

Electronically Filed
May 31 2019 03:22 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

NOAS
JONELL THOMAS
SPECIAL PUBLIC DEFENDER
NSB No. 4771
NAVID AFSHAR
Deputy Special Public Defender
NSB No. 14465
330 South Third Street, 8th Floor
Las Vegas, NV 89155
(702) 455-6265
Fax No. 702-455-6273
thomasjn@clarkcountynv.gov
navid.afshar@clarkcountynv.gov

Attorneys for McNair

DISTRICT COURT
COUNTY OF CLARK, STATE OF NEVADA

THE STATE OF NEVADA,)	CASE NO. C-17-327395-1
)	DEPT. NO. 3
Plaintiff,)	
)	
vs.)	
)	
MICHAEL McNAIR,)	
)	
Defendant,)	

NOTICE OF APPEAL

TO: THE STATE OF NEVADA, Plaintiff;
TO: CLARK COUNTY DISTRICT ATTORNEY, Plaintiff's attorney; and
TO: DEPARTMENT 3 OF THE EIGHTH JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK:

NOTICE is hereby given that Michael McNair hereby appeals to the Nevada Supreme

...

...

1 Court from the Judgment of Conviction (Jury Trial) filed May 3, 2019

2 DATED May 22, 2019

3 SUBMITTED BY:

4 /s/ NAVID AFSHAR

5
6 BY _____
7 NAVID AFSHAR
8 JONELL THOMAS
9 Attorneys for McNair

10 **CERTIFICATE OF MAILING**

11 The undersigned does hereby certify that on 5/22/19, I deposited in the United States Post Office
12 at Las Vegas, Nevada, a copy of the Notice of Appeal, postage prepaid, addressed to the following:

13 District Attorney's Office
14 200 Lewis Ave., 3rd Floor
15 Las Vegas NV 89155

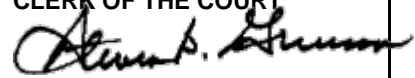
16 Nevada Attorney General
17 100 N. Carson
18 Carson City, NV 89701-4717

19 Michael McNair, ID 1082775
20 High Desert State Prison
21 P.O. Box 650
22 Indian Springs NV 89070

23 Dated: 5/22/19

24 /s/ KATHLEEN FITZGERALD

25 _____
26 KATHLEEN FITZGERALD
27 An employee of The Special Public
28 Defender's Office



ASTA
JONELL THOMAS
SPECIAL PUBLIC DEFENDER
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Attorneys for McNair

DISTRICT COURT
COUNTY OF CLARK, STATE OF NEVADA

THE STATE OF NEVADA,)	CASE NO. C-17-327395-1
)	DEPT. NO. 3
Plaintiff,)	
)	
vs.)	
)	
MICHAEL McNAIR,)	
)	
Defendant,)	
_____)	

CASE APPEAL STATEMENT

1. **Name of appellant filing this case appeal statement:** Michael McNair
2. **Identify the judge issuing the decision, judgment, or order appealed from:**
The Honorable Douglas Herndon
3. **Identify each appellant and the name and address of counsel for each appellant:**
Appellant: Michael McNair
Attorney for Appellant: Navid Afshar, Deputy Special Public Defender and JoNell Thomas, Special Public Defender, 330 South Third Street, 8th Floor, Las Vegas NV 89101
4. **Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much and provide the name and address of that respondent's trial counsel):**

Respondent: The State of Nevada

Attorney for Respondent: Steven Wolfson, Clark County District Attorney, 200 Lewis Ave., 3rd Floor, Las Vegas NV 89101; and Aaron Ford, Nevada Attorney General, 100 North Carson Street, Carson City NV 89701

5. **Indicate whether any attorney identified above in response to question 3 or 4 is not licensed to practice laws in Nevada and, if so, whether the district court granted that attorney permission to appear under SCR 42 (attach a copy of any district court order granting such permission):** Attorney is licensed to practice in Nevada

6. **Indicate whether appellant was represented by appointed or retained counsel in the district court:** Appointed

7. **Indicate whether appellant is represented by appointed or retained counsel on appeal:** Appointed.

8. **Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of entry of the district court order granting such leave:** Special Public Defender appeared at Initial Arraignment on October 25, 2017

9. **Indicate the date the proceedings commenced in the district court (e.g., date complaint, indictment, information, or petition was filed):** Information filed October 24, 2017

10. **Provide a brief description of the nature of the action and result in the district court, including the type of judgment or order being appealed and the relief granted by the district court:** Michael McNair was charged in an Information filed 10/24/17 with Murder with use of a Deadly Weapon and Carrying a Concealed Firearm or Other Deadly Weapon. He proceeded to trial, and the jury returned a verdict of guilty as to First Degree Murder with use of a Deadly Weapon and Carrying a Concealed Firearm. The parties waived penalty hearing and the Court sentenced McNair to 20 years to Life, plus a consecutive term of 60-240 months for use of deadly weapon, for Count 1 and 24-60 months for Count 2, concurrent with Count 1 (530 days credit for time served). The Judgment of Conviction was filed May 3, 2019.

11. **Indicate whether the case has previously been the subject of an appeal to or**

1 original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court
2 docket number of the prior proceeding: No

3 12. Indicate whether this appeal involves child custody or vitiating: No

4 13. If this is a civil case, indicate whether this appeal involves the possibility of
5 settlement: No

6 Dated May 22, 2019.

7
8 SUBMITTED BY:

9 /s/ NAVID AFSHAR

10 BY
11 NAVID AFSHAR
12 JONELL THOMAS
Attorneys for McNair

13 **CERTIFICATE OF MAILING**

14 The undersigned does hereby certify that on 5.22.19, I deposited in the United States Post
15 Office at Las Vegas, Nevada, a copy of the Notice of Appeal, postage prepaid, addressed to the
16 following:

17 District Attorney's Office
18 200 Lewis Ave., 3rd Floor
Las Vegas NV 89155

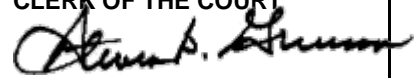
19 Nevada Attorney General
20 100 N. Carson
Carson City, NV 89701-4717

21 Michael McNair, ID 1082775
22 High Desert State Prison
P.O. Box 650
23 Indian Springs NV 89070

24 Dated: 5/22/19

25 /s/ KATHLEEN FITZGERALD

26
27 KATHLEEN FITZGERALD
28 An employee of The Special Public
Defender's Office



1 REQT
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2 SPECIAL PUBLIC DEFENDER
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thomasjn@clarkcountynv.gov
7 navid.afshar@clarkcountynv.gov

8 Attorneys for McNair

9
10 DISTRICT COURT
11 COUNTY OF CLARK, STATE OF NEVADA

12 THE STATE OF NEVADA,)	CASE NO. C-17-327395-1
13)	DEPT. NO. 3
14 Plaintiff,)	
15 vs.)	
16 MICHAEL McNAIR,)	
17 Defendant,)	

18 **REQUEST FOR TRANSCRIPT OF PROCEEDINGS**

19 TO: Jill Jacoby, Court Recorder, District Court Department 3:

20 1. Pursuant to NRAP 9, the above named Court Reporter/Recorder shall within 30 days
21 after the date this Request is served, file with the District Court the original transcript. If efiled,
22 Appellant requests a courtesy copy be provided to kfitzger@clarkcountynv.gov.

23 2. Pursuant to NRAP 9, the above named Court Reporter/Recorder shall file with the
24 clerk of the Supreme Court a notice that the completed transcript has been filed and delivered.

25 Defendant/Appellant requests preparation, at State expense, of a transcript of the
26 proceedings before the district court, as follows:

27 **Judge or officer hearing the proceeding:** The Honorable Doug Herndon

28 **Date or dates of proceeding:** May 1, 2019

Portions of the transcript requested: A transcript of the complete proceeding of the above listed hearings is requested, including voir dire, opening and closing statements; and any bench conferences.

Number of copies required: Appellant requests an original be filed with the District Court and two certified copies are to be provided to Appellant. In the alternative, if the Court Recorder efiles the transcript, consent is given for service of a courtesy copy by electronic means to kfitzger@clarkcountynv.gov.

I hereby certify that on May 22, 2019, I ordered the above listed transcripts from the court recorder named above. I further certify that Appellant is indigent and exempt from paying the required deposit.

DATED May 22, 2019

SUBMITTED BY:

/s/ NAVID AFSHAR

BY
NAVID AFSHAR
JONELL THOMAS
Attorneys for McNair

CERTIFICATE OF MAILING

The undersigned does hereby certify that on 5/22/19, I deposited in the United States Post Office at Las Vegas, Nevada, a copy of the Request for Transcript of Proceedings, postage prepaid, addressed to the following:

District Attorney's Office
200 Lewis Ave., 3rd Floor
Las Vegas NV 89155

Nevada Attorney General
100 N. Carson
Carson City, NV 89701-4717

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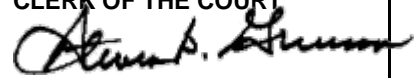
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Jill Jacoby, Court Recorder
District Court Dept. 3
330 South 3rd Street, 16C
Las Vegas NV 89155
(also hand delivered on 5/22/19)

Dated: 5/22/2019

/s/ KATHLEEN FITZGERALD

KATHLEEN FITZGERALD
An employee of The Special Public
Defender's Office



1 REQT
JONELL THOMAS
2 SPECIAL PUBLIC DEFENDER
NSB No. 4771
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7 navid.afshar@clarkcountynv.gov

8 Attorneys for McNair

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10 DISTRICT COURT
11 COUNTY OF CLARK, STATE OF NEVADA

12 THE STATE OF NEVADA,)
13)
Plaintiff,)
14)
vs.)
15)
MICHAEL McNAIR,)
16)
Defendant,)
17)

CASE NO. C-17-327395-1
DEPT. NO. 3

18 **REQUEST FOR TRANSCRIPT OF PROCEEDINGS**

19 TO: Kiara Schmidt [Sharon Nichols] Court Recorder, Lower Level Arraignment Court

20 1. Pursuant to NRAP 9, the above named Court Reporter/Recorder shall within 30 days
21 after the date this Request is served, file with the District Court the original transcript. If efiled,
22 Appellant requests a courtesy copy be provided to kfitzger@clarkcountynv.gov.

23 2. Pursuant to NRAP 9, the above named Court Reporter/Recorder shall file with the
24 clerk of the Supreme Court a notice that the completed transcript has been filed and delivered.

25 Defendant/Appellant requests preparation, at State expense, of a transcript of the
26 proceedings before the district court, as follows:

27 **Judge or officer hearing the proceeding:** Melisa De La Garza, Hearing Master

28 **Date or dates of proceeding:** 10/25/17

Portions of the transcript requested: A transcript of the complete proceeding of the above listed hearings is requested, including voir dire, opening and closing statements; and any bench conferences.

Number of copies required: Appellant requests an original be filed with the District Court and two certified copies are to be provided to Appellant. In the alternative, if the Court Recorder efiles the transcript, consent is given for service of a courtesy copy by electronic means to kfitzger@clarkcountynv.gov.

I hereby certify that on May 22, 2019, I ordered the above listed transcripts from the court recorder named above. I further certify that Appellant is indigent and exempt from paying the required deposit.

DATED May 22, 2019

SUBMITTED BY:

/s/ NAVID AFSHAR

BY
NAVID AFSHAR
JONELL THOMAS
Attorneys for McNair

CERTIFICATE OF SERVICE

The undersigned does hereby certify that on 5/22/19, I deposited in the United States Post Office at Las Vegas, Nevada, a copy of the Request for Transcript of Proceedings, postage prepaid, addressed to the following:

District Attorney's Office
200 Lewis Ave., 3rd Floor
Las Vegas NV 89155

Nevada Attorney General
100 N. Carson
Carson City, NV 89701-4717

...

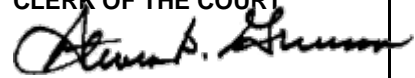
• • •

1 The undersigned does hereby certify that the foregoing Request was emailed on May 22,
2 2019 to Sharon Nichols, Court Recorder at nicholss@clarkcountycourts.us.

3
4 Dated: 5/22/2019
5

6 /s/ KATHLEEN FITZGERALD
7

8 KATHLEEN FITZGERALD
9 An employee of The Special Public
10 Defender's Office
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7 navid.afshar@clarkcountynv.gov

8 Attorneys for McNair

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10 DISTRICT COURT
11 COUNTY OF CLARK, STATE OF NEVADA

12 THE STATE OF NEVADA,)
13 Plaintiff,) CASE NO. C-17-327395-1
14 vs.) DEPT. NO. 3
15)
16 MICHAEL McNAIR,)
17 Defendant,)

18 **REQUEST FOR TRANSCRIPT OF PROCEEDINGS**

19 TO: Sara Richardson, Court Recorder, District Court Department 3:

20 1. Pursuant to NRAP 9, the above named Court Reporter/Recorder shall within 30 days
21 after the date this Request is served, file with the District Court the original transcript. If efiled,
22 Appellant requests a courtesy copy be provided to kfitzger@clarkcountynv.gov.

23 2. Pursuant to NRAP 9, the above named Court Reporter/Recorder shall file with the
24 clerk of the Supreme Court a notice that the completed transcript has been filed and delivered.

25 Defendant/Appellant requests preparation, at State expense, of a transcript of the
26 proceedings before the district court, as follows:

27 **Judge or officer hearing the proceeding:** The Honorable Doug Herndon

28 **Date or dates of proceeding:** 10/31/17, 1/9/18, 2/7/18, 3/20/18, 4/10/18, 4/19/18

1 5/23/18, 6/20/18, 7/12/18, 7/18/18, 10/24/18, 12/5/18, 1/9/19 2/14/19, 2/26/19, 2/27/19, 2/28/19,
2 3/1/19 (partial), 3/4/19, 3/5/19, 3/6/19, 3/7/19

3 **Portions of the transcript requested:** A transcript of the complete proceeding of the
4 above listed hearings is requested, including voir dire, opening and closing statements; and any
5 bench conferences.

6 **Number of copies required:** Appellant requests an original be filed with the District
7 Court and two certified copies are to be provided to Appellant. In the alternative, if the Court
8 Recorder efiles the transcript, consent is given for service of a courtesy copy by electronic means
9 to kfitzger@clarkcountynv.gov.

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11 recorder named above. I further certify that Appellant is indigent and exempt from paying the
12 required deposit.

13 DATED May 22, 2019

14 SUBMITTED BY:

15 /s/ NAVID AFSHAR

16
17 BY _____
18 NAVID AFSHAR
19 JONELL THOMAS
Attorneys for McNair

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25 200 Lewis Ave., 3rd Floor
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26 Nevada Attorney General
27 100 N. Carson
28 Carson City, NV 89701-4717

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Sara Richardson, Court Recorder
District Court Dept. 3
330 South 3rd Street, 16C
Las Vegas NV 89155
(also hand delivered on 5/22/19)

Dated: 5/22/2019

/s/ KATHLEEN FITZGERALD

KATHLEEN FITZGERALD
An employee of The Special Public
Defender's Office

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY**CASE NO. C-17-327395-1**

State of Nevada
vs
Michael McNair

§ Location: **Department 3**
§ Judicial Officer: **Herndon, Douglas W.**
§ Filed on: **10/23/2017**
§ Cross-Reference Case **C327395**
§ Number:
§ Defendant's Scope ID #: **1959573**
§ ITAG Booking Number: **1700175156**
§ ITAG Case ID: **1916375**
§ Lower Court Case # Root: **17F16794**
§ Lower Court Case Number: **17F16794X**
§ Metro Event Number: **1709143919**

CASE INFORMATION

Offense	Statute	Deg	Date	Case Type:	Felony/Gross Misdemeanor
Jurisdiction: District Court					
1. FIRST DEGREE MURDER WITH THE USE OF A DEADLY WEAPON PCN: 0025708791 ACN: 1709143919 Filed As: MURDER WITH USE OF A DEADLY WEAPON Arrest: 09/14/2017 MET - Metro	200.030.1	F	09/14/2017	Case Status:	05/07/2019 Closed
2. CARRYING CONCEALED FIREARM OR OTHER DEADLY WEAPON	202.350.1d1	F	09/14/2017		

Statistical Closures

05/07/2019 Jury Trial - Conviction - Criminal

Warrants

Material Witness Warrant - Romero, Ramiro (Judicial Officer: Herndon, Douglas W.)

03/04/2019 3:25 PM Returned - Served

02/28/2019 9:41 AM Active Material Witness Warrant

Fine: \$0



Bond: \$0

DATE**CASE ASSIGNMENT****Current Case Assignment**
















Case Number C-17-327395-1
Court Department 3
Date Assigned 10/23/2017
Judicial Officer Herndon, Douglas W.

PARTY INFORMATION

		Lead Attorneys
Defendant	McNair, Michael	Special Public Defender Retained
Plaintiff	State of Nevada	Wolfson, Steven B 702-671-2700(W)

DATE**EVENTS & ORDERS OF THE COURT****INDEX****EVENTS**10/23/2017  Criminal Bindover Packet Las Vegas Justice Court10/23/2017  Criminal Bindover - Confidential

CASE SUMMARY
CASE NO. C-17-327395-1

10/24/2017	 Information Party: Plaintiff State of Nevada <i>Information</i>
10/30/2017	 Miscellaneous Filing Filed by: Defendant McNair, Michael <i>Assertion of Medical Privacy Rights</i>
10/30/2017	 Miscellaneous Filing Filed by: Defendant McNair, Michael <i>Assertion of Fifth and Sixth Amendment Rights</i>
10/31/2017	 Consent <i>Consent to Service by Electronic Means</i>
12/03/2017	 Transcript of Proceedings <i>Reporter's Transcript of Preliminary Hearing October 23, 2017</i>
12/14/2017	 Petition <i>Petition for Pre-Trial Writ of Habeas Corpus</i>
12/15/2017	 Order <i>Order</i>
12/18/2017	 Receipt of Copy <i>Receipt of Copy</i>
12/18/2017	 Writ <i>Writ of Habeas Corpus</i>
12/21/2017	 Return to Writ of Habeas Corpus <i>State Return to Writ of Habeas Corpus</i>
12/21/2017	 Receipt of Copy <i>Receipt of Copy</i>
02/23/2018	 Motion for Discovery <i>Motion for Disclosure of Evidence and Motion to Have The Handgun That Was Recovered Tested for Any DNA</i>
03/13/2018	 Response Filed by: Plaintiff State of Nevada <i>State's Response to Defendant's Motion for Disclosure of Evidence and Motion to Have the Handgun that was Recovered Tested for DNA</i>
03/30/2018	 Motion for Clarification <i>Motion to Clarify Bail Obligation to Include House Arrest</i>
04/17/2018	 Objection <i>Objection to State's Motion to Increase Bail</i>
04/19/2018	



















CASE SUMMARY

CASE NO. C-17-327395-1

	 Filed Under Seal <i>State's Notice of Motion and Motion to Increase Bail</i>
06/22/2018	 Notice of Witnesses and/or Expert Witnesses <i>State's Notice of Witnesses and/or Expert Witnesses</i>
07/02/2018	 Notice of Witnesses and/or Expert Witnesses <i>Notice of Defendant's Expert Witnesses</i>
08/23/2018	 Ex Parte Order <i>Ex Parte Application and Order to Prepare Transcript</i>
08/23/2018	 Recorders Transcript of Hearing <i>Status Check: Trial Readiness, July 18, 2018</i>
08/27/2018	 Receipt of Copy <i>Receipt of Copy</i>
01/08/2019	 Notice of Witnesses and/or Expert Witnesses Filed By: Plaintiff State of Nevada <i>State's Supplemental Notice of Witnesses and/or Expert Witnesses</i>
01/15/2019	 Supplemental Witness List Filed by: Plaintiff State of Nevada <i>State's Second Supplemental Notice of Witnesses and/or Expert Witnesses</i>
02/11/2019	 Motion <i>Defendant McNair's Motion in Limine to Introduce Preliminary Hearing Testimony of Anthony Razo and Kenneth Saldana. Defendant's Motion to Have Appointed Counsel Available for Mitchell Johnson if he is called as a State's Witness</i>
02/15/2019	 Notice of Witnesses and/or Expert Witnesses <i>Notice of Defendant's Witnesses</i>
02/15/2019	 Supplemental Witness List Filed by: Plaintiff State of Nevada <i>State's Third Supplemental Notice of Witnesses and/or Expert Witnesses</i>
02/19/2019	 Supplemental Witness List Filed by: Plaintiff State of Nevada <i>State's Fourth Supplemental Notice of Witnesses and/or Expert Witnesses</i>
02/21/2019	 Ex Parte Filed By: Defendant McNair, Michael <i>Ex Parte Motion and Order for Defendant's Inmate Phone Calls and Information Regarding Access Information</i>
02/21/2019	 Motion <i>Motion to Preclude the State From Using Any CCDC Telephone Records in the Case in Chief or Rebuttal</i>
02/27/2019	 Jury List












CASE SUMMARY

CASE NO. C-17-327395-1

02/28/2019	 Order Filed By: Plaintiff State of Nevada <i>Order Requiring Material Witness to Post Bail or Be Committed to Custody</i>
02/28/2019	 Ex Parte Application Party: Plaintiff State of Nevada <i>Ex Parte Application for Order Requiring Material Witness to Post Bail</i>
02/28/2019	 Warrant Filed by: Plaintiff State of Nevada <i>Warrant of Arrest</i>
02/28/2019	 Amended Jury List
03/06/2019	 Amended Jury List <i>Second Amended Jury List</i>
03/06/2019	 Instructions to the Jury <i>Defendant's Proposed Instructions to the Jury</i>
03/07/2019	 Stipulation and Order
03/07/2019	 Instructions to the Jury
03/07/2019	 Verdict
03/07/2019	 Stipulation and Order
03/25/2019	 Order Filed By: Plaintiff State of Nevada <i>Order for Transcript</i>
04/09/2019	 PSI
04/12/2019	 Filed Under Seal <i>SEALED per Order 4/12/19 Order to Transport Defendant to Funeral of his Sister</i>
04/12/2019	 Order to Seal
04/19/2019	 Recorders Transcript of Hearing <i>Partial Transcripts: Testimony of Jamelle Shannon Only - Jury Trial, March 1, 2019</i>
04/23/2019	 Memorandum <i>Sentencing Memorandum and Objections to the Presentence Investigation Report</i>
04/26/2019	 PSI - Victim Impact Statements
05/03/2019	 Judgment of Conviction <i>Judgment of Conviction (Jury Trial)</i>
05/07/2019	




CASE SUMMARY

CASE NO. C-17-327395-1

	 Criminal Order to Statistically Close Case <i>Criminal Order to Statistically Close Case</i>
05/09/2019	 Order <i>Order Amending the Presentence Investigation Report</i>
05/14/2019	 PSI - Letters
05/22/2019	 Notice of Appeal (criminal) <i>Notice of Appeal</i>
05/22/2019	 Case Appeal Statement <i>Case Appeal Statement</i>
05/22/2019	 Request <i>Request for Transcript of Proceedings</i>
05/22/2019	 Request <i>Request for Transcript of Proceedings</i>
05/22/2019	 Request <i>Request for Transcript of Proceedings</i>
	HEARINGS
10/25/2017	 Initial Arraignment (10:00 AM) (Judicial Officer: De La Garza, Melisa) Plea Entered; Journal Entry Details: <i>DEFT. MCNAIR ARRAIGNED, PLED NOT GUILTY, and WAIVED the 60-DAY RULE. COURT ORDERED, matter set for trial. COURT ORDERED, pursuant to Statute, Counsel has 21 days from today for the filing of any Writs; if the Preliminary Hearing Transcript has not been filed as of today, Counsel has 21 days from the filing of the Transcript. CUSTODY (COC) 10/31/17 9:00 AM STATUS CHECK: TRIAL SETTING (DEPT 3);</i>
10/31/2017	 Status Check: Trial Setting (8:30 AM) (Judicial Officer: Herndon, Douglas W.) Matter Heard; Journal Entry Details: <i>Mr. Pike advised case is assigned to Ms. Bluth. Matter TRAILED and RECALLED. All parties present. Mr. Pike advised defendant waived his right to a speedy trial previously. COURT ORDERED, counsel has 21 days from the receipt of copy of transcripts to file any Writs. Upon Court's inquiry, Ms. Bluth advised matter will not be going in front of the Death Review Committee. Pursuant to EDCR 1.30 and 1.31 this court ORDERS the case REASSIGNED to Department 3. Discussion regarding trial date. COURT ORDERED, matter SET for trial and Status Check. CUSTODY (COC) 1/10/18 9:00 AM STATUS CHECK: TRIAL READINESS 7/12/18 9:00 AM CALENDAR CALL 7/23/18 10:00 AM JURY TRIAL ;</i>
01/09/2018	 Petition for Writ of Habeas Corpus (9:00 AM) (Judicial Officer: Herndon, Douglas W.) <i>Petition for Pre-Trial Writ of Habeas Corpus</i> Denied; Journal Entry Details: <i>PETITION FOR PRE-TRIAL WRIT OF HABEAS CORPUS Arguments by counsel. Court clarified with Mr. Pike that Defendant is not charged with conspiracy. COURT ORDERED, petition DENIED. COURT FINDS evidence is sufficient for an indictment to stand; noting the video indicates enough for a Jury to reasonably decide. Upon Court's inquiry, Ms. Bluth informed him parties will hold a file review at 2:00 p.m. Ms. Bluth stated she will review her computer for files from homicide and forward them to Mr. Pike. Mr. Pike advised he is prepared for the trial date. COURT FURTHER ORDERED, Status Check VACATED and RESET. Upon Court s inquiry, parties indicated they are waiting on the forensics prior to any</i>




CASE SUMMARY

CASE NO. C-17-327395-1

	<i>discussion relating to a negotiation. CUSTODY 2/7/18 9:00 AM STATUS CHECK: TRIAL READINESS ;</i>
01/10/2018	CANCELED Status Check: Trial Readiness (9:00 AM) (Judicial Officer: Herndon, Douglas W.) <i>Vacated - per Judge</i>
02/07/2018	 Status Check: Trial Readiness (9:00 AM) (Judicial Officer: Herndon, Douglas W.) 02/07/2018, 03/20/2018, 04/19/2018 Continued; Matter Continued; Matter Heard; Continued; Matter Continued; Matter Heard; Continued; Matter Continued; Matter Heard; Journal Entry Details: <i>Mr. Pike advised most of the witnesses are homeless and they are attempting to locate them, as well as, the defense is waiting on forensics on a gun. Mr. Rogan stated he believes the request has been submitted. COURT ORDERED, matter CONTINUED. CUSTODY CONTINUED TO: 3/07/18 9:00 AM;</i>
03/20/2018	Motion (9:00 AM) (Judicial Officer: Herndon, Douglas W.) <i>Defendant's Motion for Disclosure of Evidence and Motion to have the Handgun that was Recovered Tested for any DNA</i> Motion Granted;
03/20/2018	 All Pending Motions (9:00 AM) (Judicial Officer: Herndon, Douglas W.) Matter Heard; Journal Entry Details: <i>DEFT'S MOTION FOR DISCLOSURE OF EVIDENCE AND MOTION TO HAVE THE HANDGUN THAT WAS RECOVERED TESTED FOR DNA...STATUS CHECK: TRIAL READINESS Court noted Deft's counsel wants gun tested forensically which is being done and no report has been done yet. Ms. Bluth confirmed testing is being done on the gun. Court stated as to NCIC, not an obligation to NCIC everyone in case unless there is a scintilla of something there. Mr. Pike argued potential witness for the State identified at time of Preliminary Hearing as the actual shooter in the case. Further, counsel located witness, interviewed him and he was less then forthcoming. Additionally, counsel stated two individuals were interviewed in ELY based on information received by them looking for as to that witness. Colloquy. Mr. Pike requested LRMS be checked as to what cases he was involved in or if he has been a confidential informant. Ms. Bluth stated she has no objection looking up case as to confidential informant and working witness. COURT ORDERED, State to do LRMS check and run check on confidential informant. Mr. Pike stated if those things done, counsel is working on video to be enhanced. FURTHER ORDERED, status check CONTINUED. CUSTODY 4/17/18 9:00 AM STATUS CHECK: TRIAL READINESS;</i>
04/10/2018	 Motion (9:00 AM) (Judicial Officer: Herndon, Douglas W.) <i>Defendant's Motion to Clarify Bail Obligation to Include House Arrest</i> Granted; Journal Entry Details: <i>Mr. Pike advised matter is on calendar for Court to clarify if the District Court's order regarding bail is the same as Justice Court's order. Conference at the Bench. COURT ORDERED, bail STANDS at \$100,000 with HOUSE ARREST. Court noted that the State may be filing a bail motion and requested Ms. Bluth place on calendar with the status check. COURT FURTHER ORDERED, Status Check VACATED and RESET. Mr. Pike stated he received the LRMS items that the defense requested, noting they are still waiting on the DNA. CUSTODY 4/18/19 9:00 AM STATUS CHECK: TRIAL READINESS...STATE'S BAIL MOTION;</i>

CASE SUMMARY

CASE NO. C-17-327395-1

04/19/2018	<p>Motion (9:00 AM) (Judicial Officer: Herndon, Douglas W.)</p> <p><i>State's Motion to Address Bail</i></p> <p>Matter Heard;</p>
04/19/2018	<p> All Pending Motions (9:00 AM) (Judicial Officer: Herndon, Douglas W.)</p> <p>Matter Heard;</p> <p>Journal Entry Details:</p> <p><i>STATE'S MOTION TO ADDRESS BAIL...STATUS CHECK: TRIAL READINESS COURT ORDERED, State's Motion to Increase Bail FILED IN OPEN COURT UNDER SEAL, noting motion is being filed under seal due to the nature of information included in the motion. Arguments by counsel. COURT ORDERED, motion GRANTED, bail RESET to \$250,000 with House Arrest, trial date STANDS. COURT FURTHER ORDERED, matter SET for Status Check. Mr Pike advised he is still waiting on the forensics. Ms. Bluth advised she contacted the lab. CUSTODY 5/23/18 9:00 AM STATUS CHECK: TRIAL READINESS;</i></p>
05/23/2018	<p> Status Check: Trial Readiness (9:30 AM) (Judicial Officer: Herndon, Douglas W.)</p> <p>05/23/2018, 06/20/2018</p> <p>Continued;</p> <p>Matter Heard;</p> <p>Journal Entry Details:</p> <p><i>Also present: Giancarlo Pesci, Deputy District Attorney, appearing for Jacqueline Bluth, Deputy District Attorney. Mr. Pike noted the State offered a Second Degree Murder with Use of a Deadly Weapon, stipulated sentence of 15/40 years. The defense counter-offered with a Second Degree with Use of a Deadly Weapon, stipulated sentence of 11/28 years. Further, parties are discussing other stipulations regarding the trial. Mr. Pike noted parties anticipate being ready for trial, noting he will be filing motions relating to witnesses. Court requested counsel use the calendar call date of July 12, 2018 if he files any motions. Trial is expected to last one and one-half weeks. COURT ORDERED, calendar call date STANDS. OR 7/12/18 9:00 AM CALENDAR CALL...ARGUMENT: MOTIONS;</i></p> <p>Continued;</p> <p>Matter Heard;</p> <p>Journal Entry Details:</p> <p><i>Mr. Pike advised the final forensics have come in, noting an offer of second degree murder with use, right to argue was extended and the defense countered with an offer of second with use, term of 12/30 years. Counsel stated Ms. Bluth is currently in trial, therefore, they need to discuss offer further. Upon Court's inquiry, Mr. Pike stated he is waiting to receive the video with enhancements, however, he anticipates being ready for trial. Mr. Rogan requested the defense provide a copy of the enhanced video. CUSTODY CONTINUED TO: 6/20/18 9:30 AM;</i></p>
07/12/2018	<p>Calendar Call (9:00 AM) (Judicial Officer: Herndon, Douglas W.)</p> <p>Matter Heard;</p>
07/12/2018	<p>Argument (9:00 AM) (Judicial Officer: Herndon, Douglas W.)</p> <p><i>Argument: Motions</i></p> <p>Off Calendar;</p>
07/12/2018	<p> All Pending Motions (9:00 AM) (Judicial Officer: Herndon, Douglas W.)</p> <p>Matter Heard;</p> <p>Journal Entry Details:</p> <p><i>ARGUMENT: MOTIONS...CALENDAR CALL Court noted matter has a trial date set for July 23, 2018. Mr. Rogan advised the State is ready, however, the State has requested confirmatory testing be done on the firearm as the State just became aware of an earlier shooting that involved the same firearm used in the instant case. Defense may have further investigation depending on the results. Mr. Pike concurred, noting the two main witnesses are homeless and the defense will be requesting Material Witness warrants. COURT ORDERED, material witness WARRANTS TO ISSUE on Anthony Raza and Ryan Prost are the witnesses. Court requested parties contact the Court after the results have been obtained to inform whether or not parties will be ready. Mr. Pike noted the State extended an offer until Friday, July 13, 2018. Upon Court's inquiry, Mr. Pike noted the offer of Second Degree with Use, stipulate to 14/35 years, and State would not refer to Federal authorities. CUSTODY ;</i></p>

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. C-17-327395-1

07/18/2018



Status Check: Trial Readiness (9:30 AM) (Judicial Officer: Herndon, Douglas W.)

07/18/2018, 10/24/2018, 12/05/2018, 01/09/2019

Matter Continued;

Matter Continued;

Matter Continued;

Matter Heard;

Journal Entry Details:

Ms. Simpkins indicated Mr. Pike is in trial and requested his appearance be waived. Ms. Simpkins announced ready to go, however at recent hearings, the State made representations that the gun involved in this case was connected to another homicide, which resulted in the Defense requesting the matter be continued. Ms. Simpkins further stated that since the continuance the State has discovered additional evidence, and Mr. Pike intends to file a written motion to preclude the State from using the evidence. Colloquy regarding offers made. Upon Court's inquiry, Ms Bluth stated parties are still negotiating and the State is ready to proceed with trial. CUSTODY 2/14/19 9:00 A.M. CALENDAR CALL 2/25/19 10:00 A.M. JURY TRIAL;

Matter Continued;

Matter Continued;

Matter Continued;

Matter Heard;

Journal Entry Details:

Mr. Pike indicate the State has provided a possible source of the guy, the name of the individual, adding there was a GSR swabs that were taken and not tested. Ms. Bluth confirmed the representations, there were GSR swabs that were not tested, and therefore no report to turn over. Ms. Bluth further stated parties have completed a file review and there are no issues with experts. COURT ORDERED, matter CONTINUED. CUSTODY CONTINUED TO: 1/9/19 9:30 A.M. 2/14/19 9:00 A.M. CALENDAR CALL 2/25/19 10:00 A.M. JURY TRIAL;

Matter Continued;

Matter Continued;

Matter Continued;

Matter Heard;

Journal Entry Details:

Mr. Pike stated the weapon that was alleged to be used in this case, was not in fact used in another homicide, which had been represented at the time of the calendar call. Ms. Bluth stated the casing found in the area was attributed to that weapon, but not related to any other case. Mr. Pike indicated the State has provided Discovery, and he has provided a copy to the Defendant and everything is moving forward. Upon Court's inquiry, Mr. Pike stated there is nothing more from the ballistics aspect that could delay the trial, however they might file another Motion. CUSTODY CONTINUED TO: 11/21/18 9:30 A.M. 2/14/19 9:00 A.M. CALENDAR CALL 2/25/19 10:00 A.M. JURY TRIAL;

Matter Continued;

Matter Continued;

Matter Continued;

Matter Heard;

Journal Entry Details:

Ms. Simpkins requested the trial date be vacated and reset. Colloquy regarding forensic evidence testing and resetting of trial dates. COURT ORDERED, trial date VACATED and RESET; status check CONTINUED. CUSTODY 10/24/18 9:30 A.M. STATUS CHECK: TRIAL READINESS 2/14/19 9:00 A.M. CALENDAR CALL 2/25/19 10:00 A.M. JURY TRIAL;

07/23/2018

CANCELED Jury Trial (10:00 AM) (Judicial Officer: Herndon, Douglas W.)

Vacated - per Judge

02/14/2019

Calendar Call (9:00 AM) (Judicial Officer: Herndon, Douglas W.)

Matter Heard;

02/14/2019

Motion (9:00 AM) (Judicial Officer: Herndon, Douglas W.)

Defendant McNair's Motion in Limine to Introduce Preliminary Hearing Testimony of Anthony Razo and Kenneth Saldana. Defendant's Motion to Have Appointed Counsel Available for Mitchell Johnson if he is called as a State's Witness

Motion Granted;

02/14/2019



All Pending Motions (9:00 AM) (Judicial Officer: Herndon, Douglas W.)

CASE SUMMARY

CASE NO. C-17-327395-1

Matter Heard;

Journal Entry Details:

DEFENDANT'S MCNAIR'S MOTION IN LIMINE TO INTRODUCE PRELIMINARY HEARING TESTIMONY OF ANTHONY RAZO AND KENNETH SALDANA. DEFENDANT'S MOTION TO HAVE APPOINTED COUNSEL AVAILABLE FOR MITCHELL JOHNSON IF HE IS CALLED AS A STATE'S WITNESS... CALENDAR CALL... Mr. Pike announced ready, adding he filed a Motion to publish Preliminary Hearing testimony, and the State has located one of the witnesses's, and the Defense is still unable to locate Kenneth Saldana. Upon Court's inquiry, Ms. Bluth stated no objection to the Motion regarding witness Kenneth Saldana. Mr. Pike indicated the State agrees there should be stand by counsel for Mitchell Johnson. COURT ORDERED, Motion GRANTED, and DIRECTED the State to provide the contact information of Anthony Razo to the Defense; the Court will contact the Office of Appointed Counsel to have an attorney appear when needed on behalf of Mitchell Johnson. Mr. Pike stated he issued a Subpoena for the telephone jail calls for the Defendant, and he served that on Metro with a Court date, and no one is present to comply with the Subpoena, adding he does not have access to the phone calls. Mr. Bluth stated it would not be an issue requesting the jail phone calls and she can provide a copy to Defense. Mr. Pike requested the calls by Wednesday February 20. COURT ADVISED if the Defense needs an order for the calls they can submit one. CONFERENCE AT BENCH. COURT ORDERED, trial date set for a Tuesday start. CUSTODY 2/26/19 10:30 A.M. JURY TRIAL ;

02/26/2019



Jury Trial (10:30 AM) (Judicial Officer: Herndon, Douglas W.)

02/26/2019-03/01/2019, 03/04/2019-03/07/2019

Matter Heard;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

Stipulation and Order FILED IN OPEN COURT... OUTSIDE THE PRESENCE OF THE JURY Mr. Pike stated all parties have executed the Stipulation and Order, adding the Court will be handling the sentencing portion of this trial if the Verdict returns with a first degree murder. Upon Court's inquiry, Defendant confirmed he has spoken with his attorney's regarding the waiving on the penalty hearing. JURY PRESENT At the hour of 3:30 p.m. the Jury returned with a Verdict of GUILTY on COUNT 1 - MURDER WITH USE OF A DEADLY WEAPON (F), and COUNT 2 - CARRYING CONCEALED FIREARM OR OTHER DEADLY WEAPON (F). Jury polled. Court thanked and excused the Jury. COURT ORDERED, matter SET for sentencing. CUSTODY 5/1/19 9:30 A.M. SENTENCING;

Matter Heard;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

Defendant's Proposed Instructions to the Jury FILED IN OPEN COURT... OUTSIDE THE PRESENCE OF THE JURY Mr. Pike indicated the State has one last question they wanted to ask the Detective, and the Defense has no objection to the State proceeding and then the Defense will start it cross examination. JURY PRESENT Testimony and Exhibits presented. (See Worksheets). State Rests. Jonathan Kendall read in open Court the Deposition of Kenneth Saldana. OUTSIDE THE PRESENCE OF THE JURY COURT ADMONISHED the Defendant of his right to testify. Jury Instructions settled on the record. JURY PRESENT Defense Rests. Court instructed the Jury. Closing arguments by Mr. Rogan. OUTSIDE THE PRESENCE OF THE JURY Deputy Public Defender Navid Afshar present on behalf of Defendant. Mr. Pike made a Motion for Mistrial, arguing to indicate that the Defense is making objections, something the Defense is obligated to do, and for the State to stay they would like to kill Mr. Pike during closing arguments is unjust. Mr. Pike further argued something that could be said between counsel informally is one thing, however in front of the Jurors who are deciding wither they are going to believe the Defense, arguing the State should not have used Mr. Pike

CASE SUMMARY

CASE NO. C-17-327395-1

as an example. Mr. Pike further requested the Court instruct the Jury regarding the statement. Mr. Rogan argued it was not intended as spoken, and it should not have been offered, it was clearly an example, adding the Jury is not going to take it seriously. Mr. Rogan stated he will be willing to stipulate to any corrective instruction given to the Jury. COURT STATED ITS FINDINGS, and ORDERED corrective instructions will be given to the Jury, and DENIED the Defense Request for a Mistrial. JURY PRESENT Court instructed the Jury regarding the Objection Mr. Pike made during Mr. Rogan's closing arguments. Closing arguments by Mr. Pike and Ms. Bluth At the hour of 5:06 p.m. the Jury retired to deliberate. OUTSIDE THE PRESENCE OF THE JURY Mr. Pike further made a record of Mr. Rogan's comment during his closing arguments. Mr. Afshar argued even though the State did not mean what was said, this is a situation where the bell cannot be un-rung. COURT STATED ITS FINDINGS. Court recessed for the evening and directed Jurors to return tomorrow. CUSTODY CONTINUED TO: 3/7/19 9:30 A.M.;

Matter Heard;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

JURY PRESENT Testimony and Exhibits presented. (See Worksheets). OUTSIDE THE PRESENCE OF THE JURY Ms. Bluth made a record of the last objection with the Detective and why he was allowed to answer why Mitchell Johnson was not arrested. Jury Instructions settled. Court recessed for the evening, and directed Jurors to return tomorrow. CUSTODY CONTINUED TO: 3/6/19 10:30 A.M.;

Matter Heard;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

JURY PRESENT Testimony and Exhibits presented. (See Worksheets). OUTSIDE THE PRESENCE OF THE JURY Mr. Rogan stated parties stipulated to Exhibits 123-125. Mr. Pike confirmed. COURT SO NOTED. JURY PRESENT Testimony and Exhibits continued. (See Worksheets). OUTSIDE THE PRESENCE OF THE JURY Matthew Lay Esq. present on behalf of witness Mitchell Johnson Mr. Rogan made a record of the last bench conference regarding State's Proposed Exhibit 126. COURT SO NOTED. Mr. Pike stated Mitchell Johnson has counsel that is appointed to represent him, based upon the fact there was an amendment in the pleadings with an unknown individual doing the shooting, and it is the Defense's belief that the State has not made any agreement with Mr. Johnson or with his counsel that he will not be prosecuted. Ms. Bluth indicated she has made very clear to Mr. Johnson and his counsel that the State has any evidence that Mr. Johnson was involved in this crime. Upon Court's inquiry, Mr. Lay stated that was his understand and he did speak with Mr. Johnson that there is no immunity agreement. Ms. Bluth stated she has evidence that Mr. Johnson punched the Victim, however the State does not have evidence that Mr. Johnson was involved in the shooting. JURY PRESENT Testimony and Exhibits continued. (See Worksheets). OUTSIDE THE PRESENCE OF THE JURY COURT made a record of when the objection was re-raised on the State's examination of Mr. Johnson in terms of using his Statement, adding there is a difference between impeaching, and refreshing someone's recollection. Colloquy regarding witnesses, and settling of jury instructions. Court recessed for the evening and directed Jurors to return tomorrow. CUSTODY CONTINUED TO: 3/5/19 1:00 P.M.;

Matter Heard;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

CASE SUMMARY**CASE NO. C-17-327395-1**

OUTSIDE THE PRESENCE OF THE JURY Mr. Pike indicated that parties have stipulated to State's Exhibits 72-87, and Defense Exhibits A-G. *COURT SO NOTED. JURY PRESENT* Testimony and Exhibits presented. (See Worksheets). *OUTSIDE THE PRESENCE OF THE JURY* Mr. Pike argued Mr. Brennan's testimony should be stricken, since the State showed Mr. Brennan videos, stating this is the guy they would like the witness to identify. Ms. Simpkins argued the same thing happened with Mr. Lesh, who testified the prior day, and although the Defense did not raise a contemporaneous objection, the Defense would be requesting to include that testimony as well. Ms. Bluth stated she is unaware of any legal case that would prevent the State from showing witnesses pictures, or videos. *COURT ADVISED*, they cannot address the testimony of Mr. Lesh since the Defense did not raise an objection at the time, and *STATED* with regards to Mr. Brennan, the witness did not identify the Defendant in open court, and there is nothing that prohibits the State from showing photographs to witnesses, and *ORDERED* objection *OVERRULED. JURY PRESENT* Testimony and Exhibits presented. (See Worksheets.) *OUTSIDE THE PRESENCE OF THE JURY* Colloquy regarding the Defendant's negative interactions with the homeless as testified by prior witnesses. Mr. Rogan stated Exhibit 122 contains social security numbers, and he will sit down with Mr. Pike to black them out. *COURT SO NOTED.* Court recessed for the evening and directed Jurors to return Monday. *CUSTODY CONTINUED TO: 3/4/19 10:30 A.M.;*

Matter Heard;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

Deputy Public Defender Navid Afshar present on behalf of Defendant. OUTSIDE THE PRESENCE OF THE JURY Ms. Bluth stated neither party has been able to locate or secure the presence of Ashley Parmley, and the State is actively looking for her to use as a witness, and her family has not heard from her either. Ms. Bluth stated the reason she is bringing this to the Court's attention, is due to Ms. Parmley sees the shooting, and describes the shooter, and also sees an individual in the 1300 block and identifies someone by the name of Alfonzo Henderson as the shooter, and does not believe this information should be appropriate in opening statements, since either party does not have a good basis of the witness. Mr. Pike stated the Defense has not be able to locate Ms. Parmley as well, and she did not testify at the Preliminary Hearing, therefore she was not a part of the Motion the Defense brought before the Court. Mr. Pike additionally stated without Ms. Parmley actually being present to testify, it would be a hearsay statement as to what she told detectives. Ms. Bluth pointed out the State's first witness Anthony Razo was also homeless at the time this crime was committed, and living in this area as well, adding Mr. Razo was just released from jail on misdemeanor charges, and the State does not find that relevant to this case. Ms. Bluth stated the bigger issue is that Mr. Razo will be testifying as to witnessing the argument between the Victim and the Defendant before the shooting happens, and Mr. Razo will state the Victim keeps his hands behind his back with a shiny object, which he believes is a knife, however will not the Victim never brandishes the knife. Ms. Bluth indicated Mr. Razo tells the police, this is a valid, stand your ground, and the State does not believe that is not relevant testimony, and it is only Mr. Razo's opinion. Mr. Pike stated Mr. Razo was observing conduct between the parties, and it is fair game to cross examine him on. *COURT STATED ITS FINDINGS*, and *ORDERED* it is inappropriate for Mr. Razo to testify to his opinion, on whether the Defendant acted in self defense and acted in a stand your ground way, and that is something for the Jury to decide. Ms. Bluth stated Mr. Razo was in custody when he testified at the Preliminary Hearing, and in custody right before the crime occurred. Ms. Bluth stated she was referencing Mr. Razo being in custody right before the crime, since he's references that in his statement, and she State does not believe either of those are relevant. *COURT ADVISED*, if there is a Misdemeanor Domestic Violence charge, there is no relevant to bring up at all. *OUTSIDE THE PRESENCE OF THE JURY* Juror Neil White present and parties conducted Voir Dire. *COURT ADVISED* parties based upon the Voir Dire, Mr. White will be released as a juror. *JURY PRESENT* Jury Sworn. Clerk read the Information. Opening Statement by Ms. Bluth and Mr. Pike. Testimony and Exhibits presented. (See Worksheets). *OUTSIDE THE PRESENCE OF THE JURY* Mr. Afshar renewed his previous argument, adding he has reviewed NRS 6.405(5), which calls for the Jury Commissioner and her office, to track the race of every potential juror, and if by Statute, the Defense are getting jurors who are not identified, then the Statute is not being complied with. *COURT ADVISED*, the Jury Commissioner asks potential jurors to identify, and there is a difference between a juror not self identifying, which they have a right to do, and not identifying at all. *COURT FURTHER STATED*, the juror identified, she checked the other box,

CASE SUMMARY

CASE NO. C-17-327395-1

and the Court does not think its in appropriate for a person to self identify as other, and this is not a situation where the Jury Commissioner is not trying to gather the data. Mr. Pike stated there was an agreement between parties that all the State's presented exhibits 1-71 have been stipulated and admitted. COURT SO NOTED. JURY PRESENT Testimony and Exhibits presented. (See Worksheets). COURT recessed for the evening, and directed Jurors to return tomorrow, and ORDERED, matter CONTINUED. CUSTODY CONTINUED TO: 2/28/19 1:00 P.M.;

Matter Heard;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Verdict;

Journal Entry Details:

Deputy Public Defender Navid Afshar present on behalf of Defendant. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURORS Mr. Pike stated the gun used in this case, was previously miss as a gun in another homicide, however is no more. Mr. Pike additionally informed the Court the owner of the gun is the cousin of the Defendant's wife, and the Defense anticipates he will be testifying, and per the gun owners oral statement, he suggested the Defendant may have take it from him, however there has been on Petrocelli Hearing to indicate that the Defendant stole the gun. Ms. Bluth stated it is Mr. House's legally owned the gun, and his position that the Defendant was not given permission to take it, and the State would not be addressing any bad acts. PROSPECTIVE JURORS PRESENT Continued Voir Dire. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURORS Juror #20 Anthony Aguirre present and individually Voir Dire. PROSPECTIVE JURORS PRESENT Challenges for Cause placed on the record. Peremptory Challenges. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURORS Mr. Afshar argued a Batson Challenge, regarding three Jurors the State peremptory challenged. Ms. Bluth argued the cases that Mr. Afshar stated are not just towards the State. COURT STATED ITS FINDINGS, and ORDERED Batson Challenge DENIED. PROSPECTIVE JURORS PRESENT Twelve jurors and two alternates selected. COURT recessed for the evening and directed Jurors to return tomorrow, and ORDERED matter CONTINUED. CUSTODY CONTINUED TO: 2/28/19 10:30 A.M.;

Matter Heard;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Verdict;

02/26/2019

Motion (10:30 AM) (Judicial Officer: Herndon, Douglas W.)

Defendant's Motion to Preclude the State From Using Any CCDC Telephone Records in the Case in Chief or Rebuttal

Motion Granted;

02/26/2019



All Pending Motions (10:30 AM) (Judicial Officer: Herndon, Douglas W.)

Matter Heard;

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURORS DEFENDANT'S MOTION TO PRECLUDE THE STATE FROM USING ANY CCDC TELEPHONE RECORDS IN THE CASE IN CHIEF OR REBUTTAL... JURY TRIAL Deputy Public Defender Navid Afshar present on behalf of Defendant COURT ADVISED there is a pending Defense Motion to Preclude that will be ADVANCED and HEARD today. Ms. Bluth stated she did not file an Opposition, and she informed Mr. Pike she has reviewed several phone calls and there is nothing of significance, adding she reached out to Martina Rojas from LVMPD and provided a copy of the Subpoena, and requested LVMPD provide the calls to the Defense. Ms. Bluth further stated she forwarded the e-mail from Ms. Rojas that stated pursuant to NRS, it is not their process of how they provide calls. Mr. Pike stated he put a date on the subpoena for LVMPD to appear, which they did not, and he received a letter stating LVMPD would not provide the calls without a court's order. Mr. Pike stated he did the Ex-Parte Order and requested the calls from the State who informed him they will not have the calls available until this Friday. Ms. Bluth stated she

CASE SUMMARY**CASE NO. C-17-327395-1**

cannot stipulate to the motion, since if the Defendant were to say something during the trial, the State would be bound by the stipulations. COURT STATED ITS FINDINGS, and ORDERED Defendant's Motion to Preclude is GRANTED; adding the Motion pertains to any phone calls that exist prior to today, if something arises during trial, then those calls were not Discoverable beforehand. COURT ORDERED, any phone calls that occurred prior to today can not be utilized during the case, any phone calls that occur moving forward is fair game, adding the State is required to turn that information over to the Defense. Ms. Bluth stated Mitchell Johnson is outside the Courtroom, adding he is the Defendant's brother, and Drew Christensen's Office appointed Joshua Tomsheck Esq. as his counsel of record. COURT ADVISED, they did not know the witness was going to be present, therefore the Court did not notify Mr. Tomsheck. Mitchell Johnson present. COURT ADVISED Mr. Johnson that Mr. Tomsheck has been appointed as his counsel of record on this case, if either party calls on him to testify. COURT REMINDED Mr. Johnson he is still under COURT ORDER to be available to testify, adding the State will provide contact information for Mr. Tomsheck. Mr. Afshar requested Court's exhibits be marked, the race and ethnicity reports, and the census data, also the transcript of testimony from the Jury Commissioner from the Arenas trial. COURT SO ORDERED, exhibits marked. Mr. Afshar argued there is a comparative disparity between 57% and 58% from this Jury Venire. COURT ADVISED, their number was 58.4%. Mr. Afshar argued in the case of Morgan, the Supreme Court said anything over 50% is strong evidence of under representations. Mr. Afshar further argued lack of compliance with the Statute, for whatever reason, is systematic. Mr. Rogan argued the Jury poll has to be drawn from a fair cross representation of the community, and what we have present in Court's Exhibit 1, is the people who actually showed up to Court today. Mr. Rogan argued nothing informs the state whether the sources of the DMV, Nevada Energy, and the Voting rolls actually encompass a fair cross representation that would more appropriately mirror the Census Bureau statistics, which is what the parties would need in order to challenge the Jury Venire. Mr. Rogan requested the Defense's Motion be denied. COURT STATED ITS FINDINGS, and ORDERED Defendant's request to strike the Jury Venire is DENIED. Upon Court's inquiry, Ms. Bluth stated nothing has changed with regards to the offers, the State offered a Second Degree Murder with Use, and the Defense rebuttal with Voluntary Manslaughter. Ms. Simpkins confirmed the representations. PROSPECTIVE JURORS PRESENT Introductions by Court and Counsel. Clerk called roll. Voir dire commenced. Challenges for cause placed on the record. Voir dire continued. Court recessed for the evening and directed Prospective Jurors to return tomorrow. CUSTODY CONTINUED TO: 2/27/19 10:00 A.M.;

05/01/2019

**Sentencing (9:30 AM)** (Judicial Officer: Herndon, Douglas W.)

Defendant Sentenced;

Journal Entry Details:

Ms. Simpkins argued for scoring changes within the Pre-Sentence Investigation (PSI) Report that was brought to the Court's attention in the Sentence Memorandum. Ms. Simpkins argued with regards to the Present Offense Score under Sophistication / Premeditation the Defendant only received one point for this factor, and the Defense argues the Defendant should be given two points since there was no sophistication with regard to the incident here. Ms. Simpkins argued with regards to Financial Impact the Defendant received zero points due to the classification of the financial impact as excessive, and the Defense believes the Defendant should receive one point since the impact was moderate. Ms. Simpkins stated with regards to the Co-Offender the Defendant received zero points since the Department has alleged he was a leader or coerced others, and the Defense is requesting the Defendant receive one point, since he was equally responsible. Ms. Simpkins argued with regards to Motive, the Defendant received zero points since P&P believed the motive was deliberate, and the Defense is requesting the Defendant receive three points, since the Motive was situational. Ms. Simpkins stated with regards to Social History, Financial the Defendant received two points, however with all the financial evidence the Defendant should receive four points. Ms. Simpkins further stated with regards to Pre Sentence Adjustment, as to Attitude and Supervision, the Defendant received one point, however the Defense believes the Defendant should receive two points for having a positive attitude. Ms. Simpkins stated with regards to Attitude / Offense, the Defendant received one point for indifferent attitude, and the Defense believes the Defendant should receive two points for having a contrite attitude and argued for the total score to be adjusted to 42. Mr. Rogan stated some of the allegations the Defense is requesting the State cannot respond to, for example with regards to Attitude and Supervision, the State does not know how the Defendant acted since they were not present; the same argument would apply to Financial Impact, the State does not know the Defendant's finances are. Mr. Rogan argued the total PSP score of 32 is appropriate. COURT STATED ITS FINDINGS, and GRANTED the Defense Request with regards to the Financial Impact, adding the Defendant was employed and had been employed for some time, and the Defendant should receive four points; DENIED

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. C-17-327395-1

to all the other Defense Requests. COURT DIRECTED Ms. Simpkins to prepare and submit and Order. DEFENDANT MCNAIR ADJUDGED GUILTY PURSUANT TO THE JURY VERDICT of COUNT 1 - FIRST DEGREE MURDER WITH USE OF A DEADLY WEAPON (F), and COUNT 2 - CARRYING CONCEALED FIREARM OR OTHER DEADLY WEAPON (F). Arguments by Mr. Rogan. Statement by Defendant. Argument by Ms. Simpkins. COURT ORDERED, in addition to the \$25.00 Administrative Assessment Fee, \$750.00 Indigent Defense Civil Assessment Fee, \$250.00 Fine, \$5,000.00 Restitution to Victims of Crime and \$150.00 DNA Analysis Fee including testing to determine genetic markers (waived if previously collected) plus \$3.00 DNA Collection Fee, the Defendant is sentenced to the Nevada Department of Corrections as follows: COUNT 1 LIFE with the eligibility for parole after serving a MINIMUM of TWENTY (20) YEARS plus a CONSECUTIVE term of TWO HUNDRED FORTY (240) MONTHS with a MINIMUM parole eligibility of SIXTY (60) MONTHS for the Use of a Deadly Weapon, Aggregate Total is LIFE with a MINIMUM PAROLE ELIGIBILITY OF THREE HUNDRED (300) MONTHS; and COUNT 2 - a MAXIMUM of SIXTY (60) MONTHS with a MINIMUM parole eligibility of TWENTY-FOUR (24) MONTHS, CONCURRENT with COUNT 1; with FIVE HUNDRED THIRTY (530) DAYS credit for time served. BOND, if any, EXONERATED. NDC;

DATE

FINANCIAL INFORMATION

Defendant McNair, Michael

Total Charges

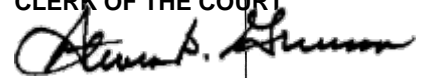
10.00

Total Payments and Credits

10.00

Balance Due as of 5/23/2019

0.00



JOCP

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

MICHAEL MCNAIR aka
Michael Deangelo McNair
#1959573

Defendant.

CASE NO. C-17-327395-1

DEPT. NO. III

JUDGMENT OF CONVICTION

(JURY TRIAL)

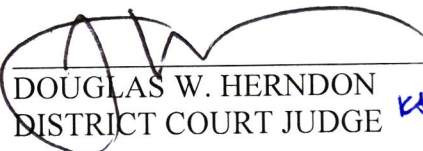
The Defendant previously entered a plea of not guilty to the crimes of COUNT 1 – MURDER WITH USE OF A DEADLY WEAPON (Category A Felony) in violation of NRS 200.010, 200.030, 193.165; and COUNT 2 – CARRYING CONCEALED FIREARM OR OTHER DEADLY WEAPON (Category C Felony) in violation of NRS 202.350(1)(d)(3); and the matter having been tried before a jury and the Defendant having been found guilty of the crimes of COUNT 1 – FIRST DEGREE MURDER WITH USE OF A DEADLY WEAPON (Category A Felony) in violation of NRS 200.010, 200.030, 193.165; and COUNT 2 – CARRYING CONCEALED FIREARM OR OTHER DEADLY WEAPON (Category C

1 Felony) in violation of NRS 202.350(1)(d)(3); thereafter, on the 1st day of May, 2019, the
2 Defendant was present in court for sentencing with counsel MELINDA SIMPKINS and
3 RANDALL PIKE, Chief Deputy Special Public Defenders, and good cause appearing,
4

5 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses and, in addition
6 to the \$25.00 Administrative Assessment Fee, \$750.00 Indigent Defense Civil Assessment Fee,
7 \$250.00 Fine, \$5,000.00 Restitution to Victims of Crime and \$150.00 DNA Analysis Fee
8 including testing to determine genetic markers (waived if previously collected) plus \$3.00 DNA
9 Collection Fee, the Defendant is sentenced to the Nevada Department of Corrections as follows:
10

11 **COUNT 1** – LIFE with the eligibility for parole after serving a MINIMUM of TWENTY (20)
12 YEARS plus a CONSECUTIVE term of TWO HUNDRED FORTY (240) MONTHS with a
13 MINIMUM parole eligibility of SIXTY (60) MONTHS for the Use of a Deadly Weapon,
14 Aggregate Total is LIFE with a MINIMUM PAROLE ELIGIBILITY OF THREE HUNDRED
15 (300) MONTHS; and **COUNT 2** - a MAXIMUM of SIXTY (60) MONTHS with a MINIMUM
16 parole eligibility of TWENTY-FOUR (24) MONTHS, CONCURRENT with COUNT 1; with
17 FIVE HUNDRED THIRTY (530) DAYS credit for time served
18

19 DATED this 1st day of May, 2019.
20

21
22 
23 DOUGLAS W. HERNDON
24 DISTRICT COURT JUDGE *lt*
25
26
27
28

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 25, 2017

C-17-327395-1 State of Nevada
 vs
 Michael McNair

October 25, 2017 10:00 AM Initial Arraignment

HEARD BY: De La Garza, Melisa

COURTROOM: RJC Lower Level Arraignment

COURT CLERK: Kristen Brown
 Christopher Darling
 Madalyn Kearney

RECORDER: Kiara Schmidt

REPORTER:

PARTIES

PRESENT:	McNair, Michael	Defendant
	Merback, William J.	Attorney
	Pike, Randall H.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- DEFT. MCNAIR ARRAIGNED, PLED NOT GUILTY, and WAIVED the 60-DAY RULE. COURT ORDERED, matter set for trial. COURT ORDERED, pursuant to Statute, Counsel has 21 days from today for the filing of any Writs; if the Preliminary Hearing Transcript has not been filed as of today, Counsel has 21 days from the filing of the Transcript.

CUSTODY (COC)

10/31/17 9:00 AM STATUS CHECK: TRIAL SETTING (DEPT 3)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****October 31, 2017**

C-17-327395-1

State of Nevada

vs

Michael McNair

October 31, 2017**8:30 AM****Status Check: Trial Setting****HEARD BY:** Herndon, Douglas W.**COURTROOM:** RJC Courtroom 16C**COURT CLERK:** Deborah Miller**RECORDER:** Sara Richardson**REPORTER:****PARTIES****PRESENT:**

Bluth, Jacqueline

Attorney

Luong, Vivian

Attorney

McNair, Michael

Defendant

Pike, Randall H.

Attorney

State of Nevada

Plaintiff

JOURNAL ENTRIES

- Mr. Pike advised case is assigned to Ms. Bluth. Matter TRAILED and RECALLED. All parties present. Mr. Pike advised defendant waived his right to a speedy trial previously. COURT ORDERED, counsel has 21 days from the receipt of copy of transcripts to file any Writs. Upon Court's inquiry, Ms. Bluth advised matter will not be going in front of the Death Review Committee. Pursuant to EDCR 1.30 and 1.31 this court ORDERS the case REASSIGNED to Department 3. Discussion regarding trial date. COURT ORDERED, matter SET for trial and Status Check.

CUSTODY (COC)

1/10/18 9:00 AM STATUS CHECK: TRIAL READINESS

7/12/18 9:00 AM CALENDAR CALL

7/23/18 10:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 09, 2018**

C-17-327395-1

State of Nevada

vs

Michael McNair

January 09, 2018**9:00 AM****Petition for Writ of Habeas
Corpus****HEARD BY:** Herndon, Douglas W.**COURTROOM:** RJC Courtroom 16C

COURT CLERK: Deborah Miller
 Lauren Kidd
 Christopher Darling
 Anntoinette Naumec-Miller
 Madalyn Kearney
 Chante Williams
 Michaela Tapia

RECORDER: Sara Richardson**REPORTER:****PARTIES**

PRESENT:	Bluth, Jacqueline	Attorney
	McNair, Michael	Defendant
	Pike, Randall H.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES**- PETITION FOR PRE-TRIAL WRIT OF HABEAS CORPUS**

Arguments by counsel. Court clarified with Mr. Pike that Defendant is not charged with conspiracy. COURT ORDERED, petition DENIED. COURT FINDS evidence is sufficient for an indictment to stand; noting the video indicates enough for a Jury to reasonably decide. Upon Court's inquiry, Ms. Bluth informed him parties will hold a file review at 2:00 p.m. Ms. Bluth stated she will review her computer for files from homicide and forward them to Mr. Pike. Mr. Pike advised he is prepared for the trial date. COURT FURTHER ORDERED, Status Check VACATED and RESET. Upon Court s

inquiry, parties indicated they are waiting on the forensics prior to any discussion relating to a negotiation.

CUSTODY

2/7/18 9:00 AM STATUS CHECK: TRIAL READINESS

February 07, 2018

Minutes Date: October 25, 2017

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 20, 2018**

C-17-327395-1 State of Nevada
vs
Michael McNair

March 20, 2018 9:00 AM All Pending Motions

HEARD BY: Herndon, Douglas W. **COURTROOM:** RJC Courtroom 16C

COURT CLERK: April Watkins

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	Bluth, Jacqueline	Attorney
	McNair, Michael	Defendant
	Pike, Randall H.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- DEFT'S MOTION FOR DISCLOSURE OF EVIDENCE AND MOTION TO HAVE THE HANDGUN THAT WAS RECOVERED TESTED FOR DNA...STATUS CHECK: TRIAL READINESS

Court noted Deft's counsel wants gun tested forensically which is being done and no report has been done yet. Ms. Bluth confirmed testing is being done on the gun. Court stated as to NCIC, not an obligation to NCIC everyone in case unless there is a scintilla of something there. Mr. Pike argued potential witness for the State identified at time of Preliminary Hearing as the actual shooter in the case. Further, counsel located witness, interviewed him and he was less then forthcoming. Additionally, counsel stated two individuals were interviewed in ELY based on information received by them looking for as to that witness. Colloquy. Mr. Pike requested LRMS be checked as to what cases he was involved in or if he has been a confidential informant. Ms. Bluth stated she has no objection looking up case as to confidential informant and working witness. COURT ORDERED, State to do LRMS check and run check on confidential informant. Mr. Pike stated if those things done, counsel is working on video to be enhanced. FURTHER ORDERED, status check CONTINUED.

CUSTODY

4/17/18 9:00 AM STATUS CHECK: TRIAL READINESS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****April 10, 2018**

C-17-327395-1

State of Nevada

vs

Michael McNair

April 10, 2018**9:00 AM****Motion****HEARD BY:** Herndon, Douglas W.**COURTROOM:** RJC Courtroom 16C**COURT CLERK:** Deborah Miller**RECORDER:** Sara Richardson**REPORTER:****PARTIES****PRESENT:**

Bluth, Jacqueline

Attorney

McNair, Michael

Defendant

Pike, Randall H.

Attorney

State of Nevada

Plaintiff

JOURNAL ENTRIES

- Mr. Pike advised matter is on calendar for Court to clarify if the District Court's order regarding bail is the same as Justice Court's order. Conference at the Bench. COURT ORDERED, bail STANDS at \$100,000 with HOUSE ARREST. Court noted that the State may be filing a bail motion and requested Ms. Bluth place on calendar with the status check. COURT FURTHER ORDERED, Status Check VACATED and RESET. Mr. Pike stated he received the LRMS items that the defense requested, noting they are still waiting on the DNA.

CUSTODY

4/18/19 9:00 AM STATUS CHECK: TRIAL READINESS...STATE'S BAIL MOTION

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 19, 2018

C-17-327395-1 State of Nevada
vs
Michael McNair

April 19, 2018

9:00 AM

All Pending Motions

HEARD BY: Herndon, Douglas W.

COURTROOM: RJC Courtroom 16C

COURT CLERK: Deborah Miller

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:

Bluth, Jacqueline
McNair, Michael
Pike, Randall H.
Rogan, Jeffrey
State of Nevada

Attorney
Defendant
Attorney
Attorney
Plaintiff

JOURNAL ENTRIES

- STATE'S MOTION TO ADDRESS BAIL...STATUS CHECK: TRIAL READINESS

COURT ORDERED, State's Motion to Increase Bail FILED IN OPEN COURT UNDER SEAL, noting motion is being filed under seal due to the nature of information included in the motion. Arguments by counsel. COURT ORDERED, motion GRANTED, bail RESET to \$250,000 with House Arrest, trial date STANDS. COURT FURTHER ORDERED, matter SET for Status Check. Mr Pike advised he is still waiting on the forensics. Ms. Bluth advised she contacted the lab.

CUSTODY

5/23/18 9:00 AM STATUS CHECK: TRIAL READINESS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 23, 2018**

C-17-327395-1

State of Nevada

vs

Michael McNair

May 23, 2018**9:30 AM****Status Check: Trial
Readiness****HEARD BY:** Herndon, Douglas W.**COURTROOM:** RJC Courtroom 16C**COURT CLERK:** Deborah Miller**RECORDER:** Sara Richardson**REPORTER:****PARTIES****PRESENT:**

McNair, Michael
Pike, Randall H.
Rogan, Jeffrey
State of Nevada

Defendant
Attorney
Attorney
Plaintiff

JOURNAL ENTRIES

- Mr. Pike advised the final forensics have come in, noting an offer of second degree murder with use, right to argue was extended and the defense countered with an offer of second with use, term of 12/30 years. Counsel stated Ms. Bluth is currently in trial, therefore, they need to discuss offer further. Upon Court's inquiry, Mr. Pike stated he is waiting to receive the video with enhancements, however, he anticipates being ready for trial. Mr. Rogan requested the defense provide a copy of the enhanced video.

CUSTODY**CONTINUED TO:** 6/20/18 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 20, 2018**

C-17-327395-1

State of Nevada

vs

Michael McNair

June 20, 2018**9:30 AM****Status Check: Trial
Readiness****HEARD BY:** Herndon, Douglas W.**COURTROOM:** RJC Courtroom 16C**COURT CLERK:** Deborah Miller**RECORDER:** Sara Richardson**REPORTER:****PARTIES****PRESENT:**McNair, Michael
Pike, Randall H.Defendant
Attorney**JOURNAL ENTRIES**

- Also present: Giancarlo Pesci, Deputy District Attorney, appearing for Jacqueline Bluth, Deputy District Attorney.

Mr. Pike noted the State offered a Second Degree Murder with Use of a Deadly Weapon, stipulated sentence of 15/40 years. The defense counter-offered with a Second Degree with Use of a Deadly Weapon, stipulated sentence of 11/28 years. Further, parties are discussing other stipulations regarding the trial. Mr. Pike noted parties anticipate being ready for trial, noting he will be filing motions relating to witnesses. Court requested counsel use the calendar call date of July 12, 2018 if he files any motions. Trial is expected to last one and one-half weeks. COURT ORDERED, calendar call date STANDS.

OR

7/12/18 9:00 AM CALENDAR CALL...ARGUMENT: MOTIONS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 12, 2018**

C-17-327395-1

State of Nevada

vs

Michael McNair

July 12, 2018**9:00 AM****All Pending Motions****HEARD BY:** Herndon, Douglas W.**COURTROOM:** RJC Courtroom 16C**COURT CLERK:** Deborah Miller
Lauren Kidd**RECORDER:** Sara Richardson**REPORTER:****PARTIES****PRESENT:**

McNair, Michael

Defendant

Pike, Randall H.

Attorney

Rogan, Jeffrey

Attorney

Simpkins, Melinda E.

Attorney

State of Nevada

Plaintiff

JOURNAL ENTRIES**- ARGUMENT: MOTIONS...CALENDAR CALL**

Court noted matter has a trial date set for July 23, 2018. Mr. Rogan advised the State is ready, however, the State has requested confirmatory testing be done on the firearm as the State just became aware of an earlier shooting that involved the same firearm used in the instant case. Defense may have further investigation depending on the results. Mr. Pike concurred, noting the two main witnesses are homeless and the defense will be requesting Material Witness warrants. COURT ORDERED, material witness WARRANTS TO ISSUE on Anthony Raza and Ryan Prost are the witnesses. Court requested parties contact the Court after the results have been obtained to inform whether or not parties will be ready. Mr. Pike noted the State extended an offer until Friday, July 13, 2018. Upon Court's inquiry, Mr. Pike noted the offer of Second Degree with Use, stipulate to 14/35 years, and State would not refer to Federal authorities.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 18, 2018

C-17-327395-1 State of Nevada
vs
Michael McNair

**July 18, 2018 9:30 AM Status Check: Trial
Readiness**

HEARD BY: Herndon, Douglas W.

COURTROOM: RJC Courtroom 16C

COURT CLERK: Deborah Miller
Kory Schlitz

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	Bluth, Jacqueline	Attorney
	McNair, Michael	Defendant
	Simpkins, Melinda E.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Ms. Simpkins requested the trial date be vacated and reset. Colloquy regarding forensic evidence testing and resetting of trial dates. COURT ORDERED, trial date VACATED and RESET; status check CONTINUED.

CUSTODY

10/24/18 9:30 A.M. STATUS CHECK: TRIAL READINESS

2/14/19 9:00 A.M. CALENDAR CALL

2/25/19 10:00 A.M. JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****October 24, 2018**

C-17-327395-1

State of Nevada

vs

Michael McNair

October 24, 2018**9:30 AM****Status Check: Trial
Readiness****HEARD BY:** Herndon, Douglas W.**COURTROOM:** RJC Courtroom 16C**COURT CLERK:** Kory Schlitz**RECORDER:** Sara Richardson**REPORTER:****PARTIES****PRESENT:**

Bluth, Jacqueline

Attorney

McNair, Michael

Defendant

Pike, Randall H.

Attorney

Rogan, Jeffrey

Attorney

Simpkins, Melinda E.

Attorney

State of Nevada

Plaintiff

JOURNAL ENTRIES

- Mr. Pike stated the weapon that was alleged to be used in this case, was not in fact used in another homicide, which had been represented at the time of the calendar call. Ms. Bluth stated the casing found in the area was attributed to that weapon, but not related to any other case. Mr. Pike indicated the State has provided Discovery, and he has provided a copy to the Defendant and everything is moving forward. Upon Court's inquiry, Mr. Pike stated there is nothing more from the ballistics aspect that could delay the trial, however they might file another Motion.

CUSTODY**CONTINUED TO:** 11/21/18 9:30 A.M.**2/14/19 9:00 A.M. CALENDAR CALL**

2/25/19 10:00 A.M. JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 05, 2018

C-17-327395-1 State of Nevada
vs
Michael McNair

**December 05, 2018 9:30 AM Status Check: Trial
Readiness**

HEARD BY: Herndon, Douglas W. **COURTROOM:** RJC Courtroom 16C

COURT CLERK: Kory Schlitz

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	Bluth, Jacqueline	Attorney
	McNair, Michael	Defendant
	Pike, Randall H.	Attorney
	Simpkins, Melinda E.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Pike indicate the State has provided a possible source of the guy, the name of the individual, adding there was a GSR swabs that were taken and not tested. Ms. Bluth confirmed the representations, there were GSR swabs that were not tested, and therefore no report to turn over. Ms. Bluth further stated parties have completed a file review and there are no issues with experts. COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 1/9/19 9:30 A.M.

2/14/19 9:00 A.M. CALENDAR CALL

2/25/19 10:00 A.M. JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 09, 2019**

C-17-327395-1

State of Nevada

vs

Michael McNair

January 09, 2019**1:00 PM****Status Check: Trial
Readiness****HEARD BY:** Herndon, Douglas W.**COURTROOM:** RJC Courtroom 16C**COURT CLERK:** Kory Schlitz**RECORDER:** Sara Richardson**REPORTER:****PARTIES****PRESENT:**

Bluth, Jacqueline

Attorney

McNair, Michael

Defendant

Simpkins, Melinda E.

Attorney

State of Nevada

Plaintiff

JOURNAL ENTRIES

- Ms. Simpkins indicated Mr. Pike is in trial and requested his appearance be waived. Ms. Simpkins announced ready to go, however at recent hearings, the State made representations that the gun involved in this case was connected to another homicide, which resulted in the Defense requesting the matter be continued. Ms. Simpkins further stated that since the continuance the State has discovered additional evidence, and Mr. Pike intends to file a written motion to preclude the State from using the evidence. Colloquy regarding offers made. Upon Court's inquiry, Ms Bluth stated parties are still negotiating and the State is ready to proceed with trial.

CUSTODY

2/14/19 9:00 A.M. CALENDAR CALL

2/25/19 10:00 A.M. JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 14, 2019**

C-17-327395-1 State of Nevada
vs
Michael McNair

February 14, 2019 9:00 AM All Pending Motions

HEARD BY: Herndon, Douglas W.**COURTROOM:** RJC Courtroom 16C

COURT CLERK: Kory Schlitz
Nylasia Packer

RECORDER: Sara Richardson**REPORTER:****PARTIES**

PRESENT:	Bluth, Jacqueline	Attorney
	Pike, Randall H.	Attorney
	Simpkins, Melinda E.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- DEFENDANT'S MCNAIR'S MOTION IN LIMINE TO INTRODUCE PRELIMINARY HEARING TESTIMONY OF ANTHONY RAZO AND KENNETH SALDANA. DEFENDANT'S MOTION TO HAVE APPOINTED COUNSEL AVAILABLE FOR MITCHELL JOHNSON IF HE IS CALLED AS A STATE'S WITNESS... CALENDAR CALL...

Mr. Pike announced ready, adding he filed a Motion to publish Preliminary Hearing testimony, and the State has located one of the witnesses's, and the Defense is still unable to locate Kenneth Saldana. Upon Court's inquiry, Ms. Bluth stated no objection to the Motion regarding witness Kenneth Saldana. Mr. Pike indicated the State agrees there should be stand by counsel for Mitchell Johnson. COURT ORDERED, Motion GRANTED, and DIRECTED the State to provide the contact information of Anthony Razo to the Defense; the Court will contact the Office of Appointed Counsel to have an attorney appear when needed on behalf of Mitchell Johnson. Mr. Pike stated he issued a Subpoena for the telephone jail calls for the Defendant, and he served that on Metro with a Court date, and no one is present to comply with the Subpoena, adding he does not have access to the phone calls. Mr. Bluth

stated it would not be an issue requesting the jail phone calls and she can provide a copy to Defense. Mr. Pike requested the calls by Wednesday February 20. COURT ADVISED if the Defense needs an order for the calls they can submit one. CONFERENCE AT BENCH. COURT ORDERED, trial date set for a Tuesday start.

CUSTODY

2/26/19 10:30 A.M. JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 26, 2019

C-17-327395-1 State of Nevada
vs
Michael McNair

February 26, 2019 10:30 AM All Pending Motions

HEARD BY: Herndon, Douglas W.

COURTROOM: RJC Courtroom 16C

COURT CLERK: Kory Schlitz

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	Bluth, Jacqueline	Attorney
	McNair, Michael	Defendant
	Pike, Randall H.	Attorney
	Rogan, Jeffrey	Attorney
	Simpkins, Melinda E.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURORS

DEFENDANT'S MOTION TO PRECLUDE THE STATE FROM USING ANY CCDC TELEPHONE RECORDS IN THE CASE IN CHIEF OR REBUTTAL... JURY TRIAL

Deputy Public Defender Navid Afshar present on behalf of Defendant

COURT ADVISED there is a pending Defense Motion to Preclude that will be ADVANCED and HEARD today. Ms. Bluth stated she did not file an Opposition, and she informed Mr. Pike she has reviewed several phone calls and there is nothing of significance, adding she reached out to Martina Rojas from LVMPD and provided a copy of the Subpoena, and requested LVMPD provide the calls to the Defense. Ms. Bluth further stated she forwarded the e-mail from Ms. Rojas that stated pursuant to NRS, it is not their process of how they provide calls. Mr. Pike stated he put a date on the subpoena

for LVMPD to appear, which they did not, and he received a letter stating LVMPD would not provide the calls without a court's order. Mr. Pike stated he did the Ex-Parte Order and requested the calls from the State who informed him they will not have the calls available until this Friday. Ms. Bluth stated she cannot stipulate to the motion, since if the Defendant were to say something during the trial, the State would be bound by the stipulations. COURT STATED ITS FINDINGS, and ORDERED Defendant's Motion to Preclude is GRANTED; adding the Motion pertains to any phone calls that exist prior to today, if something arises during trial, then those calls were not Discoverable beforehand. COURT ORDERED, any phone calls that occurred prior to today can not be utilized during the case, any phone calls that occur moving forward is fair game, adding the State is required to turn that information over to the Defense.

Ms. Bluth stated Mitchell Johnson is outside the Courtroom, adding he is the Defendant's brother, and Drew Christensen's Office appointed Joshua Tomsheck Esq. as his counsel of record. COURT ADVISED, they did not know the witness was going to be present, therefore the Court did not notify Mr. Tomsheck.

Mitchell Johnson present. COURT ADVISED Mr. Johnson that Mr. Tomsheck has been appointed as his counsel of record on this case, if either party calls on him to testify. COURT REMINDED Mr. Johnson he is still under COURT ORDER to be available to testify, adding the State will provide contact information for Mr. Tomsheck.

Mr. Afshar requested Court's exhibits be marked, the race and ethnicity reports, and the census data, also the transcript of testimony from the Jury Commissioner from the Arenas trial. COURT SO ORDERED, exhibits marked. Mr. Afshar argued there is a comparative disparity between 57% and 58% from this Jury Venire. COURT ADVISED, their number was 58.4%. Mr. Afshar argued in the case of Morgan, the Supreme Court said anything over 50% is strong evidence of under representations. Mr. Afshar further argued lack of compliance with the Statute, for whatever reason, is systematic. Mr. Rogan argued the Jury poll has to be drawn from a fair cross representation of the community, and what we have present in Court's Exhibit 1, is the people who actually showed up to Court today. Mr. Rogan argued nothing informs the state whether the sources of the DMV, Nevada Energy, and the Voting rolls actually encompass a fair cross representation that would more appropriately mirror the Census Bureau statistics, which is what the parties would need in order to challenge the Jury Venire. Mr. Rogan requested the Defense's Motion be denied. COURT STATED ITS FINDINGS, and ORDERED Defendant's request to strike the Jury Venire is DENIED.

Upon Court's inquiry, Ms. Bluth stated nothing has changed with regards to the offers, the State offered a Second Degree Murder with Use, and the Defense rebuttal with Voluntary Manslaughter. Ms. Simpkins confirmed the representations.

PROSPECTIVE JURORS PRESENT

Introductions by Court and Counsel. Clerk called roll. Voir dire commenced. Challenges for cause placed on the record. Voir dire continued.

Court recessed for the evening and directed Prospective Jurors to return tomorrow.

CUSTODY

CONTINUED TO: 2/27/19 10:00 A.M.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 27, 2019

C-17-327395-1 State of Nevada
vs
Michael McNair

February 27, 2019 10:00 AM Jury Trial

HEARD BY: Herndon, Douglas W.

COURTROOM: RJC Courtroom 16C

COURT CLERK: Kory Schlitz

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	Bluth, Jacqueline	Attorney
	McNair, Michael	Defendant
	Pike, Randall H.	Attorney
	Rogan, Jeffrey	Attorney
	Simpkins, Melinda E.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Deputy Public Defender Navid Afshar present on behalf of Defendant.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURORS

Mr. Pike stated the gun used in this case, was previously miss as a gun in another homicide, however is no more. Mr. Pike additionally informed the Court the owner of the gun is the cousin of the Defendant's wife, and the Defense anticipates he will be testifying, and per the gun owners oral statement, he suggested the Defendant may have take it from him, however there has been on Petrocelli Hearing to indicate that the Defendant stole the gun. Ms. Bluth stated it is Mr. House's legally owned the gun, and his position that the Defendant was not given permission to take it, and the State would not be addressing any bad acts.

PROSPECTIVE JURORS PRESENT

Continued Voir Dire.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURORS
Juror #20 Anthony Aguirre present and individually Voir Dire.

PROSPECTIVE JURORS PRESENT
Challenges for Cause placed on the record. Peremptory Challenges.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURORS
Mr. Afshar argued a Batson Challenge, regarding three Jurors the State peremptory challenged. Ms. Bluth argued the cases that Mr. Afshar stated are not just towards the State. COURT STATED ITS FINDINGS, and ORDERED Batson Challenge DENIED.

PROSPECTIVE JURORS PRESENT
Twelve jurors and two alternates selected.

COURT recessed for the evening and directed Jurors to return tomorrow, and ORDERED matter CONTINUED.

CUSTODY

CONTINUED TO: 2/28/19 10:30 A.M.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 28, 2019

C-17-327395-1 State of Nevada
 vs
 Michael McNair

February 28, 2019 10:30 AM Jury Trial

HEARD BY: Herndon, Douglas W.

COURTROOM: RJC Courtroom 16C

COURT CLERK: Kory Schlitz
Nylasia Packer

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	Bluth, Jacqueline	Attorney
	McNair, Michael	Defendant
	Pike, Randall H.	Attorney
	Rogan, Jeffrey	Attorney
	Simpkins, Melinda E.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Deputy Public Defender Navid Afshar present on behalf of Defendant.

OUTSIDE THE PRESENCE OF THE JURY

Ms. Bluth stated neither party has been able to locate or secure the presence of Ashley Parmley, and the State is actively looking for her to use as a witness, and her family has not heard from her either. Ms. Bluth stated the reason she is bringing this to the Court's attention, is due to Ms. Parmley sees the shooting, and describes the shooter, and also sees an individual in the 1300 block and identifies someone by the name of Alfonzo Henderson as the shooter, and does not believe this information should be appropriate in opening statements, since either party does not have a good basis of the witness. Mr. Pike stated the Defense has not be able to locate Ms. Parmley as well, and she did not testify at the Preliminary Hearing, therefore she was not a part of the Motion the Defense brought before the Court. Mr. Pike additionally stated without Ms. Parmley actually being present to testify, it

would be a hearsay statement as to what she told detectives.

Ms. Bluth pointed out the State's first witness Anthony Razo was also homeless at the time this crime was committed, and living in this area as well, adding Mr. Razo was just released from jail on misdemeanor charges, and the State does not find that relevant to this case. Ms. Bluth stated the bigger issue is that Mr. Razo will be testifying as to witnessing the argument between the Victim and the Defendant before the shooting happens, and Mr. Razo will state the Victim keeps his hands behind his back with a shiny object, which he believes is a knife, however will not the Victim never brandishes the knife. Ms. Bluth indicated Mr. Razo tells the police, this is a valid, stand your ground, and the State does not believe that is not relevant testimony, and it is only Mr. Razo's opinion. Mr. Pike stated Mr. Razo was observing conduct between the parties, and it is fair game to cross examine him on. COURT STATED ITS FINDINGS, and ORDERED it is inappropriate for Mr. Razo to testify to his opinion, on whether the Defendant acted in self defense and acted in a stand your ground way, and that is something for the Jury to decide. Ms. Bluth stated Mr. Razo was in custody when he testified at the Preliminary Hearing, and in custody right before the crime occurred. Ms. Bluth stated she was referencing Mr. Razo being in custody right before the crime, since he's references that in his statement, and she State does not believe either of those are relevant. COURT ADVISED, if there is a Misdemeanor Domestic Violence charge, there is no relevant to bring up at all.

OUTSIDE THE PRESENCE OF THE JURY

Juror Neil White present and parties conducted Voir Dire. COURT ADVISED parties based upon the Voir Dire, Mr. White will be released as a juror.

JURY PRESENT

Jury Sworn. Clerk read the Information. Opening Statement by Ms. Bluth and Mr. Pike. Testimony and Exhibits presented. (See Worksheets).

OUTSIDE THE PRESENCE OF THE JURY

Mr. Afshar renewed his previous argument, adding he has reviewed NRS 6.405(5), which calls for the Jury Commissioner and her office, to track the race of every potential juror, and if by Statute, the Defense are getting jurors who are not identified, then the Statute is not being complied with. COURT ADVISED, the Jury Commissioner asks potential jurors to identify, and there is a difference between a juror not self identifying, which they have a right to do, and not identifying at all. COURT FURTHER STATED, the juror identified, she checked the other box, and the Court does not think its in appropriate for a person to self identify as other, and this is not a situation where the Jury Commissioner is not trying to gather the data. Mr. Pike stated there was an agreement between parties that all the State's presented exhibits 1-71 have been stipulated and admitted. COURT SO NOTED.

JURY PRESENT

Testimony and Exhibits presented. (See Worksheets).

COURT recessed for the evening, and directed Jurors to return tomorrow, and ORDERED, matter

CONTINUED.

CUSTODY

CONTINUED TO: 2/28/19 1:00 P.M.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 01, 2019

C-17-327395-1 State of Nevada
vs
Michael McNair

March 01, 2019 1:00 PM Jury Trial

HEARD BY: Herndon, Douglas W.

COURTROOM: RJC Courtroom 16C

COURT CLERK: Kory Schlitz

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	Bluth, Jacqueline	Attorney
	McNair, Michael	Defendant
	Pike, Randall H.	Attorney
	Rogan, Jeffrey	Attorney
	Simpkins, Melinda E.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY

Mr. Pike indicated that parties have stipulated to State's Exhibits 72-87, and Defense Exhibits A-G.
COURT SO NOTED.

JURY PRESENT

Testimony and Exhibits presented. (See Worksheets).

OUTSIDE THE PRESENCE OF THE JURY

Mr. Pike argued Mr. Brennan's testimony should be stricken, since the State showed Mr. Brennan videos, stating this is the guy they would like the witness to identify. Ms. Simpkins argued the same thing happened with Mr. Lesh, who testified the prior day, and although the Defense did not raise a contemporaneous objection, the Defense would be requesting to include that testimony as well. Ms. Bluth stated she is unaware of any legal case that would prevent the State from showing witnesses

pictures, or videos. COURT ADVISED, they cannot address the testimony of Mr. Lesh since the Defense did not raise an objection at the time, and STATED with regards to Mr. Brennan, the witness did not identify the Defendant in open court, and there is nothing that prohibits the State from showing photographs to witnesses, and ORDERED objection OVERRULED.

JURY PRESENT

Testimony and Exhibits presented. (See Worksheets.)

OUTSIDE THE PRESENCE OF THE JURY

Colloquy regarding the Defendant's negative interactions with the homeless as testified by prior witnesses. Mr. Rogan stated Exhibit 122 contains social security numbers, and he will sit down with Mr. Pike to black them out. COURT SO NOTED.

Court recessed for the evening and directed Jurors to return Monday.

CUSTODY

CONTINUED TO: 3/4/19 10:30 A.M.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 04, 2019

C-17-327395-1 State of Nevada
vs
Michael McNair

March 04, 2019 10:30 AM Jury Trial

HEARD BY: Herndon, Douglas W. **COURTROOM:** RJC Courtroom 16C

COURT CLERK: Kory Schlitz

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	Bluth, Jacqueline	Attorney
	McNair, Michael	Defendant
	Pike, Randall H.	Attorney
	Rogan, Jeffrey	Attorney
	Simpkins, Melinda E.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- JURY PRESENT

Testimony and Exhibits presented. (See Worksheets).

OUTSIDE THE PRESENCE OF THE JURY

Mr. Rogan stated parties stipulated to Exhibits 123-125. Mr. Pike confirmed. COURT SO NOTED.

JURY PRESENT

Testimony and Exhibits continued. (See Worksheets).

OUTSIDE THE PRESENCE OF THE JURY

Matthew Lay Esq. present on behalf of witness Mitchell Johnson Mr. Rogan made a record of the last bench conference regarding State's Proposed Exhibit 126. COURT SO NOTED. Mr. Pike stated Mitchell Johnson has counsel that is appointed to represent him, based upon the fact there was an

amendment in the pleadings with an unknown individual doing the shooting, and it is the Defense's belief that the State has not made any agreement with Mr. Johnson or with his counsel that he will not be prosecuted. Ms. Bluth indicated she has made very clear to Mr. Johnson and his counsel that the State has any evidence that Mr. Johnson was involved in this crime. Upon Court's inquiry, Mr. Lay stated that was his understand and he did speak with Mr. Johnson that there is no immunity agreement. Ms. Bluth stated she has evidence that Mr. Johnson punched the Victim, however the State does not have evidence that Mr. Johnson was involved in the shooting.

JURY PRESENT

Testimony and Exhibits continued. (See Worksheets).

OUTSIDE THE PRESENCE OF THE JURY

COURT made a record of when the objection was re-raised on the State's examination of Mr. Johnson in terms of using his Statement, adding there is a difference between impeaching, and refreshing someone's recollection. Colloquy regarding witnesses, and settling of jury instructions.

Court recessed for the evening and directed Jurors to return tomorrow.

CUSTODY

CONTINUED TO: 3/5/19 1:00 P.M.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 05, 2019

C-17-327395-1 State of Nevada
vs
Michael McNair

March 05, 2019 1:00 PM Jury Trial

HEARD BY: Herndon, Douglas W.

COURTROOM: RJC Courtroom 16C

COURT CLERK: Kory Schlitz

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	Bluth, Jacqueline	Attorney
	McNair, Michael	Defendant
	Pike, Randall H.	Attorney
	Rogan, Jeffrey	Attorney
	Simpkins, Melinda E.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- JURY PRESENT

Testimony and Exhibits presented. (See Worksheets).

OUTSIDE THE PRESENCE OF THE JURY

Ms. Bluth made a record of the last objection with the Detective and why he was allowed to answer why Mitchell Johnson was not arrested.

Jury Instructions settled.

Court recessed for the evening, and directed Jurors to return tomorrow.

CUSTODY

CONTINUED TO: 3/6/19 10:30 A.M.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 06, 2019

C-17-327395-1 State of Nevada
vs
Michael McNair

March 06, 2019 10:30 AM Jury Trial

HEARD BY: Herndon, Douglas W.

COURTROOM: RJC Courtroom 16C

COURT CLERK: Kory Schlitz

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	Bluth, Jacqueline	Attorney
	McNair, Michael	Defendant
	Pike, Randall H.	Attorney
	Rogan, Jeffrey	Attorney
	Simpkins, Melinda E.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Defendant's Proposed Instructions to the Jury FILED IN OPEN COURT...

OUTSIDE THE PRESENCE OF THE JURY

Mr. Pike indicated the State has one last question they wanted to ask the Detective, and the Defense has no objection to the State proceeding and then the Defense will start it cross examination.

JURY PRESENT

Testimony and Exhibits presented. (See Worksheets). State Rests. Jonathan Kendall read in open Court the Deposition of Kenneth Saldana.

OUTSIDE THE PRESENCE OF THE JURY

COURT ADMONISHED the Defendant of his right to testify. Jury Instructions settled on the record.

JURY PRESENT

Defense Rests. Court instructed the Jury. Closing arguments by Mr. Rogan.

OUTSIDE THE PRESENCE OF THE JURY

Deputy Public Defender Navid Afshar present on behalf of Defendant. Mr. Pike made a Motion for Mistrial, arguing to indicate that the Defense is making objections, something the Defense is obligated to do, and for the State to stay they would like to kill Mr. Pike during closing arguments is unjust. Mr. Pike further argued something that could be said between counsel informally is one thing, however in front of the Jurors who are deciding whether they are going to believe the Defense, arguing the State should not have used Mr. Pike as an example. Mr. Pike further requested the Court instruct the Jury regarding the statement. Mr. Rogan argued it was not intended as spoken, and it should not have been offered, it was clearly an example, adding the Jury is not going to take it seriously. Mr. Rogan stated he will be willing to stipulate to any corrective instruction given to the Jury. COURT STATED ITS FINDINGS, and ORDERED corrective instructions will be given to the Jury, and DENIED the Defense Request for a Mistrial.

JURY PRESENT

Court instructed the Jury regarding the Objection Mr. Pike made during Mr. Rogan's closing arguments. Closing arguments by Mr. Pike and Ms. Bluth At the hour of 5:06 p.m. the Jury retired to deliberate.

OUTSIDE THE PRESENCE OF THE JURY

Mr. Pike further made a record of Mr. Rogan's comment during his closing arguments. Mr. Afshar argued even though the State did not mean what was said, this is a situation where the bell cannot be un-rung. COURT STATED ITS FINDINGS.

Court recessed for the evening and directed Jurors to return tomorrow.

CUSTODY

CONTINUED TO: 3/7/19 9:30 A.M.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 07, 2019

C-17-327395-1 State of Nevada
vs
Michael McNair

March 07, 2019 9:30 AM Jury Trial

HEARD BY: Herndon, Douglas W.

COURTROOM: RJC Courtroom 16C

COURT CLERK: Kory Schlitz
Nylasia Packer

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	Bluth, Jacqueline	Attorney
	McNair, Michael	Defendant
	Pike, Randall H.	Attorney
	Rogan, Jeffrey	Attorney
	Simpkins, Melinda E.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Stipulation and Order FILED IN OPEN COURT...

OUTSIDE THE PRESENCE OF THE JURY

Mr. Pike stated all parties have executed the Stipulation and Order, adding the Court will be handling the sentencing portion of this trial if the Verdict returns with a first degree murder. Upon Court's inquiry, Defendant confirmed he has spoken with his attorney's regarding the waiving on the penalty hearing.

JURY PRESENT

At the hour of 3:30 p.m. the Jury returned with a Verdict of GUILTY on COUNT 1 - MURDER WITH USE OF A DEADLY WEAPON (F), and COUNT 2 - CARRYING CONCEALED FIREARM OR OTHER DEADLY WEAPON (F). Jury polled. Court thanked and excused the Jury.

COURT ORDERED, matter SET for sentencing.

CUSTODY

5/1/19 9:30 A.M. SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 01, 2019**

C-17-327395-1 State of Nevada
vs
Michael McNair

May 01, 2019**9:30 AM****Sentencing****HEARD BY:** Herndon, Douglas W.**COURTROOM:** RJC Courtroom 16C**COURT CLERK:** Kory Schlitz**RECORDER:** Jill Jacoby**REPORTER:****PARTIES**

PRESENT:	McNair, Michael	Defendant
	Pike, Randall H.	Attorney
	Rogan, Jeffrey	Attorney
	Simpkins, Melinda E.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Ms. Simpkins argued for scoring changes within the Pre-Sentence Investigation (PSI) Report that was brought to the Court's attention in the Sentence Memorandum. Ms. Simpkins argued with regards to the Present Offense Score under Sophistication / Premeditation the Defendant only received one point for this factor, and the Defense argues the Defendant should be given two points since there was no sophistication with regard to the incident here. Ms. Simpkins argued with regards to Financial Impact the Defendant received zero points due to the classification of the financial impact as excessive, and the Defense believes the Defendant should receive one point since the impact was moderate. Ms. Simpkins stated with regards to the Co-Offender the Defendant received zero points since the Department has alleged he was a leader or coerced others, and the Defense is requesting the Defendant receive one point, since he was equally responsible. Ms. Simpkins argued with regards to Motive, the Defendant received zero points since P&P believed the motive was deliberate, and the Defense is requesting the Defendant receive three points, since the Motive was situational. Ms. Simpkins stated with regards to Social History, Financial the Defendant received two points, however with all the financial evidence the Defendant should receive four points. Ms. Simpkins further stated

with regards to Pre Sentence Adjustment, as to Attitude and Supervision, the Defendant received one point, however the Defense believes the Defendant should receive two points for having a positive attitude. Ms. Simpkins stated with regards to Attitude / Offense, the Defendant received one point for indifferent attitude, and the Defense believes the Defendant should receive two points for having a contrite attitude and argued for the total score to be adjusted to 42. Mr. Rogan stated some of the allegations the Defense is requesting the State cannot respond to, for example with regards to Attitude and Supervision, the State does not know how the Defendant acted since they were not present; the same argument would apply to Financial Impact, the State does not know the Defendant's finances are. Mr. Rogan argued the total PSP score of 32 is appropriate. COURT STATED ITS FINDINGS, and GRANTED the Defense Request with regards to the Financial Impact, adding the Defendant was employed and had been employed for some time, and the Defendant should receive four points; DENIED to all the other Defense Requests. COURT DIRECTED Ms. Simpkins to prepare and submit and Order.

DEFENDANT MCNAIR ADJUDGED GUILTY PURSUANT TO THE JURY VERDICT of COUNT 1 - FIRST DEGREE MURDER WITH USE OF A DEADLY WEAPON (F), and COUNT 2 - CARRYING CONCEALED FIREARM OR OTHER DEADLY WEAPON (F). Arguments by Mr. Rogan. Statement by Defendant. Argument by Ms. Simpkins. COURT ORDERED, in addition to the \$25.00 Administrative Assessment Fee, \$750.00 Indigent Defense Civil Assessment Fee, \$250.00 Fine, \$5,000.00 Restitution to Victims of Crime and \$150.00 DNA Analysis Fee including testing to determine genetic markers (waived if previously collected) plus \$3.00 DNA Collection Fee, the Defendant is sentenced to the Nevada Department of Corrections as follows: COUNT 1 LIFE with the eligibility for parole after serving a MINIMUM of TWENTY (20) YEARS plus a CONSECUTIVE term of TWO HUNDRED FORTY (240) MONTHS with a MINIMUM parole eligibility of SIXTY (60) MONTHS for the Use of a Deadly Weapon, Aggregate Total is LIFE with a MINIMUM PAROLE ELIGIBILITY OF THREE HUNDRED (300) MONTHS; and COUNT 2 - a MAXIMUM of SIXTY (60) MONTHS with a MINIMUM parole eligibility of TWENTY-FOUR (24) MONTHS, CONCURRENT with COUNT 1; with FIVE HUNDRED THIRTY (530) DAYS credit for time served. BOND, if any, EXONERATED.

NDC

EXHIBIT(S) LIST

Case No.: c-17-327395-1

Trial Date: _____

FEB 26 2019

Dept. No.: III

Judge: _____

DOUGLAS W. HERNDON

Court Clerk: _____

KORY SCHLITZ

Plaintiff: STATE OF NEVADA

Recorder: _____

SARA RICHARDSON

Counsel for Plaintiff: _____

J. Bluth &

vs.

Defendant: MICHAEL MCNAIR

Counsel for Defendant: _____

R. Pike &

M. Simpkins

TRIAL BEFORE THE COURT

STATE'S EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted
1	CD - entire video	2/28/19	Stip	2/28/19
2	Photo - Aerial View	2/28/19	Stip	2/28/19
3	Photo - Aerial View			
4	Photo - CSA			
5	Photo - Street view			
6	Photo - Sidewalk view			
7	Photo - sidewalk view			
8	Photo - Street view			
9	Photo - street orange cones			
10	Photo - street orange cone/bullet			
11	Photo - close up bullet casing			
12	Photo - street view with cones			
13	Photo - bullet casing			
14	Photo - bullet casing			
15	Photo - street bullet casings			
16	Photo - bullet casing	↓	↓	↓
17	Photo - bullet - close up	2/28/19	Stip	2/28/19

EXHIBIT(S) LIST

c-17-327395-1

STATE OF NEVADA

VS.

MICHAEL MCNAIR

STATE'S EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted
18	Photo - street bullet casing	2/28/19	Stip	2/28/19
19	Photo - top of bullet			
20	Photo - Rocks with blanket			
21	Photo - shoe & blanket			
22	Photo - bullet casing			
23	Photo - bullet on cone			
24	Photo - shoe & blanket & blood			
25	Photo - shoe, blanket & Blood			
26	Photo - bullet casing			
27	Photo - bullet on cone			
28	Photo - blanket & blood			
29	Photo - blanket & blood			
30	Photo - mat & shoe			
31	Photo - Shoe & blood drops			
32	Photo - Street view			
33	Photo - street view			
34	Photo - bullet			
35	Photo - lighter			
36	Photo - packaging			
37	Photo - packaging plant			
38	Photo - packaging plant-truck			
39	Photo - Red & Blue shirt rack			
40	Photo - green laundry basket			
41	Photo - green laundry, basket-shirt			
42	Photo - Romero - full Body.....	2/28/19	Stip	2/28/19

EXHIBIT(S) LIST

c-17-327395-1

STATE OF NEVADA

VS.

MICHAEL MCNAIR

STATE'S EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted
43	Photo Romero - Face	2/28/19	Stip	2/28/19
44	Photo - Romero - Hands - top			
45	Photo - Ramiro Romero - Hands - bot			
46	Photo - Deft - full Body			
47	Photo - Deft. Head Shot			
48	Photo - Deft. Full Body side			
49	Photo - Deft. full Body/Hands			
50	Photo - Deft. Hands			
51	Photo - Parking lot			
52	Photo - Black truck			
53	Photo - Black truck			
54	Photo - NV Registration			
55	Photo - Plant / Ladder			
56	Photo - Plant / Ladder			
57	Photo - Plant - boxes			
58	Photo - Desk			
59	Photo - Red backpack			
60	Photo - Red backpack (opened)			
61	Photo - Glock handgun			
62	Photo - Glock handgun/mag/bullets			
63	Photo - Glock - loaded			
64	Photo - Street view (daylight)			
65	Photo - Street view (daylight)			
66	Photo - Sidewalk view (daylight)	✓	✓	✓
67	Photo - Sidewalk view - shove + rake	2/28/19	Stip	2/28/19

EXHIBIT(S) LIST

c-17-327395-1

STATE OF NEVADA

VS.

MICHAEL MCNAIR

STATE'S EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted
68	Photo - bullet in rocks	2/28/19	Stip	2/28/19
69	Photo - bullet	↓	↓	↓
70	Photo - Deft. work shirt	↓	↓	↓
71	Photo - Deft. keys.	2/28/19	Stip	2/28/19
72	Photo	3/1/19	Stip	3/1/19
73	Photo - green lockers + hallway	↓	↓	↓
74	Photo	↓	↓	↓
75	Photo - green lockers	↓	↓	↓
76	Photo - contents inside green locker	↓	↓	↓
77	Photo - magazine front cover	↓	↓	↓
78	Photo - magazine address	↓	↓	↓
79	Photo - evidence Bag w/bullets	↓	↓	↓
80	Photo	↓	↓	↓
81	Photo - gun Serial #	↓	↓	↓
82	Photo - glock magazine	↓	↓	↓
83	Photo - bullet head	↓	↓	↓
84	Photo	↓	↓	↓
85	Photo	↓	↓	↓
86	Photo	↓	↓	↓
87	Photo	3/1/19	Stip	3/1/19
88	Autopsy Photo	3/5/19	Stip	3/5/19
89	Autopsy Photo	↓	↓	↓
90	Autopsy Photo	↓	↓	↓
91	Autopsy Photo	↓	↓	↓
92	Autopsy Photo	3/5/19	Stip	3/5/19

EXHIBIT(S) LIST

c-17-327395-1

STATE OF NEVADA

VS.

MICHAEL MCNAIR

STATE'S EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted
93	Autopsy Photo	3/5/19	stip	3/5/19
94	Autopsy Photo	↓	↓	↓
95	Autopsy Photo	3/5/19	stip	3/5/19
96	Autopsy Photo - withdrawn			
97	Autopsy Photo	3/5/19	stip	3/5/19
98	Autopsy Photo	↓	↓	↓
99	Autopsy Photo	↓	↓	↓
100	Autopsy Photo	↓	↓	↓
101	Autopsy Photo	↓	↓	↓
102	Autopsy Photo	↓	↓	↓
103	Autopsy Photo	↓	↓	↓
104	Autopsy Photo	↓	↓	↓
105	Autopsy Photo	↓	↓	↓
106	Autopsy Photo	↓	↓	↓
107	Autopsy Photo	↓	↓	↓
108	Autopsy Photo	↓	↓	↓
109	Autopsy Photo	↓	↓	↓
110	Autopsy Photo	↓	↓	↓
111	Autopsy Photo	↓	↓	↓
112	Autopsy Photo	↓	↓	↓
113	Autopsy Photo	3/5/19	stip	3/5/19
114	Autopsy Photo withdrawn			
115	Autopsy Photo	3/5/19	stip	3/5/19
116	Autopsy Photo	3/5/19	stip	3/5/19
117	Autopsy Photo withdrawn			

EXHIBIT(S) LIST

c-17-327395-1

STATE OF NEVADA

VS.

MICHAEL MCNAIR

STATE'S EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted
118	Autopsy Photo	3/5/19	stip	3/5/19
119	Autopsy Photo	↓	↓	↓
120	Autopsy Photo	3/5/19	stip	3/5/19
121	Floor Plan with highlighter	3/1/19	Stip	3/1/19
122	Employee Incident Report	3/1/19	no	3/1/19
123	Photo - Red Shirt "Joe"	3/4/19	no	3/4/19
124	Photo - Red Shirt "golden wheat"	3/4/19	no	3/4/19
125	CD- Romero Comp	3/4/19	no	3/4/19
126	Surreptitious Recording	3/4/19	yes	—
127	McNair Comp Video- CD	3/5/19	stip	3/5/19
128	McNair original video - CD	3/5/19	stip	3/5/19
129	CD's (14 total)	3/6/19	stip	3/6/19
130				
131				
132				
133				
134				
135				
136				
137				
138				
139				
140				
141				
142				

EXHIBIT(S) LIST

Case No.: **C-17-327395-1**

Trial Date:

FEB 26 2019

Dept. No.: **III**

Judge:

DOUGLAS W. HERNDON

Court Clerk:

KORY SCHLITZ

Plaintiff: **STATE OF NEVADA**

Recorder:

SARA RICHARDSON

Counsel for Plaintiff:

J. Bluth +

vs.

Defendant: **MICHAEL MCNAIR**

Counsel for Defendant:

**R. Pike +
M. Simpkins**

TRIAL BEFORE THE COURT

DEFENDANT'S EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted
A	gun with magazine clip/bullets	3/1/19	stip	3/1/19
B	Red backpack with gun	↓	↓	↓
C	Spoon & Black Box	↓	↓	↓
D	Contents from Red Backpack	↓	↓	↓
E	DNA Swabs - gun	↓	↓	↓
F	DNA Swabs - gun	↓	↓	↓
G	Picture of Mitchell Johnson	3/1/19	Stip	3/1/19
H	Golden Wheat Claim	3/1/19	no	3/1/19
I	Notice of Claim Acceptance	3/1/19	no	3/1/19

EXHIBIT(S) LIST

Case No.: **C-17-327395-1**

Trial Date:

FEB 26 2019

Dept. No.: **III**

Judge:

DOUGLAS W. HERNDON

Court Clerk:

KORY SCHLITZ

Plaintiff: **STATE OF NEVADA**

Recorder:

SARA RICHARDSON

Counsel for Plaintiff:

J. Bluth &

vs.

Defendant: **MICHAEL MCNAIR**

Counsel for Defendant:

R. Pike &

M. Simpkins

TRIAL BEFORE THE COURT

COURT'S EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted
1	Race & Ethnicity Report	2/26/19		
2	Transcript from C-293029	2/26/19		
3	2018 Census Stats	2/26/19		
4	Peremptory Challenges/Jury List	2/27/19		
5	Juror Question	2/28/19		
6	Juror Question	2/28/19		
7	Juror Question	2/28/19		
8	Juror Question	2/28/19		
9	Juror Question	3/1/19		
10	Juror Question	3/1/19		
11	Juror Question	3/1/19		
12	Juror Question	3/1/19		
13	Juror Question	3/1/19		
14	Juror Question	3/1/19		
15	Juror Question	3/1/19		
16	Juror Question	3/4/19		
17	Juror Question	3/4/19		

COURT'S EXHIBITS

[illegible]

Amended EXHIBIT(S) LIST

Case No.: C-17-327395-1

Trial Date: FEB 26 2019

Dept. No.: III

Judge: DOUGLAS W. HERNDON

Court Clerk: KORY SCHLITZ

Plaintiff: STATE OF NEVADA

Recorder: SARA RICHARDSON

Counsel for Plaintiff: J. Bluth &

vs.

Defendant: MICHAEL MCNAIR

J. Rogan

Counsel for Defendant: R. Pike &

M. Simpkins

TRIAL BEFORE THE COURT

COURT'S EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted
1	Race + Ethnicity Report	2/26/19	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2	Transcript from C-293029	2/26/19	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
3	2018 Census Stats	2/26/19	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
4	Peremptory Challenges/Jury List	2/27/19	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
5	Juror Question	2/28/19	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
6	Juror Question	2/28/19	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
7	Juror Question	2/28/19	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
8	Juror Question	2/28/19	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
9	Juror Question	3/1/19	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
10	Juror Question	3/1/19	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
11	Juror Question	3/1/19	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
12	Juror Question	3/1/19	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
13	Juror Question	3/1/19	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
14	Juror Question	3/1/19	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
15	Juror Question	3/1/19	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
16	Juror Question	3/4/19	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
17	Juror Question	3/4/19	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

EXHIBIT(S) LIST

c-17-327395-1

STATE OF NEVADA

vs.

MICHAEL MCNAIR

COURT'S EXHIBITS

[illegible]

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; REQUEST FOR
TRANSCRIPT OF PROCEEDINGS; REQUEST FOR TRANSCRIPT OF PROCEEDINGS; REQUEST
FOR TRANSCRIPT OF PROCEEDINGS; DISTRICT COURT DOCKET ENTRIES; JUDGMENT OF
CONVICTION (JURY TRIAL); DISTRICT COURT MINUTES; EXHIBITS LIST

STATE OF NEVADA,

Plaintiff(s),

vs.

MICHAEL MCNAIR
aka MICHAEL DEANGELO MCNAIR,

Defendant(s).

Case No: C-17-327395-1

Dept No: III

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 23 day of May 2019.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk