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Electronically Filed
Feb 24 2021 12:59 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

IN THE SUPREME COURT OF THE STATE OF NEVADA

RAMON MURIL DORAIDO,)
)
Petitioner,)
vs.)
)
THE STATE OF NEVADA,)
)
Respondent.)
_____)

Supreme Court Case No.: 79556
Dist. Ct. No.: C-17-323098-1

APPELLANT'S SUPPLEMENTAL APPENDIX

ORDR

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
GENEVIEVE CRAGGS
Chief Deputy District Attorney
Nevada Bar #013469
200 Lewis Avenue
Las Vegas, NV 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**

**ORDER DENYING DEFENDANT'S MOTION TO DISMISS FOR PRE-
INDICTMENT DELAY AND LACK OF JURISDICTION AFTER
LIMITED REMAND FROM NEVADA SUPREME COURT**

DATE OF HEARING: **DECEMBER 22, 2020**
TIME OF HEARING: **CHAMBERS**

THIS MATTER having presented before the above entitled Court on the 22nd day of
DECEMBER, 2020; Parties not present; the Court having reviewed and decided the matter in
Chambers based upon the pleadings, and with good cause appearing,

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THE COURT FINDS that the Nevada Supreme Court holding in Wyman v. State, 125 Nev. 592, 217 P.3d 572 (2009) is consistent with the principles set forth by the United States Supreme Court in United States v. Lovasco, 431 U.S. 783, 97 S. Ct. 2044 (1977) and the Ninth Circuit in United States v. DeGeorge, 380 F.3d 1204 (9th Cir. 2004). The Nevada Supreme Court adopted an abuse of discretion standard of review on appeal because the test for analyzing pre-indictment delay challenges is factually intense. Id. at 600, 271 P.3d at 578. The Court held in Wyman that, in order to succeed on such a challenge, the accused must show: “1) that he or she suffered actual, nonspeculative prejudice from the delay; and 2) that the prosecution intentionally delayed bringing the charges in order to gain a tactical advantage over the accused, or that the prosecution delayed in bad faith.” Id. at 601, 217 P.3d at 578 (citing United States v. Lovasco, 431 U.S. 783, 784, 97 S. Ct. 2044 (1977) and U.S. v. DeGeorge, 380 F.3d 1203, 1210-11 (9th Cir. 2004)). This court finds that the test put forth in Wyman is taken directly from the analysis by the United States Supreme Court in Lovasco, and is not inconsistent with the test put forth by the Ninth Circuit in DeGeorge.

THE COURT FINDS that Defendant was unable to satisfy either prong under Wyman. Pursuant to the limited remand from the Nevada Supreme Court, this Court conducted an evidentiary hearing.

Defendant failed to show actual, nonspeculative prejudice. The Court found no evidence that the delay prejudiced the Defendant. The instant case focused on the testimony of the victim at the time of the alleged sexual assault, which was an act witnessed only by the parties. Defendant was unable to present evidence that would have changed the outcome of the case based on the testimony of the victim. Moreover, there was not any loss of material evidence the Defendant can point to that would have led to his acquittal.

As far as the second prong in the Wyman decision, there was no valid proof of a violation of any printed policy or procedures at the time of the investigation. Defendant fails to show that the State or investigating agency acted in bad faith or to gain a tactical advantage.

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THE COURT HEREBY ORDERS that DEFENDANT'S MOTION FOR PRE-INDICTMENT DELAY AND LACK OF JURISDICTION shall be and is Denied.

Dated this 29th day of December, 2020

DATED this _____ day of December, 2020



DISTRICT JUDGE

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

E89 FD9 916D 364F
David M Jones
District Court Judge

BY



GENEVIEVE CRAGGS
Chief Deputy District Attorney
Nevada Bar #13469

GCC/hjc/SVU

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 State of Nevada

CASE NO: C-17-323098-1

7 vs

DEPT. NO. Department 29

8 Ramon Dorado
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Order was served via the court's electronic eFile system to all
13 recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 12/29/2020

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Exhibit A

99028 01.181
DIST. *blw*
INDEX
STATS

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
OFFICER'S REPORT

EVENT #: 990424-1124

SEXUAL ASSAULT
SUBJECT

DIVISION REPORTING:

ISD

DIVISION OF OCCURRENCE:

PD

DATE AND TIME OCCURRED:

04-24-99/0800HRS

LOCATION OF OCCURRENCE:

2101 SUNRISE AVE.
UNK APT. #
LAS VEGAS, NV 89101

DICTATING OFFICER:

DETECTIVE M. HNATUICK, P#3582
GENERAL ASSIGNMENT DETAIL

VICTIM:

LEHR, MICHELLE MARGARET
DOB: ~~06-06-073~~
SSN: ~~608-24-8563~~
WFA, 5'6", 165#, bro/haz
RES: ~~2851 S. Decatur Blvd., Apt. 29~~
Las Vegas, NV 89102
RES PH: ~~365-9597~~

SUSPECT:

RAY (first name only)
LMA, 28-30 yoa, 5'6", 180#, blk/bro
BUS: Silver Saddle Saloon
2510 E. Charleston Blvd.
Las Vegas, NV

I. SYNOPSIS:

On 04-24-99 at approximately 0800 hours Michelle Lehr became the victim of a sexual assault at 2101 Sunrise Avenue in an unknown apartment.

II. PERSONS AT SCENE:

A. PATROL OFFICERS

1. OFFICER V. WILLIAMS, P#4896
2. OFFICER K. WILEY, P#2663

Date and Time of Report:

04-25-99

Approved:

Officer:

M. HNATUICK

P#: 3582

Officer:

P#:

LVMPD 82 (REV. 1-81) - AUTOMATED

SIGNATURE:

[Signature]

3

Rachel Marie - Decatur
Section 1 a

99028 01.181

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

CONTINUATION REPORT

ID/Event Number: 990424-1124

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B. ISD PERSONNEL

1. DETECTIVE M. HNATUICK, P#3582

C. CRIMINALISTICS

1. C.S.A. FLETCHER, P#5221

D. UNIVERSITY MEDICAL CENTER

1. S.A.N.E. NURSE MARIAN ADAMS

E. C.A.A.R. REPRESENTATIVE

1. ARLENE JEROUSEK

III. WITNESS/PERSON CONTACTED:

A. PEREZ, MARIA

DOB: 06-05-68

LFA, 4'9", 175#, blk/bro

RES: 2851 E. Bonanza, Apt. 2156

Las Vegas, NV 89101

RES PH: 385-1438

BUS: 2400 Las Vegas Boulevard South

Las Vegas, NV 89109

IV. EVIDENCE IMPOUNDED:

Pkg. 1, Item 1: Sexual assault kit recovered by S.A.N.E. Nurse Marian Adams and retained at University Medical Center.

Pkg. 2, Item 2: One (1) pair of black pantyhose.
Item 3: One (1) brown halter top.
Item 4: One (1) pair of black stretch pants.
Item 5: One (1) black jacket

V. DETAILS:

On 04-24-99 at approximately 1124 hours LVMPD Dispatch was notified by a Michelle Lehr who stated she had been the victim of a sexual assault earlier in the morning. Lehr responded to the Southeast Area Command where she was met by Officers Williams, P#4896, and Wiley, P#2663. And incident report was created

Phonetic-Donald
Section 1 b

C/

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LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

ID/Event Number: 990424-1124

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under the above event number. Lehr informed officers that she had been sexually assaulted in an unknown apartment located at 2101 Sunrise Avenue. She stated that the suspect was known to her only as Ray. Lehr stated she had met Ray at the Silver Saddle Saloon located at 2501 East Charleston. Lehr stated that Ray was a band member who was playing at the saloon. At this time Officer Wiley made a determination to notify General Assignment Detail.

VI. CRIME SCENE INVESTIGATION:A. NOTIFICATION OF GENERAL ASSIGNMENT DETAIL

On 04-24-99 at approximately 1345 hours I, Detective Hnatuick, P#3582, received a phone call from Officer Wiley who informed me that she was calling from the Southeast Area Command where she had a victim of a sexual assault present with her. Officer Wiley identified the victim as Michelle Margaret Lehr, DOB: 06-06-73, SSN: 608-24-8564.

During this phone conversation with Officer Wiley, she informed me of the facts as she knew them. At that time I advised Officer Wiley to complete a crime report for sexual assault and transport victim Lehr to University Medical Center where a sexual assault examination could be conducted. I informed Officer Wiley that I would meet them at the hospital.

I responded to University Medical Center where I was met by Officers Wiley and Williams, and the victim Michelle Lehr. Officer Williams had completed a crime report under the above event number listing Lehr as the victim of a sexual assault. I brought Lehr into the quiet room at University Medical Center where we had a discussion reference her incident. Inside the quiet room I conducted a taped interview with Lehr.

During this taped interview Lehr informed that at approximately 0800 hours she was inside an unknown apartment located at 2101 Sunrise Avenue with a male subject that she had just met that morning. Lehr described the male subject as a Latin male adult, 28 to 30 years of age, known to her only as Ray. Lehr stated that there was another unidentified Latin male adult inside the apartment whom she stated she did not know.

Lehr stated that while they were inside this apartment, suspect Ray picked her up in a cradle-type position and carried her into the bedroom where he then forced himself on her sexually. During the struggle, Lehr was pushed down to the ground, where suspect Ray pulled down her pants and her pantyhose below her knees. During the struggle, Lehr stated she told Ray that she did not want this to happen and that she wanted to go. Lehr stated

Ramon Muriel-Dorado
Section 1 C

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LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

ID/Event Number: 990424-1124

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she told the suspect this numerous times. Lehr stated that once Ray had her pants and pantyhose below her knees, he performed oral sex on her, penetrating her vaginally with his tongue. Lehr stated that when the suspect was finished doing this, he then attempted to penetrate her vaginally with his penis; however, complained that he could not get hard enough to make full penetration.

As a result of this struggle and sexual assault, Lehr showed me a small vertical scratch that appeared on her chest. Lehr also had several fingernails that were broken. Upon further examination, it was learned that Lehr had bruises on her left forearm, upper left arm, right wrist, and the back of her right arm. There was redness on Lehr's lower back and a bruise on her right lower back. Lehr indicated that these injuries were a result of the struggle.

After my interview with Lehr, she was taken to Fast Track where S.A.N.E. Nurse Marian Adams completed a sexual assault examination. After completing the examination, Adams informed me that the victim had little bruising in the vaginal area and that it was not definitive for sexual assault. The sexual assault kit was recovered by Nurse Adams and retained at University Medical Center.

While Lehr was being examine, her friend Maria Perez responded to University Medical Center with the clothing the victim was wearing earlier in the morning. This clothing was the same clothing she had on during the assault earlier in the morning. After the incident occurred, Lehr originally responded to her friend's house where she changed clothing. It was at University Medical Center, Fast Track, where I took possession of this clothing and impounded it as evidence. The clothing included one pair of black pantyhose, one brown halter top, one pair of black stretch pants, and a black jacket.

B. VISIBLE EVIDENCE AT CRIME SCENE

C.S.A. Fletcher, P#5221, responded to University Medical Center where I had her photograph the injuries that Lehr had sustained during her altercation and sexual assault. Those injuries included the vertical scratch on her chest, the broken fingernails, and the above-mentioned bruising. For further information reference the photographs, please refer to the completed C.S.A. Report under the above event number.

~~Section 1~~
d

99028 01 181

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

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VII. INTERVIEW OF MICHELLE LEHR BY DETECTIVE HNATUICK:

While at University Medical Center, I had an opportunity to conduct a taped interview with the victim Michelle Lehr inside the quiet room adjacent to the emergency room.

During this taped interview, Lehr informed me that she had had a baby approximately two years ago and had not gone out since that time. On the night of 04-23-99, she and her friend Maria Perez decided to go out for the evening. At approximately 0100, on 04-24-99, the victim Lehr and Maria Perez were at the Silver Saddle Saloon located at 2501 East Charleston Boulevard. It was there that Lehr was introduced to a Latin male adult known only to her as Ray. Ray was a member in the band that was playing at the saloon for the evening.

Lehr stated that she had conversations with Ray and several drinks during the evening. Sometime around 0700 hours, it was decided by a group of people, to include Lehr, Perez, Ray, and some of the other employees of the Silver Saddle Saloon, that they would go out for the morning and go to another bar. Lehr stated that she was a little unsure about this; however, she was assured that Ray was a decent person. Shortly after this, Lehr went out to her vehicle and Ray went with her. It was determined that Lehr would drive and Ray would get a ride with her. While in the vehicle, Ray informed her that he needed to stop by a friend's apartment and that it would only take a minute. He then directed Lehr to drive to 2101 Sunrise Avenue.

Upon arriving at this address, suspect Ray stated that he would go in only for a minute and asked if Lehr wanted to join him. Lehr stated that she was not comfortable with the area of town that she was in and felt that it would be safer to go inside the apartment than to remain sitting in her vehicle. At that time she entered the unknown apartment with Ray. Inside this apartment was another Latin male adult, unknown to Lehr. Lehr stated she was in the apartment for a short period of time when Ray picked her up in a cradling position and carried her into the bedroom. She stated this was approximately 0800 hours.

Once inside the bedroom of this apartment, Ray began fondling her breasts, attempting to take her clothes off. Lehr stated that she told him numerous times that she did not want to do this and that he was to stop. It was at this time that Ray pushed her down to the ground and began removing her pants and pantyhose. Once the pants and pantyhose were down below her knees, Ray performed oral sex on her, penetrating her vaginally with his tongue and then attempted to penetrate her vaginally with his penis; however, complained that he could not get enough of an erection to do so.

Section 1 E

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LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

ID/Event Number: 990424-1124

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Once the incident was over, Lehr left the apartment and went to her friend Maria Perez's house located at ~~2834 East Sahara Avenue, #215~~, where she changed clothing and subsequently later notified the police department.

MH:blw
991217

Section 1 f

ENTERED PROPERTY REPORT

INCIDENT

PAGE 1 OF 1

SEXUAL ASSAULT

Event # 990424-1124

☒ Recovered ☒ Evidence ☐ Found
☐ Safekeeping ☐ Seizure ☐ Other

☒ Felony ☐ Gross ☐ Misd.

Date Prepared 4-24-99

Reporting Officer DET. HUATUICK

Unit G/A

PA 3582

Supervisor Approving

PA

Property Physically Impounded By: S/A

Unit

PA

Property Checked Through:

☐ Pawn ☐ NCIC ☐ SCOPE

Property Physically Impounded By: (Signature)

Connecting Reports - Type & Event #:

ICR OR MEDICAL RECORDS

Last Name

First Name

UNKNOWN

MI

DOB

ID#

Street Address

Arrest Date

Charge

Last Name

First Name

MI

DOB

ID#

Street Address

Arrest Date

Charge

Last Name

First Name

MI

DOB

ID#

Street Address

Arrest Date

Charge

Last Name

First Name

MI

DOB

SS#

Street Address

LEAR, MICHELLE MARQUET

6/6/73

608-24-8564

Home Phone

Business Phone

Recovered By ☐ Owner ☐ Finder

Last Name

First Name

MI

DOB

SS#

Reporting Officer

Street Address

Home Phone

Business Phone

Location Of Recovery

(Number & Street)

Bldg.#

Apt.#

City

State

Zip Code

Owner Notified: ☐ Yes ☐ No

By

Date

VIA

Risd. to Owner? ☐ Yes ☐ No

Owner's Signature

Circumstances

ITEM #1 WAS RECOVERED AND RETAINED AT UMC FAST TRACK BY S.A.N.E. NURSE MIRIAN ADAMS. ITEM #2 THRU #5 WERE RECOVERED BY MYSELF AND IMPOUNDED.

b2b

Item #	Quantity	Make or Brand/Model	Category	Color	Size	Serial Number	Serial Number / OAN	Qty	Description
1	1							1	S/A KIT.
2	2		BLK					1	PAIR OF PANTY HOSE
3			BEN					1	HALTER TOP
4			BLK					1	PAIR PANTS
5			BLK					1	JACKET.

Metropolitan Police
Records Distribution
Dist
WVS

↑ Corresponds to Incident Report

Check here if property listing is continued on continuation page

Exhibit B

STEP 2

MEDICAL HISTORY AND ASSAULT INFORMATION

PATIENT'S NAME: Lehr, Michelle DATE OF BIRTH: 10-23 SEX: M ☐ F ☒
 ADDRESS: 50. Decatur - 29
 DATE OF ASSAULT: 4/24/89 TIME OF ASSAULT: 8:45-10:00 NUMBER OF OFFENDERS: 1
 DATE OF EXAMINATION: 4/24/89 TIME OF EXAMINATION: 11:00 SEX OF OFFENDER(S) M ☒ F ☐
 OFFENDER KNOWN TO PATIENT? FRIEND ☐ NEIGHBOR ☐ RELATIVE ☐ UNKNOWN ☒ OTHER ☐
 BROUGHT IN BY: Friend / LUMP POLICE REPORT BEING MADE? YES ☒ NO ☐
 MEDICAL HISTORY: CURRENT MEDICAL PROBLEMS: 6

CURRENT MEDICATION(S): 6
 ALLERGIES: 2 benz phenolide
 B/P: 147/72 Pulse: 70 Temperature: 98.6 Respiration: 20
 Emotional demeanor of patient, i.e., crying, angry, agitated, lethargic, frightened, shocked, depressed, etc.:
agitated, angry
 Description of patient's outward appearance, i.e., clothes torn, shoe(s) missing, etc.:
1 dress

Between the assault and now, has the patient: CHECK ALL THOSE WHICH APPLY

Bathed/Showered ☐ Inserted Tampon ☐ Defecated ☐ Brushed Teeth ☐ Drunk ☒
 Changed Clothes ☒ (If yes, collect tampon) Urinated ☒ Used Mouthwash ☐ Vomited ☐
 Douched ☐ Eaten ☐ Smoked ☒

CHECK ALL WHICH APPLY AT TIME OF ASSAULT:

YES NO UNSURE
 WAS PATIENT'S VAGINA PENETRATED BY:
 Penis ☒ ☐ ☐
 Finger ☒ ☐ ☐
 Tongue ☒ ☐ ☐
 If other, describe: _____

YES NO UNSURE
 WAS PATIENT'S MOUTH PENETRATED BY:
 Penis ☐ ☒ ☐
 WAS SUSPECT'S MOUTH ON PATIENT'S:
 Vagina/Penis ☒ ☐ ☐
 Anus ☐ ☒ ☐

YES NO UNSURE
 USED DURING ASSAULT:
 Condom ☐ ☒ ☐
 Diaphragm ☐ ☒ ☐
 Contraceptive Foam ☐ ☒ ☐
 Lubricant ☐ ☒ ☐
 Other Spermicide ☐ ☒ ☐
 WAS PATIENT BITTEN: ☐ ☒ ☐
 If yes, describe: _____

YES NO UNSURE
 WAS PATIENT LICKED/KISSED: ☒ ☐ ☐
 If yes, describe: breasts / chest
 (LOCATION) (LOCATION)

YES NO UNSURE
 DID PATIENT BITE SUSPECT: ☐ ☒ ☐
 DID PATIENT SCRATCH SUSPECT: ☐ ☒ ☐
 DID PATIENT PASS OUT: ☐ ☒ ☐

YES NO UNSURE
 WAS PATIENT'S RECTUM PENETRATED BY:
 Penis ☐ ☒ ☐
 Finger ☐ ☒ ☐
 Tongue ☐ ☒ ☐
 If other, describe: _____

YES NO UNSURE
 MASTURBATION OF:
 Patient ☐ ☒ ☐
 Suspect ☒ ☐ ☐
 If other, describe: _____

YES NO UNSURE
 DID EJACULATION OCCUR:
 In/on patient's body ☐ ☒ ☐
 If yes, describe: _____

YES NO UNSURE
 MENSTRUATION: ☐ ☒ ☐
 (LOCATION)
 CONSENTING INTERCOURSE
 WITHIN LAST 72 HOURS: ☐ ☒ ☐
 If yes, date: _____ and approximate time: _____

YES NO UNSURE
 WAS CONDOM USED: ☒ ☐ ☐
 DOES PATIENT HAVE COMMUNICABLE
 DISEASE AT RISK TO LAB PERSONNEL: ☐ ☒ ☐
 If other, describe: _____

INFORMATION COLLECTED BY:
Maureen Adams SALE
 (SIGNATURE) (PRINT)
MAUREEN ADAMS SALE
 (PRINT)
 DATE: 4/24/89

Exhibit C

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CASE MONITORING AND CLOSURE FORM

99093 01.484

☐ Misd.☐ G. Misd.☒ Felony

Crime: SEXUAL ASSAULT

Event #: 890424-1124

Victim: ~~XXXXXXXXXX~~

Investigator: M. REDDON 4884

Date Assigned: 05/03/99

Review Date: 05/03/99

Suspect 1: RAY

Suspect 2:

Suspect 3:

Suspect 4:

Case/Suspect Status Section

Date	Case/Susp	Status	Dispo		Date	Case/Susp	Status	Dispo
06-08-99	CLOSED							

Evidence Section:

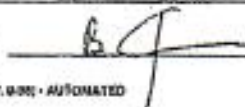
Was Evidence Impounded?:

☒ Yes☐ No

X	NO	ACTIVITY		X	NO	ACTIVITY
	1	Victim/Witness(es) Interviewed			11	County Clerk Records Checked
	2	Area of Crime/Neighborhood Covered			12	City/County Business License Checked
	3	Crime Scene Searched/Visited			13	PI/Photo/Video Analysis Checked
	4	Fingerprint Search Conducted			14	Photos Ordered
	5	Photo Line-up with Victim/Witness			15	Social Services Checked
	6	PAP Files/Prior Releases Checked			16	Suspect(s) Interviewed
	7	Department Members/Other Police Departments Checked			17	Att/SGOP/ENJO Entries Made
	8	SGOP/ENJO/CRIMINAL/FOI Checked			18	Warrant Served or Attempted
	9	Pawn Files Checked			19	Warrant Information to Other Units
	10	DMV Files Checked			20	Other:

ACT#	DATE	Activity/Property and Evidence Release
1	05/03/99	CASE REVIEWED, MSG LEFT ON VICTIMS RECORDER TO CALL ME
	5-3-99	SPOKE W/ VINT.
	5-4-99	CONTACTED SILVER SMOKE SALOON 474-2900
		CHARLIE HOWELL WILL RECALL WITH BAND
		MEMBERS NAMES.
	5-5-99	HOWELL CALLED SAID "RAY" IS RAMON
		ACCORDIAN PLAYER WHO THE BAND LET GO
	06-02-99	LEADS EXHAUSTED
	01-05-00	Dispo orders completed on property in RE KAR46

Cleared by:



3662

Date:

06-08-99

Supervisor Initials:



LVPD ISO 83 (REV. 9-95) - AUTOMATED

DISPOSITION ORDER

PAGE 1
DATE 01-05-00
TIME 14:01:08

CMD: SEXUAL ASSAULT (SA)

OFFICER BARRY JENSEN, PO2 3662 SA

AC# 99016841 CS# F EV# 9904241124 Type EVID Prep Date 04-24-99

Person Number Affiliation Name & Address

1 FINDER MICHELLE M LEHR
S DECATUR #29 LV, NV 89102

2 SUSPECT UNKNOWN

3 SPECIFY:

			Months	Person Number	Item	Quantity	Description
HOLD	DISPOSE	RELEASE		1	1	1	BLK PANTY HOSE SECURITYBAG: 2/2
HOLD	DISPOSE	RELEASE		1	2	1	BRN HALTER TOP SECURITYBAG: 2/3
HOLD	DISPOSE	RELEASE		1	3	1	BLK PANTS

- Continued on Next Page -

- DISPOSITION AUTHORIZATION -

PRINT NAME

J. Cavalieri

RANK

Sgt

SIGNATURE

J. Cavalieri

PH 3876

DATE 1/6/00

INSTRUCTIONS: 1. Indicate action to be taken (HOLD, DISPOSE, or RELEASE) by circling the appropriate disposition.
2. If the disposition is not immediate, enter the number of months to delay the disposition by in the "MONTHS" column.
3. If the item is to be returned enter the person's number (listed above) in the "PERSON'S NUMBER" box next to each item.
4. Print and sign your name, enter rank, PH and date to indicate authorization.

LAW ENFORCEMENT POLICE DEPARTMENT
EVIDENCE VAULT

DISPOSITION ORDER

CMD: SEXUAL ASSAULT (SA)

PAGE 2
DATE 01-15-00
TIME 14:01:08

OFFICER **BARRY JENSEN, PO2 3662 SA**

AC# **99016841** CS# **F** EV# **9904241124** Type **EVID** Prep Date **04-24-99**

	Months	Person Number	Item	Quantity	Description
HOLD					SECURITYBAG: 2/4
DISPOSE					SECURITYBAG: 2/5
RELEASE		1	4	1	BLK JACKET

- DISPOSITION AUTHORIZATION -

PRINT NAME J. Cavalieri

RANK Sgt

SIGNATURE J. Cavalieri

PH 3476

DATE 1/6/00

INSTRUCTIONS: 1. Indicate action to be taken (HOLD, DISPOSE, or RELEASE) by circling the appropriate disposition.
2. If the disposition is not immediate, enter the number of months to delay the disposition in the "MONTHS" column.
3. If the item is to be returned enter the person's number (listed above) in the "PERSON'S NUMBER" box next to each item.
4. Print and sign your name; enter rank, PH and date to indicate authorization.

Exhibit 1

Section 4 C

DISPOSITION ORDER

PAGE 1
DATE 01-05-00
TIME 14:01:00

CMD: SEXUAL ASSAULT (SA)

OFFICER **BARRY JENSEN, PO2 3662 SA**

AC# **99017088**

CS# **F**

EV# **9904241124**

Type **EVID**

Prep Date **04-24-99**

Person
Number

Affiliation

Name & Address

1

SPECIFY:

DISPOSE

HOLD

DISPOSE

RELEASE

Person
Months Number

Item

Quantity

Description

12

1

1

**SEXUAL ASSAULT KIT
MICHELLE LEHR**

- DISPOSITION AUTHORIZATION -

PRINT NAME

D. CAVALIGN

RANK **Sgt**

SIGNATURE

[Signature]

PH **3876**

DATE **1/6/00**

INSTRUCTIONS:

1. Indicate action to be taken (HOLD, DISPOSE, or RELEASE) by circling the appropriate disposition.
2. If the disposition is not immediate, enter the number of months to delay the disposition by in the "MONTHS" column.
3. If the item is to be returned enter the person's number listed above in the "PERSON'S NUMBER" box next to each item.
4. Print and sign your name, enter rank, PH and date to indicate authorization.

Exhibit 1

Section 4
p

28 CFR 20.30 to 28 CFR 20.38
NAC 239.165 (1)(2)

LVMPD Document	Area of Responsibility	LVMPD Retention
Interstate Identification Index (Triple I) Logs	Records and Fingerprint Bureau / CJIS / TAC	N/A - Tracked Electronically via JLINK Offline Report

Investigation Files

This record series documents investigations of criminal offences, traffic offenses, missing persons, accidents, and other significant events requiring law enforcement response.

Minimum Retention

For investigations resulting in arrest: File with applicable incident/crime report. For investigations not resulting in arrest: Retain until statute of limitations for offense being investigated expires.

Legal Citations

NRS 171.080 to 171.095
NAC 239.165

LVMPD Document	Area of Responsibility	LVMPD Retention
Abuse / Neglect Complaint	Records and Fingerprint Bureau	85 Years
Administrative Subpoena	Records and Fingerprint Bureau	85 Years

Impounded Vehicle Release (LVMPD 35)	Records and Fingerprint Bureau	85 Years
Vehicle Impound Notice (LVMPD 3)	Records and Fingerprint Bureau	5 Years Hard Copy / 85 Years OnBase
Vehicle Impound Notice E-Form	Records and Fingerprint Bureau	85 Years
Vehicle Recovery/Seizure / Impound (LVMPD 503)	Records and Fingerprint Bureau	85 Years

Incident/Crime Files (Arrest Made)

These files contain information from investigation of a crime through to an arrest. This record series may include but is not limited to investigation files, case narrative, investigative notes, arrest information, copy of coroner's report, copy of autopsy report, victim information, witness statements, fingerprint cards, crime lab requests and results, photos, recordings, diagrams, complaint reports, field notes, officer notes, background material, contact information, NCIC Reports, suspect information, suspect statement, criminal history information, search warrants, line-ups, arrest and booking records, subpoenas and prosecution reports, copies of court documents, bulletins, teletypes, news releases, disposition, correspondence and related records.

Minimum Retention

Retain this series for the duration of the statute of limitations on the underlying charge or until ordered destroyed by a court of record.

Legal Citations

NRS 171.080 to NRS 171.100

Adjudication of Complaint	Office of Labor Relations	30 Years from Employee Separation
Administrative Transfer	Office of Labor Relations	3 Years from Employee Separation
Authorization for Medical Information	Office of General Counsel	30 Years from Employee Separation
Bi-Weekly Statistical Reports	CIRT	Administratively Useful
Canine Incident	Internal Affairs Bureau	5 Years from Date of Report
Citizen Contact	Internal Affairs Bureau	5 Years from Closure
Citizen Review Board Complaint	Internal Affairs Bureau	30 Years from Employee Separation
CIRT Investigations	CIRT	5 Years from Employee Separation
CIRT - Tactical Review Board	CIRT	5 Years from Employee Separation
Complaint	Internal Affairs Bureau	30 Years from Employee Separation
EIIP - Alerts	Internal Affairs Bureau	5 Years from Employee Separation
EIIP - Employee Performance Profile	Internal Affairs Bureau	5 Years from Employee Separation
EIIP - Employee Performance Review	Internal Affairs Bureau	Years from Employee Separation
EIIP - Evolve Inquiry	Internal Affairs Bureau	5 Years from Employee Separation
EIIP - Significant Event Report	Internal Affairs Bureau	5 Years from Employee Separation
Employee Notification of Internal Investigation	Internal Affairs Bureau	5 Years from Date of Disposition
Employee Obligations and Protections in an Internal Investigation	Internal Affairs Bureau	5 Years from Date of Disposition
Findings / Conclusions	Office of Labor Relations	30 Years from Employee Separation

Part 2/2

Page 1

CASE REVIEW AND ANALYSIS

June 14, 2019

TO: Michael Lasher ESQ
Yampolsky & Margolis, Attorneys at Law.

FROM: Robert Bub, RJ Bub Consulting

SUBJECT: RE: State of Nevada, County of Clark v Ramon Dorado.
CASE NO. C-17-323098

I. PURPOSE

This review was conducted at the request of Yampolsky & Margolis, Attorneys at Law, regarding County of Clark v. Ramon Dorado, Case No. C-17-323098. The review is to analyze the original investigation into the Sexual Assault of Victim Michelle Lehr, with an emphasis on the investigative process and procedure.

II. METHODOLOGY

A review of all available reports, interview statements and transcripts, and documentation regarding this incident was completed. After completing a review of the below, the information was analyzed and compared to sound and established investigative procedure and process. The material examined consisted of the following:

Las Vegas Metropolitan Police Department Officers report, completed by Detective Hnatuick (and related under #990424-1124)

Las Vegas Metropolitan Police Department Case Monitoring and Closure Form, completed by Investigator Reddon (#990424-1124)

Las Vegas Police Department Voluntary Statement, transcribed from interview by Detective Hnatuick (#990424-1124)

Las Vegas Metropolitan Police Department Declaration of Warrant/Summons (#990424-1124)
University Medical Center of Southern Nevada Emergency Department report (SANE Exam report under Patient name Michelle Lehr)

Winnemucca Police Department Search Warrant Return (Case Number 16-0092)

Grand Jury Testimony of Michelle Lehr, GJ No. 16BGJ116X, April 26, 2017

Bode Cellmark Laboratories Reports and Findings - Various

The conclusions and opinions drawn within this report are based on my examination of all the information available at the time of the review. Those same conclusions and opinions rely upon my knowledge, experience, and expertise and are expressed to a reasonable degree of professional certainty. I reserve the right to amend this report upon receipt of any additional relevant material related to this matter. Any additional reference documents considered in this report are identified in the ADDENDA section.

III. SYNOPSIS

ORIGINAL CRIME AND INVESTIGATION:

At an unspecified time on the evening of April 23, 1999, the victim, Michelle Lehr and a friend, Maria Perez¹, "decided to go out for the evening."ⁱⁱ Around 1:00 AM on the morning of April 24, 1999, Maria Perez and Michelle Lehr arrived at the Silver Saddle Saloon, 2510 E. Charleston Boulevard, Las Vegas. According to Lehr, Perez was a frequent patron of the Silver Saddle and many people knew her there.ⁱⁱⁱ Lehr and Perez danced, talked, and drank with the suspect Ray, other members of the band, the bartender², and a security guard from the saloon. Lehr was paged by a babysitter that Lehr's son was awake, so she left the saloon for a short period to see her son and reassure him everything was okay. Lehr returned to the saloon to pick up Maria. Lehr stated she was the designated driver, but later stated she'd had at least three drinks alternating with drinking regular water while at the saloon.

The bartender suggested everyone from the group meet at another bar after he "gets off work" at 7:00 AM., to which they all agreed. They left the bar between 7:00-7:15 AM, and Maria decided she wanted to see a friend named "Beto," so she called him to pick her up. Maria Perez told Lehr to meet at Perez's house around 10:00 AM "that way, you know, the kids don't think anything of us, you know we don't wanna give them a wrong impression, we show up at different times."ⁱⁱⁱⁱ Some members of the group went with the bartender, and Lehr drove Ray in her car. Ray asked her to stop by a friend's house so he could call into his work and tell them he was not "coming in." Lehr drove to an apartment building at 2101 Sunrise Avenue. Ray asked Lehr if she would want to come into the apartment and Lehr responded she be more comfortable doing that than remaining in the car.

NOTE: There are gaps (long underlined portions) within the transcription of the taped interview which make an exact understanding of events difficult. There is no indication as to whether the gaps are pauses or should be attributed to incomprehensible words or phrases. A copy of the recording itself was not available to review for purposes of this report.

Lehr was unable to remember the apartment number but was able to provide an approximate location within the building.^{iv} Once inside the apartment, Lehr met Ray's friend, who's name she

¹ At various times during the interview, Lehr referred to "Candy." Lehr stated that Maria Perez's nickname is "Candy."

² Lehr indicated she only remembered the bartender's name started with "A."

could not remember, but who she described as "very nice." Ray and the friend had a conversation in Spanish and were talking very quickly. Lehr indicated she understands Spanish and the friend agreed to go to the store for Ray and would come right back. Ray also called his job and stated he wouldn't be coming in that day.

After talking for a "few minutes" Ray stood and stated he wanted to dance. Lehr indicated she didn't want to and said she wanted to leave. Ray picked her up and carried her to a bedroom. Ray placed Lehr on the bed and laid on top of her. Lehr continued to protest while Ray attempted to lift Lehr's blouse. Lehr pushed Ray off and attempted to leave, but Ray "pinned" her against the wall. Lehr continued to fight with Ray and was knocked to the floor where she kicked him. Lehr continued to fight with Ray and remembered stabbing Ray in the back with "it."³ Lehr continued to fight with Ray and eventually "blanked out."

Lehr stated Ray performed oral sex on her, but she pushed him away. At that time, he unbuckled his pants, "threw my [her] legs up and that's when I blanked out."⁴ Lehr stated Ray either attempted to or did vaginally penetrate her with his penis. Lehr did not believe he ejaculated but "all of a sudden just got off her [me]." Afterward, she stated Ray apologized to her.

As she left the bedroom, Lehr observed Ray's friend had returned, but she didn't know how long he had been back in the apartment. Lehr stated the friend saw her attempting to dress and how upset she was. Lehr stated she saw two older women as she was leaving the apartment building, both of whom also noticed how distraught she was. Lehr drove to Maria Perez's home where she changed clothing and then drove herself to Las Vegas Metropolitan Police Department (LVMPD) Southeast Area Command to report the crime. Lehr believed she arrived at the apartment at around 8:00 – 8:15 AM.⁵ She also said she asked what time it was and was told it was 8:30 AM, but that was an unknown time after she had been there.⁶ Lehr believed she remained at the apartment until sometime around 10:00AM, a time period of approximately one hour and fifteen to one hour and fifty-five minutes. She based the time she left the apartment on her estimation of when she returned to Maria Perez's apartment. After speaking to LVMPD uniformed Officers V. Williams, Serial No. P#4896, and K. Wiley, Serial No. P#2663, Officer Wiley contacted LVMPD Detective Hnatuick, Serial No. P#3582, who advised the officers to complete a crime report and transport the victim to the University Medical Center of Southern Nevada.⁷

While Lehr was being examined Maria Perez arrived at the hospital with the clothing worn by Lehr during the evening. Detective Hnatuick recovered and booked the clothing into evidence.⁸ Hnatuick further requested a photographer respond to document the injuries to Lehr and he completed a recorded interview with Lehr at 3:05 PM.

On May 3, 1999, the Michelle Lehr investigation was assigned to Investigator M. Reddon, Serial No. 4884. Reddon reviewed the case file and left a voicemail message for Lehr. Later that same day Reddon spoke with Lehr. On May 4, 1999 Reddon contacted the Silver Saddle Saloon and noted that "Charlie Howell" would call Reddon back with the names of the band members. The next day, May 5th, 1999, Howell called Reddon and advised him "Ray" was Ramon and that the

³ A gap in the transcript precludes identifying the weapon used to stab Ray.

⁴ Later in the interview, Lehr clarified she did not lose consciousness.

other members of the band had fired him.^{ix} These three, apparently telephonic conversations, were the only follow up interviews documented by Investigator Reddon.

The next notation in the Case Monitoring and Closure Report indicated, on June 7, 1999, "leads exhausted." The last notation on that report is an indication that "dispo orders" were completed on the property in this case.

In October of 2015, the SANE kit containing the evidence recovered during the University Hospital visit was submitted to the LVMPD Forensic Laboratory (and ultimately sent to Cellmark Forensic Labs along with forty-nine (49) other sexual assault kits^x) for testing.^{xi} In December of 2015, LVMPD Detective L. Cody received notification of a CODIS match to Ramon Dorado. She later determined Dorado to be living in a half-way house in Winnemucca, Nevada. Detective Cody obtained a search warrant, and with the help of Winnemucca Police Department Detective Cory Dunkhorst, obtained a buccal swab from Dorado. In November of 2017, Det. Cody was notified of a DNA match between Dorado and the Lehr evidence. Det. Cody obtained an arrest warrant for Dorado. Dorado was subsequently arrested on that warrant.

There were no investigative reports, notes, interviews or interrogation statements provided for the LVMPD during time period after the CellMark DNA tests had been completed and reported.

IV. INVESTIGATIVE BIOPSY

When investigating any sexual assault, there are realistically three sources (scenes) of physical evidence. The victim, the suspect, and the physical location of the crime. It is incumbent on the detective to ensure every reasonable attempt to locate and recover evidence from every source is made. It is unacceptable, when immediately actionable leads are presented, that no attempt was made to accomplish this task. In this case, though the information was readily available on the latter two sources, there appeared to be no effort to investigate. The lack of documented investigation suggests a disinterest in the crime and places an unfair burden on the defense in any subsequent prosecution. Witnesses who may hold in- or exculpatory information may be unable to be located, deceased, or may be unable to remember critical details or the event entirely.

In addition, because the credibility of the victim is often at the center of a successful prosecution or defense, identifying and interviewing any and all direct, peripheral, and identification witnesses is of the utmost importance. As true as this is today, historically, it was a greater factor in the late 1990s.

FAILURE TO LOCATE, IDENTIFY, OR INTERVIEW ADDITIONAL WITNESSES

This began with the initial contact with the victim and continued throughout the forty-five (45) day initial investigation. Neither the uniformed officers, the responding detective, nor the

assigned detective(s)⁵ in 1999 appeared to conduct more than a perfunctory interview of the victim. And no substantive interviews of the other potential witnesses or involved parties in this case has been presented.

Michelle Lehr reported the sexual assault to police within hours after the incident occurred. She responded to the Southeast Area Command and was initially interviewed by officers Williams and Wiley. The patrol officers, believing the crime was serious enough to warrant a detective's response, notified Detective M. Hnatuick who was working the General Assignment Detail. Detective Hnatuick advised them to take a sexual assault crime report and to transport the victim for a Sexual Assault Nurse Examination (SANE). He advised he would respond to the hospital to conduct an interview with the victim. While Detective Hnatuick did record his interview with Lehr, no immediate follow up was done to attempt to locate or interview any of the witnesses Lehr mentioned.

During the time period Michelle Lehr was inside the Sunrise Avenue apartment, she provided information regarding a witness, a resident of the crime location. Lehr's interview with Det. Hnatuick revealed this witness had a conversation with the suspect in rapid Spanish. This resulted in the witness leaving to go "to the store real quick for him [Ray] and coming back,"^{xii} leaving Dorado and Lehr alone in the apartment. Lehr related that upon her ultimately leaving the apartment, she noted the witness had returned and that she didn't know how long he had been back. Lehr had a conversation with the witness during which she told him what had occurred, and he reacted to her story. This male Hispanic is singularly the most important witness in this incident. He would have been able to either corroborate Lehr's recounting of the morning by physical appearance and demeanor as she left the apartment. He also may have been able to provide information as to the factual basis of the assault itself based upon what he may have heard or seen prior to his leaving and upon returning. Further, the witness could have potentially provided identification information, including vehicle information for the suspect. This information, in turn, could have been broadcast to patrol units to attempt to locate and detain the suspect. Det. Hnatuick did not ask Lehr for a detailed description or identifiers with regard to the witness. Nor had he been identified or interviewed as of the writing of this report. Further, Hnatuick did not request Officers Williams and Wiley to follow up to the Sunrise Avenue address to attempt to identify in which apartment the crime occurred and the occupants or residents of the apartment. And lastly, the later-assigned detective apparently never sought to locate, identify, and/or interview this most important witness.

Arguably the next most important witness, who was also not interviewed, was Maria "Candy" Perez. Perez was described by Lehr as being someone who was a regular^{xiii} at the Silver Saddle Saloon, and because of this familiarity, made Lehr feel comfortable with the people there. Lehr stated Perez had been dancing with Ray earlier in the evening. Maria could have provided information not only about the suspect, having had close contact with him and possibly knowing him; but about the identities of others working at the bar who would have more information about

⁵ Detective Barry Jenson was purportedly assigned to the investigation of this case at some point. However, aside from a signature, apparently "B. J--," at the bottom of the Case Monitoring and Closure Form and the Serial No. 3662, it is not possible from the reports to verify that information. Nor is it indicated in the "Activity" portion of the report itself who was making the notations.

the suspect's identity. There was no obstacle to interviewing Perez that morning, as she went to the University Medical Center to bring the clothing Lehr had been wearing.^{xiv} Det. Hnatuick took custody of the clothing⁶ from Perez.^{xv} During the course of that contact Det. Hnatuick could have inquired about the earlier portion of the evening, before she and the victim arrived at the Silver Saddle Saloon. The time frame around a sexual assault incident is always important in order to frame the victim's demeanor, actions, and to establish the degree of vulnerability and susceptibility. There is no documentation, beyond recovering the victim's clothing, that Det. Hnatuick had any substantive communication with Perez.

Lehr further mentioned seeing two "ladies" outside the apartment as she left.^{xvi} Lehr indicated the women saw her condition and stared at her as she left. Those two women would have been independent, and thus very strong, witnesses with regard to Lehr's appearance and demeanor immediately after the assault. Det. Hnatuick made no attempt to inquire as to a description of the women so they could possibly be located and interviewed. Further compounding the issue is the fact that Hnatuick neglected to include the information about these two women in his report, relying solely on the transcript of his interview to convey the information to any later assigned detective.

Det. Hnatuick not only didn't attempt to locate and/or interview any of these individuals, he apparently didn't obtain descriptive information for the eventual assigned detective to utilize in any subsequent investigation.

An in-person follow up to the Silver Saddle Saloon could have been a valuable source of information to determine the identity of the suspect. As a member of the band employed by the club, the potential for identity information from either the saloon or the other band members was enough incentive to require a physical visit to the location. A telephone call to a manager nine days after the occurrence is unacceptable, as it would be impossible to verify the identity of the person interviewed and that he held the position he purported. And the failure to identify any member of the band in the attempt to identify the suspect is also inadequate. Lastly, a comprehensive canvass of those people Michelle Lehr related she had contacted at the bar might also have revealed new or previously unknown or overlooked witnesses. In her 2017 Grand Jury testimony Michelle Lehr related she had gone to the Silver Saddle Saloon with "my friends Candy and Joanna for dancing."^{xvii} She further testified that upon returning to the bar after checking on her child she "went back to go get Candy and Joanna ..."^{xviii} This testimony as to the presence of "Joanna" at the bar with the victim and Candy is the first mention of "Joanna." An interview of Maria "Candy" Perez on the morning of the incident, or at any time during the follow up investigation may have revealed her existence to the detectives. "Joanna" may have had important information to convey, but no follow up was ever completed.

On May 3, 1999, approximately nine (9) days after the crime, the investigation was assigned to Detective M. Reddon. Reddon reviewed the case and left a voicemail for the victim to contact him. Later that day, it is indicated the detective spoke with the victim. No notes or

⁶ Although neither the Officer's Report nor the Property Report specifically stated Det. Hnatuick directly received the clothing from Perez, it must be assumed from the wording of the reports that this is the chain of custody for the evidence.

documentation with regard to the substance or length of that contact are listed in the report. On May 4, the detective contacted the Silver Saddle Saloon and spoke to "Charlie Howell." There is no indication as to the position Howell held within the business, however Howell promised to call back and provide the names of the band members. The following day, May 5, Howell called the detective and stated that the suspect, "Ray," was an accordion player named "Ramon" and he was "let go" by the band.^{xxx}

That contact with Howell was the last notation until June 7, 1999, approximately thirty-three (33) days later, when it was indicated that the "leads exhausted."^{xxx} In that time period, there was no indication that the detective, be it Reddon or Jenson, attempted to:

- Locate and interview Maria "Candy" Perez
- Locate, identify, and interview the resident at 2101 Sunrise Avenue
- Locate, identify, and interview the two "ladies" who saw Lehr leave the apartment building
- Locate, identify, and interview the bartender, the security guard "A," nor the other band members who were with "Ray" during the evening of the assault.
- Canvass the area of the Sunrise Avenue apartment building for additional potential witnesses.

Overall, the information recorded in the Case Monitoring form with regard to the bar patrons, employees, and the investigative steps undertaken was substandard.

FAILURE TO FOLLOW UP WITH PHYSICAL CRIME SCENE OR ATTEMPT TO LOCATE AND ARREST THE SUSPECT

A direct result of the lack of immediate follow up is the missed opportunity to secure the physical crime scene and recover evidence. The singularly best opportunity to properly handle a crime scene is as soon as possible after the discovery of the crime. Every passing minute, hour, and/or day adds to the likelihood of losing physical evidence. That loss of physical evidence can be disastrous to a successful prosecution. And devastating to the ability to present a proper defense.

The two initial interviews by the patrol officers and Detective Hnatuick provided the exact address of the attack, and though she was not able to remember an apartment number, she was able to describe the location of the apartment within the building. By responding to the location, the officers or detective could have located and recovered physical evidence which, in addition to any potential witness statements, could have positively identified the suspect extremely early in the investigation. That physical evidence is also essential in avoiding a misidentification from a potential witness identification error at a later point in the investigation.

Furthermore, the potential amount of physical evidence missed is enormous. Because of the lack of immediate follow up, there was no opportunity to recover trace evidence such as hairs, clothing fibers, etc. from bed linens, possible abandoned clothing, suspect and victim's

fingerprints, and/or additional DNA from areas in which the victim had related there was contact between her and the suspect. Additionally, detectives could have found the "weapon" Michelle Lehr indicated she used to "stab" "Ray."^{xxx} Had the immediate effort been made to locate, question, and potentially arrest Ray, the stab wounds, scratches, and other physical evidence detailed in the victim's story may have proven the allegations to be true or provided the suspect with valuable exculpatory information.

The lack of investigation lost the opportunity to photograph and diagram the crime scene. These locations would include the apartment building itself, the location of the apartment within the building, the layout of the apartment, the location of the bedroom within the apartment, and the layout of furniture within the apartment and bedroom. This documentation not only would assist the detectives in describing and detailing the scene to a court or jury during a prosecution, but they would also bolster the credibility of the victim's observations in identifying particular aspects of the crime scene. Photographs of the scene immediately after a crime has occurred prevents the scene from being altered to and/or evidence removed or destroyed either accidentally or intentionally.

There is no indication detectives attempted or completed a canvass of the crime location for additional witnesses. Apart from the two women the victim stated she saw upon leaving the apartment building, there may have been numerous other witnesses within the building who heard noises or voices, saw the victim and/or the suspect before and/or after the crime. The crime itself occurred on a Sunday morning when many people are characteristically at home. A later canvass by Detective Reddon, either during the week, or on the following Sunday should have been completed.

Michelle Lehr's car was another source of potentially identifying physical evidence which was ignored. The victim related in her initial telling to Officers Wiley and Williams, and in the interview with Detective Hnatuick she had driven the suspect to the 2101 Sunrise Avenue location. Detectives could have processed Lehr's car for fingerprints and trace to attempt to determine the suspect's identity.

While these investigative steps would have been best completed on April 24th, Detective Reddon should have begun to follow up even after nine days. The crime scene may still have had some value forensically and a canvass of the apartment building is a standard procedure in violent crime investigation.

FAILURE TO FOLLOW UP WITH PHYSICAL EVIDENCE LEADS

Between the SANE Exam on April 24, 1999, and the case review on May 3, 1999, the SANE kit, as well as the clothing worn by the victim, had been booked into evidence at the LVMPD. Upon that review, at minimum, a request to test the swabs from the kit for DNA evidence could and should have been made. The delay in not making the request is inexplicable. This is keeping with normal and accepted investigatory practice and in accordance with the Las Vegas

Metropolitan Police Department Manual which states, in part,^{xxii} "To obtain laboratory analysis of evidence, the officer having primary investigative authority in the case will be responsible for ensuring that a request is submitted to the forensic lab in the proper manner, usually on a Forensic Laboratory Examination Request, LVMPD 63. *Requests are to be submitted in a timely manner concurrent with the ongoing investigation.*"⁷

It is unclear when the Manual section quoted here and used for reference was written. And while it is understood that utilizing any standards or practices enacted after an incident used to critique it is unfair, the investigative step being addressed is not a new and/or previously unknown procedure. The introduction of DNA evidence in the criminal forensic arena had been used for years prior to the 1999 incident. Its value in the area of criminal investigations, specifically in sexual assault and homicide cases, is well documented, both with regard to conviction and exoneration.

Additionally, the case review should have notified the assigned detective of the need for follow up in other areas.

The assigned detective should also have sought to test additional items within the SANE kit. Fingernail scrapings were obtained and booked in the SANE Kit under Step 3 – Debris Collection. Coupled with the weapon used to stab "Ray" during the incident, powerful evidence of resistance could have been obtained. An immediate identification and arrest of the suspect could have shown the "newer" scratches⁸ and stab wounds to verify Lehr's report. Conversely, the lack of the described injuries, either in totality or in degree could have provided substance to the suspect's eventual version of events. But both these possibilities were lost to the insufficiency of the investigation.

Although the victim was photographed to document her injuries on the day of the SANE exam and interview, an accepted investigative practice is to have the victim re-photographed within twenty-four to forty-eight hours after the incident. It is very common for bruises and other injuries to not fully manifest until hours or days after being suffered. Those newer photographs would tend to better show the degree of severity in a victim's injuries. The lack of substantiating injuries would also be necessary for both sides.

Additionally, Detective Reddon should have made the request that the clothing recovered by Detective Hnatuick on the day of the incident be examined for forensic evidence and photographed to show their condition whether damaged or undamaged.

⁷ Italics added.

⁸ In the recorded interview with Det. Hnatuick Lehr reported "Ray" had scratches approximately four to five days old on his face at the time of the incident.

THE FAILURE TO DETAIL VICTIM'S MOVEMENTS AND CORROBORATE HER STORY

The credibility of the victim can be one of the most important factors in a successful investigation and prosecution. Although a victim should not be the person placed "on trial," this is the reality of sexual assault cases. The response and interview by a detective demonstrated the importance initially placed upon the investigation, however, the relatively short length⁹ of the interview raises concerns. Detectives have to establish, as best they can, the movements and actions of the victim before and after the incident. The more thorough this examination, the less likely the victim will have to suffer accusations of improper conduct. Further, the corroboration or disproving of an accusation can serve to free resources to other critical investigations. The fifteen (15) minute interview by Det. Hnatuick, and unknown duration contact between Det. Reddon and the victim, sought to cover an approximate incident time estimate of, at minimum, nine (9) hours.

Michelle Lehr related she and Maria Perez had gone out for the evening and eventually met "Ray," as well as the other members of the band, after arriving at the Silver Saddle Saloon at approximately 1:00 AM. She described the number of alcoholic beverages she'd consumed, the time frame between drinks, and that she'd also drunk water while at the Saloon. What was not determined was the time she and Perez had begun their evening, where they were, and how many drinks they'd consumed prior to the Silver Saddle Saloon. There was also no inquiry with regard to any other substances which might have been ingested during the course of the evening. This information could be crucial in establishing the cognitive abilities of the victim and witnesses to recall details of the incident. This does become an issue when the victim, in her interview with Det. Hnatuick, made statements as to "blacking out."^{xxxiii} Though Lehr later responded to a question by stating she never lost consciousness, the issue of what she meant by "blacking out" was not clarified.

The notations and observations of the SANE nurse during their exams is a valuable source of confirmation in an investigation. Because of the nature and source of the inquiry, a victim may be more open to discussing details with a medical professional than a law enforcement one. Conversely, information can be obtained which should cause a detective to recognize inconsistencies and discrepancies of the crime. Detectives have to address these discrepancies. In the case of this investigation there is information within the SANE Report which, coupled with information from the victim, need to be considered and addressed. The first of which is the time frame in which the incident, within the Sunrise Avenue apartment, occurred. Michelle Lehr described arriving inside the apartment at approximately 8:00 to 8:15 AM.^{xxxiv} She then stated she had asked the time and was told it was approximately 8:30 AM. Later in her recorded interview, Lehr indicated the incident occurred between approximately 8:45 and 9:55 AM, and she arrived at Maria Perez's apartment around 10:20 AM. This incident was variously described as occurring over an hour and ten-minute to an almost two-hour time period. This is a large amount of time when considering the actions it is alleged the suspect took against Lehr's will and objections, and with the potential for a witness to be in the same apartment. This time period needed to be examined and explained in more detail.

⁹ The interview was begun at 2:50 PM and concluded at 3:05 PM, totaling fifteen minutes.

Secondly, the substantiation of the elements of a victim's story is necessary in sexual assault cases. One which a detective will have to address with sympathy to the victim. SANE Nurse Marian Adams stated to Detective Hnatuick that the injuries she observed were "not definitive for sexual assault."^{xxv} A thorough investigation should have moved forward with the knowledge that consent would be at the center of a defense. Compounding the substantiation issue is a notation which appears in the SANE report indicating there was masturbation of the suspect.^{xxvi} Because this was not related to Detective Hnatuick in the interview, it should have been reviewed and addressed with a subsequent interview of the victim by Det. Reddon. While possibly a result of embarrassment, the appearance of concealed information on the part of the victim could have a negative bearing on her veracity. Information to address why this notation was made should have been elicited from the victim.

V. SUMMARY OF OPINIONS

The following comprehensive opinions and conclusions are based upon the analysis and deductions as outlined and articulated in the previous sections of this report. These opinions are presented with the knowledge that the initial investigation had been conducted with knowledge the procedures, practices, and methods of the time period. Simultaneous with the point of view that a detective cannot be held responsible for procedures implemented after an investigation has occurred, is the observation that an investigation also has to be examined under the similar contemporary public opinions and perceptions.

The primary purpose of investigating a crime or series of crimes is to identify and arrest the correct perpetrator in order to provide for the safety of the public. This duty should be carried out without delay in order to ensure that public safety. This is a basic investigative concept and is specifically addressed within the LVMD Manual.

4/102.03 PERFORMANCE OF DUTY

A.S. 26.1.1

Members are required to discharge their duties in a calm and firm manner, and they shall act together and assist and protect each other in the maintenance of law and order.

Members shall act with promptness, firmness, fairness, and decisiveness at the scenes of crimes, disorders, accidents, disasters, or when dealing with suspects or other situations that require police action. *When the police purpose might be jeopardized by delay, immediate action shall be taken, even though the incident would ordinarily be dealt with by some other office or bureau.* (7/73)¹⁰

4/102.05 PROTECTION OF CRIME SCENES

A.S. 42.2.2

Members assigned to, or assuming control at, a crime scene shall immediately take steps to apprehend the violator, care for any injured person, detain witnesses, and keep the area or premises secure from intrusion by unauthorized persons.

¹⁰ Italics emphasis added.

*They shall take all necessary steps to maintain the scene without change in appearance or character, and to prevent the destruction, mutilation, concealment or contamination of any physical evidence. (7/73)*¹¹

Theories are developed within any investigation based upon a detective's knowledge, experience, and expertise. These working ideas do not necessarily need to be proven correct, but their consideration provide the basis for thorough investigative work. One such concern in this case would be the idea that a sexual assault may not be the first (nor the last) perpetrated by a suspect. This idea must remain a possibility in the mind of the investigator. For this reason, the lack of urgency in moving on the actionable facts is distressing.

Furthermore, the detective should always be working to ensure that the evidence gathered, the witnesses interviewed, and the investigation itself identify the correct suspect. The conviction of innocent person does not guarantee the public safety, conversely, it allows a criminal to potentially victimize others. The failure in conducting an immediate comprehensive investigation also burdens an accused who is, sometimes, years later asked to defend his actions. The person who does not know he has been accused of a crime has no reason to attempt to mount a defense or memorialize an incident. And when a person is accused weeks, months, or years later, the lack of the contemporary information, hinders that ability.

There is only one "best" chance to properly investigate a crime scene. That occasion should be as near to the time of the crime as possible. Delaying a crime scene investigation can result in the loss of important evidence. This investigation went beyond delaying the follow-up and appeared to ignore it. An investigation which could have resulted in the interview and identification of a vital witness, the recovery of physical evidence, the corroboration of the victim's story, and the identification and potentially the arrest of the suspect was not completed.

The investigative process should be a search for the truth. No crime should go unsolved or unpunished, but neither should a person should be falsely accused and /or convicted of a crime because the investigator failed to properly, effectively, and promptly performed his duties. An accused person is denied the ability to "prove" his or her innocence when the people or evidence needed in that quest are long lost to halfhearted or poor police work. Proper and thorough documentation is essential to any criminal investigation. Accurate note taking and report writing not only assists in the prosecution of a criminal case, it is vital for those cases in which a solution is not immediately forthcoming. In the investigation of cold cases, the loss of contemporaneous information can prove disastrous. A single new lead, from any source, may become useless without the ability to locate pertinent witnesses or inform a new investigator as to the details of a case. Failure to document which investigative steps were taken, what locations were examined, who was interviewed, theories which were examined and potentially discarded, and what evidence was recovered can deny justice. Without the proper documentation of the previous investigative steps, an investigator can waste valuable investigative time and effort in retreading a lead which might have already been addressed.

¹¹ Italics emphasis added.

STATE OF NEVADA v. RAMON DORADO.

The Las Vegas Metropolitan Police Department Case Monitoring and Closure Form contains a twenty (20) point check list of potential investigative steps. While each of these steps may not be relevant to every investigation, it should be noted that a number of them were relevant to this investigation and support the issues and opinions related above. And while they were relevant and necessary, they were simultaneously unheeded.

4	NO	ACTIVITY	X	NO	ACTIVITY
	1	Victim/Witness(es) Interviewed	<input checked="" type="checkbox"/>	11	County Clerk Records Checked
	2	Area of Crime/Neighborhood Canvassed	<input checked="" type="checkbox"/>	12	City/County Business License Checked
	3	Crime Scene Search(es) Conducted	<input checked="" type="checkbox"/>	13	FI Files/Crime Analysis Checked
	4	Fingerprint Search Conducted	<input checked="" type="checkbox"/>	14	Photos Ordered
	5	Photo Line-up with Victim/Witness	<input checked="" type="checkbox"/>	15	Social Services Checked
	6	P&P Files/Prison Release Checked	<input checked="" type="checkbox"/>	16	Suspect(s) Interviewed
	7	Department Members/Other Police Departments Checked	<input checked="" type="checkbox"/>	17	AT&T/COSP/NCIC Entries Made
	8	ACOPS/WVMS/IS/WKOP/PI Checked	<input checked="" type="checkbox"/>	18	Warrant Served or Attempted
	9	Press Files Checked	<input checked="" type="checkbox"/>	19	Warrant Information to Other Units
	10	DMV Files Checked	<input checked="" type="checkbox"/>	20	Other:

1 From the Las Vegas Metropolitan Police Department Form ISD 53 Case Monitoring and Closure Form

Numbers One through Four have all been addressed in detail in the separate "issues" sections of this report. The victim interview did not address inconsistencies and discrepancies, nor was a follow up interview documented if those issues were addressed. There were no substantive witness interviews, even though there were a multitude of people who might provide information regarding various aspects of the incident. The building and area where the crime was committed was never canvassed for additional witnesses. The physical crime scene itself was never established, even though there was enough information on the day of the assault to locate, secure, and investigate it.

Number 13 – FI Files/Crime Analysis Checked, is another opportunity missed within the investigation. In any attempt to locate persons connected to an area, the Crime Analysis Unit and Field Interview cards can often reveal names of persons who have been contacted at various locations by other officers over time. Even a basic request for information on the name "Ray" or "Ramon" in connection with the Silver Saddle Saloon or the apartment address of 2101 Sunrise Avenue. Either of those two searched may have provided a lead as to the identity of the suspect. Nor were any previously reported sexual assaults searched to attempt to link this crime to any similar cases by method of operation, suspect description, etc.

Fischer & Fischer's 5th Edition of Techniques of Crime Scene Investigation, written in 1993 states, "Few crimes rely so heavily on physical evidence as does the crime of rape. There are not many other instances in which the testimony of the victim viewed with as much mistrust by juries, courts, and sometimes even prosecutors and police. It is for this very reason that physical evidence is so important to the investigation and prosecution of this crime." Including the substitution of "sexual assault" for "rape," this definition has not changed significantly through the current revisions of the text.

Contemporaneous witness observations are and were considered invaluable in establishing credibility for the victim. Conversely, by not identifying those same witnesses, it becomes almost impossible for the accused to substantiate a defense. It is a detective's responsibility to corroborate the victim with independent physical evidence and/or as many independent witness statements. The detective must also assess weaknesses or prepare for potential legal defenses. Among the things a detective could and should consider are alibis and alibi witnesses, exculpatory evidence, contextual or mitigating motivations or actions, and conflicting witness statements. It is their duty to determine, by examining contradictory evidence and conducting interviews, the veracity of victims. Although the numbers of false reports are statistically low, the potential for any report to be untrue is always a possibility which must be addressed. This is not to say that a victim should be doubted when the report is made, but great care should be taken to verify information to make eventual "re-living" of the incident in subsequent prosecution as reduced from stress as possible. False reports take valuable investigative time and resources away from investigations which might result in a suspect being arrested and taken off the streets.

Particular to sexual assault crimes, the issue of consent, and not necessarily identification, has been historically problematic. In spousal, date, or acquaintance rape, the identification and apprehension of a suspect has not been as difficult as establishing consent. In today's society, there is a marked progress in that area as evidenced by the dictate, "No means No." However, in the late 1990's and before, consent was not as respected an issue. "Stranger" rapes have always been of the highest priority in capturing a suspect. The possibility of continued danger to the public should be foremost to law enforcement. Sexual assault detectives should always be mindful of suspect descriptions, methods of operation, signatures, corroborating physical evidence, and contemporaneous witness statements, etc.

The initial investigation into the sexual assault of Michelle Lehr was minimal and perfunctory, and the subsequent follow up appeared halfhearted and lacking a sense of obligation. The first contact with law enforcement provided numerous leads which could have resulted in the identification of the suspect. There was information which provided the geographic location of the assault, which, in turn, could provide additional physical evidence. Further, there appeared to be no documented effort to develop and collect evidence, identify and interview numerous witnesses, nor corroborate the victim's story. Finally, there appeared to be a sense of apathy toward locating and arresting the suspect.

The overall quality of this investigation tends to show there was no interest in adhering to any solid principles and rules of criminal investigation. If the duty of an investigator and the policy of the department is "to use all means necessary to ensure all investigations are thorough and complete," as stated in Section 5/206.34 of the LVMPD Manual, it is clear this was not accomplished.

VI. ADDENDA

Any outside media which is used to support the conclusions and opinions detailed within the report should be listed here.

In addition to those items listed in Section II, the following reports, articles, and publications were reviewed in the formulation of the above opinions.

Las Vegas Metropolitan Police Department Manual, "Partners With the Community"

Hazelwood, Robert R., and Ann Wolbert Burgess. *Practical Aspects of Rape Investigation: a Multidisciplinary Approach*. 5th ed., CRC Press, 2017.

Fisher, Barry A. J., and David R. Fisher. *Techniques of Crime Scene Investigation*. 5th ed., CRC Press, 1993.

Fisher, Barry A. J., and David R. Fisher. *Techniques of Crime Scene Investigation*. 8th ed., CRC Press, 2012.

The conclusions and opinions drawn within this report are based on my examination of all the information available at the time of the review. Those same conclusions and opinions rely upon my knowledge, experience, and expertise and are expressed to a reasonable degree of professional certainty. I reserve the right to amend this report upon receipt of any additional relevant material related to this matter.

COMPLETED:

A handwritten signature in black ink, appearing to read 'R. J. Bub', written in a cursive style.

ROBERT BUB

CITATIONS/ENDNOTES

- ⁱ Las Vegas Metropolitan Police Department Officer's Report, page 5
- ⁱⁱ Las Vegas Metropolitan Police Department Voluntary Statement – Michelle Lehr, page 4
- ⁱⁱⁱ Ibid., page 4
- ^{iv} Ibid., page 6
- ^v Ibid., page 7
- ^{vi} Ibid., page 7
- ^{vii} Las Vegas Metropolitan Police Department Officer's Report, pages 3 - 4
- ^{viii} Ibid., page 4
- ^{ix} Las Vegas Metropolitan Police Department Case Monitoring and Closure Form, page 1
- ^x Las Vegas Metropolitan Police Department Correspondence Regarding Cellmark Forensics 2014-DN-BX-0032 Batch #4 – Cold Case Sexual Assaults, dated April 22, 2015
- ^{xi} Las Vegas Metropolitan Police Department Declaration for Warrant/Summons, Event # 990424-1124, page 2
- ^{xii} Las Vegas Metropolitan Police Department Voluntary Statement – Michelle Lehr, page 7
- ^{xiii} Las Vegas Metropolitan Police Department Voluntary Statement – Michelle Lehr, page 4
- ^{xiv} Las Vegas Metropolitan Police Department Officer's Report, page 4
- ^{xv} Las Vegas Metropolitan Police Department Property Report, Event # 99-0424-1124
- ^{xvi} Las Vegas Metropolitan Police Department Voluntary Statement – Michelle Lehr, page 11
- ^{xvii} Clark County Grand Jury Proceeding, GJ No. 16BGJ116X, page 7
- ^{xviii} Ibid. page 8
- ^{xx} Las Vegas Metropolitan Police Department Case Monitoring and Closure Form, page 1
- ^{xxi} Ibid., page 1
- ^{xxii} Las Vegas Metropolitan Police Department Voluntary Statement – Michelle Lehr, page 9
- ^{xxiii} Las Vegas Metropolitan Police Department Manual, 5/209.03
- ^{xxiv} Las Vegas Metropolitan Police Department Voluntary Statement – Michelle Lehr, pages 9 -10
- ^{xxv} Las Vegas Metropolitan Police Department Officer's Report, page 5; Las Vegas Metropolitan Police Department Voluntary Statement – Michelle Lehr, page 7
- ^{xxvi} Las Vegas Metropolitan Police Department Officer's Report, page 4
- ^{xxvii} Sexual Assault Nurse Examination Report, LVS Form 102, Medical History And Assault Information, "Step 2"



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 THE STATE OF NEVADA,
9 Plaintiff,

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

10 vs.

11 RAMON MURIL DORADO,
12 Appeared Via Video Conference
13 Defendant.

14 BEFORE THE HONORABLE DAVID M. JONES, DISTRICT COURT JUDGE
15 TUESDAY, DECEMBER 8, 2020

16
17 **RECORDER'S TRANSCRIPT OF HEARING:**
18 **EVIDENTIARY HEARING**

19 APPEARANCES VIA VIDEO CONFERENCE:

20 For the State: GENEVIEVE C. CRAGGS, ESQ.
21 Chief Deputy District Attorney

22 For the Defendant: MICHAEL D. LASHER, ESQ.
23

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25 RECORDED BY: MELISSA DELGADO-MURPHY, COURT RECORDER

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Las Vegas, Nevada; Tuesday, December 8, 2020
[Hearing commenced at 11:48 a.m.]

THE COURT MARSHAL: Page 31, C-17-323098, the State of Nevada versus Ramon Dorado.

MR. LASHER: Good morning, Your Honor, Michael Lasher on behalf of Mr. Dorado, who's present in custody. My Bar number is 13805.

THE COURT: Counsel, I'm sure you saw the notification from the Supreme Court that this hearing has got to be done --

MR. LASHER: Yes.

THE COURT: -- and we've got to get an order corrected. What else do I need to hear?

MR. LASHER: Well, I've called three witnesses, Your Honor, that --

THE COURT: Okay.

MR. LASHER: -- I would like to question.

THE COURT: You've got a very short period of time, but let's call the very first one. Who is your first witness?

MR. LASHER: So these are all formal law enforcement. It's a Virginia Griffin-Stanley requested to be called first.

THE COURT: Okay. Ms. Stanley. Where's -- where is Ms. Stanley? Do we have her present?

MR. LASHER: She was earlier, Your Honor.

THE COURT: Okay.

1 MR. LASHER: I will -- I know that a couple of other witnesses
2 are here. Let me just text my investigator to see what's going on and
3 we'll call in the meantime.

4 THE CORRECTIONS OFFICER: Your Honor, we only have
5 about eight minutes.

6 MS. CRAGGS: Your Honor, and I can also text her real quick
7 and let her know to jump on. I was talking to her about the BlueJeans
8 link earlier.

9 THE COURT: I got eight minutes, so let's get a witness on
10 because we're going to have to continue this and I have a direct order
11 from the Supreme Court to move this thing. So, you guys, while you're
12 doing this think about a day real soon, the next couple days, like
13 Thursday.

14 MR. LASHER: Yeah, and, Your Honor, I would ask that
15 witnesses be ordered to return. But let's see, I think Barry Jensen was
16 on the line earlier as well.

17 THE COURT: Mr. Jensen, are you available?

18 MR. JENSEN: Yes, I am, Your Honor, can you hear me?

19 THE COURT: Yeah.

20 MR. LASHER: Great. Thank you.

21 THE COURT: Please raise your right hand, be ready to
22 sworn in.

23 **BARRY JENSEN**

24 [having been called as a witness and being first duly sworn,
25 testified via video conference as follows:]

1 THE COURT CLERK: Please state and spell your first and
2 last name.

3 THE WITNESS: Barry Jensen, B-A-R-R-Y J-E-N-S-E-N

4 THE COURT: Counsel, your witness.

5 MR. LASHER: Thank you.

6 **DIRECT EXAMINATION**

7 BY MR. LASHER:

8 Q Mr. Jensen -- or actually, correct me if I'm not getting your title
9 correct right now. Were you working on April 24th, 1999?

10 A I was.

11 Q In what capacity?

12 A I was assigned to the Sexual Assault Detail with Las Vegas
13 Metropolitan Police Department.

14 Q And what was your star number?

15 A My P Number is 3662.

16 Q And did you work on a sexual assault case reported by a Ms.
17 Michelle Lehr?

18 A I did not.

19 Q You did not work on the case? Where -- did you have any
20 involvement at all on the case?

21 A Yes, it looks like I signed the case closure form.

22 Q And just for the Court's purposes are you looking at my Exhibit
23 C that was previously disseminated?

24 A The case closure form?

25 Q Yes.

1 A Yes, I am looking at that.

2 Q Okay. Great. And did those -- does that appear to be your
3 star number?

4 A It's my signature and my P Number, yes.

5 Q And so this would have been a true, accurate and complete
6 record at the time?

7 A Yes.

8 MR. LASHER: I would move to admit this Exhibit C, marked
9 for identification previously, into evidence.

10 THE COURT: State, any objection?

11 MS. CRAGGS: No, Your Honor. Thank you.

12 THE COURT: So admitted.

13 **[DEFENSE EXHIBIT C ADMITTED]**

14 THE COURT: Continue.

15 MR. LASHER: Great. Thank you.

16 BY MR. LASHER:

17 Q And so what test did you undertake on this case?

18 A I don't have any memory of the case. The only thing that I can
19 say is that that's my signature on the case closure form.

20 Q Okay. And what is a case monitoring and closure form?

21 A It's the detective's -- one of the detective's methods of keeping
22 case notes.

23 Q And there are a bunch of pre-populated boxes there that list
24 various investigative tasks. Do you see that?

25 A I do.

1 Q Right in the middle there. What can you tell us about what
2 those indicate?

3 A Those indicate steps that a detective can take if -- during the
4 investigation.

5 Q And are any of those boxes checked there on this case form?

6 A No.

7 Q And I'm going to just move this along, you know. What does --
8 well, let me ask another question regarding -- in your experience these
9 case monitoring forms, do they often have a greater level of detail?

10 A No, not really.

11 Q Okay. And what is ACE2804G indicate to you?

12 A Where is that at?

13 Q That would be -- well, let me come back to that just in the
14 name of --

15 A Oh.

16 Q -- moving through.

17 A Oh.

18 Q Yes, it's at the --

19 A Where it says --

20 Q -- bottom -- yes.

21 A That's a -- an ACE number. That's how the evidence vault
22 would track that evidence.

23 Q Okay.

24 A And then the R2804G, that is Ruth Gorski, and that would be
25 her P Number, 2804.

1 Q And what is Ms. Gorski's role?

2 A She was a civilian employee. I believe she was the
3 investigative specialist.

4 Q Okay. And what do the investigative specialists normally do?

5 A They would close cases, maybe talk to -- or set up an
6 appointment with the detective for witnesses, stuff like that.

7 Q Okay. And directing you now, it's still within Exhibit C, there's
8 some disposition orders.

9 A Yes.

10 Q And there were three items of clothing. Do you see that where
11 it says release?

12 A Yes, I do.

13 Q What does that indicate to you when it says release?

14 A That property would be released back to the victim.

15 Q Okay. And at the bottom of that disposition authorization there
16 is a name I can't quite make out. Potentially it is a Cavalieri?

17 A Dave Cavalieri, D. Cavalieri.

18 Q Okay. And what is his rank? Or what was it in 1999?

19 A He was the sergeant of our unit.

20 Q And do sergeants back then typically approve the disposition
21 of evidence?

22 A I believe they did.

23 Q Okay. And going to the next page, the sexual assault kit, also
24 in Exhibit C, did he approve the destruction of the sexual assault kits?

25 A Yes, six months from that day.

1 Q Six months, okay. And why would it be the case that that was
2 not destroyed if that was his order?

3 A I have no idea.

4 Q Okay. Directing you to that -- let me continue on here. Do
5 you recall the evidence retention schedule in 1999?

6 A I do not.

7 Q Is it -- is your will for physical evidence to be released while
8 the DNA is still retained?

9 A I have no idea. Like I said, this was not my case. The only
10 thing I did was sign the case closure form.

11 Q And do you recall what would have caused you to sign the
12 case closure form?

13 A I don't know, I -- it could have been that direction of Dave
14 Cavalieri or Ruth Gorski. I do not recall why we signed it.

15 Q Okay. And is it unusual for physical evidence to be released
16 while the DNA is still retained?

17 THE COURT: Counsel, you already asked that question
18 once. He's already answered he doesn't know.

19 MR. LASHER: Sorry. There's just a bit background noise.

20 THE COURT: I understand.

21 BY MR. LASHER:

22 Q In your experience --

23 THE CORRECTIONS OFFICER: All right. Your Honor, we
24 have to wrap it up. I'm sorry. The other court has to start now.

25 THE COURT: Thank you, sir.

1 Counsel, the order's going to be that we're going to continue
2 this matter for 12/15 at 11 o'clock. Mr. Dorado is to be present, all
3 witnesses to be called.

4 MR. LASHER: And, Your Honor, I would --

5 THE COURT: Actually, you know what? Do -- let's do 10:45.
6 Let's just get him here at 10:45 just because I got a morning calendar I
7 have to get through.

8 MR. LASHER: Okay. And I would ask that Mike Hnatuick,
9 Detective Mike Hnatuick, be asked to return and also Ms. Virginia Griffin-
10 Stanley.

11 THE COURT: Are those witnesses available?

12 MR LASHER: And also --

13 [Colloquy between the Corrections Officer and the Defendant]

14 THE COURT: Dorado, it's closed. This is just procedural.
15 Mr. Dorado, you're fine, this is procedural. Thank you.

16 THE DEFENDANT: Thank you, Your Honor.

17 MR. LASHER: And Mr. Jensen. I really will only have a few
18 more questions for Mr. Jensen, but I would ask that he be back as well.

19 THE COURT: Mr. Jensen, you available for a few minutes on
20 the 15th at, say, 10:45?

21 THE WITNESS: Yes, I am.

22 THE COURT: Thank you, sir.

23 We'll continue that matter until that date.

24 MR. LASHER: Thank you.

25 THE WITNESS: Okay. Thank you, Your Honor.

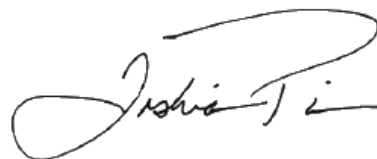
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MR. LASHER: Thank you.

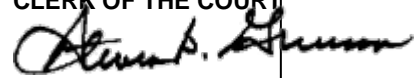
THE COURT: Thank you.

[Proceedings concluded at 11:59 a.m.]

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



Toshiana Pierson
Court Recorder/Transcriber



1 **RTRAN**

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5 **DISTRICT COURT**
6 **CLARK COUNTY, NEVADA**

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8 **THE STATE OF NEVADA,**
9 **Plaintiff,**

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

10 **vs.**

11 **RAMON MURIL DORADO,**
12 **Defendant.**

13
14 **BEFORE THE HONORABLE DAVID M. JONES, DISTRICT COURT JUDGE**
15 **TUESDAY, NOVEMBER 10, 2020**

16 ***RECORDER'S TRANSCRIPT OF HEARING:***
17 ***EVIDENTIARY HEARING***

18 **APPEARANCES:**

19 **For the State:**

GENEVIEVE C. CRAGGS, ESQ.
Deputy District Attorney

BRYAN A. SCHWARTZ, ESQ.
Deputy District Attorney

22 **For the Defendant:**

MICHAEL D. LASHER, ESQ.

23
24 **RECORDED BY: MELISSA DELGADO-MURPHY, COURT RECORDER**
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1 Las Vegas, Nevada, Tuesday, November 10, 2020

2
3 [Case called at 11:21 a.m.]

4 THE COURT: All right case C17-323098 the State of Nevada
5 versus Ramon Dorado. Counsel your appearances for the record.

6 MR. LASHER: [indiscernible]

7 MS. CRAGGS: Gen - - go ahead.

8 MR. LASHER: Michael Lasher on behalf of Mr. Dorado who's
9 present in custody.

10 MS. CRAGGS: Genevieve Craggs and Bryan Schwartz for the
11 State, Your Honor.

12 THE COURT: Thank you, Counsels. This is the time set for
13 the Evidentiary hearing and basically the motions there - - sub-filed
14 therein. Counsel how do you want to proceed? Do we need an opening
15 on these matters?

16 MS. CRAGGS: Well, Your Honor, it was our - - it will be our
17 request and I know we're running out of time and there is at least one
18 witness Mr. Lasher wants to get on but it was going to be our request that
19 you ruled on the briefs that we filed with Your Honor because that will
20 inform which tasks we should be moving forward on. I don't know if Mr.
21 Lasher wants to get the one witness he wanted to get on first and then
22 maybe we can do that afterwards but before we move on to the ,you
23 know, police officers that he's going to be calling we would request that
24 you rule on - -

25

1 THE COURT: Okay.

2 MS. CRAGGS - - which task you would like us to use.

3 THE COURT: Counsel.

4 MR. LASHER: And I'm amendable to that, Your Honor. Mr.

5 Dorado's sister is here and it will be quite brief but just not to

6 inconvenience her if we're not able to finish everything I would like that

7 we just put her on briefly. And - -

8 THE COURT: Let's get the witnesses we can get on so we

9 can go right there right away before we get those officers. Just because

10 we need to get them on with the time we have.

11 MR. LASHER: And the officers are standing by Your Honor as

12 well. So - -

13 THE COURT: I understand.

14 MR. LASHER: Yeah.

15 MS. CRAGGS: Your Honor is it correct we have until 11:45?

16 THE COURT: How long are we going to be on do you know?

17 11:45 all right so let's get on and get as much as we can.

18 MR. LASHER: Okay.

19 THE COURT: Call your first witness.

20 MR. LASHER: All right, Your Honor, I would call Blanca Muric

21 to the stand. She's present along with Mr. Dorado's family.

22 THE COURT: Ma 'dam if you'll approach the stand over here.

23

24 **BLANCA MURIC**

25 [having been called as a witness and being first duly sworn, testified as

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follow:]

THE CLERK: Please state and spell your name for the record,
your full name.

THE WITNESS: Blanca Muric, B-L-A-N-C-A M-U-R-I-C.

MR. LASHER: Okay, thank you.

THE COURT: Counsel your witness.

DIRECT EXAMINATION

BY MR. LASHER:

Q Ms. Muric could you tell us your relation to Ramon Dorado?

A I'm his sister.

Q And is that him up on the screen there?

A Yes that's him.

Q Okay and you love your brother right?

A Of course, I do.

Q But you wouldn't lie to help him out?

A Oh, no definitely not.

Q In 1999 was Ramon playing music in bands?

A In the banda, yes he was.

Q And what banda was that? Do you recall?

A Banda Azatec [phonetic]. I'm not really sure how to say the
word.

Q Azakatecas [phonetic].

A Yeah Azakateca [phonetic].

Q About how often would he play?

A He would play like every weekend, like he would play at

1 different night clubs. So he would play - - frequency a lot.

2 Q And was he kind of well-known in that community?

3 A Ah yes definitely he was.

4 Q Yup and to the best of your recollection in 1999 where was Mr.
5 Dorado living?

6 A It was I believe it was on Sunrise 2101 or 20 - - it was on
7 Sunrise 2101, I believe.

8 Q Okay, thank you that's all I have for this witness.

9 THE COURT: Cross counselor.

10 MR. SCHWARTZ: No questions, thank you.

11 THE COURT: Thank you mam.

12 THE COURT: Counsel next witness. Before we get to the - -
13 are we going to get to the officers now?

14 MS. CRAGGS: I think - - is the police officers are the only
15 ones you have left?

16 MR. LASHER: Yeah.

17 MS. CRAGGS: Okay.

18 THE COURT: All right. What I want from each party is just a
19 succinct argument for the record on that so the rulings - - so we have it
20 on the record, okay?

21 MR. LASHER: Okay. Would you like us to do that now than
22 or?

23 THE COURT: Let's do it right now so we have it on the record.

24 MS. CRAGGS: Go ahead.

25 MR. LASHER: Okay so - - I guess it's my burden - -

1 THE COURT: It's your burden counsel.

2 MR. LASHER: Your Honor I would ask that you dismiss the
3 charges against Mr. Dorado. Seventeen years have elapsed between
4 the April 24, 1999 events and the filing of the complaint. Since we're
5 pressed for time I will just go right into the standard. I think that the
6 standard for these cases is a balancing of the prejudice to Mr. Dorado
7 against the reasons for the delay. And United States Supreme Court has
8 never required a showing of bad faith as explained in the pleadings
9 that's in *Lovasco*. Actual prejudice when weighed against the reason for
10 delay offends fundamental notions of justice. In that case they held
11 reckless delay plus prejudice is a due process violation and that's the
12 focus here, is fundamental notions of justice offended by the delay. U.S.
13 Supreme Court has never required a showing of an intent to get a
14 tactical advantage in the delay. *U.S. v. Marion* specifically said, "We
15 need not and could not now determine when and what circumstances
16 actual prejudice resulting from pre-accusations until it requires
17 dismissal."

18 So, instructive is the Ninth and the Fourth Circuit; they both
19 expressly have rejected a requirement of bad faith, it's just one factor
20 among many to be balanced. And the cases I cite in my pleadings it's
21 *U.S v. Ross*; *U.S. v. Moran*; *Howard v. Barker* in the Fourth Circuit,
22 many of the jurisdictions including California have that. If you'd like me to
23 Your Honor to kind of articulate - - well I would actually like to reserve
24 after the hearing my articulation of the prejudice to Mr. Dorado, I mean
25 that's all I want to say on what I think is the correct standard.

1 THE COURT: [indiscernible] standard. Counsel - -

2 MS. CRAGGS: And Your Honor that's all we're requesting that
3 you rule on now is just what you believe the correct standard to be. And
4 then we're going to ask for argument or potentially further briefing
5 depending how the hearing goes.

6 THE COURT: We'll do an argument at the end.

7 MS. CRAGGS: Your Honor so, obviously the question from
8 the Supreme Court was essentially whether or not the Nevada Supreme
9 Court, Justice Hardesty who authored *Wyman* were confused about the
10 Federal authorities that they cited. And interestingly enough it was
11 Justice Hardesty that actually remanded this back down for the limited
12 hearing. It's our contention that they were not confused about the fact - -
13 about the Federal authorities that they cited and that the *Wyman v. State*
14 test does not contradict the Federal authorities. Rather, as we wrote in
15 our briefing, Your Honor, it simply specifies what is written in *Lovasco*. I
16 mean, and they interpreted the Nevada Supreme Court somewhat
17 differently and potentially more narrowly than the Ninth Circuit but the
18 Ninth Circuit isn't binding on our Nevada Supreme Court. And we went
19 through Your Honor in our briefing and talked about how *Lovasco* is
20 relatively open ended. I mean, it doesn't articulate a two pronged test
21 that the Ninth articulated in their cases. Rather they discussed generally
22 the State's intent, they also discussed, you know, the foundation of
23 justice; they discussed all these various things. And then they say, you
24 know, but this is a difficult question and the lower Courts can do as they
25 may based on due process because it's a factually intense

1 interpretation.

2 So, the Nevada Supreme Court took *Lovasco* and created this
3 two pronged test and then cited to it and the Ninth Circuit simply
4 interpreted it somewhat differently. So, we're requesting that you uphold
5 the precedent as of now under *Wyman* and that the two pronged test,
6 one of which the Defendant has to show actual non speculative
7 prejudice which we believe they will not be able to do. And the second
8 prong which was that they actually have to show the State acted in bad
9 faith or to gain tactical advantage. And that is the law as of now and that
10 is not contradictory to the U.S. Supreme Court, with that I'd submit it
11 Your Honor.

12 THE COURT: Thank you, Counsel. Quick rebuttal to that
13 Counsel?

14 MR. LASHER: Your Honor I'll just submit on my pleadings for
15 the sake of time here but I do feel that *Wyman* was wrongfully decided,
16 cases that it cites to do not stand for the propositions that were cited in
17 there. And I think that the Court requested supplemental pleading on this
18 indicates their looking at this issue.

19 THE COURT: Well I think they're also asking - - Justice
20 Hardesty specifically is asking whether or not this Court views it that
21 way.

22 MR. LASHER: Yeah.

23 THE COURT: And this Court does view it exactly the way
24 Justice Hardesty stated it in *Wyman*. I don't think Justice Hardesty made
25 a mistake. I don't think Justice Hardesty failed to interpret the law. I

1 believe Justice Hardesty interpreted it the way he did. Whether this
2 Court agrees with it or not is irrelevant, this Court is bound by this - - that
3 Court's interpretation of it and *Wyman* is the law. And that's what's going
4 to be upheld in this case. Does that make it clear enough?

5 MR. LASHER Yes.

6 MS. CRAGGS: Yes, Your Honor.

7 THE COURT: Yeah.

8 MS. CRAGGS: Should we do an order to that effect?

9 THE COURT: Yes.

10 MS. CRAGGS: Okay.

11 THE COURT: Absolutely, Counsel.

12 MR. LASHER: I guess then if we have more time I can begin
13 calling some witnesses.

14 THE COURT: Keep going. Who do we have?

15 MR. LASHER: Okay, great.

16 THE COURT: If we have people here let's call them.

17 MR. LASHER: So, I don't know how mechanically we can do
18 this here but I'd like to make a motion to somehow exclude the other
19 witnesses who are standing by. I've got three, maybe I can just begin
20 with - -

21 THE COURT: Call your first one and then if those other two
22 people are present in the courtroom we'll have them leave.

23 MR. LASHER: Okay, I guess I would call at this point Barry
24 Jensen, Your Honor.

25 THE COURT: Okay. Is Mr. Jensen available? Is Mr. Jensen

1 outside counsel or where do we have Mr. Jensen?

2 MR. LASHER: He was sent a Blue Jeans link. He had called
3 me to say it was - - he was having problems with it but I said that he
4 should stand by because I don't think that the link was up yet. Let me
5 see then if somebody else is possibly present.

6 THE COURT: Okay.

7 MR. LASHER: And maybe it's going to be some of the same
8 technical issues. Detective Hnatuick also got a link.

9 MR. SCHWARTZ: It doesn't - - Mike it doesn't appear
10 anybody else is on there actually.

11 MR. LASHER: Really.

12 MR. SCHWARTZ: Yes, so let's - -

13 MR. LASHER: So, I just, I had forwarded the link that I was
14 given and so it's possible there were problems there. The other
15 witnesses - -

16 THE COURT: Who were the other witnesses that you were
17 going to call all by Blue Jeans?

18 MR. LASHER: And Virginia Griffin-Stanley.

19 THE COURT: Those four.

20 MR. LASHER: So, those three, Your Honor.

21 THE COURT: Do we have other witnesses today that we
22 could call?

23 MR. LASHER: That was it.

24 MS. CRAGGS: And Your Honor the State hadn't decided
25 whether we were going to call anybody. We were going to wait and see

1 what the testimony was from the other officers.

2 THE COURT: Counsels what are we going to do?

3 MS. CRAGGS: Well, Your Honor - -

4 THE COURT: This was the time set for an Evidentiary
5 hearing.

6 MS. CRAGGS: And Your Honor, I don't know if it would be
7 possible for us to set an Evidentiary hearing on a special setting. I've
8 done that in another courtroom, I know it's a little bit of a pain.

9 THE COURT: Extremely difficult, especially with an individual
10 from NDOC.

11 MS. CRAGGS: Yes.

12 THE COURT: It's not like that - - were across the street at the
13 jail. It's bringing an individual in NDOC for a very specific time.

14 MS. CRAGGS: Yes.

15 THE COURT: That's why I tried to set it today on my - - one of
16 my lightest calendars hoping to give you as much time as possible. I
17 mean, what do we have as far as open availability that's a light
18 schedule? We're just going to have to make this work.

19 [Colloquy between the Court and the Clerk]

20 THE COURT: We can do it on the 24th and get as far as I can
21 go. I mean, I can - -

22 MS. CRAGGS: And I don't anticipate that the State is going to
23 be calling anybody. So, I think we would just have the three witnesses
24 for the defense.

25 THE COURT: All right. So, we'll start on the 24th be here at

1 10:30. I'm going to try and push my 10:15 as fast as possible but I do
2 have a long calendar, but if I have to call witnesses in and out; in and out
3 we're going to have to do that.

4 MR. LASHER: Yeah.

5 MS. CRAGGS: Okay.

6 THE COURT: Okay. This gentleman deserves his hearing.
7 He's going to get this Evidentiary hearing.

8 THE CLERK: Continuance to November 24th at 10:30 a.m.

9 MR. LASHER: And can I request right now that the link be
10 sent to me so I can send it to the witnesses. I'm not sure what happened
11 - -

12 THE COURT: Absolutely.

13 MR. LASHER: - - this go around.

14 THE COURT: She'll send it to you. Yeah and just check with
15 those individuals to see what happened.

16 MS. CRAGGS: And I'll have it too if you need it.

17 THE COURT: A lot of people don't have Blue Jeans
18 permission or whatever it is. I know I had to get it loaded especially three
19 or four IT people had to come load it on the IPAD thing.

20 MR. LASHER: Okay. So it could be that's - -

21 THE COURT: Messed up my solitaire game that's all I know.

22 THE DEFENDANT: Excuse me Your Honor?

23 THE COURT: Yes sir.

24 THE DEFENDANT: Yes sir, I would like to ask and you know I
25 see my family there, my mother and I love them but in this Evidentiary

1 hearing I've had no contact hardly it's been, you know, we've been on
2 lockdown in NDOC there's another outbreak out there. So, it's really
3 hard to get on the phone to call my attorney so I'm kind of blind here of
4 what we're trying to do or put on.

5 THE COURT: Officers, officers can we put Mr. Dorado in
6 contact with his counsel right now?

7 THE COURT OFFICER: Yes, Your Honor, he can call.

8 THE COURT: All right.

9 THE RECORDER: It's 5651.

10 MR. LASHER: Okay I can step in the hallway.

11 THE COURT: He can - - Mr. Dorado what I'll do, I'll arrange so
12 your attorney can speak with you out of chambers.

13 THE DEFENDANT: Okay.

14 THE COURT: Okay because in here you won't get decent
15 reception.

16 THE DEFENDANT: Okay and another question, Your Honor
17 and this Evidentiary hearing is on November 24th you said, correct?

18 THE COURT: That when we're going to continue and get as
19 many witnesses called as possible.

20 THE DEFENDANT: So at that hearing the actual prejudice we
21 would have to show that to the Court of - - the lack of collecting of video
22 surveillance from the night clubs - -

23 THE COURT: Your - - Mr. Dorado you're asking me legal
24 questions your attorney is going to talk to you about, okay.

25 THE DEFENDANT: Oh I see.

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THE COURT: You don't want to ask me legal questions.

MR. LASHER: Yeah.

THE DEFENDANT: I see, I see.

THE COURT: Okay, thank you.

THE DEFENDANT: I'm just trying - - all right okay thank you.

THE COURT: He'll contact you.

MR. LASHER: Okay.

[Hearing concluded at 11:36 a.m.]

* * * * *

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



Melissa Delgado-Murphy
Court Recorder/Transcriber

Albert B. Hanson

RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

VS.

RAMON MURIL DORADO,
Defendant.

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

BEFORE THE HONORABLE DAVID M. JONES, DISTRICT COURT JUDGE
THURSDAY, DECEMBER 17, 2020

**RECORDER'S TRANSCRIPT OF HEARING:
EVIDENTIARY HEARING**

APPEARANCES: [All appearances via videoconference]

For the State: GENEVIEVE C. CRAGGS, ESQ.
Chief Deputy District Attorney

For the Defendant: MICHAEL D. LASHER, ESQ.

RECORDED BY: MELISSA DELGADO-MURPHY, COURT RECORDER

1 Las Vegas, Nevada, Thursday, December 17, 2020

2
3 [Case called at 11:31 a.m.]

4 THE COURT: 21, C-17-323098, the State of Nevada versus
5 Ramon Dorado.

6 MR. LASHER: Good morning, Your Honor, Michael Lasher on
7 behalf of Mr. Dorado.

8 THE COURT: Good morning.

9 MS. CRAGGS: Genevieve Craggs for the State, Your Honor.

10 [Colloquy between the Court and unrelated party]

11 THE COURT: Counsel, if you just give me two minutes. I
12 have a gentleman who is here on a thing and we'll just go right into
13 Dorado. Just give me two seconds.

14 [Case trailed at 11:31 a.m.]

15 [Case recalled at 11:33 a.m.]

16 THE COURT: Calling back page 21, C-17-323098, the State
17 of Nevada versus Ramon Dorado. Counsel, thank you for appearance.
18 Thank you for your waiting patiently. Counsel for the plaintiff, closing
19 arguments.

20 MR. LASHER: Thank you, Your Honor. I ask in this case that
21 you dismiss the charges, because fundamental notions of justice would
22 be offended if not. In this case all of the exculpatory evidence was
23 destroyed and only the inculpatory evidence was retained. Just eight
24 months after April 24th, 1999 the State destroyed critical physical
25 evidence and police reports prejudicing Mr. Dorado's ability to defend

1 himself. The only evidence that was retained was the DNA inculpatng
2 him. Even though that had been ordered to be destroyed but it was not.

3 In this case as well, Metro repeatedly violated its own policy
4 manual. The record retention schedule which was subpoenaed to this
5 court indicated that all physical evidence should have been retained until
6 the statute of limitations has expired. Here it was destroyed within eight
7 months. The State has argued that there is no statute of limitations in
8 sexual assault cases. And regardless of whatever record retention
9 schedule is used, eight months is not it on a case that results in basically
10 a life sentence.

11 As well Metro violated other policies, their own policy to
12 request forensic testing during the pendency of the investigation. Peer
13 testing wasn't ordered for 16 years after the events. Metro violated the
14 directive to visit the crime scene and gather evidence, including
15 fingerprints. In the end everything that Dorado could have used to
16 defend himself was destroyed while only the incriminating evidence was
17 retained. I think the totality of these circumstances indicate bad faith.

18 I realize this Court ruled that *Wyman* controls. I just want to
19 say for the record I reassert this is not the correct standard. The Nevada
20 Supreme Court would have not called for additional briefing on this point
21 unless they had doubts. And under a balancing test I think Dorado is
22 well can show a due process violation because the prejudice is greater
23 than any potential reason for the delay.

24 I want to just briefly expand on a couple of these points. And I
25 want to outline the prejudice to Mr. Dorado. So first the tape of the 911

1 call which is often more accurate than a later statement, that was
2 destroyed. Multiple police reports, including those of Officer Williams
3 and Detective Redden who interviewed the complaining witness. Those
4 were destroyed. They might have impeached her trial testimony,
5 including that she took the officers to the apartment at 2101 Sunrise.
6 That is not mentioned in any police report, including that of a detective at
7 the time, Hnatuik. Yet she testified to that. I think that the other police
8 reports would have impeached that.

9 Ms. Lehr's clothing would have impeached her statement that
10 Dorado ripped her garments and that she stabbed him causing him to
11 bleed. The audio tape of the voluntary statement was destroyed. The
12 transcript has many gaps and I want to talk about a little bit more in a
13 second. Also Ms. Adams, deceased since the time of the case. And her
14 report indicated that Ms. Lehr reported there was no digital penetration.
15 Yet, Ms. Lehr testified to that and it supported one count of sexual
16 assault.

17 I want to point out that at the hearing on Tuesday, the State
18 successfully objected on foundation grounds to that report being
19 entered. That only proves Dorado's point about prejudice. Because that
20 report is not admissible at trial once Adams died. And that showed --
21 that report clearly indicates there was no digital penetration.

22 THE COURT: Counsel, are you telling this Court that that
23 record couldn't come in by alternative records just because the author is
24 deceased? A business record could not come in, a health business
25 record could not come in because the author is deceased?

1 MR. LASHER: I tried to introduce at the hearing, the State
2 objected and you sustained the objection.

3 THE COURT: Does that mean it could have been introduced
4 at trial, counsel? That was the question.

5 MR. LASHER: I think they would have been successful again
6 in any objections.

7 THE COURT: Custodian of record --

8 MR. LASHER: I attempted to lay a record.

9 THE COURT: -- deposition would have solved that really
10 quick. Go ahead, next.

11 MR. LASHER: So I want to argue that bad faith can be shown
12 in this case. Metro repeatedly violated its own protocols. Again, the
13 record retention schedule, this should have been retained far beyond the
14 eight months. Metro manual section 4/105 - tells -- requires following
15 the record retention schedule any schedule is going to require retention
16 more than eight months. Given the Metro closed the case, ordered the
17 destruction of the DNA, which was magically retained while all the
18 exculpatory evidence was destroyed indicates bad faith.

19 I want to refer this Court back to what occurred at trial on June
20 20th, 2019 at page 12. Defense counsel at the time called as an expert
21 witness a Robert Bub. He outlined the other ways in which Metro did not
22 follow its own policy, specifically Metro manual 5/209.03 it says forensic
23 lab requests are to be submitted in a timely manner concurrent with the
24 investigation. Again, 16 years passed. The DNA should have been
25 tested back then.

1 Bub's report which was submitted to this court during an in
2 limine hearing on June 18th, 2019, at page 170, lists three additional
3 sections where Metro violated their own policies, 4/102.03 performance
4 of duty requires that there should be no delay and immediate action
5 should be taken to investigate; 5/206.34, quote: duty to use all means
6 necessary to ensure all investigations are thorough and complete. And
7 finally 4/102.05 protection of the crime scene, quote: Members assigned
8 to a crime scene shall immediately take steps to detain witnesses and
9 keep the area or premises secure from intrusion.

10 Again, Metro did nothing to interview any of the witnesses Ms.
11 Lehr identified, didn't interview Maria Perez, the young man at the
12 apartment, the two women that Ms. Lehr identified. Metro didn't go to
13 the crime scene to take fingerprints or physical evidence and the case
14 monitoring form that was Exhibit C that was admitted, that had specific
15 areas that were not checked that should have been completed. And
16 specifically area of crime neighborhood canvased, crime scene
17 searched and visited, fingerprints search conducted, field investigation
18 files. Again, Metro did not comply with their own policies. I think this
19 indicates bad faith.

20 Finally indicative of the bad faith is at the bail hearing on June
21 15th, 2017 at page 5, Judge Scotti asked about the delay and the State
22 candidly admitted old sexual assault cases were not investigated well.
23 Nonetheless, the State charged, despite all the destruction of the
24 evidence, I think that -- and the case was closed by Metro. The case
25 was closed and yet it was still charged. I think that should be factored

1 in.

2 In the alternative, I think on a balancing test there should be
3 dismissal. Again, very little was done by law enforcement to apprehend
4 the suspect. They knew his name was Ray. They knew he likely lived
5 at 2101 Sunrise. They didn't physically go to the Silver Saddle or
6 interview anybody. So, I think in these circumstances there is a due
7 process violation. All of the exculpatory evidence was destroyed and
8 only the inculpatory evidence was retained.

9 The transcript of the audio tape has massive gaps. One really
10 important one is the transcript says quote: I mean, that's when he
11 started unbuckling his pants just threw my legs up and that's when I
12 blacked out. And I remember -- and the transcript goes blank. So the
13 tape would have been critical in testing Ms. Lehr's memory.

14 And, you know, one last point. I think that in this case it's
15 striking that at trial not one of the investigating officers testified for the
16 State. We brought them in here for the hearing. I attempted to bring in
17 Detective Redden but he was evading. And so, you know, that natural
18 question is what was being hidden? Why didn't the investigating officers
19 testify here? And I think that's another fact to be considered. And with
20 that, Your Honor, I ask that you dismiss the charges.

21 THE COURT: Thank you, counsel. State.

22 MS. CRAGGS: Thank you, Your Honor. And as defense
23 counsel discussed, Your Honor did make a determination about what the
24 appropriate test was before we began this hearing. And Your Honor
25 determined that the test under *Wyman* was the correct test. And the first

1 prong in that test is that Mr. Dorado would have had to suffer actual non-
2 speculative prejudice from the delay of the filing of the Indictment.

3 And I would submit to the Court that the thread that runs
4 through defense counsel's argument is all based on speculation. He
5 makes mention of multiple pieces of evidence, such as the physical
6 evidence that was destroyed or released to the victim. He talks about
7 witnesses that were potentially not interviewed. But he cannot show
8 what those witnesses would have said. He cannot show what that
9 evidence would have showed. He is speculating that all of this evidence
10 would have been exculpatory, when I would submit to the Court, that the
11 State would have loved to have that evidence as well. We believe that
12 the physical evidence would have corroborated what the victim said that
13 her pantyhose were ripped, that the young man who was at the
14 apartment would have said that he heard a woman struggling and that
15 she looked upset when she left.

16 So the test is not what defense hopes that this evidence would
17 have shown. It's that they're able to show non-speculative actual
18 prejudice. And they have not been able to do that with a single piece of
19 evidence.

20 I would also like to argue, Your Honor, that I mean, Mr.
21 Dorado's sperm was found in the victim's sexual assault kit 20 years
22 later. We know that the victim testified and told the jury exactly what
23 happened and that his sperm was found in the kit that was taken on the
24 night of the sexual assault. He has not been able to put forth any piece
25 of evidence that would change the outcome of his case based on those

1 facts.

2 And he did make mention of Robert Bub, the defendant's
3 expert. And if Your Honor recalls, you made a ruling limiting what Mr.
4 Bub was able to testify to in the trial, because much of his report was
5 speculative. And that's what we argued to you and Your Honor, for the
6 most part, agreed. He was doing the same thing, saying X piece of
7 evidence may have shown, you know, Y thing, but had no basis to
8 actually believe that to be the case.

9 So, I would say that based on the first prong of the *Wyman*
10 test the defense has not been able to meet their burden. The second
11 prong of the test is bad faith, which defense counsel spent more time on.
12 I would point out to the Court that there was no record retention policy
13 entered into evidence that has anything to do with 1999. There was no
14 record retention policy I believe actually entered at the hearing, though I
15 did get a copy of that from Metro and defense counsel. But that talks
16 about Metro's policies now. It doesn't discuss any policies from 1999
17 that were violated. And my recollection of Mr. Bub's report is that that
18 was similar, that there's no actual policy that has been shown to have
19 been violated. And certainly no evidence put forth to show that there
20 was bad faith.

21 In this case the police knew that that there was a man named
22 Ray or Raymond who was at the Silver Saddle, worked at the Silver
23 Saddle. My recollection is that they interviewed the owner of the Silver
24 Saddle and got all the information that that individual had to try to find
25 him. They weren't able to get any further information from what they

1 had.

2 My recollection from the trial is also that Maria Perez testified.
3 And she testified that she saw him running. So police were not able to
4 find him at the Silver Saddle. You know, that's another example of
5 defense talking about a witness that was not interview by police. But,
6 Your Honor, she did testify at trial. So we know exactly what she would
7 have said and the jury did consider it.

8 You didn't hear any testimony from witnesses talking about
9 anything that would show bad faith or the State attempting to gain a
10 tactical advantage by not filing this case for many years. You heard
11 from a patrol officer who did exactly what she was supposed to do. You
12 heard from a detective who took over cases, who took over cases from
13 another detective and the sergeant said all leads exhausted were -- so
14 he signed off. And you heard from the detective who was there that day
15 and wrote a thorough report.

16 I do not recall testimony about any officer's reports being
17 destroyed or lost. I do agree that the audio of the statement, we were
18 not able to find that but we did have the transcript and that the 911 call
19 was not retained. Which even now, Your Honor, is destroyed after five
20 years. So, Your Honor, I don't believe that there's been any evidence
21 put forth to show bad faith on the part of the police. They had good
22 reason to close the case. They didn't have any further leads.

23 And, you know, luckily the sexual assault kit was retained with
24 thousands of others in a warehouse that we now are able to test.
25 Defense counsel said over and over again that it should have been

1 tested at the time. But the detective testified at trial that back in 1999
2 there simply weren't the types of capabilities that we have now to test
3 sexual assault kits. Additionally Mr. Dorado committed felonies after this
4 occurred which put his DNA in CODIS, which is why then we were able
5 to have a hit from the profile from her kit onto Mr. Dorado.

6 So, Your Honor, I think it's important to note that defense
7 counsel brings up a balancing test. That's not the appropriate test. He
8 has not been able to put forth any non-speculative evidence or any
9 evidence that shows bad faith on the part of the State and with that I
10 would submit it.

11 THE COURT: Rebuttal, counsel?

12 MR. LASHER: Yes, Your Honor, thank you. So in terms of
13 non-speculative prejudice and a discussion regarding Nurse Adams, that
14 report did not get introduced at trial. And so I think there was a reason
15 for it. That is -- that is not speculative. The report straight up says there
16 was no digital penetration. It flatly contradicts the complaining witness
17 and that was not introduced at trial.

18 This Court's ruling regarding Mr. Bub, I think is irrelevant. I
19 was just pointing out in his report that was submitted and the parts of his
20 testimony that the jury did hear where Metro did not follow its own policy.

21 Then regarding the record retention policy in 1999, I -- yes, I
22 subpoenaed that. The return is what we got. But I don't think anybody
23 can argue that a record retention policy would allow in a case that
24 potentially has a life sentence that evidence can be destroyed within
25 eight months. So, you know, I think that that's -- that's just clear. That's

1 just not how things should happen.

2 Number 4, regarding Mr. Perez and her testimony that the
3 person ran, the point of that is that police should have gone to the Silver
4 Saddle and done this investigation themselves, no a civilian witness who
5 would not have chased after them but law enforcement. So I think that's
6 something else.

7 THE COURT: But, counsel, --

8 MR. LASHER: So, --

9 THE COURT: Counsel, what's the tactical advantage to the
10 police not doing what you just said? What possible tactical advantage
11 does a DA get by what you're calling haphazard investigation by police?
12 What if any leverage or what type of upper hand did the DA get because
13 Metro, in your opinion, didn't do their job? Wouldn't it be just the
14 opposite? If Metro didn't do their job they didn't have a suspect they
15 didn't go to his apartment. because of course they didn't, you know,
16 follow-up a Ray and ask an apartment manager you got any Ray's living
17 here. But what advantage -- what tactical advantage did the DA get --
18 the State get from what you consider haphazard work?

19 MR. LASHER: Well we saw it here. The exculpatory
20 evidence was destroyed and the inculpatory evidence was retained.

21 THE COURT: So, the only --

22 MR. LASHER: I mean, it's the --

23 THE COURT: -- exculpatory evidence that I heard that you
24 have proof of is the medical documentation where there was not digital
25 penetration.

1 MR. LASHER: Well, and again, this is why I think the bad
2 faith test is too onerous because Ms. Craggs said there was no
3 testimony about bad faith. Of course nobody is going to testify to that.
4 Here though, you know, we've got arguments that the transcript if we
5 had the -- if we had the tape there would not be these blanks. I think
6 that's not speculative. And then other things we're in this catch 22
7 position to be able to prove this up. But I think we've shown a number of
8 things that are not speculative here.

9 THE DEFENDANT: Could I say something on regard to that
10 prejudice?

11 MR. LASHER: I would rather you not.

12 THE DEFENDANT: I know. And it's unorthodox things that
13 but they're asking for specific prejudice and I have -- you know, I know
14 the case. You know the case. I can make a couple of references of
15 what was not collected or investigated that prejudiced. Which was first
16 off, Candy's testimony she couldn't identify me that I was the actual
17 person. Number two, the clothing that was destroyed that Ms. Liar -- or
18 Ms. Lehr said that she had stabbed me with her pens of whatever would
19 have showed blood spots or anything and it would have served in my
20 defense the absence of blood spots. There was no mention of ripped
21 pantyhose until she went to trial or to the Grand Jury.

22 Another thing, the video surveillance that would have been
23 collected, if Hnatuick found it important enough to go back to the
24 apartment complex, he could have drove the .04 miles down to the night
25 club that same day and collected the video surveillance, interviewed the

1 security guards, the waitresses, the DJ, the bartenders. That would
2 have, you know, potentially helped me present witnesses in my defense,
3 which pursuant to the 18 years that passed by I have no connections.

4 THE COURT: Well, counsel, I'm going to interrupt your client
5 just because it's simple. Just because you didn't interview certain
6 individuals, I don't think -- because I remember the trial unlike a lot of
7 people, no one said that she did -- she left anything but voluntarily.
8 There was never any mention, even by the victim herself, that she didn't
9 go with Mr. Dorado voluntarily. So you could interview every single
10 person who went in the Silver Slipper [sic] that night and all you would
11 have gotten is the exact same testimony that you got from the victim
12 herself. I left with him voluntarily.

13 Okay. Great, where's your exculpatory evidence in that? He
14 and she left voluntarily. None of those parties, none of those people at
15 Silver Slipper -- there's no testimony whatsoever that they were in the
16 bedroom in regards to these two individuals. The only people who said
17 they were in the bedroom are these two individuals. That's it. So all the
18 --

19 THE DEFENDANT: But they couldn't --

20 THE COURT: -- witnesses in the world -- Mr. Dorado, all the
21 witnesses in the world aren't going to confirm or change anything that
22 was said a trial. She voluntarily said I left with him voluntarily, went with
23 him in his car voluntarily, went into the apartment voluntarily. That was
24 all said. Not a single --

25 THE DEFENDANT: They could have led to my --

1 THE COURT: -- witness in the world is going to change that.
2 Counsel, anything else on rebuttal?

3 THE DEFENDANT: I do not --

4 MR. LASHER: I don't have --

5 THE DEFENDANT: Your Honor, it could have led to my
6 location. They could have found me if they wanted to, but they didn't do
7 it.

8 MR. LASHER: The only thing, Your Honor, in rebuttal is
9 further is just that it's true nobody else was in the bedroom. But there
10 were other people in the apartment that, you know, would have been
11 very illuminating on the events that did happen.

12 THE COURT: There weren't other people. There was one
13 young man who was told to leave.

14 THE DEFENDANT: He was a other musician. He was
15 another musician. That's what he --

16 THE COURT: Anything else counsel?

17 MR. LASHER: I have --

18 THE COURT: I want to make sure we hear everything. '

19 MR. LASHER: I have nothing further.

20 THE COURT: Thank you, counsels. I'll have a minute order
21 to you by middle of next week. Thank you everyone.

22 Officers, thank you for your time.

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MS. CRAGGS: Thank you.

THE COURT: Thank you.

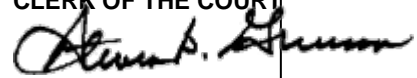
[Hearing concluded at 11:56 a.m.]

* * * * *

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



Jessica Kirkpatrick
Court Recorder/Transcriber



1 **RTRAN**

2
3
4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 RAMON MURIL DORADO

12 Defendant.

CASE#: C-17-323098-1

DEPT. XXIX

13
14 BEFORE THE HONORABLE DAVID M. JONES,
15 DISTRICT COURT JUDGE
16 TUESDAY, DECEMBER 15, 2020

17 ***RECORDER'S TRANSCRIPT OF HEARING RE:
EVIDENTIARY HEARING***

18
19 **APPEARANCES:**

20 For the Plaintiff:

GENEVIEVE CRAGGS, ESQ.
BRYAN S. SCHWARTZ, ESQ.
Chief Deputy District Attorney's

22 For the Defendant:

MICHAEL D. LASHER, ESQ.

24
25 RECORDED BY: MELISSA DELGADO, COURT RECORDER

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EXHIBIT INDEX

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1 **Las Vegas, Nevada; Tuesday, December 15, 2020**

2 [Case called at 11:09 a.m.]

3
4 MR. LASHER: Page 17.

5 THE COURT: Page 17. C-17-323098. The State of Nevada
6 versus Ramon Dorado. Officers, he's our last one. If you want to have
7 the other individuals clear out that's fine; it's up to you.

8 THE OFFICER: Yes, Judge.

9 THE COURT: Counsel, are we prepared to go forward?

10 MR. LASHER: Yes. Good morning, Your Honor. Michael
11 Lasher on behalf of Ramon Dorado who is present in custody.

12 THE COURT: All right. Counsel, do we --

13 MS. CRAGS: Genevieve Craggs and Bryan Schwartz for the
14 State, Your Honor.

15 THE COURT: Thank you. Do we -- counsel, do we have the
16 witnesses lined up and ready to go?

17 MR. LASHER: Yeah, it looks that way. I see at least two of
18 them and, possibly, there is the third, and I want to thank them again for
19 returning.

20 THE COURT: Okay. Counsel, call your next --

21 MR. LASHER: So when we were last --

22 THE COURT: -- witness.

23 MR LASHER: --we were -- when we were last here, we were
24 still examining Mr. Jensen; and, actually, the question was not answered
25 previously.

1 THE COURT: Mr. Jensen -- hold on, Counsel. Counsel, hold
2 on. Mr. Jensen you're still under oath. Go ahead and re-ask the
3 question, --

4 THE WITNESS: Yes, sir.

5 THE COURT: -- Counsel.

6 **BARRY JENSEN**

7 [having been called as a witness and being previously sworn, testified as
8 follows:]

9 **DIRECT EXAMINATION RESUMED**

10 By MR. LASHER:

11 Q And Barry Jensen, how should I refer to you as? Do I still
12 refer to you as a Detective Jensen?

13 A No. You can refer to me as Barry.

14 Q Or Mr. Jensen, shall I say, I'm gonna just dive right in here in
15 the name of alacrity. So Mr. Jensen, you had indicated you had worked
16 on this -- the case involving complaining witness, Michelle Lehr. What
17 tasks did you undertake on this case?

18 A The only thing I did was sign a case closure form.

19 Q Okay. So you did not do any investigative tasks?

20 A No.

21 Q Okay. I want to direct your attention to Exhibit B that I had
22 previously sent around to the parties. Do you have that in front of you?

23 A What are you calling Exhibit B?

24 Q So that would be Nurse Adam's medical history and assault
25 information report.

1 A Yes. I have that.

2 Q Do you see that?

3 A Yes.

4 Q Great. And are you familiar with that report?

5 A I'm familiar with reports like this, yes.

6 Q Yeah. And you, presumably, would have looked at this report
7 prior to closing the case out?

8 A No. Not necessarily.

9 Q Well, then what are the circumstances under which you would
10 close a case out?

11 A When I would close a case out that I investigated, I would --
12 would make sure that all the investigative leads had been -- been
13 exhausted --

14 Q Yeah.

15 A -- or several other reasons; the witness quit -- quit
16 cooperating, whatever.

17 Q Yeah.

18 A This was not my case. This case was, I'm assuming, was
19 assigned to me after the original detective transferred out of the unit.
20 This could've been put in front of me by the sergeant who would've --
21 who would've examined the cases, and it was -- it may have been his
22 decision to close the case. And he just asked me to sign the case
23 closure form while he did everything else.

24 Q Okay. So normally --

25 A That's what I'm assuming.

1 Q Okay. So normally a sergeant wouldn't sign a case closure
2 form? Is that the inference to be drawn here?

3 A Well, sometimes they would, sometimes they wouldn't.

4 Q Oh, okay.

5 A And I don't recall a lot.

6 THE COURT: Counsel. Counsel.

7 THE WITNESS: I wasn't involved in this.

8 THE COURT: Counsel. Mr. Jensen. Counsel, it's obvious
9 here that -- and I don't want to belittle this Detective's work, but basically
10 he signed off on a sheet so it could be closed.

11 MR. LASHER: Okay.

12 THE COURT: He did absolutely no active investigation. He
13 did no follow-up. He basically closed it by his signature. Let's move on.

14 MR. LASHER: Okay. Okay.

15 BY MR. LASHER:

16 Q Okay. So going back to the medical history report, so you --
17 this looks like reports that you have viewed?

18 A Yes.

19 Q And are you familiar with Ms. Adams, Marian Adams, the
20 SANE nurse?

21 A Yes, I am.

22 Q And do you think this would represent a true, accurate and
23 complete reporting of her work?

24 MS. CRAGGS: And, Your Honor, I'm going to object to lack of
25 foundation and speculation at this point. He's already stated he's never

1 seen this document before.

2 THE COURT: Sustained.

3 BY MR. LASHER:

4 Q Okay. Well, let me ask this then. Let me refer you then to
5 Exhibit C that we were looking at previously. This includes the case
6 monitoring and closure form. Do you have that in front of you?

7 A Yes, I do.

8 Q Great. So looking at page within this Exhibit 3 -- Exhibit C, the
9 third page -- I'm sorry, the fourth page, this is regarding the sexual
10 assault kit. Do you see where it says dispose?

11 A Yes.

12 Q What would that mean to you?

13 A That would mean that in six months, that if there was no other
14 things going with this case, that that would be disposed of.

15 Q And how come the DNA was not disposed of in these
16 circumstances given the order by the sergeant?

17 A I have no idea. Maybe something happened within that six
18 months that they decided not to get rid of the sexual assault kit.

19 Q Would that be reflected, though, on the case monitoring form if
20 something had happened?

21 A No. And going back to my own experience, once I signed this
22 case monitoring form, I don't really look at the case ever again. So
23 you're not keeping this up to date. This is for a quick glance where
24 somebody can look at it.

25 Q And do you recall the evidence retention schedule in 1999?

1 A No, I do not.

2 Q Would you be surprised if Metro's evidence retention schedule
3 indicated that for cases in which an arrest was not made, evidence
4 should be retained as long as the statute of limitations runs?

5 A I have no idea.

6 MS. CRAGGS: Objection, Your Honor. Relevance and facts
7 not in evidence.

8 THE COURT: Officer, if you know.

9 THE WITNESS: I don't. I have no idea.

10 THE COURT: Next question.

11 BY MR. LASHER:

12 Q But would you be surprised? I can move on because the
13 evidence was -- or the policy was subpoenaed to the Court and so it's --
14 I can address that later. But that evidence -- the prosecutor was given
15 that material and it was also sent to the Court. So we can address that -
16 -

17 THE COURT: We can address that [indiscernible]; he has no
18 idea what the policy was back in 1999.

19 MR. LASHER: Okay.

20 BY MR. LASHER:

21 Q And what would be the purpose, though, for releasing physical
22 evidence while retaining the DNA?

23 A Releasing that was not my -- was not my doing. I had nothing
24 to do -- I'm telling you, I know absolutely nothing about this case.

25 Q Okay. But just in general from a law enforcement perspective,

1 why would physical evidence be released, but DNA be retained?

2 A I don't know. I guess it's up to the individual detective or the
3 person releasing the evidence.

4 Q Okay. But you can't think of any, off the top of your head, law
5 enforcement purpose for destroying some evidence but keeping others?

6 THE COURT: Counsel, there's nothing destroyed.

7 THE WITNESS: I don't know what --

8 THE COURT: Counsel, first of all. Counsel -- hold on.

9 There's nothing destroyed. She was giving back her personal items.

10 This rape kit stayed in the possession of them. Move on. This officer
11 knows nothing about this.

12 BY MR. LASHER:

13 Q Okay. In your experience then, what would be the purpose for
14 destroying police reports?

15 A I have -- again, I don't know -- I don't know why the reports
16 were destroyed. I'm not -- I've never worked records.

17 Q Okay. Well, were -- in 1999, when you were working, were
18 sexual assault cases being prosecuted?

19 A Yes.

20 Q Were DNA -- DNA test kits being processed in 1999?

21 A Yes.

22 Q Okay. Let me just check, but I think I have no further
23 questions right now. Yeah. No further questions of this witness.

24 THE COURT: State any additional cross?

25 MS. CRAGGS: No, Your Honor.

1 THE COURT: Thank you. Thank you, Mr. Jensen
2 MR. LASHER: Thank you, Mr. Jensen.
3 THE COURT: You may be excused.
4 THE WITNESS: Am I dismissed?
5 THE COURT: Yes, sir.
6 THE WITNESS: Thank you.
7 THE COURT: Thank you. Counsel, call your next witness.
8 MR. LASHER: I think there is a Virginia Griffin-Stanley on the
9 line. Ms. Stanley, if you're here, there's a mute button on the top center
10 to be unmuted.
11 THE WITNESS: Okay. I should be unmuted. Can you hear
12 me?
13 THE COURT: Yes, we can.
14 MR. LASHER: Yes, we certainly can. Thank you so much for
15 being here. I appreciate it.
16 THE COURT: Ma'am, if you'd raise your right hand my Clerk
17 will swear you in.
18 THE WITNESS: Sir, yes, sir.
19 **VIRGINIA GRIFFIN-STANLEY**
20 [Having been called as a witness and being first duly sworn testified as
21 follows:]
22 THE CLERK: Please state and spell your first and last name.
23 THE WITNESS: First name is [indiscernible audio distortion]
24 common spelling.
25 THE CLERK: Yes, please.

1 THE WITNESS: Last name is G-R-I-F-F-I-N, hyphen Stanley,
2 S-T-A-N-L-E-Y.

3 THE COURT: Thank you, ma'am. Counsel, your witness.

4 **DIRECT EXAMINATION**

5 BY MR. LASHER:

6 Q Thank you, Ms. Griffin-Stanley. Were you working on April
7 24th, 1999?

8 A Yes, I was.

9 Q And what was your name back then?

10 A Wait a minute. Let me see. I think it would've been under
11 [indiscernible audio distortion]

12 Q Yeah. Would Virginia Williams be correct? Can you still hear
13 us?

14 A Yes. I can still hear you.

15 Q Oh, okay. Would it have been Virginia Williams?

16 A Yes, sir.

17 Q Oh, great. Okay. And what capacity were you working?

18 A I was a police officer 1, in field training.

19 Q Okay. And would that mean you were a patrol officer?

20 A Yes, sir.

21 Q And what are the duties of a patrol officer, briefly?

22 A Basically to answer calls for service, take reports, maintain
23 logs during field training, and, you know, look for anything that I could --
24 that I could write up for citations.

25 Q Okay. And often do patrol officers write a report then of the

1 initial contact with the complaining witness?

2 A Yes.

3 Q And they'll take a statement, usually, of the complaining
4 witness?

5 A Yes, sir.

6 Q Preserving on scene evidence?

7 A Yes.

8 Q And interviewing witnesses; things like that?

9 A Yes, sir.

10 Q And did you work on the case at issue here with a complaining
11 witness of Michelle Lehr?

12 A Yes. To the reports that you've allowed me to view, it
13 appears I did.

14 Q Okay. And your partner was Officer Wiley, at the time?

15 A Yes, sir. She was my field training officer.

16 Q So directing your attention back to April 24th, 1999, how did
17 you first hear of this case?

18 A Basically, to the best of my recollection on that particular case,
19 we responded from downtown area command, per your report, to
20 southeast area command; and they, basically in those days, in 1998,
21 there were not a lot of female officers. So I'm just -- I just believe that
22 looking this over, that we were called to southeast area command
23 because we were female officers. And if there were --

24 Q Okay.

25 A -- things like that we would be able to visually look at her

1 injuries. It was a lot easier back then to do that.

2 Q Sure. It makes sense. So was the initial call through a 911
3 call?

4 A I am not certain, sir.

5 Q Okay. So you went to University Medical Center?

6 A Per the report, it does appear that I transported her, and
7 Officer Wiley was with me, yeah.

8 Q Okay. And would you or Officer Wiley have written a report of
9 your interactions?

10 A Yes. We would have.

11 Q Okay. And do you recall that you impound any evidence or
12 cause to be impounded any evidence?

13 A No, sir.

14 Q And what tasks did you undertake to investigate the case?

15 A Basically, we would retrieve different witness statements
16 which were then the victims.

17 Q Okay.

18 A We would have, in our report, described what happened; what
19 she was telling us what happened to her. We may have indicated where
20 her injuries may have been.

21 Q And did you go to the Silver Saddle Saloon?

22 A I'm sorry. Could you repeat that?

23 Q Sure. Did you go to the Silver Saddle Saloon?

24 A No, I did not.

25 Q Did you --

1 A That I can recall, I didn't go there.

2 Q Okay. Did you go to 2101 Sunrise where the events
3 occurred?

4 A No, sir. I don't believe I did.

5 Q And did you interview the people that Ms. Lehr had mentioned
6 in her statements?

7 A No, sir. I don't believe I did.

8 Q And do you recall efforts to find the accordion player named
9 Ray mentioned by Ms. Lehr?

10 A To the best of my recollection, no.

11 Q Do you know if Officer Wiley did any of these things?

12 A No. She was my field training officer, and she wouldn't have
13 gone -- she wouldn't have gone without me.

14 Q Okay. And directing your attention to Exhibit B that I
15 previously circulated, is that a document that looks familiar to you? This
16 is the Nurse Adams SANE report.

17 A I did -- I don't have it right in front of me. I'll bring it up. But
18 we wouldn't have actually been able to look at any kind of
19 documentation from the nurse.

20 Q Oh, okay.

21 A At that time.

22 Q Is that different now?

23 A Not to my knowledge. I've been retired for seven years, but at
24 the time as a patrol officer, I wouldn't have had that report in front of me.

25 Q Okay. And what was the protocol for evidence storage in

1 1999? If you --

2 A Well, as far as it goes, I really would not know the storage of
3 evidence. I would be over, basically, retrieving evidence and sealing
4 evidence and dropping it off at our usually -- our area command. And
5 from there Evidence would take hold of that.

6 Q Okay. So would you have known of the record retention
7 schedule back then? Like, how long things should be retained?

8 A No. As far as the physical evidence, as far as clothing and
9 things like that, I would not.

10 Q Yeah.

11 A As far as --

12 Q And --

13 A -- the DNA that you've mentioned, I believe it's -- once it's
14 uploaded, I think it's federally protected.

15 Q And when you say uploaded though, you know, directing your
16 attention to Exhibit C where, on page 4 it is, do you see that? This is the
17 disposition order of the sexual assault kit.

18 A Yeah. I wouldn't -- as far as it goes, I would not -- I'm sorry.
19 I'm looking for it. I'm not a techie. But --

20 Q No. It's okay.

21 A -- or because I wouldn't have -- right. I wouldn't have anything
22 to do with -- of keeping the evidence, releasing the evidence, seeing that
23 it's destroyed; I would not be in that chain of command.

24 Q Okay. But if it indicated that it was to be disposed of within six
25 months, that would indicate that's what should've happened?

1 MS. CRAGGS: Your Honor, I would object.

2 THE WITNESS: Not necessarily.

3 THE COURT: Yeah. Hold on. Hold on.

4 MS. CRAGGS: She's not familiar with this.

5 THE COURT: Sustained. This officer already said at that
6 time she had no idea what the retention policy was, counselor.

7 THE WITNESS: Correct.

8 MR. LASHER: Thank you.

9 BY MR. LASHER:

10 Q And do you have an idea of why you were not called to testify
11 at this trial, given that you were the patrol officer who interacted with Ms.
12 Lehr?

13 MS. CRAGGS: Your Honor, I would just object to relevance
14 and speculation.

15 MR. LASHER: Well, Your Honor, --

16 THE COURT: Hold on. Hold on. Counsel, I get to answer the
17 objection. Not you. Officer, do you have any recollection of this case
18 whatsoever?

19 THE WITNESS: No, sir. The only recollection I have is that
20 while I was in field training, I did go to Southeast Area Command. I do
21 not recall the victim. I do not recall the circumstances behind a sexual
22 assault. I don't recall anything but that one particular thing; I had to go
23 there for a female.

24 THE COURT: Okay. And during your --

25 THE WITNESS: That was it.

1 THE COURT: And during your 20 --

2 THE WITNESS: To check her over.

3 THE COURT: -- and during your 20 years wearing the badge
4 did you ever have any other follow up conversations in regards to this
5 case?

6 THE WITNESS: Probably about two years ago with the
7 district attorney. She called me to her office. I looked over the report. I
8 looked at the victim's picture, and I had no recollection of the particulars
9 of that case.

10 THE COURT: Okay. Thank you. Counsel, next question.

11 THE WITNESS: Thank you.

12 BY MR. LASHER:

13 Q And ma'am, were sexual assault cases being prosecuted in
14 1999?

15 A Yes, sir.

16 Q Okay. I have nothing further.

17 THE COURT: Cross?

18 MS. CRAGGS: Just briefly, Your Honor. Thank you.

19 **CROSS-EXAMINATION**

20 BY MS. CRAGGS:

21 Q Is it fair to say that as a patrol officer, your duties would've
22 been confined to what occurred on that day when you were dispatched?

23 A Yes.

24 Q So you wouldn't have been responsible for any sort of
25 investigative follow-ups such as going to the scene, interviewing

1 witnesses, anything beyond that day, unless you were assigned by the
2 detective on that case?

3 A Correct.

4 Q And to your recollection, none of that occurred? You weren't
5 assigned anything after this initial report to UMC?

6 A No, ma'am. It was taken over by the detective assigned.

7 Q Thank you. Nothing further.

8 THE COURT: Redirect, if any, Counsel.

9 MR. LASHER: There's nothing further, Your Honor.

10 THE COURT: Thank you, ma'am. You may be excused.
11 Counsel, call your next witness.

12 MR. LASHER: Okay. And finally it's Michael Hnatuick.

13 THE WITNESS: Yes, sir.

14 MR. LASHER: Thank you for coming again, sir. And please --

15 THE COURT: Counsel, hold on.

16 MR. LASHER: -- tell me if I'm --

17 THE COURT: Let me swear him in first.

18 MR. LASHER: Yeah.

19 THE COURT: Go ahead.

20 **MIKE HNATUICK**

21 [having been called as a witness and being first duly sworn testified as
22 follows:]

23 THE CLERK: Please state and spell your first and last name.

24 THE WITNESS: Mike Hnatnick. First name is M-I-K-E. Last
25 name is H-N-A-T-U-I-C-K.

1 THE COURT: Counsel, your witness.

2 **DIRECT EXAMINATION**

3 BY MR. LASHER:

4 Q Great. Thanks. And, again, your title sir; should I refer to you
5 as Mr. Hnatuick?

6 A That's fine. Or, Mike. Either one.

7 Q Okay. Were you working --

8 A I've been called worse. Yeah.

9 Q That makes two of us. Were you working on April 24th, 1999?

10 A I was.

11 Q And in what capacity?

12 A I was a general assignment detective with the Las Vegas
13 Metropolitan Police Department.

14 Q And did you receive a call from an Officer Wiley at Southeast
15 Area Command at approximately 13:45 hours?

16 A I don't remember if it was Officer Wiley specifically; but yes, I
17 did receive a call in reference to a sexual assault.

18 Q Okay. And this was concerning a Ms. Michelle Lehr?

19 A Yes.

20 Q And how did the case become known to law enforcement?

21 A My recollection is that Mrs. Lehr reported this to Las Vegas
22 Metropolitan Police Department, and once the detectives had done their
23 initial interview or speaking with her, they called for detectives.

24 Q And was there -- was it reported via a 911 call?

25 A I don't recall.

1 Q Okay. And as the initial patrol officers, Officer Wiley and/or
2 Williams would've created a report of their contact?

3 A Yes. They should've completed a crime report.

4 Q Okay. And what did you do in response to Officer Wiley's call
5 to you?

6 A I -- after, though, of course, reviewing my reports recently, I
7 instructed them to transport her to University Medical Center where she
8 could be interviewed and examined by the SANE nurse.

9 Q Okay. And you tape recorded your interview?

10 A I did. I responded to the hospital as well, and I conducted an
11 interview with her, yes.

12 Q And so what did you do with the tape in this case?

13 A The tape would've been impounded.

14 Q Okay.

15 A It may -- now, it could've been impounded or it could've been
16 turned over to the case detective and kept in the file.

17 Q Mm-hmm. And the case detective here was a Mr. -- a
18 Detective Reddon?

19 A I believe that -- I only know that from looking at the case
20 report.

21 Q Okay.

22 A I don't have any direct recollection of that.

23 Q Okay. And what tasks did you do to investigate this case?

24 A So the general assignment detective, or the General
25 Assignment Unit at that time, we were a group of detectives that worked

1 in the field with the patrol officers. We responded to felony type cases:
2 Homicide, suicides, robberies, sexual assaults. The idea was to
3 respond with the patrol officers initially, secure the scene so that
4 evidence could be preserved, identify witnesses, victims, even suspects
5 potentially, interview them, document everything so that the case could
6 be turned over to detectives that handled the actual cases.

7 On this particular day, I responded to the hospital. I met with
8 the victim. I conducted an interview. The SANE nurse, Marian Adams,
9 would've conducted the sexual assault exam. I impounded the victim's
10 clothing, and I believe, at one point, we even went back to the apartment
11 complex to try to identify the apartment, but she could not. At that point,
12 my work was pretty much done so it would've been turned over to the
13 case detective the following day.

14 Q And where is it documented that you went to the apartment
15 complex?

16 A I want to say that we -- I put it in the officer's report that I
17 completed.

18 Q This is a report that you had done? Or this would've been a
19 report somebody else had done?

20 A No. The report entitled Officer's Report was completed by me.

21 Q Okay. I -- if you're able to point that out that would be helpful.

22 A Okay. Let me take a look for a second.

23 Q But I'm also mindful of -- yeah. I'm also mindful of our time, as
24 well.

25 THE COURT: I believe I have it as Exhibit 3, Counsel, to the

1 State's response to your bench memo on the legal standard.

2 MR. LASHER: Yeah. And it was my Exhibit A.

3 THE COURT: Okay.

4 MR. LASHER: But -- that I had sent to the Court previously.

5 THE COURT: Okay. I've got it. I've got both copies of it now.

6 MR. LASHER: Okay.

7 MR. SCHWARTZ: Your Honor, if I could jump in. This is
8 Bryan Schwartz for the State. If -- do -- is there a list that you have so
9 far of what exhibits have been entered into evidence? Or -- just want to
10 make sure that we're -- we have the right ones entered 'cause some, I
11 don't think, have been entered.

12 THE COURT: My Clerk is way ahead of us. Exhibit C was
13 offered at 12/8/20. There was no objection. It was admitted on 12/8.
14 So far that's the only documents admitted as evidence at this time.

15 MR. SCHWARTZ: Thank you, Your Honor.

16 BY MR LASHER:

17 Q Yes. All right. Yeah. I can lay a record. These -- I had sent
18 in for identification so let me lay that record then. So what I'm calling
19 Exhibit A, Mr. Hnatuick, is this your officer's report?

20 A Yes. The report entitled Officer's Report is mine.

21 Q Okay. And it's a true, accurate, and complete representation?

22 A I believe so.

23 Q I would move to admit.

24 THE COURT: Exhibit A. Any objections, counsel?

25 MR. SCHWARTZ: No, Your Honor. For the record though,

1 my Exhibit A also has an attached, like, evidence property report. So is
2 that -- Mike, are you also offering that at this time?

3 MR. LASHER: Yes. I would like to offer everything within
4 that.

5 THE COURT: As part of Exhibit A --

6 MR. SCHWARTZ: I --

7 THE COURT: -- as part of Exhibit A, there's eight pages of
8 typed report from the officer. Then there is a sexual assault property
9 report which was attached to it, not numbered. That would be the ninth
10 page. We're all in agreement that that entire exhibit, Exhibit A, all nine
11 pages, is hereby admitted?

12 MR. SCHWARTZ: Yes, Your Honor.

13 THE COURT: Exhibit A all nine pages including the property
14 report is hereby admitted. Next question, Counsel.

15 **[EXHIBIT A ADMITTED]**

16 BY MR. LASHER:

17 Q And while we were establishing that, Mr. Hnatuick, do you see
18 where it's indicated that you traveled to 2101 Sunrise?

19 A I'm looking over the report. I don't see that listed so that may
20 not be correct. We, you know, It's been 21 years, so.

21 Q Yeah. Okay. Fair enough. So directing your attention to what
22 I've called Exhibit B, Nurse Adams' report. Are you familiar with that
23 report?

24 A I'm familiar with these types of reports. I have seen this report
25 recently as a review of the documents, yes.

1 Q And would that've been prepared in the normal course of
2 investigation?

3 A By the SANE nurse, yes.

4 Q And it was made near -- at or near the events in question?

5 A I believe so. It's dated 4/24/99.

6 Q Yeah. And that would accurately reflect the findings of Nurse
7 Adams?

8 A In part. I don't know if there's any other paperwork that would
9 accompany this. Usually these were sent to the case detectives.

10 MR. LASHER: I would move to admit what I'm calling Exhibit
11 B for identification.

12 THE COURT: Any objection, State?

13 MR. SCHWARTZ: Your Honor, I do have an objection to this
14 one. This -- the foundation is entirely speculative. He -- this detective
15 saw this in a review of the paperwork for this hearing. He can't testify
16 what the nurse -- the procedure and protocol for the nurse when creating
17 this. I think it's just -- it's insufficient foundation.

18 THE COURT: Detective, would it have it been part of your
19 report at that time period? This report?

20 THE WITNESS: I would not have -- I don't recall ever adding
21 this particular information from this report in any of my sexual assault
22 cases. It's my recollection that these reports would've went directly to
23 the case detectives.

24 THE COURT: Okay. Objection sustained. Exhibit B is not in
25 at this time.

1 BY MR. LASHER:

2 Q So in general what was the protocol for evidence storage in
3 1999?

4 A As pertaining to what?

5 Q Let's say physical evidence like clothing items and the tape of
6 your interview?

7 A Sorry. It's a pretty broad question sir.

8 THE COURT: Break it --

9 MR. HNATUICK: Are you referring to --

10 THE COURT: -- break it down, Officer. Officer, break it down
11 with physical evidence such as clothing of a victim in regards to an
12 alleged sexual assault case. What would the normal process be that
13 you would follow that -- for your recollection back in '99 in regards to
14 personal property such as clothing of a victim?

15 THE WITNESS: Well, for sexual assault victims, we would
16 always impound the clothing.

17 THE COURT: Okay.

18 THE WITNESS: As far as retention times for that by the case
19 detectives, I would have no recollection of what that would be.

20 THE COURT: Okay.

21 BY MR. LASHER:

22 Q And are you familiar with the evidence retention schedule that
23 is mandated in the Metro policy manual?

24 A I would not remember that, no.

25 Q But in general there are schedules for retention of evidence.

1 Is that correct?

2 A To be honest, I don't even recall that.

3 Q Okay. And are you familiar with Metro manual section 4-
4 105.112 which refers to a record retention schedule?

5 MR. SCHWARTZ: Your Honor, --

6 THE WITNESS: To be honest, I have no recollection goin
7 back this far [indiscernible audio distortion]

8 MR. SCHWARTZ: -- I'm going to log an objection at this point.

9 THE COURT: Hold on Officer. Hold on a second. Mr.
10 Schwartz, your objection.

11 MR. SCHWARTZ: I'm just going to object, because I believe
12 the Metro policy that we ended up providing the defense is actually -- it's
13 the current one. They don't have the Metro retention policy from the
14 origination of this case. So any of these rules from the policy that's
15 being quoted, could possibly be different in 1999. So I'm just going to
16 object to referring to these policies as if they were the policies from when
17 this officer investigated this case.

18 THE COURT: Okay. Counsel --

19 MR. LASHER: My question is about --

20 THE COURT: -- counsel, which policy is this?

21 MR. LASHER: I'm asking about a policy within Metro manual.
22 So not what was provided by the prosecutor, but in the Metro manual
23 itself, 4/105 --

24 THE COURT: What date? Counselor, what date is that
25 manual published?

1 THE LASHER: I am not certain the date of the publication of
2 that manual, but I'm thinking that numbering -- the numbering is the
3 same, and the general language is the same. It just says there is a
4 retention policy.

5 THE COURT: Officer, were you aware of or what the
6 retention policy was for SANE kits back in 1999?

7 THE WITNESS: I am not.

8 THE COURT: Okay. Are you aware of any changes during
9 your career with Metro in regards to SANE kits and their retention?

10 THE WITNESS: I am not. I was never a case detective with
11 the sexual assault unit.

12 THE COURT: Next question. Sustained. Move on.

13 BY MR. LASHER:

14 Q Okay. So directing your attention to Exhibit C, do you see
15 where it indicates that the items of clothing were released?

16 A What are you -- where is Exhibit C?

17 Q So that would've been the --

18 THE COURT: There's a disposition --

19 MR. LASHER: -- just wondering, where's the form.

20 THE COURT: -- order on the second page of Exhibit C --

21 THE WITNESS: Okay.

22 THE COURT: -- where it basically says that clothing was
23 released on 1/6 of 2000.

24 THE WITNESS: Yes. I see that now.

25 ///

1 BY MR. LASHER:

2 Q Okay. And so what does that indicate to you?

3 A That items of clothing were released in this case.

4 Q And at the next page where -- I'm sorry. Two pages beyond,
5 where it indicates the sexual assault kit, where it says disposed, do you
6 see that?

7 A I do.

8 Q So what would that indicate to you?

9 A That this piece of evidence was to be disposed of in six
10 months from the date of this report.

11 Q Okay. And that didn't happen in this case. Why would that
12 be?

13 A I have no idea.

14 Q And do you know why you were not called to testify in this
15 case at trial.

16 A I do not. Like the officer, I do remember, maybe
17 approximately, two years ago speaking to the DA about this case, and
18 then, until recently, that's the last I heard of it.

19 MR. LASHER: I have no further questions.

20 THE COURT: Cross?

21 MR. SCHWARTZ: Thank you, Your Honor.

22 **CROSS-EXAMINATION**

23 BY MR. SCHWARTZ:

24 Q Okay, Mike, just a few follow-up questions about your
25 responsibilities in this case. I know you mentioned that --

1 A Sure.

2 Q -- your general responsibility was to, kind of, handle it that day
3 with the patrol officers; you were the detective that would take over that
4 day. Is that fair to say?

5 A That is correct.

6 Q After you completed, let's say, your shift that day and your
7 work on the case that day, what happened with the assignment of the
8 case?

9 A It would've been assigned to a detective in the sexual assault
10 detail for follow-up. And to my recollection, that's the last time I heard of
11 this case.

12 Q So once the case is assigned out to a sexual assault
13 detective, would you have any responsibilities with the case?

14 A Normally, no. There may be a rare occasion where a
15 detective from another unit might ask for our assistance. But in this
16 particular case, I don't recall that ever being the case.

17 Q Okay. So just -- so I -- make sure I understand what you did,
18 you responded to UMC, took a taped statement of Michelle Lehr, the
19 victim. Correct?

20 A Correct.

21 Q And then you received her clothing from a Maria Perez and
22 impounded those clothes?

23 A Correct. At UMC.

24 Q And as far as your recollection -- I know we -- we, kind of,
25 went through the report that you wrote out -- the officer's report, but it

1 sounded like your independent recollection was that you remember
2 going to some apartments on Sunrise. Is that fair to say?

3 A It is.

4 Q And your recollection was -- and again, I'm just, kind of,
5 referring to your original testimony today. But your recollection was that
6 you went there to try to locate the scene of the sexual assault. Fair?

7 A Yes.

8 Q But that Ms. Lehr was unable to give you the specific
9 apartment number that it -- that took -- where the assault took place?

10 A Correct.

11 Q And at the time, obviously, you had already interviewed her so
12 the name that you had for the suspect was simply, Ray. Right?

13 A Yes.

14 Q Okay. So if you were to do any sort of records check of the
15 apartments you wouldn't have had this individual's full name to do that.
16 True?

17 A That is correct. Plus, also, it's my recollection that this
18 apartment did not belong to Ray. That Ray and Michelle had stopped by
19 a friend's apartment. So even if we have Ray's full name, we
20 probably would not have been able to identify the apartment.

21 Q Okay. Perfect. Thank you. Some other -- some other follow-
22 up investigation that I just want to make sure was not your responsibility,
23 because it probably would've been, at this time, passed off to the
24 assigned sexual assault detectives, but any follow-up interviews with
25 witnesses from that night or investigation of the Silver Saddle. Is it fair to

1 say that that would've been something that the sexual assault detective
2 himself would've done? Or herself --

3 A Yes.

4 Q -- would've done?

5 A Yes.

6 Q And it appears from some of the case notes that a detective
7 actually contacted the victim a few days later and that would've been
8 part of the typical sexual assault detectives follow -up.

9 MR. LASHER: Objection. Speculation. Foundation.

10 THE COURT: Sustained.

11 MR. SCHWARTZ: Well, and, Your Honor, I can just briefly
12 respond. We're talking about all this hearsay that everyone's reviewing
13 and this officer reviewed the case notes where it says what the sexual
14 assault detective did. So I --

15 THE COURT: Well, if you want him, --

16 MR. SCHWARTZ: -- I'm not sure that --

17 THE COURT: -- Counsel, if you want --

18 MR. SCHWARTZ: -- he really is --

19 THE COURT: -- Counsel, if you want him to testify as to what
20 the record says and his understanding, that would be fine. But to guess
21 as to what a --

22 MR. SCHWARTZ: Okay.

23 THE COURT: -- officer did or didn't do is the speculation.

24 BY MR. SCHWARTZ:

25 Q Okay. Then I guess I'll -- my only point, Mike, I guess, coming

1 back to my question, I'll rephrase it, is the follow-up investigation and the
2 specific acts interviewing other witnesses, stuff like that, would've been
3 done by the sexual -- assigned sexual assault detective?

4 A Correct.

5 Q And Mr. Lasher referred you to a couple property forms that
6 indicated that things were disposed and released. You have no idea
7 what happened to those items. Right? You didn't fill out those -- those
8 forms?

9 A I did not.

10 MR. SCWARTZ: Okay. No further questions, Your Honor.

11 THE COURT: Any redirect, Counselor?

12 MR. LASHER: Yes. Briefly.

13 **REDIRECT EXAMINATION**

14 BY MR. LASHER:

15 Q Mr. Hnatuick, Ms. Lehr described the apartments to you as
16 being painted orange in color. Is that correct?

17 A I'd have to review her statement.

18 Q Did she also describe his being near a pool?

19 A Let me see.

20 Q And that it was the lower left?

21 A I'm not seeing where that is.

22 Q Well, what is your recollection then of that night? You drive
23 there and what happened?

24 A Well, it's -- sure. So I'm -- let me clarify something. Right,
25 because, apparently, that's not in my report. So I don't recall if we

1 actually went there or based on the information she provided me I didn't
2 feel at the time we would be able to locate the apartment and that the
3 follow-up detectives would attempt that.

4 Q So you don't have a recollection of actually driving there?

5 A You know, honestly, I'm not sure if that's a recollection I have
6 or, I mean, it's been 21 years, sir.

7 Q Would you normally have noted in your report if you had
8 driven there?

9 A I believe I would have, yes.

10 Q Okay. And then directing your attention to the case monitoring
11 and closure form, the standard Metro form, do you see that in the middle
12 there's a bunch of investigative tasks?

13 A Yes.

14 Q And do some of those include area of crime neighborhood
15 canvassed?

16 A Let's see

17 Q That would be number two.

18 A Yep. Area -- yes. I see that.

19 Q And crime scene searched visited, number three.

20 A Yes.

21 Q And number four, finger print search conducted.

22 A Yes.

23 Q And do you recall whether you had done any of those things in
24 this case?

25 A No. I would not -- the fingerprint search, I would not have

1 done. I don't think I responded to the bar. And the crime scene search,
2 you know, if we had located the apartment, we would have called sexual
3 assault to conduct a search warrant.

4 Q Yeah.

5 A Well, I did not -- I don't believe those that you listed would've
6 been done by me.

7 Q Okay. I have no further.

8 THE COURT: Any follow up questions?

9 MR. SCHWARTZ: And detective that -- just briefly on this last
10 -- that last point.

11 THE COURT: Sure.

12 **RE-CROSS-EXAMINATION**

13 BY MR. SCHWARTZ:

14 Q Detective, that form that we were looking at with the different
15 numbers, that's the form that has the name M. Reddon at the top for the
16 investigator?

17 A Yes.

18 Q And so this form that we have filled out with some writing on it,
19 this is not your form. Right?

20 A It is not. This is the form that the case detectives use to
21 monitor their progress in an investigation. It's a way of keeping notes, if
22 you will. And I am familiar with Detective Reddon, but this would not be
23 a report that I would've completed on this case.

24 MR. SCHWARTZ: Thank you. Nothing further, Your Honor.

25 THE COURT: Thank you, sir.

1 THE OFFICER: Excuse me, Your Honor.
2 THE COURT: Yes. It's time to go?
3 THE OFFICER: Yeah. Like, two minutes, please?
4 THE COURT: Okay. Okay. No more --
5 THE OFFICER: Thank you.
6 THE COURT: -- we have no more questions for this witness.
7 Is that correct?
8 MR. LASHER: No further questions. No further witnesses.
9 THE DEFENDANT: Your Honor, can I make a one small
10 error, real quick? Correction?
11 THE COURT: You need to speak with your counsel about
12 that, Mr. Dorado.
13 THE DEFENDANT: I've spoken with him, but this is on an
14 error of the Court. You're saying that the property was released to the
15 victim. I have copies of certified mail from Metro to the victim trying to
16 release the property on February 24th of 2000, and they came back, the
17 certified mail, stating that there was no such number where -- for her
18 address was false. She -- there was -- so they never released her
19 clothing back to the lady because it was -- it came back no such number
20 on the address that she gave Metro.
21 THE COURT: Thank you, sir.
22 THE DEFENDANT: Thank you.
23 MR. SCHWARTZ: Your Honor, could you have the CCDC
24 officer make copies of that and send that to the State, please?
25 THE COURT: Okay. Officer, if you could please make copies

1 of that, if you don't mind sending it over to Mr. Schwartz? If you can.

2 THE OFFICER: No, Your Honor. That's not --

3 THE COURT: Not possible?

4 THE OFFICER: -- not -- it doesn't seem appropriate.

5 THE COURT: Okay. What I'll do, Mr. Dorado, is you will have
6 -- make -- give those copies to your counsel. Counsel, you'll be
7 responsible for making copies to the State. Thank you. Anything else
8 as far as witnesses, counsel?

9 MR. LASHER: No, Your Honor.

10 THE COURT: Counsel, as you know --

11 MR. LASHER: I do want --

12 THE COURT: -- from the Supreme Court, the order has to be
13 filed by the 30th of this month. Okay? Do we need to do a closing when
14 Mr. Dorado doesn't have to be present, but at least do a closing? Do
15 you wish to have closing on this, because we need to have this ordered
16 to the Supreme Court as soon as possible.

17 MR. LASHER: Yes, Your Honor. I would like to argue this.

18 THE COURT: Okay.

19 MR. LASHER: Absolutely.

20 THE COURT: Absolutely. Okay. Mr. Schwartz, I have
21 available, at least just for argument, and of course Mr. Dorado can be
22 present, but he doesn't need to be present. We can put it in on the
23 Thursday calendar at the end. I'm going to limit you guys to about 15
24 minutes a piece though. I know what the arguments are. So, counsel,
25 can you be present --

1 MR. SCHWARTZ: That --

2 THE COURT: -- Thursday at noon.

3 MR. LASHER: Thursday at noon. Is there any possibility of
4 the Friday or are you dark on Fridays?

5 THE COURT: No. The -- yeah -- the way they have the
6 Courts, counsel, is I'm only allowed to be here when I have actual
7 hearings. We can't call special --

8 MR. LASHER: Yeah.

9 THE COURT: -- hearings right now because of COVID. But I
10 can -- I can try to, I mean --

11 MR SCHWARTZ: Thursday works for the State, Your Honor.

12 THE COURT: Yeah. But the Defense has a problem with it.

13 MR. LASHER: I can try to -- I may actually be a witness in a
14 case.

15 THE COURT: Okay.

16 MR. LASHER: And so -- but there was discussion about me
17 appearing in the afternoon. So why don't we --

18 THE COURT: Why don't we put it on, Counsel, --

19 MR. LASHER: -- schedule --

20 THE COURT: -- Counsel, let's put it on for 12 o'clock on
21 Thursday. If you're unable to make it just send an email to Mr. Schwartz
22 and to my JEA, and we'll figure out a way to set this thing. But I just --
23 as long as we can set it for noon on Thursday, and if you're present, I'll
24 call you first, and we can do a closing really quick.

25 MR. LASHER: Okay.

1 THE COURT: Okay. We'll see you guys Thursday at noon.

2 [Colloquy between Court and Clerk]

3 MR. SCHWARTZ: Thank you, Your Honor. Should I -- should
4 we prepare a transport order for Mr. Dorado, or not?

5 THE COURT: Counsel, do you believe it's necessary to have
6 Mr. Dorado present for your closing?

7 MR. LASHER: I'm sure he would appreciate it.

8 THE COURT: Okay.

9 MR. LASHER: You know, --

10 THE COURT: Counsel, if you could go ahead and author a
11 transport order, let's go ahead and do it. They're going to cut me off
12 from the jail. Thank you, officer.

13 THE OFFICER: Thank you.

14 MR. SCHWARTZ: I hate to be difficult, Your Honor, but what
15 if we just remanded him here for two days?

16 THE COURT: That's fine with me if that's okay with counsel.
17 I mean, it's a lot better than transferring him up and transferring him right
18 back.

19 MR. SCHWARTZ: I just --

20 THE COURT: He's just going to turn right back around.

21 MR. SCHWARTZ: -- I just don't think there will be enough
22 time to bring him back, but that's just my suggestion.

23 MR. LASHER: And I guess the only concern is just that his
24 cell and property will be maintained and safe there. I don't know how
25 quickly NDOC, you know, will --

1 THE COURT: If he's only being held for two days they're not
2 going to clear his room; especially during COVID. So as long as it's --

3 MR. LASHER: Yeah.

4 THE COURT: -- only two days, they're not going to clear his
5 room out.

6 MR. LASHER: Yeah.

7 [Colloquy between Court and Clerk]

8 MR. LASHER: I mean, if it's possible to have the jail or ask
9 Mr. Dorado what he rather and then we just go by that?

10 THE COURT: The jail's already checked out, Counsel. At 12
11 o'clock there's another courtroom. Counsel, I've just been advised that
12 he won't be able to be transported if we put it on the 12 o'clock. So if we
13 do it at the 10:15, does that make it easier for counsel?

14 MR. LASHER: This Thursday, the 17th at 10:15? That's fine.

15 THE COURT: Mr. Schwartz?

16 MR. SCHWARTZ: Yes, Your Honor.

17 THE COURT: All right.

18 MR. SCHWARTZ: Yes, Your Honor.

19 THE COURT: Let's do Thursday at 10:15 because he has to
20 be transported. He has to be at the 10:15 calendar; 12:00 is the out of
21 custody calendar.

22 MR. SCHWARTZ: And I'll do the transport order but I just
23 don't think it will work. So --

24 THE COURT: No. I think --

25 MR. SCHWARTZ: -- as long as we're still gonna go forward

1 without him.

2 THE COURT: Yeah. Counsel, I would just say that he stays
3 there for two days. It's much easier than transporting him back and
4 forth. He's got a much higher risk by transporting then he does staying
5 where he's at.

6 MR. LASHER: Yeah. Yeah.

7 THE COURT: I will see you guys Thursday unless you have
8 matters on the other calendar.

9 [Proceedings concluded at 12:02 p.m.]

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

20 
21 Stacey Ray
22 Court Recorder/Transcriber
23
24
25