

IN THE SUPREME COURT OF THE STATE OF NEVADA

RAMON DORADO,
Appellant,

v.

THE STATE OF NEVADA,
Respondent.

Electronically Filed
Apr 13 2020 08:36 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

Case No. 79559

RESPONDENT'S APPENDIX
Volume 1

MICHAEL LASHER, ESQ.
Nevada Bar #013805
827 Kenny Way
Las Vegas, Nevada 89107
(510) 507-2869

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
Regional Justice Center
200 Lewis Avenue
Post Office Box 552212
Las Vegas, Nevada 89155-2212
(702) 671-2500
State of Nevada

AARON D. FORD
Nevada Attorney General
Nevada Bar # 007704
100 North Carson Street
Carson City, Nevada 89701-4717
(775) 684-1265

Counsel for Appellant

Counsel for Respondent

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CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on 13th day of April, 2020. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

AARON D. FORD
Nevada Attorney General

MICHAEL LASHER, ESQ.
Counsel for Appellant

KAREN MISHLER
Deputy District Attorney

/s/ J. Garcia

Employee, Clark County
District Attorney's Office

KM/Syler Sullivan/jg

ORIGINAL

1 IND

2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 JACOB VILLANI
6 Chief Deputy District Attorney
7 Nevada Bar #011732
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

APR 27 2017

BY 
DULCE MARIE ROMEA, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 RAMON MURIL DORADO,
13 #1673321

14 Defendant.

CASE NO: C-17-323098-1

DEPT NO: II

INDICTMENT

15 STATE OF NEVADA }
16 COUNTY OF CLARK } ss.

17 The Defendant above named, RAMON MURIL DORADO, accused by the Clark
18 County Grand Jury of the crime(s) of SEXUAL ASSAULT (Category A Felony - NRS
19 200.364, 200.366 - NOC 50095), committed at and within the County of Clark, State of
20 Nevada, on or about the 24th day of April, 1999, as follows:

21 COUNT 1

22 did then and there willfully, unlawfully, and feloniously sexually assault and subject
23 M.L., a female person, to sexual penetration, to-wit: cunnilingus: by placing his mouth and/or
24 tongue on or in the genital opening of the said M.L., against her will, or under conditions in
25 which Defendant knew, or should have known, that M.L. was mentally or physically incapable
26 of resisting or understanding the nature of Defendant's conduct.

27 ///

28 ///

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IND
Indictment
4646270



1 COUNT 2

2 did then and there willfully, unlawfully, and feloniously sexually assault and subject
3 M.L., a female person, to sexual penetration, to-wit: sexual intercourse: by placing his penis
4 into the genital opening of the said M.L., against her will, or under conditions in which
5 Defendant knew, or should have known, that M.L. was mentally or physically incapable of
6 resisting or understanding the nature of Defendant's conduct.


7 COUNT 3

8 did then and there willfully, unlawfully, and feloniously sexually assault and subject
9 M.L., a female person, to sexual penetration, to-wit: digital penetration: by placing his finger
10 into the genital opening of the said M.L., against her will, or under conditions in which
11 Defendant knew, or should have known, that M.L. was mentally or physically incapable of
12 resisting or understanding the nature of Defendant's conduct.

13 DATED this 26 day of April, 2017.

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

17 BY

18 
JACOB VILLANI
19 Chief Deputy District Attorney
20 Nevada Bar #011732

21
22 ENDORSEMENT: A True Bill

23
24 
25 Foreperson, Clark County Grand Jury

1 Names of Witnesses and testifying before the Grand Jury:

2 M.L., c/o CCDA, 200 Lewis Avenue, LV, NV 89101

3
4 Additional Witnesses known to the District Attorney at time of filing the Indictment:

5 CODY, LORA, LVMPD# 7294

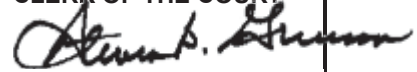
6 CUSTODIAN OF RECORDS, CCDC

7 CUSTODIAN OF RECORDS, LVMPD COMMUNICATIONS

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9 HNATUICK, MICHAEL, LVMPD# 3582

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(TK8)



0205
PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
VIOLET R. RADOSTA, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 5747
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
radostvr@co.clark.nv.us
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)	
)	
Plaintiff,	)	CASE NO. C-17-323098-1
)	
v.	)	DEPT. NO. II
)	
RAMON MURIL DORADO,)	
	)	DATE: June 2017
Defendant,	)	TIME: 9:00 a.m.

MOTION FOR OWN RECOGNIZANCE RELEASE

COMES NOW, the Defendant, RAMON MURIL DORADO, by and through his attorney, VIOLET R. RADOSTA, Deputy Public Defender, and moves this Honorable Court for an order releasing the Defendant from custody on his own recognizance.

This Motion is based upon the attached Declaration of Counsel, any documents attached hereto, argument of Counsel and any information provided to the Court at the time set for hearing this motion.

DATED this 12th of June, 2017.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: /s/ Violet R Radosta
VIOLET R. RADOSTA, #5747
Deputy Public Defender

DECLARATION

VIOLET R. RADOSTA makes the following declaration:

1. That I am an attorney duly licensed to practice law in the State of Nevada; that I am the Deputy Public Defender assigned to represent the Defendant in the instant matter, and that I am familiar with the facts and circumstances of this case.

2. Mr. Ramon Dorado is currently charged by way of an indictment with 3 counts of Sexual Assault. **The violation date is April 24, 1999.**

3. The arrest warrant on this case was issued on November 22, 2016 more than 17 years after the initial accusation was made. Per the declaration of arrest warrant, alleged victim, M.L., reported that she had been the victim of a sexual assault on April 24, 1999. She stated that the alleged assault occurred less than 12 hours earlier. She was interviewed by LVMPD detectives and submitted to a medical exam on April 24, 1999. During that medical exam, swabs containing possible DNA were taken and stored in the SANE kit.

4. During her statement, M.L. specifically told LVMPD officers the address of the alleged assault, 2101 Sunrise. She also identified the downstairs right hand apartment as the specific location of the alleged assault.

5. M.L. stated that she was acquainted with the alleged assailant through her friend Candy and that she had met "Raymond" at the Silver Saddle bar earlier that day around 1 or 2 am. She and her friend Candy had gone to Silver Saddle to drink and dance. A group of people, including M.L. and a man she has since identified as Mr. Dorado, decided to leave the Silver Saddle and go to a different bar around 7am. M.L. and the man she has identified as Ramon Dorado got in her car to drive to the other bar. Instead of going to the other bar, M.L. drove with the man to his apartment. M.L. accompanied the man inside the apartment where there was at least one other person making breakfast. M.L. and the man ended up in one of the bedrooms where the alleged sexual assault occurred.

6. After the alleged assault, M.L. left the apartment and called 911 per the declaration of arrest. Patrol officers responded to her location, took a preliminary report and then transported her to University Medical Center for a medical exam. Las Vegas Metropolitan

1 Police Detectives responded to UMC and interviewed M.L. regarding her allegations. She also
2 underwent a sexual assault examination at UMC.

3 7. After her statement and medical exam on April 24, 1999, LMVPD
4 detectives did no further investigation on the case until October 27, 2015 when swabs in M.L.'s
5 SANE kit were removed and tested. On December 23, 2015, there was a CODIS hit on the
6 swabs for Mr. Dorado.

7 8. Based on the CODIS hit, LVMPD detectives obtained a search warrant for
8 a buccal swab of Mr. Dorado in an effort to confirm the CODIS information. At that point in his
9 life, Mr. Dorado was on parole with the State of Nevada. Per his release, Mr. Dorado was
10 residing at a halfway house in Winnemucca, NV, which is where LVMPD detectives found him
11 in January 2016. Based on the search warrant, a buccal swab was taken from Mr. Dorado. Per
12 the declaration of warrant, the buccal swab was immediately impounded and submitted to the
13 LVMPD DNA lab for comparison. Despite the age of the allegations, the DNA comparison was
14 not completed until November 17, 2016. A warrant of arrest was requested on November 22,
15 2016. At that point, Mr. Dorado was still on parole with the State of Nevada. He was checking
16 in with his Nevada parole officer, Sgt. Waters, every month and was keeping his Las Vegas
17 address updated. Detectives made no apparent effort to locate Mr. Dorado once the warrant of
18 arrest was issued.

19 9. Mr. Dorado was arrested on for these charges on April 17, 2017 after
20 being transported to Clark County Detention Center from the Northern Nevada Correctional
21 Center. On February 16, 2017, Mr. Dorado had been taken into custody for a potential parole
22 violation (which was subsequently dismissed). The basis of the potential parole violation was
23 the allegations contained in this case, despite the obvious timing issue of the alleged crime
24 predating his grant of parole by approximately 17 years. For the Court's information, Mr.
25 Dorado had been released on parole from the Nevada Department of Corrections in late 2015.

26 10. Mr. Dorado has been supervised by the State of Nevada Department of
27 Parole & Probation during the entirety of time the DNA has been in the process of being tested
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1 both by CODIS and by the LVMPD DNA lab. When the buccal swabs were taken from him in
2 January 2016 he was on parole. At that point, Mr. Dorado was aware that there was the
3 possibility of 'new' charges being investigated involving him. Despite this knowledge, Mr.
4 Dorado moved to Las Vegas when he was released from the halfway house in Winnemucca, NV.
5 He obtained his commercial driver's license and found employment in Las Vegas. He did not
6 flee the jurisdiction and had LVMPD simply called his parole officer, he was very easy to find
7 since he was living at his approved address on file with Nevada Parole and Probation. He was
8 completing his parole requirements, checking in monthly with his parole officer, working full
9 time and caring for his aging mother.

10 11. At the time of his arrest for the parole violation in February 2017, he was
11 residing with his mother in Las Vegas. His address was 1109 Plantation Court, #D, Las Vegas,
12 89117. His mother's name is Virginia Dorado. His mother is over 70 years old and he was her
13 main caretaker. She suffers from various health conditions, including high blood pressure and
14 heart problems. Additionally, Ms. Dorado is suffering from dementia. The family believed that
15 Ms. Dorado would be better cared for if Mr. Dorado lived with her. Since his arrest, other family
16 members are checking in with her multiple times a day to make sure she is alright. The family
17 does not have the money for home health care or a nursing home. Mr. Dorado's removal from
18 the family has placed a burden on his mother, his sisters, his nieces and nephews and his
19 children. Everyone's life has been affected by his arrest and continued remand.

20 12. Mr. Dorado first moved to Las Vegas in 1998 and permanently moved
21 here in 2003. In addition to his mother, whom he lives with and helps support, Mr. Dorado has
22 many other family members living here in Las Vegas, including his 2 sisters, Blanca Muric and
23 Lorena Muric and their children. Mr. Dorado's adult children, Ruby and Ramon, also live
24 locally in Las Vegas.

25 13. Prior to his arrest, while on parole, Mr. Dorado obtained his commercial
26 driver's license and was working as a truck driver with EnviroTech Drilling. He was given
27 permission by his parole officer to accept assignments driving anywhere in the country. He
28

1 obtained his commercial driver's license after being released on parole in January 2016. Upon
2 receiving his CDL, he found a job quickly and had been working for approximately 8-9 months
3 with the same company at the time of his arrest on the charges in this case/parole violation.
4 Obviously, the arrest on these charges and the extended period of remand has caused him to lose
5 his job with EnvironTech Drilling, but Mr. Dorado has the ability to find another job due to his
6 commercial driver's license. Should the Court order it, he would agree to only accept a job that
7 required him to drive locally.

8 14. He was successfully completing parole at the time of his arrest for these
9 charges, which shows the Court that he is a responsible person and an individual who can and
10 will follow through with the orders of the Court. He has since been granted an HONORABLE
11 DISCHARGE from the State of Nevada Department of Parole and Probation.

12 15. Finally, Mr. Dorado is uniquely able to assist in his defense if he is
13 released from custody. This is a case that is 17 years old. Las Vegas Metropolitan Police, for
14 whatever reason, did not investigate this case after M.L. made her initial allegations. M.L. told
15 detectives on April 24, 1999 that she would be able to identify the person that assaulted her and
16 that she wanted to press charges. No investigation occurred in spite of the potential information
17 and evidence that could and should have been followed up on. Examples include going to the
18 apartment M.L. identified as the location of the crime and speaking with whomever lived there,
19 taking photos of the alleged crime scene or going to the Silver Saddle and impounding any video
20 from the NIGHT BEFORE that may have supported her version of the events or may have
21 proved to be exculpatory. The lack of investigation at the time of the allegation puts the
22 defense in an extremely vulnerable position for trial. Some of the official Metro information
23 wasn't even preserved such as the original 911 call. Investigation by the defense is particularly
24 important in this case due to the lack of investigation by LVMPD at the time of M.L.'s
25 allegations.

26 16. Mr. Dorado believes that he will be able to locate potential witnesses that
27 will aid in his defense in a way that the Office of the Public Defender may not be able to in light
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1 of the ever-changing immigration laws in the United States. It is worth noting that potential
2 witnesses may be scared to speak with anyone from an official agency, even the Public
3 Defender's Office, if they are in this country illegally. If, however, Mr. Dorado made the first
4 contact with them and explained why he needed them to speak with counsel's investigator, it
5 would be a more successful investigation. Additionally, given the age of the case, many of the
6 defense's potential witnesses most likely have moved from the homes they lived at in 1999.
7 Some of the potential witnesses were people Mr. Dorado knew, but he knew them by nicknames
8 or even possibly fake names. While this may prove difficult to initially locate these individuals,
9 if Mr. Dorado is aiding in the search for these people, the defense believes he will be incredibly
10 helpful.

11 17. Plain and simple, this is a situation created by the lack of investigation at
12 the time of the allegations. Had Metro simply done a minimal investigation, some of these
13 potential witnesses would be identified in the reports written by the Detectives. Instead, the
14 defense is faced with the awesome task of locating people and potential witnesses stemming
15 from an allegation that is more than 17 years old. To compound the difficulty, some of these
16 individuals may not trust anyone from a governmental agency regardless of their immigration
17 status in this country. Even people here legally may have family and friends where are not
18 legally in this country. Should Mr. Dorado be released from custody, he would be able to assure
19 potential witnesses of the nature of the investigation. Mr. Dorado should not be prevented from
20 assisting and aiding in his defense due solely to his indigent status.

21 18. Mr. Dorado is currently represented by the Clark County Public
22 Defender's office and **his bail is currently set at \$250,000** for an allegation from almost 18
23 years ago. He is indigent and cannot make any amount of bail.

24 19. Mr. Dorado would be amenable to an order from the Court to stay away
25 from the alleged victim, M.L., should the Court grant his own recognizance release.
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1 I declare under penalty of perjury that the foregoing is true and correct. (NRS
2 53.045).

3 EXECUTED this 12th day of June, 2017.

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6 /s/ Violet R Radosta
7 VIOLET R. RADOSTA
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NOTICE OF MOTION

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the foregoing Motion For Own Recognizance
Release will be heard on June **15** 2017, at 9:00 am in District Court Department II.

DATED this 12th day of June, 2017.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: /s/ Violet R Radosta
VIOLET R. RADOSTA, #5747
Deputy Public Defender

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of the above and foregoing was served via electronic
e-filing to the Clark County District Attorney's Office on the 12th day of June, 2017 by
Electronic Filing to:

District Attorneys Office
E-Mail Address:
Jaclyn.Motl@clarkcountyda.com

/s/ Anita H Harrold
Secretary for the Public Defender's Office

Felony/Gross Misdemeanor

COURT MINUTES

June 15, 2017

C-17-323098-1 State of Nevada
 vs
 Ramon Dorado

June 15, 2017 09:00 AM Defendant's Motion For Own Recognizance Release

HEARD BY: Scotti, Richard F. COURTROOM: RJC Courtroom 11D

COURT CLERK: Landwehr, Shelly

RECORDER: Easley, Dalyné

REPORTER:

PARTIES PRESENT:

Jacob J. Villani Attorney for Plaintiff

Violet R Radosta Attorney for Defendant

Ramon Muril Dorado Defendant

State of Nevada Plaintiff

JOURNAL ENTRIES

Court noted it did not receive an opposition from the State. Parties argued and submitted. Court stated its findings and ORDERED, motion DENIED. Statement by defendant. Court stated Ms. Radosta can get an investigator and talk to defendant. Upon request by Ms. Radosta, COURT FURTHER GRANTED Ms. Radosta's request for a transcript of this hearing.

CUSTODY

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THE STATE OF NEVADA,	}	CASE #: C323098-1
		DEPT. XI
Plaintiff,		
vs.		
RAMON MURIL DORADO,		
Defendant.	}	

DEFENDANT'S MOTION FOR OWN RECOGNIZANCE RELEASE

For the State: JACOB VILLANI, ESQ.
Chief Deputy District Attorney

VIOLET R. RADOSTA,
Deputy Public Defender

Case Number: C-17-323098-1

1 THURSDAY, JUNE 15, 2017; 9:42 A.M.

2
3 THE COURT: State versus Ramon Dorado, case C323098, motion for OR
4 release. And I think I have briefing on that.

5 MS. RADOSTA: I haven't received an opposition from the State.

6 MR. VILLANI: No Your Honor, I'd ask to respond orally pursuant to 3.20.

7 THE COURT: The Court will grant that. Does the defense want to go
8 first in any event?

9 MS. RADOSTA: Well Judge, I think I've laid it out fairly extensively in my
10 motion for an OR release. This is a situation where our violation date is
11 exceedingly old, which is the standard on these types of cases. As we all
12 know, the State is now moving forward and testing a lot of the old sex assault
13 kits so this is not unusual, but in this particular case we do have a situation
14 where my client has been someone who has not demonstrated in any way,
15 shape or form that he would be someone who would flee.

16 He was on parole at the time that they came and took the buccal
17 swab from him, which would certainly alert him to the fact that something was
18 up, that's not a normal operating procedure. And once that was completed and
19 he was released on parole he just moved down here to Las Vegas and started
20 living his life. He had been at a half-way house on supervised release and then
21 when that was completed he just came down to Las Vegas and started living
22 here supporting his mother who is in her seventies and he was her sole means
23 of -- but physical support. He was living with her and helping to care for her.
24 There is other family here locally that is able to check up on her but no one else
25 who's able to stay with her on a daily basis the way he was.

1 This is a situation Judge, where beyond all of that I think I did lay it
2 out fairly extensively in my motion that this is because of the length of time
3 since the allegation was made my client is uniquely able to help in the
4 investigation of this particular case. The detectives at the time really didn't do
5 much beyond speak to the alleged victim and have her do a medical exam.
6 They didn't follow up with any of the details in her story, they didn't go check
7 for witnesses; there were supposedly other people inside the apartment at the
8 time of the alleged assault. At this point, it's eighteen, nineteen years later and
9 it's not like I can just go knock on that door and find those same people. It's
10 not that situation at all.

11 So, additionally with the facts that this is not exactly a world
12 anymore where people who are here in this country illegally might be all that
13 willing to speak to people from any governmental agency, even from the public
14 defender's office, all that willingly. And, so Mr. Dorado believes that he will be
15 able to be incredibly helpful in finding potential witnesses and convincing them
16 that this is on the up and up, that we are not ICE, we are not, you know,
17 immigration services; we are with the public defender's office, we are who we
18 say we are and that then they would be much more willing to help us in the
19 investigation and potential defense of this case.

20 Without his help Judge, I'm really like -- I almost have my hands
21 tied in the ability to actually investigate this case. No names were obtained
22 from the alleged victim of anybody else, any eyewitnesses, anything; and she
23 mentioned several people. Even her friend Candy, a.k.a. Maria, no last name
24 was given at that point in time. I don't know who that person is at all. These
25 are things that put us in a very unique scenario for asking for an OR in this

1 particular case.

2 I think Mr. Dorado, despite the fact that he has a prior criminal
3 record and we can't deny that, but there's nothing in his criminal record that
4 demonstrates that he would be a flight risk, which is part of what the Court is
5 supposed to be looking at when making a determination about whether or not
6 someone is entitled to an OR release. I'm not asking for bail on this particular
7 case Judge, because the plain and simple truth is Mr. Dorado is indigent and
8 could not make any amount of bail.

9 And I'll submit it with that, Your Honor.

10 THE COURT: Alright, let me hear from the State.

11 MR. VILLANI: Thank you, Your Honor. And I'm gonna address two
12 prongs with Your Honor, one, his danger to the community; and the second, his
13 actually being a flight risk.

14 Mr. Dorado has an extensive criminal history. Seven prior felonies
15 is what we're looking at here; I believe two gross misdemeanors on top of that.
16 In addition, his criminal record dates back to 1997 where he started with two
17 battery domestic violences.

18 This case does date back to 1999. This is a result of the SAKI
19 Sexual Assault Kit Initiative funding that we're getting from the Feds to retest
20 all the rape kits.

21 THE COURT: So why did you actually need to wait until you tested? I
22 thought the victim here ID'd the Defendant and the whereabouts of the
23 Defendant was known? Why did you need to wait like eighteen years?

24 MR. VILLANI: Well, she -- so she knew him as like Ray the band member.
25 She didn't know a whole lot about him. And I can't speak to what investigation

1 was done back then. What I can tell Your Honor is I'm doing a lot of these
2 cases and what I'm coming to find is quite frankly, sexual assault just wasn't
3 taken as seriously by detectives back then. It just wasn't, it just wasn't. And
4 that's not the victim's fault it's the detective's fault, quite frankly. And, so I
5 can't speak as to what was done on them. I'm finding a lot of these cases
6 where there's just plain lack of investigation at the time.

7 But what we're looking at here Your Honor is somebody with seven
8 prior felonies who's asking Your Honor now for an OR when he's facing a life
9 sentence.

10 In addition to that, he is a bit of a celebrity. He was on season four
11 episode seven of *Hard Time, Gangs Behind Bars* where he claimed to be a
12 veteran Paisas gang member. Now, what's interesting about that episode is it
13 follows him around to kind of his various escapes in the jail. It also follows him
14 to the phones where he tries to get a bail bondsmen to make a three-way call,
15 which is a violation of jail rules. But most interesting, at the end, so the
16 episode follows him and he's arrested three times while the cameras are there,
17 this goes to flight risk, so.

18 MS. RADOSTA: And I -- could we have a timeframe as to when --

19 MR. VILLANI: Sure, 2011.

20 MS. RADOSTA: Okay.

21 MR. VILLANI: So, his record starts in 2011 with July 19th where he was
22 arrested for possession --

23 THE COURT: That's his first felony?

24 MR. VILLANI: No, no, no. His first felony dates back to, let's see,
25 February of 2003 where he is arrested for attempt murder, resisting public

1 officer, kidnapping, child endangerment. We're moving forward. When that
2 episode is filmed in 2011 when he was in on a possession of stolen vehicle he
3 was given probation on that case. While he was out on probation he
4 committed a burglary which got him put back in jail. Now, while he's in jail on
5 that burglary he actually gets OR'd from that burglary and tries to commit
6 suicide by cop, which is what he runs down for the cameras. When the cops
7 tried to take him into custody for the second -- or the grand larceny auto that
8 he picked up while he was out on that OR release he says, I tried to get them to
9 kill me. I was in handcuffs, I slipped the handcuffs, I ran away from them, I did
10 everything I can to get that cop to shoot me and he didn't shoot me. This goes
11 to his flight risk and his danger to the community.

12 This is a man who has shown this Court since the condition of this
13 offense, he's picked up seven prior felony -- or, seven felonies since the
14 commission. He's shown he's going to be a danger to this community if
15 released. He's shown he's going to be a flight risk. And I think \$250,000.00
16 of the source hearing is more than generous for a person of this caliber.

17 THE DEFENDANT: Your Honor, may I say something?

18 THE COURT: Well, it's up to your attorney.

19 MS. RADOSTA: Your Honor, regarding whether or not that is evidence of
20 flight risk, that might have been evidence of flight back in 2011 but that's not
21 potentially evidence of flight now in 2017. Mr. Dorado has become, he's a
22 different individual at this point in time. He was granted parole by the State of
23 Nevada so obviously they don't think he's such a huge flight risk if they're
24 granting him parole despite all of this potential --

25 THE COURT: Yeah, but now he's got -- that was all before he knew he

1 was gonna be charged with a Category A felony. That changes a lot.

2 MS. RADOSTA: Actually not. They came and took the buccal swab
3 when he was in a half-way house up in Winnemucca while he was on
4 supervised release from the State of Nevada. And at that point in time he is
5 essentially on notice that he's being investigated for another crime, something
6 that involves DNA and something that is potentially very serious. And what
7 does he do with that information? He proceeds to continue on parole, move
8 down here to Las Vegas, move with his mother.

9 And, by the way, when the State decided to issue an arrest warrant
10 in this particular case if they were so concerned about his flight risk they didn't
11 go look for him, they didn't contact Department of Parole and Probation to go
12 find him and arrest him. They just let it go until they realized that he was
13 arrested on a parole violation for this case despite the fact that this case
14 predates his granted parole by eighteen years. And once he was done dealing
15 with the, basically inaccurate parole violation, he was in custody for about two
16 months, then they arrest him on the arrest warrant and bring him down here.
17 They didn't actually go look for him back in November of 2016 when they got
18 the positive hit. They just issued an arrest warrant and let it hang out there.

19 So, it's kind of two-sided there. They're so worried about flight risk
20 and yet they don't go immediately pick him up when they have a hit and a
21 confirmed DNA retest. At that point they just issue an arrest warrant and go,
22 oh, when we get him we get him. But now that he's in custody now they're
23 worried that he's a flight risk, Your Honor.

24 I don't think it's particularly germane to this situation what may
25 have been aired on a television show back in 2011 for any number of different

1 reasons, the most obvious of which is that's six years ago, Judge. Secondly,
2 it's a television show. People make up stories to get on TV all the time. Who
3 knows if it's true or not true? Who knows if it's edited or not edited? There's
4 a million different reasons why that's not particularly germane to this situation
5 and whether or not he is currently a flight risk.

6 So, I think my motion for OR release lays out how vital he is to
7 helping us in developing his defense in light of the fact that the detectives at
8 the time really didn't do any investigation in this case. And now he is facing
9 potential life sentences with a woman saying this happened but they didn't
10 follow up on her story in any way, shape or form. They, for whatever reason
11 that may have been. And we're in the situation now of trying to defend against
12 it when they didn't investigate it in the first place. It puts us in a very difficult
13 position.

14 THE DEFENDANT: Your Honor?

15 THE COURT: Well, thank you.

16 THE DEFENDANT: Your Honor?

17 THE COURT: Well, first of all you can only speak if I put you under oath
18 and anything you say then can be subject to cross-examination by the District
19 Attorney.

20 MS. RADOSTA: Your Honor?

21 THE DEFENDANT: That's okay sir, I mean –

22 MS. RADOSTA: Mr. Dorado would like me to remind the Court that, it is
23 in motion but he feels that I need to verbalize it to Your Honor, that he does
24 have a commercial driver's license; he is able to get employment locally.

25 THE COURT: And he's had employment in the past.

1 MS. RADOSTA: Yes.

2 THE COURT: And you think there's good prospects?

3 MS. RADOSTA: Mhmm.

4 THE DEFENDANT: I'm not going anywhere, Your Honor.

5 THE COURT: Alright. And we have a trial set for July 17th. Look, here's
6 how I see this. Obviously I'm not -- no one can be satisfied with a system that
7 results in such an extensive delay between the commission of offense and
8 when the Defendant is sought to be held accountable or given his day in court,
9 alright? Nineteen years passed here.

10 I do see how that could present some obstacles to the Defendant in
11 searching for witnesses and preparing his case for trial. That being said, I may
12 have been inclined initially had I not seen the extensive record of the Defendant,
13 I may have been inclined to give him house arrest. But given the extensive
14 record here with seven prior felonies, this isn't a case where we have an
15 individual who's been living a good life for the last nineteen years. We have
16 someone that has demonstrated risk to society, risk of harm and given all the
17 prior felonies combined with the seriousness of this Category A felony, I do find
18 that there is a flight risk.

19 THE DEFENDANT: Your Honor, I'm not inclined --

20 THE COURT: Hold on, sir. Sir, I'm sorry sir, I've read your motion. I'm
21 not inclined to reduce bail at this time. I don't think that there's enough cause
22 here to reduce bail so I'm sticking with the bail. I appreciate your arguments.

23 There's gonna be some obstacles but I think these obstacles are not
24 insurmountable. It's gonna take some additional visits, it's gonna take a lot
25 more leg work but I think you can still prepare for trial. If there's some specific

1 impediment bring an appropriate motion, I don't know what else you could do
2 but I'm not gonna lower bail.

3 MS. RADOSTA: I think the appropriate motion would have been motion
4 for the detectives at the time to thoroughly investigate the case but I don't
5 really think that that's a motion that I can file.

6 THE COURT: Yeah.

7 THE DEFENDANT: Your honor, may I say something on record please?

8 THE COURT: Well.

9 THE DEFENDANT: This is my life. Please.

10 THE COURT: I know. You can talk to your attorney and bring a renewed
11 motion if you have new facts.

12 THE DEFENDANT: Please, please let me speak, Ms. Radosta.

13 MS. RADOSTA: Go ahead.

14 THE COURT: You may speak, sir.

15 MS. RADOSTA: Go ahead.

16 THE DEFENDANT: Thank you.

17 THE COURT: You may speak.

18 THE DEFENDANT: Now, the intent behind this motion is not for me to
19 get out or flee and throw away my family and everything that I suffered so
20 much to obtain in my recovery. Yes, I have -- in 03 was when I caught my
21 felony stemming from my alcoholic and drug abuse that I obtained here in Las
22 Vegas working in the nightclub entertainment business.

23 THE COURT: Okay.

24 THE DEFENDANT: Now, the only intent behind this motion, sir, is due to
25 the fact that I am the only one that possess the memory and ability of the last

1 known residences and recognize numerous faces of folks, co-workers, business
2 associates that worked with me in the nighttime entertainment business for
3 many, many years that, if available, sir, can help escapate [sic] me or even
4 exonerate me against these untrue allegations, sir.

5 Now, the prosecution's argument against the possibility of any
6 evidence in this case, sir, cast him in a role of an architect trying to shape this
7 trial in a proceeding that does not comport with the standards of justice, sir.
8 He's --

9 THE COURT: So, what your attorney can do is submit a petition to get
10 funding to hire an investigator, which --

11 MS. RADOSTA: We have investigators with the Public Defender's office.

12 THE COURT: Which I would approve if okay you didn't get it approved
13 and the investigator can come talk to you, find out what you know, go surveil,
14 [sic] get some pictures, go back and show you; so.

15 THE DEFENDANT: Your Honor, my due process, sir, my rights to equal
16 protection of the law that the police reports. I played in the nightclubs, sir.
17 They knew the nightclub. They knew the name of the band. These are untrue
18 allegations. I mean, the potential, the possibility of me obtaining the material
19 witnesses that were present when this allegation happened of this call girl, you
20 know, showing up at my apartment, I mean, are nearly impossible, Your Honor.
21 Please.

22 THE COURT: I can't let you out --

23 THE DEFENDANT: Please, Your Honor.

24 THE COURT: -- based on these circumstances. If something new comes
25 up, you know, if there's something new, bring it forward okay, sir? Thank you.

1 I'm not gonna change my mind but you have to sit down now , alright? Thank
2 you.

3 MR. VILLANI: Does Your Honor need an order for transcripts?

4 THE COURT: I --

5 MR. VILLANI: Or can I just order them orally; just the transcripts of this
6 hearing.

7 THE COURT: I don't think we need a written order. Alright, I grant your
8 request for transcripts.

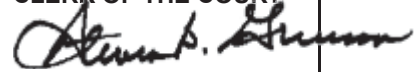
9 MR. VILLANI: Thank you, Your Honor.

10 [Proceedings concluded, 9:57 a.m.]

11 * * * * *

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

14 
15 DALYNE EASLEY
16 Court Recorder
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PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
VIOLET R. RADOSTA, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 5747
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
radostvr@co.clark.nv.us
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)	
)	
Plaintiff,	)	CASE NO. C-17-323098-1
)	
v.	)	DEPT. NO. II
)	
RAMON MURIL DORADO,)	
)	
Defendant,	)	DATE: July 11, 2017
	)	TIME: 9:00 a.m.

**MOTION TO SUPPRESS EVIDENCE OBTAINED PURSUANT
TO SEARCH WARRANT**

COMES NOW, the Defendant, RAMON MURIL DORADO, by and through his attorney, VIOLET R. RADOSTA, Deputy Public Defender, and moves this Honorable Court for an order suppressing the buccal swab obtained from Mr. Dorado in January, 2016 and the subsequent DNA testing of the buccal swab due to the violation his constitutional rights to be free from unreasonable searches and seizures.

This Motion is based upon the attached Declaration of Counsel, any documents attached hereto, argument of Counsel and any information provided to the Court at the time set for hearing this motion.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: /s/ Violet R Radosta
VIOLET R. RADOSTA, #5747
Deputy Public Defender

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1. That I am an attorney duly licensed to practice law in the State of Nevada; that I am the Deputy Public Defender assigned to represent the Defendant in the instant matter, and that I am familiar with the facts and circumstances of this case.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

EXECUTED this 30th day of June, 2017.

/s/ Violet R Radosta
VIOLET R. RADOSTA

1 **POINTS AND AUTHORITIES**

2 **FACTS**

3 On April 24, 1999, Michelle Lehr contacted Las Vegas Metropolitan Police and reported
4 that she had been sexually assaulted by a man she knew casually. The alleged assault had
5 occurred earlier in the morning of April 24, 1999.

6 She went to the Las Vegas Metropolitan Police Department substation on St. Louis and
7 made a report and was transported to University Medical Center for a medical exam. (GJT 13).
8 Swabs were taken from Ms. Lehr during the medical exam and stored. All of that occurred on
9 April 24, 1999.

10 Fast forward 16 years to October 27, 2015 and Ms. Lehr's sexual assault examination kit
11 was submitted to the LVMPD forensic lab for testing. On December 15, 2015, a hit from the
12 Combined DNA Index System (CODIS) identified Ramon Muric Dorado a potential for the male
13 DNA in Ms. Lehr's SANE kit. Based on that information, in January 2016 LVMPD obtained a
14 search warrant signed by Judge Nancy Alf and requesting a buccal swab be obtained from
15 Ramon Muric Dorado.

16 In the affidavit for the search warrant, Detective Lora Cody presented certain information
17 which was incorrect. In the affidavit, the description of the allegation included the assertion that
18 the male in question 'took' Ms. Lehr to an unknown apartment at 2101 Sunrise Avenue in Las
19 Vegas. In fact, Ms. Lehr told detectives that she drove herself and the unknown male to the
20 apartment. Additionally, the affidavit states that she called 911 almost immediately after the
21 alleged assault when in her own statement to detectives she stated that she went to her friend's
22 apartment to check on her son and then a few hours later went to a substation to report the
23 alleged assault.

24 Finally, the affidavit states that there was a CODIS (Combined DNA Index System) hit
25 on the swabs taken from Ms. Lehr and this hit occurred more than 16 years after the alleged
26 assault. The affidavit then states that the person who the CODIS matched was Mr. Ramon Muric
27 Dorado who had convictions of assault with a deadly weapon, kidnap and attempt murder.

1 In fact, Mr. Dorado has no convictions for attempt murder or kidnapping, both of which
2 would be considered very serious and violent. He does have felony convictions that post-date
3 the alleged assault and there is a conviction for assault with a deadly weapon in 2003. The date
4 of that conviction wasn't included in the affidavit for search warrant. The conviction was more
5 than 12 years prior to the alleged sexual assault.

6 On November 17, 2016, LVMPD forensic lab tested the buccal swab and determined that
7 one of the swabs taken in the SANE kit potentially contained DNA from Mr. Dorado.

8 On April 17, 2017, Mr. Dorado was arrested on charges of sexual assault. He appeared in
9 Las Vegas Justice Court on April 19, 2017 and the Public Defender's office was appointed to
10 represent him. A preliminary hearing date was set for May 26, 2017.

11 On April 26, 2017, Deputy District Attorney Jake Villani presented evidence in this
12 matter to the grand jury. After hearing the evidence presented by the prosecution, the grand jury
13 deliberated for less than 1 minute and then indicted Mr. Dorado on 3 counts of Sexual Assault.

14 Mr. Dorado invoked his right to a speedy trial and his trial date was set for July 17, 2017
15 with a calendar call date of July 11, 2017.

16 This Motion to Suppress the buccal swab and subsequent DNA testing follows.

17 18 **ARGUMENT**

19 All criminal defendants are entitled to be free from unreasonable searches and seizures 4th
20 Amendment of the U.S. Constitution and Article I, Section 18 of the Nevada Constitution. Due
21 to the inaccurate and incomplete information contained in the affidavit for search warrant, Mr
22 Dorado was subjected to an unreasonable search of his person and the evidence obtained should
23 be suppressed.

24 Where a search warrant is based on an insufficient affidavit, evidence obtained as a result
25 of the search warrant is inadmissible. *Aguilar v. Texas*, 378 U.S. 108, 116, 84 S.Ct. 1509, 1516
26 (1964). Exclusionary rule is designed to deter police misconduct rather than to punish errors of
27 judges and magistrates. *United States v. Leon*, 468 U.S. 897, 104 S.Ct. 3405 (1984).

1
2 The U.S. Constitution does not provide for exclusion of evidence obtained in
3 violation of the Fourth Amendment. *Arizona v. Evans*, 514 U.S. 1, 10, 115 S.Ct. 1185,
4 131 L.Ed.2d 34 (1995). Instead, the exclusionary rule is a judicial remedy designed to
5 deter law enforcement from future Fourth Amendment violations. *Leon*, 468 U.S. at 906,
6 104 S.Ct. 3405. Accordingly, “suppression of evidence obtained pursuant to a warrant
7 should be ordered only on a case-by-case basis and only in those unusual cases in which
8 exclusion will further the purposes of the exclusionary rule.” *Id.* at 918, 104 S.Ct. 3405.
9 However, exclusion is warranted without engaging in a case-by-case analysis where (1)
10 the probable cause determination is based on misleading information in the affidavit that
11 the affiant knew was false or would have known was false absent a reckless disregard for
12 the truth, (2) the magistrate wholly abandoned a detached or neutral role, (3) the warrant
13 is so facially deficient that the officers executing it cannot reasonably presume its
14 validity, or (4) the supporting affidavits are so lacking in probable cause as to render
15 official belief in its existence entirely unreasonable. *Id.* at 923, 104 S.Ct. 3405. Outside of
16 those four exceptions, a search based on a deficient warrant is not unreasonable where the
17 officer executing the warrant has an objective good-faith belief that the warrant is valid.

18 *State v. Kincade*, 129 Nev. Adv. Op. 102, 317 P.3d 206, 208–09 (2013)

19 Where a defendant makes substantial preliminary showing that false statement knowingly
20 and intentionally, or with the reckless disregard for the truth, was included by affiant in search
21 warrant affidavit, and if allegedly false statement is necessary to finding of probable cause,
22 Fourth Amendment requires that hearing be held at defendant's request. *Franks v. Delaware*,
23 438 U.S. 154, 98 S. Ct. 2674, 57 L. Ed. 2d 667 (1978); U.S.C.A.Const. Amends. 4, 14.

24 In this case, the affidavit contained the false and inaccurate information that Mr. Dorado
25 had multiple prior violent felony convictions, including at least one for attempt murder and one
26 for kidnapping. Additionally, the affidavit contained potentially misleading information that Mr.
27 Dorado had a conviction for assault with a deadly weapon that would be relevant for the judge
28 reading the affidavit. By failing to provide the year of the assault with a deadly weapon
conviction, the affidavit was misleading. The alleged sexual assault occurred in 1999 and the
search warrant affidavit was written in 2016. The assault with a deadly weapon conviction was
in 2003. By failing to list the conviction date of the assault with a deadly weapon conviction as
well as falsely stating that Mr. Dorado had multiple convictions for kidnapping and attempt

1 murder, the affidavit painted a picture of Mr. Dorado as a violent and dangerous multiple time
2 felon and someone that needed to be off the streets in a hurry.

3 As a member of the Las Vegas Metropolitan Police Department, Detective Lora Cody
4 had the best available resources to correctly verify and list Mr. Dorado's prior felony
5 convictions. That simply wasn't done in this case as demonstrated by the inaccurate information
6 contained in the affidavit. Judges presume the information, such as prior criminal convictions,
7 provided in affidavits for search warrants are accurate simply due to the fact that a detective
8 employed by a law enforcement agency is the one providing the information. This level of
9 inaccuracy and falsity is unacceptable and is exactly the type of behavior the exclusionary rule is
10 meant to deter.

11 Additionally, the inaccuracies in the recitation of facts regarding the alleged sexual
12 assault were also designed to mislead the judge to conclude that Ms. Lehr's allegations amounted
13 to a kidnapping as well as an alleged sexual assault. In the affidavit, the detective stated that Ms.
14 Lehr was taken to the unknown apartment when in fact she was the one driving. Nowhere in her
15 interview with LVMPD in 1999 did she say she was forced to go to the apartment against her
16 will. Additionally, the affidavit stated that she called 911 after running out of the apartment.
17 Once again, this is not a correct statement of the interview given to Metro detectives. She waited
18 several hours before reporting the crime and she went to a substation to report rather than calling
19 911. While these facts may seem minor to the overall search warrant, the consistent nature of the
20 misstated facts were meant to paint a picture for the judge of a man who abducted a woman and
21 held her against her will. The woman was so distraught after the incident she immediately called
22 911. This unknown male had been 'on the loose' since 1999 and needed to answer for that
23 horrendous crime now that there was a potential CODIS hit. The affidavit misled the judge as to
24 the nature and circumstances of the underlying crime and the person whose buccal swab was
25 needed. The misleading information was provided by the detective seeking the search warrant
26 and, presumably, this same detective had the original interview of Ms. Lehr and the criminal
27 history of Mr. Dorado readily available when they were applying for the search warrant.

1 The false information contained in the affidavit was necessary to the application because
2 they wouldn't have included Mr. Dorado's prior criminal history if they didn't believe it would
3 aid in their effort to obtain the search warrant. This is clear case where the evidence obtained
4 from the search warrant should be excluded. The exclusionary rule is designed to deter police
5 misconduct rather than to punish errors of judges and magistrates. *United States v. Leon*, 468
6 U.S. 897, 104 S.Ct. 3405 (1984). Per the rulings in *Leon* and *Franks v. Delaware*, the defense
7 respectfully requests the evidence obtained by suppressed or, in the alternative, the Court hold an
8 evidentiary hearing to determine the admissibility of the evidence.

9 CONCLUSION

10 The defense respectfully requests that the Court suppress all evidence obtained from the
11 insufficient affidavit for search warrant, or hold an evidentiary hearing to determine the
12 admissibility of the evidence. Mr. Dorado's 4th Amendment right to be free from unreasonable
13 searches and seizures has been violated.

14 DATED this 30th day of June, 2017.

15 PHILIP J. KOHN
16 CLARK COUNTY PUBLIC DEFENDER

17 By: /s/ Violet R Radosta
18 VIOLET R. RADOSTA, #5747
19 Deputy Public Defender
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NOTICE OF MOTION

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the foregoing Motion To Dismiss will
be heard on July 11 2017, at 9:00 am in District Court Department II.

DATED this 30th day of June, 2017.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

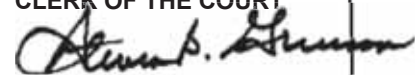
By: /s/ Violet R Radosta
VIOLET R. RADOSTA, #5747
Deputy Public Defender

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of the above and foregoing was served via electronic
e-filing to the Clark County District Attorney's Office on the 30th day of June, 2017 by
Electronic Filing to:

District Attorneys Office
E-Mail Address:
Jaclyn.Motl@clarkcountyda.com

/s/ Anita H Harrold
Secretary for the Public Defender's Office



1 **OPPS**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 JACOB J. VILLANI
6 Chief Deputy District Attorney
7 Nevada Bar #011732
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7
8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10 THE STATE OF NEVADA,
11 Plaintiff,

12 -VS-

13 **RAMON MURIL DORADO,**
14 **#1673321**

15 Defendant.

CASE NO: C-17-323098-1

DEPT NO: II

16
17 **STATE'S OPPOSITION TO DEFENDANT'S MOTION TO SUPPRESS**
18 **EVIDENCE OBTAINED PURSUANT TO SEARCH WARRANT**

19 DATE OF HEARING: JULY 11, 2017
20 TIME OF HEARING: 9:00 AM

21 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County
22 District Attorney, through JACOB J. VILLANI, Chief Deputy District Attorney, and hereby
23 submits the attached Points and Authorities in Opposition to Defendant's Motion to Suppress
24 Evidence Obtained Pursuant to Search Warrant.

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

28 //

//

1 POINTS AND AUTHORITIES

2 STATEMENT OF FACTS

3 In the late hours of April 23, 1999, into the morning of April 24, 1999, M.L. went out
4 dancing with her friends Candy and Joanna to the Silver Saddle bar. Grand Jury Transcript
5 ("GJT") p. 7. While at the bar, M.L. met one of the members of the band playing that night,
6 who was introduced to her as Raymond aka Ray, later identified as Ramon Muril Dorado
7 ("Defendant"). Id. After talking to Defendant for a bit, M.L. left briefly to check on her son
8 who was staying at Candy's house right down the street. Id. When M.L. came back to the bar,
9 Candy, Joanna and others, including Defendant, were sitting down at the bar in the back. GJT
10 p. 8. M.L. sat between Candy and Defendant. Id. Later on in the night, the group discussed
11 going to PTs Pub when the bartender, who was hanging out with the group, got off work. Id.
12 M.L., who was the designated driver for Candy and Joanna, agreed to go as long as she was
13 back home by 10:00 am. Id.

14 Around 7:00 am the group decided to leave to PT's. Id. Joanna went with the bartender
15 in his car. Id. Candy last minute decided to call her boyfriend to pick her up and agreed to
16 meet up with M.L. in front of the house by 10:00am so the kids would not think anything. GJT
17 p. 9. On the way to PT's Defendant said that he had to cash his paycheck and stop by his
18 house to call in to work. Id. Not thinking anything of it at that time, M.L. drove to Defendant's
19 house. Id. When they got there, Defendant asked M.L. to come inside. Id. Inside the house
20 was a young man that did not speak English. Id. Defendant spoke to the young man in Spanish
21 and from what M.L. could understand, Defendant sent him to the store to get something. Id.
22 When the young man left, Defendant picked M.L. up and dragged her into the bedroom as she
23 was telling him to put her down. Id. Defendant refused to listen and brought M.L. into the
24 bedroom. GJT p. 10.

25 In the bedroom Defendant proceeded to try to kiss M.L. while she pushed him away.
26 Id. M.L. told Defendant that she had not done anything to suggest that is what she wanted and
27 that she was going to be leaving. Id. However, when M.L. went to walk out the door,
28 Defendant grabbed her and threw her on to the bed. Id. Defendant then laid on top of her and

1 started to try to kiss her neck again. Id. M.L. again pushed Defendant off and rushed to the
2 door. Id. Defendant grabbed M.L. again, pulled her shirt up and proceeded to try to take her
3 pants off. Id. M.L. fell to her side, once again pushed Defendant off and tried running for the
4 door. Id. Defendant grabbed her again, threw her against the wall and pulled her pants down
5 even more. Id. Defendant threw M.L.'s legs over her head and pulled her panty hose down.
6 Id. Defendant then put his mouth on M.L.'s vagina using both his mouth and tongue. GJT 10-
7 11. M.L. pushed Defendant forward and tried to find something to throw at him or something
8 to hit him with. GJT p.11. M.L. tried to shove clothes in Defendant's face, attempting to
9 smother him. Id.

10 As M.L. continued to struggle with Defendant, he got one of her legs out of her panty
11 hose, flipped her back on the ground and laid on top of her trying to push her legs apart. Id.
12 As M.L. was trying to hold her legs together, Defendant held her arms, pulled her legs apart
13 and proceeded to try to insert his penis inside her vagina. Id. M.L. continued to fight
14 Defendant and using her one free hand tried to find something to hit him with. GJT p. 12.
15 M.L. was ultimately able to find one of the safety pins from her pants, which held her pants
16 up, and stabbed Defendant in the shoulder and hand. Id. However, that did not stop Defendant
17 and he proceeded to use one of his hands to move his penis inside her vagina. Id. M.L. could
18 feel his penis and hand inside and outside of her vagina. Id. Defendant was not able to keep
19 his penis inside M.L.'s vagina because he was unable to keep his erection. Id. After a couple
20 of minutes of trying, Defendant got up and allowed M.L. to get her stuff. Id. As Defendant
21 sat there, he kept saying "she's right, she's right", while M.L. asked him what part of no means
22 no did he not understand. Id. Defendant responded that he was not talking about what just
23 happened but about his ex-wife telling him he will never be able to have sex with another
24 woman again. GJT 12-13. As M.L. walked out, she saw that the young man was back from
25 the store. GJT p. 13.

26 M.L. returned to Candy's house to check on her son and they immediately took her to
27 the police station. Id. M.L. told the police what happened and they took her to UMC, where
28 a Sexual Assault Nurse Examine ("SANE exam") was conducted. Id.

1 On October 27, 2015, the resulting DNA profile developed from the vaginal swabs of
2 M.L.'s SANE kit was uploaded into the local and national DNA index system ("CODIS").
3 Exhibit 1.

4 On December 23, 2015, the DNA profile developed from the vaginal swabs of M.L.'s
5 SANE kit that was uploaded into CODIS returned a match to Defendant's known DNA profile.
6 Exhibit 2.

7 On January 27, 2016, LVMPD Detective Lora Cody drafted a Search Warrant for a
8 Buccal swab or blood sample from Defendant's person in order to confirm the CODIS match.
9 Exhibit 3. The warrant was signed by the Honorable Nancy Allf, District Court Judge. Id.

10 On November 17, 2016, the Buccal swab obtained from Defendant pursuant to the
11 search warrant was compared to the DNA profile developed from the vaginal swabs of M.L.'s
12 SANE kit and found to be a match with the probability of selecting a random individual with
13 the same DNA profile being 1 in 1.45 sextillion (1 in 1,450,000,000,000,000,000). Exhibit
14 4.

15 ARGUMENT

16 **I. DEFENDANT HAS FAILED TO SHOW THAT IF THE ALLEGED MINOR** 17 **FACTUAL INACCURACIES WERE SET ASIDE, PROBABLE CAUSE FOR** 18 **THE SEARCH WARRANT WOULD NO LONGER EXIST**

19 Defendant argues that the confirmatory Buccal swab obtained pursuant to the search
20 warrant should be suppressed because the affidavit contained the following alleged
21 inaccuracies: (1) "the false and inaccurate information that [Defendant] had multiple prior
22 felony convictions, including at least one for attempt murder and one for kidnapping"; (2) the
23 affidavit was misleading because it did not provide a date for Defendant's conviction for
24 Assault with a Deadly Weapon; (3) "the detective stated that [M.L.] was taken to an unknown
25 apartment when in fact she was the one driving"; and (4) "the affidavit stated that [M.L.] called
26 911 after running out of the apartment." None of these allegedly incorrect statements, if
27 stripped from the search warrant, would divest the warrant of probable cause; therefore,
28 Defendant has failed to meet his burden regarding suppression of the confirmatory buccal
swab and is not entitled to a hearing regarding the matter. United States v. Martinez-Garcia,

1 397 F.3d 1205 (9th Cir. 2005).

2 Defendant requests that this Court either suppress the confirmatory Buccal swab, or
3 hold a hearing pursuant to Franks v. Delaware, 438 U.S. 154 (1978). A hearing pursuant to
4 Franks v. Delaware allows a defendant to challenge the sufficiency of an affidavit supporting
5 a search warrant. Id. at 155-56. A defendant is entitled to a Franks hearing to determine the
6 sufficiency of the affidavit supporting a search warrant only if he makes a "substantial
7 preliminary showing that (1) the affidavit contains intentionally or recklessly false statements
8 or misleading omissions, and (2) the affidavit cannot support a finding of probable cause
9 without the allegedly false information." United States v. Reeves, 210 F.3d 1041, 1044 (9th
10 Cir. 2000). Here, Defendant cannot make a "substantial preliminary showing" regarding any
11 of his four claims; thus, he is not entitled to either suppression of the evidence or a hearing on
12 the matter.

13 **1. Defendant's claim that the affidavit contained "false and inaccurate information**
14 **that [Defendant].had multiple prior felony convictions, including at least one for**
15 **attempt murder and one for kidnapping".**

16 In her Affidavit for Search Warrant, LVMPD Detective Lora Cody stated the following:

17 On 10/27/15, [M.L.'s] sexual assault kit was submitted to the LVMPD
18 forensic laboratory for examination. On 12/23/15 the LVMPD
19 forensic laboratory was notified that the male DNA found in [M.L.'s]
20 sexual assault kit was a Combined DNA Index System (CODIS) hit
21 on a convicted felon identified as RAMON MURIC DORADO
22 FBI#380623NA2. **A records check on Dorado revealed numerous**
23 **convictions for assault with a deadly weapon, kidnap and attempt**
24 **murder.**

22 Exhibit 3, p. 3, Emphasis added. Defendant's record has no bearing on the probable cause set
23 forth in the search warrant except possibly to explain the reason his DNA was in the CODIS
24 system to begin with, and even the reliance on that fact for probable cause purposes is
25 unnecessary.

26 Defendant alleges that this statement in the affidavit "painted a picture of Mr. Dorado
27 as a violent and dangerous multiple time felon and someone who needed to be off the streets
28 in a hurry." Motion at 6. However, Defendant fails to address – under Reeves – how the

1 affidavit would be deficient if this information were omitted. The fact that Defendant is a
2 multiple-time felon is indisputable, as is the fact that Defendant was arrested in 2003 for
3 Attempt Murder with Use of a Deadly Weapon and four counts of 1st Degree Kidnapping. *See*
4 Defendant's PSI from his 2012 felony conviction for Possession of Stolen Vehicle attached as
5 Exhibit 5, pp. 3-5. It is true that Defendant was not ultimately convicted of attempt murder or
6 "kidnap," and this statement in the Affidavit is incorrect. It would have been correct to say
7 Defendant was "arrested" for these crimes, but not that he was "convicted." However, if the
8 statements were taken out of the search warrant, the probable cause would be unaffected.

9 Defendant only argues that these statements painted him as "someone who needed to
10 be off the streets in a hurry," and thus he was somehow prejudiced by them. However, the
11 potential dangerousness of a suspect is not a factor in determining whether probable cause
12 exists for a judge to approve a search warrant. The only relevance that Defendant's criminal
13 history has regarding the probable cause to obtain a *confirmatory* DNA sample from his person
14 is explaining how his DNA got into the CODIS system in the first place. Even if Defendant
15 had only a single conviction (which would be the only way his DNA would be in the system)
16 and this conviction was not specifically stated in the search warrant, there still would have
17 been probable cause to obtain a confirmatory sample given that the CODIS system identified
18 him. The title of the felony Defendant was convicted of has no bearing upon whether his DNA
19 was in CODIS, the fact remains that his DNA was in the system and matched the DNA
20 developed from M.L.'s SANE kit. Whether Defendant "needed to be off the streets" or not
21 had no bearing on the probable cause in the search warrant affidavit; therefore, Defendant has
22 failed to meet his burden of showing that the affidavit would be deficient without the statement
23 and he is not entitled to suppression of the evidence or a hearing on the matter.

24 **2. Defendant's claim that the affidavit was misleading because it did not provide a**
25 **date for Defendant's conviction for Assault with a Deadly Weapon.**

26 As with Defendant's first claim, his claim that the affidavit lacked probable cause
27 because a date for his conviction for Assault with a Deadly Weapon was not provided lacks
28 merit.

1 At the outset, Defendant's claim that his 2003 conviction for Assault with a Deadly
2 Weapon "was more than 12 years prior to the alleged sexual assault" is simply wrong. Motion
3 at 4. The sexual assault in this case occurred in 1999 – four years prior to Defendant's
4 conviction for Assault with a Deadly Weapon.

5 Regardless, the only relevance Defendant's prior felony convictions have with regard
6 to the warrant at issue is to explain why his DNA was in the CODIS system. The date of any
7 of his felony convictions is irrelevant. Judge Allf did not make her decision regarding whether
8 or not to approve the search warrant based upon Defendant's prior convictions, because it
9 would have been improper for her to do so. Defendant has, once again, failed to show how the
10 omission of the date of his conviction divested the search warrant of probable cause; therefore,
11 his claim lacks merit and he is not entitled to suppression of the evidence or a hearing on the
12 matter.

13 **3. Defendant's claim that "the detective stated that [M.L.] was taken to an unknown**
14 **apartment when in fact she was the one driving."**

15 Defendant claims Detective Cody set forth facts that were "designed to mislead the
16 judge to conclude that [M.L.'s] allegations amounted to kidnapping as well as sexual assault."
17 Motion at 6. This disingenuous argument is blatantly false, and counsel should be ashamed of
18 herself for using semantics as a basis to accuse a detective of lying. The *actual* statement set
19 forth in the affidavit, in context, is as follows:

20 [M.L.] told Detective Hnatuick on the evening of April 23, she was at
21 the Silver Saddle Saloon located at 2501 E. Charleston in Las Vegas.
22 [M.L.] went on to meet a band member that identified himself as
23 "Ray." [M.L.] **agreed to accompany "Ray"** to another bar near
24 Boulder Highway. [M.L.] **willingly went with "Ray."** [M.L.] further
explained that "Ray" took her to an apartment somewhere at 2100
Sunrise Ave in Las Vegas. Once inside the apartment "Ray" grabbed
[M.L.] and forced her into a back bedroom.

25 Exhibit 3, p. 2, Emphasis added. As is readily apparent from even a cursory reading of the
26 statement in context, it is made abundantly clear M.L. went with Defendant willingly before
27 he "took her to an apartment." Detective Cody never represented that Defendant was driving.
28 This entire claim is premised upon an out-of-context statement taken from a search warrant

1 that counsel did not even bother to attach as an exhibit to her motion. The sentence *immediately*
2 *preceding* the statement claimed as error states, “[M.L.] willingly went with ‘Ray.’”
3 Moreover, the fact that M.L. initially went with Defendant “willingly” when he inveigled her
4 into his apartment for purposes of sexually assaulting her does not absolve Defendant of
5 charges for kidnapping. Therefore, Defendant’s claim that the detective designed statements
6 to “mislead the judge” lacks merit and, given the context of the statement, the argument is
7 actually a blatant attempt to mislead this Court.

8 **4. Defendant’s claim that “the affidavit stated that [M.L.] called 911 after running**
9 **out of the apartment.”**

10 Defendant correctly notes that the affidavit for search warrant contained the following
11 statement: “M.L. was then able to run out of the apartment and call 911.” Exhibit 3, p. 2. To
12 date, the State has not been able to confirm whether M.L. called 911 or reported this crime
13 directly to the substation; however, there are indications that 911 was not called in the
14 discovery. Regardless, this Court’s analysis is limited to whether probable cause would still
15 exist if the search warrant were divested of the claim that M.L. called 911. The answer to this
16 question is unequivocally that probable cause would still exist. Whether or not M.L. called
17 911 is of no consequence. Regardless of how the police were contacted, it is indisputable that
18 they were contacted. This fact has nothing to do with whether Defendant’s DNA was in
19 CODIS, whether his DNA was in M.L.’s vagina, or whether there was probable cause to obtain
20 a Buccal swab to confirm the CODIS hit. Whether a 911 call was placed is irrelevant to the
21 analysis of the issue at hand: that a comparison of Defendant’s DNA would likely result in
22 confirmation that he is the person whose DNA was collected from M.L.’s vagina. Therefore,
23 Defendant’s claim lacks merit and he is not entitled to suppression of the evidence or a hearing
24 on the matter.

25 //

26 //

27 //

28 //

1 CONCLUSION

2 Collectively Defendant's claims constitute a red herring he is hoping will distract this
3 Court from the issues at hand. Each of Defendant's four alleged errors, even if removed from
4 the search warrant, would not divest the search warrant of probable cause. This is the burden
5 Defendant must meet in order to even have a hearing to determine whether suppression is
6 warranted. As Defendant has failed to meet even this low standard, he is entitled to neither a
7 hearing nor suppression of the evidence at issue. Moreover, even assuming, *arguendo*,
8 Defendant prevailed on the claims in the instant motion and the Buccal swab was suppressed,
9 all the detective would need to do is draft another search warrant excluding the statements at
10 issue and obtain another buccal swab from Defendant, which would then need to be re-
11 analyzed by the forensic lab and compared to the CODIS hit again. The end result would be
12 nothing more than a waste of taxpayer money and State resources to arrive at the exact same
13 result. Based upon the foregoing argument, the State respectfully requests that this Court deny
14 Defendant's Motion to Suppress Evidence Obtained Pursuant to Search Warrant.

15 DATED this 6th day of July, 2017.

16 Respectfully submitted,

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

19 BY /s/ JACOB J. VILLANI
20 JACOB J. VILLANI
21 Chief Deputy District Attorney
22 Nevada Bar #011732
23
24
25
26
27
28

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that service of the above and foregoing was made this 6th day of JULY
3 2017, to:

4 VIOLET RADOSTA, DPD
5 harrolah@ClarkCountyNV.gov

6
7 BY /s/ HOWARD CONRAD
8 Secretary for the District Attorney's Office
9 Special Victims Unit
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28 hjc/SVU

EXHIBIT “1”

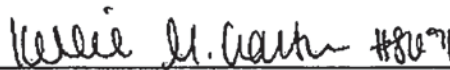
Las Vegas Metropolitan Police Department Forensic Laboratory Report of Examination Biology/DNA Detail		Distribution Date: OCT 27 2015	
Subject(s):	UNKNOWN (suspect)	Case:	99 0424-1124
	██████████ (victim)	Agency:	LVMPD
		Incident:	Sexual Assault
		Requester:	Sgt. Comiskey

The Biology/DNA Detail of the Las Vegas Metropolitan Police Department Forensic Laboratory reports the following:

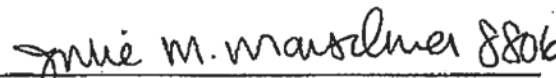
* - Please refer to the report by Cellmark Forensics dated September 21, 2015 for related information

CONCLUSIONS

The major DNA profile obtained from the sperm fraction of the vaginal swabs (Item 01.01.1-SF*) will be searched in the Local DNA Index System (CODIS) and then uploaded to the National DNA Index System (CODIS) for comparison. You will be notified if there is a match.


Kellie M. Gauthier, P#8691
Biology/DNA Forensic Laboratory Manager

October 23, 2015


Julie M. Manselmer 8806
Administrative Reviewer



13988 Diplomat Dr. Suite 100
Dallas TX 75234
Phone: 1-800-752-2774
Fax: 214-271-8322

Report of Laboratory Examination
September 21, 2015

OCT 27 2015

DNA Manager Kellie Gauthier
Las Vegas Metropolitan Police Department
5605 W. Sahara Avenue
#120B

SUBJECT: [REDACTED] (Victim)

Las Vegas, NV 89118

CELLMARK FORENSICS NO: LV15-0347

AGENCY CASE NO: 99 0424-1124

ADD'L AGENCY NO: 15-02847

EXHIBITS

Client Item	CF Item	Received	Item Description	PCR
99 0424-1124-SAK	LV15-0347-01	4/23/2015	Vaginal Swabs	Y
99 0424-1124-SAK	LV15-0347-02	4/23/2015	Liquid Blood - [REDACTED] (Victim)	Y
99 0424-1124-SAK	NOT EXAMINED	4/23/2015	Rectal Swabs and Smears Envelope : Not Collected	N
99 0424-1124-SAK	NOT EXAMINED	4/23/2015	Oral Swabs and Smears Envelope	N
99 0424-1124-SAK	NOT EXAMINED	4/23/2015	Moist/Dried Secretions on Skin Envelope : Breasts	N
99 0424-1124-SAK	NOT EXAMINED	4/23/2015	Debris Collection Envelope	N
99 0424-1124-SAK	NOT EXAMINED	4/23/2015	Pubic Hair Combing Envelope	N
99 0424-1124-SAK	NOT EXAMINED	4/23/2015	Underpants Bag : Not Collected	N
99 0424-1124-SAK	NOT EXAMINED	4/23/2015	Known Saliva Sample Envelope : [REDACTED]	N
99 0424-1124-SAK	NOT EXAMINED	4/23/2015	Pulled Pubic Hairs Envelope : [REDACTED]	N
99 0424-1124-SAK	NOT EXAMINED	4/23/2015	Pulled Head Hairs Envelope : [REDACTED]	N
99 0424-1124-SAK	NOT EXAMINED	4/23/2015	Blood Tube : [REDACTED]	N
99 0424-1124-SAK	NOT EXAMINED	4/23/2015	Blood Tube : [REDACTED]	N

SEROLOGY TABLE

Sample No.	Description	Seminal Fluid (Sperm Search)
LV15-0347-01	Vaginal Swabs	Pos

Key: Pos = Positive Neg = Negative Inc = Inconclusive NT = Not Tested

RESULTS

DNA testing using the polymerase chain reaction (PCR) and the AmpFISTR Identifier Plus™ Amplification Kit was performed on the indicated exhibit(s). The loci tested and the results obtained for each tested sample are listed in Table 1 (see attachment).

CONCLUSIONS

LV15-0347-01.01.1-BF

The DNA profile obtained from the epithelial fraction of the vaginal swabs is consistent with the DNA profile obtained for [REDACTED].

LV15-0347-01.01.1-SF

The DNA profile obtained from the sperm fraction of the vaginal swabs is a mixture consistent with two individuals. The major profile originated from an unknown male and the minor alleles are consistent with the DNA profile obtained for [REDACTED].

DISPOSITION

In the absence of specific instruction, evidence will be returned to the submitting agency by Federal Express or another appropriate carrier.

REVIEW

The results described in this report have been reviewed by the following individuals:

Analyst:

Dana K. Warren

Dana K. Warren / Senior Forensic DNA Analyst

Technical

Reviewer:

Kelli Byrd

Kelli Byrd / Supervisor - Forensic Casework

Procedures used in the analysis of this case adhere to the Quality Assurance Standards for Forensic DNA Testing Laboratories. Cellmark Forensics is accredited by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board. The results in this report relate only to the items tested.



LabCorp Specialty Testing Group

CELLMARK FORENSICS NO: LV15-0347
AGENCY CASE NO: 99 0424-1124
ADD'L AGENCY NO: 15-02847

Report of Laboratory Examination

9/21/2015

13988 Diplomat Dr. Suite 100
Dallas TX 75234
Phone: 1-800-752-2774
Fax: 214-271-8322

Table 1

Identifier Plus

Sample Name	D8S1179	D21S11	D7S820	CSF1PO	D3S1358	TH01	D13S317	D16S539	D2S1338	D19S433	VWA	TPOX	D18S51	AMEL	DSS818	FGA
Vaginal Swabs LV15-0347-01.01.1-EF 99 0424-1124-SAK	11, 13	30, 30.2	9, 13	9, 10	17	6	13	9	18, 20	14	15, 16	10, 11	13, 20	X	12	19, 22
Vaginal Swabs LV15-0347-01.01.1-SF 99 0424-1124-SAK	11, 13, 14, 15	28, 30, 30.2, 31	9, 10*	9, 10, 11, 12	14, 16, 17	6	9, 13	9, 11	18, 19, 20, 25	13, 14	16, 17	8, 11, 12*	19, 20, 23*	X, Y	11, 12	22, 27*
Vaginal Swabs- Major LV15-0347-01.01.1-SF 99 0424-1124-SAK	14, 15	28, 31	9, 10	11, 12	14, 16	6	9	9, 11	19, 25	13	16, 17	8, 12	19, 23	X, Y	11	22, 27
(Victim) LV15-0347-02.01.1 99 0424-1124-SAK	11, 13	30, 30.2	9, 13	9, 10	17	6	13	9	18, 20	14	15, 16	10, 11	13, 20	X	12	19, 22

EF = Epithelial Fraction

SF = Sperm Fraction

X = Female

X, Y = Male

* = Possible additional allele(s) below threshold

Major = This represents the best determination of a major profile.

The results listed in the table do not depict intensity differences. Only alleles exceeding validated analysis threshold are included in table.

EXHIBIT “2”

1 RA 000048

<p>Las Vegas Metropolitan Police Department Forensic Laboratory</p> <p>CODIS Hit Notification Report</p> <p>Biology/DNA Forensic Casework</p> <p>Subject(s): [REDACTED] (Victim)</p>	<p>Distribution Date: December 23, 2015</p> <p>Agency: LVMPD</p> <p>Location: CAYF Bureau</p> <p>Primary Case #: 990424-1124</p> <p>Incident: Sexual Assault-Project</p> <p>Requester: Shon R Comiskey</p> <p>Lab Case #: 15-02847.2</p>
--	---

The Biology/DNA Detail of the Las Vegas Metropolitan Police Department Forensic Laboratory reports the following:

During a search of the Local DNA Index System (CODIS) database a match occurred between a Nevada Offender and evidence from event # 990424-1124, Cellmark Forensics Item 01.01.1-SF, major DNA profile obtained from the sperm fraction of the vaginal swabs.

The CODIS match has been confirmed to:
DNA Database ID: SN08820 and SN28146
Name - Muric, Ramon AKA Dorado, Ramon Muric
DNA Qualifying Offense - Attempt Child Endangerment and Theft
DOB - [REDACTED]
SSN - [REDACTED] AKA [REDACTED]
NVSID # - NV04087298
LVMPD CS # - 1852807 and 1673321

This hit constitutes an investigative lead in your case(s). A new reference buccal swab must now be obtained from this individual in order to confirm this hit and complete the case(s). The DNA sample currently on file, which was collected in accordance with Nevada Law (NRS 176.0913), will not suffice for the confirmation process.

The information provided in this report can be used to obtain a Search Warrant for a reference buccal swab from the above person.

When a reference buccal swab is obtained, please submit a request to the Biology/DNA Detail of the Forensic Lab so the swab(s) can be processed. It is necessary that you provide the Hit Notification Detail information regarding the status of this hit notification within 30 days of the distribution date of this report. A form will be emailed to you from the Hit Notification Detail and you are required to complete the form and email it back at the following email address: HitNotificationDetail@lvmpd.com.

Kellie M. Gauthier #8691

Kellie M Gauthier, #8691
Forensic Laboratory Manager

12/23/2015

- END OF REPORT -

EXHIBIT “3”

1 RA 000050

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT

Event #: 990424-1124

STATE OF NEVADA)
) ss: RAMON MURIL DORADO
COUNTY OF CLARK) FBI# 380623NA2
) DOB: 11/27/1972 SS#: 624-66-3910

Detective Lora Cody, P# 7294, being first duly sworn, deposes and says that she is the Affiant herein and is a Detective with the Las Vegas Metropolitan Police Department (LVMPD) presently assigned to the Sexual Assault. That she has been employed with the LVMPD for the past 14 years and has been assigned to the Homicide Sex Crimes Bureau for the past 8 years.

There is probable cause to believe that certain item(s) hereinafter described will be found within the following described person, to-wit:

RAMON MURIL DORADO, FBI# 380623NA2 DOB: 11/27/1972 SS#: 624-66-3910

The item(s) referred to and sought to be seized consist of the following:

1. Epithelial cells from the mouth of RAMON MURIL DORADO to be collected via Buccal Swab; or
2. A blood sample from the person of RAMON MURIL DORADO.

Your Affiant believes that the epithelial cells or blood sample, when collected and submitted for DNA laboratory analysis, would either include or eliminate the listed person's involvement in the criminal offense(s) of sexual assault.

In support of your Affiant's assertion to constitute the existence of probable cause, the following facts are offered:

1 RA 000051

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT
(Continuation)

Event #: 990424-1124

On 4/24/1999 [REDACTED] reported to the LVMPD that she had been sexually assaulted in an unknown apartment in the area of 2100 Sunrise, Las Vegas, Nevada. Patrol officers responded, conducted a preliminary investigation and transported [REDACTED] to the University Medical Center for a sexual assault examination. Detective M. Hnatuick responded to UMC and conducted an interview with [REDACTED]. The following is a synopsis of that interview and is not verbatim. [REDACTED] told Detective Hnatuick on the evening of April 23, she was at the Silver Saddle Saloon located at 2501 E. Charleston in Las Vegas. [REDACTED] went on to meet a band member that identified himself as 'Ray'. [REDACTED] agreed to accompany "Ray" to another bar near Boulder Highway. [REDACTED] willingly went with "Ray". [REDACTED] further explained that "Ray" took her to an apartment somewhere at 2100 Sunrise Ave in Las Vegas. Once inside the apartment "Ray" grabbed [REDACTED] and forced her into a back bedroom. "Ray" threw [REDACTED] to the floor pulled down her pants. [REDACTED] attempted to strike "Ray" with various objects that were on the ground next to her as well as kick "Ray" off of her. [REDACTED] explained that she shouted for "Ray" to stop. "Ray" refused and began to insert his tongue into [REDACTED]'s vagina. [REDACTED] again attempted to fight "Ray". "Ray" then forced his penis into [REDACTED]'s vagina, suddenly stopped and stated "I guess my ex-wife was right, I'll never be able to have sex with another woman again." [REDACTED] was then able to run out of the apartment and call 911. [REDACTED] further described "Ray" as possibly having the first name of Raymond and that he was Hispanic, approximately 5'7" inches with brown hair and eyes.

Marion Adams, Sexual Assault Nurse Examiner (SANE) completed her examination and observed the following; [REDACTED] had various bruising and abrasions on

1 RA 000052

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT
(Continuation)

Event #: 990424-1124

her back, legs and arms. [REDACTED] had numerous broken finger nails as well as bruising to her hands. Nurse Adams also observed that [REDACTED] had bruising and tears in her vaginal canal at the 5 and 7 o'clock position. These injuries are consistent with the sexual assault as described by [REDACTED].

On 10/27/2015, [REDACTED]'s sexual assault kit was submitted to the LVMPD forensic laboratory for examination. On 12/23/15 the LVMPD forensic laboratory was notified that the male DNA found in [REDACTED]'s sexual assault kit was a Combined DNA Index System (CODIS) hit on a convicted felon identified as RAMON MURIC DORADO FBI# 380623NA2. A records check on Dorado revealed numerous convictions for an assault with a deadly weapon, kidnap and attempt murder.

Based on the aforementioned information and investigation, your affiant believes grounds for issuance of a search warrant exists as set forth in Nevada Revised Statutes 179.035 and 179.045 because the items sought constitute evidence which tend to show that a crime has been committed, and that a particular person has committed a crime. Given that the County of Clark, State of Nevada has no authority to issue a search warrant for property within the County of Humboldt, State of Nevada, Affiant respectfully request the County of Humboldt, State of Nevada to issue a search warrant for the described property, located in Winnemucca Nevada; said property being evidence of crimes committed on the State of Nevada. It is the intent of the Affiant and peace officers executing the warrant to turn over buccal swabs and or blood samples to

LVMPD Detective Lora Cody, Las Vegas Metropolitan Police Dept., 400 S. Martin Luther King Blvd., Bldg :A, Las Vegas, Nevada 89106, for use in its

1 RA 000053

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT
(Continuation)

Event #: 990424-1124

prosecution/investigation. Affiant has been assured by the designated sworn law enforcement officer from the Winnemucca Police Department in the County of Humboldt, State of Nevada that the property turned over will be protected and will not be disposed of except as pursuant to law of the State of Nevada. The suspect herein will be accorded due process in such disposition. Thus, in signing this affidavit and warrant Affiant respectfully request the permission of the Magistrate to authorize such removal of seized property to the State of Nevada authorities in accordance with the terms herein.

It is further requested that this affidavit be sealed by the order of the Court for the following reasons: This is an on-going investigation and evidence which has been obtained has not yet been disclosed to the suspect; revelation of these facts could have a negative impact on this case. Also, this is an investigation of a sensitive nature involving kidnapping and sexual assault.

Wherefore, your Affiant requests that a Search Warrant be issued directing a search for and seizure of the aforementioned items from RAMON MURIL DORADO, currently at: "Shone House: 602 South Bridge Street, Winnemucca, Nevada 89445 and or anywhere in the city of Winnemucca Nevada between the hours of 7:00 a.m. & 7:00 p.m. In the event that RAMON MURIL DORADO refuses to cooperate with the ~~collection of the Buccal Swab or blood sample, the use of reasonable force is~~ authorized to the extent necessary to obtain these samples.

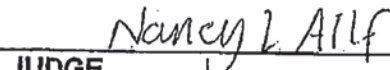
LAS VEGAS METROPOLITAN POLICE DEPARTMENT
APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT
(Continuation)

Event #: 980424-1124



DETECTIVE LORA CODY, AFFIANT

SUBSCRIBED and SWORN to before me this 27th day of January, 2016



JUDGE

EXHIBIT “4”

1 RA 000056

Las Vegas Metropolitan Police Department Forensic Laboratory Report of Examination Biology/DNA Forensic Casework		Distribution Date: November 17, 2016 Agency: LVMPD Location: Homicide & Sex Crimes Bureau Primary Case #: 990424-1124 Incident: Sexual Assault-Project Requester: Lora J Cody Lab Case #: 15-02847.3 Supplemental 1
Subject(s):	RAMON DORADO (Suspect) [REDACTED] (Victim)	

The following evidence was examined and results are reported below.

Lab Item #	Impound Pkg #	Impound Item #	Description
Item 6	007294 - 1	1	Reference standard from Ramon Dorado
*Refer to the supplemental report issued by Bode Cellmark Forensics dated 10/27/2016 for related information.			

DNA Results and Conclusions:

Item 6 was subjected to PCR amplification at the following STR genetic loci: D8S1179, D21S11, D7S820, CSF1PO, D3S1358, TH01, D13S317, D16S539, D2S1338, D19S433, vWA, TPOX, D18S51, D5S818, and FGA. The sex-determining Amelogenin locus was also examined.

LV15-0347-01.01.1-EF*

The full DNA profile obtained from the epithelial fraction of the vaginal swabs (LV15-0347-01.01.1-EF*) is consistent with [REDACTED] (LV15-0347-02.01.1*).

LV15-0347-01.01.1-SF*


The DNA profile obtained from the sperm fraction of the vaginal swabs (LV15-0347-01.01.1-SF*) is consistent with a mixture of two individuals with at least one contributor being a male. The major DNA profile is consistent with Ramon Dorado (Item 6). The probability of randomly selecting an unrelated individual from the general population having a DNA profile that is consistent with the major DNA profile obtained from the evidence sample is approximately 1 in 1.45 sextillion. The minor alleles are consistent with [REDACTED] (LV15-0347-02.01.1*). The major DNA profile was previously searched against the Local DNA Index System (CODIS) and uploaded to the National DNA Index System (CODIS) for comparison.

The evidence is returned to secure storage.

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

Evidence collected directly from the body or personal items removed directly from the body are intimate sample(s); therefore, the donor may be reasonably assumed to be present should the item produce a DNA profile that is suitable for comparison. In instances in which contributors can be assumed, no statistical calculations were performed for the assumed contributors.

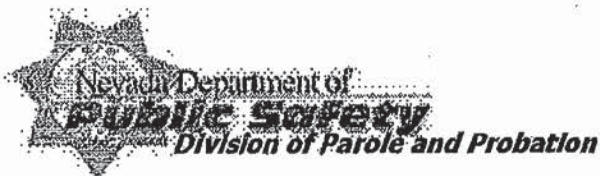
---This report does not constitute the entire case file. The case file may be comprised of worksheets, images, analytical data and other documents.---


Kimberly D. Dannenberger, #13772
Forensic Scientist-II

- END OF REPORT -

EXHIBIT "5"

1 RA 000058



PRESENTENCE INVESTIGATION REPORT

The Honorable David Barker
Department XVIII, Clark County
Eighth Judicial District Court

Date Report Prepared: November 5, 2012

Prosecutor: Jeffrey S. Rogan, DDA
Defense Attorney: Mariana Kihuen Bernal, DPD

PSI: 401588

I. CASE INFORMATION

Defendant: Ramon Murio
AKA: Ramon Muril Dorado
Case: C283004
ID#: 1673321
P&P Bin: 1000791229

PCN: 25349897
Offense Date: 04-27-2012
Arrest Date: 04-27-2012
Plea Date: 09-19-2012, Guilty
Sentencing Date: 11-21-2012

II. CHARGE INFORMATION

Offense: Possession Of Stolen Vehicle (I)
NRS: 205.273
NOC: 00344

Category: C

Penalty: By imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 5 years. In addition to any other penalty, the court may impose a fine of not more than \$10,000, unless a greater fine is authorized or required by statute. In addition to any other penalty, the court shall order the person to pay restitution.

1 RA 000059

III. DEFENDANT INFORMATION

Address: [REDACTED]
City/State/Zip: Las Vegas, Nevada 89142
NV Resident: Yes
SSN: [REDACTED]
POB: Ventura, California
Date of Birth: [REDACTED]
Age: 39
Phone: [REDACTED]
Driver's License: None reported
State: N/A
Status: N/A

FBI: 380 623 NA2
SID: NV04087298
Aliases: Ramon Dorado Muric; Ramon Dorado; Ramon M. Muric; Ramon Muric Dorado; Muric Ramon Zuniga; Ramon Zuniga Muric; Ramon D. Muric.
Additional SSNs: [REDACTED]; [REDACTED]; [REDACTED]
Additional DOBs: [REDACTED]; [REDACTED]
Alien Registration: A88 636 388
US Citizen: Yes
Notification Required per NRS 630.307: No

Identifiers:

Sex: M **Race:** H **Height:** 5'7" **Weight:** 170
Hair: Black **Eyes:** Brown
Scars: On the inside of the right wrist, a 2" vertical scar (verified).
Tattoos: On the left upper arm, a stylized cross with "AMOR" inscribed (verified).

Social History: The following social history is as related by the defendant and is unverified unless otherwise noted:

Childhood: The defendant reported that he was raised in California and Mexico, in an intact family. He only commented that his childhood was "borderline" and added that he lost family members "getting killed."

Current Family Support Status: Both parents are deceased but he reportedly has brothers and sisters residing in Las Vegas.

Marital Status: Married in 1991 and divorced in 2008.

Children: Two daughters and one son, all adults, all emancipated.

Custody Status of Children: Not applicable.

Monthly Child Support Obligation: Not applicable.

Employment Status: The defendant reported that he has worked as a carpenter, electrician and building maintenance man since the 1990s. The defendant has also reportedly been a singer/performer since he was very young. He reported that a short time before the instant arrest, he landed a recording contract through "Fonovisa."

Number of Months Employed Full-Time in the 12 Months Prior to Instant Offense: 0

Income: Varied, \$650 to \$2,000 / month.

Other Sources: None reported.

Assets: Property in Mexico, \$160,000.

Debts: An unknown amount in medical bills.

PRESENTENCE INVESTIGATION REPORT
RAMON MURIC, AKA: RAMON MURIL DORADO
CC#:C283004

Page 3

Education: The defendant reported that he achieved a GED in 1991 and later achieved an A.A.S. Degree in Electronics from a college in San Bernardino, California.

Vocational Skills: None reported.

Military: U.S. Army, 1997 to 1998. The defendant served 18 months and received a Medical Discharge after a suicide attempt. He was discharged at the rate of E-4.

Health and Medical History: The defendant reports no health issues at this time.

Mental Health History: The defendant reported that he attempted suicide in 1998, after his father was "killed" in Mexico.

Gambling History: The defendant denies gambling at all.

Substance Abuse History: The defendant reported that he used to smoke marijuana for a time. He does admit that alcohol is a problem for him at times and stated that he was intoxicated before the instant arrest. He commented that he woke up in the stolen car he was arrested in. He denies the use of any other intoxicants.

Gang Activity/Affiliation: None reported.

IV. CRIMINAL RECORD

As of October 30, 2012, records of the Las Vegas Metropolitan Police Department, Federal Bureau of Investigation (FBI) and National Crime Information Center (NCIC) reflect the following information:

CONVICTIONS: **FEL:** 5 **GM:** 2 **MISD:** 4

INCARCERATIONS: **PRISON:** 4 **JAIL:** 6

OUTSTANDING WARRANTS AND LEVEL OF OFFENSE: 0

WARRANT NUMBER AND JURISDICTION: Not applicable.

EXTRADITABLE: Not applicable.

SUPERVISION HISTORY:

CURRENT: **Probation Terms:** 0

Parole Terms: 0

PRIOR TERMS:

Probation: **Revoked:** 2 **Discharged:** **Honorable:** 0 **Other:** 0

Parole: **Revoked:** 1 **Discharged:** **Honorable:** 2 **Other:** 0

1 RA 000061

PRESENTENCE INVESTIGATION REPORT
RAMON MURIC, AKA: RAMON MURIL DORADO
CC#:C283004

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Adult:

Arrest Date:	Offense:	Disposition:
06-21-1997 (San Bernardino, CA)	1. Inflict Corporal Injury Spouse /Cohabitant (M) 2. False ID to Specific Peace Officers (M)	Case # MSB028861. 07-03-1997: Adjudged guilty of Inflict Corporal Injury: Spouse/ Cohabitant (M), sentenced to summary probation/jail.
08-15-1999 (LVMPD)	Battery Domestic Violence (M)	C-413253-A. 09-14-1999: Adjudged guilty of Battery Domestic Violence (M) and sentenced to time served and \$200.00 fine (vacated).
02-02-2003 (LVMPD)	1. Escape (GM) 2. Carrying Concealed Weapon (GM)	02F21539X. 02-04-2003: Adjudged guilty of Carrying a Concealed Weapon - 1 st Offense (M), sentenced to 90 days jail.
02-02-2003 (LVMPD)	1. Attempt Murder With Deadly Weapon (F) 2. Resist Public Officer (F) 3. Kidnap 1 st Degree (F), 4 Counts 4. Child Endangerment (F) (3 counts) BSR: 06-16-2003 12-20-2004: Parole violation	CC#C191031. 08-13-2003: Adjudged guilty of Attempt Child Endangerment (F) and sentenced to 16 to 72 months NDOC, concurrent with C190731. Parole Violation 11-14-2006: Parole revoked. 02-08-2007: Expired term in prison.
02-24-2003 (LVMPD)	1. Burglary With Deadly Weapon (F) 2. Kidnap 1 st Degree With Weapon (F) 3. Assault With Deadly Weapon (F) FTA: 06-05-2003 BSR: 06-16-2003 12-20-2004: Parole violation	CC#C190731. 06-16-2003: Adjudged guilty of Assault With a Deadly Weapon (F) and sentenced to 14 to 48 months NDOC. 11-29-2004: Paroled. 12-29-2004: Remand to prison. 03-14-2005: Paroled. 09-24-2005: Honorable Discharge.
03-07-2006 (LVMPD)	1. Burglary (F), 2 Counts 2. Forgery (F), 2 Counts 3. Attempt Theft (F) 4. Theft (F) FTA: 02-08-2007 08-07-2008: Probation violation	CC#C230426. 04-05-2007: Adjudged guilty of Theft (F) and sentenced to 24 to 60 months NDOC, suspended with probation NTE 4 years. 09-23-2008: Probation revoked, underlying sentence imposed. 09-10-2010: Parole to hold. 12-02-2010: Honorable discharge.
07-16-2008 (NLV)	1. Theft (F) 2. Contribute to Delinquency of a Minor (GM) RMD: 08-07-2008	CC#C246880. 09-29-2008: Adjudged guilty of Attempt Possess Stolen Vehicle (GM). Sentenced to 6 months CCDC concurrent with C230426.

1 RA 000062

PRESENTENCE INVESTIGATION REPORT
RAMON MURIC, AKA: RAMON MURIL DORADO
CC#:C283004

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09-11-2008 (LVMPD)	Theft (F)	CC#C249117. 12-15-2008: Adjudged guilty of Conspiracy to Commit Theft (GM), sentenced to 1 year CCDC, consecutive to C230426. 09-14-2010: Sentence modified to run concurrent with C230426.
07-19-2011 (LVMPD)	1. Posses Stolen Vehicle (F) 2. Possess dangerous Drug Without Prescription (F) RBK: 07-21-2011, Grand Larceny Auto (F)	11F12752X. 08-02-2011: Adjudged guilty of Possess Stolen Property (M) and sentenced to time served.
10-20-2011 (LVMPD)	RBK: 1. Burglary (F) 2. Grand Larceny (F) 03-10-2012: Probation violation 04-30-2012: Probation violation	CC#C277434. 01-25-2012: Adjudged guilty and sentenced as follows: 1. Burglary (F), 36 to 96 months NDOC. 2. Grand Larceny (F), 19 to 48 months NDOC, concurrent with Count 1. Both terms suspended with probation NTE 2 years. 04-11-2012: Probation reinstated with no added conditions. 11-06-2012, stipulated to revocation, with original sentences imposed.
03-10-2012 (LVMPD)	1. Burglary (F) (2 counts) 2. Grand Larceny (F) 3. Possess Stolen Property (F) 4. Obtain Money Under False Pretenses (F) RBK: 05-17-2012	Pending case. CC#C283074. 11-06-2012, pled guilty to Burglary (F). PSI waived. Sentencing set for 11-27- 2012.
04-27-2012 (LVMPD)	1. Grand Larceny Auto (F) 2. Possess Stolen Vehicle (F) 3. Escape with Felony Charges (F) 4. Possess Burglar Tools (GM)	Instant offense. CC#C283004.

Additionally, the defendant was arrested or cited in California and Nevada for the following offenses for which dispositions are unknown, unavailable or charges were dismissed:

CALIFORNIA: DUI Alcohol, Drugs; Use /Under Influence of Controlled Substance (2); Inflict Corporal Injury Spouse /Cohabitant.

NEVADA: Battery Domestic Violence (3); False Information To Police; Resist Police Officer; Statutory Sexual Seduction; Burglary; Attempt Theft; Forged/False/Altered Prescription; Forged Prescription; Utter Forged Instrument; Obtain Controlled Substance by Fraud; Vehicle & Traffic Offenses and FTA.

1 RA 000063

Institutional/Supervision Adjustment: Available records reflect that the defendant served two grants of probation in cases C230426 and C277434, which were subsequently revoked. He also served three grants of parole in cases C191031, C190731 and C230426 and received two Honorable Discharges and one revocation. Division records reflect violations related to subsequent arrests, contact with victims of previous crimes, reporting, residence and employment. He was also in arrears in payment of restitution and supervision fees.

Supplemental Information: The SCOPE report indicates that I.C.E. had reported that the defendant was illegally in the United States, so a criminal alien investigation was requested of the Department of Homeland Security, Immigration and Customs Enforcement (ICE). On December 13, 2011, the I.C.E. reply advised as follows: "I.C.E. records indicate that this subject is a United States citizen. This individual is not subject to removal from the United States. No further action by I.C.E. will be taken." "Possible hit based on FBI number provided."

V. OFFENSE SYNOPSIS

Records of the Las Vegas Metropolitan Police Department and the Clark County District Attorney's Office reflect that the instant offense occurred substantially as follows:

On April 27, 2012, a patrol officer of the Las Vegas Metropolitan Police Department was patrolling in the Motel 6 parking lot at 4125 Boulder Highway and observed a 1993 Honda Prelude backed into a parking space. The Honda carried a placard from R/T Motorsports where the front license plate should have been. The officer knew that a similar vehicle had been stolen from that dealership a few days prior, so he remained in the area to observe the car.

A short time later, the now occupied Honda began to exit the lot. The officer confirmed that the vehicle had been reported stolen and performed a felony car stop in the parking lot of the Boulder Station Casino. The driver (only occupant) was identified as Ramon Muric, AKA: Ramon Muril Dorado. He was arrested, handcuffed and placed into the rear seat of the patrol car. When the salesman from the dealership arrived to identify Muric, the officer allowed Muric to exit the patrol car. Unknown to the officer, Muric had slipped out of the handcuffs and took off running. He was again captured, this time with assistance of casino security personnel.

During the time Muric was running, a described a male in a black Ford pickup truck attempted to assist him in getting away. The driver of that vehicle was also arrested but the charges and disposition are unknown.

Ramon Muric, AKA: Ramon Muril Dorado was arrested, transported to the Clark County Detention Center and booked accordingly.

VI. CO-DEFENDANT'S/OFFENDER'S INFORMATION

Not applicable.

VII. DEFENDANT'S STATEMENT

The defendant was interviewed at the Clark County Detention Center on October 31, 2012. He did not write a statement for the Court's review.

During the presentence interview, the defendant commented that shortly before the instant crime, his infant daughter had died after an operation and he was distraught. He started drinking and became heavily intoxicated. He woke up in the stolen car he was eventually arrested.

VIII. VICTIM INFORMATION/STATEMENT

An information letter with claim form was mailed to the victim business, R/T Motorsports (VC2208553); however, a claim has not been received. Telephone contact was also attempted, but was not successful. The Division has contacted the Clark County VWAC regarding a restitution claim; none was reported.

IX. CONCLUSION

The Division recommends incarceration for Ramon Muric, AKA: Ramon Muril Dorado. His criminal history reflects five felony, two gross misdemeanor and four misdemeanor convictions. He was serving a recently granted term of probation when he committed the crime in the instant case and he had been granted four prior opportunities at community supervision in the form of one grant of probation and three paroles but he did not take advantage of those grants to improve himself or to cease further criminal activities. The Division does not believe that any further benefit of community supervision is warranted.

X. CUSTODY STATUS/CREDIT FOR TIME SERVED

Custody Status: In custody, CCDC.

CTS: 0 DAYS: 04-27-2012 to 11-21-2012 (CCDC) 208 Days, Nevada probationer in C277434.

XI. PLEA NEGOTIATIONS

The defendant also agrees to plead guilty to: BURGLARY (Category B Felony – NRS 205.060) in Case No. C283074.

Both parties stipulate to revocation of the defendant's probation without modification in Case No. C277434. The State will retain the right to argue at sentencing and agrees to not seek habitual criminal treatment in the instant case. Additionally, the State will not oppose concurrent time between cases. Defendant agrees to pay full restitution in all cases and counts.

XII. RECOMMENDATIONS

190 Day Regimental Discipline Program: N/A

Deferred Sentence Per NRS 453.3363: N/A

FEEES

Administrative Assessment: \$25

Chemical/Drug Analysis: N/A

DNA: Taken on December 1, 2004

Domestic Violence: N/A

Extradition: N/A

Psychosexual Fee: N/A

SENTENCE

Minimum Term: 12 months

Maximum Term: 36 months

Location: NDOC

Concurrent with: C277434

Probation Recommended: No

Probation Term: N/A

Fine: None

Restitution: None

Mandatory Probation/Prison: No

___ Pursuant to NRS 239B.030, the undersigned hereby affirms this document does not contain the social security number of any person.

X Pursuant to NRS 239B.030, the undersigned hereby affirms this document contains the social security number of a person as required by NRS 176.145.

Per Nevada Supreme Court opinion in Stockmeier v. State, any changes to your Presentence Investigation Report must be made at or before sentencing. The information used in your Presentence Investigation Report may be reviewed by federal, state and/or local agencies and used for future determinations to include, but not limited to, parole consideration.

PRESENTENCE INVESTIGATION REPORT
RAMON MURIC, AKA: RAMON MURIL DORADO
CC#:C283004

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In accordance with current Interstate Commission for Adult Offender Supervision rules and requirements, all felony convictions and certain [gross] misdemeanants are offense eligible for compact consideration. Due to Interstate Compact standards, this conviction may or may not be offense eligible for courtesy supervision in the defendant's state of residence. If not offense eligible, the Division may still authorize the offender to relocate to their home state and report by mail until the term of probation is complete and/or the case has been completely resolved.

Respectfully Submitted,

Bernard W. Curtis, Chief

Prepared by Dennis J. Filarecki
DPS Parole and Probation Specialist III

Approved:



Starla R. French, Supervisor
Department of Public Safety
Parole and Probation, Southern Command

Original signature on file

1 RA 000067

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 13, 2017**

C-17-323098-1 State of Nevada
 vs
 Ramon Dorado

July 13, 2017 9:00 AM All Pending Motions

HEARD BY: Scotti, Richard F.**COURTROOM:** RJC Courtroom 11D**COURT CLERK:** Cassidy Wagner**RECORDER:** Dalyne Easley**REPORTER:****PARTIES**

PRESENT:	Dorado, Ramon Muril	Defendant
	Radosta, Violet R	Attorney for Deft
	State of Nevada	Plaintiff
	Villani, Jacob J.	Attorney for State

JOURNAL ENTRIES

- DEFENDANT'S MOTION TO DISMISS COUNSEL AND APPOINT ALTERNATE COUNSEL...DEFENDANT'S MOTION TO SUPPRESS EVIDENCE OBTAINED PURSUANT TO SEARCH WARRANT...CALENDAR CALL.

Statements by Defendant. Upon Court's inquiry, Ms. Rodasta advised she was not too busy for defendant's case and stated she informed defendant that certain things would not get done because Defendant invoked. Further Upon Court's inquiry, Ms. Rodasta advised she has informed defendant of his choices and that her and defendant do get into arguments every time. Colloquy between Court and Ms. Rodasta regarding alternate counsel. COURT STATED IT'S FINDINGS AND ORDERED, Defendant's Motion to Dismiss Counsel and Appoint Alternate Counsel DENIED.

Upon Court's inquiry, Mr. Villani advised there was no new information and the DNA was already turned over along with the discovery. Colloquy between counsel and Court regarding discovery. Further Upon Court's inquiry, Ms. Rodasta requested to continue the trial for one week. COURT

PRINT DATE: 07/17/2017

Page 1 of 2

Minutes Date: July 13, 2017

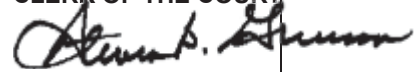
ORDERED, trial date VACATED and RESET.

Ms. Rodasta argued that there were errors with the search warrant by adding additional information to form the basis of probable cause. Mr. Villani argued that Ms. Rodasta is taking out only part of the statement from the Detective. COURT STATED IT'S FINDINGS AND ORDERED, Defendant's Motion to Suppress Evidence Obtained Pursuant to Search Warrant DENIED. State to prepare the Order.

CUSTODY

07/18/17 9:00 A.M. CALENDAR CALL

07/24/17 10:00 A.M. JURY TRIAL



1 RTRAN

2
3
4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 THE STATE OF NEVADA,
9 Plaintiff,

CASE#: C-17-323098-1
DEPT. II

10 vs.

11 RAMON MURIL DORADO,
12 Defendant.

13
14 BEFORE THE HONORABLE RICHARD F. SCOTTI, DISTRICT COURT JUDGE
15 THURSDAY, JULY 13, 2017

16 **RECORDER'S TRANSCRIPT OF HEARING:**
17 **DEFENDANT'S MOTION TO DISMISS COUNSEL AND APPOINT**
18 **ALTERNATE COUNSEL; DEFENDANT'S MOTION TO SUPPRESS**
19 **EVIDENCE OBTAINED PURSUANT TO SEARCH WARRANT, AND**
20 **CALENDAR CALL**

21 APPEARANCES:

22 For the State:

JACOB VILLANI, ESQ.
Chief Deputy District Attorney

23 For the Defendant:

VIOLET R. RADOSTA, ESQ.
Deputy Public Defender

24
25 RECORDED BY: DALYNE EASLEY, COURT RECORDER

1 Las Vegas, Nevada, Thursday, July 13, 2017

2
3 [Hearing began at 9:20 a.m.]

4 THE COURT: All right. Let's go to Ms. Radosta's, right.
5 What page, you're page 10?

6 MS. RADOSTA: Yes.

7 THE COURT: All right.

8 State versus Ramon Dorado, C323098. What did you want to
9 hear first, Ms. Radosta?

10 MS. RADOSTA: I would actually like the Court to address my
11 client's motion to dismiss me as attorney of record. That was that --

12 THE COURT: All right. So, Mr. Dorado, it looks like you filed
13 a motion to dismiss your counsel. It looks like the basis of your motion is
14 that she refused to comply with your request to file a petition for writ of
15 habeas. You don't really explain what was the basis of the writ. I think
16 you're suggesting that you wanted some kind of writ that would allow
17 you to be released, because you need to take care of your family.

18 THE DEFENDANT: That --

19 THE COURT: And I think and but didn't -- she already
20 brought a motion before me for your reduction for OR release or
21 reduction of bail, I believe. And I denied that.

22 THE DEFENDANT: Right.

23 THE COURT: So what -- so tell me why you believe your
24 counsel is so ineffective that I need to dismiss her.

25 THE DEFENDANT: Your Honor, at that time when I filed that I

1 had visited or she had visited me on the Thursday, which was like 11,
2 10, 8, around the eighth of June. And she told me that she was going to
3 file, you know, a writ and motion for OR and all this stuff, because I
4 wasn't compliant parole supervision when this thing happened. I was
5 driving semi-truck, I had just started, you know. It was very hard for me
6 to get, you know, put myself through college, and all that stuff.

7 Anyway and the writ that I wanted her to challenge was on the
8 grounds that the reason I pleaded the Fifth when you asked me if I
9 wanted to invoke my right to a speedy trial was because I was under the
10 belief, and I'm still under the belief, that my right to a speedy trial had
11 already been violated with the 60 something days that it took for me to
12 get here. And she, you know, we have a difference of opinion and I
13 respect her. She's very -- she's been doing this job for many years and
14 stuff, and I understand that.

15 At that time when I filed that I checked with the officer on
16 Monday, do I have any other court dates to see if she had filed that
17 motion for my OR or the writ or a motion to dismiss the Indictment and
18 all this stuff based on, you know, on the failure to preserve evidence that
19 if available would have helped exonerate me against these serious
20 crimes. I mean, the witnesses that made statements, and stuff. The
21 videos that were never collected, all that stuff.

22 Your Honor, I'm not trying to get away with it, you know. But
23 you know, I know that the law is there to hold me accountable when I
24 break it. But it also exists to protect me from injustice. So, unfortunately
25 I am a product of my past. I screwed up 2003, 2000 -- I screwed up, you

1 know, become addicted. You know a lot of people, a lot of these guys
2 don't even know that, you know. They haven't even been released
3 thinking about that pipe or drink. And they're really on the way back
4 without even being released. That's --

5 THE COURT: Just -- I don't really need to hear about your
6 past because --

7 THE DEFENDANT: Right.

8 THE COURT: -- I don't want you to say anything that, you
9 know, might be incriminating or used against you. But just try to focus
10 on the effectiveness of your counsel in your argument.

11 THE DEFENDANT: Well, the failure and the resilience [sic]
12 the unwillingness to, you know, to help me file these these things. And,
13 you know, the last time we met she told me, you know what, I don't feel
14 effective, she said, enough to represent you at this trial if you keep
15 pushing for this for a speedy trial issue, you know, I said well the Judge
16 kind of evoked [sic] that right, that's out of my hands. But, you know,
17 we're just not seeing eye to eye. I don't know -- I don't understand, you
18 know, I know that the -- these courts run by the Nevada Constitution. I
19 know you have to go by it, but also the US Constitution protects me from
20 injustice, from violations, Your Honor.

21 I'm -- look I'm sitting in jail without being convicted. I can't
22 afford to pay \$25,000 right now to get out. The -- what I asked you was
23 the base -- the greatest proof of my innocence would have been walking
24 through that door, here I am. So, I mean, I don't know, Ms. Radosta
25 maybe she's -- and then dealing with an over passionate guy. I'm a very

1 passionate gentleman, as the Court already knows, I mean, that must
2 come from the Italian side of my heritage or the Barcelonan side on my
3 mother's side. But, you know, it -- it's absurd, it's, you know, it affects
4 me to my core of being accused of such ugly crimes.

5 THE COURT: Well what is it that you believe a new attorney
6 would do that Ms. Radosta has not done? That --

7 THE DEFENDANT: Well Ms. Radosta's, own words to me got
8 me worried. She says she's overburdened; she has too much on her
9 plate. So, I mean, it would make life easier for her if I would sit, I guess,
10 in County for an extra year --

11 THE COURT: Mm-hmm.

12 THE DEFENDANT: -- or two while you guys have enough
13 time to get special witnesses. From day one I've never tried to mislead
14 Ms. Radosta.

15 THE COURT: Okay.

16 THE DEFENDANT: So, I mean, for me to [indiscernible] it
17 would lead to my ending.

18 THE COURT: But, well okay, anything else sir?

19 THE DEFENDANT: Uh --

20 THE COURT: Because I need to hear from the other parties.

21 THE DEFENDANT: We just -- every time we meet we're
22 arguing. And I don't think it's in my best interest if Ms. Radosta keeps
23 representing me. She has --

24 THE COURT: All right.

25 THE DEFENDANT: -- she's overburdened. So --

1 THE COURT: All right.

2 So let's -- let's find out. Okay, thank you sir.

3 THE DEFENDANT: I'm sorry.

4 THE COURT: Ms. Radosta, are you too busy to handle this
5 matter, in which case we could look into other options?

6 MS. RADOSTA: I'm -- no, Your Honor, that's not the situation.
7 I mean, I admitted -- I admit that I did say to Mr. Dorado, I've got a lot on
8 my plate, I'm a Public Defender. It's the nature of the beast, particularly
9 when a client invokes or because he's very particular about this. When
10 the right to speedy trial has been invoked it just makes everything move
11 at supersonic speed.

12 MS. RADOSTA: And I was informing him that if he was not
13 open to the idea of waiving speedy, that I felt that because certain things
14 we're not going to be able to get done prior to the speedy trial
15 invocation, that there's a possibility of ineffectiveness.

16 DNA experts, potentially medical experts, have not been
17 retained in this case, because of the speedy invoke. And that's what I
18 was saying. I wasn't saying, like blanket statement, I'm going to be
19 ineffective. It's not like; just watch me be ineffective, it's not that. It is
20 just this is the nature of the beast. But it's still his choice as to whether
21 or not he wants to go, but I'm not doing my job if I'm not informing him of
22 the potential problems --

23 THE COURT: Okay. So you --

24 MS. RADOSTA: -- with an invocation.

25 THE COURT: Right.

1 MS. RADOSTA: As far as whether or not I said I would file
2 certain motions or other motions, we -- he's right. Every single time we
3 talk we get into a disagreement, because he remembers things a certain
4 way, I remember them a different way. Additionally, he just thinks that I
5 don't know the law and when I tell him things that are in opposition to his
6 understanding, that I'm just wrong.

7 Such as, when does the 60 day right to speedy trial --

8 THE COURT: You've did explained to him that that's not a
9 constitutional requirement?

10 MS. RADOSTA: Right. And that it attaches at arraignment
11 not when you are first made aware of the charges. As you just heard
12 him say, he disagrees with me.

13 THE COURT: Right.

14 MS. RADOSTA: It's not really something you can disagree
15 with; it's the law, so --

16 THE COURT: Okay. And you have a duty obviously as a --

17 MS. RADOSTA: Right.

18 THE COURT: -- you have a duty not to file a frivolous motion.

19 MS. RADOSTA: That there is that as well, Your Honor. I
20 mean, I have filed the motions that I think are appropriate and there
21 might be one or two more prior to a trial date. I will tell the Court
22 honestly that while Mr. Dorado and I do butt heads a little bit it's nothing
23 in my opinion that is unmanageable. And I also think that he would have
24 the same issue with any other attorney in all honesty. Because what his
25 problem is with me, is that I'm not filing the motions he wants me to file.

1 And that I'm telling him the law and he disagrees with the law. That's
2 not really going to change with another attorney, Your Honor, but I will
3 leave it to Your Honor.

4 THE COURT: Mm-hmm.

5 MS. RADOSTA: As far -- and just for one other small point.

6 THE COURT: Yes.

7 MS. RADOSTA: He wanted -- desperately wanted me to file a
8 petition for a writ of habeas corpus. While I didn't feel that there was any
9 legit issue there beyond that, you waive your right to a speedy trial if you
10 file a writ. He was very adamant that he did not want to waive his
11 speedy trial rights, so you know, so there was that additional issue as
12 well.

13 THE COURT: Does the State want to take any position on
14 this?

15 MR. VILLANI: No, Your Honor, I mean, our only issue
16 obviously is that it can become problematic if another Public Defender is
17 appointed.

18 THE COURT: Mm-hmm.

19 MR. VILLANI: It doesn't sound like there's an issue here. The
20 choice should be between representing himself or going forward with the
21 Public Defender he was appointed.

22 MS. RADOSTA: And it wouldn't be. For the sake of
23 argument, it wouldn't be another Public Defender. If he does not want --
24 if the Court makes a ruling that I'm not to represent him any longer then
25 it would go to either the Special PD or to Mr. Christensen's office. So we

1 are an entity.

2 THE COURT: Last word, Mr. Dorado, make it brief?

3 THE DEFENDANT: It's kind of unfair for her to say that I say
4 that she don't know. She's very knowledgeable about the law, you
5 know, that's assumption she -- if that's what she assumes that I'm
6 thinking, she's wrong.

7 THE COURT: Okay.

8 THE DEFENDANT: And I just -- I don't feel that if two people
9 are just arguing across -- I'm not trying to say I know, I don't know.
10 But --

11 THE COURT: What happens in a lot of cases there's often
12 disagreements between the defendant and his or her attorney on
13 litigation tactics and defense theories --

14 THE DEFENDANT: And one last thing, Your Honor --

15 THE COURT: -- and discovery, so that's pretty typical, sir.

16 So, I've heard everything. I'm going to deny your motion,
17 because I think Ms. Radosta is very competent and knows the law.
18 Does have the passion as exhibited by the prior motion she's filed
19 already in this matter and by her zeal in arguing these.

20 I think she is effective, you know, we all have time constraints.
21 If you continue to insist on, you know, a speedy trial, which is your right,
22 I'm sure she's going to have to adjust her schedule accordingly. And
23 she will do that to provide effective defense for you.

24 So I'm going to deny that, all right. We're going to continue on
25 with Ms. Radosta representing you. You still have to get past, you know,

1 nothing wrong with disagreements and discussing your position. You
2 can be just as zealous in advocating your position as she is in telling you
3 whether it's the right position or not. All right.

4 THE DEFENDANT: Okay.

5 THE COURT: So listen to her, take her counsel and we're
6 going to move forward though. I assume you still want a speedy trial, is
7 that correct?

8 THE DEFENDANT: [No audible response]

9 THE COURT: I don't know if we can do it next week, we are
10 set for next week. I can maybe send you to overflow if we need to. Let
11 me talk to your attorney about that now, okay?

12 Ms. Radosta, so we have another motion set?

13 MS. RADOSTA: Yes.

14 THE COURT: And then we also need to discuss the trial
15 date?

16 MS. RADOSTA: Yes.

17 THE COURT: Which do you -- which issue do you want to
18 discuss next?

19 MS. RADOSTA: Well, Mr. Villani made reference when we
20 were in Court on Tuesday that this was not overflow eligible and I wasn't
21 entirely sure --

22 THE COURT: Oh.

23 MS. RADOSTA: -- from where he was making that assertion if
24 it was just the outstanding motion that's on today. Additionally for the
25 Court's information, in light of additional information that Mr. Villani --

1 because he's in the same situation I'm in with the 60 day set. He's
2 getting me stuff; as soon as he finds out something he passes it on to
3 me. The additional piece of information that he passed on to me is
4 going to necessitate another motion.

5 THE COURT: He tried -- I know you submitted something
6 yesterday an order shortening time, and you wanted it heard today. I
7 didn't think that was enough notice --

8 MS. RADOSTA: Fair enough.

9 THE COURT: -- that's why I didn't set it for today.

10 MS. RADOSTA: I wouldn't have thought that was fair either,
11 Judge.

12 THE COURT: Okay.

13 MS. RADOSTA: It's just a discovery motion. But there is a
14 motion beyond that.

15 THE COURT: Well have you guys met and conferred and
16 discussed whether you should agree to a trial continuance, based upon
17 this new information?

18 MR. VILLANI: There's no new information that I'm aware of.
19 All discoveries's been turned over. I will go through and review
20 periodically, I might have turned over a couple more documents, but as
21 far as like the DNA and all that stuff was turned over as of June 28th.
22 The initial discovery was turned over on June 15th. All that initial
23 discovery was missing were photos and the full DNA file from both the
24 companies. Those were then turned over on June 28th.

25 Based upon Ms. Radosta's representations a couple times

1 ago, when we were in Court about not being able to trust the discovery
2 that the runner brings over, I recopied all of the discovery that I had
3 provided to date, and made it available for her to pick up, yet again. And
4 so I don't know if that's the additional information, but --

5 MS. RADOSTA: Well --

6 MR. VILLANI: -- that's all I have. I received and --

7 THE COURT: All right.

8 MR. VILLANI: -- my basis for the not being overflow eligible
9 was at that time, these -- his motion that was on and now it's the order
10 shortening time there's a pending motion again. So --

11 MS. RADOSTA: I mean --

12 MR. VILLANI: -- we're not overflow eligible.

13 THE COURT: Well I -- okay. I didn't even want to get into the
14 merits of her anticipated motion based on the new stuff. I just wanted to
15 know --

16 MS. RADOSTA: Right.

17 THE COURT: -- if you guys had met and conferred on it,
18 because --

19 MS. RADOSTA: So --

20 THE COURT: -- it sounds like you guys need to talk about
21 what it is that Ms. Radosta claims was new and then you need to
22 discuss whether it's material --

23 MS. RADOSTA: It's --

24 THE COURT: -- such that it might, because if its material, you
25 know, it might -- it probably warrants a continuance. So you guys need

1 to discuss that before I hear either motion, right?

2 MR. VILLANI: Well --

3 THE COURT: If you haven't -- and if you've discussed it
4 maybe if the State agrees there should be a continuance, you should let
5 me know.

6 MR. VILLANI: The motions set --

7 MS. RADOSTA: But --

8 MR. VILLANI: -- for the 18th, the discovery motion.

9 THE COURT: The 18th, okay.

10 MR. VILLANI: The motion that's on today is for suppression of
11 the --

12 THE COURT: Right.

13 MR. VILLANI: -- the search warrant evidence.

14 THE COURT: Right, yeah, yeah, yeah.

15 MR. VILLANI: So we'll have time to discuss it before that. I'll
16 read through the motion. I just received it this morning --

17 THE COURT: Okay.

18 MR. VILLANI: -- so I'll read through the motion.

19 MS. RADOSTA: I mean at this point, Your Honor, if you
20 wanted to because my client still has not waived speedy and at this
21 point --

22 THE COURT: Right.

23 MS. RADOSTA: -- I'm still in a position where he wants to
24 invoke speedy. I appreciate we probably cannot start Monday, which is
25 our current trial date, Monday.

1 THE COURT: Not in my department.

2 MS. RADOSTA: Well if we would, for the sake of argument,
3 that is still our current trial date. If we're not overflow eligible because of
4 motions that I'm filing, I'd be willing to push it a week in light of the fact
5 that he's invoking. I mean, I personally would like more time than that,
6 but we're not -- I'm not in a position where I can really agree to pass it
7 longer.

8 THE COURT: Well, let me hear -- because if I -- so I guess
9 technically if there's a pending motion, you know, there shouldn't be any
10 pending motions if I send it to overflow.

11 MS. RADOSTA: Right.

12 THE COURT: So if you have a discovery motion that I haven't
13 resolved it really isn't overflow eligible.

14 I do have a trial starting -- Monday is a -- or Tuesday is the
15 18th? I've -- the 18th, and it's going to flow into probably the 24th. I can
16 set you guys down for trial to start the 24th, but --

17 MS. RADOSTA: With the --

18 THE COURT: -- I could do that, but we probably wouldn't start
19 till the 25th.

20 MS. RADOSTA: -- with the caveat of course, Mr. Villani, I'm
21 guessing has no idea if his witnesses will be available --

22 MR. VILLANI: That's true.

23 MS. RADOSTA: -- at that point in time.

24 MR. VILLANI: That's the issue with pushing it a week, is my
25 witnesses are available for next week. I've got doctors, I've got DNA

1 analysts coming in for next week. But if we push it a week I can't
2 guarantee that somebody doesn't have a vacation or a doctors
3 unavailable, something like that.

4 THE COURT: What would you suggest that I do, Mr. Villani?

5 MR. VILLANI: Well, I mean, he hasn't really answered the
6 question of whether or not he's waiving his 60 day right. Maybe we can
7 answer that and go from there. If he is not waiving his 60 day right, I
8 mean, the Court's calendar mandates a continuance especially given the
9 fact that we are no longer overflow eligible with the pending motion.

10 THE COURT: Well, so what -- Ms. Radosta, does your client
11 want to waive his right to a 60 day trial set?

12 Do you want to waive your right to 60 --

13 MS. RADOSTA: Please, Judge, I -- he and I --

14 THE COURT: If I --

15 MS. RADOSTA: -- I don't want to speak for him on this issue.

16 THE COURT: So a --

17 MS. RADOSTA: I've asked him multiple times.

18 THE COURT: -- if -- my civil stack begins July 31st and it runs
19 all through August. I'm booked all through August with a bunch of
20 cases. I can't try your case in August, all right. So if you waive your
21 right to a speedy trial I would probably set this for middle, third week of
22 September, all right.

23 THE DEFENDANT: May I speak, Your Honor?

24 THE COURT: If you don't waive your right to a speedy trial
25 then what I would probably do, oh my gosh.

1 MS. RADOSTA: I think for the sake of argument, Your Honor,
2 just to -- for right now, if he does not waive we could set it for the week
3 of the 24th. And if and give Mr. -- have a calendar call next week and if
4 Mr. Villani comes in and says my witnesses aren't available, well then
5 we'll deal with it.

6 THE COURT: I would accommodate that because this
7 continuance is necessitated by Court scheduling conflicts, all right. So --

8 MR. VILLANI: And again, we still --

9 THE COURT: -- I think that's what I would do. I would set it.
10 If he continues to invoke his right to a speedy trial I'm going to reset this
11 for the 24th, all right.

12 MR. VILLANI: Okay.

13 THE COURT: With the understanding that if the State's
14 witnesses are not available we'll continue it further, all right?

15 MS. RADOSTA: Mm-hmm.

16 THE COURT: But it would be as short of a continuance I can
17 give and I'll -- I would try if possible to fit it somewhere in my civil stack,
18 but it's going to be very tough.

19 If he waives his right to a speedy trial it's probably going to be
20 the third or fourth week of September, all right?

21 So with that in mind sir, what do you want to do, waive your
22 right to speedy trial or continue to invoke your right to a speedy trial?

23 THE DEFENDANT: Could I ask my lawyer one question
24 before I answer?

25 THE COURT: You could talk to her, yes. Ms. Radosta,

1 please --

2 MS. RADOSTA: Yeah, and if you know what Judge, why
3 don't we go ahead just trail it let somebody else -- and I'll speak to him --

4 MR. VILLANI: I -- I

5 MS. RADOSTA: -- for half a second. Oh, do you need --

6 THE COURT: Well I think he needs to get to a --

7 MR. VILLANI: I do have a training over at Metro that I'm
8 supposed to be at as we speak.

9 MS. RADOSTA: Okay. Just give me a second, Judge.

10 THE COURT: No problem.

11 [Hearing trailed at 9:38 a.m.]

12 [Hearing resumed at 9:41 a.m.]

13 THE DEFENDANT: This is --

14 MS. RADOSTA: And --

15 THE COURT: This is life changing, I know. We'll get it. Let
16 me hear from your attorney.

17 MS. RADOSTA: At this point, Your Honor, in light of his
18 question what he was concerned with I think we're we would just ask for
19 pushing it one week with a calendar call date of Tuesday. That
20 potentially, hopefully will give Mr. Villani enough time to reach out to his
21 witnesses, see if they are available. I will do what I can to get ready for
22 the 24th or 25th.

23 THE COURT: All right. So we'll continue trial to the 24th of
24 July. The record will reflect the Defendant has not waived his right to a
25 speedy trial. Should we do a status check on Thursday the 20th, right

1 before --

2 MS. RADOSTA: Well, actually we have my discovery motion
3 is on the 18th right now.

4 THE COURT: Perfect, we'll discuss --

5 MS. RADOSTA: When -- so why don't we just have the
6 calendar call that day as well?

7 THE COURT: All right. We'll also continue calendar call to
8 the 18th. It will be at the same time as the pending motion, discovery
9 motion.

10 MS. RADOSTA: Okay. And I --

11 THE COURT: Is that a motion to continue also --

12 MS. RADOSTA: Um --

13 THE COURT: -- or just a discovery motion?

14 MS. RADOSTA: No, it's just a discovery motion.

15 THE COURT: Okay. Very good.

16 MS. RADOSTA: It's a discovery motion. And the other
17 potential motion that I was considering filing I will try to get written today
18 and get to Mr. Villani today.

19 THE COURT: Thank you.

20 All right. What about the motion to suppress?

21 MS. RADOSTA: Why don't we just leave it on for Tuesday
22 unless Mr. Villani desperately wants to argue it today? If you --

23 MR. VILLANI: Well, I don't know that there's -- we're pushing
24 all these motions --

25 MS. RADOSTA: That's true.

1 MR. VILLANI: -- in fact, that are going to possibly cause a
2 continuance to the trial date we're accommodating, so I would like to
3 hear it today if we can.

4 THE COURT: Let's --

5 MS. RADOSTA: Okay, that's fine.

6 THE COURT: Let's -- I agree let's just resolve it now.

7 Let's hear any additional arguments from you, Ms. Radosta. I
8 know you're contending that there were factual errors in the application
9 for the warrant.

10 MS. RADOSTA: Yes.

11 THE COURT: And the State's position is notwithstanding
12 those errors, which were not fraudulent or intentional, that there was
13 nevertheless sufficient evidence to support a probable cause.

14 MS. RADOSTA: And --

15 All right. So let's hear your argument.

16 MS. RADOSTA: And, Your Honor, I'm not going to reiterate
17 what was in my initial motion. The standard is well set out that, you
18 know, it's -- we need to make a substantial preliminary showing that
19 there was a false statement. That it was knowingly offered or done with
20 reckless disregard. And that the false statement was necessary for the
21 finding of probable cause. If I'm able to do that substantial preliminary
22 showing then I would be entitled to a more in depth --

23 THE COURT: Hearing.

24 MS. RADOSTA: -- evidentiary hearing for the suppression of,
25 in this case, the buccal swab, and the subsequent DNA testing on the

1 buccal swab from the search warrant.

2 In this case they did make misrepresentations in their search
3 warrant. And given the fact that the search warrant was prepared by the
4 Detective in this case, who would have known the history, the criminal
5 history, to misstate convictions for, I'm sorry, arrests for convictions, and
6 to not delineate the time frame of when those convictions were, I
7 believe, was at the very least a reckless disregard. It's hard to say it
8 was knowingly, but she would have had the SCOPE right in front her.
9 How she could have gotten an arrest confused with a conviction is a little
10 beyond me.

11 But beyond all of that, Your Honor, in the State's opposition to
12 the motion they are very adamant that all of this stuff does not bear
13 anything -- does not have any bearing on the finding of probable cause.
14 And if that is the case, then why doesn't the search warrant just read,
15 hey we have a CODIS hit. Hey there was a sexual assault. We need to
16 get a confirmatory buccal swab from this individual.

17 If that's all that's necessary then that's what the search
18 warrant should hold -- should read. Instead they do put all of this
19 additional information in their application for search warrant. If it's not
20 necessary, then it wouldn't be in there. It's there to form the basis of the
21 probable cause, to help and aid in the determination of probable cause.

22 THE COURT: Well, it's probably in there because sometimes
23 the Detectives don't know whether a particular piece of information is
24 relevant, material or necessary for a probable cause determination,
25 that's really in some instances a legal determination left up to the Judge.

1 And so they probably put in out of an abundance of caution more
2 information, and leave it up to the Judge to decide what's pertinent.

3 MS. RADOSTA: I would think --

4 THE COURT: That would be my theory.

5 MS. RADOSTA: -- I would think in a general situation what
6 we're talking about a fairly -- where we're talking about something where
7 you're going into search a house for, you know, a crime scene or
8 something like this. But this is a situation where they have a CODIS hit,
9 and they're just trying to get the confirmatory DNA.

10 Like it is pretty straight forward, and yet they add in all of this
11 other additional information that in the State's opinion is superlative.

12 THE COURT: Yeah.

13 MS. RADOSTA: And additionally, on the last page of his
14 argument, argues that even if this information is deemed to be
15 suppressed, this is all just a big waste of time. You know, Fourth
16 Amendment Constitutional Rights, constitutional protections. This is all
17 a big waste of tax payer time and money, because they'll just go out and
18 get another search warrant.

19 I don't view it that way. I think it's incredibly important whether
20 or not my client's constitutional rights are violated. And if it's --

21 THE COURT: Well, that's -- you mean -- you know I don't
22 think --

23 MS. RADOSTA: Right.

24 THE COURT: -- believe, feel that way. So, I mean, if there's
25 a violation I'll say so. I'm not afraid to say so, but --

1 MS. RADOSTA: And I just thought that the commentary in his
2 conclusion was a bit flippant and a bit --

3 THE COURT: All right.

4 MS. RADOSTA: And additionally just as an aside, Your
5 Honor, I feel like I addressed the issue in my motion. But I do want to
6 address the fact that I'm making a legal argument here. I am raising a
7 constitutional issue and the State feels the need to make personal
8 attacks in their opposition. I don't see where in the world that is
9 appropriate, how it's -- this is a legal argument. To argue that because I
10 am making statements about the -- a Detective, the Detective's
11 application for search warrant, that I am misleading the Court. And I
12 should be ashamed of myself. That's just -- we're officers of the Court
13 and we should act that way in all honesty.

14 You will not see me retaliating in kind, Your Honor. I just felt
15 that it was worth noting, because I don't practice law that way. So, I'll
16 submit it with my motion, Your Honor.

17 THE COURT: All right. Thank you.

18 All right. Counsel --

19 MR. VILLANI: Sure.

20 THE COURT: -- so your response.

21 MR. VILLANI: I'll start for right where she left off. The issue I
22 had was she was basically calling the Detective a liar and saying the
23 Detective misrepresented all these things to the Court. But as I pointed
24 out in my motion, what she did is she took a statement that said, you
25 know, he -- she was taken to this house, but left out the sentence that

1 immediately preceded that statement saying that she went voluntarily
2 with this man.

3 Now, I mean, you can make all the legal arguments you want,
4 but at least include everything and argue based upon that.

5 THE COURT: Yeah.

6 MR. VILLANI: That was my issue as it was more of a sin of
7 omission in my mind but --

8 THE COURT: And I went back to look at the statement and I
9 can see how the statement could be interpreted a couple different ways.

10 MR. VILLANI: Sure.

11 THE COURT: You know, I mean, you could be the driver and
12 still be taken to someone else's house --

13 MR. VILLANI: Right, no --

14 THE COURT: -- I think under one interpretation. So --

15 MR. VILLANI: And I basically -- I broke down what I felt were
16 her issues and I've addressed all of those in the motion --

17 THE COURT: Well, the biggest one I think is --

18 MR. VILLANI: Sure.

19 THE COURT: -- the Detective in the application indicated that
20 there was a prior felony conviction for assault with a deadly weapon,
21 when in fact it had only been a prior arrest.

22 MR. VILLANI: That's right.

23 THE COURT: How could -- number one, how could the
24 Detective get that wrong and how significant is that?

25 MR. VILLANI: You know, I don't know how she could get it

1 wrong, but it, you know, NCICs are difficult to read. They're not looking
2 at SCOPE. They're looking at NCICs, they're looking at Ill's, stuff like
3 that. Maybe she forgot to put the word arrest in there. I don't know, but
4 the bottom line is is none of that's necessary. And Ms. Radosta was
5 absolutely correct, none of that information is necessary. And when I
6 approve search warrants now, look all that's necessary is hey, there was
7 a sexual assault. Here's the basic factual allegations. There was a
8 CODIS hit we want to get a confirmatory buccal. And that's all that's
9 necessary in the search warrant.

10 So she undermines her own argument by actually
11 acknowledging that.

12 THE COURT: Now --

13 MR. VILLANI: Because if you take all of this out, probable
14 cause still stands in the warrant.

15 THE COURT: Is it a two part test or a one part test for her to
16 get the evidentiary hearing? I mean, does she need to show that the
17 affidavit has intentionally or reckless false statements and without those
18 statements there would not be probable cause. Or does she just need
19 to just show one of those two?

20 MR. VILLANI: She needs to show that the statements that are
21 alleged to be inaccurate, if removed from the search warrant, the search
22 warrant would cease to have probable cause. That's her burden in order
23 to get a hearing.

24 THE COURT: All right.

25 MR. VILLANI: And so, --

1 THE COURT: So even if they are -- even if there are
2 intentionally false or recklessly made statements, if the remainder of the
3 application affidavit would support probable cause, she doesn't get the
4 *Franks* hearing?

5 MR. VILLANI: That's the case law, Your Honor. That's the
6 standard.

7 THE COURT: Okay. I was just making sure.

8 All right. Anything else?

9 MR. VILLANI: No Your Honor. I'll submit it.

10 THE COURT: Ms. Radosta, you get the last word.

11 MS. RADOSTA: You know, Your Honor, with regard to -- I
12 just keep coming back to if the information is provided in the search
13 warrant it's there for a reason. It's there to effect the Judge's
14 determination of probable cause. And that's what they did in this
15 particular case.

16 As far as the, you know, sin of omission by leaving out a
17 particular sentence, to be honest, Your Honor, the Detective did the
18 exact same thing. She forgot to add the particularly important piece of
19 information that the alleged victim in this case drove herself and my
20 client to those locations. So the whole idea that he took her somewhere,
21 it could happen, but it -- it's a different it's just a different picture than
22 him. She went with him willingly and then he took her to a different
23 place than she expected to go.

24 The Detective chose certain things to put in the application
25 and left out other -- the other things for a reason. They wanted to paint a

1 picture for the Judge of somebody that was dangerous, that was -- that
2 abducted this woman and took her someplace that she didn't intend to
3 go initially and that was all the basis of the determination. It was all the
4 basis of the application, and to know whether or not Judge Allf relied on
5 that it's -- if it's in there I think she relied on it.

6 THE COURT: So I can't obviously put myself into Judge Allf's
7 mind. What I have to do is an objective analysis as to whether the
8 accurate facts that are -- whether the facts that have alleged in the
9 application are sufficient to establish probable cause for the warrant
10 once you take out the allegedly inaccurate facts.

11 And in doing that, I look at the following facts that were in the
12 application; That the victim alleged that she was, you know, sexually
13 abused. She alleged that it was without her consent. She did report to
14 her friend that she had been attacked. She did report promptly the
15 alleged attack to the police. She did have bruises and marks on her
16 body that were allegedly to -- arguably consistent with a sexual assault,
17 and she did have the Defendant's DNA inside of her.

18 I think those facts were sufficient to establish probable cause
19 and it -- so if I were the one, you know, reviewing this for probable cause
20 determination now, I would find there's probable cause. And I think it
21 would have been reasonable for Judge Allf to do the same, even if the
22 information about the conviction and the timing of the prior arrest and
23 convictions and the information about, you know, who drove, even if all
24 that was not in the application.

25 So I'm going to respectfully deny your motion.

1 MS. RADOSTA: Got it.

2 THE COURT: I think there was probable cause and so your
3 motion to suppress is denied.

4 All right.

5 MR. VILLANI: Thank you, Your Honor.

6 THE COURT: And I'll ask the state to prepare the -- whatever
7 necessary finding and conclusions are necessary here.

8 MS. RADOSTA: And --

9 MR. VILLANI: And, Your Honor, did you get the issue
10 resolved with the letter you received last time?

11 MS. RADOSTA: Oh, yes. The letter, my client sent a letter to
12 Your Honor.

13 THE COURT: Oh, I didn't resolve that yet.

14 MR. VILLANI: Okay.

15 THE COURT: No, I don't have an answer yet --

16 MS. RADOSTA: All right.

17 THE COURT: -- and I still haven't done anything more with
18 that letter.

19 MR. VILLANI: Thank you. Thank you, for your patience, Your
20 Honor.

21 THE COURT: All right. Thank you.

22 THE CLERK: Your Honor?

23 THE COURT: Yes.

24 THE CLERK: So the jury trial do you want it to start on the
25 24th or the 25th? Because you already have that other one, or do you

1 want us to put it [indiscernible].

2 THE COURT: Well we're going -- right now it's going to be set
3 on the 24th --

4 THE CLERK: Okay.

5 THE COURT: -- and we'll see what happens with the other
6 case.

7 THE CLERK: Do you want it 10 o'clock here or do you want --

8 THE COURT: 10 o'clock.

9 THE CLERK: Okay.

10 THE COURT: 10 o'clock on the 24th.

11 MR. VILLANI: Thank you, Your Honor.

12 THE COURT: All right.


13 MS. RADOSTA: Thank you.

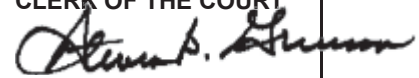
14 THE COURT: Thank you.

15 [Hearing concluded at 9:54 a.m.]

16 * * * * *

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

24 
25 Gail M. Reiger
Court Recorder/Transcriber



PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
VIOLET R. RADOSTA, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 5747
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
radostvr@co.clark.nv.us
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)
)
Plaintiff,)
)
v.)
)
RAMON MURIL DORADO,)
)
Defendant,)
_____)

CASE NO. C-17-323098-1

DEPT. NO. II

DATE: July 20, 2017
TIME: 9:00 a.m.

MOTION TO DISMISS FOR DESTRUCTION OF EVIDENCE

COMES NOW, the Defendant, RAMON MURIL DORADO, by and through his attorney, VIOLET R. RADOSTA, Deputy Public Defender, and moves this Honorable Court for an order dismissing the charges for destroying the audio copy of the initial interview with M.L. and the violation of Mr. Dorado's constitutional right to Due Process by destroying material and exculpatable evidence.

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1 This Motion is based upon the attached Declaration of Counsel, any documents
2 attached hereto, argument of Counsel and any information provided to the Court at the time set
3 for hearing this motion.

4 DATED this 14th of July, 2017.

5 PHILIP J. KOHN
6 CLARK COUNTY PUBLIC DEFENDER

7 By: /s/ Violet R Radosta
8 VIOLET R. RADOSTA, #5747
9 Deputy Public Defender

DECLARATION

VIOLET R. RADOSTA makes the following declaration:

1. That I am an attorney duly licensed to practice law in the State of Nevada; that I am the Deputy Public Defender assigned to represent the Defendant in the instant matter, and that I am familiar with the facts and circumstances of this case.

2. I am more than 18 years of age and am competent to testify as to the matters stated herein. I am familiar with the procedural history of the case and the substantive allegations made by The State of Nevada. I also have personal knowledge of the facts stated herein or I have been informed of these facts and believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

EXECUTED this 14th day of July, 2017.

/s/ Violet R Radosta
VIOLET R. RADOSTA

POINTS AND AUTHORITIES

FACTS

On April 24, 1999, M.L. contacted Las Vegas Metropolitan Police and reported that she had been sexually assaulted by a man she knew casually. She had met up with friends at the Silver Saddle bar around midnight on April 24, 1999. At approximately 7 am, M.L. and her male acquaintance left the Silver Saddle in her car purportedly to meet up with friends at a PT's pub. Instead, M.L. drove to the an apartment at 2101 Sunrise Ave that was either his apartment or his friend's apartment where he was staying. They went inside the apartment where there was at least one other man, who was younger than M.L. Shortly after she arrived at the apartment, the younger man left to go to the store. Soon after arriving, M.L. claims that the man who she knew casually picked her up and dragged her into the bedroom where he proceeded to sexually assault her. (GJT 9-11). She claims she stabbed him with a safety pin to get him to let her go, but it didn't work. Eventually, the man moved away from her and she was able to walk out of the bedroom and the apartment. (GJT 13). She got into her car and told the other roommate, who had returned at some point and followed her outside, that she was going to report the incident to the police. (GJT 13).

She went to the Las Vegas Metropolitan Police Department substation on St. Louis, after stopping at her friend's apartment to check on her son. She made a report and was transported to University Medical Center for a medical exam. (GJT 13). All of that occurred on April 24, 1999.

M.L. was interviewed by LVMPD M. Hnatuick on April 24, 1999. The interview was conducted at the University Medical Center quiet room **and it was audiotaped**. During her interview, M.L. was able to provide a specific address of the apartment building where the alleged assault took place as 2101 Sunrise Avenue. She was also able to identify the location of the apartment as the lower right downstairs apartment. She identified the casual male acquaintance as a Hispanic male named Raymond, 5'6 or 5'7, black hair, brown eyes, medium complexion wearing a light shirt, black pants, black tie and brown cowboy boots

1 Fast forward 16 years to October 27, 2015 and M.L.'s sexual assault examination kit was
2 submitted to the LVMPD forensic lab for testing. On December 15, 2015, a hit from the
3 Combined DNA Index System (CODIS) identified Ramon Muric Dorado a potential for the male
4 DNA in M.L.'s SANE kit. Based on that information, in January 2016 LVMPD obtained a
5 search warrant signed by Judge Nancy Alf and requesting a buccal swab be obtained from
6 Ramon Muric Dorado.

7 On November 17, 2016, LVMPD forensic lab tested the buccal swab and determined that
8 one of the swabs taken in the SANE kit potentially contained DNA from Mr. Dorado.

9 On April 17, 2017, Mr. Dorado was arrested on charges of sexual assault. He appeared in
10 Las Vegas Justice Court on April 19, 2017 and the Public Defender's office was appointed to
11 represent him. A preliminary hearing date was set for May 26, 2017.

12 On April 26, 2017, Deputy District Attorney Jake Villani presented evidence in this
13 matter to the grand jury. After hearing the evidence presented by the prosecution, the grand jury
14 deliberated for less than 1 minute and then indicted Mr. Dorado on 3 counts of Sexual Assault.

15 Mr. Dorado invoked his right to a speedy trial and his trial date was set for July 17, 2017
16 with a calendar call date of July 11, 2017. On July 13, 2017, the trial date was continued one
17 week to July 24, 2017.

18 During the course of preparing for the trial, defense counsel requested multiple pieces of
19 discovery from the Clark County District Attorney's office, including the transcript of the April
20 24, 1999 interview of M.L. conducted by Detective Hnatuick.¹ The transcript is incomplete and
21 contains many blanks in the transcribed version of the interview. Defense counsel subsequently
22 requested the audio copy of the interview and Deputy District Attorney Jake Villani indicated in
23 court on 7/6/2017 that he would get the audio copy, if it still existed, to defense counsel. On
24 July 7, 2017, DA Villani sent an email to defense counsel stating he had been told the audio no
25 longer existed. He explained that he had been informed that there was a time that detectives
26 didn't impound audio recordings as part of the evidence in a case and that when the detectives

27 ¹ The transcript of M.L.'s interview has been attached to prior motions in this case, so counsel opted not to attach it
28 again. Should the Court need a copy, defense counsel will provide it.

1 retired, they simply cleaned out their desks and threw out whatever was in their desks. The
2 email from DA Villani is attached as Exhibit #1.

3 This Motion to Dismiss all charges pending against Mr. Dorado follows.

4 5 **ARGUMENT**

6 All criminal defendants are entitled to a fair trial pursuant to the Due Process Clauses of
7 the Fifth and Fourteenth Amendments of the U.S. Constitution and Article I, Section 8 of the
8 Nevada Constitution.

9 “Due Process requires the State to preserve material evidence.” Higgs v. State, 222 P.3d
10 648, 660 (2010), quoting Steese v. State, 114 Nev. 479, 491 (1998). When the State fails to
11 preserve evidence, the Court must dismiss upon a showing of “bad faith or connivance on part of
12 the government” or that the loss of the evidence unduly prejudiced the defendant. Id. The
13 determination of “bad faith” is done on a case-by-case basis. See Nevada case law generally.
14 Proving prejudice “requires some showing that it could be reasonably anticipated that the
15 evidence sought would be exculpatory and material to [his] defense.” Sheriff, Clark County v.
16 Warner 112 Nev. 1234 (1996). The exculpatory value of the evidence must have been apparent
17 before it was destroyed. Id. It makes no difference whether the evidence was destroyed by the
18 prosecutor or law enforcement. “The loss of material and potentially exculpatory evidence by a
19 law enforcement agency can deprive a defendant of the opportunity to corroborate his or her
20 testimony, thereby severely prejudicing the defense.” Cook. v. State, 114 Nev. 120, 124 (1998).

21 Here, the police destroyed the evidence in bad faith and Mr. Dorado is unduly prejudiced.
22 The recording from the initial interview should have been preserved as that was and is the
23 normal practice. This was the only interview conducted with the complaining witness in a case
24 where she was alleging multiple serious felony offenses. As this was the only evidence of the
25 description of the alleged events and that interview was obtained within hours of the alleged
26 crimes, the government knew that this audio recording was material and exculpatory at the time
27
28

1 of the interview on April 24, 1999, well before the destruction of the evidence. Therefore,
2 Dorado's Due Process rights have been violated and these charges must be dismissed.

3
4 **A. The State Acted in Bad Faith When it Failed to Preserve the Audio Recording of the**
5 **initial and only interview of the complaining witness, M.L.**

6 The Nevada Supreme Court has never outlined a specific test to determine if the State acted
7 in bad faith. Rather, the analysis must be done on a case-by-case basis. Here, it is clear that the
8 State acted in bad faith. The destruction of this audio recording was against Metro's normal
9 policy of retaining all audio recordings of statements of witnesses. Not all statements obtained
10 by Metro are transcribed so the audio, oftentimes, is the only recordation of an interview. In this
11 case, it appears that the lead detective didn't take 10 minutes to book the only copy of the
12 interview into the evidence vault, even though he impounded other pieces of evidence in this
13 case, including the clothes M.L. was purportedly wearing during the alleged incident. Instead,
14 it's theorized that he allowed the audio to be thrown away when he retired. The lack of interest
15 Detective Hnatuick had in retaining one of the few pieces of evidence in his lackluster
16 investigation demonstrates the bad faith required by the caselaw.

17 Furthermore, the police knew that this evidence was important as this was a sexual assault
18 investigation. Sexual assault investigations are very often cases of one person's word against
19 another, so the interview of a complaining witness is of vital importance. An interview of a
20 suspect would also be of vital importance in a sexual assault case.

21 Without some justifiable excuse for this Officer's blatant disregard for the preservation of
22 evidence, the destruction of this evidence can only be categorized as bad faith.

23 This is not a case where the evidence was lost or destroyed as a result of a third-party taking
24 possession, maybe then the police could claim they didn't destroy it in bad faith. See Sheriff,
25 Clark County v. Warner 112 Nev. 1234 (1996) (defendant's mobile home was not preserved
26 because the defendant failed to make the mortgage payments and it was repossessed), Mortensen
27 v. State, 115 Nev. 273 (1999) (a third-party's truck and clothing was returned to that person after
28

1 the police examined it and took pictures.) Here, the evidence was in the sole possession of the
2 Metropolitan Police, and it was the Metropolitan Police that destroyed it.

3
4 **B. Mr. Dorado is Prejudiced by the Destruction of this Evidence**

5 Under Nevada law, this Honorable Court only needs to find either bad faith or that the
6 defendant has been unduly prejudiced. Sheriff, Clark County, v. Warner, 112 Nev. 1234, 1239-
7 40 (1996). Only one of the two is required for the findings of a Due Process violation. Undue
8 prejudice requires that the exculpable and material nature of the evidence could have been
9 reasonably anticipated prior to its destruction. Id. at 1240, Boggs v. State, 95 Nev. 911 (1979).
10 For the reasons set forth below, it is clear that Mr. Dorado is prejudiced and the charges relating
11 to this evidence must be dismissed.

12 **i. The evidence is material and exculpable**

13 In order to suffer any prejudice from the destruction of evidence, the defendant must show
14 that the evidence was material and exculpable. Warner at 1239-40. Here, while we don't know
15 the exact contents of the audio, we do know that there are differences between M.L.'s testimony
16 before the grand jury and what she told Detective Hnatuick on April 24, 1999. One specific
17 piece of information that M.L. did not tell Detective Hnatuick (presuming his officer's report is
18 accurate regarding potential witnesses) was that she was at the bar with two friends, not one. Per
19 her testimony at the grand jury, M.L. mentioned that a friend named Johanna was also present
20 with her at the Silver Saddle along with her previously mentioned friend Candy.² This is new
21 information is exactly the type of information that is often explored during cross examination.
22 Without a complete transcript and without the audio copy of the interview, any discrepancies
23 during M.L.'s trial testimony can simply be explained away by saying *'I'm sure I told the*
24 *detective that piece of information. It must be in the un-transcribed portion.'*

25 For the record, the transcript of M.L.'s interview is 13 pages long and the only pages that are
26 completely transcribed are the first and last pages. Every other page has at least one and

27 ² Defense counsel opted not to attach the Grand jury testimony to this motion as the Court has the ability to access it
28 if it needs to access it.

1 sometimes multiple blank spaces during the questioning. The blank spaces occur in the middle
2 of sentences describing every aspect of the allegation, such as names of potential witnesses
3 (bartender and security guard at Silver Saddle), names of other members of the band the suspect
4 was a member of, description of the neighborhood and apartment where the alleged incident
5 occurred, whether or not M.L. understands Spanish (which was being spoken between the
6 suspect and another person in the apartment), how M.L got into the bedroom, what she stabbed
7 him with, the description of the alleged sexual acts and whether or not the suspect used a
8 condom. This is not a complete list of the pieces of information that have been lost forever due
9 to the destruction of the audio, but it is a list of incredibly important information. Some of this
10 information was asked during the grand jury testimony and some of it wasn't. There is little
11 doubt that the information contained in the interview was material and exculpatory.

12 When the basis of a criminal case is firmly planted in the details and information provided by
13 one of the two people present, any change in those details is exculpatory in nature. The
14 credibility of M.L. is the cornerstone of the State's case. Differences between her original
15 interview in 1999 and her grand jury testimony in 2017 are present and those differences bring
16 her credibility into issue. The missing information from her 1999 interview is material and
17 exculpatory. The lack of complete transcript and the corresponding audio copy of the 1999
18 interview warrants dismissal of the charges in this case.

19
20 **i. The material and exculpable nature of the evidence could have been
reasonably anticipated prior to its destruction.**

21 Prejudice standing alone is not enough for a due process violation. The prejudice must be
22 "undue prejudice" which means that the material and exculpable nature of the evidence could
23 have been reasonably anticipated prior to its destruction. Warner at 1239-40. Here, the only
24 interview conducted of the complaining witness was in Metro's possession for an unknown
25 length of time (it is unknown to the defense if the audio was actually destroyed when Detective
26 Hnatuick retired or at some other point prior to defense counsel asking for it). It was destroyed
27 presumably without the transcript being checked for accuracy or completeness. Given the lack
28

1 of investigation in this case by Detective Hnatuick, M.L.'s initial 1999 interview is one of the 2
2 pieces of evidence the prosecution has in this case, the other being the SANE exam and
3 purported forensic results. The material and exculpatory nature of the contents of the 1999
4 interview would have been obvious from the time of the initial investigation simply due to the
5 lack of any further investigation. By not going to the purported crime scene, by not
6 interviewing M.L.'s friend Candy or attempting to locate the suspect, the materiality of M.L.'s
7 interview was easily anticipated at the time of the allegation. The government knew the contents
8 of that audio, the complete interview of M.L. hours after the alleged incident, was material and
9 exculpatory long before it was destroyed. As such, Mr. Dorado suffered undue prejudice and
10 these charges must be dismissed.

11 12 CONCLUSION

13 These charges must be dismissed if the Court finds *either* bad faith on part of the government
14 or that Mr. Dorado was unduly prejudiced by the destruction of apparent exculpatory evidence.
15 Here, Mr. Dorado has shown both. The evidence was destroyed in direct disregard for Metro's
16 normal procedure and it could have been reasonably anticipated that the contents of the audio
17 were material and exculpatory before the audio was destroyed. As such, Mr. Dorado's Due
18 Process rights have been violated and these charges must be dismissed.

19 DATED this 14th day of July, 2017.

20 PHILIP J. KOHN
21 CLARK COUNTY PUBLIC DEFENDER

22 By: /s/ Violet R Radosta
23 VIOLET R. RADOSTA, #5747
24 Deputy Public Defender
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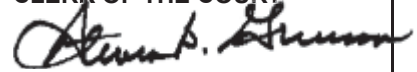
YOU WILL PLEASE TAKE NOTICE that the foregoing Motion To Dismiss will be heard on July 20, 2017, at 9:00 am in District Court Department II.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

I hereby certify that service of the above and foregoing was served via electronic e-filing to the Clark County District Attorney's Office on the _____ day of July, 2017 by Electronic Filing to:

District Attorneys Office
E-Mail Address:
Jaclyn.Motl@clarkcountydade.com

11



OPPS
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JACOB J. VILLANI
Chief Deputy District Attorney
Nevada Bar #011732
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

RAMON MURIL DORADO,
#1673321

Defendant.

CASE NO: **C-17-323098-1**

DEPT NO: **II**

STATE'S OPPOSITION TO DEFENDANT'S MOTION
TO DISMISS FOR DESTRUCTION OF EVIDENCE

DATE OF HEARING: **JULY 27, 2017**
TIME OF HEARING: **9:00 AM**

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through JACOB J. VILLANI, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in Opposition to Defendant's Motion to Dismiss for Destruction of Evidence.

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

//

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1 POINTS AND AUTHORITIES

2 STATEMENT OF FACTS

3 In the late hours of April 23, 1999, into the morning of April 24, 1999, M.L. went out
4 dancing with her friends Candy and Joanna to the Silver Saddle bar. Grand Jury Transcript
5 (“GJT”) p. 7. While at the bar, M.L. met one of the members of the band playing that night,
6 who was introduced to her as Raymond aka Ray, later identified as Ramon Muril Dorado
7 (“Defendant”). Id. After talking to Defendant for a bit, M.L. left briefly to check on her son
8 who was staying at Candy’s house right down the street. Id. When M.L. came back to the bar,
9 Candy, Joanna and others, including Defendant, were sitting down at the bar in the back. GJT
10 p. 8. M.L. sat between Candy and Defendant. Id. Later on in the night, the group discussed
11 going to PTs Pub when the bartender, who was hanging out with the group, got off work. Id.
12 M.L., who was the designated driver for Candy and Joanna, agreed to go as long as she was
13 back home by 10:00 am. Id.

14 Around 7:00 am the group decided to leave to PT’s. Id. Joanna went with the bartender
15 in his car. Id. Candy last minute decided to call her boyfriend to pick her up and agreed to
16 meet up with M.L. in front of the house by 10:00am so the kids would not think anything. GJT
17 p. 9. On the way to PT’s Defendant said that he had to cash his paycheck and stop by his
18 house to call in to work. Id. Not thinking anything of it at that time, M.L. drove to Defendant’s
19 house. Id. When they got there, Defendant asked M.L. to come inside. Id. Inside the house
20 was a young man that did not speak English. Id. Defendant spoke to the young man in Spanish
21 and from what M.L. could understand, Defendant sent him to the store to get something. Id.
22 When the young man left, Defendant picked M.L. up and dragged her into the bedroom as she
23 was telling him to put her down. Id. Defendant refused to listen and brought M.L. into the
24 bedroom. GJT p. 10.

25 In the bedroom Defendant proceeded to try to kiss M.L. while she pushed him away.
26 Id. M.L. told Defendant that she had not done anything to suggest that is what she wanted and
27 that she was going to be leaving. Id. However, when M.L. went to walk out the door,
28 Defendant grabbed her and threw her on to the bed. Id. Defendant then laid on top of her and

1 started to try to kiss her neck again. Id. M.L. again pushed Defendant off and rushed to the
2 door. Id. Defendant grabbed M.L. again, pulled her shirt up and proceeded to try to take her
3 pants off. Id. M.L. fell to her side, once again pushed Defendant off and tried running for the
4 door. Id. Defendant grabbed her again, threw her against the wall and pulled her pants down
5 even more. Id. Defendant threw M.L.'s legs over her head and pulled her panty hose down.
6 Id. Defendant then put his mouth on M.L.'s vagina using both his mouth and tongue. GJT 10-
7 11. M.L. pushed Defendant forward and tried to find something to throw at him or something
8 to hit him with. GJT p.11. M.L. tried to shove clothes in Defendant's face, attempting to
9 smother him. Id.

10 As M.L. continued to struggle with Defendant, he got one of her legs out of her panty
11 hose, flipped her back on the ground and laid on top of her trying to push her legs apart. Id.
12 As M.L. was trying to hold her legs together, Defendant held her arms, pulled her legs apart
13 and proceeded to try to insert his penis inside her vagina. Id. M.L. continued to fight
14 Defendant and using her one free hand tried to find something to hit him with. GJT p. 12.
15 M.L. was ultimately able to find one of the safety pins from her pants, which held her pants
16 up, and stabbed Defendant in the shoulder and hand. Id. However, that did not stop Defendant
17 and he proceeded to use one of his hands to move his penis inside her vagina. Id. M.L. could
18 feel his penis and hand inside and outside of her vagina. Id. Defendant was not able to keep
19 his penis inside M.L.'s vagina because he was unable to keep his erection. Id. After a couple
20 of minutes of trying, Defendant got up and allowed M.L. to get her stuff. Id. As Defendant
21 sat there, he kept saying "she's right, she's right", while M.L. asked him what part of no means
22 no did he not understand. Id. Defendant responded that he was not talking about what just
23 happened but about his ex-wife telling him he will never be able to have sex with another
24 woman again. GJT 12-13. As M.L. walked out, she saw that the young man was back from
25 the store. GJT p. 13.

26 M.L. returned to Candy's house to check on her son and they immediately took her to
27 the police station. Id. M.L. told the police what happened and they took her to UMC, where
28 a Sexual Assault Nurse Examine ("SANE exam") was conducted. Id.

ARGUMENT

I. THE TAPES OF THE VICTIM'S INTERVIEW WERE NOT LOST IN BAD FAITH, AND DEFENDANT CANNOT SHOW THAT THE TAPES POSSESSED AN EXCULPATORY VALUE THAT WAS APPARENT BEFORE THE EVIDENCE WAS LOST

Defendant's request to dismiss this case is based upon the loss of audio tapes of the victim's interview. Before the tapes were lost, however, a transcript was prepared of the audio recording. Throughout his lengthy motion, Defendant fails to address what exculpatory benefit the audio recording would provide him that the transcript does not. Defendant merely speculates as to what information the occasional "blanks" in the transcript *could* contain. As this speculation is not sufficient to meet Defendant's burden of showing that the tape had exculpatory value, his claim lacks merit.

In order to establish a due process violation resulting from the State's loss or destruction of evidence, a defendant must demonstrate either (1) that the state lost the evidence in bad faith; or (2) that the loss of evidence unduly prejudiced the defendant's case **and** the evidence possessed an exculpatory value that was apparent before the evidence was destroyed. Sheriff, Clark County v. Warner, 112 Nev. 1234, 1239-1240 (1996); *citing* State v. Hall, 105 Nev. 7, 9 (1989). Under these circumstances, it is Defendant's burden to show "that it could be reasonably anticipated that the evidence sought would be exculpatory and material to the defense." Sparks v. State, 104 Nev. 316 (1988), *citing* Boggs v. State, 95 Nev. 911 (1979).

Here, Defendant has not met his burden of showing this Court either (1) that the evidence was lost in bad faith or (2) that the loss prejudiced his case and the evidence possessed exculpatory value.

1. The State did not act in bad faith, the tapes were simply lost.

Defendant claims that "it is clear that the State acted in bad faith," but Defendant's arguments do not support this claim. Motion at 7.

Defendant's only argument regarding bad faith is that the lead detective at the time acted in bad faith because he "didn't take 10 minutes to book the only copy of the interview into the evidence vault." Id. Basically, the argument is the fact the tapes are lost, *in itself*,

1 proves the detective acted in bad faith. This is not the standard. This argument overlooks the
2 fact that the lead detective took the time to have the statement transcribed, and that transcript
3 is the reason we now have the ability to know what was discussed during that interview. At
4 the time the detective recorded the interview, LVMPD was still using tapes. Based upon
5 information and belief (*see* defense Exhibit 1), there was a time when detectives did not
6 impound tapes after they had an interview transcribed. Defendant blindly argues that this
7 procedure “was against Metro’s normal policy,” but provides no evidence concerning what
8 Metro’s policy regarding interviews was back in 1999. The fact that the detective had the
9 interview transcribed indicates that the tapes were not lost in bad faith. If the detective had
10 something he wanted to hide on those tapes by destroying them, he would not have taken the
11 step of having them transcribed first. The simplest explanation for why the tapes are missing
12 is in line with the explanation provided by LVMPD: it simply was not common at the time to
13 impound tapes after they were transcribed. Thus, Defendant’s circular argument that the mere
14 fact the tapes are missing proves that the detective lost them in bad faith amounts to nothing
15 more than mere speculation and lacks merit.

16 **2. Defendant is not prejudiced by the loss of the tapes, and the tapes had no**
17 **exculpatory value.**

18 Defendant argues the differences between M.L.’s grand jury testimony and M.L.’s
19 statement to Detective Hnatuick show that he is prejudiced by the loss of the tapes.
20 Specifically, Defendant argues that M.L. mentioned that she was with two friends at the bar at
21 grand jury, while her initial statement only mentioned one friend: “Candy.” Defendant fails to
22 explain how this inconsistent information prejudices him, and why he could not simply cross-
23 examine M.L. at trial regarding this inconsistency. Instead, Defendant focuses on the potential
24 explanation the victim has if confronted at trial. This logic fails, as Defendant is just as free to
25 fill in the un-transcribed portions of the interview as the victim is. Defendant’s speculation
26 that the victim will use the un-transcribed portions of the statement to avoid questions on cross-
27 examination is just that, *speculation*. Moreover, this argument presumes that this entire case
28 will come down to the number of friends who were present at the bar with the victim before

1 Defendant raped her. This is information that is fair for cross-examination, but it is not
2 exculpatory.

3 The Nevada Supreme Court has examined this issue and held that a prior inconsistent
4 statement is not exculpatory as a matter of law. In Lay v. State, 110 Nev. 1189 (1994), the
5 Court addressed the issue of whether a prior inconsistent statement is exculpatory such that it
6 should be disclosed to the grand jury if a prosecutor has knowledge that such a statement was
7 made. The Court stated:

8 We conclude that the prior inconsistent statement of a witness does
9 not "explain away [a criminal] charge" within the meaning of the
10 exculpatory evidence statute. There are a variety of reasons why
11 witnesses give varying statements at different stages of an
12 investigation or proceeding. These may include a witness' reluctance
13 to involve him or herself in a criminal investigation or the ability of
14 the reporter taking a later statement to develop the witness' statement
15 in greater detail. In addition, the loss of memory or the witness'
16 recollection of additional facts will cause statements to be inconsistent
17 at different times.

18 Although a criminal defendant is certainly entitled to impeach a
19 witness' credibility and testimony at trial based upon prior
20 inconsistencies, the simple fact that a witness has contradicted himself
21 in the past does not tend to "explain away the charge," and therefore
22 make the witness' first statement "exculpatory" within the meaning of
23 the exculpatory evidence statute. Accordingly, we reject this
24 argument.

25 Id. at 1198. Thus, Defendant cannot fall back on the argument that the alleged inconsistencies
26 between the transcription and the victim's grand jury testimony make the tapes from which
27 the transcript was prepared exculpatory. Also, this is not a case where the victim is now
28 unavailable and the State will somehow rely on the transcript of her initial interview at trial.
The victim will be present to testify and can be cross-examined regarding any relevant issues,
including these alleged inconsistencies.

Defendant argues that "[w]hen the basis of a criminal case is firmly planted in the
details and information provided by one of the two people present, any change in those details
is exculpatory in nature." Motion at 9. This statement is not supported by any cited case law,
and is in fact disputed by Lay, *supra*. Moreover, the fact that Defendant's DNA was found
inside M.L.'s vagina places this case on much different footing than Defendant's allegation

1 that it is a he-said/she-said case.

2 Defendant argues as if he is sure he would be able to fill in the blanks in the transcript
3 if he had the tapes, but this is more speculation. The blanks in the transcript signify what is
4 now commonly transcribed as “(indiscernible),” meaning that the professional transcriber
5 could not make out the words on the tape. Defendant’s claim that he would be able to do better
6 is just that, *a claim*. Defendant has failed to provide this Court with any evidence that the audio
7 not transcribed was anything more than indiscernible speech. With all his speculation,
8 Defendant has not even provided this Court with a scenario that would make the missing
9 portions have exculpatory value to his case. Repeatedly stating that the audio tapes are material
10 and exculpatory does not make this fact true. It is Defendant’s burden to show this Court that
11 this is the case. Thus, this Court must deny Defendant’s request to dismiss this case, because
12 he has failed to meet his burden.

13 Defendant further argues that the detective knew of the exculpatory nature of the tapes
14 prior to them being lost. Defendant must make this argument, as knowledge of the exculpatory
15 nature is necessary for finding that there was a violation. However, as argued *supra*, Defendant
16 has failed to show that the tapes were exculpatory at all, much less that a detective could have
17 foreseen the alleged exculpatory nature of the tapes. Even a cursory reading of the transcripts
18 makes it clear that whatever was said in those blanks (if anything) would not be favorable to
19 Defendant’s case. *See* Exhibit 3 attached to State’s Opposition to Defendant’s Motion to
20 Dismiss for Failure to Preserve Evidence, filed 7/6/17 (not attached to the instant motion at
21 the Court’s request).

22 A scenario can be imagined where the interview with the victim was not recorded at
23 all, or possibly the detective later discovers that the recorder failed. In that case, Defendant
24 would not be entitled to dismissal, because the recording never existed in the first place.
25 Likewise, here Defendant is not entitled to a dismissal because there was a recording of the
26 interview, that recording was transcribed, and the only thing missing is the audio. The audio
27 would either show that the transcription was accurate or inaccurate. As the State cannot get
28 into the transcript at trial unless Defendant opens the door, it is completely within Defendant’s

1 control whether the content of the victim's prior statement is brought to the jury's attention. If
2 Defendant thinks the transcript was entirely inaccurate, he alone has the power to keep it out
3 of evidence. Defendant's instant claim must fail because he has not met his burden under the
4 law.

5 CONCLUSION

6 Defendant's claim fails to address the most powerful evidence the State has in this case:
7 Defendant's DNA inside of M.L.'s vagina. Regardless of whether every word the victim
8 uttered during the recorded interview was transcribed, this fact does not change. The loss of
9 the tapes in this case was not ideal, but this is not the standard. Defendant has failed to show
10 that missing audio tapes were purposely destroyed, or that the fact they are missing divested
11 him of material, exculpatory evidence. Defendant's claim that this case should be dismissed
12 because he was provided transcripts of an interview and the audio no longer exists lacks merit,
13 as Defendant has failed to meet his burden under the law. Therefore, the State respectfully
14 requests that this Court deny Defendant's motion.

15 DATED this 20th day of July, 2017.

16 Respectfully submitted,

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

19 BY /s/ JACOB J. VILLANI
20 JACOB J. VILLANI
21 Chief Deputy District Attorney
22 Nevada Bar #011732
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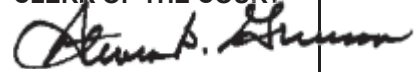
1 **CERTIFICATE OF SERVICE**

2 I hereby certify that service of the above and foregoing was made this 20th day of JULY
3 2017, to:

4 VIOLET RADOSTA, DPD
5 harrolah@ClarkCountyNV.gov

6
7 BY /s/ HOWARD CONRAD
8 Secretary for the District Attorney's Office
9 Special Victims Unit

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PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
VIOLET R. RADOSTA, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 5747
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
radostvr@co.clark.nv.us
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)	
)	
Plaintiff,	)	CASE NO. C-17-323098-1
)	
v.	)	DEPT. NO. II
)	
RAMON MURIL DORADO,)	
)	
Defendant,)	
_____)	

REPLY TO STATE'S OPPOSITION TO DEFENSE
MOTION TO DISMISS FOR DESTRUCTION OF EVIDENCE

COMES NOW, the Defendant, RAMON MURIL DORADO, by and through his attorney, VIOLET R. RADOSTA, Deputy Public Defender, and files this Reply to the State's Opposition to Defense's Motion to Dismiss for Destruction of Evidence and moves this Honorable Court for an order dismissing the charges for destroying the audio copy of the initial interview with M.L. and the violation of Mr. Dorado's constitutional right to Due Process by destroying material and exculpatory evidence.

DATED this 14th of August, 2017.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: /s/Violet R. Radosta
VIOLET R. RADOSTA, #5747
Deputy Public Defender

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DECLARATION

VIOLET R. RADOSTA makes the following declaration:

1. That I am an attorney duly licensed to practice law in the State of Nevada; that I am the Deputy Public Defender assigned to represent the Defendant in the instant matter, and that I am familiar with the facts and circumstances of this case.

2. I am more than 18 years of age and am competent to testify as to the matters stated herein. I am familiar with the procedural history of the case and the substantive allegations made by The State of Nevada. I also have personal knowledge of the facts stated herein or I have been informed of these facts and believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

EXECUTED this 14th day of August, 2017.

/s/ Violet R Radosta
VIOLET R. RADOSTA

POINTS AND AUTHORITIES

ARGUMENT

A. The destruction of the audio recording was done in bad faith

The Nevada Supreme Court has never outlined a specific test to determine if the State acted in bad faith. Rather, the analysis must be done on a case-by-case basis. In this case, there were many avenues of investigation that were not explored as previously argued in Defense Motion to Dismiss for Failure to Preserve Evidence filed 6/29/17. Considering the investigation done and not done in this case, the words and testimony of complaining witness M.L. are the centerpiece of the State's case against Mr. Dorado.

In this case, Detective Hnatuick, interviewed M.L. on the day of the alleged assault and made the decision to audio record the interview. There was no requirement that he record the interview, but presumably, Detective Hnatuick took that extra step so the details of the interview would be fully and accurately memorialized. Afterwards, he submitted the audio recording for transcription, once again presumably so the details of the interview would be properly memorialized. Unfortunately, portions of the interview were not transcribed¹, thereby making the transcript of the audio recording essentially worthless.

The State argues that Detective Hnatuick's action in submitting the tape for transcription shows that his failure to preserve the only audio copy of M.L.'s interview wasn't done in bad faith. While he did attempt to get a transcript, it is Hnatuick's lack of action that shows his bad faith. After receiving the transcript, the audio recording was returned to him. Upon seeing the multiple blanks in the relatively short transcript, he opted to simply throw the tape in his desk drawer rather than take 10 minutes to book it into evidence. Even if it wasn't common to impound tapes after transcription, as the State argues, it certainly wasn't prohibited. To allow the only memorialization of an interview with an alleged victim in a sexual assault case to simply be tossed into a drawer

¹ The State declares the reason there are blanks in the transcript is due to the quality of the recording and the professional transcriber could not make out the words on the tape. (Opposition, p. 7). There is nothing to support this claim.

1 and then thrown in the trash upon the Detective's retirement amounts to bad faith on the
2 Detective's part.

3 Furthermore, if the value was in the transcript alone, then why was the audio-recording not
4 destroyed immediately after the transcript was produced? Logically, it wasn't destroyed because
5 LVMPD knew they had a duty to preserve all evidence collected in a case. The determination of
6 "bad faith" is done on a case-by-case basis and given the lack of investigation in this case and the
7 length of time between accusation and prosecution, the destruction of the only copy of the
8 statement by the alleged victim rises to the level of bad faith.

9
10 **B. Mr. Dorado is Prejudiced by the Destruction of this Evidence**

11 If the Court does not agree that there was bad faith on the part of Detective Hnatuick, there
12 is also strong evidence of the prejudicial effect the loss of this evidence will have on the defense.
13 In its Opposition, the prosecution repeatedly argued that it was mere speculation on the part of the
14 defense that the audio recording would have been helpful had it been turned over to the defense.
15 In a he said/she said case like this one, the details of the alleged incidents are of vital importance
16 and the destruction of the audio recording of M.L.'s statement prevents the defense from knowing
17 the details as she recalled them within hours of the alleged assault. The State argues that M.L. will
18 be present to testify at the trial and the defense is able to cross examine her regarding any
19 inconsistencies in her testimony (Opposition, p. 6), but that is simply not true. Without a complete
20 transcript of her original statement to police, how does the defense even know about
21 inconsistencies? Given the length in time between the accusation and the prosecution, there are
22 bound to be inconsistencies in M.L.'s story, but without the destroyed recording the defense
23 doesn't know what she said originally. This stifles the defense's ability to effectively cross
24 examine M.L.

25 In Sanborn v. State, the defense was claiming self-defense in a homicide case. The
26 prosecution mishandled a gun that *possibly* could have supported the self-defense defense. The
27 self-defense claim was only supported at trial by the testimony of Sanborn because there were no
28

1 witnesses to the homicide. The Nevada Supreme Court stated in that case that the State's case was
2 'buttressed by the absence of that evidence.' The court also stated that the prosecution 'cannot be
3 allowed to benefit in such a manner from its failure to preserve evidence.' Sanborn v. State, 107
4 Nev. 399, (1991) citing Sparks v. State, 104 Nev. 316 (1988). Due to the destruction of the
5 original recording, the State is clearly benefitting. They will be able to hold M.L. up as a credible
6 witness because it will appear as though M.L. has consistently told the same version of the alleged
7 assault for the last 19 years. The value of M.L.'s initial statement to the police cannot be
8 emphasized strongly enough.

9 The allegations of sexual assault make this case different from most others. "The crime of
10 rape is rarely perpetrated in the presence of witnesses other than the defendant and the victim and
11 great reliance must be placed on the testimony of the victim, and, if given, the defendant. Thus, the
12 presence or absence of other evidence which would support or refute the testimony of the involved
13 parties has the potential for great significance." Cook v. State, 114 Nev. 120 (1998), citing State v.
14 Havas, 95 Nev. 706 (1979). In Cook, the Nevada Supreme Court reversed a conviction for sexual
15 assault because the State failed to preserve the alleged victim's initial statement to police as well as
16 other pieces of evidence in the case.

17 Finally, the State places a high value on the presence of the DNA in M.L.'s vagina in this
18 case and argues that evidence takes this case out of the he said/she said category. That might be
19 the correct if the facts of this case were different and M.L. and Mr. Dorado did not know each
20 other. The potential presence of DNA does not prove the sexual assault. The circumstances
21 surrounding the sexual activity that day will prove or disprove the sexual assault, which is once
22 again why the audio recording of M.L.'s initial statement to police is exculpatory and the loss and
23 destruction of it is prejudicial to Mr. Dorado. The defense respectfully requests the charges be
24 dismissed due to the State's destruction of the audio recording of M.L.'s interview.

25 ...

26 ...

27 ...

1 **CONCLUSION**

2 These charges must be dismissed if the Court finds *either* bad faith on part of the government
3 or that Mr. Dorado was unduly prejudiced by the destruction of apparent exculpable evidence.
4 Here, Mr. Dorado has shown both. The evidence was destroyed in direct disregard for Metro's
5 normal procedure and it could have been reasonably anticipated that the contents of the audio were
6 material and exculpable before the audio was destroyed. As such, Mr. Dorado's Due Process
7 rights have been violated and these charges must be dismissed.

8 DATED this 14th day of August, 2017.

9 PHILIP J. KOHN
10 CLARK COUNTY PUBLIC DEFENDER

11
12 By: /s/ Violet R Radosta
13 VIOLET R. RADOSTA, #5747
14 Deputy Public Defender
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19 **CERTIFICATE OF ELECTRONIC FILING**

20 I hereby certify that service of the above and foregoing was served via electronic e-
21 filing to the Clark County District Attorney's Office on the 14th day of August, 2017 by Electronic
22 Filing to:

23 District Attorneys Office
24 E-Mail Address:
25 Jaclyn.Motl@clarkcountyda.com

26 /s/ Anita H Harrold
27 Secretary for the Public Defender's Office
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Steven D. Grierson

1 **ORDR**

2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 JACOB VILLANI
6 Chief Deputy District Attorney
7 Nevada Bar #011732
8 200 Lewis Avenue
9 Las Vegas, NV 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10 THE STATE OF NEVADA,
11
12 Plaintiff,

13 -vs-

14 **RAMON MURIL DORADO,**
15 **#1673321**

Defendant.

CASE NO: **C-17-323098-1**

DEPT NO: **XVIII**

16 **ORDER DENYING DEFENDANT'S MOTION TO DISMISS**
17 **FOR DESTRUCTION OF EVIDENCE**

18 DATE OF HEARING: **AUGUST 15, 2017**
19 TIME OF HEARING: **9:00 A.M.**

20 THIS MATTER having come on for hearing before the above entitled Court on the
21 15TH day of AUGUST, 2017, the Defendant being present, represented by VIOLET
22 RADOSTA, DPD, the Plaintiff being represented by STEVEN B. WOLFSON, District
23 Attorney, through JACOB VILLANI, Chief Deputy District Attorney, and the Court having
24 heard the arguments of counsel and good cause appearing therefor,

25 //

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1 THE COURT ADVISED that it reviewed the transcript and all of the blanks; the Court
2 sees very little exculpatory value to the loss of the audio tape; further, THE COURT FINDS
3 there is no bad faith or gross negligence by the State and is not convinced that any of the
4 blanks are material;

5 Therefore, **COURT ORDERED**, Motion to Dismiss DENIED.

6 DATED this 9 day of ~~August~~^{OCT.}, 2017.

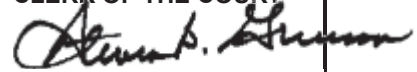
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DISTRICT JUDGE 

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

11
12 BY 

JACOB VILLANI
13 Chief Deputy District Attorney
14 Nevada Bar #011732

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PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
VIOLET R. RADOSTA, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 5747
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
radostvr@co.clark.nv.us
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

v.

RAMON MURIL DORADO,

Defendant,

CASE NO. C-17-323098-1

DEPT. NO. XVIII

DATE: November 16, 2017
TIME: 9:00 a.m.

MOTION FOR OWN RECOGNIZANCE RELEASE OR BAIL REDUCTION

COMES NOW, the Defendant, RAMON MURIL DORADO, by and through his attorney, VIOLET R. RADOSTA, Deputy Public Defender, and moves this Honorable Court for an order releasing the Defendant from custody on his own recognizance.

This Motion is based upon the attached Declaration of Counsel, any documents attached hereto, argument of Counsel and any information provided to the Court at the time set for hearing this motion.

DATED this 9th day of November, 2017.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: /s/ Violet R. Radosta
VIOLET R. RADOSTA, #5747
Deputy Public Defender

DECLARATION

VIOLET R. RADOSTA makes the following declaration:

1. That I am an attorney duly licensed to practice law in the State of Nevada; that I am the Deputy Public Defender assigned to represent the Defendant in the instant matter, and that I am familiar with the facts and circumstances of this case.

2. Mr. Ramon Dorado is currently charged by way of an indictment with 3 counts of Sexual Assault. **The violation date is April 24, 1999.**

3. The arrest warrant on this case was issued on November 22, 2016 more than 17 years after the initial accusation was made. Per the declaration of arrest warrant, alleged victim, M.L., reported that she had been the victim of a sexual assault on April 24, 1999. She stated that the alleged assault occurred less than 12 hours earlier. She was interviewed by LVMPD detectives and submitted to a medical exam on April 24, 1999. During that medical exam, swabs containing possible DNA were taken and stored in the SANE kit.

4. During her statement, M.L. specifically told LVMPD officers the address of the alleged assault, 2101 Sunrise. She also identified the downstairs right hand apartment as the specific location of the alleged assault.

5. M.L. stated that she was acquainted with the alleged assailant through her friend Candy and that she had met "Raymond" at the Silver Saddle bar earlier that day around 1 or 2 am. She and her friend Candy had gone to Silver Saddle to drink and dance. A group of people, including M.L. and a man she has since identified as Mr. Dorado, decided to leave the Silver Saddle and go to a different bar around 7am. M.L. and the man she has identified as Ramon Dorado got in her car to drive to the other bar. Instead of going to the other bar, M.L. drove with the man to his apartment. M.L. accompanied the man inside the apartment where there was at least one other person making breakfast. M.L. and the man ended up in one of the bedrooms where the alleged sexual assault occurred.

6. After the alleged assault, M.L. left the apartment and called 911 per the declaration of arrest. Patrol officers responded to her location, took a preliminary report and then transported her to University Medical Center for a medical exam. Las Vegas Metropolitan

1 Police Detectives responded to UMC and interviewed M.L. regarding her allegations. She also
2 underwent a sexual assault examination at UMC.

3 7. In addition to her description of the location of the alleged assault and the
4 person who she was accusing, M.L. also noted that there was at least one other person present in
5 the apartment when she first entered it with Mr. Dorado. That person left prior to the alleged
6 sexual assault, but it was M.L.'s impression that person was a roommate or friend of Mr.
7 Dorado's. When she exited the bedroom after the alleged assault, M.L. told police that there was
8 a man in the apartment whom she had a conversation with prior to leaving the apartment. It is
9 unclear if that is the same man, but once again M.L. described him as a friend or roommate of
10 Mr. Dorado's when either testifying at the grand jury or when being interviewed by Metro.

11 8. After her statement and medical exam on April 24, 1999, LMVPD
12 detectives did no further investigation on the case until October 27, 2015 when swabs in M.L.'s
13 SANE kit were removed and tested. On December 23, 2015, there was a CODIS hit on the
14 swabs for Mr. Dorado.

15 9. Based on the CODIS hit, LVMPD detectives obtained a search warrant for
16 a buccal swab of Mr. Dorado in an effort to confirm the CODIS information. At that point in his
17 life, Mr. Dorado was on parole with the State of Nevada. Per his release, Mr. Dorado was
18 residing at a halfway house in Winnemucca, NV, which is where LVMPD detectives found him
19 in January 2016. Based on the search warrant, a buccal swab was taken from Mr. Dorado. Per
20 the declaration of warrant, the buccal swab was immediately impounded and submitted to the
21 LVMPD DNA lab for comparison. Despite the age of the allegations, the DNA comparison was
22 not completed until November 17, 2016. A warrant of arrest was requested on November 22,
23 2016. At that point, Mr. Dorado was still on parole with the State of Nevada. He was checking
24 in with his Nevada parole officer, Sgt. Waters, every month and was keeping his Las Vegas
25 address updated. Detectives made no apparent effort to locate Mr. Dorado once the warrant of
26 arrest was issued.

1 10. Mr. Dorado was arrested on for these charges on April 17, 2017 after
2 being transported to Clark County Detention Center from the Northern Nevada Correctional
3 Center. On February 16, 2017, Mr. Dorado had been taken into custody for a potential parole
4 violation (which was subsequently dismissed). The basis of the potential parole violation was
5 the allegations contained in this case, despite the obvious timing issue of the alleged crime
6 predating his grant of parole by approximately 17 years. For the Court's information, Mr.
7 Dorado had been released on parole from the Nevada Department of Corrections in late 2015.

8 11. Mr. Dorado has been supervised by the State of Nevada Department of
9 Parole & Probation during the entirety of time the DNA has been in the process of being tested
10 both by CODIS and by the LVMPD DNA lab. When the buccal swabs were taken from him in
11 January 2016 he was on parole. At that point, Mr. Dorado was aware that there was the
12 possibility of 'new' charges being investigated involving him. Despite this knowledge, Mr.
13 Dorado moved to Las Vegas when he was released from the halfway house in Winnemucca, NV.
14 He obtained his commercial driver's license and found employment in Las Vegas. He did not
15 flee the jurisdiction and had LVMPD simply called his parole officer, he was very easy to find
16 since he was living at his approved address on file with Nevada Parole and Probation. He was
17 completing his parole requirements, checking in monthly with his parole officer, working full
18 time and caring for his aging mother.

19 12. Mr. Dorado first moved to Las Vegas in 1998 and permanently moved
20 here in 2003. In addition to his mother, whom he lives with and helps support, Mr. Dorado has
21 many other family members living here in Las Vegas, including his 2 sisters, Blanca Muric and
22 Lorena Muric and their children. Mr. Dorado's adult children, Ruby and Ramon, also live
23 locally in Las Vegas.

24 13. Prior to his arrest, while on parole, Mr. Dorado obtained his commercial
25 driver's license and was working as a truck driver with EnviroTech Drilling. He was given
26 permission by his parole officer to accept assignments driving anywhere in the country. He
27 obtained his commercial driver's license after being released on parole in January 2016. Upon
28

1 receiving his CDL, he found a job quickly and had been working for approximately 8-9 months
2 with the same company at the time of his arrest on the charges in this case/parole violation.
3 Obviously, the arrest on these charges and the extended period of remand has caused him to lose
4 his job with EnvironTech Drilling, but Mr. Dorado has the ability to find another job due to his
5 commercial driver's license. Should the Court order it, he would agree to only accept a job that
6 required him to drive locally.

7 14. He was successfully completing parole at the time of his arrest for these
8 charges, which shows the Court that he is a responsible person and an individual who can and
9 will follow through with the orders of the Court. He has since been granted an HONORABLE
10 DISCHARGE from the State of Nevada Department of Parole and Probation.

11 15. Finally, Mr. Dorado is uniquely able to assist in his defense if he is
12 released from custody. This is a case that is 17 years old. Las Vegas Metropolitan Police, for
13 whatever reason, did not investigate this case after M.L. made her initial allegations. M.L. told
14 detectives on April 24, 1999 that she would be able to identify the person that assaulted her and
15 that she wanted to press charges. No investigation occurred despite the potential information
16 and evidence that could and should have been followed up on. Examples include going to the
17 apartment M.L. identified as the location of the crime and speaking with whomever lived there,
18 taking photos of the alleged crime scene or going to the Silver Saddle and impounding any video
19 from the NIGHT BEFORE that may have supported her version of the events or may have
20 proved to be exculpatory. The lack of investigation at the time of the allegation puts the
21 defense in an extremely vulnerable position for trial. Some of the official Metro information
22 wasn't even preserved such as the original 911 call. Investigation by the defense is particularly
23 important in this case due to the lack of investigation by LVMPD at the time of M.L.'s
24 allegations.

25 16. In a previous motion for reduction of bail or OR release, the defense made
26 similar arguments. That motion was heard and denied on June 15, 2017 with the Court ruling
27 that the Public Defender's office has investigators and any investigation could be completed
28

1 while Mr. Dorado remained in custody. Since the last motion was denied, the investigator
2 assigned to this case has made multiple attempts to find the individuals that are vital to Mr.
3 Dorado's defense. Unfortunately, the Office of the Public Defender has been unsuccessful in
4 their attempts for various reasons, not the least of which is that these individuals are not trusting
5 of anyone in an official capacity.

6 17. Mr. Dorado believes that he will be able to locate potential witnesses that
7 will aid in his defense in a way that the Office of the Public Defender may not be able to in light
8 of the ever-changing immigration laws in the United States. It is worth noting that potential
9 witnesses may be scared to speak with anyone from an official agency, even the Public
10 Defender's Office, if they are in this country illegally. If, however, Mr. Dorado made the first
11 contact with them and explained why he needed them to speak with counsel's investigator, it
12 would be a more successful investigation. Additionally, given the age of the case, many of the
13 defense's potential witnesses most likely have moved from the homes they lived at in 1999.
14 Some of the potential witnesses were people Mr. Dorado knew, but he knew them by nicknames
15 or even possibly fake names. While this may prove difficult to initially locate these individuals,
16 if Mr. Dorado is aiding in the search for these people, the defense believes he will be incredibly
17 helpful.

18 18. Plain and simple, this is a situation created by the lack of investigation at
19 the time of the allegations. Had Metro simply done a minimal investigation, some of these
20 potential witnesses would be identified in the reports written by the Detectives. Instead, the
21 defense is faced with the awesome task of locating people and potential witnesses stemming
22 from an allegation that is more than 17 years old. To compound the difficulty, some of these
23 individuals may not trust anyone from a governmental agency regardless of their immigration
24 status in this country. Even people here legally may have family and friends where are not
25 legally in this country. Should Mr. Dorado be released from custody, he would be able to assure
26 potential witnesses of the nature of the investigation. Mr. Dorado should not be prevented from
27 assisting and aiding in his defense due solely to his indigent status.

19. Mr. Dorado is currently represented by the Clark County Public Defender's office and **his bail is currently set at \$250,000** for an allegation from almost 18 years ago. He is indigent and cannot make such a high bail. He has friends and family who are willing to help out, but this amount of bail is quite high given the age of the case and the lack of any evidence that he is a flight risk. The defense respectfully requests an OR release or a bail reduction to the amount of \$50,000.

20. Mr. Dorado would be amendable to an order from the Court to stay away from the alleged victim, M.L., should the Court grant his own recognizance release.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

EXECUTED this 9th day of November, 2017.

/s/ Violet R. Radosta
VIOLET R. RADOSTA

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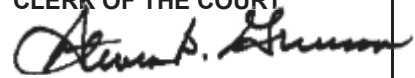
YOU WILL PLEASE TAKE NOTICE that the foregoing MOTION FOR OR/BAIL will

DATED this 9th day of November, 2017.

By: /s/ Violet R. Radosta
VIOLET R. RADOSTA, #5747
Deputy Public Defender

I hereby certify that service of the above and forgoing MOTION FOR OR/BAIL was served via electronic e-filing to the Clark County District Attorney's Office on this 9th day of November, 2017.

By: /s/ Annie McMahan
An employee of the
Clark County Public Defender's Office



OPPS
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JACOB J. VILLANI
Chief Deputy District Attorney
Nevada Bar #011732
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

RAMON MURIL DORADO,
#1673321

Defendant.

CASE NO: **C-17-323098-1**

DEPT NO: **XVIII**

STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR OWN
RECOGNIZANCE RELEASE OR BAIL REDUCTION

DATE OF HEARING: **NOVEMBER 16, 2017**
TIME OF HEARING: **9:00 AM**

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through JACOB J. VILLANI, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in Opposition to Defendant's Motion for Own Recognizance Release or Bail Reduction.

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

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1 **POINTS AND AUTHORITIES**

2 **PROCEDURAL HISTORY**

3 On April 27, 2017, the State of Nevada ("State") filed an Indictment charging
4 Defendant Ramon Muril Dorado ("Defendant") with three (3) counts of Sexual Assault.

5 On May 18, 2017, Defendant was arraigned. Because Defendant refused to participate
6 in the process, the Court entered a plea of not guilty and invoked Defendant's 60-day trial right
7 on his behalf. Defendant's trial was set to begin on July 17, 2017.

8 On June 12, 2017, Defendant filed a Motion for Own Recognizance Release, which
9 was denied on June 15, 2017.

10 On June 20, 2017, Defendant filed a Motion to Dismiss for Failure to Preserve
11 Evidence, which was denied on July 6, 2017.

12 On June 30, 2017, Defendant filed a Motion to Suppress Evidence Obtained Pursuant
13 to Search Warrant, which was denied on July 13, 2017.

14 On July 12, 2017, Defendant filed a Motion to Compel Production of Discovery and
15 Brady Material, which was denied without prejudice on July 18, 2017.

16 On July 13, 2017, Defendant's trial was continued by the Court for one week to
17 accommodate the Court's schedule. Defendant's trial was set to begin on July 24, 2017.

18 On July 17, 2017, Defendant filed a Motion to Dismiss for Destruction of Evidence,
19 which was denied on August 15, 2017.

20 On July 18, 2017, Defendant waived his 60-day trial right and requested that his trial
21 be continued. Defendant's trial was set to begin on November 27, 2017.

22 On November 9, 2017, Defendant filed the instant Motion for Own Recognizance
23 Release or Bail Reduction.

24 **STATEMENT OF FACTS**

25 In the late hours of April 23, 1999, into the morning of April 24, 1999, M.L. went out
26 dancing with her friends Candy and Joanna to the Silver Saddle bar. Grand Jury Transcript
27 ("GJT") p. 7. While at the bar, M.L. met one of the members of the band playing that night,
28 who was introduced to her as Raymond a.k.a. Ray, later identified as Ramon Muril Dorado

1 (“Defendant”). Id. After talking to Defendant for a bit, M.L. left briefly to check on her son
2 who was staying at Candy’s house right down the street. Id. When M.L. came back to the bar,
3 Candy, Joanna and others, including Defendant, were sitting down at the bar in the back. GJT
4 p. 8. M.L. sat between Candy and Defendant. Id. Later on in the night, the group discussed
5 going to PTs Pub when the bartender, who was hanging out with the group, got off work. Id.
6 M.L., who was the designated driver for Candy and Joanna, agreed to go as long as she was
7 back home by 10:00 am. Id.

8 Around 7:00 am the group decided to leave to PT’s. Id. Joanna went with the bartender
9 in his car. Id. Candy decided last minute to call her boyfriend to pick her up and agreed to
10 meet up with M.L. in front of the house by 10:00am so the kids would not think anything. GJT
11 p. 9. On the way to PT’s Defendant said that he had to cash his paycheck and stop by his
12 house to call into work. Id. Not thinking anything of it at that time, M.L. drove to Defendant’s
13 house. Id. When they got there, Defendant asked M.L. to come inside. Id. Inside the house
14 was a young man that did not speak English. Id. Defendant spoke to the young man in Spanish
15 and from what M.L. could understand, Defendant sent him to the store to get something. Id.
16 When the young man left, Defendant picked M.L. up and dragged her into the bedroom as she
17 was telling him to put her down. Id.

18 In the bedroom Defendant proceeded to try to kiss M.L. while she pushed him away.
19 Id. M.L. told Defendant that she had not done anything to suggest that is what she wanted and
20 that she was going to be leaving. Id. However, when M.L. went to walk out the door,
21 Defendant grabbed her and threw her on to the bed. Id. Defendant then laid on top of her and
22 started to try to kiss her neck again. Id. M.L. again pushed Defendant off and rushed to the
23 door. Id. Defendant grabbed M.L. again, pulled her shirt up and proceeded to try to take her
24 pants off. Id. M.L. fell to her side, once again pushed Defendant off and tried running for the
25 door. Id. Defendant grabbed her again, threw her against the wall and pulled her pants down
26 even more. Id. Defendant threw M.L.’s legs over her head and pulled her panty hose down.
27 Id. Defendant then put his mouth on M.L.’s vagina using both his mouth and tongue. GJT 10-
28 11. M.L. pushed Defendant forward and tried to find something to throw at him or something

1 to hit him with. GJT p.11. M.L. tried to shove clothes in Defendant's face, attempting to
2 smother him. Id.

3 As M.L. continued to struggle with Defendant, he got one of her legs out of her panty
4 hose, flipped her back on the ground and laid on top of her trying to push her legs apart. Id.
5 As M.L. was trying to hold her legs together, Defendant held her arms, pulled her legs apart
6 and proceeded to try to insert his penis inside her vagina. Id. M.L. continued to fight
7 Defendant and using her one free hand tried to find something to hit him with. GJT p. 12.
8 M.L. was ultimately able to find one of the safety pins from her pants, which held her pants
9 up, and stabbed Defendant in the shoulder and hand. Id. However, that did not stop Defendant
10 and he proceeded to use one of his hands to move his penis inside her vagina. Id. M.L. could
11 feel his penis and hand inside and outside of her vagina. Id. Defendant was not able to keep
12 his penis inside M.L.'s vagina because he was unable to keep his erection. Id. After a couple
13 of minutes of trying, Defendant got up and allowed M.L. to get her stuff. Id. As Defendant
14 sat there, he kept saying "she's right, she's right", while M.L. asked him what part of "no
15 means no" did he not understand. Id. Defendant responded that he was not talking about what
16 just happened but about his ex-wife telling him he will never be able to have sex with another
17 woman again. GJT 12-13. As M.L. walked out, she saw that the young man was back from
18 the store. GJT p. 13.

19 M.L. returned to Candy's house to check on her son and they immediately took her to
20 the police station. Id. M.L. told the police what happened and they took her to UMC, where
21 a Sexual Assault Nurse Examine ("SANE exam") was conducted. Id.

22 On October 27, 2015, the resulting DNA profile developed from the vaginal swabs of
23 M.L.'s SANE kit was uploaded into the local and national DNA index system ("CODIS").

24 On December 23, 2015, the DNA profile returned a match to Defendant's known DNA
25 profile.

26 On January 27, 2016, LVMPD Detective Lora Cody drafted a Search Warrant for a
27 Buccal swab or blood sample from Defendant's person in order to confirm the CODIS match.
28 The warrant was signed by the Honorable Nancy Allf, District Court Judge.

1 On November 17, 2016, the Buccal swab obtained from Defendant pursuant to the
2 search warrant was compared to the DNA profile developed from the vaginal swabs of M.L.'s
3 SANE kit and found to be a match with the probability of selecting a random individual with
4 the same DNA profile being 1 in 1.45 sextillion (1 in 1,450,000,000,000,000,000).

5 ARGUMENT

6 Defendant requests that this Court either release him on his own recognizance or reduce
7 his bail. Defendant presents his argument in the form of a "Declaration" by his counsel, in
8 which counsel declares "under penalty of perjury" that each of the representations made in the
9 20 paragraphs are "true and correct." Motion, p. 7, ln. 9. This is despite many of the
10 representations being plain argument. *See ex.* Paragraphs 11, 13, 15, 17, 18 and 19.

11 There are certain statutory factors that this Court should consider prior to addressing
12 Defendant's request. Specifically, NRS 178.498 provides:

13 If the defendant is admitted to bail, the bail must be set at an amount
14 which in the judgment of the magistrate will reasonably ensure the
15 appearance of the defendant and the safety of other persons and of the
community, having regard to:

- 16 1. The nature and circumstances of the offense charged;
- 17 2. The financial ability of the defendant to give bail;
- 18 3. The character of the defendant; and
- 19 4. The factors listed in NRS 178.4853.

20 NRS 178.4853 provides as follows:

21 In deciding whether there is good cause to release a person without
22 bail, the court as a minimum shall consider the following factors
concerning the person:

- 23 1. The length of his residence in the community;
- 24 2. The status and history of his employment;
- 25 3. His relationship with his spouse and children, parents or other
26 members of his family and with his close friends;
- 27 4. His reputation, character and mental conditions;

28 //

5. His prior criminal record, including, without limitation, any record of his appearing or failing to appear after release on bail or without bail;
6. The identity of responsible members of the community who would vouch for the reliability of the person;
7. The nature of the offense with which he is charged, the apparent probability of conviction and the likely sentence, insofar as these facts relate to the risk of his not appearing;
8. The nature and seriousness of the danger to the alleged victim, any other person or the community that would be posed by the person's release;
9. The likelihood of more criminal activity by him after he is released; and
10. Any other factors concerning his ties to the community or bearing on the risk that he may willfully fail to appear.

Here, Defendant filed a Motion which is nearly identical to the Motion he filed on June 12, 2017. Defendant added nothing of substance to the previous Motion. In fact, the only differences between the two motions are the addition of paragraphs 7, 11 and 16, and two sentences added to the end of paragraph 19.

The issues Defendant raised in his instant Motion have been litigated *ad nauseam*. See Defendant's Motion to Dismiss for Failure to Preserve Evidence, filed June 20, 2017 (State's Opposition filed June 29, 2017); *See also* Defendant's Motion to Suppress Evidence Obtained Pursuant to Search Warrant, filed June 30, 2017 (State's Opposition filed July 6, 2017); *See also* Defendant's Motion to Dismiss for Destruction of Evidence, filed July 17, 2017 (State's Opposition filed July 20, 2017). Defendant has previously raised all of the issues of which he now complains before the court, and his arguments were found to lack merit. Defendant now apparently seeks to re-litigate each of these issues before this Court because his case has been transferred. The State implores this Court to review the previous litigation in this case, as Defendant's claims are hyperbolic.

Regarding Defendant's request to have his bail lowered, the offense charged here is serious: Defendant raped a young woman 17 years ago. The victim has been waiting for almost two decades for her rapist to be held accountable for his crime. Defendant would have this

Court believe that because the crime occurred years ago it did not occur at all. The victim in this case reported the rape immediately, and officers at the time could not locate Defendant. It was only with added resources that the State was able to test her years-old rape kit and develop Defendant's DNA profile, leading to his arrest. This is not the victim's fault.

The State would have been prepared to proceed to trial and prove its case within 60 days had Defendant so elected, but Defendant chose to waive that right and now – two weeks before his trial – complains that his bail is too high and he needs to be out of custody to serve as an intermediary for people who allegedly refuse to speak to public defender investigators. Defendant claims that these people are “vital to his defense,” but Defendant has no idea what these alleged witnesses have to say because he hasn’t spoken to them.

While there are a number of factors in NRS 178.4853 that this Court must consider, each boils down to Defendant's risk of flight and danger to the community. Defendant is facing multiple Life sentences as a result of these charges; the risk of flight under these circumstances is obvious regardless of his prior record. However, in this case this risk is compounded when Defendant's criminal record is taken into consideration. *See* PSI dated November 5, 2012, filed under case number C283004. Defendant has accumulated six misdemeanor convictions (four Misdemeanors, two Gross Misdemeanors) and six felony convictions. Defendant has been to jail six times and served four prison terms. Defendant's criminal record dates back to 1997 and stretches across California and Nevada. Defendant had his probation and parole revoked multiple times. Defendant's last probationary term began in January of 2012 for the crimes of Burglary and Grand Larceny in case C277434. In March of 2012 (less than two months after his probation grant), Defendant was arrested for Burglary, Grand Larceny, Possession of Stolen Property, and Obtaining Money Under False Pretenses in case C283074. Defendant was released on his own recognizance by the justice court in case C283074, and the district court reinstated his probation in case C277434. In April of 2012 (less than one month after being released by the justice court), Defendant was again arrested for Grand Larceny Auto, Possession of Stolen Vehicle, Possession of Burglary Tools, and Escape with Felony Charges (this was his second arrest for Escape, the first occurred in 2003) in case

1 C283004. Defendant admitted that he was trying to get officers to shoot him and commit
2 “suicide by cop” when he escaped from police custody in case C283004. Defendant ultimately
3 pleaded guilty to Burglary in C283074, Possession of Stolen Vehicle in C283004, and had his
4 probation revoked (pursuant to negotiations) in C277434. These are the three most recent cases
5 on Defendant’s record, and the events occurred only five years ago.

6 By any measure Defendant poses an extreme danger to the community if released.
7 Defendant’s record proves that every time a court takes a chance on him, he fails. Defendant
8 has also shown himself to be a substantial flight risk, willing to go to any length (even suicide
9 by cop) to avoid being taken into custody. Here, facing multiple life sentences in a cold case
10 with DNA evidence, Defendant has nothing to lose by fleeing. This makes Defendant an
11 extremely dangerous individual.

12 Defendant’s preposterous argument that he is the only person who can get his alleged
13 witnesses to speak to his defense attorney cannot outweigh this Court’s duty to protect the
14 public and ensure the State has an opportunity to present its case against Defendant.
15 Defendant’s trial is set to begin on November 27, 2017 – *this date is less than two weeks away*.
16 The State strongly objects to Defendant being released on his own recognizance and to his bail
17 being lowered. The current bail amount of \$250,000.00 is extremely low for a six-time felon
18 who is facing multiple Life sentences. The State submits that granting either of Defendant’s
19 bail requests would endanger this community.

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CONCLUSION

Based upon the foregoing argument, the State of Nevada respectfully requests that this Court deny Defendant's Motion for Own Recognizance Release or Bail Reduction.

DATED this 14th day of November, 2017.

Respectfully submitted,

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

BY /s/ JACOB J. VILLANI
JACOB J. VILLANI
Chief Deputy District Attorney
Nevada Bar #011732

CERTIFICATE OF SERVICE

I hereby certify that service of the above and foregoing was made this 4th day of NOVEMBER 2017, to:

VIOLET RADOSTA, DPD
mcmahae@ClarkCountyNV.gov

BY /s/ HOWARD CONRAD
Secretary for the District Attorney's Office
Special Victims Unit

hjc/SVU

Felony/Gross Misdemeanor

COURT MINUTES

November 16, 2017

C-17-323098-1 State of Nevada
 vs
 Ramon Dorado

November 16, 2017 09:00 AM Defendant's Motion for Own Recognizance Release or Bail
Reduction

HEARD BY: Bailus, Mark B

COURTROOM: RJC Courtroom 11D

COURT CLERK: Castle, Alan

RECORDER: Page, Robin

REPORTER:

PARTIES PRESENT:

Public Defender

Attorney for Defendant

Jacob J. Villani

Attorney for Plaintiff

Violet R Radosta

Attorney for Defendant

Ramon Muril Dorado

Defendant

State of Nevada

Plaintiff

JOURNAL ENTRIES

Arguments by counsel. Court stated its Findings in light of the pending charges and the penalty Defendant faces if convicted, COURT ORDERS, Defendant's Motion for Own Recognizance Release or Bail Reduction is DENIED.

Colloquy regarding trial status. Court advised there is one case ahead of this one and it is going forward to trial. Conference at the bench. At the request of counsel, COURT ORDERED, TRIAL VACATED & RESET.

CUSTODY

01/23/18 9:00 a.m. Pretrial Conference

02/27/18 9:00 a.m. Calendar Call

03/05/18 11:00 a.m. Jury Trial

Felony/Gross Misdemeanor

COURT MINUTES

November 08, 2018

C-17-323098-1 State of Nevada
 vs
 Ramon Dorado

November 08, 2018 08:30 AM All Pending Motions

HEARD BY: Jones, David M COURTROOM: RJC Courtroom 15A

COURT CLERK: Tapia, Michaela

RECORDER: Murphy-Delgado, Melissa

REPORTER:

PARTIES PRESENT:

Dustin R. Marcello Attorney for Defendant

Jacob J. Villani Attorney for Plaintiff

Ramon Muril Dorado Defendant

State of Nevada Plaintiff

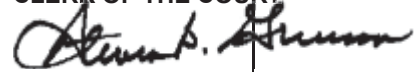
Thomas F. Pitaro Attorney for Defendant

JOURNAL ENTRIES

Defendant's Motion to Suppress Evidence Obtained Pursuant to Search Warrant ... Defendant's Motion to Dismiss for PreIndictment Delay and Lack of Jurisdiction

Arguments by counsel. Argument by the State. Further argument by counsel. COURT ORDERED, rulings DEFERRED, minute order to issue.

CUSTODY



MTN
THOMAS F. PITARO, ESQ.
Nevada Bar No.: 1332
DUSTIN R. MARCELLO, ESQ.
Nevada Bar No. 010134
601 Las Vegas Blvd. South
Las Vegas, Nevada 89101
P) (702) 382-9221 F) (702) 382-9961
Email: dustin.fumolaw@gmail.com; Kristine.fumolaw@gmail.com
Attorneys for Defendant
RAMON DORADO

**IN THE DISTRICT COURT OF
CLARK COUNTY, NEVADA**

STATE OF NEVADA,
Plaintiff,

vs.

RAMON DORADO,
Defendant.

Case No. C-17-323098-1

Dept.: ~~18~~

Department 29

**MOTION TO SUPPRESS EVIDENCE
OBTAINED PURSUANT TO SEARCH
WARRANT**

(Evidentiary Hearing Requested)

COMES NOW the defendant, RAMON DORADO, by and through his attorney of record, THOMAS F. PITARO, ESQ. and DUSTIN R. MARCELLO, ESQ., of the law firm PITARO & FUMO, CHTD., and hereby moves this Court to enter an order suppressing the buccal swab obtained from Mr. Dorado on January 27, 2016, and the fruits thereof, due to the violation of Mr. Dorado's constitutional rights. This motion is based on the attached Declaration of Counsel, any documents attached hereto, arguments of Counsel, and any information provided to the Court at the time set for hearing this motion.

DATED: 10/19/2018

s/ Thomas Pitaro
THOMAS F. PITARO ESQ
Nevada Bar No. 1332

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TO: STEVE WOLFSON, DISTRICT ATTORNEY, by and through
his Deputy District Attorney.

DATED: 10/19/2018



11

1
2 **MEMORANDUM OF POINTS AND AUTHORITIES**
3

4 **STATEMENT OF FACTS**

5 On April 24, 1999, Michelle Lehr contacted Las Vegas Metropolitan Police Department
6 and reported that she had been sexually assaulted by a man she knew casually. The alleged
7 assault had occurred earlier in the morning on April 24, 1999.
8

9 Lehr went to the Las Vegas Metropolitan Department substation on St. Louis and made
10 a report and was transported to University Medical Center (UMC) for a medical exam. (GJT
11 13). Swabs were taken from Ms. Lehr during the medical exam and stored. That all occurred on
12 April 24, 1999.

13 Fast forward 16 years to October 27, 2015 when Ms. Lehr's sexual assault kit was
14 submitted to the LVMPD forensic lab for testing. On December 15, 2015, and hit from the
15 Combined DNA Index System (CODIS) identified Ramon Dorado as a potential source for the
16 male DNA which was found in Ms. Lehr's SANE kit.
17

18 Based on this information, Detective Lora Cody, filed an Application for Search
19 Warrant seeking to obtain a buccal swab from the Defendant Ramon Dorado ("Dorado") on
20 January 27, 2016. (*See Affidavit of Search Warrant*, 9-1-2016 attached as Exhibit "A").
21 Unfortunately, it has come to counsel's attention that many of the statements that Detective
22 Cody made in support of the application for the search warrant were false.
23

24 Specifically, in her affidavit, Detective Cody described the Ms. Lehr's allegations and
25 asserted that the male in question "took" Ms. Lehr to an unknown apartment at 2102 Sunrise
26 Avenue in Las Vegas. (Exhibit A, at p. 2). In fact, Ms. Lehr told detectives that she was the one
27 who drove herself and the male to the apartment.
28

1 Next, Detective Cody stated that after the alleged assault, Ms. Lehr “was then able to run
2 out of the apartment and call 911.” (Exhibit A, at p. 2). Again, this is false. In Ms. Lehr’s own
3 statement, she stated she went to a friend’s apartment to check on her son and then a few hours
4 later, went to a substation to report the alleged assault. Absent Detective Cody’s assertions,
5 there is nothing on the record or in any of the discovery to indicate that Ms. Lehr called 9-1-1 at
6 any point.
7

8 Next, Detective Cody offered the following false information regarding the sexual
9 assault examination. She stated that Marion Adams, the SANE nurse from UMC, found Ms.
10 Lehr’s injuries to be “consistent with the sexual assault.” (Exhibit A, at p. 3). This was
11 blatantly false, nowhere in the SANE report drafted by Nurse Adams does it use that term. In
12 fact, the majority of the report is merely clinical observations of the patient, with no analysis
13 whatsoever.
14

15 Finally, Detective Cody stated that there was a CODIS (Combined DNA Index System)
16 hit on the swabs taken from Ms. Lehr. This hit occurred more than 16 years after the alleged
17 assault. The affidavit then states that the person who the CODIS matched was Mr. Ramon
18 Muric Dorado. However, then Detective Cody went on to add that “A records check on Dorado
19 revealed *numerous convictions* for an assault with deadly weapon, kidnap, and attempted
20 murder.” (Exhibit A at p. 3). Again, this information is patently false. Mr. Dorado does have
21 past felony convictions; however all of his convictions post-date the assault, and none of them
22 are related to kidnapping or attempted murder. Mr. Dorado does have one felony conviction for
23 assault with a deadly weapon, however Detective Cody failed to include the pertinent fact that it
24 was in 2003, more than 12 years prior to the application for the search warrant.
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1 Due to the fact this information was unknown to the court, Judge Nancy Alf granted the
2 search warrant on January 27, 2016. Police executed the warrant that very same day. (*See*
3 *Search Warrant Return*, 1-27-2016, attached as Exhibit “B”). The DNA seized as a result of the
4 search gave rise to the current charges against Dorado. Specifically, the Indictment charges
5 Dorado with: three (3) counts of Sexual Assault. (*See Indictment 4/27/2017* attached as Exhibit
6 “C”). Dorado was arraigned on May 4, 2017. This motion follows.

8 ARGUMENT

9 All criminal defendants have the right to be free from unreasonable searches and
10 seizures under the 4th Amendment of the U.S. Constitution and Article I, Section 18 of the
11 Nevada Constitution. Specifically, the Fourth Amendment provides that the “right of the people
12 to be secure in their persons, houses, papers and effects, against unreasonable searches and
13 seizures, shall not be violated . . .” The Fourth Amendment “stands as an essential bulwark
14 against arbitrary and unreasonable governmental intrusion—whatever its form, whatever its
15 purpose—upon the privacy and liberty of the individual . . .” *United States v. Dionisio*, 410
16 U.S. 19, 42 (1973).

17 An essential aspect of the Fourth Amendment is the warrant requirement. Specifically,
18 the amendment states that “No warrants shall issue, but upon probable cause, supported by Oath
19 or affirmation ...” The text of the Fourth Amendment expressly imposes two requirements in
20 regard to searches and seizures. First, all searches and seizures must be reasonable. Second, a
21 warrant may not be issued unless probable cause is properly established and the scope of the
22 authorized search is set out with particularity. *See Payton v. New York*, 445 U.S. 573, 584
23 (1980).

1 "[A] warrant affidavit must set forth particular facts and circumstances . . . so as to allow
2 the magistrate to make an *independent* evaluation of the matter." *United States v. Perkins*, 850
3 F.3d 1109 (9th. Cir. 2017), *citing Franks v. Delaware*, 438 U.S. 154, 165, 98 S. Ct. 2674, 57 L.
4 Ed. 2d 667 (1978) [emphasis in original]. Sufficient information must be presented to the
5 magistrate to allow that official to determine probable cause; his action cannot be a mere
6 ratification of the bare conclusions of others." *Illinois v. Gates*, 462 U.S. 213, 239, (1983). An
7 officer presenting a search warrant application has a duty to provide, in good faith, all relevant
8 information to the magistrate. *United States v. Hill*, 459 F.3d 966, 971 n.6 (9th Cir. 2006).
9 When a search is based on an insufficient affidavit, evidence obtained as a result of that warrant
10 is inadmissible. *Aguilar v. Texas*, 378 U.S. 108, 116 (1964).

13 When a defendant makes a substantial preliminary showing that 1) the affidavit contains
14 intentionally or recklessly false statements, and (2) the affidavit purged of its falsities would not
15 support a finding of probable cause, the Fourth Amendment requires that a hearing be held at
16 the defendant's request. *Franks v. Delaware*, 438 U.S. 154, 98 S.Ct. 2674, 57 L.Ed.2d 667
17 (1978).*See also United States v. Martinez Garcia*, 397 F.3d 1205, 1215 (9th Cir. 2005), *citing*
18 *United States v. Reeves*, 210 F.3d 1041, 1044 (9th Cir. 2000).

20 The exclusionary rule is a judicial remedy designed explicitly to deter law enforcement
21 officers from future constitutional violations. *State v. Kincade*, 129 Nev. 953, 054
22 (2013). Suppression of evidence obtained pursuant to a warrant will be evaluated on a case-by-
23 case basis and evidence will be suppressed when "exclusion will further the purposes of the
24 exclusionary rule." *Id.* However, exclusion is warranted without engaging in a case-by-case
25 analysis where "the probable cause determination is based on misleading information in the
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1 affidavit that the affiant knew was false or would have known was false absent a reckless
2 disregard for the truth.” *Id.*

3 **I. The Omission of Facts was Made Deliberately or Recklessly**

4 Under the first step of Franks, the defendant must show by a preponderance of the
5 evidence that the affiant knowingly and intentionally, or with reckless disregard for the truth,
6 made false or misleading statements or omissions in support of the warrant application. *United*
7 *States v. Martinez-Garcia*, 397 F.3d 1205, 1214-15 (9th Cir. 2005). The circuits have expanded
8 Franks to include material omissions from the search warrant affidavit.¹ Importantly, a
9 substantial preliminary showing does not require “clear proof.” *United States v. Williams*, 477
10 F.3d 554, 558 (8th Cir. 2007) (“[C]lear proof . . . is not required at the stage at which the
11 defendant is demonstrating an entitlement to an evidentiary hearing.”); *Brown*, 298 F.3d at 408
12 (same); *United States v. Gonzalez, Inc.*, 412 F.3d 1102, 1111 (9th Cir. 2005) (“Our case law
13 does not require clear proof of deliberate or reckless omissions or misrepresentations at the
14 pleading stage.”).

15 Here, the affidavit contained submitted by Detective Cody contained four separate
16 statements, all of which were false, seriously misleading, and highly prejudicial. The combined
17 effect of these statements was to convince the Judge that Mr. Dorado was a violent, multiple-
18 time felon, who needed to be kept off the streets immediately.

19 First, Detective Cody wrongly claimed that Mr. Dorado “took” Ms. Lehr to an unknown
20 apartment, when in reality she admitted to driving the two of them in her own vehicle. At no
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26 ¹ See, e.g., *United States v. Rajaratnam*, 719 F.3d 139, 146 (2d Cir. 2013); *United States v. Tate*,
27 524 F.3d 449, 455 (4th Cir. 2008); *United States v. Brown*, 298 F.3d 392, 408 (5th Cir.
28 2002); *United States v. Glover*, 755 F.3d 811, 821 (7th Cir. 2014); *United States v.*
Kapordelis, 569 F.3d 1291, 1309 (11th Cir. 2009).

1 point did she indicate she was taken against her will or forced to go anywhere. As a member of
2 the Las Vegas Metropolitan Police Department, Detective Cody had the best available resources
3 to correctly verify the information above because LVMPD was in possession of Ms. Lehr's
4 statement. The decision to leave this information out was designed to mislead the Judge into
5 believing that Ms. Lehr's allegations amounted to kidnapping as well as sexual assault.
6

7 Second, Detective Cody claimed that Ms. Lehr had called 911 after running out of the
8 apartment. Once again, this is blatantly false. Ms. Lehr never claimed to have called 911 and
9 instead admitted in her interview with LVMPD that she went to a friend's apartment after the
10 encounter, before driving herself to the police station to make a report. Again, due to her
11 position as a detective, Cody had the ability to easily verify whether Ms. Lehr had indeed placed
12 a 911 call, but chose not to do so. Instead, Detective Cody painted a picture of a distraught
13 woman who was kidnapped, held against her will, and barely "escaped" an unknown assailant,
14 before immediately calling 911.
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17 Third, Detective Cody claimed that Ms. Lehr's SANE exam indicated her injuries were
18 consistent with sexual assault, when in fact, the results were inconclusive. Again, this went to
19 supporting Detective Cody's story that this was a vicious, violent assault, as opposed to a
20 consensual hookup.
21

22 Fourth and finally, Detective Cody informed the court the Mr. Dorado had previous
23 felonies for attempted murder and kidnapping, which was blatantly false. The effects of
24 Detective Cody's statements were to convince the judge that Mr. Dorado had been 'on the
25 loose' since 1999 and needed to answer for a horrendous crime now that there was a potential
26 CODIS hit. The affidavit mislead the judge as to the nature and circumstances underlying the
27 crime.
28

1 **II. The Omitted Facts Were Material**

2 Once a defendant has established that there was a deliberate or reckless omission of
3 facts, he must then that the omitted information is material. *United States v. Chavez Miranda*,
4 306 F.3d 973, 979 (9th Cir. 2002). In determining whether an omission was material, “the
5 pivotal question is whether an affidavit containing the omitted material would have provided a
6 basis for a finding of probable cause.” *Id.* (quoting *United States v. Garcia-Cruz*, 978 F.2d 537,
7 541 (9th Cir. 1992)).

8
9 When the omitted facts are undoubtedly essential to the finding of probable cause,
10 recklessness maybe inferred from the omission itself. *See Madiwale v. Savaiko*, 117 F.3d 1321,
11 1327 (11th Cir. 1994) (“[I]t is possible that when the facts omitted from the affidavit are clearly
12 critical to a finding of probable cause the fact of recklessness may be inferred from proof of the
13 omission itself.”) An officer acts with at least a reckless disregard for the truth when the
14 affidavit did not report important factual information that was within the officers’ knowledge at
15 the time the affidavit was prepared. *See Chism v. Washington State*, 661 F.3d 380, 388 (9th Cir.
16 2011); C.f. *Butler v. Elle*, 281 F.3d 1014, 1025–26 (9th Cir. 2002) (*per curiam*); *Stanert*, 762
17 F.2d at 781; *see also Liston v. Cnty. of Riverside*, 120 F.3d 965, 975 (9th Cir. 1997) (“Given the
18 importance of the [omitted information] to the probable cause analysis . . . a jury could
19 reasonably conclude that [the affiant’s] failure to mention [that information] in his affidavit
20 amounted to at least reckless disregard for the truth.”)

21
22 Further, the Third Circuit held that omissions are made with reckless disregard for the
23 truth “when an officer recklessly omits facts that any reasonable person would know that a
24 judge would want to know.” *Wilson v. Russo*, 212 F.3d 781, 783 (3d Cir. 2000). An affiant can
25 mislead a magistrate “[b]y reporting less than the total story, [thereby] . . . manipulat[ing] the
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1 inferences a magistrate will draw." *United States v. Stanert*, 762 F.2d 775, 781 (9th Cir. 1985),
2 amended by 769 F.2d 1410 (9th Cir. 1985).

3 The "fourth Amendment mandates that a defendant be permitted to challenge a warrant
4 affidavit valid on its face when it contains deliberate or reckless omissions of facts that tend to
5 mislead." *Stanert*, 762 F.2d 775, at 781. By omitting material information, "an affiant can
6 manipulate the inferences a magistrate will draw. To allow a magistrate to be misled in such a
7 manner could denude the probable cause requirement of all real meaning." *Id.*

9 Here, Detective Cody omitted the fact that Ms. Lehr drove herself to the apartment and
10 that its location was not unknown to her. She also omitted the fact that the SANE exam was
11 inconclusive, and instead substituted the facts for her own claim that it was consistent with
12 sexual assault. Detective Cody also recklessly included blatantly untrue claims that Mr. Dorado
13 had been convicted of murder and kidnapping in the past. Any one of these mistruths could be
14 material, however the combined effect of them heavily prejudiced the warrant application
15 process and was undoubtedly material.

18 **III. Appropriate Remedy**

19 "Suppression remains an appropriate remedy if the magistrate or judge in issuing a
20 warrant was misled by information in an affidavit that the affiant knew was false or would have
21 known was false except for his reckless disregard for the truth." *United States v. Leon*, 468 U.S.
22 897, 923 (1984). Here, Judge Alf relied on Detective Cody's assertion that Mr. Dorado was a
23 violent felon who took Ms. Lehr against her will to an undisclosed location before assaulting
24 her. She stated that the SANE exam corroborated these stories and that there was a 911 call as
25 well. This type of behavior is completely unacceptable and exactly the type of falsification that
26 suppression was created to address. As such, the defense respectfully requests the evidence
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1 obtained by the search warrant be suppressed, or in the alternative, that this Court hold an
2 evidentiary hearing to determine the admissibility of the evidence.

3 **CONCLUSION**

4 The defense respectfully request that the Court suppress all evidence obtained from the
5 insufficient affidavit for search warrant. Alternatively, the defense requests an evidentiary
6 hearing be held to determine the admissibility of the evidence.
7

8 DATED: 10/19/2018

9
10 s/ Thomas Pitaro
11 THOMAS F. PITARO ESQ
12 Nevada Bar No. 1332

13 **CERTIFICATE OF SERVICE**

14 I hereby certify that on the 19th day of October 2018 I did serve the forgoing Motion to
15 Sever on the Clark County District Attorney's Office through electronic service by filing in the
16 E-File system with the Clark County Court, and provided a courtesy copy to the following email:
17

18
19 Motions@clarkcountyda.com
20
21
22

23 / s/ Thomas F. Pitaro
24 THOMAS F. PITARO ESQ
25 Nevada Bar No. 1332
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EXHIBIT A

SEARCH WARRANT

Event Number: 070706-1039

STATE OF NEVADA)
) ss: RAMON MURIL DORADO
COUNTY OF CLARK) FBI# 380623NA2
 DOB:11/27/1972 SS#:624-66-3910

The State of Nevada, to any Peace Officer in the County of Clark. Proof by Affidavit having been made before me by Detective Lora Cody, said Affidavit attached hereto and incorporated herein by reference, that there is probable cause to believe that certain item(s), namely

1. Epithelial cells obtained via buccal swabs from the mouth of RAMON MURIL DORADO, FBI# 380623NA2 DOB:11/27/1972 SS#:624-66-3910; or
2. A blood sample from the person of RAMON MURIL DORADO, FBI# 380623NA2 DOB:11/27/1972 SS#:624-66-3910

who is presently located at the : "Shone House" 602 South Bridge Street, Winnemucca, Nevada and or anywhere in the City of Winnemucca Nevada.

And I am satisfied that there is probable cause to believe that said item(s) is/are located as set forth above and that based upon the Affidavit attached hereto, there are sufficient grounds for the issuance of the Search Warrant. In the event that RAMON MURIL DORADO refuses to cooperate with the collection of the Buccal Swab or blood sample, the use of reasonable force is authorized to the extent necessary to obtain these samples.

You are hereby commanded to search forthwith said person for said items, serving this warrant between the hours of 7:00 a.m. & 7:00 p.m., seize said items from said person if the property there to seize it, prepare a written inventory of the items seized and make a return for me within ten days.

SEARCH WARRANT
(Continuation)

During the execution of this search warrant I authorize Winnemucca City law enforcement officers to be present and assist Nevada authorities.

It is further commanded that this Warrant, together with the Application and Affidavit in support thereof, be sealed. The Clerk of Court shall file this Warrant and the attached Application and Declaration in support thereof and keep the same sealed until further order of the Court or other court of competent jurisdiction.

DATED THIS 27th day of January , 2016

JUDGE

Nancy L Alf

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT

Event #: 990424-1124

STATE OF NEVADA)
) ss: FBI# 380623NA2
COUNTY OF CLARK) DOB:11/27/1972 SS#:624-66-3910

Detective Lora Cody, P# 7294, being first duly sworn, deposes and says that she is the Affiant herein and is a Detective with the Las Vegas Metropolitan Police Department (LVMPD) presently assigned to the Sexual Assault. That she has been employed with the LVMPD for the past 14 years and has been assigned to the Homicide Sex Crimes Bureau for the past 8 years.

There is probable cause to believe that certain item(s) hereinafter described will be found within the following described person, to-wit:

RAMON MURIL DORADO, FBI# 380623NA2 DOB: 11/27/1972 SS#:624-66-3910

The item(s) referred to and sought to be seized consist of the following:

1. Epithelial cells from the mouth of RAMON MURIL DORADO to be collected via Buccal Swab; or
2. A blood sample from the person of RAMON MURIL DORADO.

Your Affiant believes that the epithelial cells or blood sample, when collected and submitted for DNA laboratory analysis, would either include or eliminate the listed person's involvement in the criminal offense(s) of sexual assault.

In support of your Affiant's assertion to constitute the existence of probable cause, the following facts are offered:

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT
(Continuation)

Event #: 990424-1124

On 4/24/1999 Michelle Lehr D.O.B 6/6/1973 reported to the LVMPD that she had been sexually assaulted in an unknown apartment in the area of 2100 Sunrise, Las Vegas, Nevada. Patrol officers responded, conducted a preliminary investigation and transported Lehr to the University Medical Center for a sexual assault examination. Detective M. Hnatuick responded to UMC and conducted an interview with Lehr. The following is a synopsis of that interview and is not verbatim. Lehr told Detective Hnatuick on the evening of April 23, she was at the Silver Saddle Saloon located at 2501 E. Charleston in Las Vegas. Lehr went on to meet a band member that identified himself as "Ray". Lehr agreed to accompany "Ray" to another bar near Boulder Highway. Lehr willingly went with "Ray". Lehr further explained that "Ray" took her to an apartment somewhere at 2100 Sunrise Ave in Las Vegas. Once inside the apartment "Ray" grabbed Lehr and forced her into a back bedroom. "Ray" threw Lehr to the floor pulled down her pants. Lehr attempted to strike "Ray" with various objects that were on the ground next to her as well as kick "Ray" off of her. Lehr explained that she shouted for "Ray" to stop. "Ray" refused and began to insert his tongue into Lehr's vagina. Lehr again attempted to fight "Ray". "Ray" then forced his penis into Lehr's vagina, suddenly stopped and stated "I guess my ex-wife was right, I'll never be able to have sex with another woman again." Lehr was then able to run out of the apartment and call 911. Lehr further described "Ray" as possibly having the first name of Raymond and that he was Hispanic, approximately 5'7 inches with brown hair and eyes.

Marion Adams, Sexual Assault Nurse Examiner (SANE) completed her examination and observed the following; Lehr had various bruising and abrasions on

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT
(Continuation)

Event #: 990424-1124

her back, legs and arms. Lehr had numerous broken finger nails as well as bruising to her hands. Nurse Adams also observed that Lehr had bruising and tears in her vaginal canal at the 5 and 7 o'clock position. These injuries are consistent with the sexual assault as described by Lehr.

On 10/27/2015, Lehr's sexual assault kit was submitted to the LVMPD forensic laboratory for examination. On 12/23/15 the LVMPD forensic laboratory was notified that the male DNA found in Lehr's sexual assault kit was a Combined DNA Index System (CODIS) hit on a convicted felon identified as RAMON MURIC DORADO FBI# 380623NA2. A records check on Dorado revealed numerous convictions for an assault with a deadly weapon, kidnap and attempt murder.

Based on the aforementioned information and investigation, your affiant believes grounds for issuance of a search warrant exists as set forth in Nevada Revised Statutes 179.035 and 179.045 because the items sought constitute evidence which tend to show that a crime has been committed, and that a particular person has committed a crime. Given that the County of Clark, State of Nevada has no authority to issue a search warrant for property within the County of Humboldt, State of Nevada, Affiant respectfully request the County of Humboldt, State of Nevada to issue a search warrant for the described property, located in Winnemucca Nevada; said property being evidence of crimes committed on the State of Nevada. It is the intent of the Affiant and peace officers executing the warrant to turn over buccal swabs and or blood samples to LVMPD Detective Lora Cody, Las Vegas Metropolitan Police Dept., 400 S. Martin Luther King Blvd., Bldg .A, Las Vegas, Nevada 89106, for use in its

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT
(Continuation)

Event #: 990424-1124

prosecution/investigation. Affiant has been assured by the designated sworn law enforcement officer from the Winnemucca Police Department in the County of Humboldt, State of Nevada that the property turned over will be protected and will not be disposed of except as pursuant to law of the State of Nevada. The suspect herein will be accorded due process in such disposition. Thus, in signing this affidavit and warrant Affiant respectfully request the permission of the Magistrate to authorize such removal of seized property to the State of Nevada authorities in accordance with the terms herein.

It is further requested that this affidavit be sealed by the order of the Court for the following reasons: This is an on-going investigation and evidence which has been obtained has not yet been disclosed to the suspect; revelation of these facts could have a negative impact on this case. Also, this is an investigation of a sensitive nature involving kidnapping and sexual assault.

Wherefore, your Affiant requests that a Search Warrant be issued directing a search for and seizure of the aforementioned items from RAMON MURIL DORADO, currently at: "Shone House: 602 South Bridge Street, Winnemucca, Nevada 89445 and or anywhere in the city of Winnemucca Nevada between the hours of 7:00 a.m. & 7:00 p.m. In the event that RAMON MURIL DORADO refuses to cooperate with the collection of the Buccal Swab or blood sample, the use of reasonable force is authorized to the extent necessary to obtain these samples.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT
(Continuation)

Event #: 990424-1124



DETECTIVE LORA CODY, AFFIANT

SUBSCRIBED and SWORN to before me this 27th day of January, 2016

Nancy L Alf

JUDGE

IN RE: SEARCH WARRANT for)

RAMON MURIL DORADO)

FBI# 380623NA1)

D.O.B 11/27/1972 SS# 624-66-3910)

ORDER SEALING
AFFIDAVIT

Upon the ex parte application of Detective Lora Cody P#7294, a commissioned officer with the Las Vegas Metropolitan Police Department and Affiant, to seal the affidavit in support of the attached search warrant, and for good cause appearing therefore,

IT IS HEREBY ORDERED that the affidavit in support of the attached search warrant be ordered sealed pending further order of this Court except that copies may be provided to the office of the Clark County District Attorney and the District Attorney may provide copies to a Defendant in a criminal proceeding as part of the criminal discovery process, and

IT IS FURTHER ORDERED a copy of this order sealing the affidavit be left at the premises along with the search warrant in lieu of the affidavit in support of the warrant.

DATED this 27th day of January, 2016.

Nancy L. Alf
JUDGE

[Signature]
AFFIANT

RETURN

(Must be made within 10 days of issuance of Warrant)

The Search and Seizure Warrant authorizing a search and seizure at the following described location(s):

was executed on 11 20 16
(month, day, year)

A copy of this inventory was left with _____

(name of person or "at the place of search")

The following is an inventory of property taken pursuant to the warrant:

This inventory was made by: _____

(at least two officers including affiant if present. If person from whom property is taken is present include that person.)



Winnemucca P.D.
Case # 16-0092

WINNEMUCCA POLICE DEPARTMENT SEARCH WARRANT RETURN

Las Vegas P.D.
Warrant No. 990424-1124 Executed By Detective Gary Duncenhorst Page 1 of 1

The search and seizure warrant authorizing a search and seizure at the following location(s)...

The search and seizure of Ramon Dorado's person in collection of DNA / Place of Residence 602 S. Bridge Street
19 Winnemucca Nevada and or anywhere in the City of Winnemucca.

was executed on the 27th day of January 20 16 at 1425 Hours.

A copy of the inventory was given to Ramon Dorado (Name)

or left at (in person) (Location)

The following is an inventory of property taken pursuant to the warrant:

ITEM: (2) Bureau Stakes from the mouth of Ramon Dorado

ITEM: ()

ITEM: ()

ITEM: ()

ITEM: ()

ITEM: ()

ITEM: ()

ITEM: ()

OFFICIAL USE ONLY
WINNEMUCCA POLICE DEPT.

The inventory was made by Detective Duncenhorst

Date 1/27/2016

Witnessed by [Signature]

PPS II 4419

Date 1/27/2016

1 RA 000167



Winnemucca P.D.
Case # 11-0092

790424-1124
WINNEMUCCA POLICE
DEPARTMENT
SEARCH WARRANT RETURN

Warrant No. 790424-1124 Executed By Detective Gary Parnell Page 1 of 1

The search and seizure warrant authorizing a search and seizure at the following location(s)...

The search and seizure of Ramon Hernandez's person in support of DWI / DT - at residence 403 S. Dodge Street
in Las Vegas, NV 89101 and at his residence at 403 S. Dodge Street

was executed on the 27th day of January 20 11 at 1925 Hours.

A copy of the inventory was given to Ramon Hernandez (Name)

or left at (in house) (Location)

The following is an inventory of property taken pursuant to the warrant:

ITEM: () Black jacket from the 403 S. Dodge Street

ITEM: () _____

ITEM: () _____

ITEM: () _____

ITEM: () _____

ITEM: () _____

ITEM: () _____

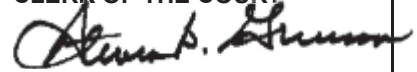
ITEM: () _____

OFFICIAL USE ONLY
WINNEMUCCA POLICE DEPT.

The inventory was made by Detective P. Parnell Date 11-27-2010

Witnessed by [Signature] Date 11-27-2010

1 RA 000168



OPPS
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JACOB J. VILLANI
Chief Deputy District Attorney
Nevada Bar #011732
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

RAMON MURIL DORADO,
#1673321

Defendant.

CASE NO: **C-17-323098-1**

DEPT NO: **XXIX**

STATE'S OPPOSITION TO DEFENDANT'S MOTION TO SUPPRESS
EVIDENCE OBTAINED PURSUANT TO SEARCH WARRANT

DATE OF HEARING: **OCTOBER 30, 2018**
TIME OF HEARING: **9:00 AM**

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through JACOB J. VILLANI, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in this State's Opposition to Defendant's Motion to Dismiss Evidence Obtained Pursuant to Search Warrant.

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

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1 **POINTS AND AUTHORITIES**

2 **PROCEDURAL HISTORY**

3 On April 27, 2017, the State of Nevada (“State”) filed an Indictment charging
4 Defendant Ramon Muril Dorado (“Defendant”) with three (3) counts of Sexual Assault.

5 On May 18, 2017, Defendant was arraigned. Because Defendant refused to participate
6 in the process, the Court entered a plea of not guilty and invoked Defendant’s 60-day trial right
7 on his behalf. Defendant’s trial was set to begin on July 17, 2017.

8 On June 12, 2017, Defendant filed a Motion for Own Recognizance Release, which
9 was denied on June 15, 2017.

10 On June 20, 2017, Defendant filed a Motion to Dismiss for Failure to Preserve
11 Evidence, which was denied on July 6, 2017.

12 On June 30, 2017, Defendant filed a Motion to Suppress Evidence Obtained Pursuant
13 to Search Warrant, which was denied on July 13, 2017.

14 On July 12, 2017, Defendant filed a Motion to Compel Production of Discovery and
15 Brady Material, which was denied without prejudice on July 18, 2017.

16 On July 13, 2017, Defendant’s trial was continued by the Court for one week to
17 accommodate the Court’s schedule. Defendant’s trial was set to begin on July 24, 2017.

18 On July 17, 2017, Defendant filed a Motion to Dismiss for Destruction of Evidence,
19 which was denied on August 15, 2017.

20 On July 18, 2017, Defendant waived his 60-day trial right and requested that his trial
21 be continued. Defendant’s trial was set to begin on November 27, 2017.

22 On August 21, 2017, Defendant’s case was reassigned from Department II to
23 Department XVIII.

24 On November 9, 2017, Defendant filed another Motion for Own Recognizance Release
25 or Bail Reduction, which was denied on November 16, 2017.

26 On December 29, 2017, Defendant filed, in proper person, a Motion to Dismiss
27 Counsel. Defendant’s counsel at the time was Public Defender Violet Radosta.

28 //

1 On January 11, 2018, the court granted Defendant's Motion to Dismiss Counsel over
2 the State's objection.

3 On January 25, 2018, current counsel confirmed as counsel of record and Defendant's
4 trial date was vacated and reset to January 14, 2019.

5 On July 2, 2018, Defendant's case was again reassigned from Department 18 to this
6 Court.

7 On October 19, 2018, Defendant filed a **second** Motion to Suppress Evidence Obtained
8 Pursuant to Search Warrant, arguing the same issues presented in his June 30, 2017 motion,
9 attached as Exhibit 1.

10 Also on October 19, 2018, Defendant filed a Motion to Dismiss Indictment arguing the
11 same issues presented in his June 20, 2017 motion.

12 **STATEMENT OF FACTS**

13 In the late hours of April 23, 1999, into the morning of April 24, 1999, M.L. went out
14 dancing with her friends Candy and Joanna at the Silver Saddle bar. Grand Jury Transcript
15 ("GJT") p. 7. While at the bar, M.L. met one of the members of the band playing that night
16 who was introduced to her as Raymond aka Ray, later identified through DNA evidence as
17 Ramon Muril Dorado ("Defendant"). Id. After talking to Defendant for a bit, M.L. left briefly
18 to check on her son who was staying at Candy's house right down the street. Id. When M.L.
19 came back to the bar, Candy, Joanna and others, including Defendant, were sitting down in
20 the back of the bar. GJT p. 8. M.L. sat between Candy and Defendant. Id. Later on in the
21 night, the group discussed going to PT's Pub when the bartender, who was hanging out with
22 the group, got off work. Id. M.L., who was the designated driver for Candy and Joanna, agreed
23 to go as long as she was back home by 10:00 am. Id.

24 Around 7:00 am the group decided to leave for PT's. Id. Joanna went with the bartender
25 in his car. Id. Candy decided last minute to call her boyfriend to pick her up and agreed to
26 meet up with M.L. in front of the house by 10:00am so the kids would not think anything. GJT
27 p. 9. On the way to PT's Defendant said he had to cash his paycheck and stop by his house to
28 call in to work. Id. Not thinking anything of it at that time, M.L. drove to Defendant's house.

1 Id. When they got there, Defendant asked M.L. to come inside. Id. Inside the house was a
2 young man who did not speak English. Id. Defendant spoke to the young man in Spanish and
3 from what M.L. could understand, Defendant sent him to the store to get something. Id. When
4 the young man left, Defendant picked M.L. up and dragged her into the bedroom as she was
5 telling him to put her down. Id. Defendant refused to listen and brought M.L. into the bedroom.
6 GJT p. 10.

7 In the bedroom Defendant attempted to kiss M.L. while she pushed him away. Id. M.L.
8 told Defendant she had not done anything to suggest she wanted him to kiss her and she was
9 going to be leaving. Id. When M.L. attempted to walk out the door, Defendant grabbed her
10 and threw her on to the bed. Id. Defendant laid on top of her and attempted to kiss her neck
11 again. Id. M.L. again pushed Defendant off and rushed to the door. Id. Defendant grabbed
12 M.L. again, pulled her shirt up and attempted to take her pants off. Id. M.L. fell to her side,
13 once again pushed Defendant off and tried running for the door. Id. Defendant grabbed her
14 again, threw her against the wall and pulled her pants down even more. Id. Defendant threw
15 M.L.'s legs over her head and pulled her panty hose down. Id. Defendant then put his mouth
16 on M.L.'s vagina using both his mouth and tongue. GJT 10-11. M.L. pushed Defendant forward
17 and tried to find something to throw at him or hit him with. GJT p.11. M.L. tried to shove
18 clothes in Defendant's face, attempting to smother him. Id.

19 As M.L. continued to struggle with Defendant, he got one of her legs out of her panty
20 hose, flipped her back on the ground and laid on top of her trying to push her legs apart. Id.
21 As M.L. was trying to hold her legs together, Defendant held her arms, pulled her legs apart
22 and attempted to insert his penis inside her vagina. Id. M.L. continued to fight Defendant and
23 using her one free hand tried to find something to hit him with. GJT p. 12. M.L. was ultimately
24 able to find one of the safety pins from her pants, which held her pants up, and stabbed
25 Defendant in the shoulder and hand. Id. However, that did not stop Defendant and he used one
26 of his hands to move his penis inside her vagina. Id. M.L. could feel his penis and hand inside
27 and outside of her vagina. Id. Defendant was not able to keep his penis inside M.L.'s vagina
28 because he was unable to keep his erection. Id. After a couple of minutes of trying, Defendant

1 got up and allowed M.L. to get her stuff. Id. As Defendant sat there, he kept saying “she’s
2 right, she’s right”, while M.L. asked him what part of “no means no” did he not understand.
3 Id. Defendant responded that he was not talking about what just happened but about his ex-
4 wife telling him he will never be able to have sex with another woman again. GJT 12-13. As
5 M.L. walked out, she saw that the young man was back from the store. GJT p. 13.

6 M.L. returned to Candy’s house to check on her son and they immediately took her to
7 the police station. Id. M.L. told the police what happened and they took her to UMC, where
8 a Sexual Assault Kit (“SAK”) was conducted. Id.

9 On October 27, 2015, the resulting DNA profile developed from the vaginal swabs of
10 M.L.’s SAK was uploaded into the local and national DNA index system (“CODIS”).

11 On December 23, 2015, the DNA profile returned a match to Defendant’s known DNA
12 profile.

13 On January 27, 2016, LVMPD Detective Lora Cody drafted a Search Warrant for a
14 Buccal swab or blood sample from Defendant’s person in order to confirm the CODIS match.
15 The warrant was signed by the Honorable Nancy Allf, District Court Judge.

16 On November 17, 2016, the Buccal swab obtained from Defendant pursuant to the
17 search warrant was compared to the DNA profile developed from the vaginal swabs of M.L.’s
18 SAK and found to be a match with the probability of selecting a random individual with the
19 same DNA profile being 1 in 1.45 sextillion (1 in 1,450,000,000,000,000,000).

20 ARGUMENT

21 **I. DEFENDANT’S MOTION SHOULD BE DENIED BECAUSE THE ISSUE** 22 **RAISED WAS ALREADY DECIDED BY THE PREVIOUS COURT**

23 Defendant’s instant Motion argues that this Court should suppress evidence obtained
24 pursuant to search warrant in this case. Defendant made a near identical argument in his
25 Motion to Suppress Evidence Obtained Pursuant to Search Warrant, which was filed on June
26 30, 2017. Exhibit 1. The State opposed Defendant’s June 30, 2017 Motion (Exhibit 2), and
27 the previous court denied Defendant’s motion on July 13, 2017.

28 //

EDCR 2.24 provides:

(a) No motions once heard and disposed of may be renewed in the same cause, nor may the same matters therein embraced be reheard, unless by leave of the court granted upon motion therefor, after notice of such motion to the adverse parties.

(b) A party seeking reconsideration of a ruling of the court, other than any order which may be addressed by motion pursuant to N.R.C.P. 50(b), 52(b), 59 or 60, must file a motion for such relief within 10 days after service of written notice of the order or judgment unless the time is shortened or enlarged by order. A motion for rehearing or reconsideration must be served, noticed, filed and heard as is any other motion. A motion for reconsideration does not toll the 30-day period for filing a notice of appeal from a final order or judgment.

(c) If a motion for rehearing is granted, the court may make a final disposition of the cause without reargument or may reset it for reargument or resubmission or may make such other orders as are deemed appropriate under the circumstances of the particular case.

Generally, matters that have been heard and disposed of shall not be renewed in the same cause, nor shall such matters be reheard. EDCR 2.24(a). Furthermore, a party seeking reconsideration of a ruling of the court “must file a motion for such relief within 10 days after service of written notice of the order or judgment unless the time is shortened or enlarged by order...” *See generally*, EDCR 2.24(b). In this case, the District Court was previously briefed by both parties as to the issues raised in Defendant’s Motion to Suppress Evidence Obtained Pursuant to Search Warrant, and that motion was denied by the previous court after extensive argument. Because the issue of the validity of the search warrant in this case was previously litigated, this Court should deny Defendant’s instant Motion.

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1 **CONCLUSION**

2 The State respectfully requests that this Court deny Defendant's instant motion, as the
3 issue raised as to the validity of the search warrant was previously decided. The State requests
4 that this Court review the previous pleadings in this case (attached) regarding the issue of the
5 validity of the search warrant. If this Court feels there are outstanding issues raised by
6 Defendant that need to be briefed, the State requests leave to file an amended opposition
7 addressing the specific issues the Court feels were inadequately briefed in the first instance.
8 The State has ordered but not yet received the transcripts from the previous extensive oral
9 arguments regarding these matters, and the transcripts should be available to access in Odyssey
10 when complete.

11 DATED this 29th day of October, 2018.

12 Respectfully submitted,

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

15 BY /s/ JACOB J. VILLANI
16 JACOB J. VILLANI
17 Chief Deputy District Attorney
Nevada Bar #011732
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1 **CERTIFICATE OF SERVICE**

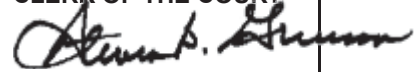
2 I hereby certify that service of the above and foregoing was made this 29th day of
3 OCTOBER, 2018, to:

4 THOMAS PITARO, ESQ.
5 kristine.fumolaw@gmail.com

6
7 BY /s/ HOWARD CONRAD
8 Secretary for the District Attorney's Office
9 Special Victims Unit

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EXHIBIT "1"



PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
VIOLET R. RADOSTA, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 5747
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
radostvr@co.clark.nv.us
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)	
)	
Plaintiff,	)	CASE NO. C-17-323098-1
)	
v.	)	DEPT. NO. II
)	
RAMON MURIL DORADO,)	
)	
Defendant,	)	DATE: July 11, 2017
	)	TIME: 9:00 a.m.

**MOTION TO SUPPRESS EVIDENCE OBTAINED PURSUANT
TO SEARCH WARRANT**

COMES NOW, the Defendant, RAMON MURIL DORADO, by and through his attorney, VIOLET R. RADOSTA, Deputy Public Defender, and moves this Honorable Court for an order suppressing the buccal swab obtained from Mr. Dorado in January, 2016 and the subsequent DNA testing of the buccal swab due to the violation his constitutional rights to be free from unreasonable searches and seizures.

This Motion is based upon the attached Declaration of Counsel, any documents attached hereto, argument of Counsel and any information provided to the Court at the time set for hearing this motion.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: /s/ Violet R Radosta
VIOLET R. RADOSTA, #5747
Deputy Public Defender

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1. That I am an attorney duly licensed to practice law in the State of Nevada; that I am the Deputy Public Defender assigned to represent the Defendant in the instant matter, and that I am familiar with the facts and circumstances of this case.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

EXECUTED this 30th day of June, 2017.

/s/ Violet R Radosta
VIOLET R. RADOSTA

1 **POINTS AND AUTHORITIES**

2 **FACTS**

3 On April 24, 1999, Michelle Lehr contacted Las Vegas Metropolitan Police and reported
4 that she had been sexually assaulted by a man she knew casually. The alleged assault had
5 occurred earlier in the morning of April 24, 1999.

6 She went to the Las Vegas Metropolitan Police Department substation on St. Louis and
7 made a report and was transported to University Medical Center for a medical exam. (GJT 13).
8 Swabs were taken from Ms. Lehr during the medical exam and stored. All of that occurred on
9 April 24, 1999.

10 Fast forward 16 years to October 27, 2015 and Ms. Lehr's sexual assault examination kit
11 was submitted to the LVMPD forensic lab for testing. On December 15, 2015, a hit from the
12 Combined DNA Index System (CODIS) identified Ramon Muric Dorado a potential for the male
13 DNA in Ms. Lehr's SANE kit. Based on that information, in January 2016 LVMPD obtained a
14 search warrant signed by Judge Nancy Alf and requesting a buccal swab be obtained from
15 Ramon Muric Dorado.

16 In the affidavit for the search warrant, Detective Lora Cody presented certain information
17 which was incorrect. In the affidavit, the description of the allegation included the assertion that
18 the male in question 'took' Ms. Lehr to an unknown apartment at 2101 Sunrise Avenue in Las
19 Vegas. In fact, Ms. Lehr told detectives that she drove herself and the unknown male to the
20 apartment. Additionally, the affidavit states that she called 911 almost immediately after the
21 alleged assault when in her own statement to detectives she stated that she went to her friend's
22 apartment to check on her son and then a few hours later went to a substation to report the
23 alleged assault.

24 Finally, the affidavit states that there was a CODIS (Combined DNA Index System) hit
25 on the swabs taken from Ms. Lehr and this hit occurred more than 16 years after the alleged
26 assault. The affidavit then states that the person who the CODIS matched was Mr. Ramon Muric
27 Dorado who had convictions of assault with a deadly weapon, kidnap and attempt murder.

1 In fact, Mr. Dorado has no convictions for attempt murder or kidnapping, both of which
2 would be considered very serious and violent. He does have felony convictions that post-date
3 the alleged assault and there is a conviction for assault with a deadly weapon in 2003. The date
4 of that conviction wasn't included in the affidavit for search warrant. The conviction was more
5 than 12 years prior to the alleged sexual assault.

6 On November 17, 2016, LVMPD forensic lab tested the buccal swab and determined that
7 one of the swabs taken in the SANE kit potentially contained DNA from Mr. Dorado.

8 On April 17, 2017, Mr. Dorado was arrested on charges of sexual assault. He appeared in
9 Las Vegas Justice Court on April 19, 2017 and the Public Defender's office was appointed to
10 represent him. A preliminary hearing date was set for May 26, 2017.

11 On April 26, 2017, Deputy District Attorney Jake Villani presented evidence in this
12 matter to the grand jury. After hearing the evidence presented by the prosecution, the grand jury
13 deliberated for less than 1 minute and then indicted Mr. Dorado on 3 counts of Sexual Assault.

14 Mr. Dorado invoked his right to a speedy trial and his trial date was set for July 17, 2017
15 with a calendar call date of July 11, 2017.

16 This Motion to Suppress the buccal swab and subsequent DNA testing follows.

17 18 **ARGUMENT**

19 All criminal defendants are entitled to be free from unreasonable searches and seizures 4th
20 Amendment of the U.S. Constitution and Article I, Section 18 of the Nevada Constitution. Due
21 to the inaccurate and incomplete information contained in the affidavit for search warrant, Mr
22 Dorado was subjected to an unreasonable search of his person and the evidence obtained should
23 be suppressed.

24 Where a search warrant is based on an insufficient affidavit, evidence obtained as a result
25 of the search warrant is inadmissible. *Aguilar v. Texas*, 378 U.S. 108, 116, 84 S.Ct. 1509, 1516
26 (1964). Exclusionary rule is designed to deter police misconduct rather than to punish errors of
27 judges and magistrates. *United States v. Leon*, 468 U.S. 897, 104 S.Ct. 3405 (1984).

1 The U.S. Constitution does not provide for exclusion of evidence obtained in
2 violation of the Fourth Amendment. *Arizona v. Evans*, 514 U.S. 1, 10, 115 S.Ct. 1185,
3 131 L.Ed.2d 34 (1995). Instead, the exclusionary rule is a judicial remedy designed to
4 deter law enforcement from future Fourth Amendment violations. *Leon*, 468 U.S. at 906,
5 104 S.Ct. 3405. Accordingly, “suppression of evidence obtained pursuant to a warrant
6 should be ordered only on a case-by-case basis and only in those unusual cases in which
7 exclusion will further the purposes of the exclusionary rule.” *Id.* at 918, 104 S.Ct. 3405.
8 However, exclusion is warranted without engaging in a case-by-case analysis where (1)
9 the probable cause determination is based on misleading information in the affidavit that
10 the affiant knew was false or would have known was false absent a reckless disregard for
11 the truth, (2) the magistrate wholly abandoned a detached or neutral role, (3) the warrant
12 is so facially deficient that the officers executing it cannot reasonably presume its
13 validity, or (4) the supporting affidavits are so lacking in probable cause as to render
14 official belief in its existence entirely unreasonable. *Id.* at 923, 104 S.Ct. 3405. Outside of
15 those four exceptions, a search based on a deficient warrant is not unreasonable where the
16 officer executing the warrant has an objective good-faith belief that the warrant is valid.

17 State v. Kincade, 129 Nev. Adv. Op. 102, 317 P.3d 206, 208–09 (2013)

18 Where a defendant makes substantial preliminary showing that false statement knowingly
19 and intentionally, or with the reckless disregard for the truth, was included by affiant in search
20 warrant affidavit, and if allegedly false statement is necessary to finding of probable cause,
21 Fourth Amendment requires that hearing be held at defendant's request. *Franks v. Delaware*,
22 438 U.S. 154, 98 S. Ct. 2674, 57 L. Ed. 2d 667 (1978); U.S.C.A.Const. Amends. 4, 14.

23 In this case, the affidavit contained the false and inaccurate information that Mr. Dorado
24 had multiple prior violent felony convictions, including at least one for attempt murder and one
25 for kidnapping. Additionally, the affidavit contained potentially misleading information that Mr.
26 Dorado had a conviction for assault with a deadly weapon that would be relevant for the judge
27 reading the affidavit. By failing to provide the year of the assault with a deadly weapon
28 conviction, the affidavit was misleading. The alleged sexual assault occurred in 1999 and the
search warrant affidavit was written in 2016. The assault with a deadly weapon conviction was
in 2003. By failing to list the conviction date of the assault with a deadly weapon conviction as
well as falsely stating that Mr. Dorado had multiple convictions for kidnapping and attempt

1 murder, the affidavit painted a picture of Mr. Dorado as a violent and dangerous multiple time
2 felon and someone that needed to be off the streets in a hurry.

3 As a member of the Las Vegas Metropolitan Police Department, Detective Lora Cody
4 had the best available resources to correctly verify and list Mr. Dorado's prior felony
5 convictions. That simply wasn't done in this case as demonstrated by the inaccurate information
6 contained in the affidavit. Judges presume the information, such as prior criminal convictions,
7 provided in affidavits for search warrants are accurate simply due to the fact that a detective
8 employed by a law enforcement agency is the one providing the information. This level of
9 inaccuracy and falsity is unacceptable and is exactly the type of behavior the exclusionary rule is
10 meant to deter.

11 Additionally, the inaccuracies in the recitation of facts regarding the alleged sexual
12 assault were also designed to mislead the judge to conclude that Ms. Lehr's allegations amounted
13 to a kidnapping as well as an alleged sexual assault. In the affidavit, the detective stated that Ms.
14 Lehr was taken to the unknown apartment when in fact she was the one driving. Nowhere in her
15 interview with LVMPD in 1999 did she say she was forced to go to the apartment against her
16 will. Additionally, the affidavit stated that she called 911 after running out of the apartment.
17 Once again, this is not a correct statement of the interview given to Metro detectives. She waited
18 several hours before reporting the crime and she went to a substation to report rather than calling
19 911. While these facts may seem minor to the overall search warrant, the consistent nature of the
20 misstated facts were meant to paint a picture for the judge of a man who abducted a woman and
21 held her against her will. The woman was so distraught after the incident she immediately called
22 911. This unknown male had been 'on the loose' since 1999 and needed to answer for that
23 horrendous crime now that there was a potential CODIS hit. The affidavit misled the judge as to
24 the nature and circumstances of the underlying crime and the person whose buccal swab was
25 needed. The misleading information was provided by the detective seeking the search warrant
26 and, presumably, this same detective had the original interview of Ms. Lehr and the criminal
27 history of Mr. Dorado readily available when they were applying for the search warrant.

1 The false information contained in the affidavit was necessary to the application because
2 they wouldn't have included Mr. Dorado's prior criminal history if they didn't believe it would
3 aid in their effort to obtain the search warrant. This is clear case where the evidence obtained
4 from the search warrant should be excluded. The exclusionary rule is designed to deter police
5 misconduct rather than to punish errors of judges and magistrates. *United States v. Leon*, 468
6 U.S. 897, 104 S.Ct. 3405 (1984). Per the rulings in *Leon* and *Franks v. Delaware*, the defense
7 respectfully requests the evidence obtained by suppressed or, in the alternative, the Court hold an
8 evidentiary hearing to determine the admissibility of the evidence.

9 CONCLUSION

10 The defense respectfully requests that the Court suppress all evidence obtained from the
11 insufficient affidavit for search warrant, or hold an evidentiary hearing to determine the
12 admissibility of the evidence. Mr. Dorado's 4th Amendment right to be free from unreasonable
13 searches and seizures has been violated.

14 DATED this 30th day of June, 2017.

15 PHILIP J. KOHN
16 CLARK COUNTY PUBLIC DEFENDER

17 By: /s/ Violet R Radosta
18 VIOLET R. RADOSTA, #5747
19 Deputy Public Defender
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NOTICE OF MOTION

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the foregoing Motion To Dismiss will
be heard on July 11 2017, at 9:00 am in District Court Department II.

DATED this 30th day of June, 2017.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: /s/ Violet R Radosta
VIOLET R. RADOSTA, #5747
Deputy Public Defender

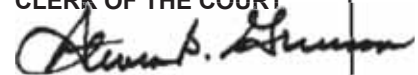
CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of the above and foregoing was served via electronic
e-filing to the Clark County District Attorney's Office on the 30th day of June, 2017 by
Electronic Filing to:

District Attorneys Office
E-Mail Address:
Jaclyn.Motl@clarkcountyda.com

/s/ Anita H Harrold
Secretary for the Public Defender's Office

EXHIBIT "2"



1 **OPPS**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 JACOB J. VILLANI
6 Chief Deputy District Attorney
7 Nevada Bar #011732
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7
8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10 THE STATE OF NEVADA,
11 Plaintiff,

12 -VS-

13 **RAMON MURIL DORADO,**
14 **#1673321**

15 Defendant.

CASE NO: C-17-323098-1

DEPT NO: II

16
17 **STATE'S OPPOSITION TO DEFENDANT'S MOTION TO SUPPRESS**
18 **EVIDENCE OBTAINED PURSUANT TO SEARCH WARRANT**

19 DATE OF HEARING: JULY 11, 2017
20 TIME OF HEARING: 9:00 AM

21 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County
22 District Attorney, through JACOB J. VILLANI, Chief Deputy District Attorney, and hereby
23 submits the attached Points and Authorities in Opposition to Defendant's Motion to Suppress
24 Evidence Obtained Pursuant to Search Warrant.

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

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1 POINTS AND AUTHORITIES

2 STATEMENT OF FACTS

3 In the late hours of April 23, 1999, into the morning of April 24, 1999, M.L. went out
4 dancing with her friends Candy and Joanna to the Silver Saddle bar. Grand Jury Transcript
5 ("GJT") p. 7. While at the bar, M.L. met one of the members of the band playing that night,
6 who was introduced to her as Raymond aka Ray, later identified as Ramon Muril Dorado
7 ("Defendant"). Id. After talking to Defendant for a bit, M.L. left briefly to check on her son
8 who was staying at Candy's house right down the street. Id. When M.L. came back to the bar,
9 Candy, Joanna and others, including Defendant, were sitting down at the bar in the back. GJT
10 p. 8. M.L. sat between Candy and Defendant. Id. Later on in the night, the group discussed
11 going to PTs Pub when the bartender, who was hanging out with the group, got off work. Id.
12 M.L., who was the designated driver for Candy and Joanna, agreed to go as long as she was
13 back home by 10:00 am. Id.

14 Around 7:00 am the group decided to leave to PT's. Id. Joanna went with the bartender
15 in his car. Id. Candy last minute decided to call her boyfriend to pick her up and agreed to
16 meet up with M.L. in front of the house by 10:00am so the kids would not think anything. GJT
17 p. 9. On the way to PT's Defendant said that he had to cash his paycheck and stop by his
18 house to call in to work. Id. Not thinking anything of it at that time, M.L. drove to Defendant's
19 house. Id. When they got there, Defendant asked M.L. to come inside. Id. Inside the house
20 was a young man that did not speak English. Id. Defendant spoke to the young man in Spanish
21 and from what M.L. could understand, Defendant sent him to the store to get something. Id.
22 When the young man left, Defendant picked M.L. up and dragged her into the bedroom as she
23 was telling him to put her down. Id. Defendant refused to listen and brought M.L. into the
24 bedroom. GJT p. 10.

25 In the bedroom Defendant proceeded to try to kiss M.L. while she pushed him away.
26 Id. M.L. told Defendant that she had not done anything to suggest that is what she wanted and
27 that she was going to be leaving. Id. However, when M.L. went to walk out the door,
28 Defendant grabbed her and threw her on to the bed. Id. Defendant then laid on top of her and

1 started to try to kiss her neck again. Id. M.L. again pushed Defendant off and rushed to the
2 door. Id. Defendant grabbed M.L. again, pulled her shirt up and proceeded to try to take her
3 pants off. Id. M.L. fell to her side, once again pushed Defendant off and tried running for the
4 door. Id. Defendant grabbed her again, threw her against the wall and pulled her pants down
5 even more. Id. Defendant threw M.L.'s legs over her head and pulled her panty hose down.
6 Id. Defendant then put his mouth on M.L.'s vagina using both his mouth and tongue. GJT 10-
7 11. M.L. pushed Defendant forward and tried to find something to throw at him or something
8 to hit him with. GJT p.11. M.L. tried to shove clothes in Defendant's face, attempting to
9 smother him. Id.

10 As M.L. continued to struggle with Defendant, he got one of her legs out of her panty
11 hose, flipped her back on the ground and laid on top of her trying to push her legs apart. Id.
12 As M.L. was trying to hold her legs together, Defendant held her arms, pulled her legs apart
13 and proceeded to try to insert his penis inside her vagina. Id. M.L. continued to fight
14 Defendant and using her one free hand tried to find something to hit him with. GJT p. 12.
15 M.L. was ultimately able to find one of the safety pins from her pants, which held her pants
16 up, and stabbed Defendant in the shoulder and hand. Id. However, that did not stop Defendant
17 and he proceeded to use one of his hands to move his penis inside her vagina. Id. M.L. could
18 feel his penis and hand inside and outside of her vagina. Id. Defendant was not able to keep
19 his penis inside M.L.'s vagina because he was unable to keep his erection. Id. After a couple
20 of minutes of trying, Defendant got up and allowed M.L. to get her stuff. Id. As Defendant
21 sat there, he kept saying "she's right, she's right", while M.L. asked him what part of no means
22 no did he not understand. Id. Defendant responded that he was not talking about what just
23 happened but about his ex-wife telling him he will never be able to have sex with another
24 woman again. GJT 12-13. As M.L. walked out, she saw that the young man was back from
25 the store. GJT p. 13.

26 M.L. returned to Candy's house to check on her son and they immediately took her to
27 the police station. Id. M.L. told the police what happened and they took her to UMC, where
28 a Sexual Assault Nurse Examine ("SANE exam") was conducted. Id.

1 On October 27, 2015, the resulting DNA profile developed from the vaginal swabs of
2 M.L.'s SANE kit was uploaded into the local and national DNA index system ("CODIS").
3 Exhibit 1.

4 On December 23, 2015, the DNA profile developed from the vaginal swabs of M.L.'s
5 SANE kit that was uploaded into CODIS returned a match to Defendant's known DNA profile.
6 Exhibit 2.

7 On January 27, 2016, LVMPD Detective Lora Cody drafted a Search Warrant for a
8 Buccal swab or blood sample from Defendant's person in order to confirm the CODIS match.
9 Exhibit 3. The warrant was signed by the Honorable Nancy Allf, District Court Judge. Id.

10 On November 17, 2016, the Buccal swab obtained from Defendant pursuant to the
11 search warrant was compared to the DNA profile developed from the vaginal swabs of M.L.'s
12 SANE kit and found to be a match with the probability of selecting a random individual with
13 the same DNA profile being 1 in 1.45 sextillion (1 in 1,450,000,000,000,000,000). Exhibit
14 4.

15 ARGUMENT

16 **I. DEFENDANT HAS FAILED TO SHOW THAT IF THE ALLEGED MINOR** 17 **FACTUAL INACCURACIES WERE SET ASIDE, PROBABLE CAUSE FOR** 18 **THE SEARCH WARRANT WOULD NO LONGER EXIST**

19 Defendant argues that the confirmatory Buccal swab obtained pursuant to the search
20 warrant should be suppressed because the affidavit contained the following alleged
21 inaccuracies: (1) "the false and inaccurate information that [Defendant] had multiple prior
22 felony convictions, including at least one for attempt murder and one for kidnapping"; (2) the
23 affidavit was misleading because it did not provide a date for Defendant's conviction for
24 Assault with a Deadly Weapon; (3) "the detective stated that [M.L.] was taken to an unknown
25 apartment when in fact she was the one driving"; and (4) "the affidavit stated that [M.L.] called
26 911 after running out of the apartment." None of these allegedly incorrect statements, if
27 stripped from the search warrant, would divest the warrant of probable cause; therefore,
28 Defendant has failed to meet his burden regarding suppression of the confirmatory buccal
swab and is not entitled to a hearing regarding the matter. United States v. Martinez-Garcia,

1 397 F.3d 1205 (9th Cir. 2005).

2 Defendant requests that this Court either suppress the confirmatory Buccal swab, or
3 hold a hearing pursuant to Franks v. Delaware, 438 U.S. 154 (1978). A hearing pursuant to
4 Franks v. Delaware allows a defendant to challenge the sufficiency of an affidavit supporting
5 a search warrant. Id. at 155-56. A defendant is entitled to a Franks hearing to determine the
6 sufficiency of the affidavit supporting a search warrant only if he makes a "substantial
7 preliminary showing that (1) the affidavit contains intentionally or recklessly false statements
8 or misleading omissions, and (2) the affidavit cannot support a finding of probable cause
9 without the allegedly false information." United States v. Reeves, 210 F.3d 1041, 1044 (9th
10 Cir. 2000). Here, Defendant cannot make a "substantial preliminary showing" regarding any
11 of his four claims; thus, he is not entitled to either suppression of the evidence or a hearing on
12 the matter.

13 **1. Defendant's claim that the affidavit contained "false and inaccurate information**
14 **that [Defendant].had multiple prior felony convictions, including at least one for**
15 **attempt murder and one for kidnapping".**

16 In her Affidavit for Search Warrant, LVMPD Detective Lora Cody stated the following:

17 On 10/27/15, [M.L.'s] sexual assault kit was submitted to the LVMPD
18 forensic laboratory for examination. On 12/23/15 the LVMPD
19 forensic laboratory was notified that the male DNA found in [M.L.'s]
20 sexual assault kit was a Combined DNA Index System (CODIS) hit
21 on a convicted felon identified as RAMON MURIC DORADO
22 FBI#380623NA2. **A records check on Dorado revealed numerous**
23 **convictions for assault with a deadly weapon, kidnap and attempt**
24 **murder.**

22 Exhibit 3, p. 3, Emphasis added. Defendant's record has no bearing on the probable cause set
23 forth in the search warrant except possibly to explain the reason his DNA was in the CODIS
24 system to begin with, and even the reliance on that fact for probable cause purposes is
25 unnecessary.

26 Defendant alleges that this statement in the affidavit "painted a picture of Mr. Dorado
27 as a violent and dangerous multiple time felon and someone who needed to be off the streets
28 in a hurry." Motion at 6. However, Defendant fails to address – under Reeves – how the

1 affidavit would be deficient if this information were omitted. The fact that Defendant is a
2 multiple-time felon is indisputable, as is the fact that Defendant was arrested in 2003 for
3 Attempt Murder with Use of a Deadly Weapon and four counts of 1st Degree Kidnapping. *See*
4 Defendant's PSI from his 2012 felony conviction for Possession of Stolen Vehicle attached as
5 Exhibit 5, pp. 3-5. It is true that Defendant was not ultimately convicted of attempt murder or
6 "kidnap," and this statement in the Affidavit is incorrect. It would have been correct to say
7 Defendant was "arrested" for these crimes, but not that he was "convicted." However, if the
8 statements were taken out of the search warrant, the probable cause would be unaffected.

9 Defendant only argues that these statements painted him as "someone who needed to
10 be off the streets in a hurry," and thus he was somehow prejudiced by them. However, the
11 potential dangerousness of a suspect is not a factor in determining whether probable cause
12 exists for a judge to approve a search warrant. The only relevance that Defendant's criminal
13 history has regarding the probable cause to obtain a *confirmatory* DNA sample from his person
14 is explaining how his DNA got into the CODIS system in the first place. Even if Defendant
15 had only a single conviction (which would be the only way his DNA would be in the system)
16 and this conviction was not specifically stated in the search warrant, there still would have
17 been probable cause to obtain a confirmatory sample given that the CODIS system identified
18 him. The title of the felony Defendant was convicted of has no bearing upon whether his DNA
19 was in CODIS, the fact remains that his DNA was in the system and matched the DNA
20 developed from M.L.'s SANE kit. Whether Defendant "needed to be off the streets" or not
21 had no bearing on the probable cause in the search warrant affidavit; therefore, Defendant has
22 failed to meet his burden of showing that the affidavit would be deficient without the statement
23 and he is not entitled to suppression of the evidence or a hearing on the matter.

24 **2. Defendant's claim that the affidavit was misleading because it did not provide a**
25 **date for Defendant's conviction for Assault with a Deadly Weapon.**

26 As with Defendant's first claim, his claim that the affidavit lacked probable cause
27 because a date for his conviction for Assault with a Deadly Weapon was not provided lacks
28 merit.

1 At the outset, Defendant's claim that his 2003 conviction for Assault with a Deadly
2 Weapon "was more than 12 years prior to the alleged sexual assault" is simply wrong. Motion
3 at 4. The sexual assault in this case occurred in 1999 – four years prior to Defendant's
4 conviction for Assault with a Deadly Weapon.

5 Regardless, the only relevance Defendant's prior felony convictions have with regard
6 to the warrant at issue is to explain why his DNA was in the CODIS system. The date of any
7 of his felony convictions is irrelevant. Judge Allf did not make her decision regarding whether
8 or not to approve the search warrant based upon Defendant's prior convictions, because it
9 would have been improper for her to do so. Defendant has, once again, failed to show how the
10 omission of the date of his conviction divested the search warrant of probable cause; therefore,
11 his claim lacks merit and he is not entitled to suppression of the evidence or a hearing on the
12 matter.

13 **3. Defendant's claim that "the detective stated that [M.L.] was taken to an unknown**
14 **apartment when in fact she was the one driving."**

15 Defendant claims Detective Cody set forth facts that were "designed to mislead the
16 judge to conclude that [M.L.'s] allegations amounted to kidnapping as well as sexual assault."
17 Motion at 6. This disingenuous argument is blatantly false, and counsel should be ashamed of
18 herself for using semantics as a basis to accuse a detective of lying. The *actual* statement set
19 forth in the affidavit, in context, is as follows:

20 [M.L.] told Detective Hnatuick on the evening of April 23, she was at
21 the Silver Saddle Saloon located at 2501 E. Charleston in Las Vegas.
22 [M.L.] went on to meet a band member that identified himself as
23 "Ray." [M.L.] **agreed to accompany "Ray"** to another bar near
24 Boulder Highway. [M.L.] **willingly went with "Ray."** [M.L.] further
explained that "Ray" took her to an apartment somewhere at 2100
Sunrise Ave in Las Vegas. Once inside the apartment "Ray" grabbed
[M.L.] and forced her into a back bedroom.

25 Exhibit 3, p. 2, Emphasis added. As is readily apparent from even a cursory reading of the
26 statement in context, it is made abundantly clear M.L. went with Defendant willingly before
27 he "took her to an apartment." Detective Cody never represented that Defendant was driving.
28 This entire claim is premised upon an out-of-context statement taken from a search warrant

1 that counsel did not even bother to attach as an exhibit to her motion. The sentence *immediately*
2 *preceding* the statement claimed as error states, “[M.L.] willingly went with ‘Ray.’”
3 Moreover, the fact that M.L. initially went with Defendant “willingly” when he inveigled her
4 into his apartment for purposes of sexually assaulting her does not absolve Defendant of
5 charges for kidnapping. Therefore, Defendant’s claim that the detective designed statements
6 to “mislead the judge” lacks merit and, given the context of the statement, the argument is
7 actually a blatant attempt to mislead this Court.

8 **4. Defendant’s claim that “the affidavit stated that [M.L.] called 911 after running**
9 **out of the apartment.”**

10 Defendant correctly notes that the affidavit for search warrant contained the following
11 statement: “M.L. was then able to run out of the apartment and call 911.” Exhibit 3, p. 2. To
12 date, the State has not been able to confirm whether M.L. called 911 or reported this crime
13 directly to the substation; however, there are indications that 911 was not called in the
14 discovery. Regardless, this Court’s analysis is limited to whether probable cause would still
15 exist if the search warrant were divested of the claim that M.L. called 911. The answer to this
16 question is unequivocally that probable cause would still exist. Whether or not M.L. called
17 911 is of no consequence. Regardless of how the police were contacted, it is indisputable that
18 they were contacted. This fact has nothing to do with whether Defendant’s DNA was in
19 CODIS, whether his DNA was in M.L.’s vagina, or whether there was probable cause to obtain
20 a Buccal swab to confirm the CODIS hit. Whether a 911 call was placed is irrelevant to the
21 analysis of the issue at hand: that a comparison of Defendant’s DNA would likely result in
22 confirmation that he is the person whose DNA was collected from M.L.’s vagina. Therefore,
23 Defendant’s claim lacks merit and he is not entitled to suppression of the evidence or a hearing
24 on the matter.

25 //

26 //

27 //

28 //

1 CONCLUSION

2 Collectively Defendant's claims constitute a red herring he is hoping will distract this
3 Court from the issues at hand. Each of Defendant's four alleged errors, even if removed from
4 the search warrant, would not divest the search warrant of probable cause. This is the burden
5 Defendant must meet in order to even have a hearing to determine whether suppression is
6 warranted. As Defendant has failed to meet even this low standard, he is entitled to neither a
7 hearing nor suppression of the evidence at issue. Moreover, even assuming, *arguendo*,
8 Defendant prevailed on the claims in the instant motion and the Buccal swab was suppressed,
9 all the detective would need to do is draft another search warrant excluding the statements at
10 issue and obtain another buccal swab from Defendant, which would then need to be re-
11 analyzed by the forensic lab and compared to the CODIS hit again. The end result would be
12 nothing more than a waste of taxpayer money and State resources to arrive at the exact same
13 result. Based upon the foregoing argument, the State respectfully requests that this Court deny
14 Defendant's Motion to Suppress Evidence Obtained Pursuant to Search Warrant.

15 DATED this 6th day of July, 2017.

16 Respectfully submitted,

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

19 BY /s/ JACOB J. VILLANI
20 JACOB J. VILLANI
21 Chief Deputy District Attorney
22 Nevada Bar #011732
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CERTIFICATE OF SERVICE

I hereby certify that service of the above and foregoing was made this 6th day of JULY
2017, to:

VIOLET RADOSTA, DPD
harrolah@ClarkCountyNV.gov

BY /s/ HOWARD CONRAD
Secretary for the District Attorney's Office
Special Victims Unit

hjc/SVU

EXHIBIT “1”

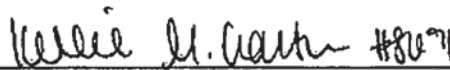
Las Vegas Metropolitan Police Department Forensic Laboratory Report of Examination Biology/DNA Detail		Distribution Date: OCT 27 2015	
Subject(s):	UNKNOWN (suspect)	Case:	99 0424-1124
	[REDACTED] (victim)	Agency:	LVMPD
		Incident:	Sexual Assault
		Requester:	Sgt. Comiskey

The Biology/DNA Detail of the Las Vegas Metropolitan Police Department Forensic Laboratory reports the following:

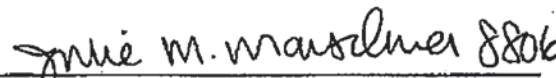
* - Please refer to the report by Cellmark Forensics dated September 21, 2015 for related information

CONCLUSIONS

The major DNA profile obtained from the sperm fraction of the vaginal swabs (Item 01.01.1-SF*) will be searched in the Local DNA Index System (CODIS) and then uploaded to the National DNA Index System (CODIS) for comparison. You will be notified if there is a match.


Kellie M. Gauthier, P#8691
Biology/DNA Forensic Laboratory Manager

October 23, 2015


Julie M. Manselmer 8806
Administrative Reviewer



13988 Diplomat Dr. Suite 100
Dallas TX 75234
Phone: 1-800-752-2774
Fax: 214-271-8322

Report of Laboratory Examination
September 21, 2015

OCT 27 2015

DNA Manager Kellie Gauthier
Las Vegas Metropolitan Police Department
5605 W. Badura Avenue
#120B

SUBJECT: [REDACTED] (Victim)

Las Vegas, NV 89118

CELLMARK FORENSICS NO: LV15-0347

AGENCY CASE NO: 99 0424-1124

ADD'L AGENCY NO: 15-02847

EXHIBITS

Client Item	CF Item	Received	Item Description	PCR
99 0424-1124-SAK	LV15-0347-01	4/23/2015	Vaginal Swabs	Y
99 0424-1124-SAK	LV15-0347-02	4/23/2015	Liquid Blood - [REDACTED] (Victim)	Y
99 0424-1124-SAK	NOT EXAMINED	4/23/2015	Rectal Swabs and Smears Envelope : Not Collected	N
99 0424-1124-SAK	NOT EXAMINED	4/23/2015	Oral Swabs and Smears Envelope	N
99 0424-1124-SAK	NOT EXAMINED	4/23/2015	Moist/Dried Secretions on Skin Envelope : Breasts	N
99 0424-1124-SAK	NOT EXAMINED	4/23/2015	Debris Collection Envelope	N
99 0424-1124-SAK	NOT EXAMINED	4/23/2015	Pubic Hair Combing Envelope	N
99 0424-1124-SAK	NOT EXAMINED	4/23/2015	Underpants Bag : Not Collected	N
99 0424-1124-SAK	NOT EXAMINED	4/23/2015	Known Saliva Sample Envelope : [REDACTED]	N
99 0424-1124-SAK	NOT EXAMINED	4/23/2015	Pulled Pubic Hairs Envelope : [REDACTED]	N
99 0424-1124-SAK	NOT EXAMINED	4/23/2015	Pulled Head Hairs Envelope : [REDACTED]	N
99 0424-1124-SAK	NOT EXAMINED	4/23/2015	Blood Tube : [REDACTED]	N
99 0424-1124-SAK	NOT EXAMINED	4/23/2015	Blood Tube : [REDACTED]	N

SEROLOGY TABLE

Sample No.	Description	Seminal Fluid (Sperm Search)
LV15-0347-01	Vaginal Swabs	Pos

Key: Pos = Positive Neg = Negative Inc = Inconclusive NT = Not Tested

RESULTS

DNA testing using the polymerase chain reaction (PCR) and the AmpFISTR Identifier Plus™ Amplification Kit was performed on the indicated exhibit(s). The loci tested and the results obtained for each tested sample are listed in Table 1 (see attachment).

CONCLUSIONS

LV15-0347-01.01.1-BF

The DNA profile obtained from the epithelial fraction of the vaginal swabs is consistent with the DNA profile obtained for [REDACTED].

LV15-0347-01.01.1-SF

The DNA profile obtained from the sperm fraction of the vaginal swabs is a mixture consistent with two individuals. The major profile originated from an unknown male and the minor alleles are consistent with the DNA profile obtained for [REDACTED].

DISPOSITION

In the absence of specific instruction, evidence will be returned to the submitting agency by Federal Express or another appropriate carrier.

REVIEW

The results described in this report have been reviewed by the following individuals:

Analyst:

Dana K. Warren

Dana K. Warren / Senior Forensic DNA Analyst

Technical

Reviewer:

Kelli Byrd

Kelli Byrd / Supervisor - Forensic Casework

Procedures used in the analysis of this case adhere to the Quality Assurance Standards for Forensic DNA Testing Laboratories. Cellmark Forensics is accredited by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board. The results in this report relate only to the items tested.



LabCorp Specialty Testing Group

CELLMARK FORENSICS NO: LV15-0347
AGENCY CASE NO: 99 0424-1124
ADD'L AGENCY NO: 15-02847

Report of Laboratory Examination

9/21/2015

13988 Diplomat Dr. Suite 100
Dallas TX 75234
Phone: 1-800-752-2774
Fax: 214-271-8322

Table 1

Identifier Plus

Sample Name	D8S1179	D21S11	D7S820	CSF1PO	D3S1358	TH01	D13S317	D16S539	D2S1338	D19S433	VWA	TPOX	D18S51	AMEL	DSS818	FGA
Vaginal Swabs LV15-0347-01.01.1-EF 99 0424-1124-SAK	11, 13	30, 30.2	9, 13	9, 10	17	6	13	9	18, 20	14	15, 16	10, 11	13, 20	X	12	19, 22
Vaginal Swabs LV15-0347-01.01.1-SF 99 0424-1124-SAK	11, 13, 14, 15	28, 30, 30.2, 31	9, 10*	9, 10, 11, 12	14, 16, 17	6	9, 13	9, 11	18, 19, 20, 25	13, 14	16, 17	8, 11, 12*	19, 20, 23*	X, Y	11, 12	22, 27*
Vaginal Swabs- Major LV15-0347-01.01.1-SF 99 0424-1124-SAK	14, 15	28, 31	9, 10	11, 12	14, 16	6	9	9, 11	19, 25	13	16, 17	8, 12	19, 23	X, Y	11	22, 27
(Victim) LV15-0347-02.01.1 99 0424-1124-SAK	11, 13	30, 30.2	9, 13	9, 10	17	6	13	9	18, 20	14	15, 16	10, 11	13, 20	X	12	19, 22

EF = Epithelial Fraction

SF = Sperm Fraction

X = Female

X, Y = Male

* = Possible additional allele(s) below threshold

Major = This represents the best determination of a major profile.

The results listed in the table do not depict intensity differences. Only alleles exceeding validated analysis threshold are included in table.

EXHIBIT “2”

<p>Las Vegas Metropolitan Police Department Forensic Laboratory</p> <p>CODIS Hit Notification Report</p> <p>Biology/DNA Forensic Casework</p> <p>Subject(s): [REDACTED] (Victim)</p>	<p>Distribution Date: December 23, 2015</p> <p>Agency: LVMPD</p> <p>Location: CAYF Bureau</p> <p>Primary Case #: 990424-1124</p> <p>Incident: Sexual Assault-Project</p> <p>Requester: Shon R Comiskey</p> <p>Lab Case #: 15-02847.2</p>
--	---

The Biology/DNA Detail of the Las Vegas Metropolitan Police Department Forensic Laboratory reports the following:

During a search of the Local DNA Index System (CODIS) database a match occurred between a Nevada Offender and evidence from event # 990424-1124, Cellmark Forensics Item 01.01.1-SF, major DNA profile obtained from the sperm fraction of the vaginal swabs.

The CODIS match has been confirmed to:
DNA Database ID: SN08820 and SN28146
Name - Muric, Ramon AKA Dorado, Ramon Muric
DNA Qualifying Offense - Attempt Child Endangerment and Theft
DOB - [REDACTED]
SSN - [REDACTED] AKA [REDACTED]
NVSID # - NV04087298
LVMPD CS # - 1852807 and 1673321

This hit constitutes an investigative lead in your case(s). A new reference buccal swab must now be obtained from this individual in order to confirm this hit and complete the case(s). The DNA sample currently on file, which was collected in accordance with Nevada Law (NRS 176.0913), will not suffice for the confirmation process.

The information provided in this report can be used to obtain a Search Warrant for a reference buccal swab from the above person.

When a reference buccal swab is obtained, please submit a request to the Biology/DNA Detail of the Forensic Lab so the swab(s) can be processed. It is necessary that you provide the Hit Notification Detail information regarding the status of this hit notification within 30 days of the distribution date of this report. A form will be emailed to you from the Hit Notification Detail and you are required to complete the form and email it back at the following email address: HitNotificationDetail@lvmpd.com.

Kellie M. Gauthier #8691

Kellie M Gauthier, #8691
Forensic Laboratory Manager

12/23/2015

- END OF REPORT -

EXHIBIT “3”

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT

Event #: 990424-1124

STATE OF NEVADA)
) ss: RAMON MURIL DORADO
COUNTY OF CLARK) FBI# 380623NA2
) DOB: 11/27/1972 SS#: 624-66-3910

Detective Lora Cody, P# 7294, being first duly sworn, deposes and says that she is the Affiant herein and is a Detective with the Las Vegas Metropolitan Police Department (LVMPD) presently assigned to the Sexual Assault. That she has been employed with the LVMPD for the past 14 years and has been assigned to the Homicide Sex Crimes Bureau for the past 8 years.

There is probable cause to believe that certain item(s) hereinafter described will be found within the following described person, to-wit:

RAMON MURIL DORADO, FBI# 380623NA2 DOB: 11/27/1972 SS#: 624-66-3910

The item(s) referred to and sought to be seized consist of the following:

1. Epithelial cells from the mouth of RAMON MURIL DORADO to be collected via Buccal Swab; or
2. A blood sample from the person of RAMON MURIL DORADO.

Your Affiant believes that the epithelial cells or blood sample, when collected and submitted for DNA laboratory analysis, would either include or eliminate the listed person's involvement in the criminal offense(s) of sexual assault.

In support of your Affiant's assertion to constitute the existence of probable cause, the following facts are offered:

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT
(Continuation)

Event #: 990424-1124

On 4/24/1999 [REDACTED] reported to the LVMPD that she had been sexually assaulted in an unknown apartment in the area of 2100 Sunrise, Las Vegas, Nevada. Patrol officers responded, conducted a preliminary investigation and transported [REDACTED] to the University Medical Center for a sexual assault examination. Detective M. Hnatuick responded to UMC and conducted an interview with [REDACTED]. The following is a synopsis of that interview and is not verbatim. [REDACTED] told Detective Hnatuick on the evening of April 23, she was at the Silver Saddle Saloon located at 2501 E. Charleston in Las Vegas. [REDACTED] went on to meet a band member that identified himself as 'Ray'. [REDACTED] agreed to accompany "Ray" to another bar near Boulder Highway. [REDACTED] willingly went with "Ray". [REDACTED] further explained that "Ray" took her to an apartment somewhere at 2100 Sunrise Ave in Las Vegas. Once inside the apartment "Ray" grabbed [REDACTED] and forced her into a back bedroom. "Ray" threw [REDACTED] to the floor pulled down her pants. [REDACTED] attempted to strike "Ray" with various objects that were on the ground next to her as well as kick "Ray" off of her. [REDACTED] explained that she shouted for "Ray" to stop. "Ray" refused and began to insert his tongue into [REDACTED]'s vagina. [REDACTED] again attempted to fight "Ray". "Ray" then forced his penis into [REDACTED]'s vagina, suddenly stopped and stated "I guess my ex-wife was right, I'll never be able to have sex with another woman again." [REDACTED] was then able to run out of the apartment and call 911. [REDACTED] further described "Ray" as possibly having the first name of Raymond and that he was Hispanic, approximately 5'7" inches with brown hair and eyes.

Marion Adams, Sexual Assault Nurse Examiner (SANE) completed her examination and observed the following; [REDACTED] had various bruising and abrasions on

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT
(Continuation)

Event #: 990424-1124

her back, legs and arms. [REDACTED] had numerous broken finger nails as well as bruising to her hands. Nurse Adams also observed that [REDACTED] had bruising and tears in her vaginal canal at the 5 and 7 o'clock position. These injuries are consistent with the sexual assault as described by [REDACTED].

On 10/27/2015, [REDACTED]'s sexual assault kit was submitted to the LVMPD forensic laboratory for examination. On 12/23/15 the LVMPD forensic laboratory was notified that the male DNA found in [REDACTED]'s sexual assault kit was a Combined DNA Index System (CODIS) hit on a convicted felon identified as RAMON MURIC DORADO FBI# 380623NA2. A records check on Dorado revealed numerous convictions for an assault with a deadly weapon, kidnap and attempt murder.

Based on the aforementioned information and investigation, your affiant believes grounds for issuance of a search warrant exists as set forth in Nevada Revised Statutes 179.035 and 179.045 because the items sought constitute evidence which tend to show that a crime has been committed, and that a particular person has committed a crime. Given that the County of Clark, State of Nevada has no authority to issue a search warrant for property within the County of Humboldt, State of Nevada, Affiant respectfully request the County of Humboldt, State of Nevada to issue a search warrant for the described property, located in Winnemucca Nevada; said property being evidence of crimes committed on the State of Nevada. It is the intent of the Affiant and peace officers executing the warrant to turn over buccal swabs and or blood samples to

LVMPD Detective Lora Cody, Las Vegas Metropolitan Police Dept., 400 S. Martin Luther King Blvd., Bldg :A, Las Vegas, Nevada 89106, for use in its

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT
(Continuation)

Event #: 990424-1124

prosecution/investigation. Affiant has been assured by the designated sworn law enforcement officer from the Winnemucca Police Department in the County of Humboldt, State of Nevada that the property turned over will be protected and will not be disposed of except as pursuant to law of the State of Nevada. The suspect herein will be accorded due process in such disposition. Thus, in signing this affidavit and warrant Affiant respectfully request the permission of the Magistrate to authorize such removal of seized property to the State of Nevada authorities in accordance with the terms herein.

It is further requested that this affidavit be sealed by the order of the Court for the following reasons: This is an on-going investigation and evidence which has been obtained has not yet been disclosed to the suspect; revelation of these facts could have a negative impact on this case. Also, this is an investigation of a sensitive nature involving kidnapping and sexual assault.

Wherefore, your Affiant requests that a Search Warrant be issued directing a search for and seizure of the aforementioned items from RAMON MURIL DORADO, currently at: "Shone House: 602 South Bridge Street, Winnemucca, Nevada 89445 and or anywhere in the city of Winnemucca Nevada between the hours of 7:00 a.m. & 7:00 p.m. In the event that RAMON MURIL DORADO refuses to cooperate with the ~~collection of the Buccal Swab or blood sample, the use of reasonable force is~~ authorized to the extent necessary to obtain these samples.

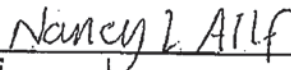
LAS VEGAS METROPOLITAN POLICE DEPARTMENT
APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT
(Continuation)

Event #: 980424-1124



DETECTIVE LORA CODY, AFFIANT

SUBSCRIBED and SWORN to before me this 27th day of January, 2016



JUDGE

EXHIBIT “4”

1 RA 000210

Las Vegas Metropolitan Police Department Forensic Laboratory Report of Examination Biology/DNA Forensic Casework		Distribution Date: November 17, 2016 Agency: LVMPD Location: Homicide & Sex Crimes Bureau Primary Case #: 990424-1124 Incident: Sexual Assault-Project Requester: Lora J Cody Lab Case #: 15-02847.3 Supplemental 1
Subject(s):	RAMON DORADO (Suspect) [REDACTED] (Victim)	

The following evidence was examined and results are reported below.

Lab Item #	Impound Pkg #	Impound Item #	Description
Item 6	007294 - 1	1	Reference standard from Ramon Dorado
*Refer to the supplemental report issued by Bode Cellmark Forensics dated 10/27/2016 for related information.			

DNA Results and Conclusions:

Item 6 was subjected to PCR amplification at the following STR genetic loci: D8S1179, D21S11, D7S820, CSF1PO, D3S1358, TH01, D13S317, D16S539, D2S1338, D19S433, vWA, TPOX, D18S51, D5S818, and FGA. The sex-determining Amelogenin locus was also examined.

LV15-0347-01.01.1-EF*

The full DNA profile obtained from the epithelial fraction of the vaginal swabs (LV15-0347-01.01.1-EF*) is consistent with [REDACTED] (LV15-0347-02.01.1*).

LV15-0347-01.01.1-SF*


The DNA profile obtained from the sperm fraction of the vaginal swabs (LV15-0347-01.01.1-SF*) is consistent with a mixture of two individuals with at least one contributor being a male. The major DNA profile is consistent with Ramon Dorado (Item 6). The probability of randomly selecting an unrelated individual from the general population having a DNA profile that is consistent with the major DNA profile obtained from the evidence sample is approximately 1 in 1.45 sextillion. The minor alleles are consistent with [REDACTED] (LV15-0347-02.01.1*). The major DNA profile was previously searched against the Local DNA Index System (CODIS) and uploaded to the National DNA Index System (CODIS) for comparison.

The evidence is returned to secure storage.

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

Evidence collected directly from the body or personal items removed directly from the body are intimate sample(s); therefore, the donor may be reasonably assumed to be present should the item produce a DNA profile that is suitable for comparison. In instances in which contributors can be assumed, no statistical calculations were performed for the assumed contributors.

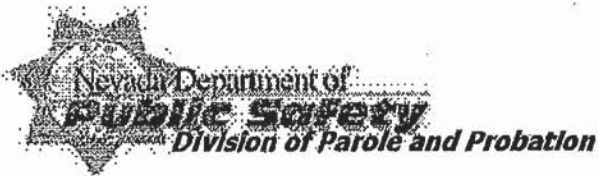
---This report does not constitute the entire case file. The case file may be comprised of worksheets, images, analytical data and other documents.---


Kimberly D. Dannenberger, #13772
Forensic Scientist-II

- END OF REPORT -

EXHIBIT "5"

1 RA 000212



PRESENTENCE INVESTIGATION REPORT

The Honorable David Barker
Department XVIII, Clark County
Eighth Judicial District Court

Date Report Prepared: November 5, 2012

Prosecutor: Jeffrey S. Rogan, DDA
Defense Attorney: Mariana Kihuen Bernal, DPD

PSI: 401588

I. CASE INFORMATION

Defendant: Ramon Murio
AKA: Ramon Muril Dorado
Case: C283004
ID#: 1673321
P&P Bin: 1000791229

PCN: 25349897
Offense Date: 04-27-2012
Arrest Date: 04-27-2012
Plea Date: 09-19-2012, Guilty
Sentencing Date: 11-21-2012

II. CHARGE INFORMATION

Offense: Possession Of Stolen Vehicle (I)
NRS: 205.273
NOC: 00344

Category: C

Penalty: By imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 5 years. In addition to any other penalty, the court may impose a fine of not more than \$10,000, unless a greater fine is authorized or required by statute. In addition to any other penalty, the court shall order the person to pay restitution.

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III. DEFENDANT INFORMATION

Address: [REDACTED]
City/State/Zip: Las Vegas, Nevada 89142
NV Resident: Yes
SSN: [REDACTED]
POB: Ventura, California
Date of Birth: [REDACTED]
Age: 39
Phone: [REDACTED]
Driver's License: None reported
State: N/A
Status: N/A

FBI: 380 623 NA2
SID: NV04087298
Aliases: Ramon Dorado Muric; Ramon Dorado; Ramon M. Muric; Ramon Muric Dorado; Muric Ramon Zuniga; Ramon Zuniga Muric; Ramon D. Muric.
Additional SSNs: [REDACTED]; [REDACTED];
[REDACTED]
Additional DOBs: [REDACTED]; [REDACTED]
Alien Registration: A88 636 388
US Citizen: Yes
Notification Required per NRS 630.307: No

Identifiers:

Sex: M Race: H Height: 5'7" Weight: 170
Hair: Black Eyes: Brown
Scars: On the inside of the right wrist, a 2" vertical scar (verified).
Tattoos: On the left upper arm, a stylized cross with "AMOR" inscribed (verified).

Social History: The following social history is as related by the defendant and is unverified unless otherwise noted:

Childhood: The defendant reported that he was raised in California and Mexico, in an intact family. He only commented that his childhood was "borderline" and added that he lost family members "getting killed."

Current Family Support Status: Both parents are deceased but he reportedly has brothers and sisters residing in Las Vegas.

Marital Status: Married in 1991 and divorced in 2008.

Children: Two daughters and one son, all adults, all emancipated.

Custody Status of Children: Not applicable.

Monthly Child Support Obligation: Not applicable.

Employment Status: The defendant reported that he has worked as a carpenter, electrician and building maintenance man since the 1990s. The defendant has also reportedly been a singer/performer since he was very young. He reported that a short time before the instant arrest, he landed a recording contract through "Fonovisa."

Number of Months Employed Full-Time in the 12 Months Prior to Instant Offense: 0

Income: Varied, \$650 to \$2,000 / month.

Other Sources: None reported.

Assets: Property in Mexico, \$160,000.

Debts: An unknown amount in medical bills.

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CC#:C283004

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Education: The defendant reported that he achieved a GED in 1991 and later achieved an A.A.S. Degree in Electronics from a college in San Bernardino, California.

Vocational Skills: None reported.

Military: U.S. Army, 1997 to 1998. The defendant served 18 months and received a Medical Discharge after a suicide attempt. He was discharged at the rate of E-4.

Health and Medical History: The defendant reports no health issues at this time.

Mental Health History: The defendant reported that he attempted suicide in 1998, after his father was "killed" in Mexico.

Gambling History: The defendant denies gambling at all.

Substance Abuse History: The defendant reported that he used to smoke marijuana for a time. He does admit that alcohol is a problem for him at times and stated that he was intoxicated before the instant arrest. He commented that he woke up in the stolen car he was arrested in. He denies the use of any other intoxicants.

Gang Activity/Affiliation: None reported.

IV. CRIMINAL RECORD

As of October 30, 2012, records of the Las Vegas Metropolitan Police Department, Federal Bureau of Investigation (FBI) and National Crime Information Center (NCIC) reflect the following information:

CONVICTIONS: **FEL:** 5 **GM:** 2 **MISD:** 4

INCARCERATIONS: **PRISON:** 4 **JAIL:** 6

OUTSTANDING WARRANTS AND LEVEL OF OFFENSE: 0

WARRANT NUMBER AND JURISDICTION: Not applicable.

EXTRADITABLE: Not applicable.

SUPERVISION HISTORY:

CURRENT: **Probation Terms:** 0

Parole Terms: 0

PRIOR TERMS:

Probation: **Revoked:** 2 **Discharged:** **Honorable:** 0 **Other:** 0

Parole: **Revoked:** 1 **Discharged:** **Honorable:** 2 **Other:** 0

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Adult:

Arrest Date:	Offense:	Disposition:
06-21-1997 (San Bernardino, CA)	1. Inflict Corporal Injury Spouse /Cohabitant (M) 2. False ID to Specific Peace Officers (M)	Case # MSB028861. 07-03-1997: Adjudged guilty of Inflict Corporal Injury: Spouse/ Cohabitant (M), sentenced to summary probation/jail.
08-15-1999 (LVMPD)	Battery Domestic Violence (M)	C-413253-A. 09-14-1999: Adjudged guilty of Battery Domestic Violence (M) and sentenced to time served and \$200.00 fine (vacated).
02-02-2003 (LVMPD)	1. Escape (GM) 2. Carrying Concealed Weapon (GM)	02F21539X. 02-04-2003: Adjudged guilty of Carrying a Concealed Weapon – 1 st Offense (M), sentenced to 90 days jail.
02-02-2003 (LVMPD)	1. Attempt Murder With Deadly Weapon (F) 2. Resist Public Officer (F) 3. Kidnap 1 st Degree (F), 4 Counts 4. Child Endangerment (F) (3 counts) BSR: 06-16-2003 12-20-2004: Parole violation	CC#C191031. 08-13-2003: Adjudged guilty of Attempt Child Endangerment (F) and sentenced to 16 to 72 months NDOC, concurrent with C190731. Parole Violation 11-14-2006: Parole revoked. 02-08-2007: Expired term in prison.
02-24-2003 (LVMPD)	1. Burglary With Deadly Weapon (F) 2. Kidnap 1 st Degree With Weapon (F) 3. Assault With Deadly Weapon (F) FTA: 06-05-2003 BSR: 06-16-2003 12-20-2004: Parole violation	CC#C190731. 06-16-2003: Adjudged guilty of Assault With a Deadly Weapon (F) and sentenced to 14 to 48 months NDOC. 11-29-2004: Paroled. 12-29-2004: Remand to prison. 03-14-2005: Paroled. 09-24-2005: Honorable Discharge.
03-07-2006 (LVMPD)	1. Burglary (F), 2 Counts 2. Forgery (F), 2 Counts 3. Attempt Theft (F) 4. Theft (F) FTA: 02-08-2007 08-07-2008: Probation violation	CC#C230426. 04-05-2007: Adjudged guilty of Theft (F) and sentenced to 24 to 60 months NDOC, suspended with probation NTE 4 years. 09-23-2008: Probation revoked, underlying sentence imposed. 09-10-2010: Parole to hold. 12-02-2010: Honorable discharge.
07-16-2008 (NLV)	1. Theft (F) 2. Contribute to Delinquency of a Minor (GM) RMD: 08-07-2008	CC#C246880. 09-29-2008: Adjudged guilty of Attempt Possess Stolen Vehicle (GM). Sentenced to 6 months CCDC concurrent with C230426.

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09-11-2008 (LVMPD)	Theft (F)	CC#C249117. 12-15-2008: Adjudged guilty of Conspiracy to Commit Theft (GM), sentenced to 1 year CCDC, consecutive to C230426. 09-14-2010: Sentence modified to run concurrent with C230426.
07-19-2011 (LVMPD)	1. Posses Stolen Vehicle (F) 2. Possess dangerous Drug Without Prescription (F) RBK: 07-21-2011, Grand Larceny Auto (F)	11F12752X. 08-02-2011: Adjudged guilty of Possess Stolen Property (M) and sentenced to time served.
10-20-2011 (LVMPD)	RBK: 1. Burglary (F) 2. Grand Larceny (F) 03-10-2012: Probation violation 04-30-2012: Probation violation	CC#C277434. 01-25-2012: Adjudged guilty and sentenced as follows: 1. Burglary (F), 36 to 96 months NDOC. 2. Grand Larceny (F), 19 to 48 months NDOC, concurrent with Count 1. Both terms suspended with probation NTE 2 years. 04-11-2012: Probation reinstated with no added conditions. 11-06-2012, stipulated to revocation, with original sentences imposed.
03-10-2012 (LVMPD)	1. Burglary (F) (2 counts) 2. Grand Larceny (F) 3. Possess Stolen Property (F) 4. Obtain Money Under False Pretenses (F) RBK: 05-17-2012	Pending case. CC#C283074. 11-06-2012, pled guilty to Burglary (F). PSI waived. Sentencing set for 11-27- 2012.
04-27-2012 (LVMPD)	1. Grand Larceny Auto (F) 2. Possess Stolen Vehicle (F) 3. Escape with Felony Charges (F) 4. Possess Burglar Tools (GM)	Instant offense. CC#C283004.

Additionally, the defendant was arrested or cited in California and Nevada for the following offenses for which dispositions are unknown, unavailable or charges were dismissed:

CALIFORNIA: DUI Alcohol, Drugs; Use /Under Influence of Controlled Substance (2); Inflict Corporal Injury Spouse /Cohabitant.

NEVADA: Battery Domestic Violence (3); False Information To Police; Resist Police Officer; Statutory Sexual Seduction; Burglary; Attempt Theft; Forged/False/Altered Prescription; Forged Prescription; Utter Forged Instrument; Obtain Controlled Substance by Fraud; Vehicle & Traffic Offenses and FTA.

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Institutional/Supervision Adjustment: Available records reflect that the defendant served two grants of probation in cases C230426 and C277434, which were subsequently revoked. He also served three grants of parole in cases C191031, C190731 and C230426 and received two Honorable Discharges and one revocation. Division records reflect violations related to subsequent arrests, contact with victims of previous crimes, reporting, residence and employment. He was also in arrears in payment of restitution and supervision fees.

Supplemental Information: The SCOPE report indicates that I.C.E. had reported that the defendant was illegally in the United States, so a criminal alien investigation was requested of the Department of Homeland Security, Immigration and Customs Enforcement (ICE). On December 13, 2011, the I.C.E. reply advised as follows: "I.C.E. records indicate that this subject is a United States citizen. This individual is not subject to removal from the United States. No further action by I.C.E. will be taken." "Possible hit based on FBI number provided."

V. OFFENSE SYNOPSIS

Records of the Las Vegas Metropolitan Police Department and the Clark County District Attorney's Office reflect that the instant offense occurred substantially as follows:

On April 27, 2012, a patrol officer of the Las Vegas Metropolitan Police Department was patrolling in the Motel 6 parking lot at 4125 Boulder Highway and observed a 1993 Honda Prelude backed into a parking space. The Honda carried a placard from R/T Motorsports where the front license plate should have been. The officer knew that a similar vehicle had been stolen from that dealership a few days prior, so he remained in the area to observe the car.

A short time later, the now occupied Honda began to exit the lot. The officer confirmed that the vehicle had been reported stolen and performed a felony car stop in the parking lot of the Boulder Station Casino. The driver (only occupant) was identified as Ramon Muric, AKA: Ramon Muril Dorado. He was arrested, handcuffed and placed into the rear seat of the patrol car. When the salesman from the dealership arrived to identify Muric, the officer allowed Muric to exit the patrol car. Unknown to the officer, Muric had slipped out of the handcuffs and took off running. He was again captured, this time with assistance of casino security personnel.

During the time Muric was running, a described a male in a black Ford pickup truck attempted to assist him in getting away. The driver of that vehicle was also arrested but the charges and disposition are unknown.

Ramon Muric, AKA: Ramon Muril Dorado was arrested, transported to the Clark County Detention Center and booked accordingly.

VI. CO-DEFENDANT'S/OFFENDER'S INFORMATION

Not applicable.

VII. DEFENDANT'S STATEMENT

The defendant was interviewed at the Clark County Detention Center on October 31, 2012. He did not write a statement for the Court's review.

During the presentence interview, the defendant commented that shortly before the instant crime, his infant daughter had died after an operation and he was distraught. He started drinking and became heavily intoxicated. He woke up in the stolen car he was eventually arrested.

VIII. VICTIM INFORMATION/STATEMENT

An information letter with claim form was mailed to the victim business, R/T Motorsports (VC2208553); however, a claim has not been received. Telephone contact was also attempted, but was not successful. The Division has contacted the Clark County VWAC regarding a restitution claim; none was reported.

IX. CONCLUSION

The Division recommends incarceration for Ramon Muric, AKA: Ramon Muril Dorado. His criminal history reflects five felony, two gross misdemeanor and four misdemeanor convictions. He was serving a recently granted term of probation when he committed the crime in the instant case and he had been granted four prior opportunities at community supervision in the form of one grant of probation and three paroles but he did not take advantage of those grants to improve himself or to cease further criminal activities. The Division does not believe that any further benefit of community supervision is warranted.

X. CUSTODY STATUS/CREDIT FOR TIME SERVED

Custody Status: In custody, CCDC.

CTS: 0 DAYS: 04-27-2012 to 11-21-2012 (CCDC) 208 Days, Nevada probationer in C277434.

XI. PLEA NEGOTIATIONS

The defendant also agrees to plead guilty to: BURGLARY (Category B Felony – NRS 205.060) in Case No. C283074.

Both parties stipulate to revocation of the defendant's probation without modification in Case No. C277434. The State will retain the right to argue at sentencing and agrees to not seek habitual criminal treatment in the instant case. Additionally, the State will not oppose concurrent time between cases. Defendant agrees to pay full restitution in all cases and counts.

XII. RECOMMENDATIONS

190 Day Regimental Discipline Program: N/A

Deferred Sentence Per NRS 453.3363: N/A

FEEES

Administrative Assessment: \$25

Chemical/Drug Analysis: N/A

DNA: Taken on December 1, 2004

Domestic Violence: N/A

Extradition: N/A

Psychosexual Fee: N/A

SENTENCE

Minimum Term: 12 months

Maximum Term: 36 months

Location: NDOC

Concurrent with: C277434

Probation Recommended: No

Probation Term: N/A

Fine: None

Restitution: None

Mandatory Probation/Prison: No

___ Pursuant to NRS 239B.030, the undersigned hereby affirms this document does not contain the social security number of any person.

X Pursuant to NRS 239B.030, the undersigned hereby affirms this document contains the social security number of a person as required by NRS 176.145.

Per Nevada Supreme Court opinion in Stockmeier v. State, any changes to your Presentence Investigation Report must be made at or before sentencing. The information used in your Presentence Investigation Report may be reviewed by federal, state and/or local agencies and used for future determinations to include, but not limited to, parole consideration.

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In accordance with current Interstate Commission for Adult Offender Supervision rules and requirements, all felony convictions and certain [gross] misdemeanants are offense eligible for compact consideration. Due to Interstate Compact standards, this conviction may or may not be offense eligible for courtesy supervision in the defendant's state of residence. If not offense eligible, the Division may still authorize the offender to relocate to their home state and report by mail until the term of probation is complete and/or the case has been completely resolved.

Respectfully Submitted,

Bernard W. Curtis, Chief

Prepared by Dennis J. Filarecki
DPS Parole and Probation Specialist III

Approved:



Starla R. French, Supervisor
Department of Public Safety
Parole and Probation, Southern Command

Original signature on file

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