when she stood up in court and said I
9 didn't want a white woman defending me. That has no bearing on
10 nothing. We had never even had a racist discussion. I don't know why
11 she keeps telling you that.

12 THE COURT: Well --

13 THE DEFENDANT: There was no racist discussion before that.
14 And why would I want to go to trial with somebody that even says
15 something like that. I'm not gonna get a fair defense from somebody --

16 THE COURT: Did you ever have a discussion with her where
17 you expressed some concern about her --

18 THE DEFENDANT: Your Honor, we have the most --

19 THE COURT: Let me finish. Let me finish.

20 -- where you express some concern to her about her ability to
21 get witnesses to talk to her?

22 THE DEFENDANT: Yes, I did. I even have my people call her.
23 That's what she's not telling you. She hasn't called these witnesses.

24 THE COURT: Okay.

25 THE DEFENDANT: I have witness call her that she's hung up

1 on, that she's told she's not gonna speak to 'em.

2 THE COURT: Okay.

3 THE DEFENDANT: Why even have 'em call her. She's not
4 calling them. So I have them call her.

5 THE COURT: Okay. All right. And --

6 THE DEFENDANT: I don't understand that.

7 And I have to go to trial with somebody that -- Your Honor, for
8 real, I have to go to trial with somebody with that mindset? She's already
9 made the statement like that. And it's like it's being overlooked, it's like
10 there's no big deal.

11 Now, if a black person came and threw up the race card,
12 everybody throw up their hand, like, oh, here we go with that again. But
13 when it comes from someone else, it's okay? I don't -- I don't get that. I
14 don't understand that at all.

15 THE COURT: Okay.

16 THE DEFENDANT: And now I have to have my life on the line
17 with somebody I don't even trust, that I know I'm not gonna get a fair
18 defense out of this thing. I just want somebody that I can -- would help
19 me, especially to help me explain what's going on here. She just tells me
20 all this legal jargon, legal talk. She never sits down and say, okay, look,
21 this is what's gonna happen here, this is what's gonna happen here, this is
22 what we're doing here.

23 THE COURT: But a lot of times that is legal jargon. I mean, to
24 explain the process you're having to use legal words to explain legal
25 things.

1 THE DEFENDANT: I know that. But at the same time when I
2 say, okay, put it in layman's terms for me, what the hell is going on?

3 THE COURT: Okay.

4 THE DEFENDANT: What are we doing here? And what are
5 doing there? I never get that.

6 THE COURT: So let me ask you this --

7 THE DEFENDANT: We argue back and forth for every --

8 THE COURT: -- if -- if they are to continue on as your
9 attorneys, are you going to sit down with them and let them explain things
10 to you?

11 THE DEFENDANT: After two years of this, now it's all of a
12 sudden gonna change, that's -- it's --

13 THE COURT: Well, no, but there's a --

14 THE DEFENDANT: And they're making it seem like it's just me.

15 THE COURT: -- look, look, there's a difference --

16 THE DEFENDANT: I don't understand that.

17 THE COURT: -- there is a difference between working with
18 somebody and wanting to work with somebody. A lot of times, a lot of
19 times, there are people in the detention center that are charged with
20 crimes that they may not like their attorneys but they're going to work with
21 them.

22 And then there are people in there that don't like their attorneys
23 and so they decide they're just not going to work with them. And they
24 come to court and they complain all the time. And the problem is they're
25 just refusing to work with them because they disagree with certain things.

1 There's going to be disagreements. You could have -- you
2 could be a millionaire and have all the money available to you and hire the
3 most expensive attorney you want and I would guarantee you two things,
4 number one, you're still going to have disagreements because human
5 beings have disagreements over things.

6 And, number two, that highest paid attorney probably wouldn't
7 be as good as these attorneys because they don't spend as much time in
8 court. That's the advantage they have doing the job that they have is
9 they're in court all the time trying cases and they know what works, what
10 doesn't work, what's wise to do, what isn't wise to do, how to procedurally
11 go about things, how to strategize when to do things to help you, and how
12 to do things to help you.

13 So a lot of attorneys go to trial and they're very successful at
14 trial, even though their clients don't help them because their clients don't
15 like them. And then all much a sudden their client thinks they're this great
16 attorney because they got acquitted; right?

17 And then you have people that that their clients work with 'em,
18 even though they may not like 'em but they're still going to work with 'em.
19 They're going to take the visits, they're going to listen, they're going to
20 take the advice, they're going to figure out what to do.

21 So, look --

22 THE DEFENDANT: There has been this insinuation like it's just
23 on my part, when I've just explained to you I'm even going out my way
24 calling my family, we're trying to investigate our ownself because there is
25 no investigation that's being done on my behalf. This is what I'm saying to

1 you.

2 THE COURT: Well, here --

3 THE DEFENDANT: I'm not -- I'm not saying that I'm not trying
4 to work with her. I have been trying to.

5 THE COURT: Okay.

6 THE DEFENDANT: I've overextended myself.

7 THE COURT: All right. So I -- I --

8 THE DEFENDANT: It's not like I don't dislike her.

9 THE COURT: -- I take that to be a yes then. If they continue
10 on as your attorneys, that if they setup meetings with you, if they have
11 their investigator set up meetings with you, you're going to continue to
12 work with them and try and assist them, which would be the wise thing to
13 do obviously.

14 THE DEFENDANT: Of course.

15 But at the same time, Your Honor, what if there is future
16 problems, I'm gonna come back here and then it's gonna be overlooked
17 again and said, well, you -- you're shit out of luck. You're going to stay
18 with these people.

19 THE COURT: Mr. Woods, if I was overlooking your problems, I
20 would have denied your motion in court --

21 THE DEFENDANT: No, that's -- that's not --

22 THE COURT: -- and not set this hearing.

23 THE DEFENDANT: -- particularly what I'm saying. I'm just
24 saying, Your Honor, if I'd been coming over and over saying there's
25 problems and I'm gonna, just like you said, I'm gonna go ahead and try to

1 work again.

2 THE COURT: Okay.

3 THE DEFENDANT: But if there's problems, I can't say anything
4 because it's gonna be -- it seemed like again, once again, they're gonna
5 be, like, well, oh, well.

6 THE COURT: No, no, no. You know, you know that you can
7 file the motions because you've done it before. It's just the -- my sense is
8 that for some reason, way back when, you got in your mind that your
9 attorneys weren't doing what you wanted 'em to do and that you wanted
10 new attorneys. It's not anything to do with what they've done that have
11 caused that. They have been working on your behalf. I am satisfied
12 about that.

13 So I kind of view this as, if you had any attorneys sitting over
14 there that didn't do exactly what you wanted them to do in terms of filing
15 motions and pursuing the things you wanted, when you wanted, you were
16 going to be displeased with them and want new attorneys. It isn't a
17 Ms. Murray and a Mr. Savage thing.

18 And I'm satisfied from -- from everything that I've read and
19 reviewed, going back in this case, that they are working on your behalf.

20 And I know them to be very good attorneys, Mr. Woods. I am
21 telling you, you could be appointed attorneys that you would be in here
22 every day complaining about, even on a murder case. I have no problem
23 admitting that. There are attorneys in this town that have no business
24 representing people for murder. It's not these people. These are really
25 good attorneys.

1 And I understand your frustration on a bunch of things but you
2 need to be able to understand that they're doing their job because of what
3 they know in their training, experience, and schooling that leads them to
4 understand when to do certain things and how to do certain things.

5 The fact that they haven't filed a motion to suppress yet, when
6 they don't know the issue of the search warrant being decided yet that's a
7 wise thing to do. You don't want to play your cards on that until you know
8 about that.

9 If they go and visit people that won't talk to them, they won't talk
10 to them. There's not a lot they can do in that regard. Often times
11 witnesses that are going to be called by the State do not want to talk to
12 your attorneys or investigators. And often times when the defense files an
13 alibi notice, those witnesses do not want to talk to the prosecutors or their
14 investigators. That's how it happens.

15 If there is an alibi to be had here, because I know there was
16 some reference to that, they don't have to file that notice yet and they
17 don't want to file that notice yet. There's a certain time period before the
18 trial when they have to file that and there are -- there are really specific
19 reasons why they may want to wait until the very end to do that and still
20 be within the guidelines and timelines of doing it but not kind of disclose to
21 the other side what a potential defense may be yet.

22 So there's a lot of reasons why there are things that they
23 haven't done yet. I guarantee you. And it can be frustrating for me as a
24 judge, I'll be honest with you. But it's not like they're not going to do
25 anything. It's not like they're not going to file motions. When they have

1 the information they need to file motions, they will.

2 And a lot of times it's frustrating because we're like, wow, we're
3 just getting these motions late. But it's because they just got discovery
4 late or there's a reason to file it late. And we deal with it and we rule on it
5 and we get ready for trial. That's the best thing that anybody can do.

6 Your attorneys are right that they cannot -- they do not have the
7 ability to go out and cause a private person to give up their property for
8 their search. So if private individuals still have their phones, that have
9 never been searched by law enforcement, Ms. Murray cannot get an order
10 from me that allows her to go out and take that person's phone and
11 search it.

12 If it wasn't done by law enforcement, then they got a good
13 argument at trial to make that the police didn't do their job in properly
14 investigating the case. But they can't get their own search warrants and
15 do that kind of thing.

16 It would also not be the first time that a comment has been
17 made, not by Ms. Murray, but other people, of that same kind of ilk, in
18 terms of somebody not wanting somebody to represent them because of
19 a certain thing about them, whether it's solely because they're a woman or
20 solely because they're a man or solely because they're white, black,
21 Hispanic, whatever it is.

22 If there's a belief that a defendant has some idea, and you
23 admitted a moment ago that you did tell her that you thought that she was
24 going to be unable to talk to certain witnesses, if an attorney has an idea
25 that a defendant feels that way about a certain thing, they're going to

1 articulate that to the Court. It doesn't mean it's a racist comment, doesn't
2 mean it's racially disrespectful to you. It's just she perceived that you
3 thought that she wasn't going to be able to get information from witnesses
4 that you wanted her to get information from because she was a white
5 woman and may be other people --

6 THE DEFENDANT: I never said that.

7 THE COURT: -- wouldn't talk to her because of that.

8 THE DEFENDANT: I never said that.

9 THE COURT: If she was incorrect about what you were
10 communicating, since you admitted that you communicated that you didn't
11 think she was going to be able to get the information, if she was wrong
12 about why she thought you perceived that, that's okay, it happens. But it
13 doesn't make her a racist. It doesn't prejudice Judge Leavitt against you.
14 It sure doesn't prejudice me against you about anything related to that.
15 So I'm not worried about that at all either.

16 I am worried about obviously getting your case to trial. If there
17 is some reason to sever the charges, and I've got a feeling that motion will
18 get filed at an appropriate time, if they believe there's a basis to sever
19 those charges, then we'll deal with that. A lot happens within the last 60
20 days before a trial starts. If we know the trials going to go, that's when a
21 lot of motions start getting filed and scheduled for hearing to start shaping
22 how the trials going to occur.

23 It can be hard. You've got to be really patient, I know. Because
24 you're thinking, what the hell, we've been sitting here forever and these
25 things haven't been done. A lot happens. But a lot doesn't happen if they

1 think the trials not going to go. Because it doesn't behoove them to
2 display a lot of things that they're thinking about by motion practice, if that
3 trial isn't going to go; okay.

4 So at this point in time I'm not going to remove them as counsel.
5 You obviously continue to have that ability to raise issues with me.

6 And I will ask, since our trial dates going to remain for right now,
7 and it's a couple of months away, that we're starting to get on a schedule
8 of scheduling visits. I'm not saying it has to be you-all, whether it's
9 mitigation experts or investigators.

10 MS. MURRAY: I understand that.

11 THE COURT: Accept the visits; all right. They want you to
12 partake in your defense, trust me.

13 THE DEFENDANT: It was one time two years ago.

14 THE COURT: Well, and that's going --

15 THE DEFENDANT: Well --

16 THE COURT: -- that's going to change.

17 THE DEFENDANT: -- Am I gonna stay in your court?

18 THE COURT: We're going to get a lot of people over there to
19 visit you as we're getting ready for trial; okay.

20 THE DEFENDANT: Am I gonna stay in your courtroom?

21 THE COURT: Yep.

22 THE DEFENDANT: Okay.

23 THE COURT: Your case is assigned to me.

24 THE DEFENDANT: That's cool.

25 THE COURT: All right.

1 Okay. And then just convey to Mr. Rogan that -- first off, we're
2 going to go ahead and set another status check in 30 days, that'll be on
3 December the 13th at 9:00 a.m.

4 And convey to Mr. Rogan, and you guys can come -- because if
5 I -- I don't remember the specifics of this, but I believe we have a file bank
6 in the district courts that's got all the search warrants as well.

7 I mean, it's not --

8 MS. MURRAY: It's been checked.

9 THE COURT: It has? And we can't find them their either?

10 MS. MURRAY: I'm waiting for the response on that.

11 THE COURT: All right. Well, I will --

12 MS. MURRAY: I requested specifically that that be checked.

13 THE COURT: All right. I'll get Molly on that as well and see if
14 we can't assist with tracking something down.

15 But tell Mr. Rogan that the only reason I was going to bring him
16 back in was I wanted to figure out what was going on with whatever he
17 requested from you-all electronically for some dump of discovery and
18 whether --

19 MS. MURRAY: He told me that it's gone to their, like, for lack of
20 a better term, "copy team."

21 THE COURT: Okay.

22 MS. MURRAY: To get that produced for me. He has assured
23 me that I'll have it by the end of this week.

24 THE COURT: Okay.

25 MS. MURRAY: I don't know exactly what it contains. And he

1 quite frankly wasn't the one originally doing discovery in this case. So he
2 doesn't know what's new and what's not new in it to me.

3 THE COURT: Okay.

4 MS. MURRAY: It was Ms. Fleck who was on maternity leave
5 for a large portion of this case.

6 THE COURT: All right.

7 MS. MURRAY: She just returned.

8 THE COURT: The other thing that I want you-all to talk about,
9 within the next 30 days with the State, is if we need to move the trial date
10 a little bit right now, because of your other case, let's do that so that we
11 can still hopefully maintain the ability to go to trial.

12 And then within the next 30 days, at least once a week, I would
13 like somebody to visit with Mr. Woods, as I said, you-all, mitigation,
14 investigator, somebody, so that we're continuing to get information to help
15 you guys get ready; okay.

16 MS. MURRAY: That's fine.

17 MR. SAVAGE: That's good.

18 THE COURT: All right. We'll see you back in 30 days; okay.

19 MS. MURRAY: Thank you.

20 THE DEFENDANT: Just one last question.

21 THE COURT: Sure.

22 THE DEFENDANT: There was supposed to be some type of --
23 before I even filed a motion, offers made. I heard you say something like
24 that, that's never happened or.

25 THE COURT: You mean an offer --

1 THE DEFENDANT: I don't know what's going --

2 THE COURT: -- to resolve the case?

3 THE DEFENDANT: Huh?

4 MS. MURRAY: The State has still made no offer to resolve the
5 case. They did represent on the record two court dates ago that they
6 intended to do so.

7 THE COURT: Okay.

8 MS. MURRAY: I have followed up with them again, as recently
9 as this morning, and intermittently in between that --

10 THE COURT: Well, tell Mr. Rogan --

11 MS. MURRAY: -- and it's still not --

12 THE COURT: -- that, yeah, yeah, I mean, if they haven't made
13 an offer, this is not a death penalty case, there is no reason that some
14 type of offer should not be made so that people can have a discussion
15 about that.

16 I don't get involved in that, other than telling the State you need
17 to make offers to reasonably resolve cases.

18 THE DEFENDANT: I understand.

19 THE COURT: So let Mr. Rogan know that I conveyed that as
20 well and that should be a topic of discussion between their office to at
21 least you-all over the next 30 days.

22 They have an obligation to convey to you any offer they get.
23 Even if it's a crappy offer --

24 THE DEFENDANT: Yes.

25 THE COURT: -- they still got to tell you, this is what the State

1 offered; okay. So they'll do that.

2 So if it's an offer that -- that is in your mind ridiculous, don't
3 blame them for it because they've got to tell you whatever it is; okay.

4 THE DEFENDANT: No, I understand that, yeah.

5 THE COURT: All right.

6 MS. MURRAY: Okay.

7 THE COURT: Okay. We'll see you in 30 days, guys.

8 MS. MURRAY: Thank you, Your Honor.

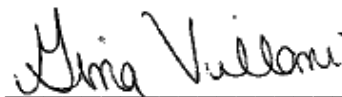
9 THE DEFENDANT: Thank you, Your Honor.

10 THE COURT: All right. Thank you.

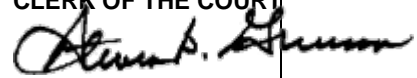
11 [Hearing concluded at 11:13 a.m.]

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

22 

23 Gina Villani
24 Court Recorder/Transcriber
25 District Court Dept. IX



1 RTRAN

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3
4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 THE STATE OF NEVADA,
9 Plaintiff,

CASE#: C-15-309820-1
DEPT. III

10 vs.

11 LEONARD RAY WOODS,
12 Defendant.

13
14 BEFORE THE HONORABLE DOUGLAS W. HERNDON, DISTRICT COURT JUDGE
15 WEDNESDAY, DECEMBER 13, 2017

16 **RECORDER'S TRANSCRIPT OF HEARING:**
17 **STATUS CHECK: TRIAL READINESS**

18
19 APPEARANCES:

20 For the State:

MICHELLE FLECK, ESQ.
Chief Deputy District Attorney

21
22 For the Defendant:

JULIA M. MURRAY, ESQ.
Deputy Public Defender

23
24
25 RECORDED BY: SARA RICHARDSON, COURT RECORDER

1 Las Vegas, Nevada, Wednesday, December 13, 2017

2
3 [Hearing began at 10:36 a.m.]

4 THE COURT: Leonard Woods, 309820, present in custody.
5 This is on for status check. We have a January 22nd trial date.

6 What's going on, ladies?

7 MS. MURRAY: Good morning, Your Honor, Julia Murray on
8 behalf of Mr. Woods.

9 THE COURT: Thank you.

10 MS. MURRAY: Since our last appearance, the State has
11 turned over a new jump drive that contains a lot of the information that I
12 had been previously asking for.

13 THE COURT: Okay.

14 MS. MURRAY: There is still one search warrant application
15 that I have not received. I spoke with Ms. Fleck about it this morning. I
16 know she reached out to Mr. Rogan this morning. I don't believe she's
17 heard back at this time, but it's obviously in the works.

18 As far as other items of discovery, I'm still working my way
19 through all of the new items that they've provided. And as I've explained
20 to Mr. Woods, I still haven't given him a full list of what's new in that. So
21 I'm going to have to obviously go over it with him as well, as I haven't
22 finished myself. But that'll be done probably within the next couple of
23 weeks. So under those regards, everything's moving along correctly.

24 As I told the Court at the last couple of court appearances, I
25 have a trial that is significantly older than this, that's scheduled in DC 9 --

1 THE COURT: Right.

2 MS. MURRAY: -- to begin approximately a week before this
3 one. It's a double homicide. I do intend on answering ready on that
4 one. I haven't seen any reason why that one would get delayed at this
5 point. The State made an offer that was not accepted in that case. I
6 don't see the State changing their positioning on that, and I don't see my
7 client changing his positioning on that. So I don't know where we'll be.
8 But I would like to keep at least that current January date in the event
9 that something goes array with the other trial.

10 THE COURT: Okay.

11 MS. MURRAY: But, obviously, that's -- they have to sub
12 people in, so I don't know where that puts everybody.

13 THE COURT: Okay. Is that --

14 MS. MURRAY: Or maybe get one a week earlier so I would
15 know what's happening with the other.

16 THE COURT: Was it Collins or Sorrells?

17 MS. MURRAY: It was Sorrells.

18 THE COURT: Sorrells; okay.

19 MS. MURRAY: Yeah.

20 THE COURT: All right. Ms. Fleck.

21 MS. FLECK: And the State will be ready, Your Honor.

22 THE COURT: Okay.

23 MS. FLECK: And with regard to the search warrant, I'm not
24 aware of exactly where it would be. She said the return is in there. So it
25 must be something that was just overlooked. So we'll be sure to get that

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to her.

THE COURT: All right. I can put it on for a status check on
January 10th --

MS. MURRAY: That's fine.

THE COURT: -- and just kind of see what's going on with
your other matter as well --

MS. MURRAY: That's fine.

THE COURT: -- and then have a better idea about our trial
date.

All right. Let's do that.

THE CLERK: January 10th at 9:00 a.m.

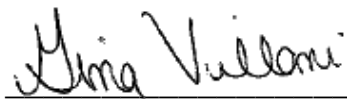
MS. FLECK: Thank you, Your Honor.

THE COURT: Thank you.

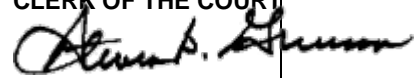
[Hearing concluded at 10:39 a.m.]

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ATTEST: I do hereby certify that I have truly and correctly transcribed the
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Gina Villani
Court Recorder/Transcriber
District Court Dept. IX



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

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8 THE STATE OF NEVADA,
9 Plaintiff,
10 vs.
11 LEONARD RAY WOODS,
12 Defendant.

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CASE#: C-15-309820-1
DEPT. III

BEFORE THE HONORABLE DOUGLAS W. HERNDON, DISTRICT COURT JUDGE
WEDNESDAY, JANUARY 10, 2018

**RECORDER'S TRANSCRIPT OF HEARING:
STATUS CHECK: TRIAL READINESS**

APPEARANCES:

For the State:

MICHELLE FLECK, ESQ.
Chief Deputy District Attorney

For the Defendant:

JORDAN S. SAVAGE, ESQ.
JULIA M. MURRAY, ESQ.
Deputy Public Defenders

RECORDED BY: SARA RICHARDSON, COURT RECORDER

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Las Vegas, Nevada, Wednesday, January 10, 2018

[Hearing began at 11:05 a.m.]

THE COURT: Leonard Woods, 309820. He's present.

This is on for status check. We have an upcoming trial date of January 22nd.

How are we doing?

MS. MURRAY: Julia Murray and Jordan Savage on behalf of Mr. Woods, who's present in custody.

A number of things have gone on since the last time we were in front of the Court. The State did provide the search warrant information that we had been going back and forth looking for. So I do have those items that I had been previously been making comment on.

THE COURT: Okay.

MS. MURRAY: There are a couple of things that we've sort of listed out that I plan on getting over to the State in the next day or two of items that we still need some clarification on. I think we're on the same page on them. We just need some final answers on a couple of things there that are discovery related.

THE COURT: Okay.

MS. MURRAY: As far as trial readiness at this stage, as the Court's aware, I had been double set on a double homicide that was in front of District Court 9 --

THE COURT: Right.

MS. MURRAY: -- as well as this one, that's why I requested

1 this earlier date. I was trying to have both prepared in the event that that
2 was possible.

3 As of last Thursday, the State sought a continuance in that
4 matter and we will not be going forward. However, that was the case
5 that we thought was going forward and where I had been putting the
6 vast majority of my time and my work.

7 THE COURT: Okay.

8 MS. MURRAY: Also as the Court's aware, there had been
9 just some other just communication issues going on in this case and we
10 needed some time to work through those and we're on a very good
11 course at this point.

12 THE COURT: Okay.

13 MS. MURRAY: We're moving forward and having productive
14 trial investigation to be ready. But I will not be ready in two weeks.

15 THE COURT: Okay.

16 MS. MURRAY: I can tell the Court now if the Court would like
17 me to file something formal in writing, I'm happy to do that as well. I had
18 contacted the State as soon as I was realizing this was likely and let
19 them know that I would be seeking a continuance today.

20 We -- I am available as of the second week of May forward. I
21 know Mr. Rogan stated he needed a date after June 10th, if June 11th is
22 available. I know I'm jumping over the State responding to my motion.
23 But just so the Court knows where we're at. That's pretty much where
24 we stand.

25 Other things that have happened, the State noticed a number

1 of new witnesses and -- they were timely. It's not, you know, a
2 complaint or a gripe. But we do now need to go and investigate these
3 individuals, as well a couple of them are in California. So there's just
4 things still to be done here.

5 THE COURT: Okay. Ms. Fleck.

6 MS. FLECK: Well, I understand what the reality is of the
7 request by the defense. We invoked in this case. It's our position that
8 we turned over literally all of the discovery. If there was any, you know,
9 random, small things, here and there that didn't get put on that original
10 disc. But there's nothing of substance literally from like the first month
11 that we had this case. We've been ready to go.

12 To say that we, you know, noticed any new witnesses, there's
13 nobody that's not in the discovery. So we went through with, you know,
14 a fine tooth comb at the end to make sure that anyone was noticed, just
15 on the off chance that they were called as a witness.

16 THE COURT: Okay.

17 MS. FLECK: But there is no one that's new to either side.

18 There's no DNA in the case. There's a DNA expert that's
19 noticed just in case we need to call somebody for negative evidence.
20 Same with prints, there were latent prints found on a car. Again, don't
21 go to the defendant, so there's nothing by way of that. There was one --
22 there was a CFL report that was turned over in the very beginning. And
23 that goes -- the evidence that was found on the phone goes to the --
24 some of the charges within the case. So that is a key piece of evidence
25 that they've had since the beginning.

1 So it's our position that we have been ready to go for literally
2 years. And this -- I mean, the defendant killed the victim in this case in
3 front of her 16-year-old daughter. So that's why we invoked. That's why
4 we have really been trying to expedite this case because she has been
5 sitting, lingering, waiting for her day in court and waiting to put this
6 behind her so that she can start, you know, trying to move past at least
7 this portion of losing her mom.

8 So there's a reason that we invoked and it isn't just to kind of,
9 you know, be obstructionists about something. But there's a real
10 legitimate reason that we invoked and that we really want to get this
11 case forward.

12 That being said, the defense has been communicative about
13 the issues that they've had with their other cases. We obviously have
14 known that Mr. Woods has not been -- that their relationship has broken
15 down between he and defense counsel at times. We're aware of that.
16 They've been very forthright about that. And, of course, it's been on
17 before this Court and others multiple times in order for them maybe to be
18 taken off the case or for him to get a new attorney.

19 So I get it and I don't expect that we're going to be going
20 forward on this particular setting on the 22nd. But there's a reason we
21 invoked. So I just want us to be mindful of that. Now that this is in front
22 of Your Honor and, you know, now that it appears as though the defense
23 and Mr. Woods are going to be working together.

24 THE COURT: Well, look, I always assume that there's a
25 reason that -- that you-all invoke since it doesn't happen rarely. I don't --

1 I don't think it's kind of a willy-nilly type thing.

2 On the other hand, I have tried to, and communicated to the
3 other several judges, to try to be obviously more sympathetic to cases
4 that we're inheriting with previously set trial dates before we started this
5 project where we can kind of coordinate trial dates. Because those are
6 the ones where people had trial set all on top of each other. And I know
7 Judge Leavitt set this trial many, many moons ago and we knew about
8 the other issue that Ms. Murray had the other case. Quite honestly, in
9 my communication with my judges, I thought that was case was going
10 until --

11 MS. MURRAY: I did as well. It was over our objection.

12 THE COURT: -- because we were trying to figure out, you
13 know, some other issues about getting other trials reassigned to
14 accommodate that.

15 So primarily, because of that, I get the inability to get prepared
16 for this one. So on that basis I'll grant your request to go ahead and
17 continue the trial date.

18 We just -- what did we just set earlier on -- for June.

19 MS. MURRAY: I believe it was later in the month. I was
20 listening.

21 [Colloquy between the Court and the Court Clerk]

22 THE COURT: The problem with June 11th though is that we
23 have a trial starting the week before that's a death penalty trial.

24 MS. MURRAY: Which one is that?

25 THE COURT: That is -- I don't think it's your office.

1 MS. MURRAY: Okay. That was all I was going to check.
2 THE COURT: Or maybe it is your office. Manuel Mata.
3 MS. MURRAY: I'm not familiar with that one either way.
4 THE COURT: I think it may be -- it may be Christy's case.
5 MS. MURRAY: Okay.
6 THE COURT: But it's a very old case, on its sixth or seventh
7 setting.
8 MS. MURRAY: I understand.
9 THE COURT: So we choose that date to make sure that it
10 goes.
11 So I wouldn't be comfortable setting this that following week. I
12 would want it to be a little later in June or July even.
13 So how does July look actually?
14 MS. MURRAY: I am available other than the first week of
15 July.
16 THE COURT: Michelle?
17 MS. FLECK: And I am available other than the 23rd. So
18 maybe the 9th?
19 MS. MURRAY: Or the 16th, just so we're not coming off that --
20 with travel 'cause a lot of people are --
21 MS. FLECK: The only problem is that I start another trial on
22 the 23rd and that one is for sure going to go.
23 MS. MURRAY: Oh.
24 MS. FLECK: So this one will take two weeks.
25 THE COURT: Okay.

1 MS. FLECK: So, I mean, I know that it's the week of the 4th of
2 July --

3 MS. MURRAY: No, no, I was --

4 MS. FLECK: -- but I think by 9 --

5 MS. MURRAY: -- just out of state was all I was thinking of.

6 THE COURT: Well, actually, I mean, that's the week after the
7 4th of July; right?

8 MS. MURRAY: Yeah.

9 MS. FLECK: Yeah.

10 THE COURT: Okay. Well, let's try that then, we'll set it for
11 July 9th for the trial and the calendar call date will be.

12 THE CLERK: June 28th, 9:00 a.m.

13 MS. MURRAY: I'm sorry, what was that second date?

14 THE CLERK: June 28th at 9:00 a.m. for the calendar call.

15 MS. MURRAY: Thank you.

16 THE COURT: Okay. And then we'll set another status check
17 in 30 days, with the primary thing being talking to witnesses to make
18 sure they're going to be available for those dates.

19 THE CLERK: That's February 7th at 9:00 a.m.

20 MS. MURRAY: Thank you.

21 THE COURT: All right. Thank you.

22 MS. MURRAY: Oh, and I apologize, the State just reminded
23 me, we have never discussed negotiations on the record in this
24 particular case.

25 THE COURT: Okay.

1 MS. MURRAY: The State did extend an offer following, I
2 believe, it was the last court date, that offer was that Mr. Woods is
3 permitted to plead guilty to all charges contained in the charging
4 document and they will remove the argument for a life without the
5 possibility of parole.

6 At this time I have conveyed that offer to Mr. Woods. I do not
7 anticipate that being an offer that he is going to accept. However, we
8 will have a conversation regarding reasonable counteroffers and
9 potentially be making a counteroffer back to the State.

10 THE COURT: Okay. Is that correct; Michelle?

11 MS. FLECK: Yes, Your Honor. Thank you.

12 THE COURT: Okay. All right, guys, thank you.

13 MS. MURRAY: Thank you.

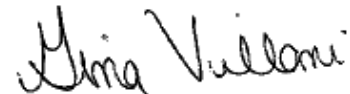
14 MS. FLECK: Thank you so much.

15 THE COURT: We'll see you back here on the 7th.

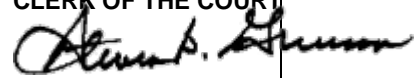
16
17 [Hearing concluded at 11:14 a.m.]

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

22 

23 Gina Villani
24 Court Recorder/Transcriber
25 District Court Dept. IX



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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

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8 THE STATE OF NEVADA,
9 Plaintiff,

CASE#: C-15-309820-1
DEPT. III

10 vs.

11 LEONARD RAY WOODS,
12 Defendant.

13
14 BEFORE THE HONORABLE DOUGLAS W. HERNDON, DISTRICT COURT JUDGE
15 WEDNESDAY, FEBRUARY 7, 2018

16 **RECORDER'S TRANSCRIPT OF HEARING:**
17 **STATUS CHECK: TRIAL READINESS**

18
19 APPEARANCES:

20 For the State:

MICHELLE FLECK, ESQ.
JEFFREY S. ROGAN, ESQ.
Chief Deputy District Attorneys

22
23 For the Defendant:

JULIA M. MURRAY, ESQ.
Deputy Public Defender

24
25 RECORDED BY: SARA RICHARDSON, COURT RECORDER

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Las Vegas, Nevada, Wednesday, February 7, 2018

[Hearing began at 9:49 a.m.]

THE COURT: Leonard Woods, 309820. He's present in custody.

This is on for status check. We have a July 9th trial date in Mr. Woods' matter.

MS. MURRAY: Julia Murray on his behalf.

No updates from the defense. We're moving along as planned.

THE COURT: Okay. State.

MS. FLECK: Good morning, Your Honor.

Nothing from the State.

THE COURT: Okay. So nothing is good news; right?

MS. FLECK: That's good news.

MS. MURRAY: I believe so.

THE COURT: All right. Look, we've, I don't need to go through the litany of questions because we've been through a lot of them with Mr. Woods' matter previously.

So we'll go ahead and just keep it on track with status checks. We'll set another one in 30 days.

THE CLERK: March 7th at 9:00 a.m.

MS. MURRAY: Thank you.

THE COURT: All right.

MR. ROGAN: Thank you, Your Honor.

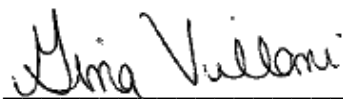
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MS. FLECK: Thank you.

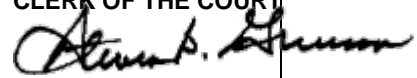
[Hearing concluded at 9:50 a.m.]

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Gina Villani
Court Recorder/Transcriber
District Court Dept. IX



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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

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8 THE STATE OF NEVADA,
9 Plaintiff,

CASE#: C-15-309820-1
DEPT. III

10 vs.

11 LEONARD RAY WOODS,
12 Defendant.

13
14 BEFORE THE HONORABLE DOUGLAS W. HERNDON, DISTRICT COURT JUDGE
15 WEDNESDAY, MARCH 7, 2018

16 **RECORDER'S TRANSCRIPT OF HEARING:**
17 **STATUS CHECK: TRIAL READINESS**

18
19 APPEARANCES:

20 For the State:

MARC DIGIACOMO, ESQ.
Chief Deputy District Attorney

21
22 For the Defendant:

JULIA M. MURRAY, ESQ.
Deputy Public Defender

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25 RECORDED BY: SARA RICHARDSON, COURT RECORDER

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Las Vegas, Nevada, Wednesday, March 7, 2018

[Hearing began at 9:16 a.m.]

THE COURT: Leonard Woods, 309820. He is present in custody. This is on for a status check on our pending trial date.

How are we doing with Mr. Woods' case?

MS. MURRAY: I have no representations.

Julia Murray on his behalf.

And my understanding, from Mr. Rogan, is that the State also has no representations this morning.

THE COURT: Okay.

MS. MURRAY: So all good.

THE COURT: Can you guys approach real quick.

MS. MURRAY: Yep.

[Bench conference begins]

THE COURT: How much time are we anticipating on this?

MS. MURRAY: On the actual trial?

THE COURT: Yeah.

MS. MURRAY: I think that the State's case will take -- I think jury selection on this one is going to be a little bit lengthy.

THE COURT: Okay.

MS. MURRAY: I expect the State's case will take about a week.

THE COURT: Okay.

MS. MURRAY: And I think our case will take maybe a day.

1 I can tell you at this point they have indicated they are not
2 currently willing to waive penalty.

3 THE COURT: Okay.

4 MS. MURRAY: So I would anticipate penalty on this one,
5 which I think would probably be, from them, max a day; from us, one,
6 maybe one and a half.

7 THE COURT: Okay.

8 MR. DIGIACOMO: Two weeks total.

9 MS. MURRAY: I was trying to do math, yeah.

10 I'd say two, maybe with a little rollover.

11 THE COURT: So here's the problem, this is what we were
12 just discussing in chambers this morning, we have a June 4th case and a
13 June 25th case.

14 MS. MURRAY: Okay.

15 THE COURT: The June 25th case on Barlow that Alzora has
16 is going.

17 MS. MURRAY: Okay.

18 THE COURT: It's five years old at this point.

19 MS. MURRAY: Okay.

20 THE COURT: It's actually older than Mr. Woods' case.

21 So I'm in the position of needing to likely move this because
22 Barlow is going to go through the week of July 9th.

23 MS. MURRAY: Okay.

24 THE COURT: Or find somebody else to take it. So I don't
25 know if your preference --

1 MS. MURRAY: Given the history on this one, like, I really
2 don't want to move, and I'm pretty sure the State's going to tell you the
3 same thing.

4 THE COURT: Okay.

5 MS. MURRAY: We've just had so many issues and we're
6 finally in a steady place.

7 But can I maybe get with Michelle and Jeff and then we can
8 come to you together.

9 THE COURT: Yeah.

10 MS. MURRAY: Could we maybe just do a status check like in
11 two weeks and --

12 THE COURT: I mean, I can tell you that if we could move it
13 like July 30th, that would be --

14 MS. MURRAY: I know that Michelle -- I had previously asked
15 for something a little later and I know Michelle had something scheduled.
16 I don't remember if it was the July part that was a problem or
17 September, which is what we were originally looking at.

18 THE COURT: Okay.

19 MS. MURRAY: So I don't want to speak for her when I really
20 don't know her schedule. But I know she had an issue with one of 'em.

21 THE COURT: Okay.

22 MS. MURRAY: Yeah.

23 THE COURT: So, yeah, why don't -- I'm going to go -- I'll go
24 ahead and reset the status check in 30 days. But if you guys want to get
25 together --

1 MS. MURRAY: Okay.

2 THE COURT: -- and come see me or just give me a call or

3 something.

4 MS. MURRAY: We'll do that.

5 THE COURT: Just knowing that this is not going to work in

6 light of Barlow now.

7 MS. MURRAY: And what is it that you do have available, you

8 could?

9 THE COURT: Well, you know, availability is a relative term.

10 MR. DIGIACOMO: Is a relative term.

11 THE COURT: There's a trial every week. I'm just looking for

12 spots for --

13 MS. MURRAY: Yeah, but you know which ones look for real.

14 THE COURT: Yeah.

15 I'm looking at spots where something is less than on its third

16 setting.

17 MS. MURRAY: Okay.

18 THE COURT: So maybe like July 30th.

19 MS. MURRAY: Okay.

20 THE COURT: Because I have a trial August 6th but that's one

21 that I could give away --

22 MS. MURRAY: Okay.

23 THE COURT: -- 'cause that's probably not going to be that

24 long.

25 MS. MURRAY: Okay.

1 THE COURT: Other than that, I have a death penalty case on
2 August 20th. So if we start July 30th, we could probably get this done,
3 three weeks; right?

4 MS. MURRAY: Yeah, I definitely think that --

5 MR. DIGIACOMO: I think three weeks is plenty --

6 MS. MURRAY: -- I absolutely think that covers, yeah.

7 THE COURT: Okay. So July 30th or then we would be
8 looking at probably later into the fall.

9 MS. MURRAY: And what does later mean just so I can have
10 a conversation --

11 THE COURT: Like --

12 MS. MURRAY: -- with them before we come to you?

13 THE COURT: -- well, we just talked about resetting one thing
14 for October 29th. So I would say it would have to be -- maybe like
15 November.

16 MS. MURRAY: Okay. I'll talk to them.

17 And then I'm out the later part of next week but we'll touch
18 base with your chambers the week after.

19 THE COURT: Okay.

20 MS. MURRAY: And maybe we can have some better talks
21 then once --

22 THE COURT: Okay.

23 MS. MURRAY: Okay. Thanks.

24 [Bench conference ends]

25 THE COURT: Okay. So we're going to go ahead and reset

1 another status check in 30 days. I was having some discussion with the
2 attorneys about our trial date and some other trials in and around that
3 time period. So I want them to look at some flexibility about maybe
4 moving this a little bit.

5 So our next status check date is going to be.

6 THE CLERK: April 11th at 9:00 a.m.

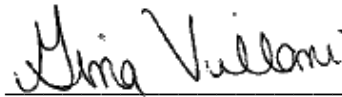
7 MS. MURRAY: Okay. Thank you.

8 THE COURT: All right. Thank you.

9
10 [Hearing concluded at 9:20 a.m.]

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

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22 _____
23 Gina Villani
24 Court Recorder/Transcriber
25 District Court Dept. IX

Albert B. Hanson

RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

VS.

LEONARD RAY WOODS,
Defendant.

CASE#: C-15-309820-1

DEPT. III

BEFORE THE HONORABLE DOUGLAS W. HERNDON, DISTRICT COURT JUDGE
WEDNESDAY, JUNE 20, 2018

**RECORDER'S TRANSCRIPT OF HEARING:
STATUS CHECK: TRIAL READINESS**

APPEARANCES:

For the State:

MICHELLE FLECK, ESQ.
Chief Deputy District Attorney

For the Defendant:

JULIA M. MURRAY, ESQ.
Deputy Public Defender

RECORDED BY: SARA RICHARDSON, COURT RECORDER

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Las Vegas, Nevada, Wednesday, June 20, 2018

[Hearing began at 10:00 a.m.]

THE COURT: Leonard Woods, 309820. He's present in custody.

This is on for a status check for our November 5th trial date.

MS. FLECK: Good morning.

THE COURT: Good morning.

MS. MURRAY: Good morning.

THE COURT: How are we doing?

MS. MURRAY: Doing excellent.

I have no updates directly related to the case. I did want to let the Court know that Judge Togliatti set me in between the Brewington matter and this matter on October 15th.

THE COURT: Okay.

MS. MURRAY: And I had a lengthy record explaining to her that I was not going to be able to keep that calendar. It's on a non-murder case. I explained it at the last court date that I had this date, that my intention is to keep this date.

THE COURT: Okay.

MS. MURRAY: Perhaps, if everything remains on track following the next status check, we could potentially have some sort of a meeting or a something so that the other department is aware of why I will be unavailable on October 15th.

THE COURT: Okay. Yeah, I'll talk to her.

1 MS. MURRAY: Thank you. I appreciate that.

2 THE COURT: Don't worry about that.

3 MS. MURRAY: Mr. Rogan was there on that matter. He
4 was --

5 THE COURT: Just let me know, as you're getting closer to
6 that day if it looks like, for whatever reason, there's no resolution in the
7 matter, otherwise we'd be ready for trial, and she's not giving any love,
8 then let me know and I'll explain what's going on here.

9 MS. MURRAY: I appreciate that.

10 My intention is to continue prepping this one to go forward on
11 November 5th.

12 THE COURT: Okay. Any other issues?

13 MS. FLECK: Not from the State.

14 MS. MURRAY: Not from us.

15 THE COURT: No witness issues, no discovery issues, we're
16 good on all those things; right?

17 MS. FLECK: Yes, Your Honor.

18 THE COURT: Okay. Then we will set another status check in
19 30 days.

20 THE CLERK: July 18th at 9:30.

21 MS. MURRAY: Okay.

22 MS. FLECK: Thank you.

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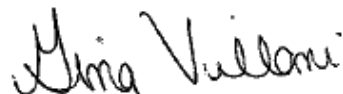
THE COURT: All right, ladies, thank you.

MS. MURRAY: Thank you.

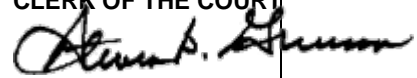
[Hearing concluded at 10:02 a.m.]

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



Gina Villani
Court Recorder/Transcriber
District Court Dept. IX



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,
vs.
LEONARD RAY WOODS,
Defendant.

CASE#: C-15-309820-1
DEPT. III

BEFORE THE HONORABLE DOUGLAS W. HERNDON, DISTRICT COURT JUDGE
WEDNESDAY, JULY 18, 2018

**RECORDER'S TRANSCRIPT OF HEARING:
STATUS CHECK: TRIAL READINESS**

APPEARANCES:

For the State:

MICHELLE FLECK, ESQ.
Chief Deputy District Attorney

For the Defendant:

JULIA M. MURRAY, ESQ.
Deputy Public Defender

RECORDED BY: SARA RICHARDSON, COURT RECORDER

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Las Vegas, Nevada, Wednesday, July 18, 2018

[Hearing began at 10:00 a.m.]

THE COURT: Mr. Woods is present in custody.

This is on for a status check. We have a November 5th trial date pending in this gentleman's matter.

MS. MURRAY: That's correct.

Julia Murray on behalf of Mr. Woods.

THE COURT: Okay.

MS. MURRAY: There are actually a number of issues that have unfolded in the last week, if we could approach --

THE COURT: Sure.

MS. MURRAY: -- some of them I'm happy to put formally on the record but some aren't really my things to share.

THE COURT: Okay.

MS. MURRAY: Thank you.

THE COURT: Yeah, you guys can approach.

[Bench conference begins]

MS. MURRAY: So --

THE COURT: Are you keeping your cases?

MS. MURRAY: Oh, so you've already heard.

THE COURT: Yeah. Well, like I know -- I don't know everything but I know some things.

MS. MURRAY: That is one of the hurdles.

THE COURT: Okay.

1 MS. MURRAY: Here, let me start at the beginning, so you
2 know that Jordan's gone.

3 THE COURT: Right.

4 MS. MURRAY: I obviously, if this one is kept, I need a new
5 second chair to get brought into speed.

6 THE COURT: Okay.

7 MS. MURRAY: My investigator on this case is on indefinite
8 FMLA.

9 THE COURT: Okay.

10 MS. MURRAY: It was reviewed for apparently like medical
11 transfer or retirement or something like a week ago and we're waiting on
12 the results of that.

13 THE COURT: Okay.

14 MS. MURRAY: So I have an issue there.

15 THE COURT: Okay.

16 MS. MURRAY: As far as myself on the case, my intention is
17 to keep all of my cases that are in district court.

18 THE COURT: Okay.

19 MS. MURRAY: The problem with this particular case --

20 THE COURT: Which is about how many? Just so I'm aware.

21 MS. MURRAY: I can count 'em up in two seconds. But --

22 THE COURT: Okay.

23 MS. MURRAY: -- call it 12.

24 THE COURT: Okay.

25 MS. MURRAY: This is the only one that poses an immediate

1 problem and that is because it is snuck in the middle of the training
2 program I will be teaching. So I cannot be in both roles at the same
3 time.

4 I spoke with Mr. Woods about that this morning. We're going
5 to meet next week with Curtis and my client and I --

6 THE COURT: Okay.

7 MS. MURRAY: -- and talk about what it would mean if it were
8 fully reassigned, which is probably about a year delay for someone to
9 get up to speed.

10 THE COURT: Okay.

11 MS. MURRAY: Versus what it would be if it were a couple of
12 months to allow me to complete the training program and come back in.

13 I'm out of the unit. It's not something that --

14 MS. FLECK: I mean, like, I don't mean to be disrespectful.

15 MS. MURRAY: Yeah.

16 MS. FLECK: But it's like how is their training programs --

17 THE COURT: Well, look, I'm less --

18 MS. FLECK: -- trumping this when we --

19 THE COURT: -- I'm -- I'm -- I'm less concerned about the
20 training program, to be quite honest --

21 MS. MURRAY: That's fine.

22 THE COURT: -- than when I found out that Jordan was
23 leaving.

24 MS. MURRAY: Right.

25 THE COURT: That he --

1 MS. MURRAY: He's already gone.

2 THE COURT: -- abruptly left. That he, like, went to the
3 county --

4 MS. MURRAY: Right.

5 THE COURT: -- and said, I'm leaving, move me somewhere.
6 Kind of, not a, hey, I'm going to leave in two months --

7 MS. FLECK: I totally --

8 THE COURT: -- I'm going to need you to take care of all my
9 stuff.

10 MS. FLECK: Look, I mean, listen, I totally get it. But, like, we
11 are expected to bring in another attorney like within weeks if we have to.

12 THE COURT: Right.

13 MS. FLECK: It's now July and we have until November.

14 THE COURT: Yes.

15 MS. FLECK: We invoked on this.

16 THE COURT: I know.

17 MS. MURRAY: You --

18 MS. FLECK: Like --

19 THE COURT: I know.

20 MS. MURRAY: -- there were also multiple continuances --

21 MS. FLECK: -- I mean, I know there's --

22 MS. MURRAY: -- sought when I filed motions --

23 THE COURT: Well, so, anyway --

24 MS. MURRAY: -- back in Department 12 --

25 THE COURT: --so, anyway --

1 MS. MURRAY: -- by the State.

2 THE COURT: -- separate from a full assignment or a partial
3 reassignment --

4 MS. MURRAY: Correct.

5 THE COURT: -- you're going to meet in a week. So --

6 MS. MURRAY: And I'll know what's happening.

7 THE COURT: -- if I put it back on on August 1st, I mean we
8 can --

9 MS. MURRAY: That's --

10 THE COURT: -- kind of have some kind of understanding?

11 MS. MURRAY: Yeah, I intend to have answers by then.

12 THE COURT: So you can wait, both of you can wait until
13 August 1st.

14 MS. FLECK: Okay.

15 THE COURT: Okay.

16 MS. MURRAY: And also just, I know the Court already knows
17 this, but I had submitted a number of orders in January --

18 THE COURT: Right.

19 MS. MURRAY: -- I had been checking on the status of those.
20 I'm being told that they were being reviewed and I've -- I have received
21 them back as of today.

22 THE COURT: Today, I know.

23 MS. MURRAY: But they relate to records that I also don't
24 have so.

25 THE COURT: I'm not sure what --

1 MS. MURRAY: I know. I understand it was an oversight.

2 THE COURT: -- and I love Catherine, I don't know how
3 they -- things got misplaced.

4 MS. MURRAY: Yeah, no, and I understand it was an
5 oversight. But it's also a potential hurdle --

6 THE COURT: Okay.

7 MS. MURRAY: -- depending on when they come back.

8 THE COURT: All right.

9 MS. MURRAY: So.

10 THE COURT: Do you know what she's talking about?

11 MS. FLECK: I don't know exactly what orders they are but.

12 THE COURT: She submitted orders in January, I signed the
13 orders, and for some reason they didn't get disseminated back.

14 MS. FLECK: Okay.

15 THE COURT: And so my new law clerk said, hey, I found this
16 folder with a bunch of orders in it, this was about two days ago.

17 And I said --

18 MS. MURRAY: And I received it today.

19 THE COURT: Yeah.

20 -- and I said, my God, these should have been disseminated
21 back in January. And so I said, you can check, maybe Jordan
22 resubmitted 'em and I've signed them because she never got them back
23 or something, but apparently --

24 MS. MURRAY: No, I resubmitted 'em and got told these have
25 already been signed.

1 THE COURT: Yeah, yeah.

2 MS. FLECK: I understand all of this. But, I mean, like, look,
3 the reality is, these cases can be prepped pretty quickly. I mean, like,
4 even if the records come in, you know, in the next month --

5 THE COURT: Right.

6 MS. FLECK: -- like it doesn't take this long --

7 MS. MURRAY: Well, I don't disagree with the records.

8 MS. FLECK: -- for somebody to get caught --

9 THE COURT: I know.

10 MS. FLECK: -- up to speed on these cases.

11 THE COURT: I know. I know.

12 MS. FLECK: So it really -- it's --

13 THE COURT: I don't necessarily disagree. A lot of times
14 when you guys make the argument that they should be able to prep
15 cases pretty quickly. And all things being considered, if you eliminate
16 certain caseload issues, that's true. But you can't eliminate all that. And
17 the reality is that the Supremes don't necessarily agree with what you or
18 I think or maybe even Julia thinks sometimes about, yeah, we can prep
19 a case here that quickly and get ready for trial, if it's an older case and
20 it's been continued, et cetera, et cetera.

21 So that's part of my consideration as always how, trying to be
22 proactive enough to say, how does this look when it goes up on appeal,
23 ineffective assistance of counsel, whatever it is, that I pushed somebody
24 to trial when they just got a new attorney involved or something like that.
25 So in any event.

1 MS. FLECK: I feel very confident that that second prong could
2 never be reached, ever, ever, ever in this case. I mean, Julia's been on
3 it since jump.

4 THE COURT: I know.

5 MS. FLECK: And so it's just --

6 MS. MURRAY: That's true.

7 MS. FLECK: -- and it -- we've had the --

8 THE COURT: Well, look --

9 MS. FLECK: -- like the case is very straightforward.

10 THE COURT: -- so when you meet with Curtis, please relay
11 to him that my preference is that you keep the case; right.

12 MS. MURRAY: Well, it's mine as well. It's -- the issue is is I
13 cannot do it in November. So --

14 THE COURT: No, I know, I know.

15 MS. MURRAY: -- it would -- right.

16 THE COURT: And we'll figure out a reasonable --

17 MS. MURRAY: Right.

18 THE COURT: -- if it has to be reset, a reasonable time period.
19 If it needs to be moved a couple of months --

20 MS. MURRAY: Which --

21 THE COURT: -- something like that to get somebody else
22 involved, I'm fine doing that. I'll move other things around. But I really,
23 really, really don't want a --

24 MS. MURRAY: And that's my intention as well.

25 THE COURT: -- nope, we're going to go, you know, --

1 MS. MURRAY: We've gone through quite a bit to get to the
2 places that we're at, and we've been working issues, it's very solid at
3 this point.

4 THE COURT: Okay.

5 MS. MURRAY: And so I hate to see the disruption as well.

6 THE COURT: Okay.

7 MS. MURRAY: I -- it is one that I think it's important as -- I
8 mean, there's a number of mine --

9 THE COURT: Yeah, yeah.

10 MS. MURRAY: -- that I want to keep for a variety of reasons.

11 THE COURT: So, please --

12 MS. MURRAY: But this one I think there is importance too.

13 THE COURT: -- please remind him about our *Young* hearing
14 and everything.

15 MS. MURRAY: Oh, no --

16 THE COURT: And that's one of the reasons --

17 MS. MURRAY: -- Curtis is very aware.

18 THE COURT: -- I don't want to get more people involved;
19 okay.

20 MS. MURRAY: Fully understand. He is very aware of that.

21 THE COURT: Okay.

22 MS. MURRAY: Yeah.

23 [Bench conference ends]

24 THE COURT: All right. We're going to continue Mr. Woods'
25 matter over for a status check on August 1st so we can get some more

1 information on getting a new second chair involved potentially and talk
2 about the trial date and whatnot; okay.

3 All right, thank you, ladies.

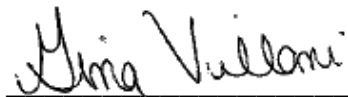
4 MS. MURRAY: Thank you.

5 MS. FLECK: Thank you, Your Honor.

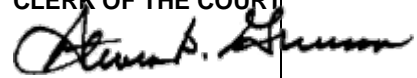
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7 [Hearing concluded at 10:07 a.m.]

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

21 

22 _____
23 Gina Villani
24 Court Recorder/Transcriber
25 District Court Dept. IX



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

vs.

LEONARD RAY WOODS,
Defendant.

CASE#: C-15-309820-1
DEPT. III

BEFORE THE HONORABLE DOUGLAS W. HERNDON, DISTRICT COURT JUDGE
WEDNESDAY, AUGUST 1, 2018

**RECORDER'S TRANSCRIPT OF HEARING:
STATUS CHECK: TRIAL READINESS**

APPEARANCES:

For the State:

MICHELLE FLECK, ESQ.
Chief Deputy District Attorney

For the Defendant:

JULIA M. MURRAY, ESQ.
Deputy Public Defender

RECORDED BY: SARA RICHARDSON, COURT RECORDER

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Las Vegas, Nevada, Wednesday, August 1, 2018

[Hearing began at 10:33 a.m.]

THE COURT: 309820, Mr. Woods' matter.

It currently has a trial set for November 5th. We had some discussions last time we were in court about Ms. Murray's new assignments in the Public Defender's Office and whether new attorneys are going to be involved with Mr. Woods' case and the viability of our current trial date.

My understanding, from the discussions that we just had at the bench, is that that the attorney thing hasn't been figured out completely yet; correct?

MS. MURRAY: That's correct.

THE COURT: But hopefully will be within the next week or so.

MS. MURRAY: That's correct.

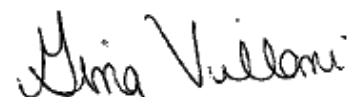
THE COURT: Okay. So we'll go ahead and set a status check in two weeks on Mr. Wood's matter as well.

THE CLERK: August 15th at 9:30.

[Hearing concluded at 10:33 a.m.]

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



Gina Villani
Court Recorder/Transcriber
District Court Dept. IX

Albert B. Hanson

RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

VS.

LEONARD RAY WOODS,
Defendant.

CASE#: C-15-309820-1

DEPT. III

BEFORE THE HONORABLE DOUGLAS W. HERNDON, DISTRICT COURT JUDGE
WEDNESDAY, AUGUST 15, 2018

**RECORDER'S TRANSCRIPT OF HEARING:
STATUS CHECK: TRIAL READINESS**

APPEARANCES:

For the State:

MICHELLE FLECK, ESQ.
JEFFREY S. ROGAN, ESQ.
Chief Deputy District Attorneys

For the Defendant:

JULIA M. MURRAY, ESQ.
Deputy Public Defender

RECORDED BY: SARA RICHARDSON, COURT RECORDER

1 Las Vegas, Nevada, Wednesday, August 15, 2018

2
3 [Hearing began at 10:04 a.m.]

4 THE COURT: 309820, Mr. Woods is present in custody.
5 Ms. Murray's present. Ms. Fleck, Mr. Rogan for the State.

6 This is on for status check. We've had some discussions the
7 last couple of occasions on some changes in regard to one of
8 Mr. Woods' attorneys leaving the Public Defender's Office, they need to
9 get another attorney, how that was going to impact our trial date,
10 whether Ms. Murray is staying on or not staying on because of her
11 change at the office, et cetera.

12 So where are we?

13 MS. MURRAY: David Westbrook has been put on this case
14 as well at this point.

15 THE COURT: Okay.

16 MS. MURRAY: And we were going to ask that there be a
17 status check next Wednesday or the Wednesday following to allow the
18 two of them to meet and so that we could look at scheduling issues
19 regarding setting the trial date.

20 However, in the interim, Mr. Woods has informed me that he
21 sent a motion to, I believe properly to the Clerk's Office, he in the past
22 has filed motions, so I believe it would have gone through correctly.

23 THE COURT: Okay.

24 MS. MURRAY: Regarding his interest in proceeding pro per.
25 I have not yet received a copy of that. I did check on your JEA's

1 computer this morning, who -- Molly also informed me that likely the
2 Clerk's Office would have just taken it and mailed it to me.

3 THE COURT: Okay.

4 MS. MURRAY: So I know he has that in the works. He would
5 like a hearing on that matter.

6 THE COURT: Okay.

7 MS. MURRAY: I would like to just have a conversation with
8 him first.

9 So kind of at the Court's pleasure at this point, I would ask for
10 a status check either setting up the trial, or if *Faretta* canvass, either next
11 Wednesday or the Wednesday following. I already have an appointment
12 to see him on Tuesday of next week.

13 THE COURT: All right. Anything from the State?

14 MS. FLECK: Just if we could do next week Wednesday, the
15 week after that I have a hearing.

16 THE COURT: Well, there -- my calendars are every two
17 weeks on the homicide cases.

18 MS. FLECK: Oh, okay.

19 THE COURT: I can put it on --

20 MS. FLECK: Then --

21 THE COURT: -- and I'd rather not put something on that
22 might have a *Faretta* canvass.

23 MS. FLECK: One of us can do it.

24 THE COURT: Okay.

25 MS. FLECK: Don't worry.

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THE COURT: Okay.

Mr. Woods, is that correct, were you filing a motion regarding a *Faretta* canvass?

THE DEFENDANT: Correct; Your Honor.

THE COURT: Okay. Just as you move forward over the next couple of weeks in discussions with your attorneys, understand I don't intend on moving that trial date. I mean, if you want to represent yourself, I get that. I mean, we'll have that discussion. But I would intend on keeping our trial date in place.

Okay?

THE DEFENDANT: I understand.

THE COURT: All right. We'll set it for August 29th. I'll give you a chance to have some further discussions with Ms. Murray and Mr. Westbrook before we come back; okay.

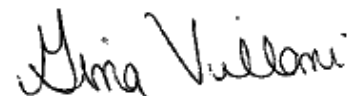
MS. MURRAY: Thank you.

THE COURT: All right.

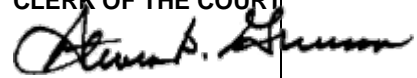
[Hearing concluded at 10:06 a.m.]

* * * * *

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



Gina Villani
Court Recorder/Transcriber
District Court Dept. IX



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,
vs.
LEONARD RAY WOODS,
Defendant.

CASE#: C-15-309820-1
DEPT. III

BEFORE THE HONORABLE DOUGLAS W. HERNDON, DISTRICT COURT JUDGE
WEDNESDAY, AUGUST 29, 2018

**RECORDER'S TRANSCRIPT OF HEARING:
FARETTA CANVASS**

APPEARANCES:

For the State:

JEFFREY S. ROGAN, ESQ.
Chief Deputy District Attorney

For the Defendant:

JULIA M. MURRAY, ESQ.
Deputy Public Defender

RECORDED BY: RUBY FEDA, COURT RECORDER

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Las Vegas, Nevada, Wednesday, August 29, 2018

[Hearing began at 11:30 a.m.]

THE COURT: Okay. We will be on the record in Mr. Woods' matter on page 28, 309820. Mr. Woods is present in custody. Ms. Murray is here on his behalf.

Have you guys had a chance to talk at all since our last court date?

MS. MURRAY: We have.

THE COURT: Okay.

MS. MURRAY: We've actually had quite a few conversations and gone over the pros and cons of self-representation. And it's actually been, I think he'll represent the same, of conversation that's gone on more than just since that last court date. We've actually discussed this at a fewer different points in his case. And he does want to move forward today.

THE COURT: Okay.

MS. MURRAY: He is prepared to do so.

If the Court does end up granting that request, there were a couple of items that he raised to me that I couldn't give accurate or real answers to that I would like to pose to the Court so that he has answers on those topics.

THE COURT: Okay.

MS. MURRAY: They related to logistical matters moving forward.

1 THE COURT: Okay.

2 MS. MURRAY: But other than that, I think he is prepared
3 today and would like to move forward.

4 THE COURT: Is that correct?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Okay. And what are the issues that he had
7 raised?

8 MS. MURRAY: They were --

9 THE COURT: -- so I know to -- to chat with him.

10 MS. MURRAY: -- a couple of technical things. The first of
11 which was there's a number of discovery items that were provided to me
12 in digital format, audio recordings, photographs, a cell phone dump,
13 some radio information from Metro, off the top of my head, some jail
14 calls, off the top of my head that's what I'm thinking of. There might be
15 some other items as well.

16 THE COURT: Okay.

17 MS. MURRAY: He wanted to know how that information will
18 be provided to him and how he would have access to be able to listen to
19 that and use that during his preparation.

20 THE COURT: Okay.

21 MS. MURRAY: The second item was the -- and I learned of
22 this in a different case, but he and I had it come up a little while back, the
23 jail now charges our clients for paper and pen, even to be used for legal
24 purpose.

25 THE COURT: Okay.

1 MS. MURRAY: And I had contacted the captain asking at one
2 point if I was permitted to provide note pads and pen of their approving
3 to a client --

4 THE COURT: Okay.

5 MS. MURRAY: -- who was doing a lot of their own
6 transmittings.

7 And so at that time it turned into a big to-do. They had
8 suggested me taking that to the Court, getting court orders, and whatnot.
9 We resolved it by I just went and put money on the person's books
10 because it just felt simpler given my schedule at the moment.

11 THE COURT: Okay

12 MS. MURRAY: And they used that money to buy it.

13 But he did ask me questions about having access to paper
14 and writing utensils. My office is, or myself personally, is more than
15 happy to supply that if -- if the Court would be willing to grant an order on
16 that regard.

17 THE COURT: Okay.

18 MS. MURRAY: I would submit it obviously to the jail for them
19 to check and make sure it's safe and whatever. But we did want to know
20 if that was something that we could facilitate.

21 The third item regarding -- was regarding how subpoenas, for
22 the witnesses he believes will be necessary for trial, would be issued.

23 THE COURT: Okay.

24 MS. MURRAY: Whether he would submit a list to the Court
25 and then the Court would issue those or some other means. He -- his

1 concern was that a number of those individuals, you know, he didn't
2 want to have to 30 days out tell the State who he planned to call.

3 THE COURT: Right.

4 MS. MURRAY: But he did want subpoenas to be properly
5 issued. So he was asking about that.

6 THE COURT: Okay.

7 MS. MURRAY: He had a couple of outstanding investigation
8 requests and wanted to know if those would be -- if he would be afforded
9 an investigator or if he would be allowed to offer to the Court what it is
10 he wanted investigated under seal. So, again, the State didn't have
11 access but he was able to -- and then the Court could determine what of
12 these items need to go on to an investigator, whoever that may be.

13 THE COURT: Okay.

14 MS. MURRAY: And I believe that was all of the items that we
15 talked about; right?

16 THE DEFENDANT: I believe so.

17 MS. MURRAY: Okay.

18 THE COURT: All right. So a couple of things, Mr. Woods,
19 before we even get into the *Faretta* canvass itself and I'll address in
20 regard to those, I have no problem signing an order for you-all to supply
21 him with paper and pens.

22 MS. MURRAY: Okay.

23 THE COURT: That's perfectly fine.

24 Generally when somebody requests self-representation, if
25 there is any indication that I get that they're wavering or probably more

1 importantly that I think they may be some type of a behavioral problem
2 at trial, such that I have to say, you've forfeited your right to
3 self-representation. And those kind of cases are always going to have
4 standby counsel that's ready to take over.

5 And so I would leave the public defender in place, for
6 instance, and let somebody represent themselves; right. So the public
7 defender would be -- have to be prepared for trial, if they had to take
8 over.

9 On other occasions, and you've never been a behavior issue
10 for me, people just want to represent themselves, they don't want
11 standby counsel so. And that affects a couple of things.

12 So is it your desire to have standby counsel at all or do you
13 just want to be your own attorney without them?

14 THE DEFENDANT: I would like a standby counsel because I
15 know it's going to be some questions I'm going to have to say, do I say it
16 like this.

17 THE COURT: Okay. So I'll leave the public defender in place
18 as standby counsel, assuming I grant your *Faretta* canvass, which I'm
19 assuming is going to be Mr. Westbrook, 'cause you're not --

20 MS. MURRAY: That I don't know.

21 THE COURT: Okay.

22 MS. MURRAY: The office typically takes the position that
23 when we're standby counsel the law allows the defendant who's
24 representing himself to still be full, active counsel --

25 THE COURT: Right.

1 MS. MURRAY: -- which means we appoint someone for the
2 availability of exactly what he just said --

3 THE COURT: Okay.

4 MS. MURRAY: -- answering questions, technical matters--

5 THE COURT: But it might not be you or David any longer?

6 MS. MURRAY: And they wouldn't necessarily be prepared or
7 factually caught up on anything because our reading of the law in that is
8 that we are there to assist in the technical matters --

9 THE COURT: Correct.

10 MS. MURRAY: -- that he otherwise wouldn't have access to.

11 THE COURT: Well, I mean, part of it is though that, and the
12 law around, you know, somebody deciding to represent themselves, is
13 that at some point if they decide, you know what, I now realize --
14 because we're going to have a conversation about this -- that this is not
15 a good idea, in which case the attorney has to be ready to take the case
16 back over.

17 Particularly when you have a case like this, that's as old as it
18 is, if I allow Mr. Woods to represent himself this close to trial, it's going to
19 be with the understanding that you-all are on it and if it goes to trial and
20 he decides, I can't do this any longer, that you guys got to take over.

21 MS. MURRAY: And just from our prospective, the issue with
22 that is that the pretrial preparation that we would no longer be in control
23 of differs.

24 THE COURT: Right.

25 MS. MURRAY: The issuing of subpoenas differs.

1 THE COURT: Right.

2 MS. MURRAY: Filing of motions differs.

3 THE COURT: Right.

4 MS. MURRAY: And we would not be almost ever, I mean, I
5 can tell you for sure in this case, because it's part of the motivation and
6 part of the discussions that have taken place, especially in this particular
7 fact pattern, we would not have prepared the case in the same way, and
8 thus, as the licensed individual, we would not be able to stand up and
9 say that we can effectively represent someone in that context.

10 THE COURT: Don't get me wrong, I get the difficulty. But it
11 can't be that a guy gets the right to represent himself and then there's a
12 legal remedy to not represent himself and you-all take over and then
13 you-all say, we would never be ready because we differ on how to try
14 the case. I mean, that would just be a catch-22 situation, in which case
15 we could never go to trial.

16 MS. MURRAY: I don't agree that it would be a never go to
17 trial issue. I think that it would be a -- cause a problem in the fact that
18 someone else would have answered that they're ready.

19 THE COURT: Right.

20 MS. MURRAY: Not us. Someone else would have filed the
21 subpoenas, not us. Or issued them, excuse me. Someone else would
22 have filed motions, not us. And then for us to be asked to step into the
23 middle of that, when our legal opinions, with different training and
24 different backgrounds, would not have been the same steps.

25 THE COURT: Well, let me -- let me do it this way.

1 MS. MURRAY: It wouldn't necessarily -- I'm sorry --
2 THE COURT: No, it's okay, hold on, let me interrupt you --
3 MS. MURRAY: -- all I was going to say was --
4 THE COURT: -- because it may --
5 MS. MURRAY: -- depending on the timing of it too.
6 THE COURT: -- it may kind of be a moot issue.
7 I mean, if your matter proceeds -- are you planning on being
8 ready to go to trial on the November date?
9 THE DEFENDANT: I'm gonna file motions but if all the
10 motions get heard between -- before that date, yes, I'm fully prepared.
11 THE COURT: Yeah, I mean, we'll get to motions calendar.
12 I'm not worried about that.
13 THE DEFENDANT: Okay.
14 THE COURT: But, otherwise, even though it's August 29th,
15 you're planning on, and I know your case is old, so it's been around
16 awhile and you're a smart guy, so I know you've been astute about --
17 about your involvement in your case.
18 But other than getting the motions heard, you're planning on
19 being ready for trial?
20 THE DEFENDANT: I believe so. The only problem I had was
21 that I didn't get the part that, okay, they had three years not to be ready
22 and I've got three months to be ready. But I've been, like you said --
23 THE COURT: Right.
24 THE DEFENDANT: -- nobody knows this case better than me
25 'cause like they even have different folders that they have to go through.

1 I just have one folder. That's mine that I'm focusing on. So I think I'm
2 pretty certain I'll be ready to go.

3 THE COURT: Okay. Well, obviously a concern that the
4 courts always have is that you can't allow somebody to make a really
5 late decision to represent themselves and have that work of prejudice on
6 a trial date; okay. Because not everybody has pure motives for saying
7 all of a sudden right before trial, now I want to represent myself.
8 Sometimes people do it just 'cause they want to get it continued, in
9 which case the Court can say, it's too late at that point. I think that
10 there's enough time for you to be ready. And I know you've had a lot of
11 involvement in your case.

12 But the bigger point of what I was saying was, if it goes to trial
13 and at some point in the trial you decided all of a sudden you didn't want
14 to represent yourself, then it may be that I have to say, that's too bad.
15 Because the public defender wouldn't be in a position to take over on
16 your behalf at that point and we're already in the middle of a trial. So
17 you can't give yourself your own mistrial to get out of trial.

18 Does that make sense?

19 THE DEFENDANT: Yeah, I understand perfectly.

20 THE COURT: Okay.

21 MS. MURRAY: And we did discuss that aspect of it in regards
22 to timing and choice thinking.

23 THE COURT: Okay.

24 MS. MURRAY: So, yeah.

25 THE DEFENDANT: Your Honor, excuse me, is part of the

1 issue whether or not she would be the counsel because I don't if that's --
2 that's --

3 THE COURT: No, no, it's really -- it's really more of a, I want
4 you to have standby counsel, 'cause that's going to solve some of these
5 other things that we're going to talk about in a minute, which you've
6 been asking questions about, subpoenas, investigators, things like that.
7 You'll still be allowed to have the public defender's investigator working
8 on your case. So if you need to subpoena witnesses, you'll let the
9 investigator know directly or through the attorneys, get the information to
10 the investigator, they'll serve your subpoenas.

11 They'll be able, on your behalf, to submit orders to the Court
12 that allow the investigator to come over with the digital equipment so you
13 can listen to videos and audios and things like that.

14 And if you have any investigation that you want to have done,
15 separate from serving subpoenas, you can communicate that to the
16 investigator, they can go out and talk to witnesses, whatever it may be;
17 okay.

18 So my concern was more of making sure we had attorneys in
19 place and then making sure that if you -- that you understand that if you
20 decide during trial, after we've seated a jury and the case is being tried,
21 that all of a sudden you don't think this is a good idea anymore, then it
22 may be that it's -- it's kind of too bad at point, you've got to continue on
23 and finish up the trial.

24 Do you understand that?

25 THE DEFENDANT: I understand.

1 THE COURT: Okay.

2 All right. So just in regard to the general issues of *Faretta*,
3 and I'm sure you've had discussions with your attorneys about this, but
4 you know obviously that you have the right to have an attorney
5 appointed for you, even though someone may not be able to afford an
6 attorney, you always have the right when you're charged with felonies to
7 have an attorney appointed for you and to try your case for you?

8 THE DEFENDANT: Yes.

9 THE COURT: You further understand that lawyers, obviously,
10 particularly your lawyers in this because of the unit they work for have a
11 lot more experience trying a case. That's different than whether you
12 believe you know more about your case. It's just the experience in
13 actually conducting a jury trial in front of a jury.

14 You understand --

15 THE DEFENDANT: Oh, yeah, I understand.

16 THE COURT: -- that lawyers are going to be more
17 experienced than you are?

18 THE DEFENDANT: Of course.

19 THE COURT: How long have you been thinking about kind of
20 making this request to represent yourself?

21 THE DEFENDANT: Well, Your Honor, if you look back over
22 this whole three years, this is not the first time I --

23 THE COURT: No, I know, I know. That's why, I mean --

24 THE DEFENDANT: So I've been --

25 THE COURT: Probably years?

1 THE DEFENDANT: Pretty much.

2 THE COURT: Okay.

3 THE DEFENDANT: At least two.

4 THE COURT: All right. So I know it's been something that
5 you've spent a lot of time thinking about.

6 And is Ms. Murray right that this isn't the first time that you-all
7 have had some conversations about this type of thing?

8 THE DEFENDANT: Yeah, we had several.

9 THE COURT: Okay. So you're pretty comfortable that that
10 you've spent a significant amount of time thinking about this and having
11 discussions with your attorney about the wisdom or not of representing
12 yourself.

13 THE DEFENDANT: I am. And I know it's -- I could have had
14 a lot more time and experience. But I feel I'm ready. I'm ready to go.

15 THE COURT: Okay.

16 THE DEFENDANT: It won't be a problem.

17 THE COURT: You understand that, you know -- well, first off,
18 have you ever been in a jury trial before?

19 THE DEFENDANT: In one?

20 THE COURT: Yeah.

21 THE DEFENDANT: No. I've seen a couple but I've never
22 been in one.

23 THE COURT: Okay. And seen a couple how?

24 THE DEFENDANT: Well, I have a friend and a relative that
25 was on trial --

1 THE COURT: Okay.

2 THE DEFENDANT: -- and I sat through the whole thing and.

3 THE COURT: Okay. So you know probably from watching
4 that process that there's a lot of things that come up during trial that are
5 based on rules of evidence or a procedure that people are expected to
6 know how to go about questioning a witness, how to introduce a piece of
7 evidence so that the jury has access to it, all that's governed by certain
8 legal things.

9 THE DEFENDANT: I understand.

10 THE COURT: Okay. And that during a trial I can't assist you
11 in anyway with those things. I can't provide you the answers to how to
12 go about doing things. I mean, it's you and the State and you're each
13 kind of held to the same standards.

14 If you have standby counsel, you'll be able to, in some limited
15 form, talk to them about things. But you're expected, if you want to
16 represent yourself, to be able to act as the attorney and not have the
17 Court act as your attorney.

18 Do you understand that?

19 THE DEFENDANT: Yes, I do.

20 THE COURT: All right. Have you had an occasion to review
21 any rules of procedure or evidence here in Nevada?

22 THE DEFENDANT: I am currently and I'd say for like the past
23 really six, seven months --

24 THE COURT: Okay.

25 THE DEFENDANT: -- that I'm actually getting material 'cause

1 it's kind of with the law library we have.

2 THE COURT: Right.

3 THE DEFENDANT: But I'm getting as much as I can, filling
4 my head, and --

5 THE COURT: Okay.

6 THE DEFENDANT: -- studying as much as I can on the
7 process.

8 THE COURT: Well, that's kind of a segue into a different
9 aspect, which is you understand obviously that if you're representing
10 yourself and you're in custody, you're kind of limited. Even though
11 you're going to have standby counsel, you're kind of limited because you
12 can't get any more privileges than anybody else has at the jail just
13 because you're representing yourself.

14 THE DEFENDANT: Yeah, I don't understand what the --

15 THE COURT: Well, that means so --

16 THE DEFENDANT: -- extra privileges would have been.

17 THE COURT: -- let's say the jail says, inmates each get, you
18 know, five minutes a day in the law library. Because you're representing
19 yourself, you don't get any more than that. I mean, they have the same
20 standards that apply to everybody whether they're representing
21 themselves or they're represented by an attorney. So you don't get
22 more or less access to the law library, more or less access to papers or
23 pens, or any of that kind of stuff. I mean, it's pretty much the same for
24 everybody.

25 THE DEFENDANT: Well, when I was in a different module, as

1 a matter of fact 7-8 the exact, I did see other inmates getting, while we
2 were locked up, they were on the -- the ones that were representing
3 themselves, they were at the Kiosk on the law library when we were all
4 locked up.

5 THE COURT: Well, let's put it this way then, if the jail wants
6 to make accommodations for you, I guess they could. But generally
7 speaking, the self-representation doesn't entitle you to anything different;
8 okay.

9 THE DEFENDANT: Okay, yeah, I get that.

10 THE COURT: It may be that on a given day, week, month,
11 time period, depending upon how many people they have and what
12 module you're on and maybe which officers you're dealing with, they
13 may be able to squeeze more time for you. But that's really just
14 something that they would do out of the good graces of that particular
15 circumstance, as opposed to any kind of policy or law that says you
16 have to do that for a self-representing defendant; okay.

17 How far did you go in school?

18 THE DEFENDANT: I have a year and a half of junior college.

19 THE COURT: Okay. And what did you study while you were
20 in college?

21 THE DEFENDANT: I studied black studies. I took liberal arts.
22 I took -- I took a form of engineering, but I didn't, you know what I mean,
23 I thought I was going to be something that didn't pan out.

24 THE COURT: Okay.

25 All right. And do you understand that during the course of a

1 trial one of the things that happens a lot with people that want to
2 represent themselves is when they question witnesses they kind of are
3 trying to testify themselves, isn't it true that I did this that or the other, or
4 didn't I tell you. You have to be able to formulate questions for
5 witnesses that are legally appropriate questions.

6 And then if want to testify, then that's a separate issue in your
7 case in chief when you testify. But you're not allowed to just make
8 statements or ask questions that are really kind of you providing the
9 answers.

10 Does that make sense?

11 THE DEFENDANT: Yeah. As a matter of fact, the last couple
12 of days that's the part I'm reading right now.

13 THE COURT: Okay. And that can be kind of difficult because
14 you -- if you disagree with somebody that you personally have had a
15 conversation with, for instance, a witness in a case, and you recall it
16 differently, you've got to be able to ask a legally appropriate question of
17 that witness, not just how to insert yourself into things; okay.

18 A big issue with self-representation is how it affects the
19 appellate rights that people have. Meaning, if you go to trial and you get
20 convicted, one of the things that generally occurs, particularly in a
21 murder case, is if you get convicted of a murder charge, then your
22 attorneys would file a direct appeal usually and that challenges certain
23 things that occurred during the trial. And then once that's over with a lot
24 of times defendants that are into post-conviction, where they can file
25 requests of the Court to review their attorney's performance to see

1 whether they had ineffective assistance of counsel or not. You give up
2 all that by representing yourself.

3 Do you understand that?

4 THE DEFENDANT: Wait a minute, I understand giving up the
5 rights to say I had ineffective assistance.

6 THE COURT: Right.

7 THE DEFENDANT: But do I give up the right to question
8 other aspects of the trial?

9 THE COURT: No, you -- you -- but you would be filing your
10 own direct appeal --

11 THE DEFENDANT: Yes.

12 THE COURT: -- your attorneys would not be filing a direct
13 appeal. So if you want to file a direct appeal that challenges orders that
14 the Court made or the sufficiency of the evidence that was produced at
15 trial --

16 THE DEFENDANT: Yes.

17 THE COURT: -- that might be part of a direct appeal, but
18 you're going to be responsible for it, not your attorneys 'cause you don't
19 have an attorney.

20 And then thereafter you can't challenge the effectiveness of
21 what happened at trial to seek to get a new trial because you will have
22 been the attorney. So you waive any ineffective assistance of counsel
23 challenges.

24 Does that make sense?

25 THE DEFENDANT: Yes, I understand that.

1 THE COURT: Okay. Have you had occasion to review
2 aspects of a potential penalty phase here? How to go about that versus
3 the trial phase of things?

4 THE DEFENDANT: Now, that's some of the questions I've
5 been asking.

6 THE COURT: Okay.

7 THE DEFENDANT: And she gave me some paperwork on it
8 that I'm still going over.

9 THE COURT: Okay. You under --

10 THE DEFENDANT: Yeah, I just got the paperworks on, you
11 know, that part of what you're asking me.

12 THE COURT: Okay. So you understand that if you're
13 convicted of first degree murder, then and only then you have a penalty
14 phase and you know what the options are for the sentence of the penalty
15 phase for first degree murder?

16 THE DEFENDANT: Yes.

17 THE COURT: Okay. And what are those?

18 THE DEFENDANT: The life without and the life with and the, I
19 guess, the 10 to 25 or 20 to 50 or something like that, in that range.

20 THE COURT: 20 to 50 for first degree murder --

21 THE DEFENDANT: Yeah.

22 THE COURT: -- the 10 to 25 would be an option for the
23 second degree murder.

24 But at a penalty phase, so the jury has those options all
25 available to them, the State has an opportunity to present evidence at

1 the penalty phase about any other aspects of your life that that they
2 believe are relevant to sentencing, any other criminal activity or other
3 bad acts, things like that.

4 Hearsay evidence is admissible in a penalty phase. So you
5 may have, for instance, a police officer that comes in and they're allowed
6 to testify about all other aspects that they've been able to investigate
7 about your past history; okay.

8 And then you have an opportunity -- was that -- you're nodding
9 your head. Is that yes?

10 THE DEFENDANT: That's a yes.

11 THE COURT: Okay.

12 THE DEFENDANT: But I was thinking also, okay, that's in the
13 penalty phase but they can't bring up like bad acts during the trial; is that
14 correct?

15 THE COURT: Can't bring up bad acts during trial, unless
16 there's, you know, it's litigated in some fashion to allow for the bad acts
17 for a particular reason.

18 THE DEFENDANT: It has to be tied to --

19 THE COURT: Yeah --

20 THE DEFENDANT: -- this case specifically?

21 THE COURT: -- you generally have two things, you have
22 other bad acts that are part and parcel of the crime charged, so they
23 may get -- they have a certain kind of legal standard for admissibility.
24 We call those *res gestae*. It means they're kind of so intertwined with
25 the case itself that they get introduced to the jury.

1 And then you have other bad acts that aren't related to the
2 crime but might have some applicability for particular legal reasons. Like
3 identifying somebody or showing that it wasn't an accident or a mistake,
4 things like that. Those things generally will get litigated before trial to
5 see if they're going to be admissible or not; okay.

6 THE DEFENDANT: Now, do bad acts have a time frame?
7 Can they go back to so many years or the whole?

8 THE COURT: There's not really -- the law has evolved a lot
9 and it kind of depends on what the acts are. Sometimes you have bad
10 acts that are admissible that maybe are decades old. Sometimes you
11 may look at the particular kind of a bad act and say, it's too old to be
12 relevant in this case.

13 So, I mean, it's -- it's kind of -- there's a broad range of
14 discretion for the Court to decide whether an act is relevant and whether
15 it is too stale or old or not. But there's no particular two years, ten years,
16 anything like that.

17 THE DEFENDANT: Does whether it's a misdemeanor or a
18 felony having anything to do?

19 THE COURT: Well, felonies, obviously, if you have felony
20 convictions, they can be admissible to impeach you if you testify. So
21 that means if you decide you want to testify and you have felony
22 convictions that are within a certain time period, those can be introduced
23 against you when you testify.

24 Do you understand that?

25 THE DEFENDANT: Yes.

1 THE COURT: Okay. That's separate from bad acts that the
2 State may introduce whether you testify or not. And, again, it kind of
3 depends on the nature of the acts and how they may be relevant in a
4 case as to whether they're going to be admitted.

5 Bad acts can be admissible even without a conviction. So it's
6 not really dependent just on whether it's a misdemeanor or a felony. It's
7 dependent on the nature of the act and how it relates to the case that's
8 at trial.

9 THE DEFENDANT: Okay.

10 THE COURT: You mentioned that you've got some motions
11 you want to file. So I'm assuming you've had some discussions with
12 your current attorneys about elements of the charges that you're facing,
13 what potential defenses might be used at trial.

14 Yes?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Okay. Have you had any discussions with your
17 attorneys about mitigation evidence at the time of penalty phase, that
18 means evidence you may want to put forth on your behalf that would
19 lead a jury maybe to think you deserve a lesser sentence?

20 THE DEFENDANT: We haven't really discussed that. But I
21 know the mitigator over the years has some evidence also that I would
22 like to -- I don't know if I would get to discuss it with her or if I can get it
23 from her.

24 MS. MURRAY: He's referring to Emily Reeder, the mitigation
25 specialist --

1 THE COURT: Oh.

2 MS. MURRAY: -- that I have working on the case with me.

3 THE COURT: Yeah.

4 MS. MURRAY: And that's what he's saying. He knows that
5 we have been developing that and working on that. He was not always
6 as actively involved in that portion --

7 THE COURT: Okay.

8 MS. MURRAY: -- of the cases preparation as he was in the
9 trial phase aspect. I did tell him that all information that we have
10 gathered and Emily's perspective on the -- what the appropriate
11 presentation of that is, would be available to him.

12 THE COURT: Okay.

13 MS. MURRAY: And he does understand that in order to
14 present -- or I suppose you should clarify that so he understands. I did
15 tell to him that if he wanted Emily, Ms. Reeder, to be able to testify to the
16 things that she did in this particular case, he would just subpoena her.

17 THE COURT: Okay.

18 MS. MURRAY: And she'd be available as the one who did the
19 work the same way she would have been if I were proceeding.

20 THE COURT: Okay. Is that all correct?

21 THE DEFENDANT: Yes.

22 THE COURT: Okay. So let me just ask, is this a case where
23 the State is alleging there's prior criminal history that would be habitual
24 eligible or no?

25 MR. ROGAN: Your Honor, I don't recall specifically whether

1 he has prior convictions or not.

2 THE COURT: Do you have any sense of that, Julia?

3 MS. MURRAY: I have sense of that. I don't have confirmation
4 of any of it in paper format --

5 THE COURT: Well --

6 MS. MURRAY: -- so I hesitate --

7 THE COURT: Okay.

8 MS. MURRAY: -- to put much out there.

9 THE COURT: No, no, no, I understand. But have you had
10 any conversations with him about that?

11 MS. MURRAY: I have certainly discussed the potential for the
12 State to make arguments of that nature with Mr. Woods.

13 THE COURT: Okay. So, Mr. Woods, what I'm getting at is if
14 you have prior felony convictions, and I'm not asking you to commit on
15 the record, but if you have prior felony convictions and sometimes you
16 only need to have two, depending upon the nature of them, sometimes
17 you may need to have three, depending upon the nature of them.

18 But if you have prior felony convictions of at least two or three,
19 then that can expose you to habitual criminal treatment. Which means,
20 separate from the murder charge, any felony that you're convicted of
21 could potentially involve a life sentence, life without the possibility of
22 parole. That's one of the potential sentences for habitual criminal
23 treatment.

24 Do you understand that?

25 THE DEFENDANT: Yes. But habitual to my understanding

1 means you have cases like one, two, three, or I don't know how you
2 separate the years or. But I'm saying, like, if I had something that's --

3 THE COURT: Well, let me put it this way, so there's -- one of
4 the statutes kind of is referred to as a habitually violent felon. So if you
5 have prior violent convictions, as least two prior felony convictions, that
6 are of a crime of violence as is defined in the statute, and then you get
7 convicted of a crime of violence, then you're eligible for habitual criminal
8 status; okay.

9 On the other aspect of things is if you just have three prior
10 felony convictions, any nature, just three prior felony convictions, and
11 then you get convicted of another felony, you're also eligible for habitual
12 criminal status.

13 And the habitual sentencing options are life without the
14 possibility of parole, life with the possibility of parole after 10 years has
15 been served, or a sentence of minimum 5, maximum 20 years. So that's
16 an enhancement on any charge, not just a murder charge, any other
17 felony that you're convicted of.

18 Do you understand that?

19 THE DEFENDANT: All right. So I believe I had one.

20 THE COURT: Okay.

21 THE DEFENDANT: But I'm saying if, just say if I have the one
22 and I'm convicted of this one, that's automatically to two?

23 THE COURT: No, you're not going to get habitualized 'cause
24 you get convicted, for instance, of 10 charges in this case. You have to
25 have the requisite number of prior --

1 THE DEFENDANT: Previous; okay.

2 THE COURT: -- convictions before this case.

3 MS. MURRAY: And, Your Honor, I'm -- I do not believe he
4 would be qualified under the violent habitual --

5 THE COURT: Okay.

6 MS. MURRAY: -- absent a murder conviction here at which
7 point the penalties --

8 THE COURT: Are pretty much the same.

9 MS. MURRAY: -- are akin anyhow.

10 THE COURT: Okay.

11 MS. MURRAY: So the priors that I'm aware of would not, and
12 the charges he currently faces would be under your traditional model --

13 THE COURT: Traditional model.

14 MS. MURRAY: -- of a smaller enlarge --

15 THE COURT: Okay.

16 MS. MURRAY: -- if on the table at all.

17 THE COURT: Got it.

18 MS. MURRAY: He does have numerous arguments against
19 them from the conversations we've had.

20 THE COURT: Point being, look, it's -- it's - it should be a very
21 real concern to an individual, if they think they have priors and they're
22 going to trial, that potentially they have this habitual out there now.

23 THE DEFENDANT: Yes.

24 THE COURT: Which is another reason that it can be really
25 unwise to try and do this on your own without the help of an attorney;

1 okay, that's the only reason we're having this conversation.

2 Do you understand?

3 THE DEFENDANT: I understand.

4 THE COURT: Okay.

5 THE DEFENDANT: I have a question.

6 THE COURT: Sure.

7 THE DEFENDANT: I was reading about these -- the actions
8 per se against me, are these civil acts or they're criminal acts 'cause it's
9 kind of --

10 THE COURT: The acts that are alleged against you?

11 THE DEFENDANT: Yes.

12 THE COURT: No, they're crimes. I mean, you're charged
13 with crimes.

14 THE DEFENDANT: So it's criminal acts, criminal.

15 THE COURT: Correct.

16 THE DEFENDANT: Not civil; okay.

17 THE COURT: Yeah.

18 Now civil is a whole different animal. I mean, civil exists in a
19 realm of monetarily compensating people if they've been wronged in
20 some fashion.

21 Criminal, that's what we're doing here, is where you're
22 charged with crimes and you potentially look at being incarcerated if
23 you're convicted of those crimes. It's not about awarding people money.

24 THE DEFENDANT: Well, it didn't say -- what I was reading
25 didn't -- it wasn't just -- just referring to awarding people money. It was

1 kind of --

2 THE COURT: Well, I mean, civil has some other aspects.
3 Like sometimes --

4 MS. MURRAY: Your Honor, I think he was looking at some
5 cases that involve civil rights accusations that are tied into criminal
6 cases.

7 THE COURT: Oh, oh, oh, okay.

8 MS. MURRAY: And the corresponding civil actions that can
9 take place when a criminal case is commenced and/or when it
10 concludes.

11 THE COURT: Okay.

12 MS. MURRAY: And I think that's where the confusion had
13 come in. There's -- it's that crossover land.

14 THE COURT: Well, let's keep it all real clear.

15 MS. MURRAY: Yeah.

16 THE COURT: You're charged in this case with 10 criminal
17 acts, any trial will be related just to those criminal acts, and then
18 sentencing will be as defined by statute for whatever criminal acts you
19 may be convicted of; okay?

20 THE DEFENDANT: Okay.

21 THE COURT: You said that you've sat through some trials,
22 did that involve watching the jury selection process?

23 THE DEFENDANT: No.

24 THE COURT: Okay. Have you had conversations with your
25 attorneys about that aspect of things --

1 THE DEFENDANT: Yes.

2 THE COURT: -- how to go about selecting a jury and?

3 THE DEFENDANT: Yes. And I've read several of -- jury
4 instructions. One that I think -- one also that came from your court.

5 THE COURT: Okay.

6 THE DEFENDANT: I know all jury instructions are different
7 from what I was seeing --

8 THE COURT: Right.

9 THE DEFENDANT: -- but I got the gist of it.

10 THE COURT: Well, jury instructions, we'll get there in a
11 minute, that's what we talk to the jury about at the end of the case.

12 Jury selection, in the beginning of the case, is when we bring
13 a 100 people or so in here and the attorneys choose the 12 that are
14 going to hear our trial. So they get an opportunity to ask some
15 questions. You can't talk about the facts of the case. You can't argue
16 your case. You just get to ask some questions to find out if anybody has
17 any kind of bias or prejudice that might make 'em a bad juror.

18 Not jury instructions. This is just talking to people to figure out
19 who you think might be a good juror to hear your case, which can be
20 kind of a very -- there's a lot of nuances to that, a lot of, you know, trying
21 to read people's body language and read into answers that they give
22 and figure out if you think they're being completely honest with you, are
23 they open minded, do you think they'll be fair. There's a lot of kind of
24 skill that goes into that that's borne out over time when the attorneys
25 repeatedly pick juries. So that can be very difficult for somebody that's

1 never done that before.

2 You kind of understand that you're taking on a big load in that
3 as well?

4 THE DEFENDANT: Yes, sir.

5 Do the jury -- do the questions, are they pertained to just, like,
6 certain questions that you can ask or are these questions --

7 THE COURT: So when we bring the people in I have a
8 number of general questions that I ask 'em, which is just generally do
9 they have any bias or prejudice related to certain things. I ask 'em
10 questions about what kind of work do they do, you know, are they
11 married, do they have kids, have they ever been jurors before, have they
12 ever been a victim of a crime, have they ever been accused of a crime.
13 We go through a whole series of questions. And then the attorneys get
14 an opportunity to take over.

15 You can follow-up asking them things about answers they may
16 have given to my questions and sometimes there may be areas that you
17 want to ask about as well.

18 An attorney may want to ask jurors whether anybody's ever
19 had a family member that's had a substance abuse problem because
20 maybe the case has something to do with drugs. Are there jurors who
21 have concerns about possession of weapons because there's a gun
22 involved in a case. Things like that.

23 But you can't, you know, tell the jury, here's what happened in
24 the case --

25 THE DEFENDANT: Yeah.

1 THE COURT: -- what do you think about that? I mean,
2 that's -- that's what they do in their deliberations.

3 So you're limited in how you can ask questions. And, again, I
4 can't kind of help you with that. I mean, you'll be able to get assistance
5 from your standby counsel but you're kind of on your own.

6 Do you understand?

7 THE DEFENDANT: Yeah.

8 THE COURT: Yes.

9 THE DEFENDANT: What if I ask the question that's, like I
10 don't know it's over the line, you will say, like, can I ask the --

11 THE COURT: Well, if you ask a bad question, assumedly the
12 State's going to object.

13 THE DEFENDANT: Okay, yeah, okay.

14 THE COURT: And then I'll decide whether it's a good
15 question or not.

16 THE DEFENDANT: That's what I was asking.

17 THE COURT: Yeah.

18 THE DEFENDANT: Okay.

19 THE COURT: Same thing with if they ask a question that you
20 believe is improper and maybe you ask your standby counsel or
21 whatever, you object and then I'll rule on that as well; okay.

22 THE DEFENDANT: Okay.

23 THE COURT: I --

24 THE DEFENDANT: As far as motions go --

25 THE COURT: Yeah, go ahead.

1 THE DEFENDANT: As far as motions go --

2 THE COURT: Yes.

3 THE DEFENDANT: -- sometime I've sat in here and I see
4 people like with 20 motions on the table. And I'm, like, if I have a lot of
5 motions, do I have to present them all at once? Can I --

6 THE COURT: Well, you --

7 THE DEFENDANT: And I know it's a small window --

8 THE COURT: It's probably more --

9 THE DEFENDANT: -- that's why I was saying --

10 THE COURT: -- it's probably preferable if you have a bunch
11 of motions that you want to file, then we get 'em filed, and have one date
12 to hear them, as opposed to having to come back on calendar over and
13 over and over again, particularly when you have a trial coming up.

14 So that's why a lot of times the attorneys will file a batch of
15 motions a month, two months ahead of trial, and then we'll have a
16 hearing where we have 'em all on calendar at one time so that we're not
17 piecemealing them out over and over again.

18 So, yes, I would say if you have motions you want to file, my
19 preference would be that I'll set a date today to hear the motions and
20 you can get 'em filed and then we'll hear 'em all on that same date.

21 THE DEFENDANT: Okay. What if I have the majority of my
22 motions ready by that date but I need a couple more like?

23 THE COURT: Well, the only problem is there's got to be a
24 time where I tell people you can't file anymore motions 'cause we're
25 getting ready to start trial so.

1 THE DEFENDANT: And that would be how close to the trial
2 date?

3 THE COURT: Well, I mean, you've got to get a motion filed
4 and give the State an opportunity to file any written response to it.

5 So it's kind of hard to say a particular time period. Generally,
6 motions should be filed 15 days ahead of trial at the latest. So we can
7 talk about that at the end, in terms of motions that you may know of right
8 now.

9 But let me -- let me finish going through a couple of things with
10 you.

11 Are you taking any kind of medications at the detention
12 center?

13 THE DEFENDANT: No.

14 THE COURT: No.

15 Have you ever had any kind of mental health issues that have
16 affected your ability to not be supervised by doctors or anything?

17 THE DEFENDANT: No, sir.

18 THE COURT: All right. We talked about your education. It's
19 clear to the Court on the record that you're an intelligent gentleman,
20 don't have any issue with competency, or being able to converse with
21 the Court.

22 And I take it that's never been a concern of yours --

23 MS. MURRAY: No, it's never been a concern.

24 THE COURT: -- on his behalf either? Okay.

25 With regard to standby counsel, one thing I just kind of want to

1 end on here and make sure that you understand is, yes, you can go
2 through their office to help out with questions, get the investigator to help
3 you get ready for trial, but when you get to trial it cannot be that every
4 single time you want to ask a question you've got to go ask standby
5 counsel what's the question and then just keep spitting out whatever
6 they tell you. There's got to be -- if you're going to represent yourself,
7 you've got to be able to represent yourself. And if you need occasionally
8 to get questions answered, that's one thing. But they're not there just to
9 be your gopher and kind of go run all your errands for you. And to then
10 actually represent you at trial by asking all the questions.

11 Do you understand?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: I mean, it's kind of you're responsible as the
14 attorney to do your own thing, to prepare your case, and to present it at
15 the time of trial.

16 THE DEFENDANT: One thing that, if I'm asking questions,
17 like, I usually have everything written down.

18 THE COURT: Okay.

19 THE DEFENDANT: So I give, I can literally; I can go refer to
20 my notes?

21 THE COURT: Yeah, I mean, it's not at all inappropriate
22 multiple times during a trial that you may want to ask your standby
23 counsel something.

24 But what I've had before is people represent themselves and
25 they come to trial and they're not prepared to do anything. And they

1 basically want their attorney to give them every question. So what
2 should I do now, what should I do now, what should I do now, which is --
3 that's not only a colossal waste of time it's not really what
4 self-representation is about.

5 And the attorneys aren't in the position, just like Ms. Murray
6 was saying earlier, they're not going to be in a position, particularly if
7 they have different ideas about trial strategy to be providing you with all
8 the questions to ask. They're going to assume that you representing
9 yourself, you're going to do what you just said. You're going to be
10 writing down questions and getting prepared to try the case on your own;
11 okay.

12 THE DEFENDANT: I understand.

13 THE COURT: So you ever heard the saying, they always put
14 this in -- in what they want us to talk to you-all about, the saying that, a
15 man who has his own lawyer has a fool for a client?

16 THE DEFENDANT: Yes. And my response to that is I think
17 that was a lawyer that just -- was trying to protect his craft. I think if
18 somebody was -- they have -- you, yourself, have your own best interest
19 in mind.

20 THE COURT: Multiple people probably said it. I think
21 Abraham Lincoln was one of the ones that said it. So he was a lawyer,
22 don't get me wrong.

23 But the point is, and I get that a lot of times defendants have
24 disagreements with their attorneys. But it would be like me saying, I
25 don't like my doctor, so I'm going to perform surgery on myself just

1 because I don't like what he's telling me, which would be really foolish
2 for me because I'm not a doctor and that would be really dangerous to
3 my health. I'd probably end up dying on the operating table if I tried to
4 operate on myself.

5 You're not going to die representing yourself but there's a lot
6 at stake here. I mean, you're charged with really, really serious offenses
7 that could potentially put you in prison without any chance of parole the
8 rest of your life.

9 Which is injurious to you; right? I mean, that's -- that's an
10 injury of a different kind.

11 THE DEFENDANT: I understand that. But me, personally,
12 these charges don't pertain to me. I didn't kill anybody. That's what I'm
13 here to prove. So whether it goes one way or the other, I'm willing to
14 deal with the consequences.

15 THE COURT: I -- I understand -- well, the last statement was
16 really the most important aspect of that. I understand your position
17 about you're not being liable for any of this.

18 My question is really more about the wisdom of being the one
19 that has to go to trial and accept the repercussions. And a lot of times
20 when we have these conversations with people the more we talk about
21 it, then we get to the end of it they're kind of like, wait a minute, I don't
22 really want to accept the repercussions for this because I'm not a lawyer
23 and I don't know what all this is and I want to have all my rights available
24 to me if I get convicted.

25 But it sounds like from what you're saying you've considered

1 all that and you understand what the repercussions are and you still
2 want to represent yourself.

3 THE DEFENDANT: Yes.

4 And I want, for the record, I want to state the fact that even
5 though me and Ms. Murray started off shaky, the last time you told me to
6 talk to see if you guys can work it out. We talked in -- it's -- it's more
7 professional. 'Cause on a personal level I'm okay, we're okay, you
8 know.

9 THE COURT: Okay.

10 THE DEFENDANT: I consider her -- excuse me -- my friend
11 on the outside now that we've got to know each other. We've shared
12 some stories.

13 THE COURT: Right.

14 THE DEFENDANT: And, you know, so it's not about I don't
15 like her.

16 THE COURT: Okay.

17 THE DEFENDANT: You know, maybe it was kind of like that
18 at first. But she's -- we -- I'm hoping she feel the same way. But we
19 good.

20 MS. MURRAY: Yeah, I think the Court's aware, we've had --
21 it's been a rocky relationship building in this particular case. We've had
22 a number of hearings on it, I think, you know --

23 THE COURT: Right.

24 MS. MURRAY: -- the record bears that out.

25 I would agree that there's been a stride hit in the last 12 to 6

1 months that has been significantly different, which is probably why he's
2 standing so confidently with you today.

3 THE COURT: Okay.

4 MS. MURRAY: I mean, there's -- it's about other things, not,
5 you know --

6 THE COURT: Okay.

7 MS. MURRAY: -- any of the stuff that's come up in the past.

8 THE COURT: All right. Well, here's what I'll say, Mr. Woods,
9 I mean you clearly qualify to represent yourself. I don't have any
10 concern about that. And, in fact, I think most people qualify to represent
11 themselves. The reason we go through the hearing that we just went
12 through and answering all those questions is to hopefully have you
13 thinking, is this really what I want to do. You seem very steadfast in my
14 mind about this is what you want to do and so I'm going to allow you to
15 do it.

16 I will have the public defender remain as standby counsel.
17 Understanding, as you've acknowledged, that if we get into trial and a
18 jury is seated and then in the middle of trial you're kind of like, I don't
19 want to do this now, they're not going to be able to stand up and take
20 over your case. They're not going to be prepared to do that.

21 You understand?

22 THE DEFENDANT: So any time before --

23 THE COURT: Yeah --

24 THE DEFENDANT: -- the jury's seated?

25 THE COURT: -- when we get to calendar call and you're like,

1 whoa, wait a minute, you know what, I -- this is just all over my head. I
2 can't do this now. That's a different story. And it may be that, you know,
3 I have to continue a trial and put counsel back in place. At which point
4 we then wouldn't do it later on. If that happens and then, you know, six
5 months down the road you now say, no, no, no, I want to represent
6 myself again, I'm going to say no.

7 THE COURT: Oh, yeah, I understand.

8 THE COURT: It's kind of a one-time shot. And I don't fault
9 people. I think it's wise a lot of times when they decide to do it and then
10 they say, you know what, maybe I really didn't approach this the way
11 that I should have. I don't want to represent myself. That's fine. But it
12 can't flip-flop --

13 THE DEFENDANT: Yeah, I understand.

14 THE COURT: -- you know, back and forth.

15 All right. So we're going to allow Mr. Woods to represent
16 himself, with the public defender remaining as standby counsel and I'm
17 including the use of the investigator.

18 As I said, any orders you need, Julia, about paper or pens that
19 Mr. Woods needs, you can provide them to me, I'll sign off on those.

20 MS. MURRAY: Okay.

21 THE COURT: Also orders that would allow the investigator to
22 go over to the jail to bring in the equipment to allow you to listen to any
23 digital evidence, things like that as well.

24 THE DEFENDANT: Real quick on that.

25 THE COURT: Okay.

1 THE DEFENDANT: I need envelopes to mail --

2 MS. MURRAY: I'll --

3 THE DEFENDANT: -- them out. Would that be part of the --

4 MS. MURRAY: I have, yeah, I know the list of what you need
5 for the motions.

6 THE DEFENDANT: Okay.

7 THE COURT: She'll get all that for you.

8 MS. MURRAY: We discussed it the other day. I have it.

9 THE COURT: Okay. And then you said you had a number of
10 motions you want to file, some of them that I understand, you're ready to
11 file?

12 THE DEFENDANT: A couple are ready. But now -- 'cause I
13 didn't know whether you were gonna let me, you know, represent myself
14 or not.

15 THE COURT: Okay.

16 THE DEFENDANT: So now I'm gonna get everything out.

17 THE COURT: Let me ask you this, do you think whatever
18 motions you have to file can be filed -- ready to file in the next two
19 weeks?

20 THE DEFENDANT: Probably more so by end of next month.
21 I mean, to be done with all of 'em, I would say like if you could give me
22 at least to the end of next month.

23 THE COURT: Well, I tell you what, let's do this, I'm going to
24 go ahead -- because our trial date is November 5th I want to keep this
25 kind of on a tighter schedule, so we're going to set a status check in two

1 weeks. We'll see what's ready to file then.

2 THE DEFENDANT: Okay.

3 THE COURT: Then we'll probably come back two weeks after
4 that as well and we'll keep kind of coming back every two weeks --

5 THE DEFENDANT: Okay.

6 THE COURT: -- to make sure we get all the motions taken
7 care of.

8 So we'll come back on September 12th at 9:30.

9 MS. MURRAY: And then -- I'm sorry, I have one other
10 question.

11 THE COURT: Sure.

12 MS. MURRAY: His -- his file was provided to me on a jump
13 drive. I have always sort of worked off my computer on it.

14 THE COURT: Okay.

15 MS. MURRAY: I did begin printing portions of it at various
16 points of the trial -- or, I'm sorry, in preparation for him to have access to
17 stuff. I would say that the printed aspect of discovery is roughly a very
18 full banker's box.

19 THE COURT: Okay.

20 MS. MURRAY: I know that that volume exceeds what he's
21 allowed to have access to 24 hours a day within his own cell.

22 THE COURT: Okay.

23 MS. MURRAY: Is there anything we can do to accommodate
24 that --

25 THE COURT: Do you know how that works?

1 THE CORRECTIONS OFFICER: No, they can -- and he's not
2 in a cell. He is in open module.

3 THE DEFENDANT: I'm in a module.

4 MS. MURRAY: Okay.

5 THE CORRECTIONS OFFICER: So he has his own cubicle.

6 MS. MURRAY: Okay.

7 THE CORRECTIONS OFFICER: With a desk in there. So he
8 can have as much --

9 MS. MURRAY: So he can have a full box?

10 THE CORRECTIONS OFFICER: Yes, because he's going
11 through trial.

12 MS. MURRAY: That was my only concern; okay. I didn't want
13 it to be that he didn't have access.

14 THE COURT: So why don't you go ahead and get it all
15 printed out and provided.

16 MS. MURRAY: Right. And we've discussed that.

17 THE COURT: And if they raise any issue at the detention
18 center, then we can talk about it.

19 THE CORRECTIONS OFFICER: They'll probably just take
20 it -- they're going to take it out the box. But they'll let him stack it up on
21 his shelves.

22 MS. MURRAY: And that's fine. I just wanted to make sure
23 that it wasn't that he only had access in piecemeal --

24 THE COURT: Okay.

25 MS. MURRAY: -- to items. I wanted him to be able to have

1 everything in full.

2 THE COURT: Okay.

3 Mr. Rogan, do you have anything?

4 MR. ROGAN: Your Honor, just to -- I want to make the
5 defendant aware that if we need to converse with him, that we'll reach
6 through -- out through the investigator and that he should do the same if
7 he needs to converse with us.

8 THE COURT: Yeah, there's no real -- they don't have a
9 mechanism in their office to communicate with you the way you can with
10 your attorneys by phone or video. So if you have any issues where you
11 need to communicate to the State, you want to talk to them about an
12 offer, you want to talk to them about discovery, whatever it may be, just
13 kind of let your attorneys or the investigator over there know and then
14 you guys can communicate in some fashion through the public defender.

15 MS. MURRAY: And I did advise him that anything that was
16 not like a verbal conversation request, he should do in a format of a
17 letter and mail to both Mr. Rogan and Ms. Fleck.

18 MR. ROGAN: And that's fine.

19 MS. MURRAY: So I -- I've already instructed him on that. We
20 talked about it the other day. So he would --

21 THE COURT: Do you understand that?

22 THE DEFENDANT: Okay.

23 THE COURT: They're just saying they want to make sure it's
24 memorialized, you know, so that there's no confusion. If you ask for a
25 certain thing and it has to go through the Public Defender's Office, since

1 you can't communicate directly through them from the detention center,
2 just write something down and send it over to 'em.

3 THE DEFENDANT: So let her respond --

4 THE COURT: Yeah.

5 THE DEFENDANT: -- if I -- if I can't get through to her or to
6 the investigator just --

7 THE COURT: Yeah.

8 THE DEFENDANT: -- okay.

9 THE COURT: Yeah.

10 THE DEFENDANT: I also wanted to say, Your Honor, I
11 appreciate you giving me this opportunity. I will respect the Court. And
12 I --

13 THE COURT: Just keep thinking about the wisdom of it; okay.
14 I mean, it's -- it's one thing to think in the abstract about representing
15 yourself. It's another thing once I actually say, yep, you can do it, you're
16 probably going to go back and sit down and say, whoa, okay, now I'm
17 really going to do it. And you're going to start preparing things.

18 And if you get a point, I mean, just be humble enough, if you
19 get to that point and think, oh, wow, I don't know what I got myself into,
20 don't ever let ego override your ability to go back to your attorneys and
21 say maybe this isn't the best idea; okay.

22 THE DEFENDANT: I appreciate you saying that.

23 THE COURT: No worries.

24 All right. We'll see everybody back on September the 12th.

25 MR. ROGAN: Thank you, Your Honor.

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THE COURT: Thank you.

MS. MURRAY: There was a --

THE COURT: Yeah, the motion that Mr. Woods had filed,
which is set for September 11th, we'll vacate that --

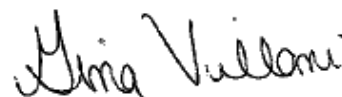
MS. MURRAY: Thank you.

THE COURT: -- because that's what we dealt with today.

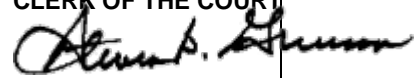
[Hearing concluded at 12:18 p.m.]

* * * * *

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



Gina Villani
Court Recorder/Transcriber
District Court Dept. IX



1 RTRAN

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4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 THE STATE OF NEVADA,
9 Plaintiff,

CASE#: C-15-309820-1
DEPT. III

10 vs.

11 LEONARD RAY WOODS,
12 Defendant.

13
14 BEFORE THE HONORABLE DOUGLAS W. HERNDON, DISTRICT COURT JUDGE
15 WEDNESDAY, SEPTEMBER 12, 2018

16 **RECORDER'S TRANSCRIPT OF HEARING:**
17 **STATUS CHECK: TRIAL READINESS**

18
19 APPEARANCES:

20 For the State:

MARC DIGIACOMO, ESQ.
Chief Deputy District Attorney

21
22 For the Defendant:

Pro se

23 Also Present:

JULIA M. MURRAY, ESQ.
Deputy Public Defender

24
25 RECORDED BY: SARA RICHARDSON, COURT RECORDER

1 Las Vegas, Nevada, Wednesday, September 12, 2018

2
3 [Hearing began at 12:02 p.m.]

4 THE COURT: All right. We have Mr. Woods' matter, which is
5 on page 19, 309820. Mr. Woods is present in custody.

6 Mr. Woods, how you doing?

7 THE DEFENDANT: All right.

8 Yourself?

9 THE COURT: Good, thank you.

10 MS. MURRAY: Julia Murray, as standby counsel, is present
11 as well.

12 THE COURT: Thank you.

13 All right. Mr. Woods was previously granted the right to
14 represent himself, with the public defender remaining as standby
15 counsel to assist him. We have a trial date coming up on November 5th.

16 I think when we were here last, Mr. Woods, we were talking
17 about setting this status check to give you time to figure out what
18 motions it was that you wanted to file; correct?

19 THE DEFENDANT: Correct.

20 THE COURT: Okay.

21 MS. MURRAY: Your Honor, I'm holding a stack of --

22 THE COURT: Okay.

23 MS. MURRAY: -- documents that -- I'd asked the Court after
24 court last time if he could file these in open court to avoid --

25 THE COURT: Yeah.

1 MS. MURRAY: -- the transfer fees.

2 So what I'm going to be bringing up to the clerk for filing in
3 open court -- and I did make copies this morning, so there's a copy for
4 the State. The first is a letter to district attorney Michelle Fleck that is
5 regarding information of the identity of someone who signed a search
6 warrant. He's making a formal request for that.

7 THE COURT: Okay.

8 MS. MURRAY: And wanted proof of receipt.

9 The second is a certificate of mailing of some other
10 documents that he has sent out.

11 The third is a motion to proceed as attorney and fact of record.
12 Small caveat to that, I did explain to him this morning that he is the
13 attorney of record following the *Faretta* hearing.

14 THE COURT: Okay.

15 MS. MURRAY: However, I did not read this motion, so I don't
16 know if it also addresses something different.

17 The fourth is a motion for discovery. And, again, I did explain
18 to him this morning that there was previously a motion for discovery that
19 was litigated and granted.

20 THE COURT: Okay.

21 MS. MURRAY: So I would perhaps propose that it just be
22 called a second, so that there's a clarification in the filing.

23 THE COURT: Okay.

24 MS. MURRAY: But I did alter it myself.

25 And then the final is a motion to sever.

1 If I may approach the clerk with those?

2 THE COURT: Motion -- what was the last one?

3 MS. MURRAY: To sever.

4 THE COURT: To sever; okay.

5 All right. Yes, you can file all those.

6 And I know, Mr. DiGiacomo, you're just standing in today for
7 Ms. Fleck; correct?

8 MR. DIGIACOMO: Correct. She's out of the jurisdiction, I
9 believe, until September 24th, so if we get a date far enough out for her
10 to be able to respond to any of these.

11 THE COURT: Got it.

12 So just tell me real quick, Mr. Woods, is the motion to act as
13 attorney, understanding what Ms. Murray's explained to you today, that
14 you are the attorney at your request?

15 THE DEFENDANT: Yeah. Well, I was under the impression
16 that per se to -- to move forward as attorney per se was different than
17 attorney of fact of record. So I just wanted to be clear all the way
18 across.

19 THE COURT: No, you're -- you're the guy.

20 THE DEFENDANT: Okay.

21 THE COURT: You're the attorney, you make all the decisions
22 in your case. They're there to help you, if you have any legal questions,
23 that you're entitled, as we discussed last time, to use their investigator
24 obviously. But they don't have the right to go do things in your case now
25 just 'cause they're an attorney. They're standby counsel for you.

1 THE DEFENDANT: Okay.

2 THE COURT: You're the decision maker; okay.

3 THE DEFENDANT: I got a couple of quick problem.

4 THE COURT: Okay.

5 THE DEFENDANT: Do I have to use the same investigator

6 I've just tried to dismiss off my case?

7 THE COURT: Well, I -- I --

8 THE DEFENDANT: Because that's one of the reason why I

9 was trying him because he wasn't doing it.

10 THE COURT: I can't direct that their office, in terms of who

11 they assign to help defendants on cases that they're appointed for.

12 THE DEFENDANT: Oh, I thought you were gonna assign an

13 investigator for me.

14 THE COURT: No, no, no, no. I don't -- I don't choose the

15 attorneys --

16 THE DEFENDANT: Okay.

17 THE COURT: -- to represent people. I don't choose the

18 investigators that attorneys can utilize. I don't choose, you know, who

19 gets assigned to their Homicide Unit, which investigators are in their

20 Homicide Unit, those are things the Court cannot have any involvement

21 in.

22 THE DEFENDANT: Okay. So what if I'm asking this

23 investigator, like I've been doing for the previous three years, to

24 investigate certain things and they're not being investigated, I mean.

25 THE COURT: Well, that's --

1 THE DEFENDANT: Can I --

2 THE COURT: -- kind of why you have standby counsel as
3 well. So Ms. Murray can talk to the investigator and make sure they're
4 doing what they're supposed to be doing.

5 I don't know how many investigators you-all --

6 MS. MURRAY: And, Your Honor, what I had requested in
7 open court last time was that any investigation requests be submitted to
8 me in writing --

9 THE COURT: Right.

10 MS. MURRAY: -- and then they would be transferred to the
11 investigator in writing. That way if there were any discrepancies, there
12 would be a written record that we could do a ex parte sealed hearing
13 with the Court to address those issues.

14 THE COURT: The other reason that's good is, look, if the
15 investigators aren't doing their job, then her office can get rid of an
16 investigator.

17 THE DEFENDANT: All right.

18 THE COURT: But, yeah, you've got to kind of communicate
19 that to her and let her order the investigator to do those things; okay.

20 THE DEFENDANT: All right. Well, that wasn't presented to
21 me like that but that sounds good. I like that.

22 THE COURT: Okay. No, we're good.

23 THE DEFENDANT: Okay. My second thing is they just said
24 Michelle Fleck is out until the 24th.

25 THE COURT: Correct.

1 THE DEFENDANT: Now, you gave me a small window to file
2 all these motions.

3 THE COURT: Right.

4 THE DEFENDANT: Now, if she's out until the 24th, and I still
5 haven't got the writing utensils that you said you were gonna were --
6 authorize for me to have. So I'm scrambling around trying to get these
7 papers and pencils and, you know, so I can get these in to you.

8 THE COURT: Okay.

9 THE DEFENDANT: And then say, like, when she comes back
10 and she's gonna need time to hear these motions. I still got motions to
11 file --

12 THE COURT: Right.

13 THE DEFENDANT: -- once I get this other writing utensils.

14 THE COURT: Okay.

15 THE DEFENDANT: So then she's gonna need more time to
16 hear the other motions. And I don't want you telling me, well, you had
17 time enough to get all this together, when it's gonna be mid-October --

18 THE COURT: Well, look, I -- I --

19 THE DEFENDANT: -- and mid-October is about the time you
20 told me to make the decision that, you know what I mean?

21 THE COURT: All right. Here's the thing, I'm not going to
22 preclude you from filing motions. So -- so trust me on that. I think what I
23 had told you last time was, look, if you need more time for your trial,
24 since you're just becoming pro per, I really want to keep the trial date but
25 I understand if there's things that come up and you need to get motions

1 filed and they're late, we're still going to get them heard; okay.

2 THE DEFENDANT: Okay.

3 THE COURT: I think the issue of utensils though the Public
4 Defender's Office was going to provide stuff to you.

5 MS. MURRAY: And, Your Honor, I do have a small,
6 housekeeping list here for at the end, I did submit orders the same day
7 that we were in court last time.

8 THE COURT: Correct.

9 MS. MURRAY: One was regarding my ability to provide him
10 with that. The second was regarding my investigator's ability to bring
11 digital data into the detention center.

12 THE COURT: Right.

13 MS. MURRAY: I haven't received either of those orders back.
14 So I have not yet given him anything, nor have the digital materials gone
15 forward. So that's why there's still a concern.

16 THE COURT: We signed off on those orders a while ago. I
17 don't have any orders pending right now.

18 MS. MURRAY: Then they have evaporated.

19 THE COURT: I know we had a problem with orders before
20 but I know I signed the order to -- for you-all to be able to provide him
21 with stuff.

22 MS. MURRAY: Okay. I -- they haven't been received back.

23 THE COURT: Do they need a written order at the detention
24 center for the public defender to give a guy note pads and --

25 THE CORRECTIONS OFFICER: I don't think notepads, no.

1 MS. MURRAY: I specifically was told by the head of the jail
2 that I have to have an order.

3 THE COURT: Okay. You have another copy of your order?

4 MS. MURRAY: Yeah, I've got one on my computer.

5 THE COURT: Oh, well --

6 MS. MURRAY: I don't have one handy.

7 THE COURT: I mean, look, I'm -- I'm --

8 MS. MURRAY: I'll send another over this afternoon.

9 THE COURT: -- I'm ordering it again.

10 MS. MURRAY: Perfect.

11 THE COURT: Can you kind of make a note that I've ordered
12 that they be able to give him note pads and pens through their office so
13 that he can file other motions.

14 THE CORRECTIONS OFFICER: Yes.

15 THE COURT: So here's what I'll do, Mr. Woods, I'm going to
16 go ahead and set it for a status check on the 26th. I realize Michelle's
17 only going to be back a couple of days at that time, but she should have
18 a chance to at least look at the discovery motion, if not, whatever the
19 motion to sever is as well. And if she needs more time to get
20 oppositions on file, we'll set those out.

21 But also, hopefully by then, if you have other motions to file,
22 you can have those ready 'cause we're going to get you whatever paper
23 and pencils you need; okay.

24 So that's going to be the 26th at 9:30.

25 THE DEFENDANT: Wait, one real quick --

1 THE COURT: Yeah.

2 THE DEFENDANT: -- what about the -- to subpoena the
3 officers and other people that I need to subpoena. Do I go through her --

4 MS. MURRAY: The list --

5 THE DEFENDANT: -- or do I ask --

6 THE COURT: Yeah, just --

7 MS. MURRAY: -- the list to me.

8 THE COURT: -- remember -- remember we talked about that.
9 Do that in writing so she knows, I want these ten people subpoenaed for
10 trial.

11 THE DEFENDANT: Okay.

12 THE COURT: And then she'll get her investigator to go serve
13 those subpoenas for you; okay.

14 THE DEFENDANT: Well, I believe, like, some of motions
15 might lead to evidentiary hearings or evidentiary hearings will lead the
16 motion. However the way it goes.

17 THE COURT: Okay.

18 THE DEFENDANT: But I need those guys in there for that --
19 they'll set it for trial --

20 THE COURT: Well, you don't want to serve those subpoenas
21 yet because I set the evidentiary hearing.

22 THE DEFENDANT: Yeah.

23 THE COURT: So there's not a hearing for you to subpoena
24 them for yet. So when we deal with the motion, if I believe an
25 evidentiary hearing is necessary, then I'll say, we're going to have an

1 evidentiary hearing, you know, the morning of trial, for instance.

2 THE DEFENDANT: Okay.

3 THE COURT: And then Julia will have the investigator

4 subpoena them for the morning of trial.

5 THE DEFENDANT: All right.

6 THE COURT: Okay.

7 THE DEFENDANT: I just wanted to be clear on that.

8 That's --

9 THE COURT: Yep, no worries.

10 MS. MURRAY: And, Your Honor, there are a couple of

11 discovery items that I just needed the Court to instruct me how they

12 wanted them presented to Mr. Woods.

13 THE COURT: Okay.

14 MS. MURRAY: Can I just run through the short list with you

15 and then you can tell me if you want me to just go ahead and send them

16 or something different?

17 THE COURT: Yeah, go ahead.

18 MS. MURRAY: Okay. Autopsy photos.

19 THE COURT: All right. What else you got?

20 MS. MURRAY: Crime scene photos from each event number,

21 so there's two sets.

22 THE COURT: Okay.

23 MS. MURRAY: Clark County School District records of a

24 complaining witness.

25 Family court records that support, previously notified to the

1 Court, issues regarding a prior false statement; however, the family court
2 records technically are the records of the decedent and her former
3 spouse, the father of the complaining witness.

4 THE COURT: Okay.

5 MS. MURRAY: And they do contain psychological data of an
6 unrelated minor. So I basically wanted permission to have that -- that
7 final portion redacted out.

8 THE COURT: Okay.

9 MS. MURRAY: Or --

10 THE COURT: Yeah, that's -- absolutely.

11 MS. MURRAY: -- given to the Court to review before
12 transport -- transfer.

13 THE COURT: Okay.

14 MS. MURRAY: The decedents out of state criminal court
15 records.

16 The -- some records that I received from the California
17 Department of Corrections that actually relate to Mr. Woods; however,
18 because of the way we were -- the type of order we received them under
19 I don't have the ability to transfer them, even though they're his.

20 THE COURT: Okay.

21 MS. MURRAY: So I just need to -- they're mitigation
22 documents.

23 THE COURT: Okay.

24 MS. MURRAY: And then there is a final item that I can't put
25 on the record. But if Mr. DiGiacomo will allow me to approach, 'cause

1 it's an investigation matter and I don't know how Mr. Woods would prefer
2 it handled, I can tell you that final item and --

3 THE COURT: Yes.

4 MS. MURRAY: Okay.

5 THE COURT: Why don't you approach.

6 MS. MURRAY: Thank you.

7 [Bench conference begins]

8 MS. MURRAY: It's an identity defense, which has not been
9 disclosed and it was an alternate suspect who previously attacked the
10 same decedent.

11 THE COURT: Okay.

12 MS. MURRAY: He has a past criminal record, including some
13 reports that relate to that, they are out of state California records --

14 THE COURT: Okay.

15 MS. MURRAY: -- that I've been able to obtain.

16 So since they're of a third party, I didn't know how you wanted
17 those disclosed.

18 THE COURT: Did you get 'em pursuant to a court order?

19 MS. MURRAY: I --

20 THE COURT: It's not like NCIC or anything?

21 MS. MURRAY: They're not NCIC. They're definitely not
22 NCIC.

23 THE COURT: Okay.

24 MS. MURRAY: I don't remember if we got them that way or
25 through litigating.

1 THE COURT: Well --

2 MS. MURRAY: I don't recall.

3 THE COURT: -- regardless of how you got 'em, are they the

4 kind of things that are stamped with you can't disseminate 'em or what

5 have your or what?

6 MS. MURRAY: The -- I believe so, yes.

7 THE COURT: Okay. All right.

8 MS. MURRAY: My mitigation specialist has them. I would

9 have to double check. But I believe so. That's why they were flagged.

10 THE COURT: Okay. All right.

11 MS. MURRAY: They're -- and I'm going to be sending a

12 transport order for him to go over digital data.

13 So if the solution is we can review them at my office, that's

14 fine too. I just wanted --

15 THE COURT: Okay.

16 MS. MURRAY: -- guidance.

17 Thank you.

18 [Bench conference ends]

19 THE COURT: So what is the jails position on pro per

20 defendant's having photographs in their cases?

21 Do you have any idea?

22 THE CORRECTIONS OFFICER: They're allowed to have

23 legal photos.

24 THE COURT: Okay. Even if they're autopsy photos, things

25 like that?

1 THE CORRECTIONS OFFICER: I'm not sure about autopsy.
2 I'm not sure.

3 THE COURT: All right. Why don't you contact the detention
4 center. I mean, on the photos, I'll order that you be provided copies of
5 the photos in the case.

6 MS. MURRAY: Correct.

7 THE COURT: Unless the jail has any particular issue with the
8 nature of certain types of photos, which they may have, and I can
9 understand that; okay.

10 THE DEFENDANT: Yeah.

11 DEFENDANT ARENAS: Judge Herndon, brief indulgence
12 please, this is Emilio Arenas in earlier case, as you may or may not
13 know I represented myself --

14 THE COURT: I -- I --

15 DEFENDANT ARENAS: -- pro per for two years.

16 THE COURT: -- that's all right. I remember.

17 DEFENDANT ARENAS: Yes, sir. And I do have autopsy
18 photos.

19 THE COURT: Okay.

20 DEFENDANT ARENAS: And --

21 THE COURT: They're --

22 DEFENDANT ARENAS: -- we've had shakedowns at least
23 four times in the past two years and it's never been an issue.

24 THE COURT: Sometimes there's a difference depending
25 upon who it is, what it is, and how it was so.

1 DEFENDANT ARENAS: Right.

2 THE COURT: But, generally speaking, I agree with you,

3 Emilio.

4 So if you can get those and they don't give you any flack

5 about it, that's fine.

6 THE DEFENDANT: Who said that? Arenas?

7 THE COURT: Yeah, yeah.

8 Family court records, that does need to be redacted. Anything

9 about psychological or mental health history of unrelated minors needs

10 to be redacted out of there. As well as any personal identifying

11 information, address information, all that kind of stuff --

12 MS. MURRAY: Right.

13 THE COURT: -- that normally would be redacted.

14 Same thing with the school district reports --

15 MS. MURRAY: Okay.

16 THE COURT: -- they can be provided so long as the

17 appropriate information is redacted.

18 I'll order --

19 MS. MURRAY: And, again, obviously we're not talking about

20 like the name of the minor --

21 THE COURT: Right.

22 MS. MURRAY: -- as she is the complaining witness; correct?

23 THE COURT: Correct.

24 MS. MURRAY: Okay.

25 THE COURT: The out of state criminal records of the

1 defendant, I get that often times they may come with some kind of
2 stipulation that you're not supposed to disseminate those, but because
3 he's acting as an attorney and they're his record, you can provide him
4 with those.

5 MS. MURRAY: Thank you.

6 THE COURT: The other thing you mentioned I'm hesitant for
7 you to provide that, meaning a separate copy, but you can allow him to
8 have access to those.

9 MS. MURRAY: Okay.

10 THE COURT: I think we talked about, Mr. Woods, maybe
11 getting an order for you to be brought to their office to go through a lot of
12 these things; okay. And so she'll talk to you specifically about the last
13 thing she brought up and make sure you have access to that, you can
14 review it, you can take notes on everything. But sometimes there's very
15 technical rules about what they can disseminate out without their office
16 getting in problems; okay.

17 THE DEFENDANT: Your Honor, there's been a -- I don't
18 know how she said it -- an order for that since like January. And I
19 haven't been over there to review nothing yet.

20 MS. MURRAY: No --

21 THE DEFENDANT: So is that gonna cut into my time --

22 MS. MURRAY: -- no, we've --

23 THE DEFENDANT: -- again also?

24 MS. MURRAY: -- we've discussed having you brought over.
25 I've not submitted an order because we had all these other things pop

1 up. I've not submitted an order to bring you over.

2 THE COURT: We're going to get you over there. Because
3 that makes it a lot easier as well to listen to anything digitally, audio,
4 anything on video, whatever it may be --

5 THE DEFENDANT: Yeah.

6 THE COURT: -- to be able to present those things to you,
7 allow you to review 'em, take notes, whatever; okay.

8 MS. MURRAY: And, I apologize, there was one item that you
9 didn't make a response to, it was the decedents out of state criminal
10 court records.

11 THE COURT: Oh. That would fall under the same category
12 as the last thing that we talked about at the bench.

13 MS. MURRAY: In office review?

14 THE COURT: Yeah, in office review.

15 MS. MURRAY: No problem.

16 THE COURT: Okay.

17 THE DEFENDANT: So I can file the motions as they are, but
18 don't worry the subpoena issue? If that comes up, you'll --

19 THE COURT: Yeah.

20 THE DEFENDANT: Okay.

21 THE COURT: I mean, work with Ms. Murray. She can tell you
22 when the appropriate time is to have somebody serve subpoenas. But
23 we've got to get to the point of having a hearing set first; okay.

24 THE DEFENDANT: Okay.

25 THE COURT: All right. And then we'll come back on the 26th

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at 9:30.

THE DEFENDANT: Thank you.

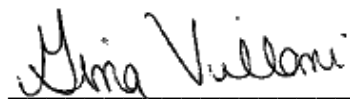
THE COURT: All right. Thank you.

MS. MURRAY: Thank you.

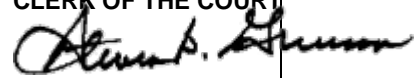
[Hearing concluded at 12:16 p.m.]

* * * * *

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



Gina Villani
Court Recorder/Transcriber
District Court Dept. IX



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 THE STATE OF NEVADA,
9 Plaintiff,

CASE#: C-15-309820-1
DEPT. III

10 vs.

11 LEONARD RAY WOODS,
12 Defendant.

13
14 BEFORE THE HONORABLE DOUGLAS W. HERNDON, DISTRICT COURT JUDGE
15 WEDNESDAY, SEPTEMBER 26, 2018

16 **RECORDER'S TRANSCRIPT OF HEARING:**
17 **STATUS CHECK: TRIAL READINESS**

18
19 APPEARANCES:

20 For the State:

MICHELLE FLECK, ESQ.
Chief Deputy District Attorney

21
22 For the Defendant:

Pro se

23 Also Present:

JULIA M. MURRAY, ESQ.
Deputy Public Defender

24
25 RECORDED BY: SARA RICHARDSON, COURT RECORDER

1 Las Vegas, Nevada, Wednesday, September 26, 2018

2
3 [Hearing began at 10:25 a.m.]

4 THE COURT: Mr. Woods' matter is on page 22, 309820.

5 He is present in custody. Mr. Woods is representing himself in
6 pro per person. Ms. Murray is here on behalf of the Public Defender's
7 Office as standby counsel.

8 So while you were out of the office, Ms. Fleck, Mr. Woods filed
9 a couple of motions. And they're just kind of on today to get a briefing
10 schedule in place 'cause we knew you weren't getting back until earlier
11 this week.

12 MS. FLECK: Okay.

13 MS. MURRAY: And, Your Honor, before you set that briefing
14 schedule, I did, on behalf of Mr. Woods, file four additional motions this
15 morning.

16 THE COURT: I did see that this morning.

17 MS. MURRAY: Okay. The first --

18 THE COURT: Hold on just a second.

19 MS. MURRAY: Okay. Perfect.

20 THE COURT: Okay. So previously, the motions that got filed,
21 that we're going to be setting a schedule on, is going to a motion to
22 sever, a motion for discovery, the motion that was filed called, quote,
23 motion to proceed as attorney in fact. We talked about that last time and
24 I told Mr. Woods that he is the attorney, the attorney of record. So
25 that's -- that's kind of a moot one. And then -- so those two motions

1 were pending.

2 And then today what we have filed is a motion to suppress
3 contents of search of cell phone, a motion to dismiss the charges of
4 ownership or possession of firearm by prohibited person, a motion to
5 suppress arrest, and it looks like --

6 MS. MURRAY: And the final one I filed on his behalf because
7 he mailed it to the Clerk's Office and they mailed it back to me.

8 THE COURT: Okay. Judicial notice of --

9 MS. MURRAY: With that notice on the front.

10 THE COURT: -- my consent to pre-settlement; correct?

11 MS. MURRAY: That's correct. It's that one.

12 THE COURT: Okay.

13 All right. So we will have all four of those things and we'll set
14 a hearing date for those now; okay.

15 MS. FLECK: Okay.

16 THE COURT: Ms. Fleck, how much time do you need to get
17 replies on file, understanding that we have a trial date coming up
18 quickly?

19 MS. FLECK: Right.

20 So I've had -- I just -- I did see the motions on my chair when I
21 got home. I'm almost finished responding to the motion to suppress --

22 THE COURT: Okay.

23 MS. FLECK: -- on that one. Obviously the firearm counts
24 would be bifurcated anyway, so that can be dealt with. I think it's just
25 whether or not the murder should be severed from the other cell phones

1 type charges.

2 THE COURT: Okay.

3 MS. FLECK: So that I -- the discovery motion I looked through
4 it. It looks as though it's framed under the UCC.

5 THE COURT: Okay.

6 MS. FLECK: So I think would be pretty easy to respond to
7 also.

8 I will do my best to try to get something on paper, I can't say it
9 will be masterful, but by Friday for everything. So if we could set -- or
10 maybe even Monday for everything. If we could set it for next week
11 Wednesday, if you want, I'll do my best to get everything done.

12 THE COURT: Well, here's what I'll say, if you can get motions
13 filed by the close of business next Monday --

14 MS. FLECK: Okay.

15 THE COURT: -- or oppositions.

16 And then obviously Mr. Woods needs to get a copy of those
17 so that he has a chance to file any replies and then replies can be filed
18 by the following Monday and we can come on maybe Thursday the 4th --

19 MS. FLECK: Okay.

20 THE COURT: -- to hear the motions so that --

21 MS. FLECK: And how would you --

22 MS. MURRAY: I apologize, isn't Thursday the 4th next
23 Thursday?

24 [Colloquy between the Court and the Court Clerk]

25 THE COURT: Oh, yes, you're right, I'm sorry. I was looking

1 at September.

2 So oppositions filed by Monday the 1st, replies files by Monday
3 the 8th, and then we can come on -- actually it'll be Wednesday the 10th,
4 not Thursday the 11th. We'll come on calendar Wednesday the 10th to
5 argue about the motions; okay.

6 MS. FLECK: Sounds great.

7 And so in terms of getting the motions to the defendant, would
8 you like my investigator to get them or should I give them to Julia?

9 MS. MURRAY: Whatever the Court prefers.

10 THE COURT: I would rather have their investigator visit with
11 him then your investigator --

12 MS. FLECK: Okay.

13 THE COURT: -- visit with him so that he doesn't have any
14 concerns about conversations that he's having at that time.

15 MS. FLECK: Okay.

16 THE COURT: So just make sure that whenever you get 'em
17 filed on Monday, and as they're getting done, CC copies of 'em over to
18 Julia --

19 MS. FLECK: Okay.

20 THE COURT: -- so if they can get over to him earlier they
21 can.

22 MS. FLECK: Okay.

23 THE COURT: And then he'll have all the copies to file any
24 replies.

25 So, Mr. Woods, just like you may have noticed with the

1 attorneys all the time, you can file replies if you want, you don't have to.
2 You'll be able to orally discuss any motions and any reply information
3 when we come back to argue them.

4 THE DEFENDANT: Okay.

5 THE COURT: But if you want to file a reply, you're certainly
6 free to do so; okay.

7 THE DEFENDANT: Okay.

8 THE COURT: All right. So we'll come back on October the
9 10th.

10 MS. MURRAY: And then, I'm sorry, I just --

11 THE DEFENDANT: And I have one --

12 MS. MURRAY: -- two quick matters. I did want -- Mr. Woods
13 wanted to make sure that the Court was aware he did provide me today
14 with a list of investigation requests.

15 THE COURT: Okay.

16 MS. MURRAY: I just wanted there to be documentation of
17 that. I do have those here in my file to provide to my investigator.

18 THE COURT: Okay.

19 MS. MURRAY: And then in response to the order that we
20 served on the jail following the last court date regarding writing
21 materials.

22 THE COURT: Okay.

23 MS. MURRAY: I received an email from the jail. I was
24 permitted to deliver the note pads and envelopes. They did not allow me
25 to deliver pens, which was fine. We left that alone.

1 THE COURT: Okay.

2 MS. MURRAY: But may I approach so the Court's aware of
3 what the jails response to my delivery of those items was.

4 THE COURT: Sure.

5 MS. MURRAY: Thank you.

6 They basically told me that these are contraband and that I'm
7 welcome to purchase from commissary at \$10 a note pad, which I've
8 explained to the Court before I have no intention of doing.

9 THE COURT: Yeah, I'll have a conversation with somebody
10 about this.

11 MS. MURRAY: Okay.

12 And I did not respond to this email 'cause I figured that was
13 better coming from you as you issued the order. You can keep that
14 copy.

15 THE COURT: Be carefully -- be careful how you use that
16 contraband, Mr. Woods. I don't want you to get --

17 THE DEFENDANT: On that issue --

18 THE COURT: -- I don't want you getting into any trouble while
19 you're over there.

20 THE DEFENDANT: -- on that issue, Your Honor, okay, now I
21 don't have pens. So I'm scrambling around trying to borrow pens from
22 other inmates and this and that so.

23 THE COURT: So will they let you provide any -- any write --

24 MS. MURRAY: So they had told me no.

25 THE COURT: Okay.

1 MS. MURRAY: But I did, from another client, look at what
2 they call a "flexi pen", which you can purchase on contraband. It's
3 essentially the insert of a pen.

4 THE COURT: Okay.

5 MS. MURRAY: And I'm happy to disassemble the pens that I
6 had brought to him before and provide him with the ink tool, if that's
7 okay.

8 THE COURT: So what kind of writing utensils can you
9 purchase in the commissary?

10 THE CORRECTIONS OFFICER: So they will provide them
11 with pencils --

12 THE COURT: Okay.

13 THE CORRECTIONS OFFICER: -- and some erasers. And
14 we will provide them with the -- the -- it's about four inches, I guess,
15 somewhere around there, of a "flexi pen."

16 THE COURT: Okay.

17 THE CORRECTIONS OFFICER: It's a little bit thicker than
18 the inside of -- the end does have a little bit of girth to it.

19 THE COURT: Okay.

20 THE CORRECTIONS OFFICER: I guess, basically, for them
21 to write.

22 THE COURT: Can you provide pencils from outside?

23 THE CORRECTIONS OFFICER: You cannot -- the only
24 reason that they don't really allow sort of pencils and anything from
25 outside or even certain pens is because everything that's purchased is --

1 follows along the security protocol for the jail so.

2 THE COURT: Okay.

3 MS. MURRAY: They told me on pencils the reason was the
4 length of the pencil.

5 THE COURT: Okay.

6 MS. MURRAY: They provide a golf pencil essentially.

7 THE COURT: Okay.

8 MS. MURRAY: And on the pens, I did not attempt to deliver
9 him the "flexi pen" pen inserts but I was told the only other way for him to
10 get them is if I purchased them through commissary, again, they come in
11 the writing packet, \$10 a pad.

12 THE COURT: Got it.

13 All right. Well, I'll try and have some conversations --

14 MS. MURRAY: Okay.

15 THE COURT: -- with people about that as well.

16 MS. MURRAY: Thank you.

17 THE COURT: See if I can't go out and --

18 MS. MURRAY: No, that one's for you so you don't forget.

19 THE COURT: Oh, okay.

20 Purchase a bunch of golf pencils myself so people can write
21 their motions.

22 MS. MURRAY: Okay.

23 THE COURT: Okay. Was there anything else?

24 THE DEFENDANT: Okay. The other issue I had was I notice
25 a lot of times at the end of a session you ask are there any discovery

1 issues or any witness issues.

2 THE COURT: Okay.

3 THE DEFENDANT: And they always say no. But I haven't
4 been advised of anything. And I do have several witnesses that I want
5 subpoenaed for my case.

6 THE COURT: Okay.

7 THE DEFENDANT: So how do I go about --

8 MS. MURRAY: You give me the list and I'll do it.

9 THE COURT: So that -- that -- that question for me is really
10 about, does anybody know of any witness that isn't going to be available
11 for our trial date right now.

12 So if you have witnesses that you're going to want
13 subpoenaed, like we've talked about before, you just need to
14 communicate that in writing to Ms. Murray so the investigator can get out
15 and serve the subpoenas.

16 And if the investigator comes back and says, by the way, I
17 talked to Mrs. Jones and she says she's going to be out of the country
18 during your trial date, then you and Ms. Murray and the investigator can
19 have some discussion. And if it's, you know, a witness that you feel is
20 so important that you need for trial, then that may form the basis of a
21 request to continue.

22 Sometimes people say, well, that witness isn't really that
23 important, I don't want to continue my trial date. But that's -- that's why I
24 ask that question just to make sure that there's nothing that anybody
25 knows of that would prohibit our trial date from going forward 'cause

1 people are unavailable; okay.

2 THE DEFENDANT: Got it.

3 MS. FLECK: One more thing. Can I?

4 THE COURT: Oh, yeah.

5 MS. FLECK: Oh.

6 So I did notice, also I looked at the minutes from the 12th, and
7 it looks as though Ms. Murray gave the defendant a number of things
8 that the State doesn't have. I asked her for those things yesterday,
9 records from family court regarding specifically some sort of false
10 statement by the victim, that was the one that concerned me the most. I
11 want to make sure that the defendant knows that anything he's going to
12 be using we need and that we're entitled to.

13 And, moreover, if he plans on trying to get into some sort of
14 prior false allegation of something, that needs to be litigated. So I want
15 to make sure he knows about that also.

16 MS. MURRAY: And what I communicated back to Ms. Fleck
17 was that the materials that were addressed with the Court last week, for
18 the product of defense investigation, I did provide them to Mr. Woods.
19 He hasn't received them yet, they were mailed out yesterday.

20 THE COURT: Okay.

21 MS. MURRAY: But I had no intention of turning them over to
22 the State at this time, as I am unaware, after his review, he will let me
23 know whether or not he plans on using them. And if he is going to use
24 them, then obviously they would get turned over. But since he has not
25 told me he plans to use them, I have not disclosed them to any other

1 party as they were defense investigation.

2 THE COURT: Okay.

3 MS. MURRAY: I also did, in the letter that I sent to
4 Mr. Woods, explained to him that if he planned on getting into those
5 false accusations, it would require a pretrial motion.

6 THE COURT: Okay. So here -- one of the things I always
7 say, Mr. Woods, is with discovery is kind of, look, possession doesn't
8 mean admissibility; right. So just because people have certain items of
9 discovery in a case, whether it's the State or the defense, doesn't
10 automatically mean that it just comes in at trial. Certain things require
11 legal motion work to decide whether it's relevant and admissible.

12 So, Ms. Murray's right, that particular issue, should it be
13 something that you-all think is important in the case, then you need to
14 file a motion to get that in. And if there are things that you believe are
15 admissible, then obviously you have reciprocal discovery requirements,
16 meaning the State has to give you discovery that's relevant and
17 admissible for you to defend yourself. And if there's certain things under
18 the statute that you believe are admissible in your defense of yourself,
19 you have to provide those things back to the State; okay.

20 THE DEFENDANT: Okay.

21 THE COURT: But I'll let you talk to standby counsel and
22 figure out what, if any, avenues you're going to proceed on with that
23 information and therefore you can then determine whether it becomes
24 discoverable; okay.

25 THE DEFENDANT: And this window --

1 THE COURT: But, obviously, remember as well, like we've
2 talked about, we're trying to maintain this trial date, but if there are things
3 that need to be litigated beforehand, it can't be, you know, at the very
4 end say, oh, by the way now I want to do this, because that's the kind of
5 stuff that -- that we end up having to continue trials on.

6 So if there's some issue that you think you need to put on at
7 trial that needs to be litigated by motion, that's going to need to get filed
8 quickly as well; okay.

9 THE DEFENDANT: Okay. That's what I was just gonna bring
10 up. This window keeps getting smaller and smaller --

11 THE COURT: Well, I --

12 THE DEFENDANT: -- and I'm feeling like they want to put off
13 some stuff and then they need time, this and that, and then I've got to
14 get it back. So all that time is getting smaller, so I don't know what's
15 going to happen.

16 THE COURT: Well, I mean, my suggestion would be this
17 particular issue that they're discussing right now, have communication
18 about.

19 And if a motion needs to be filed, get that motion filed. We
20 probably won't be able to hear it on the 10th. But if the motion gets filed,
21 I can certainly get a hearing that still allows us to maintain the trial date,
22 if necessary; okay.

23 All right. We'll see you all back on the 10th at 9:30.

24 MS. FLECK: Thank you.

25 MS. MURRAY: Thank you.

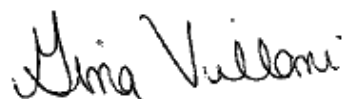
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THE COURT: Thank you.

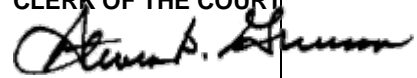
[Hearing concluded at 10:38 a.m.]

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



Gina Villani
Court Recorder/Transcriber
District Court Dept. IX



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,
vs.
LEONARD RAY WOODS,
Defendant.

CASE#: C-15-309820-1
DEPT. III

BEFORE THE HONORABLE DOUGLAS W. HERNDON, DISTRICT COURT JUDGE
WEDNESDAY, OCTOBER 10, 2018

**RECORDER'S TRANSCRIPT OF HEARING:
ALL PENDING MOTIONS**

APPEARANCES:

For the State:

MICHELLE FLECK, ESQ.
JEFFREY S. ROGAN, ESQ.
Chief Deputy District Attorneys

For the Defendant:

Pro Se

Also Present:

KATHLEEN M. HAMERS, ESQ.
Deputy Public Defender

RECORDED BY: SARA RICHARDSON, COURT RECORDER

1 Las Vegas, Nevada, Wednesday, October 10, 2018

2
3 [Hearing began at 10:56 a.m.]

4 THE COURT: All right. Mr. Woods' matter is 309820, it's on
5 page 19. Mr. Woods is present, representing himself, in pro per person.
6 The Public Defender's Office was staying on the case as standby
7 counsel.

8 So, Mr. Woods, I have your five motions that are on today,
9 which one would you like to start with?

10 THE DEFENDANT: Okay. Can I -- a couple of quick things
11 before I -- I want to introduce myself properly to the Court since I've just
12 filed those power of attorney forms.

13 THE COURT: Okay.

14 THE DEFENDANT: Okay. I come before the Court today
15 from here forward on special appearance. My name is Leonard Ray
16 Woods, capital L, lower case, e-o-n-a-r-d; capital R, lower case, a-y;
17 capital W, lower case, o-o-d-s, natural person. I'm not a corporation or
18 entity.

19 I'm here before this Court as an attorney of fact, third party
20 intervenor without prejudice, without having any rights, remedies,
21 statutorily or procedural to any property, accounts, trusts, bonds,
22 monies, or profits made in defendant, Leonard Woods' name, shall be
23 immediately returned to me at the bona fide price because I am the
24 administrator and executor of the account that is in the defendant,
25 Leonard Woods' name.

1 THE COURT: Okay.

2 THE DEFENDANT: Okay. The second thing, Michelle
3 reached out through -- or should I call you Ms. Fleck, I'm sorry?

4 MS. FLECK: No, Michelle's fine.

5 THE DEFENDANT: Okay.

6 She reached out through Julia, kind of, in terms of negotiating
7 a plea.

8 THE COURT: Okay.

9 THE DEFENDANT: Now, I would like to be able to negotiate
10 with her, you know, with her instead of through Julia. I would like to
11 have Julia sit in on it but I would like to feel like I'm able to negotiate my
12 own plea. If that's --

13 THE COURT: Okay.

14 THE DEFENDANT: -- if that's any problem.

15 Now, I don't know how we can do that. Julia has me coming
16 into her office next week sometime or it could be here or sometime --

17 THE COURT: Well, look, I mean, from my perspective, as far
18 as how I used to do it, I would just go with defense counsel over to the
19 detention center, if you-all are willing to do that.

20 MS. FLECK: Sure.

21 THE COURT: Then I'll have Ms. Murray get together with
22 them and they'll figure out a time when they can all come and have a
23 visit with you at the jail; okay.

24 THE DEFENDANT: Okay.

25 THE COURT: Because I know that you're going to be going

1 over to the Public Defender's Office, but that's kind of -- you need to use
2 that time to do the other things that need to get done.

3 THE DEFENDANT: Okay.

4 THE COURT: So you can do -- have a meeting at the
5 detention center separately to have a discussion about whether it can be
6 resolved or not; okay.

7 THE DEFENDANT: Well, I didn't know how -- one day I was
8 just throwing out everything to get it done --

9 THE COURT: Yeah, no, no, that's fine.

10 THE DEFENDANT: -- to get it done.

11 MS. FLECK: And --

12 THE COURT: Look, I mean, it's -- it's good that you always
13 have those conversations; okay.

14 THE DEFENDANT: Because I was feeling like --

15 THE COURT: Were you starting to say something? No; okay.

16 THE DEFENDANT: -- bad.

17 THE COURT: All right.

18 THE DEFENDANT: If there's a solution possible. And then I
19 heard her saying she's kind of backed up on my case. We might even
20 come to a solution where -- I'm at a loss for words right now -- a trial
21 might not even be necessary.

22 THE COURT: Okay.

23 THE DEFENDANT: I'm not sure on that. But hopefully we
24 can get something done. I mean, I'm open to that, if she's open to that.

25 THE COURT: Okay.

1 THE DEFENDANT: So with that, we can proceed.

2 THE COURT: All right. So we have the five motions on
3 today, which one would you like to do first?

4 THE DEFENDANT: All right. She -- I noticed that she didn't
5 respond to the motion to suppress the contents of the cell phone search.
6 I didn't know why but.

7 THE COURT: All right.

8 MS. FLECK: I did respond to that one.

9 THE COURT: You did. I think all of them are responded to.

10 MS. FLECK: That one I was -- the -- I will admit that they
11 were a little bit more substantive than I had anticipated. So I got them all
12 to Julia on the Monday and then that one was on Wednesday, I believe.
13 So maybe she didn't get it over to him.

14 THE COURT: Yeah, that -- that one was actually filed on the
15 3rd. I think the others were filed on the 1st.

16 THE DEFENDANT: I got the other but I didn't get this one.

17 THE COURT: Okay. I tell you what, let's set that one aside for
18 the moment then since you haven't seen the opposition yet and we'll
19 figure that out in a minute.

20 But as to the other four --

21 THE DEFENDANT: Right; the motion to sever.

22 THE COURT: Okay. You can go ahead. Anything you
23 wanted to add to the motion?

24 THE DEFENDANT: Okay. Now, Judge, this -- this charges,
25 I'm gonna say 8 through 10, were originally in Judge Goodman's court.

1 It was part of Case PCF10603. And I felt at the time this should have
2 been dismissed on double jeopardy. For, one, I was going through --
3 this case started -- my prelim for this case, C-15, the numbers 309820,
4 whatever.

5 THE COURT: Okay.

6 THE DEFENDANT: It started on -- my prelim was on
7 October 2nd of that year.

8 THE COURT: Okay.

9 THE DEFENDANT: Okay. Now, October 5th I went in front of
10 Judge Goodman on the same -- on the same charges.

11 THE COURT: Okay.

12 THE DEFENDANT: And then October 6th I was arraigned
13 back for this case again on the same charges.

14 Now, on December 15th I went in front of Judge Leavitt on
15 those charges.

16 January I went in front of Goodman on the same charges.

17 And it went back and forth like this all the way until the denial
18 in, I think, I believe that was July.

19 THE COURT: Okay.

20 THE DEFENDANT: So I brought that up to Leavitt and she
21 was like, well, I told her too late and I didn't understand that. You know I
22 didn't have a chance to tell her until I filed for dismissal of counsel when
23 we were in the *Faretta* hearing.

24 THE COURT: Okay.

25 THE DEFENDANT: So she told me since it was denied then

1 let's just move on. But I felt that that wasn't right. I don't know why that
2 happened like that.

3 And Julia kind of told me that, well, I wasn't assigned, the
4 public defender, but she was my public defender. I told her each time
5 before I went in front of Judge Goodman, hey, I've got a trial. I'm going
6 in front of the courts. She never showed up. For -- all of the four that I
7 put for my exhibit back there, she never showed up for those.

8 THE COURT: Okay.

9 THE DEFENDANT: So I never understood why that
10 happened, like the --

11 THE COURT: You know, sometimes there's going to be
12 situations where cases that involve similar events are pending both at
13 the justice court and the district court or maybe even in multiple justice
14 courts.

15 The double jeopardy aspect of things means you can't put in --
16 be put in jeopardy twice for trial on those charges. So the fact that the
17 State may file multiple cases in justice court and then consolidate them
18 or have a justice court case pending and then they go to the grand jury, I
19 mean, all those things can kind of be complex but they're not illegal.
20 What's important is that you're in district court and you're not tried twice
21 for the same stuff in district court; okay.

22 THE DEFENDANT: Okay. All right.

23 Okay. Now, on the -- the guns and the lewdness allegation
24 that was July 17th, 2015.

25 THE COURT: Okay.

1 THE DEFENDANT: Okay. Now, I went to -- I got charged for
2 those and I went -- and I got out on an OR on those.

3 THE COURT: Okay.

4 THE DEFENDANT: Okay. Now, the murder charge was on
5 August the 5th.

6 THE COURT: Correct.

7 THE DEFENDANT: And then, like, as I -- while I was in
8 custody I got rebooked and I was charged with the cell phone charges
9 on September 12th.

10 Now, my thing is, like you said in -- about being connected or
11 part of -- the same scheme or plan. These charges from the cell phone
12 charges should have been part of the -- the July 15th, the 10603. Since
13 it wasn't, it should have been at least a case onto itself.

14 How does all of a sudden this get charged with the murder
15 charges? It should have been charged with the guns and the lewdness
16 charges. It shouldn't have automatically went to -- so I don't see how
17 they connect that. These two, like they said, and I don't -- I'm going to
18 paraphrase here because I don't know the exact words.

19 THE COURT: Right.

20 THE DEFENDANT: You can't have this case and this case in
21 separate cases and say that they belong together. These -- this case
22 should have -- you should look at this case and said, okay, we could --
23 this is part of the scheme or plan or from this murder. Without the
24 allegations from July 17th it doesn't connect. It wouldn't be.

25 And vice versa, without these lewdness and the gun charges,

1 how can you say these gun charges, that were found at a totally different
2 spot and the guns are not the weapons alleged to be used in the murder,
3 have anything to do with this murder charge.

4 THE COURT: Well, the guns they've agreed to bifurcate
5 those charges. And what that means, and we do that in every case in
6 which somebody is charged with a ex-felon charge being in possession
7 of a firearm. Meaning, when you go to trial the jury won't hear any
8 evidence of those charges. Once the jury returns a verdict as to the
9 other counts that you're on trial for, then they get told about the ex-felon
10 in possession of firearm charges and they go back and deliberate on
11 those.

12 So those -- your motion, in regard to those two charges, is
13 correct and the State's not opposing that. That we're going to bifurcate
14 those out from the trial; okay, split 'em out and do 'em separately.

15 THE DEFENDANT: Okay. So which ones are bifurcated?

16 THE COURT: That's 9 and 10, the two ownership or
17 possession of a firearm by a prohibited person. So those two charges
18 will not be put to the jury at the same time as the murder charge or the
19 Counts 2 through 8, the -- the other, one, two, three, four, five, six, --
20 seven charges.

21 So that part of your motion is granted.

22 THE DEFENDANT: Okay. Now, it's the -- it's the Counts 2
23 through 7.

24 THE COURT: Correct.

25 THE DEFENDANT: Okay.

1 THE COURT: Well, 2 through 8, 2 through 8. That firearms
2 charges are 9 and 10. 2 through 8 are the other charges, the peeping or
3 spying through a window, door, or other opening; capturing an image of
4 the private area of another person; and then open or gross lewdness.

5 THE DEFENDANT: Okay.

6 THE COURT: That's 2 through 8.

7 THE DEFENDANT: Now, Count 4, I'm just going to go
8 through that real quick. Count 4 shouldn't be there because Count 4
9 says March the 10th. And in the evidence the only pictures that they said
10 were recovered or taken was from the 9th, the 23rd, and April 17. So I
11 don't know how Count 4 is in there anyway.

12 THE COURT: Okay.

13 THE DEFENDANT: Now, like I was saying before, these --
14 the other charges, 2 through 7, the cell phone charges. They're how --
15 there cannot -- they cannot be connected because these were in
16 September 12th. These were actually, supposedly, if they have my --
17 what I read was the Supreme Court said it's an unreasonable delay. If
18 you have my cell phone -- which was not part of the warrant in the first
19 place. If you look at the warrant, I put the exhibits there, the warrant was
20 only for guns. Nowhere in there was there cell phone. Nowhere in the
21 items that were seized from that day was cell phone. Nowhere in there.

22 The -- all of sudden when Detective Shane in August filed this
23 other motion to -- for the cell phone -- to search the cell phones and the
24 hard drive, all of a sudden this Detective Blasko name comes up, like he
25 had a consent to search the -- for the cell phone.

1 Now, I'm saying, how did he get a consent to search for
2 something that was never part of the warrant in the first place? You
3 know what I mean? This got -- they stopped me at 4:45 that afternoon.
4 They didn't call for this warrant 'til 9:00 something at night. I was sitting
5 in his car for five hours. That alone should be a crime. I was sitting in
6 his car for five hours. They finally called for the warrant.

7 And when you see the warrant it has vehicle scratched out like
8 the judge was saying, it's not -- for search the vehicle, as long as you
9 search the premise and only for the guns.

10 Now, I'm saying, when does he have this consent to search
11 for this cell phone? It doesn't come that whole day, nor that whole time
12 for the search, for the call, or anything.

13 THE COURT: Well, there --

14 THE DEFENDANT: It comes right after.

15 THE COURT: -- there's no allegation that they had consent to
16 search the cell phone, that's why they did the warrant to search the cell
17 phone. The consent to search, I believe, was for the car --

18 THE DEFENDANT: But to the --

19 THE COURT: -- where the cell phone was discovered.

20 THE DEFENDANT: Okay. You can have consent to search
21 the car but you can't have consent to search the cell phone. From who?
22 The judge didn't okay that consent to search any cell phone. Cell
23 phones not even on the search warrant period.

24 THE COURT: I thought that's what the telephonic warrant
25 was for the cell phone.

1 You're talking about --

2 THE DEFENDANT: No, the telephonic --

3 THE COURT: -- you're -- you're kind of confusing three
4 different things.

5 MS. FLECK: The --

6 THE COURT: There is a search warrant that's done originally
7 in July --

8 THE DEFENDANT: For the gun.

9 THE COURT: -- for -- and that's where the search of the
10 house and the guns were recovered.

11 THE DEFENDANT: Yes.

12 THE COURT: Then there's a consent to search from
13 Ms. Jones that allowed them to go into the car where the cell phone was
14 discovered.

15 And then there was a separate warrant that was done to allow
16 for the search of the cell phone.

17 THE DEFENDANT: Okay. And that warrant that's what the
18 big part of this other motion that I wanted heard today also because that
19 would have eliminated some -- some things we're talking about right
20 now.

21 THE COURT: Okay. Well, so let's just kind of focus on what
22 we're trying to deal with here, which is the motion to sever right now.

23 THE DEFENDANT: Yes. But that's part of the cell phone.

24 THE COURT: Right.

25 THE DEFENDANT: I'm trying to sever the cell phone.

1 THE COURT: Right. But I don't -- I don't want to argue about
2 suppressing things from a separate motion when we're just trying to talk
3 about the severance, meaning, are these charges appropriately together
4 or not.

5 THE DEFENDANT: Oh, I see what you're saying.

6 THE COURT: Okay.

7 THE DEFENDANT: So we talk about that on that --

8 THE COURT: We'll talk -- yeah --

9 THE DEFENDANT: -- motion --

10 THE COURT: -- we'll talk about that in just a minute.

11 THE DEFENDANT: Okay. I get what you're saying.

12 Okay. Well, with that, I mean -- so I just have to talk about
13 July 17th?

14 THE COURT: Yeah, just, I mean, anything you wanted to add
15 to your motion about why you think the charges should not be tried
16 together. Not based on whether they should be suppressed or anything
17 but just the idea that the charges are together and they go in front of the
18 jury together. You're requesting that they be severed, meaning, they
19 don't go to the jury together.

20 THE DEFENDANT: Okay. Well, my whole thing with that is
21 they're not part of a -- you can't have these pictures and say they're part
22 of a murder.

23 THE COURT: Okay.

24 THE DEFENDANT: It's not part of a common scheme and
25 plan. You know what I mean? You --

1 THE COURT: Okay.

2 THE DEFENDANT: -- like I said, if you have this one over
3 here at a separate trial, you look at these and you can't say that was part
4 of the murder. Or you see the murder and you look at the murder you
5 can say, okay, the murders were part of these pictures.

6 THE COURT: Okay.

7 THE DEFENDANT: Is that what you're looking to --

8 THE COURT: All right. No, I -- I understand what your
9 position is.

10 Ms. Fleck or Mr. Rogan?

11 MS. FLECK: Did you want argument, Judge?

12 THE COURT: Yeah.

13 MS. FLECK: Okay.

14 THE COURT: I mean, any argument that you have to add to
15 your opposition on that motion.

16 MS. FLECK: Nothing to add.

17 So just briefly, I mean, I agree with the defendant that this is
18 not part of a common scheme or plan. But I do think that the crimes are
19 connected together. The -- it's our belief that the open and gross murder
20 leads -- or I'm sorry, the open and gross leads to the murder. The victim
21 in this case discloses -- the victim of the open and gross discloses to her
22 mom what she believes was an open and gross, the mother does, what
23 every mother should do, which is immediately believes her daughter,
24 immediately deals with it, immediately goes to the police, immediately
25 cooperates with the police.

1 The defendant is then arrested. He's put in jail. While he's in
2 jail there's phone calls between the two of them where the -- where
3 Josie tells him I believe her, I'm leaving you, you're never going to see
4 me again, and I'm moving out.

5 He -- she then moves out. He -- there's evidence that he goes
6 to the house and tries to find her, that the new tenants of that house
7 have put his belongings aside, that he's looking through his belongings
8 and then he takes those belongings.

9 He then goes and finds her ultimately at the Walgreens with
10 her daughter, where the murder takes place. He tells her, which the
11 witnesses would testify, at that time, I told you I would find you. I told
12 you I would get you.

13 So it's our belief that the -- her disclosing that open and gross
14 and getting him in trouble for that, moving out, ultimately leaving him, is
15 motive for the murder. It also would go to identity. It also goes to his --
16 the murder goes to his consciousness of guilt for the open and gross.

17 The photos we believe are also connected together. They are
18 then ultimately found in a search of the phone. But those photos, which
19 are surreptitiously taken through a window, show his kind of sexual
20 desire for her, which then goes to the open and gross.

21 So I agree that it's not part of a common plan or scheme, but
22 we do believe that they are connected together, such that they would be
23 cross-admissible at separate trials.

24 THE COURT: All right.

25 THE DEFENDANT: She says in there that I went to this

1 house. There's no evidence I went to anybody's house. There's -- what
2 I read in there it said a black man came to this house.

3 Your Honor, if you look at the evidence, I got a Greyhound bus
4 ticket the night after I got out of jail. I'm 350 miles away from when
5 they're saying I was up here visiting houses and going through property
6 that was on the premises. I don't understand how she can stand there
7 and say that.

8 Also, it wasn't -- it was never -- how can I say that? It was
9 never any, like, in her -- in her motion she says that Divina said that
10 she -- if I told her if she doesn't take these pictures, I'm gonna blow up
11 the house and kill myself and kill them. I have her statement, written
12 and recorded statement, never once does she say that at all, Your
13 Honor.

14 So I -- it's like they're trying -- trying to piece together. They
15 can't -- it's no proof that I did it so they be -- no proof. They can't prove
16 that I'm guilty of this so they're gonna make me guilty of it is what I'm
17 getting at.

18 THE COURT: Well, look, I mean, there's -- there's -- you've
19 got to understand that there's -- there's certain aspects of the law and
20 then there's arguing about whether you're guilty or not. And I think a lot
21 of your position is these things don't really tell whether I'm guilty or not.

22 And I, Mr. Woods, contest some of what they're saying. But
23 that doesn't mean that that evidence doesn't exist. Whether you agree
24 with it or not, whether it's strong enough to convict you, those are things
25 a jury decides.

1 But in terms of what we're dealing with here, I'm going to deny
2 the motion to sever, other than granting it as to the two firearms charges.

3 Chronologically, regardless of when the evidence was
4 discovered, chronologically the allegation is if there is evidence of these
5 surreptitiously taken photos in the months before July, and then in July
6 there's the contact to the police about the open and gross lewdness and
7 what was going on with the young lady. At which time the defendant is
8 arrested for that charge as well as the firearms charges. And that there
9 is evidence, and I understand you disagree with it, but there is evidence
10 that people are saying at the time the murder was committed, that you
11 committed the murder and you made those statements to Ms. Jones at
12 the time of the murder that, I told you I was gonna get you, I told you I
13 was gonna find, et cetera.

14 Regardless of common scheme or plan, one of the things that
15 is put at issue any time somebody pleads not guilty is identity. The State
16 has to prove the identity of the person that committed the murder. And
17 identity is one of the main issues that allows for a connection of charges
18 or other bad acts to be able to prove identity. I think that the context of
19 what was alleged to have been occurring with the young lady that
20 resulted in the arrest and then in context of what's alleged to have
21 occurred at the time of the murder, those two things are connected
22 appropriately, such that the charges could be filed together. And those
23 other events I think give context to and provide evidence of identity,
24 motive, that this wasn't any type of self-defense or accidental issue,
25 such that all those things would be cross-admissible and therefore

1 they're appropriate to try those charges together.

2 So I'm going to leave Counts 1 through 8 together --

3 THE DEFENDANT: When you say identity --

4 THE COURT: -- Counts 9 and 10 will be bifurcated.

5 Excuse me?

6 THE DEFENDANT: You said identity and then you said
7 there's people that said that I committed this crime.

8 THE COURT: Correct.

9 THE DEFENDANT: The only person that was saying that was
10 the victim's daughter that said I think it was my step-father. No --

11 THE COURT: Well, look --

12 THE DEFENDANT: -- there's no --

13 THE COURT: -- look, I'm going to disagree. I think there's
14 more evidence than that that would tend to say you committed the crime
15 in terms of what they can put forth. Whether it's you having approached
16 the police after this was over, what the young lady said, what any other
17 witnesses said, there's lots of different things.

18 But this isn't the time to argue about whether there's enough
19 evidence to convict you or not. This is just about the legality of those
20 charges being together and I think they're appropriately together.

21 MS. FLECK: And, Judge, without belaboring the point, just to
22 remind the defendant for future discussions about possible negotiations,
23 he also called his mother after the fact from jail and there's a jail call
24 where he tells his mother, I did something to Josie and I don't think she's
25 gonna make it.

1 So that obviously comes in and that's a huge piece of
2 evidence for the State's case so. And I just only want that to remind him
3 of that for next week's meeting.

4 THE COURT: Okay.

5 THE DEFENDANT: Well, on that note, I was in -- I was being
6 interrogated by these detectives. They kept telling me over and over,
7 you murdered somebody, you murdered somebody.

8 You know, and I'm on the Strip intoxicated --

9 THE COURT: Well, I --

10 MS. FLECK: Again, yeah --

11 THE COURT: -- don't -- don't start --

12 THE DEFENDANT: -- when, you know -- before you make
13 that --

14 THE COURT: -- don't -- don't start making a lot of statements
15 about your case and what you might want to present from an evidence
16 or a defense standpoint right now because you don't want all of that on
17 the record 'cause the State can use that against you.

18 She's just saying, this is another piece of evidence that we
19 have that we want Mr. Woods to be aware of when we have
20 conversations next week.

21 So, all right, let's talk then about the motion to suppress the
22 contents of the -- well, that's the one you don't have the opposition yet.
23 So let's hold off on that.

24 MS. FLECK: And I have a copy for him that I can give him
25 today also.

1 THE COURT: Okay. We'll do that in just a moment.

2 Motion to dismiss the charge of ownership or possession of a
3 firearm. Anything that you wanted to add by way of argument on that
4 motion?

5 THE DEFENDANT: Yes. These firearms, according to the --
6 I'm going to say the victim's daughter, I have right here, were known
7 about since January 2014 when she said she handled the gun, she
8 takes the clip out, she checks for ammunition or whatever.

9 In 2014 I didn't even live with the victim or her daughter. And I
10 have the proof of that also. I was at 1650 North Pecos with my girlfriend,
11 Andy Vonnie Thomas (phonetic), and I have proof of that. I wasn't even
12 in -- we didn't even live together. So I don't know what that's about.

13 Okay. She -- and if there -- all these allegations I was
14 supposedly threatening 'em, trying to kill 'em, or kill myself or. And you
15 have firearms in their house, or supposedly the house that we stayed in,
16 you see how quick she was to call the police when she -- when the
17 victim made this false allegation that -- of these lewdness charges.

18 Now why wouldn't the same thing happen if you had guns -- or
19 the gun was supposedly mine in the house. And at the same time when
20 the -- when the victim made these accusation that, okay, these guns in
21 the house belonged to me.

22 During that time this victim was wanted on a felony fugitive
23 warrant out of California. The warrant was all the way good until
24 October 2015, two months after she was deceased.

25 So I didn't understand either why she wasn't taken down for

1 the warrant or for the felony, the same thing, possession of firearm by a
2 prohibited person.

3 Now these same firearms -- and I have proof that I was living
4 at that time on 172 Montello Avenue. The prosecution puts in one of her
5 replies that they found a gas bill with my name on it. Well, the gas bill
6 address was 172 Montello. Like I've been telling them all the while that's
7 where I was staying. The officer said he identified me by my driver's
8 license, which is still valid to this day like it was on that day.

9 No one ever puts my address in this -- in their reports. No one
10 ever goes to the address and checks to see my mail that would have
11 been there, my dog, my clothes, my safe that I would have gladly 'em
12 the combination too. All my stuff was here at this -- at this house. So
13 there's no proof that I even stayed there. There's no DNA on these
14 guns. No fingerprints. No constructive possession or dominion of
15 control. They wasn't even in the car I was driving. I don't know how
16 these guns are being contributed to me when I had -- I was nowhere
17 around 'em, nowhere near 'em, they weren't on my possession.

18 And she put that, talking about Michelle, that the victim says
19 that she was leaving our house -- or I made statements about our house.
20 And I, again, out of all of my discovery, there's not one thing that says
21 our house like we're really connected together.

22 We -- we were not in a monogamous relationship. She had
23 her people. I had my people. But we did see each other off and on for
24 those years. They make it seem like we was just in a relationship for
25 nine straight years and then all of a sudden attack her, which is not the

1 truth. Josie was married still, she was married at the time she was
2 deceased.

3 There's also records of -- well, I'll get into that on the other
4 motion.

5 But my last thing would be, okay, if this was a girlfriends of
6 mine house, just because that's my girlfriend's house that I'm going to
7 this house, even if I spent a night or whatever, I'm not -- I'm not -- how
8 would you say dominion or control of anything in that house is mine? I'm
9 going to visit that house. I'm not living in that house.

10 So even if I was to go inside or spend the night or have a cup
11 of tea or whatever the case may be, I wasn't residing there. Like I said,
12 no DNA, no nothing on these guns so how can these guns be said that
13 they were mine?

14 THE COURT: All right. Let me hear from the State.

15 Anything?

16 MS. FLECK: So just very briefly, Judge.

17 I mean, obviously if we don't prove the essential elements at
18 trial, then the jury verdict would reflect that. I don't think that this is an
19 appropriate motion to even bring forward. The evidence will show that
20 the arresting officers, that first took him into custody for the open and
21 gross, that he said to them, there may or may not be a shotgun inside of
22 my house.

23 There was property of his found there. The fact that the
24 address is not consistent with the one that's on his driver's license, with
25 that -- or that the bill address may be the same as what's on his driver's

1 license, it's still property of his at that house. You know, obviously we
2 have to show evidence that he has control of those firearms, custody or
3 control, in order to prove Counts 9 and 10. If we don't do that, then we'd
4 get a not guilty verdict. But I don't think it's appropriate at this time to
5 make those kinds of rulings.

6 THE COURT: Well, so, Mr. Woods, I'm going to deny the
7 motion to dismiss. There's no legal basis to dismiss the charge.
8 Everything that you're talking about is kind of what I said a moment ago,
9 it's all -- you're talking about the weight of evidence. The sufficiency of
10 the evidence for these charges is for the jury to decide.

11 The only time that you can really challenge that is if you were
12 to have filed some kind of writ of habeas corpus years ago based on,
13 you know, things in the lower court. But just arguing to dismiss a charge
14 saying there's not enough evidence of it, the charge is in district court,
15 it's been bound over to district court, and a jury decides the weight of
16 evidence; right. So they're the ones that get to decide whether the
17 evidence is sufficient to find you guilty of that charge or not, whether you
18 possessed those firearms or didn't, whether you possessed them
19 actually, constructively, whatever it may be.

20 But the charge is a legal charge. There's legal notice of the
21 charge. There isn't any basis to dismiss it.

22 THE DEFENDANT: Well, how come nobody wasn't charged
23 about this crime but me? When there's several people that lived in the
24 same house.

25 THE COURT: Look, I mean --

1 THE DEFENDANT: I don't understand that.

2 THE COURT: -- it's not a basis to dismiss your charge to say,
3 hey, somebody else should have been charged as well.

4 THE DEFENDANT: No, what I'm saying is, so if I would have
5 made the call and said, okay, these guns -- there's guns in my house
6 can --

7 THE COURT: I -- I don't know and that's not really relevant.
8 The only thing that's relevant is is there a legal basis to dismiss the
9 charge, which there isn't.

10 And I get that you're saying, hey, there was some other
11 people that had felonies that were there as well, maybe they should
12 have been charged.

13 I can't speak to why they weren't. All I can speak to is you
14 filed the motion to dismiss this charge and there isn't a basis to dismiss
15 it.

16 THE DEFENDANT: Your Honor, --

17 THE COURT: So I'm going to deny that motion.

18 THE DEFENDANT: -- what I want to ask also is I see a lot in
19 these discovery that Woods said, Woods said. That's kind of like the
20 basis of what I'm getting convicted of, Woods said, Woods said. But
21 when I always ask -- ask where's the dash and body cams that I keep
22 asking for, that the Sheriff Doug Gillespie mandated that these officers
23 wear. Every time nobody has a dash or body cam that was working at
24 the time in my case. But what I see through these videos, the day
25 before, the day after, the day of everybody else's dash and body cam is

1 working. I don't understand that.

2 And if I'm gonna have a written statement with my signature
3 on it or you will have a record of me saying this out of my mouth, how
4 can you say, Woods said, Woods said and it sticks.

5 THE COURT: All right. We're kind of getting off track again.
6 We're talking about discovery issues right now. So I just need to focus
7 on the motions.

8 Your next motion was a motion to suppress arrest.

9 Anything you wanted to add to that motion?

10 MS. FLECK: Um --

11 THE COURT: No, Mr. Woods.

12 MS. FLECK: Oh.

13 THE DEFENDANT: Okay. On this one the officer,
14 Officer Haynes on this one. Again, Woods said, you -- he say that -- that
15 I come up to him and say, hey, a murders been happening, I think you're
16 looking for me, here I go.

17 You can tell by my motions, Your Honor, I'm not that ignorant
18 of a man -- and I hate to say that it say I'm bad. But if I were to murder
19 somebody, I would have hit the road. I would have been in California,
20 Utah, Texas wherever the case may be. Especially when you see on
21 the video this guy drives away in a car. And they catch me walking.
22 This person was stabbed a number of 20 times. I don't have a drop, a
23 hair, a speck of blood on me, no car, no murder weapon, or no --
24 nothing.

25 But all of a sudden they're saying this guys did it just 'cause

1 somebody said, oh, I think it was him. You know, even though you said
2 it was more people. In the discovery it says one person is saying this
3 and that.

4 Officer Haynes had no probable cause to stop me in the first
5 place. I put in the motion that he arrested me like -- what was that? I
6 will say three years earlier -- not even three blocks from the same spot
7 and did the same thing, arrested me for jaywalking.

8 But when I got to the court -- when I got to CCDC, jaywalking
9 wasn't a part of my charges at all. They said I had a warrant in
10 California. They kept me for 17 days. I got out in 17 days because they
11 said now California doesn't have a warrant for your arrest. Never had a
12 warrant for your arrest. So this is the same guy.

13 Now he's saying that I walked up to him and said, you know,
14 all of a sudden -- based on the arrest because I did this crime but with
15 no blood, no whatever. I'm sure that you know if you stab somebody
16 that many time, from what I've seen on TV or whatever, there's gonna
17 be a bloody mess everywhere. Especially the person doing the
18 stabbing, you could think.

19 THE COURT: All right.

20 THE DEFENDANT: Wait a minute, I was -- I'm still going
21 over.

22 Oh, again, what I was saying about the dash cams. I said I'm
23 refuting what he's saying. He said I go up to him. I'm saying he start --
24 and I got a picture somewhere in one of those that I was trying to show
25 you the evidence of Count 4 shouldn't be there. But on this -- on this

1 piece of evidence it's also me walking away from the officer. And it
2 didn't hit my mind until I was looking at that piece of evidence. It doesn't
3 look at all like I'm going to the officer. I'm walking away from this officer.
4 This officer stopped me.

5 So I'm asking for the dash and body cam from that night also.
6 If you're saying this is what I did, where is -- where is the evidence to
7 say? You can't possibly say that a police officer is just inhumane,
8 incapable of error, what they say is just gospel and what you say is --
9 doesn't mean anything.

10 They violated my rights several times over. He doesn't even
11 Mirandize me. He handcuffs me, throws me in the back of the car, and
12 transports me. You know anywhere else that's kidnapping.

13 They -- they take me down to the detective's office where I'm
14 interrogated again. I wasn't given sufficient Miranda rights. I didn't even
15 know until I studied on it that in the Miranda rights you're supposed to
16 tell the suspect or whatever, hey, you can have a lawyer present right
17 now or before these questions even start. I wasn't Mirandized until I got
18 down there. So I don't see how I'm going to be -- able to be -- took off
19 the street, handcuffed, and taken somewhere without being advised of
20 my rights at all.

21 But I'm -- after they strip me naked and take all -- perform all
22 these tests on my body, skin, hair, and mouth then he tries to Mirandize
23 me. Again, insufficiently

24 Okay. And -- okay. After I ask for my counsel and the right to
25 remain silent, he keeps questioning me. Well, I found that also a

1 violation of my rights. Questioning was supposed to cease right then
2 and there.

3 So with that I'll --

4 THE COURT: All right. Ms. Fleck.

5 MS. FLECK: I mean, you know, there's not a cognizable claim
6 here. I don't even understand really what he's asking.

7 Obviously he disputes how this occurred, there's been --
8 there's no evidence to suggest that this occurred as he said.

9 Furthermore, for -- since the inception of this case, this is the first time
10 that we've ever even heard of this. He's never brought this up in any
11 other motion. His attorneys never said anything like this.

12 So, you know, obviously one of the big issues at trial is going
13 to be credibility. Both the credibility of the witnesses, being cops or lay
14 witnesses, the victim's own daughter, his, you know, step-daughter that
15 watches her mother get slaughtered to death in front of her. Her
16 credibility will be at issue.

17 So, you know, he'll have an opportunity to question these
18 officers. He'll have an opportunity to question Divina. And then the jury
19 can make their determination as to who they believe is telling the truth in
20 how the defendant was approached that day.

21 But, you know, I don't understand even what the claim is. So I
22 would ask that you deny the motion.

23 THE COURT: Well, Mr. Woods, I mean, to the -- the motion is
24 to suppress arrest. So there isn't any legal basis to suppress an arrest.

25 To the extent that you're actually talking about the alleged

1 statements that were made to the two traffic officers, Haynes and
2 Schwartz, there isn't an obligation for them when they're on a traffic stop
3 and they're saying that you approached them, there isn't any obligation
4 that they just turn around and Mirandize anybody that ever approaches
5 them to talk to them about anything.

6 Miranda only kicks in upon a custodial interrogation of an
7 individual. So to the extent that the characterization is that you
8 approached them and said, hey, you-all might be looking for me. And
9 eventually one of them puts it together 'cause they heard something on
10 the radio about the Walgreens homicide that occurred and then they
11 handcuff you and detain you. Those initial statements, when you
12 approach them, that -- that doesn't require Miranda before you
13 voluntarily engage them.

14 Now, if you're talking about being in custody and questioned
15 about the case later on, at the police station, anything like that, that's
16 kind of different. But that's, you know, not really something that's part of
17 this motion. There isn't any basis --

18 THE DEFENDANT: So why is that the fact --

19 THE COURT: -- there isn't any basis to suppress an arrest,
20 nor do I think there's any basis to suppress the original statements that
21 you made to the two traffic cops while they were on a traffic stop.

22 THE DEFENDANT: This is what I don't understand, you're
23 saying, again, this -- I approached them and I made these statements. I
24 didn't make these statements to these officers and there's no proof I
25 made these statements. So how can that possibly be fact in this case?

1 THE COURT: Well, the proof would be that that's what they
2 said happened; okay. And I get that you're saying that didn't happen
3 and you -- and that, again, we're talking about weight of evidence at trial.

4 But you've got two officers that are on a traffic stop that's
5 saying an individual walks up to them and makes these statements. And
6 then one of 'em puts together, hey, this guy may be talking about what
7 happened at Walgreens, it just came out over the radio, and so they
8 detain you at that point and they call for people that deal with that
9 because they're just traffic officers.

10 And I get you're saying, nope, I never had that conversation
11 with them. These guys, you know, they came after me as part of their
12 traffic stop for somebody else or something I guess.

13 But you can question them about that at trial certainly. But
14 there is a basis of evidence. I mean, the two traffic officers were
15 interviewed and made these statements. So there's a basis of evidence.
16 It doesn't -- everything doesn't have to be on audio or video to be
17 considered evidence.

18 Just like if you have said something that isn't on audio/video,
19 that can still be evidence. You're saying it's what occurred. But same
20 thing with them; okay.

21 All right. Now the --

22 THE DEFENDANT: So we can't go forward with the motion to
23 suppress the contents of the cell phone search?

24 THE COURT: Yeah, that one I'm assuming you're going to
25 want an opportunity to read their opposition first; okay.

1 But we also have -- you filed a motion for discovery and
2 you're -- it's talking about bonds and I have no idea what that -- what
3 that is.

4 THE DEFENDANT: Oh, no, this one was more to the fact
5 that -- let me get my paper out here.

6 THE COURT: You said, I am requesting a copy of the bonds,
7 property real, personal, and mixed, all judgments, bonds, specialties,
8 choses in action, claims and debts, records of the public archives of the
9 territory of Nevada.

10 I have no idea what that's -- what you're trying to talk about
11 there. I mean, you're entitled to discovery in your case --

12 THE DEFENDANT: Okay. This -- this is more goes
13 towards --

14 THE COURT: -- it's by statute.

15 THE DEFENDANT: -- the Public Defender's Office and the
16 DA's Office. I just want it to be clear that there was no properties,
17 accounts, trust, bonds, monies, or profits in defendant Leonard Woods'
18 name, whether or not my electronic signature was being used on any
19 contracts or agreements without my knowledge or consent.

20 THE COURT: Well, I -- I have no idea about any of that and
21 that doesn't have anything to do with the criminal case.

22 So I'm not, you know, granting a motion for the Public
23 Defender's Office to turn over -- I still, I have no idea what they would
24 even turn over about the contracts and property and debts and accounts
25 in your name.

1 THE DEFENDANT: Just anything that's in my name I wanted.
2 Not just discovery for the case. Anything that has to do with my name or
3 this case --

4 THE COURT: Well, but that's what I'm telling you, I mean, if
5 you -- if you want to file some civil action because if you think there are
6 accounts in your name somewhere or anything, I -- I'm, again, I'm really
7 not really sure what you're talking about.

8 But discovery that I can grant is discovery related to your
9 criminal case and make sure you get that discovery. Not take care of
10 any other affairs you have in your life or you want to get copies of your
11 accounts or your contracts or other things related to something else;
12 okay.

13 THE DEFENDANT: Okay. I'm just trying to cover all bases.

14 THE COURT: Okay. All right. So that's going to be denied
15 as well.

16 And then we will - the motion to suppress the contents of the
17 cell phone, I'm going to give Mr. Woods an opportunity to look at the
18 State's opposition that was filed.

19 MS. FLECK: And I have one here.

20 THE COURT: Okay.

21 MS. FLECK: I've taken out the staple. It's just the pieces of
22 paper. I'll give it to --

23 THE COURT: Okay. Yeah, why don't you give it to --

24 MS. FLECK: -- his attorney.

25 THE COURT: -- Kathleen and then we'll provide --

1 MS. FLECK: Going back, just on the discovery real quick, I
2 did include in there and I think I brought it up last time, but just so that
3 Mr. Woods is clear, anything that he is going to be using in his case in
4 chief he needs to turn over to the State.

5 And then also I know -- this is actually my first pro per trial so
6 I'm not sure how it works. But in terms of him giving us -- I don't know if
7 he has been able to subpoena witnesses. I know that he talked about
8 that last time. I know he's working with a -- with a investigator. But he
9 just talked about, you know, this Greyhound bus trip that he took or that
10 he had tickets for this. If he's planning on presenting that in some way
11 through an alibi witness, if there's something that he's presenting in his
12 case, it doesn't have to be formal, but we need to know who it is that he
13 plans on calling. If it's an alibi witness, of course we -- are entitled to,
14 you know, know what they're going to say, that kind of thing.

15 THE DEFENDANT: This evidence was -- have -- we had this
16 like two years ago. I don't know why Julia --

17 THE COURT: No, this has nothing -- this has nothing to do
18 with whether anybody knows about particular evidence.

19 And what she's referring to, first off, is you have a legal
20 obligation, if you're going to be the attorney, you've got to file a witness
21 list and you have to file a Notice of Alibi if you intend on presenting an
22 alibi saying, you know, I wasn't -- I wasn't here at the time the crime
23 occurred and here's the witnesses who are going to be able to say that
24 for me.

25 So that has to -- there's a legal requirement that that be filed a

1 certain number of days before trial.

2 You also have to file a witness list a certain number of days
3 before trial saying these are the people that I intend on calling at the
4 time of trial. If you don't do those things, you don't get to call any of
5 those witnesses.

6 THE DEFENDANT: This is what I'm saying to you though, I
7 did this two years ago with my attorney, Julia Murray. I don't know why
8 she hasn't handled this too. I still have all that in my discovery --

9 THE COURT: Well, I don't know that I --

10 THE DEFENDANT: -- the bus ticket for the -- the witnesses
11 and everything.

12 THE COURT: -- I don't -- I don't believe an alibi notice has
13 ever been filed in the case.

14 MS. FLECK: No, it hasn't.

15 THE DEFENDANT: No, I didn't say it was filed. I'm saying
16 she has all that. Though I'm saying, why wouldn't she file that?

17 THE COURT: It doesn't matter. You wanted to be the
18 attorney. You're the attorney. You have this obligation now; okay.
19 That's what -- that's what Ms. Fleck is saying, is, like, look, if you're --
20 you're the attorney, if you intend on pursuing these certain things, you've
21 got to file these things.

22 THE DEFENDANT: I understand that. But I'm saying if my
23 attorney didn't do it --

24 THE COURT: It's not your attorney, Mr. Woods. You wanted
25 to be the attorney.

1 THE DEFENDANT: No, I know that.

2 THE COURT: You're the attorney.

3 THE DEFENDANT: This should have been done while she
4 was my attorney.

5 THE COURT: It doesn't matter. It wasn't done. You're the
6 attorney now, so you've got to do these things.

7 THE DEFENDANT: So you're just now telling me this --

8 THE COURT: Well, --

9 THE DEFENDANT: -- so now I've got to --

10 THE COURT: Hey, hey, hey, hold on. We had -- how long
11 did we talk when you wanted to represent yourself --

12 THE DEFENDANT: No, I'm talking about this particular --

13 THE COURT: -- for like an hour where I said, look, there's
14 going to be a lot of things that you have no knowledge about. This is a
15 really bad idea but you wanted to do it.

16 So, yeah, we're all telling you now but it's not my obligation to
17 tell you how to be the attorney in the case. I told you this is the real
18 danger of this, is you're going to miss stuff 'cause you don't know to do it
19 and I can't do it for you.

20 THE DEFENDANT: But -- okay. I understand that.

21 THE COURT: All right. But she's -- she's putting you on
22 notice 'cause, look, she's being professional to say, if we get to trial and
23 you haven't done any of these things, what they're telling you is, we're
24 going to object. And what I'm telling you is, you can't call witnesses if
25 you don't follow the rules; okay.

1 THE DEFENDANT: So this is what I'm getting, it's just on me
2 to follow the rules, they don't have to follow all the rules per se.

3 THE COURT: Yeah, they do.

4 THE DEFENDANT: Well, I'm hearing all this evidence that's
5 not even in my discovery. That's not following the rules, Your Honor.

6 THE COURT: What are you talking about?

7 THE DEFENDANT: I'm talking about like when she says
8 certain things that were said by the victim and --

9 THE COURT: But that's --

10 THE DEFENDANT: -- the witness --

11 THE COURT: -- that's -- that's their belief as to what the
12 evidence is. That has nothing to do with following the rules --

13 THE DEFENDANT: But that is on record.

14 THE COURT: -- of filing witness notices and things like that,
15 Mr. Woods.

16 You're -- you keep getting back into arguing about what the
17 evidence is. What I'm trying to tell you right now is, as the attorney, you
18 have a legal obligation to follow all the rules of procedure, to file witness
19 lists, to file alibi notices, to reciprocal discovery, if there's things you
20 want to introduce at trial, you have to notice the State about those
21 things. And if you fail to do that, then you don't get to do those things at
22 trial.

23 THE DEFENDANT: All right.

24 THE COURT: Okay. That's the rules part of it. Not --

25 THE DEFENDANT: So I file this --

1 THE COURT: -- not you guys disagree about what the
2 evidence is.

3 THE DEFENDANT: So I file this. I bring it to court -- next time
4 we come to court, do I file them to being thorough somebody?

5 THE COURT: This -- this isn't something you wait on. It's not
6 a court date. This is, you have to file -- and you can talk to Ms. Murray
7 or Ms. Hamers. But you have to file things within a certain amount of
8 time before the trial; okay.

9 So you need to communicate with standby counsel if you need
10 to or do whatever research you need to. But a witness list has to be filed
11 five days before trial, the alibi notice has to be filed --

12 MS. FLECK: I think it was -- is it 30 days?

13 THE COURT: No, it's not 30 days.

14 MS. HAMERS: I think it's 21.

15 THE COURT: -- 21 days before trial.

16 THE DEFENDANT: So you're telling me to file this through
17 standby counsel; right?

18 THE COURT: No, no, remember, I mean, you're the attorney,
19 you --

20 THE DEFENDANT: No, what did you just say about standby
21 counsel?

22 THE COURT: I said -- I said, if you have any questions, talk
23 to your standby counsel to get these things figured out. But you're -- it's
24 you're obligation to do them. But they can answer any questions for you
25 and help you understand it.

1 But I think what we're all telling is that alibi notice needs to be
2 filed 21 days before trial.

3 THE DEFENDANT: Okay.

4 THE COURT: Okay. Because the State has an opportunity
5 to -- and -- and there's certain things that have to be in that notice about
6 what these witnesses are going to say. So make sure you talk to your
7 standby counsel so you know what you're filing and when you need to
8 get it done; okay.

9 THE DEFENDANT: Okay. Now, if I can't get in touch with the
10 standby counsel, how do I go about it?

11 THE COURT: If you need to what, I'm sorry?

12 THE DEFENDANT: If I can't get into -- like I've been calling
13 her for the last couple of weeks.

14 THE COURT: All right.

15 THE DEFENDANT: I don't know where she's been but she
16 didn't --

17 THE COURT: Well, I'll ask Ms. Hamers to talk to you for a
18 moment before they take you back to the jail today. But there's -- my
19 understanding is there's a meeting next week --

20 MS. HAMERS: Scheduled for next week; that's right.

21 THE COURT: -- that he's being brought over to your office.

22 So you can have some -- some further discussion with 'em at
23 that time.

24 THE DEFENDANT: Okay.

25 THE COURT: And then I'm going to continue this over to next

1 Thursday for the motion regarding the cell phone. So that you'll have an
2 opportunity to read that opposition and then we can come back and
3 have argument about that; okay.

4 THE DEFENDANT: Does she have a date or around about
5 that as far as the negotiations?

6 THE COURT: Well, I'll --

7 MS. HAMERS: So Ms. Murray is going to be back in town on
8 the 17th. I'm going to let Ms. Murray know that that's your desire to be
9 able to negotiate directly with Ms. Fleck with Ms. Murray present and so
10 she will get that set up.

11 THE COURT: So she's back in the office on the 17th?

12 MS. HAMERS: She told me she was gone Wednesday to
13 Wednesday so.

14 THE COURT: Okay. All right.

15 THE DEFENDANT: See I didn't even know she was gone.
16 Maybe that's why I wasn't getting my return phone calls and a phone call
17 back.

18 THE COURT: All right.

19 MS. HAMERS: There are a few other things I need to
20 address.

21 MS. FLECK: And, also, it was, Mr. Rogan just looked it up, it's
22 actually 10 days for the Notice of Alibi.

23 MS. HAMERS: Oh.

24 THE COURT: Oh, okay, thank you.

25 So you got -- you have more time on that, I apologize. 10

1 days, not 21 days.

2 THE DEFENDANT: Thank you, Mr. Rogan.

3 THE COURT: All right. Anything else?

4 MS. FLECK: Yeah.

5 MS. HAMERS: I'm sorry.

6 MS. FLECK: Just really briefly, and not to get into a back and
7 forth, but the only thing I want to -- let the defendant know, I am happy to
8 go over and talk about negotiations. I would love for this case to get
9 resolved.

10 That being said, as this Court knows, I'm in three back to back
11 trials. I'm literally up to my eyeballs in pretrials and meetings.

12 THE COURT: Okay.

13 MS. FLECK: We -- our original offer was basically that we
14 would not argue for life without the possibility of parole and that
15 everything else is on the table.

16 THE COURT: Okay.

17 MS. FLECK: So that's where we're at. Like, it's our belief that
18 we are -- we will squarely convict him of a first degree murder with use
19 and all other charges. For many reasons, in my opinion, this is one of
20 the worst crimes that I've seen. It's not -- it doesn't rise to the level of a
21 death because it's one of those crazy cases that doesn't have an
22 aggravator, no matter how bad the case is.

23 The last that I heard from the defendant he was literally
24 somewhere in like a 4 to 10.

25 THE COURT: Okay.

1 MS. FLECK: So I am happy to talk with him. I am happy to sit
2 down and have any kind of meaningful conversation about a real plea
3 negotiation. That being said, I don't want to waste my time by going
4 over and discussing something if he seriously believes that this case is
5 worth something like a 4 to 10. Then we are so grossly, you know, far
6 apart in negotiations that I don't think that there would be any fruitful
7 conversation that could come from that.

8 THE COURT: Okay.

9 MS. FLECK: But short of that, I'm really willing to do
10 everything that I can to talk with him, to try to resolve it, but he has to be
11 realistic as to where the State is coming from. If that's the case, have
12 Ms. Murray reach out to me and I will meet him and I will rearrange my
13 hundreds of pretrials that I have in order to meet with him at any time he
14 wants.

15 THE COURT: Okay. Ms. Hamers.

16 MS. HAMERS: So I have a number of things. I have a
17 envelope from Ms. Murray for -- to be filed under seal for in camera
18 review, investigative materials.

19 Are you aware of what that it is and why that's coming?

20 THE COURT: I'm not. But why don't you go ahead and give it
21 to Jackie, if you don't mind --

22 MS. HAMERS: Okay.

23 THE COURT: -- and I'll look at it.

24 MS. HAMERS: And I believe that the intent there were those
25 were investigative materials from his case that she wanted the Court to

1 review to determine if they should be disclosed to Mr. Woods.

2 THE COURT: I am aware of that actually.

3 MS. HAMERS: Okay.

4 THE COURT: I mean, we had some discussion about that at
5 one of the previous hearings.

6 MS. HAMERS: So -- and that's -- I'm just providing those.

7 THE COURT: Okay.

8 MS. HAMERS: As far as -- Mr. Woods also provided me with
9 two additional motions today that he'd like to file in open court.

10 THE COURT: Okay.

11 MS. HAMERS: I'm going to provide a copy to the State.

12 One is a motion to dismiss murder charge and one is a motion
13 to review officers' files.

14 If I can file those in open court?

15 THE COURT: Sure.

16 And we'll --

17 THE DEFENDANT: Your Honor, I have a quick question.

18 THE COURT: Hold on.

19 -- we'll put those on for the 10th as well; all right.

20 MS. HAMERS: Okay.

21 MS. FLECK: No, on the --

22 THE COURT: 10th -- or excuse me, yeah, the 17th.

23 MR. ROGAN: The 17th.

24 MS. HAMERS: And then Ms. Murray had a request to move
25 the calendar call date from the 25th to the 24th.

1 THE COURT: Okay.

2 MS. HAMERS: Are we able to do that?

3 THE COURT: Yes, we can do that.

4 MS. HAMERS: Okay. And then --

5 THE COURT: So calendar call will be moved to the 24th.

6 MS. HAMERS: -- and I was to check to see if anybody was

7 here from SuperPawn with records, responding to a subpoena today. I

8 don't believe there is.

9 THE COURT: Right. I don't know if anybody's still here but I

10 don't know if they were here.

11 But we will note for the Court that there isn't anybody in the

12 courtroom right now from SuperPawn.

13 MS. HAMERS: Thank you.

14 Those were my requests.

15 THE COURT: Okay.

16 All right. Anything further from the State?

17 MS. FLECK: Nothing.

18 THE COURT: No; all right.

19 MS. FLECK: Thank you, Your Honor.

20 THE COURT: Great.

21 Then we'll -- everybody will be back on the 17th.

22 THE DEFENDANT: Wait, Your Honor, I have --

23 THE COURT: Yes.

24 THE DEFENDANT: -- I have a quick question.

25 THE COURT: Okay.

1 THE DEFENDANT: Okay. I've got records from the San
2 Diego Police Department that's pertinent to my case. Now she's told
3 me -- Julia Murray told me that you kind of said that I can't use 'em but I
4 can review 'em. And I don't understand how could I -- what good would
5 it be to be reviewing if I can't use 'em for like --

6 THE COURT: All right. Look, I don't know what's in the
7 records. But, I mean, what your attorney is probably trying to explain to
8 you is just because either side has possession of certain evidence,
9 doesn't mean it's necessarily admissible. So sometimes you have to file
10 motions to get certain evidence before the Court. And I don't know if
11 that's what she's trying to tell you, that those records might require you
12 to file a motion in front of me to decide if there's something in there that's
13 admissible.

14 THE DEFENDANT: So I'll file the motion to you to ask you if I
15 can use this --

16 THE COURT: Yeah, you're basically saying, like, like, I can't
17 think of an example off the top of my head. But unless it's records
18 related to this investigation in this case --

19 THE DEFENDANT: Yes.

20 THE COURT: -- if you're talking about, hey, there's something
21 about a victim that happened a few years ago, but I want to use it at trial
22 to say something about the victim. Well, that's kind of something where
23 you probably should file a motion and have the Court decide whether
24 whatever you're talking about from five years ago is relevant in this case
25 and you can't just bring it up in court. 'Cause if you just start throwing

1 things out in front of the jury, you run the risk of getting a mistrial and
2 then trial has to be continued and you start all over again; okay.

3 THE DEFENDANT: All right. I'll file the motion --

4 THE COURT: But I'll -- I'll -- talk about with Ms. Murray and
5 Ms. Hamers whether what you have there is something that you need to
6 file a motion on or what it is; okay.

7 THE DEFENDANT: All right.

8 THE COURT: All right. We'll see you back next Thursday,
9 folks; okay.

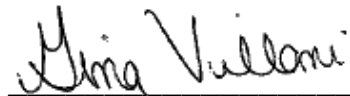
10 MS. FLECK: Okay. Thank you, Your Honor.

11 MS. HAMERS: Thank you.

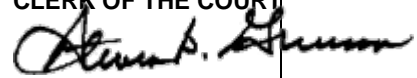
12
13 [Hearing concluded at 11:49 a.m.]

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17
18 ATTEST: I do hereby certify that I have truly and correctly transcribed the
19 audio/video proceedings in the above-entitled case to the best of my ability.

20 

21 Gina Villani
22 Court Recorder/Transcriber
23 District Court Dept. IX
24
25



1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 THE STATE OF NEVADA,
7 Plaintiff,

CASE#: C-15-309820-1

DEPT. III

8 vs.

9 LEONARD RAY WOODS,
10 Defendant.

11
12 BEFORE THE HONORABLE DOUGLAS W. HERNDON, DISTRICT COURT JUDGE

13 THURSDAY, OCTOBER 18, 2018

14 **RECORDER'S TRANSCRIPT OF HEARING:**
15 **DEFENDANT'S PRO PER MOTION TO SUPPRESS CONTENTS OF**
16 **SEARCH OF CELL PHONE**
17 **DEFENDANT'S PRO PER MOTION TO DISMISS MURDER CHARGE**
18 **DEFENDANT'S PRO PER MOTION TO REVIEW OFFICERS FILES**

19 APPEARANCES:

20 For the State:

JEFFREY S. ROGAN, ESQ.
Chief Deputy District Attorney

21 For the Defendant:

Pro Se

22 Also Present:

JULIA M. MURRAY, ESQ.
Deputy Public Defender

23
24
25 RECORDED BY: SARA RICHARDSON, COURT RECORDER

1 Las Vegas, Nevada, Thursday, October 18, 2018

2
3 [Hearing began at 10:47 a.m.]

4 THE COURT: Mr. Woods is present in custody, representing
5 himself, with standby counsel, Ms. Murray from the Public Defender's
6 Office.

7 All right. Mr. Woods, we have the three motions that are on
8 today. Which one do you want to do first?

9 THE DEFENDANT: You have three; I thought it was just one.

10 MR. ROGAN: Your Honor, if I could interrupt, the two that I
11 filed yesterday, the oppositions to, the jail never gave to Mr. Woods. We
12 spoke this morning. He'd like to continue those to calendar call so he
13 has time to digest those two motions.

14 THE COURT: Is that the motion to dismiss the murder charge
15 and the --

16 MR. ROGAN: The motion to -- correct. And the motion to
17 review officer files.

18 THE COURT: Got it; okay.

19 MR. ROGAN: So just the -- the only ones -- the only one
20 would be on today is the search of the cell phone.

21 THE COURT: Got it.

22 Is that correct, Mr. Woods?

23 THE DEFENDANT: Yes.

24 THE COURT: All right. So we'll continue the other two over
25 to our calendar call date, next week, October 24th.

1 Okay. The pro per motion to suppress the search of the cell
2 phone, Mr. Woods.

3 THE DEFENDANT: Okay. On July 17th, 2015, I was pulled
4 over and told I being detained for a warrant that was being issued on a
5 girlfriend of mine's residence. After not being mirandized, I was placed
6 in back of a patrol unit for almost five hours. Why this part of what
7 happened is always glossed over and bypassed without being
8 addressed is still beyond me. Why I was pulled over at 4:45 p.m. but it
9 took almost five hours to call for the warrant at 9:16 p.m. What were the
10 officers doing all this time?

11 Officer Reyes called Judge Hafen to apply for a warrant for
12 guns within a residence. I have the discovery here on the call and the
13 items sought in the call, the items discovered and seized during the
14 search and the return.

15 Between 4:15 p.m. -- 4:45 p.m., excuse me, and 9:16 the word
16 "cell phone" is not mentioned once. It is not asked for by Officer Reyes.
17 It is not in his warrant application. It is not inventoried as any of the
18 items seized during or after the warrant search. It is not part of the
19 warrant, period.

20 Nowhere during the search on this day, before or after, does
21 Officer Blasko's name appear. His name comes up 20 days later in a
22 report by Detective Shane with a picture of a consent to search vehicle
23 card approved by the registered owner. On this consent card he states
24 that he is searching for a cell phone on Warrant Number 150717-2118,
25 which has already been established there is no cell phone on warrant

1 150717-2118. Even if he has authorization to search the vehicle and
2 seizes contents, he has no authority to search the phones hard drive or
3 the cell phone, period.

4 And why does he deliberately lie stating that the cell phone
5 was part of warrant 150717-2118? Also, where is Officer Blasko's report
6 that he seized the cell phone? Why is not logged in as an item found
7 during the search?

8 And, more importantly, what did he do with the cell phone
9 between July 17th and August 6th when it appears all of a sudden in
10 Detective Shane's report? Did he keep it on himself? Did he take it
11 home? Did he take it to the police headquarter? We don't know. He
12 completely violates the proper chain of custody. We don't know what
13 happened to the phone during this time, if it was tampered with, defiled
14 in some sort of way, the hard drive switch, we don't know.

15 The NRS says to establish chain of custody and competent
16 identification of evidence, Nevada law requires reasonable showing that
17 substitution, alteration, or tampering of the evidence did not occur and
18 that the evidence -- and that the offered evidence is the same or
19 reasonably similar to the substance seized.

20 Now, on August 6th, 2015, Detective Shane supposedly filed
21 for a search warrant and applications and affidavit for a search warrant
22 of electronic storage device -- meaning, I guess, the hard drive -- with
23 the judge signed off signature. Now this was August 6th. The signature
24 doesn't belong to Judge Hafen or this Judge Sciscento that he says later
25 on.

1 On August 25th he filed paperwork stating that he meant this
2 Judge Sciscento and Judge Sciscento signed off on August 7th, 2015, on
3 these warrants.

4 So now where are these signed warrants that Judge Sciscento
5 supposedly signed off on? What is the warrant number of these
6 warrants that he signed, supposedly signed off on? Because if he
7 applied for warrants from a different judge, that number can't be the
8 same, 150717-2118, as the one that the cell phone is not even on.

9 Where is the 10 day warrant return with what was seized from
10 this search for the judge's approval? And why was I not served with any
11 of these warrants?

12 And why then is the duplication from the original to Judge
13 Hafen on August 9th, when Judge Hafen is not the judge that he sought
14 the warrant from in the first place. Nor did Judge Hafen give his consent
15 on a cell phone search anywhere.

16 Even though this was invalid there was also an unreasonable
17 delay in obtaining the warrant, which the Supreme Court states, when
18 officers fail to seek a search warrant, at some point, the delay becomes
19 unreasonable and is actionable under the Fourth Amendment, *U.S.*
20 *versus Mitchell*, 565 F.3D, 1347, 1350, Eleventh Circuit, 2009.

21 In *Mitchell*, the Eleventh Circuit Court considered a
22 considerably less extensive delay than that is present here in obtaining
23 the warrant for the search of the hard drive, which was 21 days. And
24 held that under the circumstances of that case, the delay in obtaining the
25 search warrant was unreasonable, thus violating the Fourth Amendment

1 and requirements of precedent of the fruits of the search of the hard
2 drive.

3 Here, there was a 21 day delay in obtaining the August 7th,
4 2015, warrant, which remained unexecuted. A 38 day delay until the cell
5 phone was searched. And a 57 day delay until Woods was actually
6 charged with the evidence found in the phone. Woods had a strong
7 possessory interest in his cell phone and hard drive. They belonged to
8 him and he never voluntarily relinquished his dominion or control over it.
9 Nor did he ever consent to their seizure.

10 On the other side of the balance, the defendant, Mr. Woods,
11 myself, knows no conceivable reason which could justify a delay of this
12 magnitude.

13 Now, NRS 199.210 states, a person who, upon trial, hearing,
14 inquiry, investigation, or any other proceeding authorized by law, offers
15 or procures to be offered in evidence, as genuine, any book, paper,
16 document, record, or other instrument in writing, knowing the same to
17 have been forged or fraudulently altered, is guilty of a category D felony
18 and shall be punished by NRS 193.130.

19 NRS 199.450 states, a peace officer who, in executing a
20 search warrant, shall willfully exceed his or her authority, or exercise it
21 with unnecessary severity, shall be deemed guilty of a gross
22 misdemeanor.

23 Now, Your Honor, this cell phone was clearly searched
24 unlawfully and seized under false pretenses. And the search of the hard
25 drive was obtained unlawfully by Detective Shane; therefore, the

1 contents of the cell phone search should be suppressed.

2 THE COURT: All right.

3 Mr. Rogan.

4 MR. ROGAN: Your Honor, there were some things that the
5 defendant has raised orally that he didn't raise in his written motion,
6 discussing the validity of a signature in a search warrant, things like that.
7 So I'm not going to respond to those oral -- that oral argument today.

8 THE COURT: Okay.

9 MR. ROGAN: I will just simply address the seizure of the cell
10 phone and then the search of the cell phone.

11 THE COURT: Okay.

12 MR. ROGAN: The cell phone was seized with the consent of
13 the owner of the vehicle that the defendant was driving, that was owned
14 by Josie Jones, who was our murder victim. Prior to her death, she
15 consented to the search of that vehicle as part of the investigation into
16 the sexual offenses that the defendants been charged with. So it was
17 lawfully seized.

18 Now, the search, the search warrant was issued after the
19 murder of Josie Jones, obviously three weeks after the defendant's
20 arrest regarding the sexual offenses. But nonetheless it was a lawful
21 search warrant, describing what was to be searched and what was
22 expected to be found. Having been validly issued by a Court and signed
23 by a judge, the search warrant was lawful and there's no reason for
24 suppression at all.

25 THE COURT: Mr. Woods, anything further?

1 THE DEFENDANT: Yes.

2 Your Honor, I'm, again, where are these warrants that the
3 judge supposedly signed. There are no warrants. The --

4 THE COURT: There are warrants.

5 THE DEFENDANT: No.

6 THE COURT: You provided the warrants even in your motion.
7 You -- what happens, Mr. Woods, is you're confusing the multiple
8 aspects of the case. The original warrant that was done was to search, I
9 believe, the residence. That's where the guns were located. That's all
10 that warrant was about. That was the warrant in July.

11 Thereafter, the police went to Ms. Jones who owned the car.
12 You don't have standing to object to a search of the car because you
13 don't have an ownership interest in the car and you don't have a Fourth
14 Amendment expectation of privacy in the car.

15 THE DEFENDANT: Yes.

16 THE COURT: But even beside that, Ms. Jones signed that
17 consent to search for her vehicle. The police searched her vehicle and
18 they located that phone. They then went and got a warrant to search the
19 phone because that phone was yours. You did have an expectation of
20 privacy in that. So they went and applied for a warrant and a judge
21 signed the warrant that allowed them to search the phone.

22 THE DEFENDANT: Now, this is where the mistake is, they
23 have a signature on the application that doesn't belong to Hafen or
24 Sciscento.

25 Now, where did -- who did they -- who signs for the warrant for

1 the search of the cell phone?

2 THE COURT: There -- it's -- a judge signed that warrant in
3 multiple places. They signed off on the affidavit, they signed off on the
4 warrant.

5 THE DEFENDANT: Your Honor, that warrant is not
6 Sciscento. He plain -- plainly says that Judge Sciscento is the one who
7 supposed to signed off on that warrant. That signature doesn't belong to
8 Sciscento, which we found out.

9 THE COURT: You -- you --

10 THE DEFENDANT: So they --

11 THE COURT: -- look, I -- I --

12 THE DEFENDANT: -- basically forged his signature.

13 THE COURT: -- understand that maybe you don't like the
14 signature but you're not disputing that it's been signed by a judge.

15 You're just saying you don't think that's that particular judge's
16 signature because of some reason you just think it doesn't look right?

17 THE DEFENDANT: No, I'm saying if that judge signed for the
18 application he says a different judge, Sciscento, signed off on the
19 warrant. So that's what I'm saying, where are the warrants that
20 Sciscento signed. It's not the same.

21 THE COURT: I -- I --

22 THE DEFENDANT: The one judge signed off on --

23 THE COURT: -- there's two --

24 THE DEFENDANT: -- the application supposedly.

25 THE COURT: -- two different judges in two different warrants.

1 Sometimes you may have the same judge --

2 THE DEFENDANT: No, it's three actually.

3 THE COURT: -- that signs multiple --

4 THE DEFENDANT: Hafen, Sciscento, and --

5 THE COURT: -- well, here, look, here's the thing --

6 THE DEFENDANT: -- this other guy.

7 THE COURT: -- I'm going to get drawn down into your
8 confusion. I don't mean that disrespectfully. But I have a warrant that is
9 clearly signed by a judge that allows for the execution of that warrant to
10 search the phone. And based upon that, I don't see any basis to
11 suppress the contents of the search of the phone because there was a
12 valid issued warrant. And I have reviewed it and I don't see any
13 improprieties in that warrant.

14 I get it that you -- you kind of were talking about these multiple
15 warrants and saying that you don't -- you don't think the signature
16 belongs to somebody. I, quite honestly, think the signature looks fine
17 and appropriate. And it's been executed and signed off by the judge and
18 then filed appropriately.

19 THE DEFENDANT: Well, who was the judge that signed off
20 on the warrant?

21 THE COURT: The motion --

22 THE DEFENDANT: If that signature belongs to --

23 THE COURT: -- the motions going to be denied. The motions
24 going to be denied. I don't think there's any basis to suppress the
25 search of the cell phone as it was done by a lawfully valid and obtained

1 warrant; okay.

2 All right. And then we will continue the other two motions over
3 at the calendar call on October 24th.

4 MS. MURRAY: Your Honor, there's one other issue.

5 THE COURT: Sure.

6 MS. MURRAY: I -- the Court may already be aware of this
7 because of where the error folded. But yesterday Mr. Woods was
8 scheduled to be transported to my office to review digital discovery.

9 THE COURT: Okay.

10 MS. MURRAY: When he had not arrived about an hour and a
11 half after he was scheduled to arrive, my investigator contacted the
12 detention center to find out his whereabouts and was told they'd get
13 back to him when they've sorted that out as he had been removed from
14 the detention center.

15 THE COURT: Okay.

16 MS. MURRAY: They then contacted us back later in the
17 morning and said that they did not understand the order and that they
18 transported him here, to your courtroom instead, which, I know, is not
19 accurate.

20 THE COURT: Okay.

21 MS. MURRAY: But. They -- it does sound like he made it to
22 the courthouse or court holding or something of that nature.

23 THE COURT: Okay.

24 MS. MURRAY: They told us that they would get him to our
25 offices as soon as possible; they brought him over around 1:20

1 yesterday afternoon.

2 THE COURT: Okay.

3 MS. MURRAY: And despite our order going 'til 4:00, they said
4 that he had to leave by 3:30.

5 THE COURT: Okay.

6 MS. MURRAY: So he still has quite a bit of material that he
7 needs to go through digitally.

8 Can I send a new order over today?

9 THE COURT: Sure.

10 MS. MURRAY: It's going to be inside the two weeks we
11 typically have agreed upon with the jail because --

12 THE COURT: No, if they give you any --

13 MS. MURRAY: -- calendars call the 25th.

14 THE COURT: -- if they give you any consternation over that,
15 let me know --

16 MS. MURRAY: Okay.

17 THE COURT: -- and I'll call over there. Since it was --

18 MS. MURRAY: I'll have that sent over today then.

19 THE COURT: -- since it was their error.

20 So, yeah, just whenever it's convenient to get him back to your
21 office, just put that in the order and we'll make it happen.

22 MS. MURRAY: Okay. Thank you.

23 THE COURT: Okay.

24 MS. MURRAY: And then the only other issue is that -- the
25 continued issue with writing supplies. I sent over exactly what I sent

1 over the first time, the two packets of paper, two pen inserts, and a
2 couple of manila envelopes and he represented to me that he never
3 received these and that he is still just down to the writing on the backs
4 of these documents that I've previously provided to him.

5 THE COURT: Okay.

6 MS. MURRAY: So when he comes to the office, may I put in
7 the order that he will be returned with two notepads?

8 THE COURT: What do you think they're going to do?

9 THE CORRECTIONS OFFICER: Your Honor, I really don't
10 know. Because I know that -- I just --

11 THE COURT: You can put it in the order --

12 THE CORRECTIONS OFFICER: Yeah.

13 MS. MURRAY: And we'll see what shakes.

14 THE COURT: -- put -- go ahead and put it in the order and
15 we'll try and make it happen.

16 MS. MURRAY: Okay.

17 THE CORRECTIONS OFFICER: Because they search
18 everything so.

19 THE COURT: No, I know. I know.

20 MS. MURRAY: Right.

21 And I'm happy to do it, to remove it from the pad, if it's like the
22 cardboard backing that's an issue. I mean, I'll do it however everyone's
23 most comfortable.

24 THE CORRECTIONS OFFICER: The pens are probably the
25 issue, if you gave them any writing material.

1 MS. MURRAY: It was the inserts, the same that you sell at
2 the commissary.

3 THE CORRECTIONS OFFICER: Okay.

4 MS. MURRAY: We wrote down exactly what you sell --

5 THE COURT: It should be okay.

6 MS. MURRAY: -- and went and got it for him.

7 THE DEFENDANT: It's not --

8 THE COURT: Okay. Yeah, go ahead and put it in the --

9 THE DEFENDANT: -- it's not the pad. It's the pens.

10 MS. MURRAY: Okay. So he's saying the pens the problem.

11 THE COURT: Well, go ahead and put it all in the order --

12 MS. MURRAY: Okay.

13 THE COURT: -- that you're going to supply him with the pads
14 and writing utensils that conform with the jail's policy for what they
15 provide.

16 MS. MURRAY: With commissary; okay.

17 THE COURT: Yeah.

18 MS. MURRAY: Thank you.

19 And I'll get that over to you today.

20 THE COURT: Okay.

21 THE DEFENDANT: I have a couple of -- a couple of quick
22 items, if I may.

23 THE COURT: Sure.

24 THE DEFENDANT: Okay. One, can I appeal your decisions
25 or do I have to wait 'til this is all over before I can --

1 THE COURT: Well, I'll let you talk -- I don't want to give you
2 legal advice. I mean, there are ways to challenge decisions prior to trial.
3 A lot of times the Supreme Court will say our intervention isn't warranted
4 because you have the right to appeal that after trial.

5 THE DEFENDANT: Okay.

6 THE COURT: But I'll let you talk to your standby counsel
7 about the wisdom of whether you want to try and take something up on a
8 writ now or not.

9 THE DEFENDANT: Okay.

10 Okay. And I had a issue with bail. I never had a bail hearing.
11 I asked for bail here this whole three years I've been in here and I never
12 had a issue.

13 THE COURT: I -- I honestly don't --

14 THE DEFENDANT: I mean --

15 THE COURT: -- recall if we've addressed bail by -- by --

16 THE DEFENDANT: No, what I'm --

17 THE COURT: Well, hold on.

18 -- if we've addressed it previously. But I don't address it
19 without a motion. So you'd have to file a written motion.

20 THE DEFENDANT: That's what I was going to ask you.

21 THE COURT: Okay. So that the State can have an
22 opportunity to respond and then we can look at that.

23 So if you want to -- if you want to address bail at this point,
24 then I would say file a written motion as well.

25 THE DEFENDANT: Okay. Even if it was addressed in

1 Leavitt's court before.

2 THE COURT: Yeah, look, that's what I was just saying, I don't
3 recall if it was addressed in justice court, if it was addressed anywhere
4 else prior to now.

5 MS. MURRAY: I don't -- I can supplement a little bit here. I
6 don't recall ever raising it in this department.

7 THE COURT: Okay.

8 MS. MURRAY: So you very likely have never made a bail
9 ruling in this case. I don't remember filing something in this department.

10 THE COURT: But you may have addressed it in district court
11 just before the change over?

12 MS. MURRAY: It has been addressed at prior hearings.

13 THE COURT: Okay.

14 MS. MURRAY: I know it has not been addressed before this
15 department.

16 THE COURT: Okay. So, yeah, if you're looking to revisit that,
17 then it has to be by written motion.

18 THE DEFENDANT: Okay.

19 THE COURT: Okay.

20 THE DEFENDANT: And my last thing is, okay, you -- you
21 pretty much assigned me the same investigator as I tried to dismiss
22 before.

23 THE COURT: Well, I don't assign investigators.

24 THE DEFENDANT: Well, no, I'm saying -- well, you gave me
25 the same -- I guess the investigator comes with who you assigned as my

1 counsel.

2 THE COURT: Well, yeah, I mean, standby counsel, their
3 office has investigators that that are employed by their office, which is a
4 huge benefit then trying to find somebody outside their office obviously
5 but.

6 Yeah, since they're standby counsel I did say, you know, you
7 have the -- you have the ability to utilize their investigators to -- to
8 investigate your case, serve subpoenas, all that.

9 THE DEFENDANT: This is what my issue was, I was reading
10 somewhere in the law library that when you go pro per you're supposed
11 to have a certain account that you can hire your own investigators or hire
12 your own special -- what do you call them? When they come -- special
13 investigators or, you know, to that -- or when you bring in witnesses or
14 guys who --

15 THE COURT: If somebody is representing themselves in proper
16 person and does not have the Public Defender's Office as a standby
17 counsel, then, yeah, you would probably be looking to find an
18 investigator outside of their office. But since their office is your standby
19 counsel, and they've been involved in your representation all along, then
20 the investigators that you're going to utilize are the ones in their office.

21 THE DEFENDANT: Okay. Well, you told me to tell you, if you
22 remember correctly, if they wasn't performing up to par to let you know
23 and then you would look into it or address it or whatever.

24 THE COURT: I don't know that I ever said anything about tell
25 me if they're not performing up to par.

1 THE DEFENDANT: Yeah, I -- I asked you --

2 MS. MURRAY: What happened was Mr. Woods expressed a
3 concern over the investigators that we use on murder cases in our
4 office --

5 THE COURT: Okay.

6 MS. MURRAY: -- at the time that you appointed me as
7 standby. And what the Court represented back was that he was to send
8 to me in writing all investigatory requests --

9 THE COURT: Right

10 MS. MURRAY: -- then I would respond to those in writing as
11 well. And that if there were any discrepancies between those or issues
12 that were either unable to be obtained by our office, for any variety of
13 reasons or not followed through on for any variety of reasons, --

14 THE COURT: Right.

15 MS. MURRAY: -- the Court would then hear those grievances
16 from Mr. Woods, similar to a *Young* hearing, was how it was sort of
17 discussed --

18 THE COURT: Okay.

19 MS. MURRAY: -- in a sealed capacity.

20 I have been receiving from Mr. Woods the written requests.
21 We have been responding in writing. I am unaware of where there's a
22 breakdown at this point. So I'll let him address that as he sees fit. But
23 just so that it's clear --

24 THE COURT: So --

25 THE DEFENDANT: 'Cause I'm gonna --

1 MS. MURRAY: -- that's where the conversation comes from.

2 THE DEFENDANT: -- I'm gonna take it up with Julia because
3 she's been out for a while.

4 THE COURT: Okay.

5 THE DEFENDANT: And I was talking to Ruben and some
6 things weren't right. But I'll address her. Maybe she can get it right
7 before I bring it to you.

8 THE COURT: Okay. All right.

9 MS. MURRAY: And that's fine with me.

10 THE COURT: That's fine.

11 All right. And then we'll be back on the 24th --

12 MR. ROGAN: Thank you, Your Honor.

13 THE COURT: -- next week, and we'll deal with the other two
14 motions at that time.

15 MS. MURRAY: Thank you.

16 THE COURT: All right. Thank you.

17 [Hearing concluded at 11:06 a.m.]

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

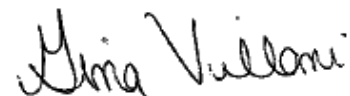
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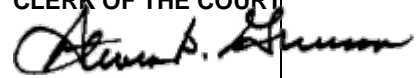
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Gina Villani
Court Recorder/Transcriber
District Court Dept. IX



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

vs.

LEONARD RAY WOODS,
Defendant.

CASE#: C-15-309820-1

DEPT. III

BEFORE THE HONORABLE DOUGLAS W. HERNDON, DISTRICT COURT JUDGE

WEDNESDAY, OCTOBER 24, 2018

**RECORDER'S TRANSCRIPT OF HEARING:
DEFENDANT'S PRO PER MOTION TO DISMISS MURDER CHARGE
DEFENDANT'S PRO PER MOTION TO REVIEW OFFICERS FILES
CALENDAR CALL**

APPEARANCES:

For the State:

MICHELLE FLECK, ESQ.
JEFFREY S. ROGAN, ESQ.
Chief Deputy District Attorneys

For the Defendant:

Pro per

Also Present:

JULIA M. MURRAY, ESQ.
Deputy Public Defender

RECORDED BY: SARA RICHARDSON, COURT RECORDER

1 Las Vegas, Nevada, Wednesday, October 24, 2018

2
3 [Hearing began at 10:48 a.m.]

4 THE COURT: 309820, Mr. Woods' matter. It's on today for
5 the two remaining pro per motions. The motion to dismiss the murder
6 charge and Mr. Woods' motion to review officers files.

7 Mr. Woods, is there anything to add to those motions?

8 MS. MURRAY: He handed me some motions for the Court.

9 THE COURT: Okay. You can file those. You'll have to get
10 another date then.

11 Anything to add to these --

12 THE DEFENDANT: What I wanted to ask you was I have a
13 court order -- for when I went over yesterday, I saw some other
14 discovery that wasn't in my original discovery and I'm trying to figure out
15 how to put that in there. Especially when --

16 THE COURT: Well, I'll you what, I'm really limited on time
17 today, so I need to deal with these two motions and get to everybody
18 else's cases and get to a trial.

19 THE DEFENDANT: Well, I would like to postpone the motions
20 until some other ones get heard, if that's all right with you?

21 THE COURT: Okay. What motions were filed today?

22 MS. MURRAY: I apologize, he provided me a copy of his
23 witness list, which I filed this morning.

24 THE COURT: Okay.

25 MS. MURRAY: A motion to dismiss, I believe, it was Counts 2

1 through 7.

2 And a motion for a bail hearing.

3 THE COURT: Okay.

4 MS. MURRAY: And, I'm sorry, Julia Murray, his standby
5 counsel --

6 THE COURT: That's okay.

7 MS. MURRAY: -- from the Public Defender's Office speaking.

8 THE COURT: So why should any of these prohibit dealing
9 with the two motions that are on today?

10 THE DEFENDANT: Oh, not only that, I have a court order for
11 you for --

12 THE COURT: Okay.

13 THE DEFENDANT: -- another motion that I would like to file
14 before these that would --

15 THE COURT: Okay. What do you mean a court order?

16 THE DEFENDANT: For -- I had previous contact with one of
17 the arresting officers.

18 THE COURT: Okay.

19 THE DEFENDANT: And so the court order is for the Las
20 Vegas Metro Police Department producing any and all records related to
21 the event number, 121130-3832, to include arrest reports, 911 calls,
22 CAD records, including cars dispatched to radio traffic.

23 THE COURT: Well, I'm not going to sign an order to have the
24 police give you something that isn't related to this case. I mean, that has
25 to be done by motion practice and the police department has the right to

1 come in and raise any objections they want if they're providing
2 information that isn't part of the case.

3 Now, if there's -- does that event number relate to an arrest of
4 Mr. Woods?

5 MS. MURRAY: Yes, it does. And --

6 THE COURT: All right.

7 MS. MURRAY: -- Mr. Woods did make a request, through the
8 written investigation request, that we subpoenaed those materials. We
9 did do that. And when Mr. Woods had an opportunity to speak with our
10 investigator yesterday, our investigator advised him to ask the Court for
11 a court order --

12 THE COURT: Right.

13 MS. MURRAY: -- due to the fact that he anticipated Metro
14 was going to --

15 THE COURT: Well, they will but--

16 MS. MURRAY: -- push back on the releasing of his records.

17 THE COURT: They -- they have their own attorneys and they
18 have their own ability to come in and fight whether they have to produce
19 records from their agency.

20 So even though they'll tell you they need a court order, it's an
21 order that comes after people have a chance to litigate it. So it has to
22 happen by motion practice.

23 Now, that being said, can you guys just ask to get the copies
24 of whatever is related to this event number --

25 MS. MURRAY: Sure. It was --

1 THE COURT: -- so it's not holding anything --
2 MS. MURRAY: -- I can give you the event number.
3 THE COURT: Okay.
4 MS. MURRAY: 121130-3832.
5 THE COURT: Is that it?
6 THE DEFENDANT: It's 121130-3822, yes.
7 MS. MURRAY: 3832 or 3822?
8 THE DEFENDANT: 3832.
9 MS. MURRAY: Okay. Got it.
10 THE COURT: Okay. So I will ask them to see if they can get
11 that; okay, --
12 THE DEFENDANT: Okay. Now --
13 THE COURT: -- so we don't have to worry about filing
14 another motion and getting Metro's attorneys in here to argue.
15 THE DEFENDANT: Well, I wanted some more time also
16 'cause I would like to file -- I didn't know exactly how to file my
17 evidentiary hearing on two other cases -- I mean, two other motions that
18 I was seeking.
19 But this is the thing, Your Honor, I was -- you had made a
20 court order for me to getting writing materials. Now I'm not getting them
21 writing materials but I'm still doing my part to get these motions out. I'm
22 pushing them out, like you said, push them it. But it's some that I still
23 want to file that I'm not having enough time, you know, my window's
24 getting smaller. So I'm wanting to request some more time, not a lot.
25 THE COURT: Well, look, I've got to tell you, I lot of the

1 motions that you're filing now are all just arguing about the facts of the
2 case. I mean, you call it a motion to dismiss this and a motion to
3 suppress that, but you're just arguing that you don't think the facts
4 support you being convicted. That's what the trial is about so.

5 I'm just telling you, you seem to be spending a lot of time and
6 using up a lot of paper filing motions that are arguing about facts, which
7 is what happens in the jury trial. It's not -- I'm not going to dismiss a
8 charge because you believe that the facts don't support your guilt,
9 they're -- that -- those are issues for writs, which were years ago. We're
10 beyond that. The sufficiency of the evidence is what the juries going to
11 decide.

12 So absent their being legal basis to these two, dismiss the
13 murder charge or suppress a warrant, or do any of these other things
14 that you've talked about. I get the motion to sever that you filed, things
15 like that. But just arguing to me in your motions that you don't think the
16 evidence is what the State says it is, that's not going to get a charge
17 dismissed.

18 THE DEFENDANT: Okay. Well, I'm trying to get all these
19 motions filed now while I'm my own attorney.

20 THE COURT: Understood.

21 THE DEFENDANT: Now, you said some of those writs were
22 supposed to be filed years ago but I don't think that's due to my fault
23 when I've been asking them --

24 THE COURT: It doesn't matter. It doesn't matter. A writ is
25 jurisdictional. There's a certain amount of time to file a writ challenging

1 the sufficiency of the evidence that justified your -- your coming up to
2 district court.

3 THE DEFENDANT: Okay. What I'm saying to you --

4 THE COURT: But you waived your preliminary hearing, if I
5 recall correctly.

6 MS. MURRAY: Exactly, Your Honor.

7 THE COURT: So that --

8 MS. MURRAY: It wasn't --

9 THE COURT: -- that -- that option for you evaporated when
10 you waived your preliminary hearing. So the writ doesn't even apply.

11 THE DEFENDANT: Okay. That was also in one of my -- one
12 of my files. My -- it wasn't my option to waive my preliminary.

13 THE COURT: Okay.

14 THE DEFENDANT: But that's neither here or there. But --

15 THE COURT: Okay. I don't mean to be disrespectful, that
16 ship sailed. You're in district court pending trial now. The fact that you
17 don't like that you waived your preliminary hearing and don't think you
18 should have done that or didn't like the advice your attorney gave you,
19 you need to be getting ready for trial on your -- look, I'm just telling you.

20 THE DEFENDANT: Yeah, that's not what I was even bringing
21 up. I'm -- I'm not even concerned about that. I was just making that
22 history that wasn't mine.

23 THE COURT: Okay.

24 THE DEFENDANT: But what my thing is though, okay, if I
25 ask, when I had an attorney, my public defender, and they didn't do their

1 job, and now you have let me represent myself.

2 THE COURT: It doesn't start all over. You don't get to start at
3 ground zero and saying, well, everything that should have been done
4 before and wasn't and is time-barred, I now get to do because I want to
5 be my own attorney. It doesn't happen that way.

6 THE DEFENDANT: Okay. But can I file all the motions that I
7 feel that's --

8 THE COURT: Every motion that you want to file, we're filing.

9 THE DEFENDANT: Okay.

10 THE COURT: And I'm going to rule on them. I'm just trying to
11 tell you that -- well, I'm not trying to tell you anything. I'm not going to
12 give you legal advice.

13 So these two motions that are on today, I don't see any basis
14 to continue them. There's nothing about anything else that I've seen
15 here or you've said that gives me any pause for concern about
16 continuing these two motions.

17 So do you have anything you want to add to the motion to
18 dismiss the murder charge that you filed?

19 THE DEFENDANT: I didn't even bring my paperwork to
20 prepare for those 'cause I thought you was going to let me postpone
21 until I file my --

22 THE COURT: Nope, I -- we were here last time, I said I'm
23 going to continue them to today and we'll argue them today. So the fact
24 that you thought somehow that wasn't going to happen, is wholly
25 incorrect and you're just -- didn't prepare when you should have.

1 Anything to add from the State?

2 MR. ROGAN: No.

3 THE COURT: The motion to dismiss the murder charge is
4 denied.

5 The motion is just, again, argument about the sufficiency of
6 the evidence that justifies Mr. Woods' arrest and proceeding to trial.

7 Any allegation that they failed to collect the phone of the minor
8 child in the case or the purse of the woman that was killed, there has
9 been no showing of any kind of materiality that that would even be
10 relevant to a trial. And there isn't any showing of bad faith, gross
11 negligence, or even in the Court's mind, simple negligence in not having
12 collected those items.

13 So there isn't any basis to dismiss the murder charge.

14 THE DEFENDANT: Can I speak on that one, Your Honor?

15 THE COURT: I just asked you if you had anything to add and
16 you said no. So we're moving on.

17 Pro per motion to review officers files.

18 Anything to add on that?

19 THE DEFENDANT: [No audible response.]

20 THE COURT: No? No.

21 State?

22 MR. ROGAN: No.

23 THE COURT: All right. That motion is going to be denied as
24 well. We do not give agency's files to a defendant. There has not been
25 a sufficient showing made that there's any reason to even examine the

1 files and we don't grant requests to just kind of go on fishing expeditions
2 to say, I want to look through somebody's personnel file.

3 The State has an obligation, and I've explained this to you
4 before, that if they are aware of, or reasonably could become aware of,
5 evidence that deals with an officer that would involve exculpatory
6 information or potential impeachment evidence, they have an obligation
7 to produce that. And at the very least, provide it to the Court to review in
8 camera. If that's done and there's evidence that's available, I will
9 certainly have that turned over.

10 But it isn't just -- you can't just say, hey, I want to look at
11 everybody's files 'cause I think there's going to be something there and
12 make it so. There has to be some basis to believe that there's
13 something there to being with, not just a bare allegation.

14 So I will expect the State to make the inquiries that they know
15 they have to make, and if there's anything there, to provide it to the
16 Court in camera to review.

17 Okay?

18 MS. FLECK: Yes, Your honor.

19 THE COURT: All right. These other three motions that were
20 filed today, the motion for bail hearing, motion to dismiss Counts 2
21 through 7, the witness notice is just a witness notice, so that doesn't
22 require a hearing, that's just being filed in anticipation of trial.

23 These two motions that were filed today, we'll put 'em on
24 calendar next week so that we can address those motions, and that'll be
25 on --

1 [Colloquy between the Court and the Court Clerk]
2 THE COURT: All right. We're going to put 'em on calendar
3 Thursday.
4 THE CLERK: November 1st at 9:00 a.m.
5 THE COURT: November 1st at 9:00 a.m.
6 So, Mr. Woods, we're going to hear those motions on that day;
7 okay?
8 THE DEFENDANT: Yes, sir.
9 THE COURT: All right. And --
10 THE DEFENDANT: Can I -- can I --
11 THE COURT: -- if there's any other motions that you have,
12 that you want to file, you can go ahead and file those as well. If they're
13 filed quickly, we'll hear them on that date as well 'cause I know we're
14 trying to maintain your trial date for you, which is set for November the
15 5th.
16 My anticipation is that dates probably going to get pushed into
17 the week a little further because we're finishing a trial up today and we
18 start another trial on Monday. And I'm guessing that it may push your
19 trial a couple of days. So we may not be able to start until Tuesday or
20 Wednesday. But we'll --
21 THE DEFENDANT: So, Your Honor, if I may ask, what are
22 the grounds for continuance?
23 THE COURT: Well, look, I'll let you -- I can't tell you what the
24 grounds are. I'm going to let you talk to Ms. Murray. And if there's any
25 requests that you want to file a request to continue the trial, you can

1 certainly do so, and we'll talk about that when we come back on
2 November 1st as well. But just talk to your attorney about it and she can
3 relay that to the State as well and have discussions; okay.

4 MS. FLECK: And our -- since today's calendar call, are we
5 announcing ready?

6 THE COURT: We'll pass it over to next Thursday.

7 MS. FLECK: Okay.

8 THE COURT: Because we have the three trials that we're
9 doing anyway. And I'll give Mr. Woods a chance to talk to Julia a little
10 further before we do that.

11 MS. FLECK: Okay, sounds good.

12 THE COURT: All right, guys, thank you.

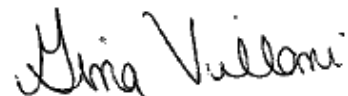
13 MR. ROGAN: Thank you, Your Honor.

14 MS. FLECK: Thank you.

15
16 [Hearing concluded at 10:58 a.m.]

17 * * * * *

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

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22 Gina Villani
23 Court Recorder/Transcriber
24 District Court Dept. IX
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LEONARD RAY WOODS,) No. 78816
)
 Appellant,)
)
 v.)
)
 THE STATE OF NEVADA,)
)
 Respondent.)
)

DARIN IMLAY Clark County Public Defender 309 South Third Street Las Vegas, Nevada 89155-2610 Attorney for Appellant	STEVE WOLFSON Clark County District Attorney 200 Lewis Avenue, 3 rd Floor Las Vegas, Nevada 89155 AARON FORD Attorney General 100 North Carson Street Carson City, Nevada 89701-4717 (702) 687-3538 Counsel for Respondent
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I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 13 day of February, 2020. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

LEONARD RAY WOODS, #1216972
HIGH DESERT STATE PRISON
P.O. BOX 650
INDIAN SPRINGS, NV 89070

BY /s/ Rachel Howard
Employee, Clark County Public Defender's Office