

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

GUSTAVO RAMOS,  
Appellant,

vs.

THE STATE OF NEVADA,  
Respondent.

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Elizabeth A. Brown  
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Supreme Court Case No. 79781

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1 Q. One of the miracles of science?  
 2 A. We tried a lot of things. That's true.  
 3 Q. T-shirts in this case, there's one traditional  
 4 t-shirt, a gray t-shirts with sleeves?  
 5 A. Short sleeves, yes.  
 6 Q. There's another, the street term for it?  
 7 A. Don't say it.  
 8 Q. Probably would not be appropriate.  
 9 A. A tank top.  
 10 Q. A tank top. There was a tank top there?  
 11 A. Yes.  
 12 Q. Both were there at the scene when you found the  
 13 scene?  
 14 A. Yes.  
 15 Q. Were they the same size?  
 16 A. As I recall, they were.  
 17 Q. You find that strange that somebody would be  
 18 wearing a tank top and t-shirt?  
 19 A. Not at all.  
 20 Q. You thought it might be a single person?  
 21 A. Oh, sure.  
 22 Q. The potential of two people also, I suppose?  
 23 A. Could have been. But to wear two shirts, I have  
 24 two shirts on today.  
 25 Q. I understand. Might even have three on. Do you

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1 but the truth so help you God?  
 2 THE WITNESS: I do.  
 3  
 4 DAVID LEMASTER,  
 5 A witness for the State, having been first duly sworn,  
 6 testified as follows:  
 7  
 8 THE CLERK: State your full name and spell your  
 9 last name.  
 10  
 11 THE WITNESS: My name is David Lemaster, David  
 12 common spelling, Lemaster, L-E-M-A-S-T-E-R.  
 13 THE COURT: You may proceed.  
 14 MS. WECKERLY: Thank you.  
 15  
 16 DIRECT EXAMINATION  
 17  
 18 BY MS. WECKERLY:  
 19 Q. How are you employed, sir?  
 20 A. I'm a senior crime scene analyst with the Las Vegas  
 21 Metropolitan Police Department.  
 22 Q. How long have you worked for Metro?  
 23 A. I began my career with Metro in 1991.  
 24 Q. Obviously working in May of 1998?  
 25 A. Correct.

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1 have an undershirt?  
 2 A. Yeah, I do.  
 3 Q. You don't wear a t-shirt under that undershirt, do  
 4 you?  
 5 A. Yeah, sometimes I do.  
 6 Q. You are a unique guy. I appreciate your testimony  
 7 today.  
 8 A. You're welcome.  
 9 MR. DASKAS: It's not that unique.  
 10 THE COURT: I will take judicial notice that I  
 11 wear a t-shirt.  
 12 MS. WECKERLY: No redirect.  
 13 THE WITNESS: Thank you.  
 14 THE COURT: Okay. Thank you for coming to  
 15 testify.  
 16 THE WITNESS: Thanks. It's been fun.  
 17 THE COURT: Call your next witness.  
 18 MS. WECKERLY: David Lemaster.  
 19  
 20 (The witness exited the courtroom.)  
 21  
 22 THE BAILIFF: Please step up, face the clerk and  
 23 raise your right hand.  
 24 THE CLERK: Do you swear the testimony that you  
 25 are about to give is the truth, the whole truth and nothing

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1 Q. On the 17th of May 1998, were you had asked to  
 2 respond to 4255 South Spencer?  
 3 A. Yes.  
 4 Q. That would have been Apartment 212?  
 5 A. Yes.  
 6 Q. Why were you asked to go to that location?  
 7 A. I was called there to assist with a homicide  
 8 investigation.  
 9 Q. You were a crime scene analyst, working as a crime  
 10 scene analyst on that date?  
 11 A. Yes.  
 12 Q. What were your job duties with respect to that  
 13 scene?  
 14 A. To assist my supervisor, Catherine Atkins, working  
 15 in homicide to process the crime scene.  
 16 Q. Were you the person responsible for impounding  
 17 actual items of evidence?  
 18 A. Yes, at Apartment 212, yes.  
 19 Q. I'm showing you what has been admitted as State's  
 20 Exhibit 37. Does that appear to be the crime scene as it  
 21 looked when you responded on May 17, 1998?  
 22 A. Yes.  
 23 Q. Drawing your attention to the rug area, does there  
 24 appear to be an item of evidence you would have impounded  
 25 with respect to this investigation?

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1 A. Yes.  
 2 Q. What was it that you impounded?  
 3 A. On the rug area is a gray t-shirt.  
 4 Q. Looking at the victim's right leg below her foot,  
 5 was there another item of evidence you would have impounded  
 6 with respect to this scene?  
 7 A. Yes.  
 8 Q. When you impounded an item of evidence for Metro,  
 9 was it impounded under a certain event number?  
 10 A. Yes, it would be the event number for the incident  
 11 we're investigating.  
 12 Q. What was the event number in this case?  
 13 A. 980517-0849.  
 14 Q. The two or actually every item of evidence  
 15 impounded under the event number, is that given a specific  
 16 item number for tracking?  
 17 A. Well, I will speak for myself. Yes, I assigned a  
 18 specific item number.  
 19 Q. The two shirts that I spoke of in the photograph,  
 20 what were the item numbers, if you recall?  
 21 A. Can I be certain?  
 22 THE COURT: If you need to refresh your  
 23 recollection. If you can't recall right now. If you are  
 24 going to guess, if you can't recall, yes. You can go  
 25 ahead, if that refreshes your memory to take a look at it.

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1 Q. It's laid out?  
 2 A. Yes.  
 3 Q. The same thing with respect to the gray t-shirt  
 4 State's 47?  
 5 A. Yes.  
 6 Q. That's also a photograph taken by you with the item  
 7 number and your initials and personnel number?  
 8 A. Correct.  
 9 Q. Now, showing you State's 44 and 45. Do you  
 10 recognize what those items are?  
 11 A. Yes.  
 12 Q. What are they starting with? Let's start with  
 13 State's 44.  
 14 A. State's 44 is a knife that was recovered from the  
 15 pullout couch/bed at Apartment 212.  
 16 Q. And 45?  
 17 A. Exhibit 45 is a black handled knife that was  
 18 underneath the right leg area of the victim.  
 19 Q. And you obviously took those items from the scene,  
 20 and these are photographs you took of them back at the lab?  
 21 A. Yes.  
 22 Q. With respect to this scene, your duties were to  
 23 collect evidence? You didn't do any further testing on the  
 24 items of evidence yourself, did you?  
 25 A. Well, there was additional collection of evidence

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1 THE WITNESS: Yes.  
 2 THE COURT: You have no objection, do you?  
 3 MR. COFFEE: No objection.  
 4 THE COURT: Go ahead.  
 5 THE WITNESS: Yes, I have.  
 6 BY MS. WECKERLY:  
 7 Q. Let's start with the gray t-shirt, not the tank  
 8 top. What number was that?  
 9 A. Item 32.  
 10 Q. The white tank top?  
 11 A. Item 33.  
 12 Q. Showing you what has been admitted as State's  
 13 Exhibits 46 and 47. Those are the two items we just spoke  
 14 of?  
 15 A. Yes.  
 16 Q. I should have given you these before because the  
 17 item numbers are on them.  
 18 A. Correct. With my initials and "P" number.  
 19 Q. Looking at 46 first, the white tank top?  
 20 A. Yes.  
 21 Q. When you took this photograph of the tank top,  
 22 obviously this isn't taken at the scene, correct?  
 23 A. Correct.  
 24 Q. Back at the Crime Lab by you?  
 25 A. Yes.

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1 items and other items, those specific item or others?  
 2 Q. Right. With regards to the two shirts, you didn't  
 3 do any processing?  
 4 A. Not on the shirts, no specific processing.  
 5 Q. You might have done latent print processing on the  
 6 items of evidence that you impounded? Or what you are  
 7 referring to?  
 8 A. There were multiple items of evidence that were  
 9 processed.  
 10 MS. WECKERLY: Thank you. No other questions.  
 11  
 12 CROSS-EXAMINATION  
 13  
 14 BY MR. COFFEE:  
 15 Q. What was the event number again?  
 16 A. 980517-0846.  
 17 Q. I noticed you do that without any notes.  
 18 A. Yes.  
 19 Q. You don't remember from that far back, do you?  
 20 A. I put it in my head before I came here.  
 21 THE COURT: He refreshed his recollection  
 22 earlier.  
 23 BY MR. COFFEE:  
 24 Q. You reviewed things beforehand?  
 25 A. Yes.

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- 1 Q. Before you came in?
- 2 A. Yes.
- 3 Q. You wanted to make an impression, wanted to know
- 4 what you are talking about, you want to right and don't want
- 5 mistakes?
- 6 A. There's a lot of things to consider. I did look over
- 7 items.
- 8 Q. You would agree that your notes are a critical tool
- 9 in that regard, keeping track of things? For example, you
- 10 referred to your notes to figure out what t-shirt was seized
- 11 under what event number?
- 12 A. The evidence impound, yes.
- 13 Q. By notes, I didn't mean to trip you up saying an
- 14 impound sheet, not your notes. You wrote it down someplace?
- 15 A. I wanted to be accurate in my answer, yes.
- 16 Q. With the writing it down aspect of things, the
- 17 pictures were taken at the lab? Yes?
- 18 A. Yes.
- 19 Q. When were the pictures taken down?
- 20 A. The date -- (Pause). I don't have that answer
- 21 specifically. It could have been the following day.
- 22 Q. Might have been two?
- 23 A. I don't have that answer, no.
- 24 Q. Is it written down someplace?
- 25 A. It would be associated with -- yes, it would be in

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- 1 author of the actual report.
- 2 Q. Okay.
- 3 A. And the approving individual is the supervisor or
- 4 C.S.I. There's not a date associated, but it is time stamped
- 5 when it went through, an official time stamp.
- 6 Q. When would that be?
- 7 A. This is time stamped looks like June -- if reading
- 8 it correct, June 1st at 9:38 a.m.
- 9 Q. All right. And the date you responded to gather
- 10 evidence was what again?
- 11 A. The date responded to the scene the first time?
- 12 Q. Yes.
- 13 A. May 17th.
- 14 Q. So this is time stamped about two weeks later?
- 15 A. Somewhere in there.
- 16 Q. Might be off a day or two?
- 17 A. Sure.
- 18 Q. And you responded to the scene on a couple of
- 19 occasions in between the date that report was submitted and
- 20 your initial response? You come out on the 17th. You
- 21 understand the question?
- 22 A. I understand the question.
- 23 Q. The answer is yes?
- 24 A. Yes.
- 25 Q. Are we able to breakdown when certain items were

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- 1 a log, especially with the film, we used 35-millimeter film
- 2 back then. So the day I submitted that film would be the
- 3 date I took those photographs.
- 4 Q. Okay. Without actually picking up these t-shirts,
- 5 what day did that happen?
- 6 A. That would be on the 17th.
- 7 Q. The day that you reported?
- 8 A. Yes.
- 9 Q. You were only there one day?
- 10 A. No, I responded several times back to the Camilo
- 11 Retirement Home apartments.
- 12 Q. Are there any notes or documentation that verified
- 13 those were picked up on the 17th?
- 14 A. I recovered those.
- 15 Q. I understand. My question is: We talked about
- 16 documenting other items, looking at notes to get case numbers
- 17 and things. As far as dates, is there any documentation on
- 18 the date those items were picked up?
- 19 A. That would be the report stating we recovered it.
- 20 Q. That is what I was asking, not trying to trip you
- 21 up. Asking if there's a report generated. What date is the
- 22 report signed?
- 23 A. May I look at it?
- 24 Q. Sure.
- 25 A. As far as signatures, which is my supervisor's, the

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- 1 impounded? You thought it was the 17th. Can you say for
- 2 certain the t-shirts were impounded that day, as opposed to
- 3 the 18th, 19th, 20th?
- 4 A. I don't have information for you now.
- 5 Q. Do you know if it existed?
- 6 A. It would certainly exist with the evidence vault
- 7 the day they took the evidence, after I placed it, secured it
- 8 in packages.
- 9 Q. Okay. If we rely on something, the evidence vault
- 10 notes or notations we would rely on as opposed to your
- 11 memory, for example?
- 12 A. They have logs to be more specific about when they
- 13 pick up items and when items are received.
- 14 Q. That is my point. You don't have an independent
- 15 recollection on the first day you responded to picking up
- 16 those t-shirts? It was one crime scene in many? You picked
- 17 up the t-shirts at some point before that was generated, but
- 18 it could have been at any of the times you showed up at the
- 19 crime scene; is that a fair characterization?
- 20 A. The shirt was collected the 17th.
- 21 Q. Okay. That's what I was asking: How do we know
- 22 that is what I'm asking? I'm not trying to confuse you. I
- 23 am trying to figure out how we know that?
- 24 A. The arrival time was 12:30. In the process of
- 25 working the scene with the victim, evidence items in total of

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1 working the scene, were removed as we worked our way through 1  
2 the scene. It would be have on the 17th we placed it in a  
3 bag to transition it back to the lab for additional  
4 photography and impound.

5 Q. Okay. That's what I was trying to get to. Might  
6 be in the crime scene photographs, also. Just trying to  
7 figure out when the shirts were taken in, make sure it's the  
8 17th not another time. Do you understand?

9 A. Yes.

10 Q. The shirts, the State has showed you picture of  
11 them? Yes?

12 A. Yes.

13 Q. You recognize those, State's 46 and 47?

14 A. Yes.

15 Q. Describe State's 47 for me, if you will.

16 A. This is a gray t-shirt. It appears to be the back  
17 of the shirt item listed as item 32.

18 Q. Is there any blood on that shirt?

19 A. From this photo with the back of the shirt, I do  
20 not specifically see in these lighting conditions any large  
21 stains that I could quantify sitting here under these  
22 conditions that I would state as blood.

23 Q. It looks like a clean t-shirt, more or less,  
24 without better lighting conditions, testing, that kind of  
25 thing; is that a fair characterization?

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A. Yes.

2 Q. If someone is wearing -- you are somewhat of an  
3 expert in the crime scene investigation, crime scene  
4 analysis, right, you are trained to do this?

5 A. I would, depending on the question. I hope I can  
6 answer it.

7 Q. Okay. Let me ask you, the blood stains that are on  
8 the tank top, does it appear to you, based on your training  
9 and experience, they match up with any blood stains on the  
10 back of the shirt? Can you tell if it was the same person  
11 wearing both at the same time when the stabbing occurred;  
12 does that look like that to you?

13 MS. WECKERLY: Objection, speculation.

14 BY MR. COFFEE:

15 Q. Is there anything connecting those two together  
16 forensically that you are aware of other than being at the  
17 same scene, same location, let me ask you that?

18 A. I don't know the dynamics of the totality of the  
19 reports generated from this.

20 Q. Based on your photographs, based on your memory,  
21 based on your other reports, is there anything forensically  
22 that you are aware of -- I understand other people have may  
23 have other conclusions, people who have done other testing --  
24 to your knowledge is there anything connecting those two  
25 items of clothing together?

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1 A. For the back of the shirt?

2 Q. Yes.

3 A. Yes.

4 Q. Do you know if there were pictures taken of the  
5 front?

6 A. There should have been.

7 Q. Do you know there were any stains on the front?

8 A. I believe there was.

9 Q. Take a look other what that is.

10 A. State's Exhibit 46.

11 Q. A different type of shirt, right?

12 A. Yes.

13 Q. A tank top, I think we agreed on to call it for the  
14 hearing. Would you agree there is a substantial amount of  
15 apparent blood on the tank top?

16 A. There are at the upper left area of the tank top  
17 very dark-colored stains and a light-colored apparent blood  
18 stains downward towards the bottom centrally located. Your  
19 term of a lot of blood versus transfer stains happening to a  
20 shirt are two different mechanisms and dynamics.

21 Q. Sure. Do you agree there's blood stains that  
22 appear on the shirt?

23 A. Yes.

24 Q. Might have to do some testing of phenolphthalein to  
25 figure out if it's blood but looks like blood?

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1 A. I would say, yes.

2 Q. What is it?

3 A. They are from the same apartment.

4 Q. And my question, remember the same scene, other  
5 than that, so again take into account my question, other than  
6 the fact they are found at the same location, is there  
7 anything connecting the two together forensically that you  
8 are aware of?

9 A. I think I answered that.

10 Q. The same location, that's the only connection that  
11 you are aware of?

12 A. That's the only answer I would want to give at this  
13 junction. With the other remaining reports, that is outside  
14 of what I have done.

15 Q. I know you think I'm trying to trick you. I'm  
16 really not. Based on your knowledge, location is the only  
17 thing connecting the two items?

18 A. At this point in time, I would say yes.

19 MR. COFFEE: Thank you. Nothing else.

20 MS. WECKERLY: No redirect.

21 THE COURT: You are excused. Thank you very  
22 much.

23 Call your next witness, state.

24 MS. WECKERLY: Julie Marschner.

25 (The witness exited the courtroom.)

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1 MR. DASKAS: Before the next witness, there was  
2 another stipulation. The defense and the state, for prelim  
3 purposes, stipulates that Ms. Marschner, the DNA analysis  
4 had the known DNA profile of the defendant, Gustavo Ramos,  
5 when she made the comparisons to which she is about to  
6 testify.

7 THE COURT: I'm sorry. I'm sure Mr. Daskas  
8 wouldn't misrepresent. I better check.

9  
10 (Off-the-record discussion  
11 between counsel and defendant.)

12 THE COURT: Okay.

13 THE BAILIFF: Please step up, face the clerk and  
14 raise your right hand.

15 THE CLERK: Do you swear the testimony that you  
16 are about to give is the truth, the whole truth and nothing  
17 but the truth so help you God?

18 THE WITNESS: Yes, I do.

19  
20  
21 JULIE MARSCHNER,  
22 A witness for the State, having been first duly sworn,  
23 testified as follows:

24 THE CLERK: State your full name and spell your

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1 A. Yes, I was.

2 Q. Does Metro assign event numbers to particular  
3 cases?

4 A. Yes, they do.

5 Q. What was the case number event number that you were  
6 asked to work on?

7 A. 980517-0848.

8 Q. In your work for Metro under that event number,  
9 were you called upon to look at two t-shirts that were  
10 impounded under that event number?

11 A. Yes.

12 Q. Do you recall that the item numbers of the t-shirts  
13 what they were for tracking purpose?

14 A. Can I refer to my notes?

15 Q. If that would refresh your recollection.

16 A. The gray t-shirt was in package 16 item 32, then  
17 the white tank top was in the same package that was item 33.

18 Q. Showing you what has been admitted as State's 46  
19 and this one is 47, do those look like the shirts that you  
20 examined?

21 A. Yes, they do.

22 Q. As a D.N.A. analyst, to get these items of  
23 evidence, do you have them delivered to you from the evidence  
24 vault to the lab?

25 A. Yes.

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1 last name.

2 THE WITNESS: My name is Julie Marschner,  
3 J-U-L-I-A M-A-R-S-C-H-N-E-R.

4  
5 DIRECT EXAMINATION

6  
7 BY MS. WECKERLY:

8 Q. How are you employed?

9 A. As a forensic scientist with the Las Vegas  
10 Metropolitan Police Department forensic laboratory. I'm  
11 assigned to the biology D.N.A. detail.

12 Q. How long have you worked for Metro biology D.N.A.  
13 detail?

14 A. Approximately five-and-a-half years.

15 MS. WECKERLY: I don't know if counsel wants to  
16 stipulate to her qualifications for prelim?

17 MR. COFFEE: Sure.

18 MS. WECKERLY: Thank you.

19 BY MS. WECKERLY:

20 Q. Ms. Marschner, in your work, are you a D.N.A.  
21 analyst?

22 A. Yes, ma'am.

23 Q. In your work as a D.N.A. analyst for Metro, were  
24 you asked to do some work on items of evidence that was  
25 impounded from a case that occurred in 1996?

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1 Q. Then you do your analysis?

2 A. Correct.

3 Q. Let's start with the gray T-shirt. Okay?

4 A. Sure.

5 Q. When you started examining an item of evidence, you  
6 actually give it your own label?

7 A. Yes, I designate it with my initials and item  
8 number. In this case the package was the tenth package I  
9 looked at in this case.

10 Q. Talking about the gray t-shirt, what areas of the  
11 shirt were you concentrating on or focusing on to get a  
12 D.N.A. sample?

13 A. I was trying to see who may have been wearing the  
14 shirt, so I was looking at the neck area on the seam and also  
15 in the armpit area where it would have rubbed up against the  
16 skin collecting skin cells.

17 Q. With respect to those two areas, let's talk the  
18 seam on the neck area, were you able to obtain a DNA sample?

19 A. Yes.

20 Q. What were your findings with regards to that  
21 sample?

22 A. There was a mixture of at least two individuals,  
23 and there was a major contributor, and that major contributor  
24 was consistent with Gustavo Ramos Martinez.

25 Q. You actually in this case generated the profile off

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1 of the item of evidence before you had a known sample from  
2 Mr. Ramos?

3 A. Yes.

4 Q. With regards to the profile that was generated off  
5 the neck area that you just spoke of, are you able to give us  
6 any kind of statistical frequency associated with that  
7 analysis?

8 A. Yes. The estimated frequency of the major profile  
9 in that mixture is rarer than one in 862,000.

10 Q. In your work as a DNA analyst, you certainly have  
11 rarer profiles than that, correct?

12 A. Yes.

13 Q. Some of them are rarer than one in 600 million?

14 A. Yes.

15 Q. So when you have a number of like one in 862,000,  
16 does that reflect that a portion of the profile didn't  
17 amplify, or how would you describe that?

18 A. I wasn't able to use the major profile at all of  
19 the 15 locations that we looked at in the D.N.A. because  
20 there was evidence of degradation between the time period  
21 when the item was collected and when it was tested. So I was  
22 only able to use the data from the non degraded areas using  
23 that statistic so the number was smaller than had I had all  
24 the profiles to compare.

25 Q. So it is still rarer than one in 862,000?

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1 armpit area. Again, however, there were limited sample  
2 remaining because it had been tested previously. So I wasn't  
3 able to obtain a D.N.A. profile from that area of the shirt.

4 Q. Are you able to render any conclusions all the  
5 about possible contributors to the D.N.A. with regards to  
6 that item of evidence in the area that you out?

7 A. No.

8 MS. WECKERLY: Thank you. Pass the witness.

# CROSS-EXAMINATION

12 BY MR. COFFEE:

13 Q. At what a point statistically is that going to be  
14 assumed under the current standards for D.N.A. testing?

15 A. In our laboratory, if the number is larger than 650  
16 billion, the world's population is approximately 6.5 billion.  
17 So we take a hundred times the world's population to get that  
18 number.

19 Q. So here we're at .5 or .05 percent of where  
20 identity would be assumed at?

21 A. I don't know.

22 Q. So 300 million, you agree, 300 million is a small  
23 percentage of 650 billion?

24 A. Yes.

25 Q. Without doing the math, the tank top you tested,

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1 A. Yes.

2 Q. With regards to the armpit area, what were your  
3 findings with regard to the swabs taken from there?

4 A. There were cuttings that I took from the armpit  
5 area, and again I got a mixture of at least three  
6 individuals. And again I had a major profile there. The  
7 major profile was consistent with Gustavo Ramos Martinez.  
8 You want me to provide the statistics?

9 Q. Yes.

10 A. The estimated frequency of this profile is rarer  
11 than one in 30 million.

12 Q. With regards to, you said it was a mixture on both  
13 of those areas?

14 A. Yes.

15 Q. Are you able to tell us anything about who the  
16 minor contributor might have been or able to exclude the  
17 victim at all for Helen Sabraw?

18 A. For the neck area, it was inconclusive whether the  
19 victim was present in the mixture or not. However, I was  
20 able to include her in the armpit area.

21 Q. As a possible contributor?

22 A. Yes.

23 Q. With regards to the tank top, which is Item 33,  
24 were you analyzing the blood on the shirt or the area areas?

25 A. No, I was again taking cuttings this time from the

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1 you actually had the tank top in your hands?

2 A. Yes, I did.

3 Q. Did it still look like State's Exhibit 46?

4 A. No. There were some cuttings taken from the armpit  
5 areas by an analyst who previously examined it.

6 Q. What happened to those cuttings, if I might ask?

7 A. The analyst would have saved them inside the tube  
8 they saved for their D.N.A. extractions, and those tubes  
9 would be in custody at our tech lab that we have a freezer  
10 full of cuttings.

11 Q. Have you taken a look at that yet?

12 A. No, I haven't.

13 Q. You said ten items were tested?

14 A. This is the tenth package that I looked at for this  
15 case.

16 Q. What were the other packages?

17 A. There was a sexual assault kit, some swabs.

18 Q. Let starts with that, the sexual assault kit. Did  
19 you find anything on the sexual assault kit as far as D.N.A.?

20 A. I didn't test anything for D.N.A. I did  
21 presumptive testing for semen first and it was negative.

22 Q. Semen, for example with somebody having sex with or  
23 without a condom leaving semen behind, that is a good source  
24 for D.N.A.?

25 A. Yes.

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1 Q. In this case you did presumptive tests for semen  
2 and it said no, so you didn't do testing?  
3 A. Correct.  
4 Q. These items were seized approximately, I think the  
5 state will agree, ten years or better, 12 years. Would you  
6 still be able to find semen from a sample that old?  
7 A. Yes.  
8 Q. Does that degrade over time to some extent, though?  
9 A. It depends how much was there initially when they  
10 collected it. And again, if it was packaged properly.  
11 Q. Proper packaging I suppose could be very important?  
12 A. Yes.  
13 Q. You said, maybe I heard it wrong, that I will refer  
14 to them as 46 and 47, you know what I'm talking about?  
15 A. Yes.  
16 Q. The two shirts came out of the same package?  
17 A. They were individually packaged within a package.  
18 Q. Okay.  
19 A. So they were in an individual paper bag inside a  
20 larger paper bag.  
21 Q. Okay. It makes more sense. That is important  
22 because -- why do you do you that? Why would you package  
23 them individually?  
24 A. To keep them separate from one another.  
25 Q. Because D.N.A. is transferable?

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1 likely places for D.N.A. on the tank top for this profile?  
2 A. Correct.  
3 Q. Did you review any other testing that had been done  
4 before you tested that?  
5 A. I had reviewed the notes of other analysts  
6 examining the evidence, yes.  
7 Q. Do you remember who the other analysts were?  
8 A. Terry Cook and Dave Welch.  
9 Q. Anything inconsistent in any of that?  
10 MS. WECKERLY: Objection, hearsay.  
11 THE COURT: That would be --  
12 MR. COFFEE: Well.  
13 MS. WECKERLY: We were concerned about the  
14 verification process on the fingerprints, so I assumed  
15 Mr. Coffee has the same concerns about other experts.  
16 MR. COFFEE: Not really.  
17 MS. WECKERLY: It is still hearsay.  
18 MR. COFFEE: The other bigger problem is that  
19 Crawford applies when you guys are trying this. I'm not  
20 sure Crawford applies to us.  
21 MS. WECKERLY: Hearsay is still hearsay.  
22 BY MR. COFFEE:  
23 Q. You rely on other reports to use to figure out who  
24 what you are going to test, for example?  
25 A. No.

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1 A. Yes.  
2 Q. For example, blood stains might get from one to the  
3 other if they are put in the same package together?  
4 A. Correct.  
5 Q. D.N.A. is transferable in the sense because it's  
6 mobile? For example, the fact you didn't do the D.N.A.  
7 testing at the scene, doesn't make a difference? Somebody  
8 can pick up a shirt, open the bag, open it ten years later  
9 and still find D.N.A.?  
10 A. Yes.  
11 Q. With regards to the t-shirt, not the tank top,  
12 there were only two contributors?  
13 A. Yes.  
14 Q. In regards to the tank top, no D.N.A.?  
15 A. I didn't get any D.N.A. profiles from the area I  
16 tested.  
17 Q. I suppose you are trained to test appropriate areas  
18 for D.N.A. For example, on the t-shirt you looked at, back  
19 of the neck, seams, places where --  
20 A. Yes.  
21 Q. -- skin cells my might be located, a good source of  
22 D.N.A.?  
23 A. Yes.  
24 Q. You use that same training, when you looked at  
25 this, it wasn't just a blind hunt? You looked at the most

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1 Q. Why look at them then? Why do you look at them?  
2 MS. WECKERLY: Objection, relevance.  
3 THE COURT: I will let her answer.  
4 THE WITNESS: Why do I look at the notes?  
5 THE COURT: Yeah.  
6 THE WITNESS: I want to see what they tested to  
7 make sure there's sample remaining for me to test before I  
8 open the package.  
9 BY MR. COFFEE:  
10 Q. Were you able to determine what had been tested?  
11 A. Yes.  
12 Q. Those are the things that should be in that freezer  
13 what you said?  
14 A. Yes.  
15 Q. As to results, I suppose, when you talked to  
16 Walsh -- I will ask you in how long have you been working in  
17 the office?  
18 A. Five-and-a-half years.  
19 Q. You guys keep pretty good records on things?  
20 A. Yes.  
21 Q. When you test something you keep track of it?  
22 A. Yes.  
23 Q. For example, if I wanted to see testing Walsh had  
24 done, I should be able to get that at this point?  
25 A. Yes.

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1 Q. In fact, you have looked at it?

2 A. Yes, I have.

3 Q. Do you have a file?

4 A. I don't have it in my file, no.

5 Q. Trying to figure a way to get it.

6 MR. COFFEE: Thank you for your time.

7 MS. WECKERLY: No redirect, Your Honor.

8 THE COURT: You are excused. Thank you very much

9 for coming to testify. Call your next witness, state.

10 MR. DASKAS: My final witness, Dr. Alane Olson,

11 please.

12

13 (The witness exited the courtroom.)

14

15 THE BAILIFF: Please step up, face the clerk and

16 raise your right hand.

17 THE CLERK: Do you swear the testimony that you

18 are about to give is the truth, the whole truth and nothing

19 but the truth so help you God?

20 THE WITNESS: Yes, I do.

21

22 ALANE OLSON,

23 A witness for the State, having been first duly sworn,

24 testified as follows:

25

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1 THE WITNESS: My name is Alane Olson, A-L-A-N-E

2 O-L-S-O-N.

3 MR. DASKAS: Before I begin my examination, we

4 have a few stipulations entered into between the State and

5 defense. One is that the male victim in this case about

6 whose autopsy Dr. Olson will testify, was identified as

7 75-year-old Wallace Siegel. The second is that the female

8 in this case whose autopsy by Alane Olson will testify, was

9 86 year old Helen Sabraw. For prelim purposes, Dr. Olson

10 is qualified to render her opinion regarding cause and

11 manner of death.

12 THE COURT: She has been certified as an expert

13 in this court on other prior homicide cases. Go ahead. Is

14 that correct, Mr. Coffee?

15 MR. COFFEE: Yes.

16

17 DIRECT EXAMINATION

18

19 BY MR. DASKAS:

20 Q. Dr. Olson, you are employed by the Clark County

21 coroner's office, is that true?

22 A. That's correct.

23 Q. You are a forensic pathologist?

24 A. Yes.

25 Q. At the request of Ms. Weckerly and myself, did you

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1 THE CLERK: State your full name and spell your

2 last name.

3 THE COURT: Take a short five minutes break.

4 MR. DASKAS: Of course, Judge.

5 THE COURT: Take a five minute break.

6

7 (Recess):

8

9 THE COURT: Okay. Let the record reflect we are

10 back from a short recess. The defendant is present, all

11 attorneys from the defense and state are present. Swear in

12 the next witness.

13 THE BAILIFF: Please step up, face the clerk and

14 raise your right hand.

15 THE CLERK: Do you swear the testimony that you

16 are about to give is the truth, the whole truth and nothing

17 but the truth so help you God?

18 THE WITNESS: I do.

19

20 ALANE OLSON,

21 A witness for the State, having been first duly sworn,

22 testified as follows:

23

24 THE CLERK: State your full name and spell your

25 last name.

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1 review a series of two autopsies performed back in May 1998?

2 A. Yes, I did.

3 Q. Did you review two autopsy reports prepared by

4 Dr. Sheldon Green?

5 A. Yes, I did.

6 Q. With that information, were you able to reach an

7 opinion regarding cause and manner of death of both Wallace

8 Siegel and Helen Sabraw?

9 A. Yes, I was.

10 Q. The opinion you reached with respect to both of

11 those victims, is that an independent opinion reached based

12 on photos that you saw, as opposed to what Dr. Green did when

13 he did the autopsy?

14 A. Yes, it is an independent opinion.

15 Q. When we first ask you about the autopsy and photos

16 you reviewed of Wallace Siegel, there are a series of

17 photographs in front of you previously admitted, I believe,

18 if I'm not mistaken, they are Exhibits 15 through 28. Have

19 you previously seen these series of photographs?

20 A. Yes, I have.

21 Q. We've heard testimony that those were photographs

22 taken of the autopsy of Mr. Siegel back on May 17, 1998. Is

23 there an identification badge in Exhibit 15 that reflects

24 that?

25 A. Yes, there is.

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1 Q. What information is on that identification?

2 A. The identification badge contained Mr. Siegel's

3 name, date of May 17, 1998, and the autopsy or coroner's Case

4 No. 98-2550.

5 Q. Does that number you read correspond to the autopsy

6 report Dr. Green prepared back in 1998 that you reviewed in

7 this case?

8 A. Yes, it does.

9 Q. I'd ask you first of all, Dr. Olson, what were the

10 significant external injuries that you observed to the

11 victim, Mr. Siegel, in the photos that you identified?

12 A. The significant injuries externally are primarily

13 about the upper body. The most significant injuries are

14 those of the head.

15 There are lacerations and tears in the scalp.

16 There is an obvious external visible extensive skull fracture

17 on the left side of head towards the front.

18 There are also numerous areas of bruising on the

19 body surfaces primarily on the head, neck, upper aspect of

20 the torso and on the arms and hands, and there is a

21 laceration or tear on the left fourth finger. There is also

22 an incised injury or cut-type injury on the left fourth

23 finger.

24 Q. Dr. Olson, you described a number of injuries that

25 you observed. Was the most significant injury the depressed

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1 a blunt object.

2 Q. There's been testimony elicited during this

3 preliminary hearing that a 25-pound dumbbell was found at the

4 murder scene of Wallace Siegel. Is this injury, that is, the

5 depressed skull fracture, consistent with having been caused

6 by a 25 pound dumbbell?

7 A. In my opinion, it could have been caused by such an

8 object.

9 Q. You mentioned other injuries including, for

10 example, an injury to the victim's fourth finger?

11 A. Yes, that's correct.

12 Q. Do you have an opinion about what could have caused

13 that injury?

14 A. The injury depicted in the photograph appears to be

15 a tear in the skin. Dr. Green actually describes it as a

16 laceration.

17 MR. COFFEE: Objection, hearsay.

18 BY MR. DASKAS:

19 Q. It's not offered for the truth of the matter

20 asserted. I will ask, Dr. Olson, in the photographs you

21 reviewed, how would you describe the injury to the fourth

22 finger?

23 A. In my opinion, based upon looking at the

24 photograph, it appears to be an incised or cut-type injury

25 rather than a tear in the skin.

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1 skull fracture?

2 A. Yes.

3 Q. The other injuries that you mentioned, did those

4 appear to occur contemporaneous with the depressed skull

5 fracture?

6 A. Based upon the information in the photographs, yes,

7 they did.

8 Q. If you would, please hand it to me so I can show

9 Judge Jansen a photo that reflects the depressed skull

10 fracture of Mr. Siegel. If you would just hand those

11 directly to Judge Jansen.

12 A. Of course.

13 Q. Your Honor, I'm going to hand to you what has been

14 marked as State's Exhibits 21 and 23. These are photographs

15 of Mr. Siegel's head after the scalp has been reflected, and

16 they show the extensive nature of the skull fracture.

17 THE COURT: That's it right there?

18 THE WITNESS: You can see there are, in fact,

19 large portions of the skull pushed down and the bone is

20 actually fractured and broken in that area.

21 THE COURT: I see. Okay.

22 BY MR. DASKAS:

23 Q. Dr. Olson, do you have an opinion about what would

24 have caused that type of injury?

25 A. That type of injury is consistent with a blow from

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1 Q. Did you see any other injuries or similar injuries

2 on Wallace Siegel in the photographs that you observed?

3 A. Yes, there was another injury again on the left

4 fourth finger. I believe it was not the palmar side but the

5 back of the hand. It was, in fact, an incised or cut-type

6 injury as well.

7 Q. Is there a photograph there in front of you that

8 depicts the injuries that you just described?

9 A. I believe there is. Yes, there is.

10 Q. Please show that to the Court, those photos that

11 depict that injury.

12 A. The exhibits in question are State's 25 and 26.

13 Number 25 shows the back of Mr. Siegel's head -- sorry, his

14 left hand. Near the knuckle of his left fourth finger is an

15 incised or cut-type injury, and on the side of his left

16 fourth finger is another injury which appears to be a cut.

17 THE COURT: Yes.

18 BY MR. DASKAS:

19 Q. Earlier you mentioned the depressed skull fracture

20 was caused by blunt force trauma. What is your opinion about

21 what caused these two injuries in the photographs you showed

22 the Court?

23 A. Based upon the appearance of the injuries, the

24 instrument that caused them in my opinion would have been

25 something with an edge to it that could actually cut you

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1 instead of tear the skin.  
 2 Q. Would you categorize the two injuries that you  
 3 described on the hand or hands as defensive wounds?  
 4 A. They could be considered as such, yes.  
 5 Q. Understanding that you haven't outlined every  
 6 individual injury, what is your opinion regarding the cause  
 7 of death of Wallace Siegel?  
 8 A. Based upon my review of the photographs, I would  
 9 term his cause of death as blunt force head trauma.  
 10 Q. That would include the depressed skull that you  
 11 mentioned earlier?  
 12 A. Yes, it would.  
 13 Q. That is based on the photos that you observed and  
 14 injuries that you saw regarding the manner of death of  
 15 Wallace Siegel?  
 16 A. Yes.  
 17 Q. What is that opinion?  
 18 A. The manner of death is homicide.  
 19 Q. There is a second set of photographs in front of  
 20 you of 86-year-old Helen Sabraw, and those have been marked  
 21 and admitted as Exhibits 48 through 58. Have you previously  
 22 seen that set of photographs?  
 23 A. Yes, I have.  
 24 Q. At the request of the state, did you review those  
 25 photographs as well as an autopsy report prepared by

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1 Mr. DASKAS: Let me rephrase the question.  
 2 THE COURT: Go ahead. Rephrase it.  
 3 BY MR. DASKAS:  
 4 Q. Dr. Olson, was there evidence of trauma to Helen  
 5 Sabraw's rectum?  
 6 A. As described in the Dr. Green's report, yes.  
 7 MR. COFFEE: Objection to --  
 8 THE COURT: It's hearsay --  
 9 MR. COFFEE: -- what is described in Dr. Green's  
 10 report.  
 11 BY MR. DASKAS:  
 12 Q. Did you review any photographs which depicted  
 13 trauma to Helen Sabraw's rectum?  
 14 A. No.  
 15 Q. Back to you mentioned stab injuries, how many  
 16 different stab injuries did you observe on Helen Sabraw's  
 17 body in those photographs?  
 18 A. Sorry, I didn't total it up.  
 19 Q. Let me ask you this: Multiple stab injuries?  
 20 A. Yes.  
 21 Q. Where on her body in general were those stab  
 22 injuries located?  
 23 A. They were generally on the front side of her body  
 24 primarily concentrated about her head and face, on the left  
 25 side of her chest, the left side of her back towards the side

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1 Dr. Green in anticipation of your testimony?  
 2 A. Yes, I did.  
 3 Q. Based on your observations of the photos, what  
 4 significant external injuries -- let me ask you, what were  
 5 the significant injuries to Helen Sabraw?  
 6 A. She has multiple stab wounds which involve her  
 7 face, her neck and the front and back of her torso.  
 8 Q. Other than the stab injuries, let me focus on  
 9 another aspect of the autopsy and photos for a moment. Was  
 10 there any evidence to suggest to you that she had been  
 11 sexually assaulted?  
 12 MR. COFFEE: Objection. That is outside her  
 13 scope of her expertise.  
 14 THE COURT: I don't know how she would determine  
 15 that without having her physically examined --  
 16 MR. DASKAS: Let me ask precise questions.  
 17 THE COURT: -- of the body. If she physically  
 18 examined the body herself, I think she can answer that. I  
 19 don't see how she can determine that from pictures, and of  
 20 course, then can't testify to what the other reports are.  
 21 MR. DASKAS: Let me ask you about the photos --  
 22 MR. COFFEE: That is outside the scope of her  
 23 expertise. She is not a sexual assault expert.  
 24 THE COURT: It may or may not be. Whether or not  
 25 she had done so in the past, if she can determine.

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1 of her body. She also had some stab injuries or sharp force  
 2 injuries on her arms and hands.  
 3 Q. The injuries to Helen Sabraw's arms and hands,  
 4 would you characterize those as defensive wounds?  
 5 A. Yes.  
 6 Q. There's been testimony elicited in the preliminary  
 7 hearing that two knives were recovered at the murder scene of  
 8 Helen Sabraw. Would knives be consistent with having  
 9 inflicted the injuries you described as stab wounds to Helen  
 10 Sabraw?  
 11 A. Yes.  
 12 Q. Other than the stab injuries that you described,  
 13 were there any other significant findings that you made based  
 14 on the photographs you observed?  
 15 A. Well, in addition to the stab injuries, the sharp  
 16 force injuries, she did have bruising around her face and  
 17 scattered about her body.  
 18 Q. Did those appear to be, based on your observations,  
 19 contemporaneous with each other and the stab wounds?  
 20 A. Yes.  
 21 Q. And did you reach an opinion, based on your  
 22 observations of the photographs, regarding the cause of death  
 23 of Helen Sabraw?  
 24 A. Yes.  
 25 Q. What was that opinion?

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1 A. That she died as a result of multiple sharp force  
2 injuries.  
3 Q. Did you reach an opinion regarding manner of death  
4 of Helen Sabraw?  
5 A. Yes.  
6 Q. What is that opinion?  
7 A. The manner of death is homicide in my opinion.  
8 MR. DASKAS: Thank you.

## CROSS-EXAMINATION

BY MR. COFFEE:

13 Q. How were you able to eliminate heart attack, for  
14 example?  
15 A. Based upon Dr. Green's internal description of her  
16 injuries, one of the stab wounds actually penetrated her  
17 heart and another went into one of her pulmonary arteries.  
18 Q. Let me rephrase. Looking at the pictures, not  
19 relying on Dr. Green's report, are you able to eliminate  
20 heart attack as a cause of death, for example?  
21 A. In my opinion, based upon the number of stab  
22 wounds, I don't think that a natural cause of death is  
23 consistent with her injuries.  
24 Q. Let's see if I can characterize it. More likely  
25 than not the result of stab wounds, in fact highly likely the

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1 Q. Some of the times -- you have done a number of  
2 autopsies at this point?  
3 A. Yes, I have.  
4 Q. You've looked at a number of incised wounds or stab  
5 wounds?  
6 A. Yes.  
7 Q. Some close examination might reveal, for example,  
8 whether a blade with a serrated edge was used?  
9 A. Sometimes that's true, yes.  
10 Q. Those sort of things, though, might be something  
11 you need to actually examine a body for, which might not be  
12 noticed or apparent in a photograph; is that a fair  
13 characterization?  
14 A. Sometimes you can see changes in a photograph that  
15 indicate that a serrated edge was used. Other times the  
16 changes might be very subtle and might not be best depicted  
17 in that photograph.  
18 Q. You would agree with me the best case scenario  
19 would be for you to be able to perform an autopsy yourself,  
20 look at the body yourself?  
21 A. Generally, yes.  
22 Q. Photographs can provide a lot of background for  
23 you, but there might be things they didn't take a picture of  
24 that you would want to see, if you are doing the autopsy, for  
25 example?

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1 result of stab wounds, but without having actually your hands  
2 on the body, other than relying on Dr. Green's report, you  
3 can't eliminate a number of potential natural causes; is that  
4 fair to say?  
5 A. Phrased like that, yes.  
6 Q. What you were able to observe were primarily  
7 photographs of the exterior of the two bodies?  
8 A. With the exception of Mr. Siegel, who had  
9 photographs of the inside of his head and brain, yes.  
10 Q. The head had been peeled back to show the depressed  
11 skull fracture?  
12 A. Yes.  
13 Q. Or scalp, I should say. The injury to the hand,  
14 you said, appeared to be a cut or incision of some sort?  
15 A. Are you referring to Sabraw or Siegel?  
16 Q. No. To Mr. Siegel.  
17 A. Yes.  
18 Q. You said there was cut wounds caused by a straight  
19 edge of something most likely on the hand?  
20 A. I believe I described it as an instrument with a  
21 sharp edge or sharp portion.  
22 Q. A knife might fit then?  
23 A. Yes, it could.  
24 Q. Is it necessarily a knife?  
25 A. Not necessarily, no.

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1 A. Possible, yes.  
2 Q. There might be details concerning wounds and things  
3 like that that might give you additional clues, like a  
4 serrated-edged weapon was used, if you had your hands on the  
5 actual autopsy?  
6 A. Possibly.  
7 Q. You said straight edge, not necessarily knife. Do  
8 you have other examples what might have caused the wounds?  
9 A. Generally, cuts can be inflicted by anything, paper  
10 cuts can obviously produce cuts in the skin, box cutters,  
11 broken glass can do it, ceramics potentially. There are a  
12 number of instruments that you can produce cuts on the skin.  
13 Q. How about the edge of a table?  
14 A. I think it would depend on the specific edge that  
15 was used.  
16 Q. For example, a cut to the scalp might be caused if  
17 somebody fell against a hard edge of a table or surface like  
18 you are testifying, from an edge?  
19 A. Possibly.  
20 Q. The location of these on the hand, there is soft  
21 tissue around where they are at, and unlikely it was caused  
22 in a fall, for example, because of that, right?  
23 A. In my opinion that's correct, yes.  
24 Q. Is it possible a pinching sort of injury or other  
25 mechanism besides a knife or box cutter could cause injury to

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1 the hand?  
 2 A. Pinching?  
 3 Q. Here's what I'm thinking. Pinching. You saw a  
 4 picture of a 25-pound dumbbell, right?  
 5 A. Actually, I didn't see a picture of 25-pound  
 6 dumbbell.  
 7 Q. I'm sorry. Do you have the photo?  
 8  
 9 (Off-the-record discussion  
 10 held between counsel.)  
 11  
 12 THE COURT: Sure.  
 13 MR. COFFEE: Permission to approach?  
 14 THE COURT: Sure.  
 15 BY MR. COFFEE:  
 16 Q. Showing you a picture of what's been marked and  
 17 admitted as State's Exhibit 7. Do you see the dumbbell I'm  
 18 referring to?  
 19 A. Yes, I do.  
 20 Q. The dumbbell has some edges around it. It's not a  
 21 round dumbbell. The head of the dumbbell is octagonal, is  
 22 that what it appears to be?  
 23 A. Yes.  
 24 Q. You can't tell from the picture if there's sharp  
 25 edges on the dumbbell?

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1 would be prepared to rest.  
 2 THE COURT: All the exhibits have been admitted.  
 3 MR. COFFEE: Yes.  
 4 THE COURT: All through stipulation.  
 5  
 6 (State's Exhibits 29 through 47  
 7 were admitted into evidence.)  
 8  
 9  
 10 MR. DASKAS: With that, Judge, the State would  
 11 rest.  
 12 THE COURT: Mr. Coffee?  
 13 MR. COFFEE: Judge, I advised Mr. Ramos of his  
 14 right to testify today. He's not going to exercise that  
 15 right. The defense would rest, also.  
 16 THE COURT: No witnesses.  
 17 MR. COFFEE: No witnesses.  
 18 THE COURT: Any arguments?  
 19 MR. DASKAS: Judge, I wanted to raise some  
 20 additional points regarding that statute of limitations  
 21 issue.  
 22 THE COURT: Wait a minute. Before going into  
 23 that, there's no indication of any sexual assault or any  
 24 penetration.  
 25 MR. DASKAS: Well, Judge --

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1 A. No, I can't.  
 2 Q. Would the sharp edges of the dumbbell cause the  
 3 sorts of cuts we're talking about the hand?  
 4 A. I suppose if it were sharp enough.  
 5 Q. Again, without looking at the wounds, anything from  
 6 a butter knife to a box cutter to we don't know what caused  
 7 it for certain?  
 8 A. I think, based upon what I saw in the photographs,  
 9 a butter knife is unlikely.  
 10 Q. Sharper more likely than not?  
 11 A. Yes.  
 12 Q. A serrated steak knife, sword, box cutter, we could  
 13 list a whole number of possibilities?  
 14 A. There are a number of possibilities, yes.  
 15 MR. COFFEE: Thank you for your time, Doctor.  
 16 MR. DASKAS: Nothing else, Your Honor.  
 17 THE COURT: Dr. Olson, thank you very much for  
 18 coming. Always a pleasure.  
 19 THE WITNESS: Thank you.  
 20  
 21 (The witness exited the courtroom.)  
 22  
 23 THE COURT: All right.  
 24 MR. DASKAS: Your Honor, with the exception of  
 25 ensuring that we moved to admit all marked exhibits, we

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1 THE COURT: Wait a minute. Where was it?  
 2 MR. DASKAS: Through Detective Vaccaro.  
 3 THE COURT: He's not an expert.  
 4 MR. DASKAS: Doesn't have to be an expert.  
 5 THE COURT: No, I'm not going to buy that.  
 6 MR. DASKAS: Can I make the argument?  
 7 THE COURT: Sure.  
 8 MR. DASKAS: What Detective Vaccaro testified to,  
 9 as depicted in the photographs, that the victim, Helen  
 10 Sabraw, who by the way was 86 years old, was found on the  
 11 floor of her apartment; that her nightgown was pulled up  
 12 above her breasts; that she had no other clothing; that  
 13 significantly her underpants were found on the floor under  
 14 her head and her bra was found somewhere else on the  
 15 floor near her body; that there was fecal matter running  
 16 down her leg; and that he she was stabbed to death. That  
 17 is clearly evidence of sexual assault.  
 18 Both the force used to incapacitate her, as crude as  
 19 it sounds, the fecal matter running out of her body would  
 20 suggest something penetrated her anal cavity, overwhelming  
 21 evidence of assault.  
 22 This Court is permitted to apply common sense in  
 23 assessing the evidence. I think common sense absolutely  
 24 tells us that she was sexually assaulted. The other thing is  
 25 there was evidence that nothing was taken from her or her

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1 apartment.

2 So what's the motive? Well, the motive is  
3 consistent with Detective Vaccaro's testimony, which is  
4 sexual assault, that a perpetrator was inside her apartment.

5 The other significant thing, there are two t-shirts  
6 found inside her apartment, one of which has D.N.A. of the  
7 defendant Gustavo Ramos. At some point he partially  
8 undressed himself having committed sexual assault.

9 Putting all those things together in totality and  
10 the detective's testimony, certainly there is evidence to  
11 support that charge.

12 THE COURT: I disagree.

13 MR. COFFEE: I can make arguments about it.

14 THE COURT: I'll tell you another thing, too,  
15 when a person dies, body fluids extend from the body. That  
16 is known. I have been through autopsies and what have you  
17 before. When a person is murdered, automatically fluids  
18 from the body are ejected from the body.

19 MR. COFFEE: I was going to make that point,  
20 Judge.

21 THE COURT: To me, there is no evidence other  
22 than guessing. There is no substantial evidence, physical  
23 evidence, that shows that. I'm not saying there wasn't.  
24 but to this Court there has been no proof of any type of  
25 sexual assault penetration. So those two charges will be

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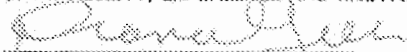
1 murder with the use of a deadly weapon, victim the age of  
2 65 years of age or older count II, open murder with use of  
3 a deadly weapon, victim 65 years of age or older, and there  
4 is reasonable grounds to believe the defendant, Gustavo  
5 Ramos, committed those crimes, I hereby order said  
6 defendant to be held to answer said charges in the Eighth  
7 Judicial District Court, State of Nevada, County of Clark.

8 THE CLERK: January 3rd at 9:00 a.m. lower level  
9 Courtroom A.

10 MR. DASKAS: Thank you, Judge.

11 -00-

12  
13  
14  
15 ATTEST: FULL, TRUE AND ACCURATE TO THE BEST  
16 OF MY ABILITY, EXPERIENCE AND KNOWLEDGE.

17   
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1 dismissed.

2 MS. WECKERLY: In this case, the fecal matter is  
3 on a different part of the carpet than the body.

4 THE COURT: It doesn't make any difference.

5 MS. WECKERLY: It comes out of her after death,  
6 if she's not in the same position.

7 MR. COFFEE: Also we have the coroner saying,  
8 from looking at the photographs, there is nothing in the  
9 photograph showing trauma.

10 MR. DASKAS: That is absolutely untrue. She said  
11 she didn't have a photograph to depict, which is different  
12 from saying ---

13 THE COURT: I'm saying, for the purpose of this  
14 hearing, it was not shown or proven or established that  
15 there was sexual assault, penetration. Those two charges  
16 are dismissed.

17 MR. DASKAS: Submit it on the other charges.

18 MR. COFFEE: Our objection stands on the statute  
19 of limitations.

20 THE COURT: I will have to rule on that.

21 MR. COFFEE: If it's dismissed, it's moot at this  
22 point.

23 THE COURT: Therefore, it appearing to me from  
24 the Complaint on file herein that crimes were committed, in  
25 Case No. 10F19763X, and those are the crimes in Count 1 of

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# EXHIBIT 2

AFFIDAVIT

STATE OF NEVADA       )  
                                  ) ss:  
COUNTY OF CLARK       )

JAMES VACCARO, being first duly sworn, deposes and says:

That I am retired from the Las Vegas Metropolitan Police Department where I worked for more than 30 years. I retired in December 2007. My last assignment was in the homicide division where I worked as a homicide detective for 14 years.

On May 17, 1998, at approximately 11:10 a.m., 86-year-old Helen Sabraw was found murdered in unit 212 of the Camlu Retirement Home located at 4255 South Spencer, Las Vegas, Clark County, Nevada. I was assigned the homicide investigation of Helen Sabraw.

On May 16, 1998, at approximately 4:52 a.m., 75-year-old Wallace Siegel was found murdered in unit 120 of the Camlu Retirement Home located at 4255 South Spencer, Las Vegas, Clark County, Nevada. I am familiar with the homicide investigation of Wallace Siegel.

The Camlu Retirement home was a dormitory style complex with locked public access doors that were designed to prevent access to the individual housing units.

On May 17, 1998, I visited the crime scene where Helen Sabraw was murdered. Helen Sabraw was located on the floor of her apartment; she was wearing only a nightgown which was pulled up above her breasts. Her underwear was off and found on the floor under her head. There was fecal matter running down her leg. There was also fecal matter on the carpet of the apartment several feet from where Helen Sabraw's dead body was found. Her bra was off and found on the floor near her body. Nothing was missing from Helen Sabraw's apartment. There was valuable jewelry on her hands. A man's gray t-shirt and white 'muscle' shirt were found on the floor near Helen. The shirts were particularly significant because they belonged to a man and Helen Sabraw lived alone. Helen Sabraw had been stabbed numerous times on her head, face, upper torso, left thigh and left buttock.

I attended the autopsy of Helen Sabraw; her cause of death was multiple sharp force

1 injuries and her manner of death was homicide.

2 Unlike the Wallace Siegel crime scene, robbery was not the motive; rather, the motive  
3 for the murder of Helen Sabraw was sexual assault.

4 I testified at the preliminary hearing of this matter on December 16, 2010. I testified  
5 that, based on my observations and 30 years' experience in law enforcement, Helen Sabraw  
6 had been sexually assaulted.

7 During my cross-examination at preliminary hearing, I agreed with the defense  
8 attorney that the motive for Helen Sabraw's murder was sexual assault. I also agreed that the  
9 crime of Helen Sabraw went above and beyond being just a sexual assault.

10 The murders of Wallace Siegel and Helen Sabraw remained "cold" for more than a  
11 decade.

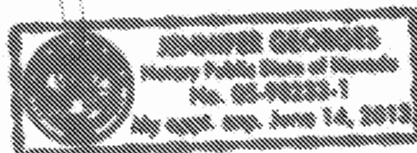
12 On June 26, 2009, a request was submitted to the LVMPD Biology/DNA detail to  
13 determine if a profile could be obtained from either of the two shirts found at the Helen  
14 Sabraw murder scene. Forensic Scientist Julie Marschner ultimately established a DNA  
15 profile from the gray t-shirt armpit cuttings which was consistent with a mixture of three (3)  
16 individuals, the major profile being male. Forensic Scientist Marschner concluded that the  
17 major profile was consistent with Gustavo Ramos-Martinez, and the estimated frequency of  
18 the profile was rarer than 1 in 30 million.

19 A forensic request was then submitted to have the known prints of Gustavo Ramos-  
20 Martinez compared to a bloody patent print located on, and collected from, a Las Vegas  
21 Review Journal page from the Wallace Siegel murder scene. The bloody patent print was  
22 identified to the right palm of Gustavo Ramos-Martinez.

23 I declare under penalty of perjury under the law of the State of Nevada that the  
24 foregoing is true and correct.

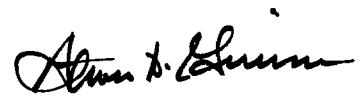
25 Executed on 1-28-2011  
26 (Date)

  
JAMES VACCARO



27 State of Nevada  
28 County of Clark

Signed and sworn to before me on 1-28-11 by  
James Vaccaro. 



CLERK OF THE COURT

PHILIP J. KOHN, PUBLIC DEFENDER  
NEVADA BAR NO. 0556  
309 South Third Street, Suite 226  
Las Vegas, Nevada 89155  
(702) 455-4685  
Attorney for Defendant

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,	)	
	)	
Plaintiff,	)	CASE NO. C269839X
	)	
	)	DEPT. NO. VII
	)	
GUSTAVO RAMOS,	)	DATE: February 9, 2011
	)	TIME: 8:45am
Defendant.	)	

**OPPOSITION TO STATE OF NEVADA'S MOTION FOR LEAVE TO FILE**  
**INFORMATION BY AFFIDAVIT**

COMES NOW, the Defendant, GUSTAVO RAMOS, by and through SCOTT L. COFFEE, Deputy Public Defender and hereby submits his Opposition to the State of Nevada's Motion for Leave to File Information by Affidavit.

This Opposition is made based upon all the papers and pleadings on file herein, the attached Memorandum of Points and Authorities in support hereof, and oral argument at the time set for hearing the State of Nevada's Motion.

DATED this 7<sup>th</sup> day of February, 2011.

PHILIP J. KOHN  
CLARK COUNTY PUBLIC DEFENDER

By: /s/ Scott L. Coffee  
SCOTT L. COFFEE, #5607  
Deputy Public Defender

1 **POINTS AND AUTHORITIES**

2 **FACTS**

3 Defendant, GUSTAVO RAMOS (hereinafter “RAMOS”), was originally charged by way of  
4 criminal complaint with two (2) counts of murder with use of a deadly weapon victim under 65  
5 years of age or older. The preliminary hearing was held on December 16, 2010. Immediately prior  
6 to the commencement of the preliminary hearing, the State of Nevada (hereinafter “State”) filed an  
7 amended complaint adding one (1) count of sexual assault with use of a deadly weapon victim under  
8 65 years of age or older and one (1) alternative count of sexual penetration of a dead human body.

9 After hearing all of the testimony from the State’s witnesses, Judge Jansen held that the State  
10 failed to present evidence sufficient to establish probable cause for either of the alleged sexual  
11 crimes, ruling specifically that there was insufficient evidence to establish sexual penetration.  
12 Therefore, RAMOS was bound over on only the original two murder charges and the two sex  
13 charges were dismissed. On January 12, 2010, RAMOS was arraigned in district court and pled not  
14 guilty to the two murder charges. On January 28, 2011, the State filed its motion for leave to file  
15 information by affidavit.

16 **ARGUMENT**

17 In its motion, the State seeks to file an “Information by Affidavit” pursuant to N.R.S.  
18 §173.035 (2), reinstating the two sexually related charges dismissed from the amended criminal  
19 complaint. This creative method of attempting to avoid the normal proof requirements for filing an  
20 Information has been addressed in a number of cases by the Nevada Supreme Court. A search of  
21 Nevada case law reveals several published cases in which the State has sought leave to file an  
22 “information by affidavit” because they disagreed with the justice’s of the peace determination of  
23 probable cause. All have been decided against the state.<sup>1</sup>

24 \_\_\_\_\_  
25 <sup>1</sup>Cranford v. State, 92 Nev. 89, 545 P.2d 1162 (1976); Murphy v. State, 110 Nev. 194,  
26 871P.2d 916 (1994); Cipriano v. State, 111 Nev. 534, 894 P.2d 347 ; Feole v. State, 113 Nev. 628,  
27 939 P.2d 1061(1997); State v. Sixth Judicial Dist. Ct., 114 Nev. 739, 964 P.2d 48 (1998); 115 Nev.  
28 91, 978 P.2d 963 (1999), rehearing at Parsons v. State, 116 Nev. 928, 10 P.3d 836 (2000). [Note  
that Murphy, Cipriano and Feole were overruled to the extent which they allowed the state to refile  
the original charges in justice court if a defendant is not held to answer in the first instance. *See*  
State v. Sixth Judicial Dist. Ct., 114 Nev. at 743].

1 At its' most basic, the State's motion is no different from the other instances in the past  
2 where the State has unsuccessfully tried to use N.R.S. §173.035 (2) to circumvent the normal proof  
3 requirements for getting a charge to district court. Here the State argues that Judge Jansen  
4 "articulated and applied the wrong standard" for determining probable cause, but it's really just a re-  
5 clothing of past failures. In the particulars of their argument, the State takes issue with Judge Jansen  
6 using the words "substantial evidence," claiming that these words are somehow talismanic proof that  
7 the Judge "articulated and applied the wrong standard."

8 The first point which needs to be made is that Judge Jansen's words have been conveniently  
9 taken out of context. Here is the entire quote: "To me, there is no evidence other than guessing.  
10 There is no substantial evidence, physical evidence, that shows that. I'm not saying there wasn't  
11 [sexual assault], but to this Court there has been no proof of any type of sexual assault penetration.  
12 So those two charges will be dismissed." PHT at 125. The Nevada Supreme Court has held that  
13 although the State's burden at the preliminary hearing is "slight, it remains incumbent upon the state  
14 to produce some evidence." Woodall v. Sheriff, 95 Nev. 218, 220 (1979). It's clear that in the view  
15 of Judge Jansen the State fell short on the alleged sex counts.

16 The State also conveniently ignores that immediately following the presentation of evidence  
17 Judge Jansen let it be known in no uncertain terms that it had fallen short on the disputed charges,  
18 saying: "[T]here's no indication of any sexual assault or any penetration." PHT at 123. The  
19 prosecutor took issue with Judge Jansen's ruling, arguing that the testimony of detective Vaccaro  
20 supported the charge and pointed out the burden of proof---a tactic that failed to change Judge  
21 Jansen's decision.<sup>2</sup>

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22 <sup>2</sup> Judge Jansen responded: "He's not an expert. . . . No, I'm not going to buy that." PHT at  
23 124. Further, Detective Vacarro testified that he had only a "suspicion" that a sexual assault  
24 occurred because, in part, the manner in which the clothes were found on the alleged victim. PHT at  
25 68. However, detective Vacarro also testified on cross examination that the manner in which the  
26 clothes were found on the alleged victim could also have been caused by "dragging or fighting" and  
27 not necessarily a sexual assault. PHT at 75. Of course, there was no evidence presented by any  
28 medical expert, sexual assault nurse examiner, or other witness to confirm detective Vacarro's mere  
"suspicion." As previously noted, Judge Jansen's ruling on that matter was: "To me there is no  
evidence other than guessing." This clearly shows that detective Vacarro's testimony wasn't enough  
to establish probable cause in Judge Jansen's opinion.

1           It's clear from the foregoing that the use in passing of the words "substantial evidence" fails  
2 to capture the true flavors of Judge Jansen's actual ruling. It wasn't that Judge Jansen "articulated  
3 and applied the wrong standard," it was that after hearing the State's evidence the magistrate was of  
4 the opinion that the State fell well short of establishing probable cause.<sup>3</sup> To Judge Jansen there was  
5 "no evidence other than guessing." Taken in context, the facts here absolutely fail to support the  
6 State's claim that Judge Jansen "articulated and applied the wrong standard." And there are even  
7 bigger problems afoot.

8           The term "substantial evidence," which the State now takes issue with, has been held by the  
9 Nevada Supreme Court to be the standard of proof by which probable cause is determined. "We  
10 note initially that the quantum of proof necessary to hold an accused to answer in the district court is  
11 only that it appear, from *substantial and competent evidence*, that an offense has been committed  
12 and that the defendant committed it." Sheriff, Clark County v. Medberry, 96 Nev. 202,  
13 203-204 (1980) citing Ricci v. Sheriff, 88 Nev. 662 (1972).<sup>4</sup> Simply put, even if the record  
14 could somehow be twisted to read as Judge Jansen simply applying a "lack of substantial evidence,"  
15 there would be no error with this standard.

16           Why the confusion from the state? It appears that they are relying upon the line of cases  
17 which say that probable cause can be based upon slight or marginal evidence, but it's a point not in  
18 dispute. What the State completely fails to appreciate is what these cases actually mean, to wit: if  
19 slight or marginal evidence exists it can be the basis for a finding of probable cause. This is a  
20 proposition very different than what the State has put forth (i.e. that so long as there is any "slight or  
21 marginal evidence" in the record that that they are entitled by law to have a charge bound over).  
22 They have confused sufficiency with entitlement---but reasonable minds can differ as to whether or  
23 not probable cause exists. The State's motion is written almost in terms of pointing to evidence that

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25           <sup>3</sup> It's interesting to note that there is not even a hint of an objection at preliminary concerning  
26 Judge Jansen's alleged "articulated and applied the wrong standard." While the State may not like  
27 the fact that a neutral magistrate wouldn't agree with their evaluation of the evidence, that's sort of  
28 the point of having a neutral magistrate.

<sup>4</sup> This formulation, "substantial and competent evidence" is also used in Ricci at 663.

1 it feels supports probable cause, but there was no finding of probable cause in this instance. Had  
2 Judge Jansen bound over the sex related charges then sufficiency might be the appropriate area of  
3 discussion, but he didn't. So what is the standard?

4 N.R.S. §173.035(2) has been held to be a “safeguard against **egregious error** by a magistrate  
5 in determining probable cause.” Cranford v. Smart, 92 Nev. 89, 91 (1976) (emphasis added).  
6 Contrary to how the State is trying/hoping to use the statute, NRS §173.035(2) is “not a device to be  
7 used by a prosecutor to satisfy deficiencies in evidence at a preliminary examination, through  
8 affidavit.” *Id.*; Murphy v. State, 110 Nev. 194, 198 (1994) (“That device is not to be used by a  
9 prosecutor to satisfy deficiencies in evidence at the preliminary hearing.”), *overruled on other*  
10 *grounds by State v. District Court*, 114 Nev. 739 (1998).

11 Although the proper standard of egregious error is nowhere to be found in the State's motion,  
12 assume for the moment that the State is claiming that Judge Jansen committed “egregious error.” It's  
13 a claim that simply can't be supported. First, for the reasons previously stated, even if he used  
14 “substantial evidence” as the sole standard in this case, it's the same standard articulated by the  
15 Nevada Supreme Court in previous cases. Second, the State has taken Judge Jansen's ruling out of  
16 context to an extent which almost defies belief as a quick review of what was actually said is  
17 revealed.

18 This Court might differ with Judge Jansen's ruling had it heard the evidence, then again it  
19 might not had. The State is improperly seeking a “de novo” review. This is of no import to the  
20 question at hand. The sole question before this Court is whether Judge Jansen committed an  
21 “egregious error” in dismissing the two sex charges. *See Cipriano v. State*, 111 Nev. 534, 540  
22 (1995) (“While we may have reached a different conclusion than the justice of the peace, the failure  
23 to bind over was not egregious.”), *overruled on other grounds by State v. District Court*, 114 Nev.  
24 739 (1998). Clearly, Judge Jansen did not egregiously err.

25 Perhaps the following from the Nevada Supreme Court in Cipriano sums it up best: “Simply  
26 because the State is unhappy with a failure to bind over does not mean that it can reassert the same  
27 deficient evidence to obtain an information in district court.” Cipriano, 11Nev. at 541.



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**CONCLUSION**

In sum, Judge Jansen did not commit “egregious error” by finding that the State failed to present sufficient evidence to meet the probable cause standard as to the two sex charges. Wherefore, in light of the foregoing, it is respectfully urged that the State of Nevada’s Motion for Leave to File Information by Affidavit be denied.

DATED this 7<sup>th</sup> day of February, 2011.

PHILIP J. KOHN  
CLARK COUNTY PUBLIC DEFENDER

By: /s/ Scott L. Coffee  
SCOTT L. COFFEE, #5607  
Deputy Public Defender

**CERTIFICATE OF ELECTRONIC SERVICE**

A COPY of the above and foregoing OPPOSITION TO STATE OF NEVADA’S MOTION FOR LEAVE TO FILE INFORMATION BY AFFIDAVIT was served via electronic e-filing to the District Attorney’s Office on this 7<sup>th</sup> day of February, 2011.

By /s/ Patty Barber-Bair  
An employee of the Clark County Public  
Defender’s Office

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*John L. P.*  
CLERK OF DISTRICT COURT

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5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

7 THE STATE OF NEVADA,

8 Plaintiff,

9 vs.

10 GUSTAVO RAMOS,

11 Defendant.

)  
)  
) CASE NO. C269839

)  
) DEPT. VII

C-10-269839-1  
TRANS  
Transcript of Proceedings  
1235423



12  
13 BEFORE THE HONORABLE LINDA M. BELL, DISTRICT COURT JUDGE  
14 WEDNESDAY, FEBURARY 9, 2011

15  
16 **TRANSCRIPT OF PROCEEDINGS**  
17 **STATE'S MOTION FOR LEAVE TO FILE INFORMATION BY AFFIDAVIT**

18 APPEARANCES:

19 For the State:

ROBERT J. DASKAS, ESQ.  
PAM WECKERLY, ESQ.  
Chief Deputy District Attorneys

21 For the Defendant:

SCOTT L. COFFEE, ESQ.  
ABEL M. YANEZ, ESQ.  
Deputy Public Defenders

22 Court Interpreter:

CARIDAD PFEIFFER

RECORDED BY: RENEE VINCENT, COURT RECORDER

RECEIVED  
FEB 15 2011  
CLERK OF THE COURT

1 WEDNESDAY, FEBRUARY 9, 2011, AT 8:53 A.M.

2  
3 THE COURT: Page 20, State of Nevada versus Gustavo Ramos, Case  
4 Number C26983 -- oh, sir, you can go ahead and have a seat -- C269839-1. Is Mr.  
5 Ramos here? Do we need the -- we need the interpreter; don't we?

6 MR. COFFEE: Right here. I think we have one.

7 THE INTERPRETER: Sorry.

8 THE COURT: That's okay. Ma'am, could we get your name?

9 THE INTERPRETER: Caridad Pfeiffer.

10 THE COURT: Thank you. So Mr. --

11 MR. DASKAS: Good morning, Judge. I'm sorry. Robert Daskas and Pam  
12 Weckerly on behalf of the State.

13 THE COURT: Thank you. And Mr. Ramos is present being assisted by the  
14 Court Interpreter with his counsel, Mr. Coffee and Mr. Yanez.

15 And this is on for the State's motion for leave to file an Information by  
16 affidavit. Before we get to that, when I read the preliminary hearing transcript, I  
17 noted that Dave Lemaster is a witness in this case and I just wanted to make a  
18 record. I don't anticipate that this would pose a conflict but Mr. Lemaster is married  
19 to the one woman who was my roommate in law school. So I have occasionally,  
20 like, social interaction with Mr. Lemaster. I can't imagine that it is anything that  
21 would -- it wouldn't change any decision that I make or anything but I just wanted to  
22 make a record of that.

23 MR. COFFEE: Understood, Judge.

24 THE COURT: Okay.

25 MR. COFFEE: We don't anticipate it being an issue from the Defense side.

1 MR. DASKAS: And we have no issue whatsoever, Judge. Thank you.

2 THE COURT: Okay, so.

3 MR. DASKAS: Judge, the evidence presented at the preliminary hearing  
4 was that there were two murder victims and I mention that because it's significant.  
5 The first victim, and I don't mean that chronologically, but the first victim Wallace  
6 Siegel, in that crime scene robbery clearly was the motive. The case -- the victim  
7 that brings us to court today is Helen Sabraw. Helen was 86 years old. She was  
8 found murdered lying on the floor of her apartment. Her nightgown was pulled up,  
9 exposing her breasts, her underwear was off and crumpled under her head on the  
10 floor, her bra was off. She had been stabbed numerous times and there was fecal  
11 matter running down her leg.

12 Detective Jimmy Vaccaro testified at prelim. He testified unobjected  
13 to by the Defense that in his opinion a sexual assault had occurred.

14 MR. COFFEE: Objection. That's not exactly accurate. I'll address it in a  
15 moment.

16 MR. DASKAS: Okay. In fact there was some --

17 THE COURT: That's okay, Mr. Coffee. I read the whole preliminary hearing  
18 transcript so. I know what he said.

19 MR. COFFEE: Okay.

20 MR. DASKAS: And, in fact, in cross-examination there were some questions  
21 asked to which Detective Vaccaro agreed that would certainly suggest, again, that a  
22 sexual assault had occurred.

23 And so the only question, as I'm sure you understand, Judge, is  
24 whether we presented slight evidence. Judge Jansen in making his ruling said he  
25 found there was no substantial evidence presented. Certainly, Judge Bell, you

1 understand that the only question is, was there a reasonable inference that could be  
2 drawn from the evidence that she was sexually assaulted.

3 Now, other inferences can be drawn about what happened to Helen  
4 Sabraw. One inference is that this 86-year-old woman took off her own clothes and  
5 pulled up her own nightgown and then somehow defecated herself either during the  
6 course of or after she was murdered. But that's not the only inference that can be  
7 drawn. And certainly one inference is that she was sexually assaulted. Nothing was  
8 taken from her apartment and so certainly sexual assault appears to be the  
9 motive. The fecal matter running down her leg would support that she was anally  
10 assaulted. The fact that her clothes were off and lying next to her would support  
11 that she was anally assaulted. And all those things clearly constitute slight evidence  
12 that we presented the charge of sexual assault, despite what Judge Jansen said  
13 and despite the wrong standard he applied.

14 Now, I know the Defense takes issue and says, well, Judge Jansen  
15 said some other things about what standard he applied. But the point is when this  
16 Court applies the proper standard, I have no doubt that we presented enough  
17 evidence to support that charge. It looks like the Court may have some questions.

18 THE COURT: You know what? Actually, my concern is the other issue that  
19 was never reached. I think that Judge Jansen's concern was that the pathologist  
20 wasn't able to provide any testimony on that issue. I mean that's what it appears to  
21 me from reading the preliminary hearing transcript.

22 MR. DASKAS: Well, and may I just say one thing?

23 THE COURT: And I understand. I mean it's a very complicated situation  
24 since she was having to review Dr. Green's work since Dr. Green is not available.  
25 But the other issue, once we get past that issue even assuming there was slight or

1 marginal evidence presented through the testimony of Detective Vaccaro, then we  
2 get to the statute of limitations issue. And I mean that isn't briefed in here but I think  
3 that that's something that needs to be addressed because I have some concerns  
4 about that issue.

5 MR. DASKAS: And, obviously, Judge, we're talking about two separate  
6 issues. Let me just address one thing regarding the pathologist and what she was  
7 and wasn't allowed to testify to.

8 THE COURT: Well, let me ask you this Mr. Daskas.

9 MR. DASKAS: Yes.

10 THE COURT: Do you think that it would be -- because I could allow you  
11 leave to file a new Information and then we can deal with the statute of limitations  
12 issue or we can deal with it all together. What --

13 MR. DASKAS: Well, our preference would be based on the improper  
14 standard applied, that we should be permitted to file the Information by affidavit and,  
15 certainly, we agree that the statute of limitations issue needs to be addressed.  
16 We're confident that the statute in this case allows us to file the charge but,  
17 obviously, that needs to be addressed with the Court and we would certainly do that.

18 THE COURT: Okay. Mr. Coffee.

19 MR. COFFEE: Judge, what he's done is exactly what the cases say you  
20 can't do which is let's re-litigate our case and try to get a different tribunal to come to  
21 a different decision. The standard is egregious error for allowing an Information to  
22 be filed by affidavit. There's not an egregious error here. He takes issue with the  
23 use of word substantial evidence but it's interesting that the Nevada Supreme Court  
24 has used that very term, substantial and competent evidence, when describing the  
25 standard for a preliminary hearing. When you look at what Judge Jansen said and

1 you take it in context, he said there's no evidence of it, no evidence of it at one point.  
2 When you put it in context, it is hard to believe that Judge Jansen with all his years  
3 experience suddenly forgot the standard of proof at preliminary hearing. And that's  
4 the State's argument. It doesn't appear that that happened. He simply found that  
5 they came up short; they don't like it. It is, for lack of a better description at this  
6 point, sour grapes. But it's exactly the kind of thing that the Supreme Court has said  
7 no on time and time again when they've tried to do it. That's the problem that we've  
8 got. They don't cite the right standard in their motion. They never mention this  
9 egregious error standard. It is laid out in case after case after case where District  
10 Courts have allowed the State to try to pull these kind of legal tactics and it's went to  
11 the Supreme Court and then rejected. So that's one of the problems that we've got;  
12 there's not egregious error. I don't think Judge Jansen said there has to be  
13 substantial evidence. I don't think he applied the wrong standard. It's outlined in our  
14 motion but for all those reasons, we don't think they should be allowed to file an  
15 Information by affidavit.

16           And I don't take issue with Mr. Daskas' position in terms of  
17 sequencing. Although, I think there will be a statute of limitation issue at some point  
18 perhaps, if the Court allows the Information to go forward. I expect the first thing  
19 that will happen is this will go to the Supreme Court at some point. We'll submit with  
20 that.

21           MR. DASKAS: Well, Your Honor, I mean I appreciate that Mr. Coffee says,  
22 you know, we can presume that Judge Jansen didn't forget the standard, but we  
23 can't. All we have are his words, which are memorialized in a transcript where he  
24 applied the wrong standard. Substantial evidence is not, never was, never will be  
25 the standard at preliminary hearing. And when Mr. Coffee says Judge Jansen found



1 there's no evidence of sexual assault, I think that tells you all you need to know. I  
2 can't believe that a reasonable person hearing the evidence I just outlined for you  
3 would conclude there's no evidence of sexual assault; 86 years old, underwear off,  
4 bra off, fecal matter running from her anal cavity and a man's shirt in her apartment  
5 where nothing was taken. The only inference in our assessment that can be drawn  
6 is that she was sexually assaulted. We'll submit it.

7 THE COURT: Anything else, Mr. Coffee?

8 MR. COFFEE: Judge, just one point. We note initially the quantum of proof  
9 necessary to hold the accused to answer in District Court. It is only that it appear  
10 from substantial and competent evidence that a offense has been committed and  
11 the Defendant committed it. That's from our Supreme Court. They keep bringing up  
12 slight or marginal and it can support but, again, permissive and necessary are  
13 different ideas as we've pointed out in our motion. Would this have been sufficient if  
14 he had bound it over? Yes. But it's not for this Court to rewind.

15 THE COURT: Okay. Well, I appreciate that Mr. Coffee. I'm going to allow  
16 the State -- I'm going to grant their motion to -- for leave to file the Information and  
17 then I suppose we'll be waiting for a motion from you on the statute of limitations  
18 issue.

19 MR. COFFEE: At some point.

20 THE COURT: Okay.

21 MR. DASKAS: Thank you, Judge.

22 THE COURT: Thank you.

23 MR. COFFEE: And, Judge, I suppose we have a record. I need to ask the  
24 Court for a stay because we have to, if we're going to take anything to the Supreme  
25 Court pretrial, so I'm going to ask for a stay to take this pretrial to the Supreme

1 Court. The Court does what it will do. I just have to ask for it.

2 THE COURT: I mean I don't mind. We don't even have a trial date set till  
3 November and I --

4 MR. DASKAS: And that was our position as well, Judge. They have plenty  
5 of time between now and November. So whatever the Court wants to do.

6 THE COURT: Okay.

7 MR. COFFEE: Understood.

8 MR. DASKAS: Thank you, Judge.

9 THE COURT: Thank you. So we'll stay it and I'm going to leave the trial  
10 date set --

11 MR. COFFEE: Yeah.

12 THE COURT: -- but we'll just stay it and then we'll see where we are.

13 MR. COFFEE: Sure.

14 THE COURT: Okay.

15 MR. COFFEE: That's fair, Judge. Thank you.

16 [Proceedings concluded at 9:03 a.m.]

17 \* \* \* \* \*

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

23   
24 CHEYRL CARPENTER  
25 Court Transcriber

  
CLERK OF THE COURT

AINF  
DAVID ROGER  
Clark County District Attorney  
Nevada Bar #002781  
ROBERT J. DASKAS  
Chief Deputy District Attorney  
Nevada Bar #004963  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

GUSTAVO RAMOS,  
#1516662

Defendant.

Case No: C-10-269839  
Dept No: VII

**AMENDED  
INFORMATION**

STATE OF NEVADA }  
COUNTY OF CLARK } ss.

DAVID ROGER, District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That GUSTAVO RAMOS, the Defendant(s) above named, having committed the crimes of MURDER WITH USE OF A DEADLY WEAPON, VICTIM 65 YEARS OF AGE OR OLDER (Felony - NRS 200.010, 200.030, 193.165, 193.167); SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON, VICTIM 65 YEARS OF AGE OR OLDER (Felony - NRS 200.364, 200.366, 193.165, 193.167); and SEXUAL PENETRATION OF A DEAD HUMAN BODY (Felony - NRS 201.45), on or between May 15, 1998 and May 16, 1998, within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada,

COUNT 1 – OPEN MURDER WITH USE OF A DEADLY WEAPON, VICTIM 65  
YEARS OF AGE OR OLDER

did then and there wilfully, feloniously, without authority of law, and with malice aforethought, kill WALLACE SIEGEL, a human being, the victim being 65 years of age or older, by striking the head of the said WALLACE SIEGEL, with a deadly weapon, to-wit: a dumbbell weight and/or unknown heavy blunt object, the actions of Defendant resulting in the death of the said WALLACE SIEGEL, said killing having been (1) willful, deliberate and premeditated; and/or (2) committed during the perpetration or attempted perpetration of burglary and/or robbery.

COUNT 2 – OPEN MURDER WITH USE OF A DEADLY WEAPON, VICTIM 65  
YEARS OF AGE OR OLDER

did then and there willfully, feloniously, without authority of law, and with malice aforethought, kill HELEN SABRAW, a human being, the victim being 65 years of age or older, by stabbing at and into the body of the said HELEN SABRAW, with a deadly weapon, to-wit: a knife, the actions of Defendant resulting in the death of said HELEN SABRAW, said killing having been (1) willful, deliberate and premeditated; and/or (2) committed during the perpetration or attempted perpetration of burglary and/or robbery and/or sexual assault.

COUNT 3 – SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON VICTIM 65  
YEARS OF AGE OR OLDER

did then and there willfully, unlawfully, and feloniously sexually assault and subject HELEN SABRAW, a female person, the victim being 65 years of age or older, to sexual penetration, to-wit: anal intercourse, by inserting his penis and/or an unknown object into the anal opening of said HELEN SABRAW, with a deadly weapon, to-wit: a knife.

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COUNT 4 – SEXUAL PENETRATION OF A DEAD HUMAN BODY

did then and there willfully, unlawfully, and feloniously sexually penetrate a dead human body, to-wit: HELEN SABRAW, in the following manner, by inserting his penis and/or and unknown object into the anal opening of said HELEN SABRAW.

BY /s/ROBERT J. DASKAS  
ROBERT J. DASKAS  
Chief Deputy District Attorney  
Nevada Bar #004963

Names of witnesses known to the District Attorney's Office at the time of filing this Information are as follows:

<u>NAME</u>	<u>ADDRESS</u>
ALBY, ROCKY	LVMPD P#1810
ATKIN, MICHAEL	LVMPD P#5409
BENOIT, LEANITTIA	LVMPD P#6784
BRAGG, ALMEDIA	LVMPD P#4150
BRANDON, JACK	LVMPD P#3419
CHANDLER, ROY	LVMPD P#712
COLEMAN, LUCY	4255 SPENCER, LVN
COLEMAN, THOMAS	4255 SPENCER, LVN
CRAIG, MICHAEL	LVMPD P#5585
CUSTODIAN OF RECORDS	CCDC
CUSTODIAN OF RECORDS	CCFD, 575 E. FLAMINGO RD., LVN
CUSTODIAN OF RECORDS	LVMPD – DISPATCH
CUSTODIAN OF RECORDS	LVMPD RECORDS

1	FLYNN, DENNIS	LVMPD P#3028
2	FOX, STEPHANIE	LVMPD P#5712
3	GARLEY, THOMAS	UNKNOWN ADDRESS
4	GONZALES, FNU	CCFD/575 E. FLAMINGO RD., LVN
5	HALL, RICHARD	LVMPD P#6756
6	HERIFORD, R.	CCME, 1704 PINTO LN., LVN
7	JOHNSON, DAVID	LVMPD P#9933
8	JOHNSON, THOMAS	LVMPD P#3171
9	JOSEPH, MARC	LVMPD P#3383
10	KYGER, TERESA	LVMPD P#4191
11	LAUER, DEAN	LVMPD P#5613
12	LEMASTER, DEAN	LVMPD P#4243
13	MANNING, KEVIN	LVMPD P#2434
14	MARSCHNER, JULIE	LVMPD P#8806
15	MIKOLAINIS, J.	LVMPD P#1511
16	NEVIN, KATHLEEN	LVMPD P#900
17	OLSON, ALANE	CCME, 1704 PINTO LN., LVN
18	PARKS, PEGGY	c/o CCDA/VWAC, 200 LEWIS, LVN
19	PETERSEN, WAYNE	LVMPD P#1913
20	PORTER, R.	CCFD/575 E. FLAMINGO RD., LVN
21	RAETZ, DEAN	LVMPD P#4234
22	RAMOS, PHILLIP	LVMPD P#799
23	REED, GARY	LVMPD P#3731
24	REEDER, ROBERT	4800 E. TROPICANA, LVN
25	SIEGEL, JACK	c/o CCDA/VWAC, 200 LEWIS AVE., LVN
26	SPRAGUE, FNU	CCFD/575 E. FLAMINGO RD., LVN
27	SZUKIEWICZ, JOSEPH	LVMPD P#5411
28	THOMPSON, MICHAEL	LVMPD P#1988

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VACCARO, JAMES  
WILSON, MICHAEL

c/o CCDA/MVU, 200 Lewis Ave., LVN  
LVMPD P#5319

DA#10F19783X/dd-mvu  
LVMPD EV#101013-1210;  
980517-0848; 980516-0400  
(TK5)



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*Ann L. Sch.*  
CLERK OF THE COURT

1 **ORDR**

2 DAVID ROGER  
3 Clark County District Attorney  
4 Nevada Bar #002781  
5 ROBERT J. DASKAS  
6 Chief Deputy District Attorney  
7 Nevada Bar #004963  
8 200 Lewis Avenue  
9 Las Vegas, NV 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

8 DISTRICT COURT  
9 CLARK COUNTY, NEVADA

C-10-269839-1  
OGM  
Order Granting Motion  
1414770



10 THE STATE OF NEVADA,

11 Plaintiff,

12 -vs-

13 GUSTAVO RAMOS,  
14 #1516662

15 Defendant.

Case No. C-10-269839  
Dept No. VII

17 **ORDER GRANTING STATE'S MOTION TO FILE INFORMATION BY**  
18 **AFFIDAVIT**

19 DATE OF HEARING: FEBRUARY 9, 2011  
20 TIME OF HEARING: 8:45 A.M.

21 THIS MATTER having come on for hearing before the above-entitled Court on the  
22 9th day of February, 2011, the Defendant being present, REPRESENTED BY SCOTT  
23 COFFEE, Deputy Public Defender, the Plaintiff being represented by DAVID ROGER,  
24 District Attorney, through PAMELA WECKERLY and ROBERT J. DASKAS, Chief  
25 Deputies District Attorney, and the Court having heard the arguments of counsel and good  
cause appearing, the Court hereby finds as follows:

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CLERK OF THE COURT

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1 1. On December 16, 2010, a preliminary hearing was held before Justice of the Peace  
2 William Jansen in Case 10F19783X against Gustavo Ramos-Martinez on two counts of open  
3 murder with use of a deadly weapon victim 65 years of age older, one count of sexual assault  
4 with use of a deadly weapon victim 65 years of age or older, and one count of sexual-  
5 penetration-of-a-dead-human-body.<sup>1</sup> Seven witnesses were called on behalf of the State.

6 2. Judge Jansen bound over defendant Ramos-Martinez on the murder counts; however,  
7 Judge Jansen stated he did not believe there was "substantial evidence" to hold defendant to  
8 answer to the remaining counts. PHT at 125. Judge Jansen further explained that it was not  
9 "proven" or "established" that there was sexual assault and penetration. PHT 126.  
10 Therefore, Judge Jansen dismissed the sexual assault and sexual-penetration-of-a-dead-  
11 human-body counts. PHT 126.

12 3. The justice of the peace articulated and applied the wrong standard at the preliminary  
13 hearing stage. At preliminary hearing, the State is not required to present "substantial  
14 evidence" of the charges, nor is the State required to "prove" or "establish" the charges.  
15 Rather, the finding of probable cause may be based on slight, even marginal, evidence  
16 because it does not involve a determination of the guilt or innocence of an accused. Sheriff  
17 v. Hodes, 96 Nev. 184, 186, 606 P.2d 178 (1980); see also Sheriff v. Shade, 109 Nev. 826,  
18 828, 858 P.2d 840 (1993); Sheriff v. Simpson, 109 Nev. 430, 435, 851 P.2d 428 (1993);  
19 Sheriff v. Crockett, 102 Nev. 359, 361, 724 P.2d 203 (1986). Thus, the evidence need not  
20 be sufficient to support a conviction. Sheriff v. Kinsey, 87 Nev. 361, 363, 487 P.2d 340  
21 (1971). The State is required to present only enough evidence to support a reasonable  
22 inference that the accused committed the offense. Id. at 363.

23 ///

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28 <sup>1</sup> The State was precluded from filing burglary and robbery charges based upon statutes of limitation.

1 4. NRS 173.035 §2 provides that an Information may be filed by affidavit in certain  
2 circumstances.

3 If, however, upon the preliminary examination the accused has  
4 been discharged \* \* \* the district attorney may, upon affidavit of  
5 any person who has knowledge of the commission of an offense,  
6 and who is a competent witness to testify in the case, setting  
7 forth the offense and the name of the persons charged with the  
8 commission thereof, upon being furnished with the names of the  
9 witnesses for the prosecution, by leave of the court first had, file  
10 an information, and process must forthwith be issued thereon.

11 5. This statute is designed to provide a safety valve against an arbitrary or  
12 mistaken decision of the magistrate in determining probable cause. Ryan v.  
13 District Court, 88 Nev. 638, 503 P.2d 842 (1972); Cranford v. Smart, 92 Nev.  
14 89, 545 P.2d 1162 (1976).

15 6. Application of the proper "slight" or "marginal" evidence standard to  
16 the facts adduced at preliminary hearing mandates that Ramos-Martinez should  
17 have been bound over on the sexual assault and sexual-penetration-of-a-dead-  
18 human-body counts.

19 7. The State produced evidence that sexual assault was the motive for  
20 Helen Sabraw's murder. Nothing was missing from Helen's apartment. PHT  
21 68-69. There was valuable jewelry on her hands. PHT 68-69, 74.

22 8. The State produced witnesses whose testimony concerning the crime  
23 scene constituted slight or marginal evidence that Helen Sabraw had been  
24 sexually assaulted. Helen Sabraw was found on the floor of her apartment; she  
25 was wearing only a nightgown which was pulled up above her exposed breasts.  
26 PHT 64-65. The underwear of the 86-year-old victim was off and found on the  
27 floor under her head. PHT 65, 68. A reasonable inference can be drawn that  
28

1 her underwear had been removed so that she could be, and was, anally  
2 penetrated. This was corroborated by the fecal matter running down her leg.  
3 PHT 66-68. Helen Sabraw's bra was off and found on the floor near her body.  
4 See PHT 65. A man's gray t-shirt and white 'muscle' shirt were found on the  
5 floor of the apartment near Helen Sabraw, thereby supporting a reasonable  
6 inference that the intruder undressed, at least partially, in order to sexually  
7 assault the victim. See PHT 65, 67.  
8

9  
10 9. The State produced a witness whose opinion supported a reasonable  
11 inference that Helen Sabraw had been sexually assaulted. Detective Vaccaro  
12 testified that, in his experience and based on his observations of the crime  
13 scene and victim, his impression was that Helen Sabraw had been sexually  
14 assaulted. PHT 68, 71.  
15

16 10. The totality of the evidence produced by the State at preliminary  
17 hearing - - the intruder getting undressed; the removal of the victim's bra; the  
18 removal of the victim's underwear; the victim's nightgown pulled up to expose  
19 her buttocks and breasts; the fecal matter running down her leg; the presence  
20 of valuables left on the victim and in the apartment; the opinion of the  
21 homicide detective - - constitutes slight or marginal evidence that Helen  
22 Sabraw was sexually assaulted, specifically by anal penetration.  
23  
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25 11. An affidavit of a witness with knowledge of the crimes was attached as  
26 Exhibit 2 to the State's Motion for Leave to File Information by Affidavit.  
27 The facts stated therein were those adduced at the preliminary hearing.  
28

1 Now, therefore, it is hereby ORDERED that the State's request for leave to file the  
2 original charges by Information with attached Affidavit shall be, and hereby is, GRANTED.

3 DATED this 10 day of May, 2011.

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11 DISTRICT JUDGE

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DAVID ROGER  
DISTRICT ATTORNEY  
Nevada Bar #002781

ROBERT J. DASKAS  
Chief Deputy District Attorney  
Nevada Bar #004963

REVIEWED BY:

  
SCOTT COFFEE  
Deputy Public Defender

dd-mvu

  
CLERK OF THE COURT

MDSM  
PHILIP J. KOHN, PUBLIC DEFENDER  
NEVADA BAR NO. 0556  
309 South Third Street, Suite 226  
Las Vegas, Nevada 89155  
(702) 455-4685  
Attorney for Defendant

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,	)	
	)	
Plaintiff,	)	CASE NO. C269839X
	)	
	)	DEPT. NO. VII
	)	
GUSTAVO RAMOS,	)	DATE: July 11, 2011
	)	TIME: 8:45am
Defendant.	)	

**MOTION TO DISMISS COUNTS 3 AND 4 OF THE AMENDED INFORMATION**

COMES NOW, the Defendant, GUSTAVO RAMOS, by and through SCOTT L. COFFEE, Deputy Public Defender and hereby submits his Motion to Dismiss Counts 3 and 4 of the Amended Information.

This Motion is made based upon all the papers and pleadings on file herein, the attached Memorandum of Points and Authorities in support hereof, and oral argument at the time set for hearing this Motion.

DATED this 27th day of June, 2012.

PHILIP J. KOHN  
CLARK COUNTY PUBLIC DEFENDER

By: /s/ Scott L. Coffee  
SCOTT L. COFFEE, #5607  
Deputy Public Defender

1 **POINTS AND AUTHORITIES**

2 **FACTS**

3 Defendant, GUSTAVO RAMOS (hereinafter "RAMOS"), was originally charged by way of  
4 criminal complaint with two (2) counts of murder with use of a deadly weapon victim under 65  
5 years of age or older for the murders of two people, which allegedly occurred on or between May  
6 15, 1998 and May 16, 1998. The criminal complaint was filed in October of 2010, over 12 years  
7 after the alleged murders occurred. The preliminary hearing was held on December 16, 2010.  
8 Immediately prior to the commencement of the preliminary hearing, the State of Nevada (hereinafter  
9 "State") filed an amended criminal complaint adding one (1) count of sexual assault with use of a  
10 deadly weapon victim under 65 years of age or older and one (1) count of sexual penetration of a  
11 dead human body.

12 RAMOS immediately objected to the amendments, arguing that the two added counts were  
13 time barred by the statute of limitations. Judge Jansen stated that RAMOS' statute of limitations  
14 argument was a "good point," but that he needed to do some research on the issue and that he would  
15 take it under consideration. Therefore, the preliminary hearing proceeded forward on the amended  
16 criminal complaint.

17 After hearing all of the testimony from the State's witnesses, Judge Jansen held that the State  
18 failed to present evidence sufficient to establish probable cause for either of the alleged sexual  
19 crimes, ruling specifically that there was insufficient evidence to establish sexual penetration.  
20 Therefore, RAMOS was bound over on only the original two murder charges and the two sex  
21 charges were dismissed. On January 12, 2010, RAMOS was arraigned in district court and pled not  
22 guilty to the two murder charges.

23 On January 28, 2011, the State filed its motion for leave to file information by affidavit. In  
24 its motion, the State sought to file an "Information by Affidavit" pursuant to N.R.S. §173.035 (2),  
25 reinstating the two sexually related charges dismissed from the amended criminal complaint. Over  
26 RAMOS' objection, the district Court granted the State's motion and an Amended Information  
27 adding the two sex charges was filed on February 16, 2011.

28 ///



1 **ARGUMENT**

2 N.R.S. § 171.085 (1) prescribes that a complaint charging the crime of sexual assault must be  
3 filed “within 4 years after the commission of the offense.” Additionally, a complaint charging any  
4 felony other than sexual assault, murder, theft, robbery, burglary, forgery, and arson, must be filed  
5 “within 3 years after the commission of the offense.” N.R.S. § 171.085 (2)

6 Count 3 of the Amended Information accuses RAMOS of the crime of sexual assault  
7 pursuant to N.R.S. § 200.366. Because the sexual assault RAMOS is accused of is alleged to have  
8 occurred on or between May 15, 1998 and May 16, 1998, N.R.S. § 171.085 (1) mandates that the  
9 State had until May 16, 2002 to file a complaint or forever be time barred. The sexual assault alleged  
10 in this case was first charged in October 2010, some 12 plus years after the incident is alleged to  
11 have occurred and well beyond the 4 years statute of limitations set forth by N.R.S. § 171.085 (1).  
12 Absent some exception to the statute of limitations, Count 3 must therefore be dismissed.

13 Count 4 of the amended information accuses RAMOS of the crime of sexual penetration of a  
14 dead human body pursuant to N.R.S. § 201.450. Because the sexual penetration of a dead human  
15 body RAMOS is accused of is alleged to have occurred on or between May 15, 1998 and May 16,  
16 1998, N.R.S. § 171.085 (2) mandates that the State had until May 16, 2001 to file a complaint or  
17 forever be time barred. The sexual penetration of a dead human body charge alleged in the instant  
18 case was first charged in October 2010, some 12 plus years after the incident is alleged to have  
19 occurred and well beyond the 3 years statute of limitations set forth by N.R.S. § 171.085 (2). Absent  
20 some exception to the statute of limitations, Count 4 must therefore be dismissed.

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**CONCLUSION**

Based on the foregoing reasons, RAMOS respectfully submits that after reviewing all the evidence adduced at a hearing on this Motion, together with supplemental Points and Authorities, this Honorable Court will be impelled to grant his Motion to Dismiss.

DATED this 27th day of June, 2012.

PHILIP J. KOHN  
CLARK COUNTY PUBLIC DEFENDER

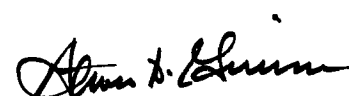
By: /s/ Scott L. Coffee  
SCOTT L. COFFEE, #5607  
Deputy Public Defender

**CERTIFICATE OF ELECTRONIC SERVICE**

I hereby certify that service of MOTION TO DISMISS COUNTS 3 AND 4 OF THE AMENDED INFORMATION, was made this 27th day of June, 2012 to:

CLARK COUNTY DISTRICT ATTORNEY'S OFFICE  
PDMotions@ccdanc.com

By: /s/ S. Ruano  
An Employee of the Clark County Public Defender's Office



CLERK OF THE COURT

**OPPM**

STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
ROBERT J. DASKAS  
Chief Deputy District Attorney  
Nevada Bar #004963  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,

-vs-

GUSTAVO RAMOS,  
#1516662

Defendant.

CASE NO: C-10-269839-1

DEPT NO: VII

**STATE'S OPPOSITION TO DEFENDANT MOTION TO DISMISS COUNTS  
3 & 4 OF THE AMENDED INFORMATION**

DATE OF HEARING: 07/27/2012

TIME OF HEARING: 8:45 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through ROBERT J. DASKAS, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in Opposition to Defendant's Motion to Dismiss Counts 3 & 4 of the Amended Information.

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

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## STATEMENT OF FACTS

The Camlu Retirement Home is located at 4255 South Spencer, Las Vegas, Clark County, Nevada. The facility is a dormitory style complex with locked public access doors that are designed to prevent access to the individual housing units.

On May 16, 1998, at approximately 4:52 a.m., 75-year-old Wallace Siegel was found murdered in unit 120 of the Camlu Retirement Home. Mr. Siegel's body was discovered by his adult son, Jack Siegel. Wallace Siegel had a depressed skull fracture. Brain matter was present on his chest and lap. A 25-pound dumbbell was on the floor near Wallace Siegel's body. The dumbbell had blood on it. Wallace Siegel's cause of death was blunt force trauma. A bloody patent print was located on, and collected from, a page of the Las Vegas Review Journal found inside Wallace Siegel's apartment.

On May 17, 1998, at approximately 11:10 a.m., 86-year-old Helen Sabraw was found murdered in unit 212 of the Camlu Retirement Home. Helen Sabraw was located on the floor of her apartment. She was wearing only a nightgown which was pulled up above her breasts. Her bra was found on the floor near her body. Her underwear was off and found on the floor under her head. There was fecal matter running down her leg. There was also fecal matter on the carpet of the apartment several feet from where Helen Sabraw's dead body was found. Nothing was missing from Helen Sabraw's apartment. There was valuable jewelry on her hands. Helen Sabraw lived alone, yet a man's gray t-shirt and white 'muscle' shirt were found on the floor near Helen. Helen Sabraw had been stabbed numerous times on her head, face, upper torso, left thigh and left buttock. Two knives were found near her body - - one under her leg and one at the foot of her bed. Helen Sabraw's cause of death was multiple sharp force injuries.

Helen Sabraw's body was discovered initially by her friend, Peggy Ann Parks. Parks notified management at the Camlu Retirement Home and called 9-1-1. While Peggy Ann Parks was notifying management, Helen Sabraw's son, Mark, arrived to visit his mother. Mark entered his mother's apartment and saw her dead body. Mark ran to the telephone inside Helen's apartment and called 9-1-1. Representatives from the Las Vegas

1 Metropolitan Police Department ("LVMPD") - - including patrol officers, homicide  
2 detectives, and crime scene analysts - - responded. Witness statements were taken from  
3 several civilian witnesses, and numerous reports were generated and filed by police officers,  
4 detectives, and crime scene analysts regarding Helen Sabraw's sexual assault and murder.

5 The murders of Wallace Siegel and Helen Sabraw remained "cold" for more than a  
6 decade.

7 On June 26, 2009, a request was submitted to the LVMPD Biology/DNA detail to  
8 determine if a profile could be obtained from either of the two shirts found at the Helen  
9 Sabraw murder scene. Forensic Scientist Julie Marschner ultimately established a DNA  
10 profile from the gray t-shirt armpit cuttings which was consistent with a mixture of three (3)  
11 individuals, the major profile being male. Forensic Scientist Marschner concluded that the  
12 major profile was consistent with Gustavo Ramos-Martinez, and the estimated frequency of  
13 the profile was rarer than 1 in 30 million.

14 A forensic request was then submitted to have the known prints of Gustavo Ramos-  
15 Martinez compared to the bloody patent print located on, and collected from, the page of the  
16 Las Vegas Review Journal page from the Wallace Siegel murder scene. The bloody patent  
17 print was identified to the right palm of Gustavo Ramos-Martinez.

### 18 **PROCEDURAL HISTORY**

19 On October 15, 2010, a Criminal Complaint was filed which charged Gustavo  
20 Ramos-Martinez with Murder With Use of a Deadly Weapon, Victim 65 Years of Age or  
21 Older (Count 1 – Wallace Siegel) and Murder With Use of a Deadly Weapon, Victim 65  
22 Years of Age or Older (Count 2 – Helen Sabraw). A preliminary hearing was set for  
23 December 16, 2010.

24 On December 16, 2010, an Amended Criminal Complaint was filed which charged  
25 Gustavo Ramos-Martinez with two additional counts - - Sexual Assault With Use of a  
26 Deadly Weapon, Victim 65 Years of Age or Older (Count 3) and Sexual Penetration of a  
27 Dead Human Body (Count 4). Defendant objected to the amendments as time-barred by the  
28 statute of limitations. Judge Jansen permitted the preliminary hearing to proceed on the

1 Amended Criminal Complaint, but ruled it was not “proven” or “established” that there was  
2 sexual assault or penetration. Therefore, he dismissed the sexual assault and sexual  
3 penetration counts.

4 On or about January 28, 2011, the State filed a Motion for Leave to File Information  
5 by Affidavit pursuant to NRS §173.035(2).

6 On or about February 16, 2011, the District Court granted the State’s Motion and the  
7 sexual assault and sexual penetration charges were reinstated.

### 8 **INTRODUCTION**

9 Defendant Ramos filed the instant motion to dismiss the charges of sexual assault and  
10 sexual penetration based on the statute of limitations.

#### 11 **Count 3**

12 Defendant relies on NRS §171.085(1), which provides that a complaint charging the  
13 crime of sexual assault must be filed “within 4 years after the commission of the offense.”  
14 Defendant argues that “the State had until May 16, 2002 to file a complaint or forever be  
15 time barred” from charging the sexual assault of Helen Sabraw. Motion at 3.

#### 16 **Count 4**

17 Defendant relies on NRS §171.085(2), which provides that a complaint charging “any  
18 felony other than sexual assault, murder, theft, robbery, burglary, forgery and arson, must be  
19 filed within 3 years after the commission of the offense.” Defendant argues that “the State  
20 had until May 16, 2001 to file a complaint or forever be time barred” from charging the  
21 sexual penetration of a dead human body of Helen Sabraw. Motion at 3.

### 22 **DISCUSSION**

23 Defendant’s argument must fail because the statute of limitations for both Count 3  
24 and Count 4 was removed the day Helen Sabraw’s dead body was discovered and the crime  
25 reported by her friend and son. NRS §171.083 provides:

26 **If, at any time during the period of limitation prescribed in NRS 171.085 and**  
27 **171.095, a victim of a sexual assault or a person authorized to act on behalf**  
28 **of a victim of sexual assault files with a law enforcement officer a written**

1        **report concerning the sexual assault**, the period of limitation prescribed in  
2        NRS 171.085 and 171.095 is removed and **there is no limitation** of the time  
3        within which a prosecution for the sexual assault must be commenced.

4        Nev.Rev.Stat. §171.083(1) (emphasis added).

5        In the instant case, Helen Sabraw, the “victim” contemplated in NRS  
6        §171.083(1), was murdered. She could not report the rape herself. Therefore, “a  
7        person authorized to act on [her] behalf” was required to file a written report with a  
8        “law enforcement officer.” Her friend, Peggy Ann Parks, and her son, Mark Sabraw,  
9        both called 9-1-1 immediately upon discovering the body and provided information to  
10       officers of the Las Vegas Metropolitan Police Department. Both Peggy Ann Parks  
11       and Mark Sabraw unquestionably were authorized to act on behalf of their dead friend  
12       and mother, respectively. Further, police officers with LVMPD meet the definition of  
13       “law enforcement officer” in NRS §171.083(5)(b) (defined as “[a]n officer of a  
14       metropolitan police department...”). Finally, a written report was filed. Peggy Ann  
15       Parks completed a Las Vegas Metropolitan Police Department Voluntary Statement,  
16       and the information that Parks and Sabraw provided was incorporated into various  
17       written reports, including:

18       Las Vegas Metropolitan Police Department Incident Recall generated on May  
19       17, 1998 (reflecting information about reported crime: “POSS 420 FEM 70’S  
20       FOUND NUDE ON FLOOR BLOOD EVERYWHERE...”) (**Exhibit 1**);

21  
22       Las Vegas Metropolitan Police Department Voluntary Statement completed by  
23       Peggy Ann Parks on May 17, 1998 (**Exhibit 2**);

24  
25       Clark County Coroner Medical Examiner Autopsy Report dated May 18, 1998,  
26       which states: Anus: “There are lacerations of the anal verge at the 9-o’clock  
27       and 11-o’clock positions. There are fairly superficial and but appear to be very  
28       recent. There is generalized contusion surrounding the anal orifice.” Vagina:



1 “There is some contusion at the introitus. No recent mechanical injury noted.  
2 There is focal scarring at the fourchet.” (**Exhibit 3**);

3  
4 Las Vegas Metropolitan Police Department Crime Scene Report authored by  
5 Crime Scene Analyst K. Adkins on May 19, 1998, which described the scene  
6 including the location, condition and position of Helen Sabraw and clothing  
7 items near her body (**Exhibit 4**);

8  
9 Las Vegas Metropolitan Police Department Officer’s Report authored by  
10 Detective P. Ramos on June 03, 1998, entitled “**MURDER WITH DEADLY**  
11 **WEAPON/SEXUAL ASSAULT.**” The report summarizes the autopsy of Helen  
12 Sabraw as follows: “During the autopsy, Dr. Green examined the victim’s  
13 rectal area and observed some trauma to the victim’s rectum. Dr. Green  
14 observed that the rectum appeared to have been penetrated and it was believed  
15 that the victim had suffered a sexual assault to her rectum.” (**Exhibit 5**).

16  
17 All of the requirements of NRS §171.083(1) were satisfied in this case. Accordingly,  
18 the time limitation in which charges relating to Helen Sabraw’s sexual assault were required  
19 to be filed was removed.<sup>1</sup>

20 A contrary interpretation of the statute would be illogical and nonsensical. A raped  
21 murder victim can never report her rape. Therefore, it is incumbent on someone “authorized  
22 to act on her behalf” to file such a report. In this case, Peggy Ann Parks and Mark Sabraw  
23 immediately contacted law enforcement upon discovering Helen’s body. Neither Helen  
24 Sabraw’s friend nor her son should - - or could - - be expected to do any more than they did.  
25 Helen’s friend and son certainly were qualified to act on Helen’s behalf since she was now  
26 silenced. They provided information to police officers. As a result of the information they

27  
28 <sup>1</sup> The same analysis applies with respect to Count 4 (Sexual Penetration of a Dead Human Body). Count 4 is simply an  
alternative charge to Count 3.

1 provided, written reports were generated which documented the rape and murder. These  
2 facts satisfy NRS §171.083(1) and remove the time bar. A contrary result would, in essence,  
3 encourage rapists to kill their victims. If a victim can't report her rape because she is dead,  
4 and if neither a relative nor a friend nor a police officer are authorized to act on the victim's  
5 behalf, then the chances of charges being filed within the statutory parameters are  
6 nonexistent. That surely is not what the legislature intended.

7 **CONCLUSION**

8 Based on the foregoing, the State respectfully requests that this Court deny  
9 Defendant's Motion to Dismiss Counts 3 and 4 of the Amended Information.

10 DATED this 19th day of July, 2012.

11 Respectfully submitted,

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

15 BY /s/ROBERT DASKAS  
16 ROBERT J. DASKAS  
17 Chief Deputy District Attorney  
18 Nevada Bar #004963

19 **CERTIFICATE OF FACSIMILE TRANSMISSION**

20 I hereby certify that service of State's Opposition to Defendant's Motion to Dismiss  
21 Counts 3 & 4 of the Amended Information was made this 19th day of July, 2012, by  
22 facsimile transmission to:

23 SCOTT COFFEE, Deputy Public Defender  
24 FAX #: 455-5112

25 BY /s/S. Munoz  
26 Employee of the District Attorney's Office  
27

28 10F19783X: RJD/sam-MVU

05/18/98 Time: 08:18

Requested By: MANNING, KEVIN L.

## I N C I D E N T R E C A L L

Incident	Time	Type	Pri	Dispo	Address Location	Bldg Apt	Callers Name Callers Address Callers Phone	P-unit	Date	Time Operator
					Beat Team/Dist Area					
LLV980517000848	11:12	420	1	N	4255 SPENCER ST	212	FD	LV2H34	98/05/18	02:35 LV5854
					*CAMLU					
					H3 H SE					
<p>Date Time Operator</p> <p>98/05/17 11:12 Incident Initiated By: SPROUL, CYNTHIA G SPROUL, CYNTHIA G</p> <p>98/05/17 11:12 POSS 420 FEM 70'S FOUND NUDE ON FLOOR BLOOD EVERYWHERE POSS RELATED TO EL 06 SPROUL, CYNTHIA G</p> <p>98/05/17 11:12 DERLY MALE FOUND BEATEN COUPLE DAYS AGO MGMT ON SCENE FD ENR 06 SPROUL, CYNTHIA G</p> <p>98/05/17 11:14 LV2H34 AS location is 4255 SPENCER ST MOUTON, ORA C</p> <p>98/05/17 11:14 LV2J2 AS location is 4255 SPENCER ST MOUTON, ORA C</p> <p>98/05/17 11:14 Primary unit CHANGED From: To:LV2H34 MOUTON, ORA C</p> <p>98/05/17 11:14 POSS RELATED TO EVT 980516000400 POSS OCCURRED SAME TIME PER MGMT TO FD 06 SPROUL, CYNTHIA G</p> <p>98/05/17 11:14 LV2J2 ER location is 4255 SPENCER ST KYGER, TERESA C.</p> <p>98/05/17 11:14 LV2H34 ER location is 4255 SPENCER ST BRAGG, ALMEDIA M.</p> <p>98/05/17 11:15 605 ADVSD MCT 1115 13 MOUTON, ORA C</p> <p>98/05/17 11:17 SEE EVNT 0854 04 DAVENPORT, BETTY J</p> <p>98/05/17 11:17 SEE EN 0854 13 MOUTON, ORA C</p> <p>98/05/17 11:18 LV2H34 AR location is 4255 SPENCER ST BRAGG, ALMEDIA M.</p> <p>98/05/17 11:19 LV2J2 AR location is 4255 SPENCER ST KYGER, TERESA C.</p> <p>98/05/17 11:20 LV605 AS location is 4255 SPENCER ST MOUTON, ORA C</p> <p>98/05/17 11:20 LV605 CL location is 4255 SPENCER ST JOHNSON JR., THOMAS C</p> <p>98/05/17 11:22 08//PER REC FRM FD..CONF'D 420//1122 08 JOHNSON, REGAN L</p> <p>98/05/17 11:22 2H34...420//ID AND DETS ...1122 13 MOUTON, ORA C</p> <p>98/05/17 11:29 LV337 AS location is 4255 SPENCER ST MOUTON, ORA C</p> <p>98/05/17 11:29 LV337 ER location is 4255 SPENCER ST MOUTON, ORA C</p> <p>98/05/17 11:29 LV337 ER location is 4255 SPENCER ST JOSEPH, MARC A.</p> <p>98/05/17 11:30 01/542H GIVEN DETAILS LL/WIL BE ENR 1130HRS 01 BRADSHAW, AMELIA V</p> <p>98/05/17 11:32 LV542H ER location is 4255 SPENCER ST OSBORNE, BEVERLY</p> <p>98/05/17 11:35 LVH712 ER location is 4255 SPENCER ST OSBORNE, BEVERLY</p> <p>98/05/17 11:37 LV337 AR location is 4255 SPENCER ST MOUTON, ORA C</p> <p>98/05/17 11:39 LV337 AR location is 4255 SPENCER ST JOSEPH, MARC A.</p> <p>98/05/17 11:45 LV542H AR location is 4255 SPENCER ST OSBORNE, BEVERLY</p> <p>98/05/17 11:45 01/MANNING/2622576 BEEPED AGAIN 1145HRS 01 BRADSHAW, AMELIA V</p> <p>98/05/17 11:46 LVH1480 ER location is 4255 SPENCER ST OSBORNE, BEVERLY</p> <p>98/05/17 11:47 LVC5411 ER location is 4255 SPENCER ST OSBORNE, BEVERLY</p> <p>98/05/17 11:49 LVH799 ER location is 4255 SPENCER ST OSBORNE, BEVERLY</p> <p>98/05/17 11:50 LVH712 AR location is 4255 SPENCER ST OSBORNE, BEVERLY</p> <p>98/05/17 11:51 LV515H ER location is 4255 SPENCER ST OSBORNE, BEVERLY</p> <p>98/05/17 11:56 LV605 AS location is 4255 SPENCER ST MOUTON, ORA C</p> <p>98/05/17 11:58 LV605 AR location is 4255 SPENCER ST MOUTON, ORA C</p> <p>98/05/17 11:58 LVCS3 ER location is 4255 SPENCER ST OSBORNE, BEVERLY</p> <p>98/05/17 12:02 LVH1480 AR location is 4255 SPENCER ST ARRINGTON, JUANE P</p> <p>98/05/17 12:03 Unit LVCS3 RIDR now 376-9800 ARRINGTON, JUANE P</p> <p>98/05/17 12:06 LVH799 AR location is 4255 SPENCER ST ARRINGTON, JUANE P</p> <p>98/05/17 12:10 LVC4243 ER location is 4255 SPENCER ST ARRINGTON, JUANE P</p> <p>98/05/17 12:15 LV515H AR location is 4255 SPENCER ST ARRINGTON, JUANE P</p> <p>98/05/17 12:16 LVC5411 AR location is 4255 SPENCER ST ARRINGTON, JUANE P</p> <p>98/05/17 12:26 LVCS3 AR location is 4255 SPENCER ST ARRINGTON, JUANE P</p> <p>98/05/17 12:28 LV605 CL location is 4255 SPENCER ST JOHNSON JR., THOMAS C</p> <p>98/05/17 12:33 LV337 CL location is 4255 SPENCER ST JOSEPH, MARC A.</p>										

EXHIBIT 1

Date: 05/18/98 Time: 08:18

Requested By: MANNING, KEVIN L.

## I N C I D E N T R E C A L L

dent	Time	Type	Pri	Dispo	Address Location	Bldg Apt	Callers Name Callers Address Callers Phone	P-unit	Date	Time Operator
					Beat Team/Dist Area					
98/05/17	12:35	LVC4243	AR		location is 4255 SPENCER ST					ARRINGTON, JUANE P
98/05/17	13:16	Incident type		CHANGED From:419		To:420				SINGLETERARY, D IRENE
98/05/17	13:57	LO SEAC					00			KYGER, TERESA C.
98/05/17	13:57	LV2J2	TO		location is SEAC					KYGER, TERESA C.
98/05/17	14:10	LV207C	ER		location is 4255 SPENCER ST					DAVENPORT, BETTY J
98/05/17	14:39	LV2J2	AO		location is SEAC					SINGLETERARY, D IRENE
98/05/17	14:40	LV2J2	AR		location is SEAC					KYGER, TERESA C.
98/05/17	14:41	LO 4255 SPENCER					13			SINGLETERARY, D IRENE
98/05/17	14:41	LV2J2	TO		location is 4255 SPENCER					SINGLETERARY, D IRENE
98/05/17	14:44	LV207C	AR		location is 4255 SPENCER ST					DAVENPORT, BETTY J
98/05/17	14:49	LV2J2	TO		location is 4255 SPENCER					KYGER, TERESA C.
98/05/17	14:59	LV2J2	AO		location is 4255 SPENCER					KYGER, TERESA C.
98/05/17	15:05	DISPO: Q		FOR LV2J2			00			UNKNOWN
98/05/17	15:05	LV2J2	CL		location is 4255 SPENCER					KYGER, TERESA C.
98/05/17	15:14	H799 REQ CORONER BE ENROUTE: 1514					18			DAVENPORT, BETTY J
98/05/17	15:39	LV3H4	AS		location is 4255 SPENCER ST					SINGLETERARY, D IRENE
98/05/17	15:39	LV3H4	ER		location is 4255 SPENCER ST					COCHRAN, KELLY LYNN
98/05/17	15:47	LV3H4	AR		location is 4255 SPENCER ST					COCHRAN, KELLY LYNN
98/05/17	15:56	LV2H34	CL		location is 4255 SPENCER ST					BRAGG, ALMEDIA M.
98/05/17	15:56	Disposition		CHANGED From:		To:N				BRAGG, ALMEDIA M.
98/05/17	15:56	Primary unit		CHANGED From:2H34		To:2H34				BRAGG, ALMEDIA M.
98/05/17	16:09	LV207C	CL		location is 4255 SPENCER ST					ONEILL, CHRISTINE M
98/05/17	16:34	LVC4367	ER		location is 4255 SPENCER ST					ONEILL, CHRISTINE M
98/05/17	16:34	LVC4367	AR		location is 4255 SPENCER ST					ONEILL, CHRISTINE M
98/05/17	16:35	LV326	AS		location is 4255 SPENCER ST					MOON, CHERYL DEANN
98/05/17	16:35	LV326	AR		location is 4255 SPENCER ST					MOON, CHERYL DEANN
98/05/17	17:00	DISPO: N		FOR LV326			00			UNKNOWN
98/05/17	17:00	LV326	CL		location is 4255 SPENCER ST					LEHTINEN, MARTIN A
98/05/17	17:10	C16/542H REQ TIPS TO RM 214, MSG LEFT ON ANSWER MACHINE 1709					16			OVREBO, MARK E
98/05/17	17:11	C16/TIPS ETA 15 MIN 1711					16			OVREBO, MARK E
98/05/17	17:12	LV628	AS		location is 4255 SPENCER ST					MOON, CHERYL DEANN
98/05/17	17:12	LV628	AR		location is 4255 SPENCER ST					MOON, CHERYL DEANN
98/05/17	17:12	LV628	AR		location is 4255 SPENCER ST					STRINGER, ROBERT
98/05/17	17:26	LV325H	ER		location is 4255 SPENCER ST					ONEILL, CHRISTINE M
98/05/17	17:38	DISPO: N		FOR LV628			00			UNKNOWN
98/05/17	17:38	LV628	CL		location is 4255 SPENCER ST					STRINGER, ROBERT
98/05/17	17:52	LV325H	AR		location is 4255 SPENCER ST					ONEILL, CHRISTINE M
98/05/17	19:05	LV3H4	AR		location is 4255 SPENCER ST					SMITH, VALERIE C
98/05/17	19:30	LV3H2	AS		location is 4255 SPENCER ST					SMITH, VALERIE C
98/05/17	19:30	LV3H2	AR		location is 4255 SPENCER ST					SMITH, VALERIE C
98/05/17	19:30	LV3H2	AR		location is 4255 SPENCER ST					SPENCER, PATRICIA D
98/05/17	19:46	LO PKWY/TROP					00			SPENCER, PATRICIA D
98/05/17	19:46	LV3H2	TO		location is PKWY/TROP					SPENCER, PATRICIA D
98/05/17	19:50	LV3H2	AO		location is PKWY/TROP					SPENCER, PATRICIA D
98/05/17	19:58	LO SCENE					00			SPENCER, PATRICIA D
98/05/17	19:58	LV3H2	TO		location is SCENE					SPENCER, PATRICIA D
98/05/17	20:06	DISPO: N		FOR LV3H2			00			UNKNOWN
98/05/17	20:06	LV3H2	CL		location is SCENE					SPENCER, PATRICIA D
98/05/17	21:15	LV3J	AS		location is 4255 SPENCER ST					SARPY, MARLA L
98/05/17	21:16	LV3J	ER		location is 4255 SPENCER ST					BAKER, CHULAWUDT
98/05/17	21:17	LV3J	ER		location is 4255 SPENCER ST					BAKER, CHULAWUDT
98/05/17	21:21	LV3J	AR		location is 4255 SPENCER ST					BAKER, CHULAWUDT

LAS VEGAS METROPOLITAN POLICE  
Date: 05/18/98 Time: 08:18

PAGE: 000003  
Requested By: MANNING, KEVIN L.

I N C I D E N T R E C A L L

Incident	Time	Type	Pri	Dispo	Address Location	Beat	Team/Dist	Area	Bldg Apt	Callers Name Callers Address Callers Phone	P-unit	Date	Time Operator
98/05/17 21:22	LV628	AS			location is 4255 SPENCER ST								SARPY, MARLA L
98/05/17 21:22	LV628	AR			location is 4255 SPENCER ST								SARPY, MARLA L
98/05/17 21:30	DISPO: N			FOR LV3J						00			UNKNOWN
98/05/17 21:30	LV3J	CL			location is 4255 SPENCER ST								BAKER, CHULAWUDT
98/05/17 21:31	LV628	CL			location is 4255 SPENCER ST								STRINGER, ROBERT
98/05/17 21:42	LV325H	AR			location is 4255 SPENCER ST								SARPY, MARLA L
98/05/17 21:42	LV515H	AR			location is 4255 SPENCER ST								SARPY, MARLA L
98/05/17 21:42	LV542H	AR			location is 4255 SPENCER ST								SARPY, MARLA L
98/05/17 21:53	DISPO: N			FOR LV3H4						00			UNKNOWN
98/05/17 21:53	LV3H4	CL			location is 4255 SPENCER ST								COCHRAN, KELLY LYNN
98/05/17 22:10	LV542H	CL			location is 4255 SPENCER ST								SCHULTER, SUSAN M
98/05/17 23:18	LVC4367	CL			location is 4255 SPENCER ST								EMERSON, JENNIFER
98/05/17 23:50	LV325H	CL			location is 4255 SPENCER ST								EMERSON, JENNIFER
98/05/17 23:57	DISPO: C			FOR LVH799						18			EMERSON, JENNIFER
98/05/17 23:57	LVH799	CL			location is 4255 SPENCER ST								EMERSON, JENNIFER
98/05/17 23:57	DISPO: C			FOR LVH1480						18			EMERSON, JENNIFER
98/05/17 23:57	LVH1480	CL			location is 4255 SPENCER ST								EMERSON, JENNIFER
98/05/17 23:57	LV515H	CL			location is 4255 SPENCER ST								EMERSON, JENNIFER
98/05/18 00:16	LVH712	CL			location is 4255 SPENCER ST								CAMPBELL, LINDA
98/05/18 01:19	13/ID UNITS			STILL HERE & STILL C4..0119						13			MATTIMOE, DEBORAH L
98/05/18 02:34	DISPO: N			FOR LVCS3						15			HENRICKSEN, LORI
98/05/18 02:34	LVCS3	CL			location is 4255 SPENCER ST								HENRICKSEN, LORI
98/05/18 02:34	DISPO: N			FOR LVC4243						15			HENRICKSEN, LORI
98/05/18 02:34	LVC4243	CL			location is 4255 SPENCER ST								HENRICKSEN, LORI
98/05/18 02:35	DISPO: N			FOR LVC5411						15			HENRICKSEN, LORI
98/05/18 02:35	LVC5411	CL			location is 4255 SPENCER ST								HENRICKSEN, LORI

AA 0204

## THIS PORTION TO BE COMPLETED BY OFFICER

S. Crime <u>HOMICIDE</u>	Date Occurred	Time Occurred
Location of Occurrence <u>4255 S. SPENCER #212</u>		<input type="checkbox"/> City <input checked="" type="checkbox"/> County

Your Name (Last / First / Middle) <u>746-8219</u> <u>Parks Peggy Ann</u>						Date of Birth <u>7/19/1935</u>		Social Security # <u>569-48-7564</u>	
Race <u>White</u>	Sex <u>Female</u>	Height <u>5'10</u>	Weight <u>230</u>	Hair <u>Brown</u>	Eyes <u>Hazel</u>	Work Schdl. (Hours) <u>5 days a week</u>	(Days Off) <u>SUN MON</u>	Business / School <u>Housekeeping</u>	
Residence Address: (Number & Street) <u>4255 SPENCER</u>				Bldg./Apt.# <u>212</u>	City <u>Las Vegas</u>	State <u>NV</u>	Zip Code <u>89119</u>	Res. Phone: <u>733 0209</u> <u>loc</u>	
Bus. (Local) Address: (Number & Street) <u>BEST WESTERN</u>				Bldg./Apt.#	City	State	Zip Code	Occupation	Depart Date (if visitor)
Best place to contact you during the day <u>PARADISE RD. - 761-0686</u>						Best time to contact you during the day		Can You Identify <input type="checkbox"/> Yes the Suspect? <input type="checkbox"/> No	

## DETAILS

Came To see Helen at 11:00 & there she was laying on the floor uncovered with blood. So I went to the office got the manager very fast.

I HAVE READ THIS STATEMENT AND I AFFIRM TO THE TRUTH AND ACCURACY OF THE FACTS CONTAINED HEREIN. THIS STATEMENT WAS  
 C. ETED AT (LOCATION) 4255 S. SPENCER  
 ON 17TH DAY OF MAY AT 1210 (AM/PM) 1988.

Witness/Officer: \_\_\_\_\_  
 (SIGNATURE)

Witness/Officer: BRACK 4156  
 (PRINTED)

LVMPD 85 (REV. 1-84)

Peggy Ann Parks  
 SIGNATURE OF PERSON GIVING STATEMENT

EXHIBIT " 2 "

CLARK COUNTY CORONER MEDICAL EXAMINER  
1704 PINTO LANE  
LAS VEGAS, NEVADA 89106

May 18, 1998

Case No. 98-2570

AUTOPSY REPORT

PATHOLOGICAL EXAMINATION ON THE BODY

OF

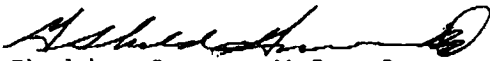
HELEN M. SABRAW

DIAGNOSES

Stab wound of heart.  
Stab wound of pulmonary artery.  
Multiple cutting and stabbing wounds of chest, scalp, face  
and neck.  
Defensive wounds of hands and arms.  
Chronic obstructive pulmonary disease.  
Benign nephrosclerosis.  
Nephrolithiasis, left.  
Surgical absence of uterus, fallopian tubes, ovaries and  
thyroid gland.

OPINION

It is my opinion that the decedent, Helen M. Sabraw, came to her death as a result of stab wounds of the heart and pulmonary artery, homicide.

  
G. Sheldon Green, M.D., Deputy Medical Examiner

/ng

EXHIBIT " 3 "

CLARK COUNTY CORONER MEDICAL EXAMINER  
1704 PINTO LANE  
LAS VEGAS, NEVADA 89106

May 18, 1998

Case No. 98-2570

POSTMORTEM EXAMINATION OF THE BODY OF

HELEN M. SABRAW

PRESENT AT AUTOPSY: Sgt. Manning, Detectives Ramos and Vaccaro, Homicide Detail, Crime Scene Analyst LeMaster, Criminalistics Bureau, Las Vegas Metropolitan Police Department.

HISTORY: The body of this 86-year-old white female was found on the floor of her residence at approximately 1112 hours, 17 May 1998. She had sustained multiple injuries. A considerable amount of blood was present on the floor and other areas.

AUTOPSY: The autopsy is performed by G. Sheldon Green, M.D., Deputy Medical Examiner, at 1350 hours, 18 May 1998, at the Clark County Morgue.

EXTERNAL DESCRIPTION: The body is that of a normally developed, well nourished, elderly white female 66 inches long and weighing 135 pounds. There is little or no rigor mortis remaining in the body. The head is approximately symmetrical. The scalp is covered by gray hair approximately 5 inches long. The eyes are blue. The pupils are round and equal. The right sclera is clear. The left is markedly hemorrhagic. The nasal and facial bones are intact to palpation. The lips are intact. The maxilla is edentulous. The mandible contains at least anterior teeth in apparently quite good condition. The neck is symmetrical. The configuration of the chest is normal. The breasts are pendulous and atrophic. The abdomen is flat but bulging slightly at the flanks. There is an old, well healed, 9 inch, midline suprapubic surgical scar. The genitalia are those of a normal adult female. The lower extremities are symmetrical and appear to be intact. Name tags are attached to both great toes. Both bear the name Helen Sabraw. There is 1+ pitting edema of the pretibial tissues bilaterally. The upper extremities are symmetrical. There are several injuries. The back is symmetrical. There is an old, well healed, 6 inch, midline lumbar laminectomy scar.

EVIDENCE OF RECENT INJURY:

Head: There are two sharply incised skin wounds of the head. One lies in a sagittal plane just to the left of the midline high in the left parietal area. It is approximately 1-3/4 inches long. The other lies just anterior to it and is roughly triangular approximately 3/4 inch in maximum dimension.



The right frontal area commencing at the hairline has a large gaping sharply incised wound with a lateral flap. It is 2-3/4 inches long in the sagittal plane and gaps 1-1/2 inches wide in the coronal plane. The underlying skull is exposed.

The upper midfrontal area has an obliquely oriented 1-3/4 inches apparent blunt incised wound which also exposes the underlying skull. It is linear gaping no more than 3/8 inch wide.

The left eyebrow has a jagged rectangular wound which appears to have been made by a sharp instrument. It is approximately 1 x 5/8 inch.

There are three sharply incised fairly shallow cutting type wounds of the left upper eyelid. They lie lateral to the midplane of the eye and are generally horizontally oriented. There is prominent swelling and ecchymosis of the left upper and lower eyelids and there is prominent scleral hemorrhage. There is a 1/2 inch transverse cutting wound of the midportion of the left cheek. It penetrates skin and superficial subcutaneous tissue only. Below the right eye is a broad zone of abrasion 2-1/2 x 1 inches.

Neck: There are two horizontal cutting type wounds overlying the body of the left mandible. These are 1/2 inch and 3/4 inch long and involve skin and subcutaneous tissues only.

Below the point of the chin is a shallow 1/2 inch penetrating stab wound which enters the deep subcutaneous tissues. Just below this are two additional similar sized penetrating wounds.

Below the body of the mandible on the left approximately 1 inch to the left of the midline is a wound which penetrates upward into the oral cavity and communicates freely with the oral cavity. Just below it and slightly toward the midline is a second similar size wound 1 inch long which also penetrates upward and communicates with the oral cavity.

Chest: There is a nearly horizontal penetrating stab wound of the right anterior chest centered in the upper inner quadrant of the right breast. This penetrates into the right chest cavity. In the midline of the chest and overlying the xiphoid process is a second 1 inch transverse penetrating stab wound. It apparently stops at the anterior surface of the bone.

There is a jagged shallow rectangular penetrating stab wound of the lower portion of the left breast 1-1/2 inches below the nipple. This is approximately 1-1/4 long x 1/2 inch wide at one end and tapering to a point at the other. This penetrates upward into the breast by approximately 3 inches.

An obliquely oriented 1 inch penetrating stab wound overlies the sixth costal cartilage on the right. This penetrates into the subcutaneous tissue and extends towards the midline of the chest for a minimum distance of 3-1/2 inches.

Abdomen: A transverse 3/4 inch long penetrating stab wound passes through the skin and subcutaneous tissues upward into the peritoneal cavity.

Left Lateral Chest: There are three stab wounds below the left axilla. These are of somewhat irregular contour suggesting a twisting action of the blade of the penetrating instrument. They vary from 1/2 to 7/8 inch in length. The uppermost wounds which lies in the posterior axillary line penetrates upward toward the axilla for at least 4 inches. The other lies below and slightly anterior to it and also penetrates upward apparently outside the rib cage for a distance of approximately 4 inches. The third lies 2 inches more anteriorly. It is approximately 1/2 inch long and penetrates approximately 1-2 inches into the underlying tissues.

At lower costal margin there are two wounds approximately 4 inches apart, one in the midaxillary line and the other line posterior to it at the same level. The anterior wound passes upward through the subcutaneous tissues approximately 2-1/2 inches. The posterior wound penetrates the subcutaneous tissues of the back by approximately 4 inches.

Right Lateral Chest and Abdomen: No injuries.

Left Upper Arm: A penetrating stab wound just above the anterior axillary fold penetrate medially for a distance of at least 4 inches.

Right Thigh: There is a deep roughly triangular abrasion 1 x 5/8 inch on the anterolateral aspect of the thigh just above the knee. It is associated with a dark blue-purple contusion which demonstrates some edema.

On the posterior aspect of the right thigh approximately 5 inches below the gluteal fold there is a contact type abrasion which is semi-circular and approximately 1 inch in maximum dimension. It involves skin and superficial subcutaneous tissues only. It is associated with two other small marks and a roughly circular very faint impression. There is no significant penetration of this injury and it does not represent a stab wound. \_\_\_\_\_

Back: There are seven wounds of the left side of the back commencing in the scapular area and terminating in the lumbar region. These vary from 1/2 to 3/4 inch long. These are generally somewhat obliquely oriented. The depths of penetration range from 1-1/2 to 4-1/2 inches with the deepest being the lower most in the left lumbar area.

Left Thigh: There are two penetrating stab wounds of the posterior aspect of the upper portion of the left thigh. These are each approximately  $3/4$  inch long. One just posterior to the hip joint penetrates for approximately 2 inches. It terminates with the impact of the pelvic bone. The lowermost which lies approximately 3 inches away penetrates at least 3 inches into the soft tissues.

Anus: The anus is dilated and patulous. There are lacerations of the anal verge at the 9-O'clock and 11-O'clock positions. These are fairly superficial but appear very recent. There is generalized contusion surrounding the anal orifice.

Vagina: There is some contusion at the introitus. No recent mechanical injury is noted. There is focal scarring at the fourchet.

DEFENSIVE WOUNDS: There is a 1 inch long sharply incised cutting wound of the web between the left thumb and forefinger. It lies transversely between the two and involves and superficial subcutaneous tissues only.

There is irregular very superficial abrasion and considerable reddish contusion of the posterior aspect of the left elbow.

There is a  $3/8$  inch long penetrating stab wound of the posterior aspect of the left upper arm. It penetrates no more than 1 inch.

There is a cutting wound of the extensor surface of the right index finger involving the proximal phalanx. It leaves a large distal flap. The flap segment is approximately  $3/4$  inch by  $3/8$  inch. The joint capsule is exposed. There is a sharply delineated  $3/4 \times 1/4$  inch abrasion of the ulnar aspect of the right forearm approximately 2 inches above the wrist joint. This appears to be a contact abrasion and is not a stab wound.

The extensor aspect of the right forearm approximately 4 inches below the elbow has a 1 inch long penetrating stab wound. This underlies the adjacent skin by at least 1 inch. Apparently associated with this are zones of ecchymosis of the skin. There is considerable swelling in the adjacent area as well.

There is superficial abrasion and reddish contusion over the posterior aspect of the right elbow similar to that seen on the left.

INTERNAL DESCRIPTION: The body is opened with a conventional Y-shaped incision. The abdominal panniculus and subcutaneous tissues are approximately 1 inch thick at the level of the umbilicus. The rib cage demonstrates fractures of right ribs 3 and 4 anteriorly. The fracture of 4 is associated with the penetrating stab wound which has also damaged the bone. There is a penetrating stab wound of the left second intercostal space. There is an anterolateral fracture of the left third rib. There is a penetrating stab wound which has partially transected the left fifth costal cartilage. The lowermost of the stab wounds of the left chest penetrates between the sixth and seventh costal cartilages. The viscera lie in generally normal anatomic distribution. The right lung is perforated in the middle lobe by a penetrating stab wound. The pericardial sac is penetrated by at least two stab wounds. The left hemithorax is penetrated by a several of the wounds of the lateral aspect of the chest which have either penetrated through the ribs or between them. One stab wound has penetrated the left hemidiaphragm. There is no apparent injury to the peritoneal contents. There are multiple dense fibrous adhesions particularly in the lower abdomen. The right hemithorax contains approximately 2 ounces of fluid blood. There is little or none in the left hemithorax and there is very little in the pericardial sac. A total of no more than 3 ounces of blood are recovered. The great vessels are bloodless.

HEART: The heart is of normal size and configuration weighing 280 grams. The epicardium is smooth and glistening. There is a stab wound which penetrates the anterior surface of the heart over the midportion of the interventricular septum. The wound communicates with the right ventricular cavity but also penetrates the full thickness of the interventricular septum to communicate with the left ventricular cavity as well. The wound of the anterior surface of the heart is approximately 1 inch long and transversely oriented. There is penetrating wound of the anterior aspect of the pulmonary artery. It is approximately 3/8 inch long and involves the anterior wall. The cardiac valves are intact. They are normal except for a small amount of calcification of the anulus of the mitral valve. The aorta is tough and elastic. There are a few scattered arteriosclerotic plaques at the root. The coronary ostia are patent. The coronary arteries lie in normal anatomic distribution. They are thin, pliable and widely patent showing no significant sclerotic change. The myocardium is soft, brown, flabby and somewhat autolyzed. There is no evidence of old or recent infarct. The endocardium is smooth and glistening.

LUNGS: The lungs are of similar size and configuration together weighing 630 grams. The pleural surfaces are smooth. There are seven penetrating wounds of the left lung and there is one involving the right lung. The right lung wound enters the upper lobe and penetrates into the middle lobe at the hilus. The left

lung has two clusters of wound which appear to result from multiple thrusts of the weapon at two separate sites. These generally are fairly shallow penetrating no more than 1 to 2 centimeters. There are no thrombi or emboli in the pulmonary arteries. The tracheobronchial tree is intact. Cut surfaces of both lungs show an extremely soft, fluffy, emphysematous parenchyma. There is modest hemorrhage around several of the stab wounds including that on the right. There are no mass lesions. There is no evidence of inflammatory disease.

**LIVER:** The liver is of normal size and configuration weighing 1050 grams. The gallbladder is intact. It contains approximately 10 milliliters of normal appearing bile. The mucous membrane is normal. There are no stones. The liver capsule is intact. Cut surfaces display a normal appearing homogeneous brown parenchyma.

**SPLEEN:** The spleen is of normal size and configuration weighing 160 grams. The capsule is intact. Cut surfaces show a soft, mushy, somewhat autolyzed, dark reddish black parenchyma.

**KIDNEYS:** The kidneys are of similar size and configuration together weighing 240 grams. The capsules strip easily. The cortical surfaces are finely and diffusely granular. The left kidney has a 3 centimeter diameter simple cyst. There is hemorrhage in the fatty tissues surrounding the left kidney but there is no damage to the organ itself. Cut surfaces of both kidneys reveal normal internal renal architecture. There is a modest thinning of the cortices. The cortical medullary markings are well preserved. The left kidney has a friable mass of concretions in its pelvis. The mass of crystalline material is nearly 2 centimeters in diameter. It crumbles into a sandy form with modest pressure. The collecting systems, ureters and bladder otherwise are intact. The bladder is empty. The uterus, fallopian tubes and ovaries are surgically absent.

**ADRENALS:** The adrenal glands are of normal size and configuration. Cut surfaces show thin pale yellow cortices and very thin gray medullary zones.

**GASTROINTESTINAL TRACT:** The esophagus is intact and lined by a normal gray mucosa. The stomach is intact. It contains no more than 2 ounces of brownish watery fluid. The gastric mucosa is mildly autolyzed but otherwise normal. There is no evidence of ulcer or gastritis. The small and large intestines are intact and normal. The appendix is normal.

**PANCREAS:** The pancreas is of normal size and configuration. Cut surfaces show normal gray-tan lobular architecture but with a considerable degree of postmortem autolytic change.

ORGANS OF THE NECK: The anterior strap muscles are intact. There are irregular areas of hemorrhage along the fascial planes of the musculature but little or none within the substance of muscles. The thyroid gland is surgically absent. The cervical esophagus and hypopharynx are intact and appear normal. The upper trachea, larynx, epiglottis and hyoid bone are intact. The airway is patent. There is no laryngeal edema. The tongue is perforated by two stab wounds which have penetrated upward from the neck. There is rather modest hemorrhage surrounding these injuries.

HEAD: The scalp is reflected in the usual coronal fashion. There is extensive hemorrhage throughout much of the scalp. The calvarium is intact. There is no epidural, subdural or subarachnoid hemorrhage. The configuration of the brain is normal. It weighs 1160 grams. Serial cut surfaces of the cerebrum in the coronal plane show normal internal cerebral architecture but with a considerable degree of softening and postmortem autolysis. There is some loss of fine structural detail. There is no evidence of hemorrhage, tumor, contusion or other visible abnormality. External and cut surfaces of the brain stem and cerebellum show a similar degree of postmortem autolytic change. They appear to be entirely normal.

SUMMARY OF INJURIES: The stab wound of the heart may be considered a lethal lesion. The stab wound of the pulmonary artery also is a potentially lethal lesion independent of all others.

The multiple stab wounds of the lungs are potentially lethal injuries which could have caused death by themselves due to hemorrhage and pneumothorax.

The multiple cutting and stabbing wounds of the head, face and neck would have created a considerable degree of bleeding but are not necessarily immediately lethal.

Injuries to the hands and arms are indicative of a struggle on the part of the victim with defensive gestures having been made.

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
CRIME SCENE REPORT**

SECTOR / BEAT **H-3**

INCIDENT <b>HOMICIDE</b>		EVENT# <b>980517-0848</b>	
TESTING OFFICER <b>RAMOS #799 / VACCARO #1480</b>	DIVISION <b>ISD</b>	DATE <b>5-17-98</b>	TIME <b>1230</b>
VICTIM <b>SABRAW, HELEN M. (DOB: 8-13-11)</b>		LOCATION <b>4255 SPENCER #212</b>	

**RESULTS OF INVESTIGATION** ☐ **NO ACTION TAKEN** ☐ **NO EVIDENCE RECOVERED**

**1. PHOTOGRAPHY**

- ☒ black and white negatives exposed  
☒ color negatives exposed  
☐ \_\_\_\_\_

**2. LATENT PRINT PROCESSING**

- ☒ latent processing conducted  
☒ latent fingerprints lifted  
☒ latent palm prints lifted  
☐ negative results  
☐ \_\_\_\_\_

**3. FIREARMS EVIDENCE**

- ☐ projectile(s) recovered  
☐ casing(s) recovered  
☐ cartridge(s) recovered  
☐ weapon(s) recovered  
☐ \_\_\_\_\_

**4. FOOTWEAR OR TIRE IMPRESSIONS**

- ☐ footwear ☐ tire impression(s)  
☐ casting ☐ original surface recovered  
☐ photographed ☐ \_\_\_\_\_

**5. POSSIBLE BODY FLUIDS**

- ☒ bloodlike substance(s) ☒ control(s)  
☒ **POSSIBLE SEMEN** \_\_\_\_\_

**6. TOOLMARK EVIDENCE**

- ☐ original surface recovered ☐ casting  
☐ tools  
☐ \_\_\_\_\_

**7. OTHER** \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

☒ Refer Property Report

**VEHICLES:**

**ADDITIONAL INFORMATION:**


On 5-17-98, at approx. 1230 hours CSA Supervisor K. Adkins #900 & CSA J. Szukiewicz #5411, arrived at the above location to assist in the investigation of a dead body. SCSA D. LeMaster #4243 arrived at approx. 1236 hours. The following LVMPD personnel were present: Sgt. K. Manning #2434, Sgt. R. Alby #1810, Det. P. Ramos #799, Det. J. Vaccaro #1480. D.C. P. Conners #763, Captain C. Fruge #1460, Lt. W. Petersen #1913 & SCSA J. Autrey #4367 arrived at later times.

**SCENE:** The incident occurred in the Camlu Retirement home on the second floor North wing section of the complex. Apartment #212 was located on the South side of the East West hallway.

Upon our arrival the hallway was roped off with police barrier tape, the front door was held in the open position by a roll of barrier tape. There were no signs of forced entry on the door or the door jamb. A hand held portable phone (Item #54) was on the floor adjacent to the exterior West side of the front door frame of apartment. The phone had reportedly been left there by the victim's son.

Upon entering Apartment #212 a hairlike piece of material (Item #12) was located on the exterior side

**EXHIBIT " 4 "**

APPROVED 	P# <b>900</b>	I.D. OFFICER <b>K. Adkins #900</b>	P# <b>900</b>
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LVMPD ISD 6 (REV. 1-95) - AUTOMATED **AA 0214**

of the East front door frame approx. 5'2" up from the ground. Off to the West of the entrance hallway as a door leading to a closet that lead into the bathroom. On the East side of the entrance hallway was a closed door leading to a closet. A white wooden stool (Item #60) with bloodlike substance and a black longsleeved shirt (Item # 59) semi-attached by dried bloodlike substance was located approx. 5'1" South of North entrance door to apartment & approx. 1' West of East side of entrance hallway. The white stool was approx. 2' in height and was in an upright position. A wooden chair was turned over and extended from under the dining room table located just inside the entrance hallway on the East side of the living area. A round metal tray (Item # 51) with bloodlike substance on it was on the floor at the South end of the entranceway into the living area.

#### LIVING AREA:

A wooden dining table with an over turned chair extending out from under the table (Northerly direction) was positioned in the NE corner of the living area. Atop the table was a microwave, two (2) wooden knife blocks with two (2) empty slots in the steak knife block, misc. pieces of silverware, a crock pot type jar, books, a plastic container with donuts, a box of tissues, a wooden container with pen and pencils. Also along the East wall was a TV on a white wicker stand, a white wicker chair, a wooden china hutch with the South door in the open position. A wooden chair was positioned in front of the North end of the china hutch. Adjacent to the South end of the china hutch was another white wicker chair with a metal walker leaning up against it and misc. boxes in the SE corner.

A piano & piano bench were along the South wall. A recliner chair was positioned in front of the piano bench and West of the china hutch. Miscellaneous clothing articles were on the chair. Bloodlike substance was observed on the back seat cushion. It should be noted that the recliner had at some point in time been moved from an area approx. 20" East of china hutch according to the indentation marks in the carpet to an area approx. 34" East of china hutch. On the East side of the piano there was a wooden table with misc. knick knacks, and a floor fan. A window was located in the Southeast corner. The window was covered with curtains. The window was in the open position with the window screen ajar.

A wooden table with a lamp was positioned along the West wall, adjacent to the table was a hide-away bed in the open position. Atop the bed was a wooden chair (Item #55) with bloodlike substance, a metal cane (Item #64) with bloodlike substance, a metal grabbing instrument (Item #68), a green handled knife (Item #47) with bloodlike substance and a pink blanket (Item #53) with bloodlike substance. On the South side of bed there were misc. books, papers, a wallet with approx. \$530 and misc ID in the name of Helen Sabraw (wallet released to Detectives). Another wooden table was located on the North side of couch. A metal TV tray was on the North side of the couch with misc. medications.

A wooden dresser was located in the Northwest corner of the living area, adjacent to the dresser was a two drawer file cabinet, and a blue trash can was adjacent to the two drawer cabinet. A sink and cabinet unit was also located along the North wall of the living area. The sink had misc. dishes in water. On the floor in front of the sink were two plastic bottles, plastic cup and a plastic bag with fruit inside of it. All these items had bloodlike substance on them. On the floor in front of the sink/cabinet

I.D. OFFICER

*K. Adkins #900* K. ADKINS

P#

900

AA 0215



unit was an area rug. On the rug was a gray t-shirt (Item #32), with bloodlike substance on it.

The body of a WFA was lying on the floor of the living area approx. 8'1" North of the South wall and approx. 9' East of West wall. The victim was lying on her right side, head in a Southerly direction, feet in a Northerly direction, left arm extending in a Westerly direction with her left hand resting atop a pair of white shoes, her right arm was extending in a NE direction, left leg crossing over the top of her right leg, leg bent at the knee. Under the right knee was a black handled knife (Item # 43) with bloodlike substance on it. The victim had numerous stab wounds, lacerations and bruising about the face. Under the head of the victim was a pair of panties (Item #38). A white muscle shirt (Item #33) and a white cup (Item #49) with bloodlike substance were on the floor near the right foot of the victim. Also on the ground near the body was a dark pink nightgown (Item #34) with bloodlike substance, with two pair of panties wrapped inside the pink nightgown (Item #35), a light pink nightgown (Item #36) with bloodlike substance and a beige bra (Item #37) with bloodlike substance were also on the floor about the body.

Bloodstains on the floor around the body start approx. 1'8" West of the East wall and extend to approx. 10'6" in a Westerly direction and bloodlike substance was on the North wall over the sink and extend approx. 10'8" in a Southerly direction. There is spattering on the East wall starting approx 12" up from the floor and extending up approx. to 61" and starts approx 71" South of the NE corner of the East wall and extends to approx. 80". Blood transfer and swipe stain was present on the cross beam dividing the sink/cabinet area from the living area. Bloodstains were present on the East side and doors of the sink/cabinet unit. Bloodstains were also present on the North wall West of the sink/cabinet unit starting approx 42" up from the floor and extending to approx. 93" up the wall. Bloodstains were also present on the West wall of the living area starting approx. 53" up from the floor and extending to approx. 87" and the bloodstains extending in a Southerly direction on the West wall started approx. 17" from the NW corner and extended to approx. 24" across the wall. Samples of the bloodlike substance with controls were recovered from the floor (Items # 17 thru 21) and from the walls (Items #22 thru 28).

The closet/bathroom area West of the entrance was in a neat and orderly condition. The tub is positioned along the South wall, sink and toilet along the West wall, a small dresser was along the East wall. There was bloodlike substance present on the toilet seat (Item #29) that was recovered.

The closet located East of the entrance was in a neat and orderly condition.

#### PHOTOGRAPHY:

Color photographic negatives were exposed by CSA J. Szukiewicz of the scene depicting the location and condition of the victim, the apartment, items of evidence recovered, location of latent prints, and locations of yellow measuring device depicting the locations of the bloodstain evidence on the floor and walls of the apartment. CSA Szukiewicz also took photos of all the exterior doors leading into the building and all the stairwell doors for identification purposes and depicting that there was no forced entry noted on any of the doors. Additional photos were taken by CSA Sup. K. Adkins of the location and condition of a dumpster and a white plastic bag (Item #1) containing five

I.D. OFFICER	<i>K. Adkins</i> # 900 K. ADKINS	P# 900
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AA 0216

white towels and toilet paper with bloodlike substance, hairs and fecal matter on them (Items #1-A thru 1-E, Items 2 thru 11 & Item #16). The bag was recovered from the bottom Northeast corner of the dumpster. The dumpster was located on the North side of the complex parking lot.

#### LATENT PRINT PROCESSING:

Latent print processing was conducted and partial latent finger and palm prints were developed, lifted and photographed by CSA Szukiewicz from the exterior and interior of the front North door to Apartment #212, by SCSA LeMaster from the exterior of the front North door to Apartment #212 and from the interior side of the door frame of the closet/bathroom located West of the entrance. CSA Sup. Adkins recovered latents from the interior side of the front North door to Apartment #212, from a tea pot in the china hutch and from the interior side of the window ledge of the Southwest window of apartment.

In preparation of fingerprinting the body of the victim by means of super glue and magna powder the polilight was used by SCSA J. Autrey to help determine the presences of trace evidence. Numerous hairs (Items #13 thru 15) were recovered from the right and left hands and right elbow of Helen Sabraw. Unknown substance was recovered from the external anal area of Helen Sabraw. The unknown substance tested positive with the presumptive semen test. Samples of bloodlike substance and controls were taken from the floor areas around the body (Items # 17 thru 21). The polilight was also used on the floor area around the deceased where a section of the carpet with bloodlike substance and fecal matter reacted positive to a presumptive semen test. A section of the arpet (Item #31) was cut out and recovered. The black handled knife (Item # 43) was removed from under the right leg of victim prior to the fuming process.

The body was then tented with plastic and super glue fuming process was started. The body was fumed from approx. 1947 hours until 2015 hours. CSA Sup. Adkins & SCSA Autrey fingerprinted the body by the use of magna powder with negative results.

#### EVIDENCE:

SCSA D. LeMaster, recovered, marked (D4243L) and subsequently booked the items of evidence recovered on this date. Refer to the Evidence Impound Report for descriptions and locations.

Clark County Coroner R. Miller pronounced the body at approx. 1600 hours. The body bag was sealed (#870671) and removed by Coroner M. Dye and the on call mortuary to the Coroner's office.

Additional processing of the evidence collected on May 17th was viewed with the polilight for the presence of trace evidence and fingerprint processed with powders and various chemicals and tested for the presences of blood and semen. Items #39,40, 41,42,44, 45,46, 48, 50,52, 56,57,58,61,62, 63, 65,66, & 67 were recovered through this visual and polilight examination.

I.D. OFFICER	<i>K. Adkins</i> # 900 K. ADKINS	P# 900
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Latent print processing was conducted on Items 1, 43, 47, 49, 51, 55, 60 & 68. A partial latent print was developed and lifted with amido black on the leg of Item #55 at an area which tested presumptive blood positive by SCSA D. LeMaster.

DIAGRAM:

A crime scene was completed by SCSA D. LeMaster.

The room was sealed with LVMPD evidence seals and a lockout knob was placed on the exterior door knob of Apartment #212.

No further action was taken at this time.

I.D. OFFICER

*K. Adkins* 900  
K. ADKINS

P#  
900

AA 0218

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
OFFICER'S REPORT**

**Event #: 980517-0848**

**MURDER WITH DEADLY WEAPON/SEXUAL ASSAULT**

**Subject**

Division Reporting:           ISD

Division of Occurrence:    PD

Date and Time Occurred:    05/17/98   1112 HOURS

Location of Occurrence:    4255 S. SPENCER #212  
                                  CAMLU RETIREMENT  
                                  HOME

DICTATING OFFICER:

DET. P. RAMOS, P#799  
HOMICIDE SECTION

VICTIM:

SABRAW, HELEN M.  
WFA, DOB: 08/13/11  
SS#: 389-01-8129  
5-8 135 LBS. GRY BLU  
RES. ADDRESS: 4255 S. SPENCER  
#212, LAS VEGAS, NV. 89119  
RES. PHONE: 733-2209

SUSPECT:

UNKNOWN

**I.    SYNOPSIS:**

On 05/17/98 at approximately 1112 hours, LVMPD dispatch received a 9-1-1 emergency call from the Camlu Retirement Home at 4255 Spencer. The caller indicated that an elderly female was found lying nude on the floor in room #212 and she was believed to be the victim of a homicide. Emergency medical units were dispatched as were LVMPD patrol officers and at approximately 1122 hours, the Clark County Fire Department notified LVMPD dispatch that the female was confirmed deceased and appeared to be the victim of a homicide.

Patrol units at that time then requested Homicide detectives respond to the scene as well as Crime Scene Analysts.

and Time of Report:       06/03/98 1030 HOURS

Officer:   DETECTIVE P. RAMOS, P# 799

Approved:

Signature

**EXHIBIT 5**

AA 0219

Signature

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
CONTINUATION REPORT**

**II. PERSONS AT THE SCENE:**

**A. PD**

1. Lt. M. Joseph, P#3383
2. Officer T. Johnson, P#3171
3. Officer T. Kyger, P#4191
4. Officer A. Bragg, P#4150
5. Officer K. Cochran, P#4817

**B. ISD-HOMICIDE**

1. Lt. W. Petersen, P#1913
2. Sgt. K. Manning, P#2434
3. Sgt. R. Alby, P#1810
4. Detective P. Ramos, P#799
5. Detective J. Vaccaro, P#1480

**C. CRIMINALISTICS**

1. C.S.A. K. Adkins, P#900
2. C.S.A. D. Lemaster, P#4234
3. C.S.A. J. Szeukiewicz, P#5411
4. C.S.A. J. Autrey, P#4367

**D. CORONER**

1. Deputy Coroner Investigator Rudy Miller  
(Pronounced time of death at 1600 hours)

**E. MORTUARY/HITES**

1. Attendant Deininger
2. Attendant McKaahan

**F. CLARK COUNTY FIRE DEPARTMENT/RESCUE 18**

1. Paramedic W. Sprague
2. Paramedic R. Porter

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
CONTINUATION REPORT**

**III. WITNESSES INTERVIEWED:**

For a list of witnesses interviewed, please see the report authored by Detective J. Vaccaro.

**IV. DETAILS:**

On 05/17/98 at approximately 1110 hours, Peggy Ann Parks, a white female adult, date of birth: 07/19/35, went to the Camlu Retirement Home at 4255 S. Spencer. Peggy had a habit of going to the retirement home on Sunday mornings after church to check on her friend Helen Sabraw who lived in room #212. When Peggy arrived, she found the door unlocked and admitted herself into the room. Immediately upon entering the room she saw the body of her friend Helen Sabraw lying on the ground with a large amount of blood spattered around the room and on her body. Peggy immediately backed out of the room, closed the door and went downstairs to notify management and to call 9-1-1. While Peggy Parks was down on the first floor notifying the manager, Mark Sabraw, the victim's son, arrived accompanied by his girlfriend, Sharon Tyner. Mark also found the door unlocked as was expected and when he entered the room he saw the body of his mother lying on the floor in a pool of blood and he immediately ran to the telephone inside her apartment, grabbed the phone from the cradle, and placed a 9-1-1 call to LVMPD dispatch. Mr. Sabraw notified LVMPD dispatch that he had found his mother lying in a pool of blood and that he believed she was deceased.

Emergency medical units were dispatched by LVMPD Communications Center as were Patrol officers who responded to the scene. Upon arriving at the scene, the victim was confirmed deceased by Clark County Fire Department paramedics and LVMPD Patrol officers then requested Homicide detectives respond to the Camlu Retirement Home and initiate the investigation into the apparent homicide of Helen Sabraw.

**V. CRIME SCENE INVESTIGATION:**

**A. NOTIFICATION OF HOMICIDE SECTION**

Upon arriving at the Camlu Retirement Home, Officer Almedia Bragg, observed the female lying in a pool of blood and was notified that she had been confirmed deceased by the Clark County paramedics. Officer Bragg made an initial observation of the room and determined that the

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
CONTINUATION REPORT**

incident was a homicide. Officer Bragg notified her supervisors and also requested Homicide detectives respond to the scene.

Homicide Sgt. K. Manning then contacted Detectives Ramos and Vaccaro who then responded to the Camlu Retirement Home. Upon arriving at the scene, it was determined that Detective Ramos would conduct the crime scene investigation and Detective Vaccaro would conduct interviews of witnesses pertinent to the investigation.

**B. DESCRIPTION OF THE SCENE**

The scene was located at 4255 Spencer and identified as the Camlu Retirement Home. The complex consisted of a U-shaped two story building having an open courtyard and having the main entrance facing Spencer in an easterly direction. Apartment #212 was located on the second floor of the north wing of the complex and the apartment itself was situated on the south side of an extended hallway running in an east and west direction. The hallway had been secured by means of yellow police barrier tape and the front door was in the open position.

Entering the apartment from the front door and walking in a southerly direction, a very short hallway is situated in the center of the apartment. The hallway leads into the main living area and to the right of the hallway is a small closet which leads into the bathroom portion of the apartment. This small entrance hallway leads into the living area and numerous pieces of furniture and clothing items are observed situation along the bed and the remaining portion of the apartment.

At the end of the hallway as it opens into the living room area, on the left side of the living room area or in an easterly direction, a round wooden table is situated in the northeast corner of the living area. The table is noted to be cluttered with a number of items including a microwave, a box of kleenex, a plastic Tupperware type kitchen utensils tray and two butcher blocks containing black handled knives. Also on the table is a small pocket type calculator, several books and situated on top of the microwave is a lamp, a flower arrangement and a family photograph. The approximate front center of the table is a clear plastic container with several donuts contained therein. A matching wooden chair to the table is observed to be tipped over laying on the ground on the north end of the table. A tan colored laundry basket is also tipped

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
CONTINUATION REPORT**

over underneath the table with clothing items apparently having spilled out of the basket and laying on the carpet.

Continuing in a southerly direction along the east wall, a small black colored television set is situated on top of a white two shelf t.v. stand. The stand itself is cluttered with various items including books and photographs. On top of the television set is a framed picture of a white female adult approximately in her early 20's. On the south side of the television is a white wicker chair with padded cushions and next to the wicker chair is another wooden chair with various small personal items on top of the chair.

Behind the chair and against the east wall is a wooden brake front china cabinet and the right door to the china cabinet is observed to be in the open position. Next to the wooden china cabinet and in the corner of the east and south walls is observed another wicker chair with other items placed on top of it.

Continuing into the room and situated against the south wall, a piano and piano bench are located against the south wall and on top of the piano are noted flower arrangements, vases and more photographs. Next to the piano and in front of the only window situated on the south wall is a wooden end table containing an antique type clock, more flower arrangements and other personal items.

In the corner of the south wall and the west wall, an end table is situated. On top of the end table is a brass lamp and in front of the lamp is a cradle for a cordless telephone. Situated in the approximate center of the west wall is a blue colored sofa bed in the open and extended position. The cushions for the sofa bed are noted to be placed on top of the back of the sofa and one cushion is noted laying across the south arm of the sofa. Several pillows are situated at the head of the mattress portion of the sofa bed and in the approximate center of the bed is another matching wooden chair to the round table. This chair is observed to be placed in the center of the bed and in a tipped over position. On the right side of the bed are a number of personal items including small stuffed animals, a box of kleenex, a black wallet, two multi-colored blankets and a book turned on its end in an apparent open position. On the left side of the bed is a grey metallic colored extended grabbing device approximately 24 inches in length.



**LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
CONTINUATION REPORT**

On the north side of the extended bed portion of the sofa bed is a metallic t.v. tray table and on top of the tray table are noted a number of personal items including drinking cups, two prescription vials labeled Acetaminophen with Codeine, a white bottle of Elmer's glue and an empty prescription vial of Hydracodone. A number of over the counter medications are also noted cluttering the t.v. tray table as well as a red colored plastic medication tray containing several apparent pills and capsules. The tray is divided by the different days of the week and different times of the day and it is noted to have four separate compartments for each corresponding day of the week. To the west of the t.v. tray and situated along the west wall is another round end table containing more personal items including small figurines and another lamp.

In the corner of the west wall and the north wall is a brown colored four drawer chest containing figurines, a lamp and more photographs on top of the chest. A tan colored metallic filing cabinet is on the floor next to the four drawer chest and is cluttered with a number of personal items. A blue top loading waste basket is next to the tan colored filing cabinet and situated in front of the sink of the apartment. The sink is observed to be very small in size and is cluttered with dirty dishes and observed to be approximately 3/4 full of water. Above the counter top is a small compact refrigeration unit affixed to the wall and a small single wooden cabinet.

Returning to the hallway and proceeding back in a northerly direction and to the closet area, the closet is noted to be full of women's type clothing on both sides and cluttered with a number of personal items in plastic shelves and white wicker baskets on the floor stacked on top of each other.

The bathroom itself is observed to have a single tub with a shower affixed to the tub, a small oval type sink and a small cabinet. Directly above the sink is a sliding medicine cabinet on top of which are situated a number of perfume bottles. A small mirror is above the medicine cabinet. Next to the sink is a white colored toilet. The toilet cover is in the open position and the toilet seat is in the down position. On the left side of the sink on top of the cabinet is a yellow colored tub containing water and several pairs of panty hose soaking in the water.

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
CONTINUATION REPORT**

The overall description of the apartment was that of being extremely cluttered, somewhat unkept, and several areas of the furnishings were noted to be covered with a thick layer of dust.

**C. LOCATION AND DESCRIPTION OF BODY**

The body was observed to be that of an elderly white female adult. She was found lying on the floor in the approximate center of the room between the bed and a white wicker chair situated on the east wall of the apartment. The body was observed to have suffered an extensive amount of external trauma and a number of apparent stab wounds and cutting wounds were observed on the victim's head, face and upper torso as well as the left upper thigh below the left buttock area.

The victim was lying on her back with her arms both extended in a natural position. The left arm at an approximate 90 degree angle and the right arm at an approximate 45 degree angle. The victim's left leg was raised to her right side and bent at the knee extending it an approximate 90 degree angle. Her right leg was also bent at the knee and extending in an approximate 45 degree angle. The overall position of the victim was in a partial fetal position with her head tilted slightly to the right. The victim's feet were pointing in a northerly direction towards the northeast corner of the apartment while her head was pointed towards the southeast corner of the apartment.

The victim was observed to be wearing a pink colored nightgown which had been pulled up above her breasts and below her neck area. The victim was not wearing any footwear and she was noted to be covered with a substantial amount of red blood like substance particularly in the areas of the previously mentioned stab wounds. The victim appeared to have suffered a substantial amount of external trauma to her head area including the left portion of her forehead and her left eye.

The carpeting surrounding the victim's body was saturated with a red blood like substance as well as darker colored biological material which appeared to be fecal matter. The handle of a black colored plastic knife was observed to be extending from below the victim's right knee. A number of small bruises were also observed on the victim's body near the left portion of her lower torso and above the pubic area. The soles of her bare feet were noted to be covered with a moderate amount of a red blood like substance. The victim was not wearing any panties and

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
CONTINUATION REPORT**

she was nude except for the nightgown having been pulled up above her breasts and pulled up along her arms.

**D. VISIBLE EVIDENCE AT THE SCENE**

A number of items were observed to be located within the apartment and believed to be of evidentiary value. Located on the floor north of the victim was a grey colored t-shirt which was crumpled and lying on the ground. And after examination, the t-shirt was found to have blood like transfers on it. Also on the ground next to the grey t-shirt was a white cotton "muscle" shirt which appeared to be an undergarment. This white shirt was also observed to contain blood like transfers on the shirt.

The matching wooden chair to the round table which was situated on top of the bed was observed to be covered with a large amount of blood like substance and because it was turned over on top of the bed, it was believed to have been used as a possible weapon against the victim. Additionally, a white wicker stool was found in the hallway leading into the living area and it was also observed to be covered with a red blood like substance.

At the end of the bed near the approximate center of the foot of the bed was a green handled serrated knife which appeared consistent with a "grapefruit" knife. A black colored long-sleeved woman's top with sequined pattern design was found on the floor next to the bloodied white wicker stool. This black top was observed to have a substantial amount of blood on it and it was noted to be stuck to the bottom foot ring of the stool.

All of the previously mentioned items were recovered by Crime Scene Analysts and analyzed for trace evidence and hair fiber evidence. Crime Scene Analysts recovered a number of samples of the red blood like material located throughout the apartment as well as a small section of the carpeting for further biological testing.

A brown colored aluminum walking cane was also noted situated in the approximate center of the bed. The cane was examined and found to be bent and distorted and had a substantial amount of a red blood like substance on the cane.

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
CONTINUATION REPORT**

**VI. INTERVIEW OF WITNESSES:**

Please refer to the report authored by Detective J. Vaccaro.

**VII. AUTOPSY:**

On 5/18/98 at approximately 1100 hours, an autopsy was conducted on the body of Helen Sabraw by Dr. Sheldon Green. Dr. Green was assisted by Forensic Assistant Lori Milbrandt and also present was Crime Scene Analyst Lemaster.

Prior to the autopsy being conducted, Crime Scene Analyst Lemaster took photographs showing the overall condition of the victim, Helen Sabraw. Helen Sabraw was still clad in the pink nightgown that she was discovered in and examination of Helen Sabraw indicated that she had suffered severe trauma to the head and face and had also suffered numerous stab wounds and cutting wounds to her head, face, upper torso, abdomen area and the back.

Helen Sabraw was observed to be wearing a watch on her left wrist, two small rings on her left ring finger, one ring on her left middle finger and no jewelry on her right hand.

During the autopsy, Dr. Green examined the victim's rectal area and observed some trauma to the victim's rectum. Dr. Green observed that the rectum appeared to have been penetrated and it was believed that the victim had suffered a sexual assault to her rectum.

Upon completing the autopsy, Dr. Green opined that the victim had died as a result of multiple stab wounds to the head and body and that the manner of death was a homicide.

**VIII. SUMMARY:**

Upon conducting the investigation into the homicide of Helen Sabraw, Detectives Ramos and Vaccaro learned that Helen Sabraw was a resident of the Camlu Retirement Home at 4255 Spencer, #212. Detectives Ramos and Vaccaro learned that Helen was last seen on Friday evening between 7:00 and 8:00 PM attending a Jewish religious service in the library of the complex. Detectives Ramos and Vaccaro have been unable to locate anyone who saw

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
CONTINUATION REPORT**

Helen Sabraw after the service and it was believed that she possibly may have gone gambling at a local casino.

Detective Vaccaro interviewed witnesses who heard a female screaming out for help on Saturday morning at approximately 0130 hours. Helen Sabraw was not seen during the day of Saturday, May 16 and on Sunday, May 17, when her friend, Peggy Parks, and her son, Mark Sabraw, came to check on her and she was discovered deceased inside her apartment.

Detectives Ramos and Vaccaro also learned that another homicide had been discovered in the same apartment complex in room #120. This homicide was discovered on May 16 at approximately 0430 hours. This other homicide was being investigated by Detectives Chandler and Hardy and was assigned Event 980516-0400. The two homicides were found to have similar characteristics but at the time of this report, no definite connection has been made between the two homicides. The time window when the two homicides were believed to have occurred was consistent with the homicides occurring within a short period of time of each other.

After an extensive search of the victim's apartment, no items were believed to have been taken from Helen Sabraw's apartment and the wallet that was found on Helen Sabraw's bed was found to contain a large amount of U.S. currency which did not appear to have been disturbed. There was no apparent ransacking of the apartment and the apartment was believed to have been found in the same general condition as it usually is. Helen was known to leave her front door unlocked so that her friends and neighbors could check on her periodically without her having to get up out of the bed to unlock the door.

No suspects have been developed in the investigation at the time of this report and the investigation is continuing.

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CLERK OF THE COURT

ROPP  
PHILIP J. KOHN, PUBLIC DEFENDER  
NEVADA BAR NO. 0556  
SCOTT COFFEE  
Deputy Public Defender  
Nevada Bar No. 5607  
309 South Third Street, Suite 226  
Las Vegas, Nevada 89155  
(702) 455-4685  
Attorney for Defendant

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,	)	
	)	
Plaintiff,	)	CASE NO. C269839X
	)	
v.	)	DEPT. NO. VII
	)	
GUSTAVO RAMOS,	)	DATE: July 27, 2012
	)	TIME: 8:45 a.m.
Defendant.	)	

**REPLY TO STATE'S OPPOSITION**

COMES NOW, the Defendant, GUSTAVO RAMOS, by and through SCOTT L. COFFEE, Deputy Public Defender and hereby files this Reply to the State's Opposition.

This reply is made and based upon all the papers and pleadings on file herein, the attached argument, and any oral argument at the time of the hearing.

DATED this 26th day of July, 2012.

PHILIP J. KOHN  
CLARK COUNTY PUBLIC DEFENDER

By: /s/ Scott L. Coffee  
SCOTT L. COFFEE, #5607  
Deputy Public Defender

## ARGUMENT

The state's opposition claims that, pursuant to **NRS 171.083(1)**, the statute of limitations normally set forth by **NRS 171.085** has to be removed as to Counts 3 and 4. The State is wrong.

The overreaching gist of the opposition is that if this court fails to side with the State a bad guy will not get appropriately punished, which is always the case when the state fails to file a charge within the appropriate statute of limitations. It is not, however, a legitimate basis for ignoring the statute of limitations.

The statutory basis for the state's claim of an exception to the statute of limitation is found at **NRS 171.083(1)** and reads as follows:

If, at any time during the period of limitation prescribed in NRS 171.085 and NRS 171.095, a victim of sexual assault or person authorized to act on behalf of a victim of sexual assault files with a law enforcement officer a written report concerning the sexual assault, the period of limitation prescribed in NRS 171.085 and 171.095 is removed and there is no limitation of the time within which a prosecution for the sexual assault must be commenced.

The plain language of **NRS 171.083(1)** requires: 1) a *written report*; 2) *concerning the sexual assault*; 3) be filed with police 4) by the victim or a *person authorized to act on their behalf*. The purpose is also clear: to allow victims or their agents to remove the statute of limitation requirements normally attendant to a charge of sexual assault by filing a written report concerning the sexual assault. The legislature could have easily removed the statute of limitations requirements from a charge of sexual assault,<sup>1</sup> but they choose not to. There are requirements which must be met before the statute of limitations is removed and in these cases those requirements are not met.

The state's opposition identifies two people not associated with the police as having "...provided information to officers of the Las Vegas Metropolitan Police department": Mark Sabraw, Helen Sebraw's son, and Peggy Ann Parks, a person with no legal connection to Sebraw other than being a friend. Note that this particular instance "...provided information," is not synonymous with the filing of "...a written report" as it appears no written report was ever filed by Mark Sebraw.

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<sup>1</sup> In fact the initial legislation which suggested as much and several states have also taken this approach.

1           What Mark Sebraw did, at some point, was speak with police. In speaking with police it  
2 does not appear that Mark Sebraw ever mentioned (or even implied) the sexual assault now alleged  
3 in the state's pleading. Finally, while it appears that Mark Sebraw may have been the decedent's  
4 next of kin, it arguable whether he qualifies as "...a person authorized to act on behalf of the victim  
5 of a sexual assault." It seems obvious that not everyone is "...authorized to act on their [, the  
6 victim's,] behalf"---any other conclusion would render the term "...authorized to act..."  
7 meaningless. So where does "authorization" come from? Normally, a person "...authorized to  
8 act.." gets that authority in one of two ways: 1) authority specifically granted by the person upon  
9 who's behalf the action is taken; 2) authority granted by law by virtue of title/position or  
10 relationship (e.g. the clergy's authority to perform marriages; a parent or guardian's authority to  
11 make certain decisions for their children).

12           There is certainly no indication that Mark Sebraw was given specific authority by his  
13 mother to provide a written report on her behalf "concerning the sexual assault." A more  
14 interesting question is whether Mark Sebraw, by virtue of being Helen Sebraw's next of kin, has  
15 sort of inherited authority to file a written report on his mother's behalf. At the end of the day,  
16 whether or not Mark Sebraw was "...a person authorized to act on behalf of the victim of a sexual  
17 assault" to file a written report concerning the sexual assault matters not, because the information  
18 provided by Mark Sebraw fails to meet both the written statement and "...concerning the sexual  
19 assault" requirements of the NRS 171.083(1).

20           The only written report filed with the police in this instance came from Peggy Ann Parks.  
21 It did not come from a relative nor a guardian, nor a trustee of the decedent's estate. Rather by the  
22 decedent's friend--- a person with no particular legal connection whatsoever to the decedent.  
23 Further, there is no evidence whatsoever that Parks was asked and/or authorized by the decedent in  
24 any way to file a written report with the police. The written report makes no mention (or even any  
25 implication) of a sexual assault (or rape or sodomy).

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1 In its entirety the report written and filed by Peggy Ann Parks reads:

2 *"Come to see Helen at 11:00 & there she was laying on the floor an covered with*  
3 *Blood. So I went to the office got the manager very fast."*

4  
5 Like Mark Sebraw, there is no indication that Peggy Ann Parks had been given authority by  
6 the decedent to file a written statement on her behalf "...concerning the sexual assault." Further,  
7 what Peggy Ann Parks provided would not trigger the exception to the statute of limitations set  
8 forth in NRS 171.083(1), because the statement she provided didn't "...concern the sexual assault"  
9 or even imply it. Simply put, Peggy Ann Parks didn't file "...a written report *concerning the*  
10 *sexual assault.*"

11 Further, there is no indication that Peggy Ann Park gave some sort of apparent and/or  
12 implied authority to "file a written report concerning the sexual assault" on the decedent's behalf.  
13 Parks had no legal relationship whatsoever to Helen Sabraw---she was not the next of kin, nor a  
14 guardian nor person granted power of attorney--- she could not enter a contract for Sebraw, or  
15 open a credit card for her or even get medical information pursuant to HIPA. While Nevada  
16 Revised Statutes does not specifically define the term "person having authority", it is obvious that  
17 there must be *some* legal basis for the person to claim authority. For Peggy Ann Parks there is  
18 none. Peggy Ann Parks would not even qualify to give a victim impact statement on Sebraw's  
19 behalf at a sentencing hearing. She does not fit the requirements of NRS 171.083(1).

20 The state provides no support for its' conclusion that Peggy Ann Parks and Mark Sebraw  
21 "...were unquestionably authorized to act on behalf of their dead friend and mother, respectfully."  
22 The State points out that because Helen Sebraw is dead, she could not file a report herself. But  
23 this is of no moment to the issue at hand. The important question here is not whether Helen  
24 Sebraw would have granted the authority to her friend to file "a written report concerning the  
25 sexual assault," but whether she did---and there is no indication such authority was granted.

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Additionally, even if the State were able to establish an NRS 171.083(1) exception as to count three-sexual assault, it would not save count four-sexual penetration of a dead body is limited on its face to charges of sexual assault. Count four is not a sexual assault.

The opposition concludes with an impassioned plea to create an exception to the statute of limitation which is not found anywhere in Nevada law. Apparently, a plain reading of the Nevada Revised Statute is not to the state's liking in the instant situation. The State alleges that horrific consequences, never intended by the legislature, would befall all rape victims should the court fail to agree with their untenable position. These claims ignore the obvious.

First, prior to the adoption of NRS 171.083 there was an absolute bar via the statute of limitation which then prevent the state from ever filing a sexual assault charge in an instance such as this beyond the four year mark. The world did not end.

Secondly, the legislature could have simply eliminated the statute of limitation as to sexual assault, but specifically choose not to. NRS 171.083 was never intended to be a catchall provision which completely eliminates the statute of limitation in all instances.

## CONCLUSION

Granting the defense motion to strike counts three and four from the amended information will not create some unforeseen consequence which eviscerates the purpose of NRS 171.083. The legislature probably never addressed the specific circumstances currently at bar because they appear only in an exceedingly small percentage of cases. What was intended by the adoption of the provisions set forth in NRS 171.083(1) was creation of exception for those instances in which a written report of a sexual assault is made to police in a timely manner by either a victim or someone authorized to make such a written report. The statute represents a compromise between victim's right and the rights of a defendant to be charged in a timely manner. Nothing this court does in the instant case will change that. The state may wish the statute had been drafted differently, but it was not.

///

///

1           The exception to the statute of limitations set forth in NRS 171.081(1) does not apply here  
2 and the defense motion to strike counts three and four should be granted.

3  
4           DATED this 27th day of July, 2012.

5                           PHILIP J. KOHN  
6                           CLARK COUNTY PUBLIC DEFENDER

7                           By: /s/ Scott L. Coffee  
8                                 SCOTT L. COFFEE, #5607  
9                                 Deputy Public Defender  
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**CERTIFICATE OF ELECTRONIC SERVICE**

I hereby certify that service of REPLY TO STATE’S OPPOSITION, was made this  
26TH day of July, 2012 to:

CLARK COUNTY DISTRICT ATTORNEY’S OFFICE  
PDMotions@ccdancv.com

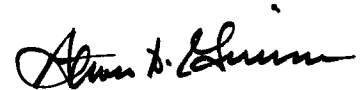
By: /s/ S. Ruano  
Employee of the Public Defender’s Office

**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that service of REPLY TO STATE’S OPPOSITION, was made this  
26TH day of July, 2012 to:

ROBERT DASKAS, Chief Deputy District Attorney  
PAM WECKERLY, Chief Deputy District Attorney  
FAX # 383-8465

By: /s/ S. Ruano  
An Employee of the Public Defender’s Office



CLERK OF THE COURT

1 RTRAN

2 DISTRICT COURT  
3 CLARK COUNTY, NEVADA  
4

5 STATE OF NEVADA,

6 Plaintiff,

7 vs.

8 GUSTAVO RAMOS,

9 Defendant.  
10  
11

CASE NO. C269839-1

DEPT. VII

12 BEFORE THE HONORABLE LINDA MARIE BELL, DISTRICT COURT JUDGE  
13 FRIDAY, JULY 27, 2012

14 **RECORDER'S TRANSCRIPT OF**  
15 **DEFENDANT'S MOTION TO DISMISS**  
16 **COUNTS 3 AND 4 OF THE AMENDED INFORMATION**

17 APPEARANCES:

18 For the State:

ROBERT J. DASKAS, ESQ.

Chief Deputy District Attorney

PAM WECKERLY, ESQ.

Chief Deputy District Attorney

21 For the Defendant:

SCOTT COFFEE, ESQ.

Deputy Public Defender

23 Also Present:

JEFF HANKS, Court Interpreter

24 RECORDED BY: RENEE VINCENT, COURT RECORDER

25 Friday, July 27, 2012 -- 8:49 a.m.

1  
2 THE COURT: Page 8, State of Nevada versus Gustavo Ramos, Case  
3 Number C269839-1. Let the record reflect the presence of Mr. Ramos being  
4 assisted by the Court Interpreter, Mr. Hanks, represented by Mr. Coffee. State  
5 represented by Mr. Daskas and Ms. Weckerly. This is on for the Defendant's  
6 motion to dismiss Counts 3 and 4 of the Amended Information.

7 MR. COFFEE: Judge, we filed our reply last night with the Court --

8 THE COURT: I received it, and I read it. Thank you.

9 MR. COFFEE: Okay. I don't know if there's much to add outside what's in  
10 the four corners of the document. I don't think they've met the statute. They agree  
11 they were outside the three- and four-year time limits respectfully. They're  
12 normally set for the statute of limitations. The question is whether or not they can  
13 qualify for the exception.

14 That Count 4 clearly doesn't fit the statute. The exception is only for  
15 sexual assault counts. But as to Count 3, the question is whether or not they've  
16 met the statute as to Count 3 for the reasons set forth. I don't think that they have.

17 THE COURT: And I understand what you're saying, that they're -- the way  
18 -- the circumstances of these cases are a little unusual and I think perhaps not --  
19 given the fact that the victim died, obviously, she was not capable of doing a  
20 written report. But there was a written report, and it seems to me that the intent of  
21 the statute is to ensure that there is -- that you don't have somebody coming back,  
22 you know, five or six years down the road because they're, say, you know, angry  
23 with their former spouse or whatever and making a claim that is not accurate.

24 And so we certainly don't have that concern because the issue  
25 whether there was a sexual assault was raised at the time that the case was

1 investigated, and there was a written report that indicates that there was potentially  
2 a sexual assault.

3 MR. COFFEE: No, not -- not really, Judge. What you've got is you've got -  
4 - you've got police reports, but that's not what the written report requirement says.  
5 It says a person authorized to file a -- and they're not talking about a police report;  
6 it's some independent person, a person authorized to file the report, and I don't  
7 know how we have authorization in this particular instance.

8 What you've got is a neighbor who's got no legal connection to it.  
9 She wouldn't have the authorization to file a lawsuit. She wouldn't have the  
10 authorization to open credit cards. Wouldn't have an authorization to do anything,  
11 so, in other words, you've got a written report filed by a person with authorization.

12 Additionally, the written report filed, it says it has to be concerning a  
13 sexual assault. The written report filed is simply, to paraphrase, I went over to see  
14 my friend, and I found her body lying there. And that's it. It doesn't say anything  
15 concerning the sexual assault, which the statute says is also required. So I think  
16 you fall on a couple bases.

17 The police report can't be the written report they're talking about  
18 because it says the victim or a person authorized to file a report on the victim's  
19 behalf. So I don't know that you've met either one. The only potential written  
20 report that could qualify is, again, the statement from the friend -- I think her name  
21 was Peggy Ann Parks -- and it's not a report concerning a sexual assault. And I  
22 don't know where the authorization is found in this particular instance because the  
23 Court's implying one that's not created by statute that implies, that there's no  
24 definition of a person having authorization in the statute.

25 The statute is not written in terms of anybody can file a report. It

1 says a person having authorization. If it had just meant a person, they could've  
2 said a person or they could've just got rid of the statute, but none of those things  
3 happened. So I think for all those reason, it doesn't qualify.

4 I understand the Court's concern about the intent. This is an odd  
5 situation, but I think what the Court is limited to is the plain reading of the statute,  
6 and what they've got here doesn't meet the plain reading of the statute as to either  
7 count. Okay?

8 As to Count 4, the statute only provides us an exception for sexual  
9 assault, not sexual penetration of a dead body. That's not mentioned anyplace.  
10 So I think, for certain, Count 4 needs to be stricken. I think Count 3 needs to be  
11 stricken also for the reasons that I've just stated.

12 THE COURT: All right. Thank you. Mr. Daskas.

13 MR. DASKAS: Your Honor, to use Mr. Coffee's logic, in this case the 86-  
14 year-old rape victim would have to have anticipated that she was going to be raped  
15 and killed and then give authorization prior to her rape and murder to her son or a  
16 friend to contact the police if and when it happened. That's -- that's nonsensical.

17 But I think you hit the nail on the head when you said -- and I'm  
18 going to read to you the quote that I was going to tell you, which you much more  
19 eloquently stated, which is this: "The purpose of the statute, no doubt, is to ensure  
20 that a defendant is not required to defend himself against rape allegations that  
21 surface years or decades after the fact." Clearly, that's the purpose of the statute."

22 What we have in this case is the very day the rape and murder  
23 occur, or perhaps the next day, the police are contacted, reports are generated and  
24 filed as a result of the people reporting. If a friend or a relative or a police officer  
25 don't qualify as authorized to act on the victim's behalf, then the statute is



1 meaningless. Nobody would qualify. And so I think you've identified the issue  
2 appropriately. We'll submit it based on that.

3 MR. COFFEE: And Judge --

4 THE COURT: Let me ask you about -- hang on a second, Mr. Coffee. Let  
5 me ask you, though, about Count 4 --

6 MR. DASKAS: Yes.

7 THE COURT: -- because I am not sure that Count 4 falls under the  
8 statutory exception, and the State didn't really address that in the opposition.

9 MR. DASKAS: I think the response is two-fold. The first is that, factually,  
10 it's an alternative count. If the jury believes that the sexual assault occurred after  
11 the victim was dead, then they would obviously find him guilty of sexual penetration  
12 of a dead human body. If they believe it occurred beforehand, then it's sexual  
13 assault. So I think that's a factual determination for the jury which wouldn't be  
14 barred by the statute.

15 But the second thing I would point out is, the statute which removes  
16 the time bar doesn't define sexual assault. It simply uses the phrase in a broad  
17 sense of the word, and I think sexual penetration of a dead human body certainly  
18 qualifies a sexual assault. If the legislature intended otherwise, they could've said -  
19 - when they mentioned sexual assault, they could've mentioned the sexual assault  
20 statute specifically, but they didn't do that. It simply says sexual assault in the  
21 general sense of the word.

22 MR. COFFEE: Actually, it does mention the statute specifically. I don't  
23 know if Mr. Daskas perhaps didn't read it, but it says the statute -- the period of  
24 limitations prescribed by 171.085 and 171.095. So it mentions the statute of  
25 limitations specifically.

1 MR. DASKAS: But not the sexual assault statute specifically. That was my  
2 point, Your Honor. I did read the statute.

3 MR. COFFEE: And, Judge, the other thing that we've got here, this is a  
4 novel idea that we get all these attendant charges, and we can get a pass on the  
5 statute of limitations on these extra attendant charges. I've done some research --

6 THE COURT: All right, Mr. Coffee.

7 MR. COFFEE: Okay. Good enough.

8 THE COURT: You might want to quit while you're ahead on that one.

9 MR. COFFEE: Okay.

10 THE COURT: So I am going to grant the motion with respect to  
11 Count 4. I'm going to deny it with respect to Count 3, there was a written report.  
12 Under the circumstances, the fact that the police filed a written report, actually, to  
13 me seems even more reliable than having maybe some other circumstances where  
14 you could have a written report filed. So I do think that that is within what was  
15 contemplated by the statute. There was a written report documenting a sexual  
16 assault.

17 If the Defense would like a stay to take this up -- it's a very  
18 interesting issue. I would love to see what the Nevada Supreme Court does. I'm  
19 happy to stay this so that you can -- well, actually, both sides. I mean, you have an  
20 issue with Count 4 as well --

21 MR. COFFEE: We would, Judge.

22 THE COURT: -- if you all want to get that sorted out by the Supreme before this  
23 goes to trial. I'll stay the case and set a status check in 90 days?

24 MR. DASKAS: Great, Judge.

25 MR. COFFEE: That's fine.

1 MR. DASKAS: Thank you. We appreciate it.

2  
3 [Proceeding concluded at 8:57 a.m.]  
4

5  
6 ATTEST: I do hereby certify that I have truly and correctly transcribed the  
7 audio-visual recording of the proceeding in the above entitled case to the  
8 best of my ability.

9 

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11 Renee Vincent, Court Recorder/Transcriber  
12 702-671-4339, Department DC 7  
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1 **ORDR**

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**FILED**

**AUG 07 2012**

*Alvin L. Blum*  
CLERK OF COURT

12  
13 **DISTRICT COURT**  
14 **CLARK COUNTY, NEVADA**

C-10-269839-1  
ORDR  
Order  
1924090



10 THE STATE OF NEVADA,  
11 Plaintiff,

12 -VS-

13 GUSTAVO RAMOS,  
14 #1516662

15 Defendant.

Case No. C-10-269839  
Dept No. VII

17 **ORDER GRANTING IN PART AND DENYING IN PART**  
18 **DEFENDANT'S MOTION TO DISMISS COUNTS 3 & 4 OF**  
19 **THE AMENDED INFORMATION**

20 DATE OF HEARING: July 27, 2012  
21 TIME OF HEARING: 8:45 A.M.

22 THIS MATTER having come on for hearing before the above-entitled Court on the  
23 27th day of July, 2012, the Defendant being present, REPRESENTED BY SCOTT  
24 COFFEE, Deputy Public Defender, the Plaintiff being represented by STEVEN B.  
25 WOLFSON, District Attorney, through PAMELA WECKERLY and ROBERT J. DASKAS,  
26 Chief Deputy District Attorneys, and the Court having heard the arguments of counsel and  
27 good cause appearing, the Court hereby finds as follows:  
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CLERK OF THE COURT

## UNDERLYING FACTS

1  
2 1. On May 16, 1998, at approximately 4:52 a.m., 75-year-old Wallace Siegel was found  
3 murdered in unit 120 of the Camlu Retirement Home. The Camlu Retirement Home was  
4 located at 4255 South Spencer, Las Vegas, Clark County, Nevada. The facility was a  
5 dormitory style complex with locked public access doors that were designed to prevent  
6 access to the individual housing units. Mr. Siegel's body was discovered by his adult son,  
7 Jack Siegel. Wallace Siegel had a depressed skull fracture. Brain matter was present on his  
8 chest and lap. A 25-pound dumbbell was on the floor near Wallace Siegel's body. The  
9 dumbbell had blood on it. A bloody patent print was located on, and collected from, a page  
10 of the Las Vegas Review Journal found inside Wallace Siegel's apartment. Wallace Siegel's  
11 cause of death was blunt force trauma.

12 2. On May 17, 1998, at approximately 11:10 a.m., 86-year-old Helen Sabraw was found  
13 murdered in unit 212 of the Camlu Retirement Home. Helen Sabraw was located on the  
14 floor of her apartment. She was wearing only a nightgown which was pulled up above her  
15 breasts. Her bra was found on the floor near her body. Her underwear was off and found on  
16 the floor under her head. There was fecal matter running down her leg. There was also fecal  
17 matter on the carpet of the apartment several feet from where Helen Sabraw's dead body was  
18 found. Nothing was missing from Helen Sabraw's apartment. There was valuable jewelry  
19 on her hands. Helen Sabraw lived alone, yet a man's gray t-shirt and white 'muscle' shirt  
20 were found on the floor near Helen. Helen Sabraw had been stabbed numerous times on her  
21 head, face, upper torso, left thigh and left buttock. Two knives were found near her body - -  
22 one under her leg and one at the foot of her bed. Helen Sabraw's cause of death was  
23 multiple sharp force injuries.

24 3. Helen Sabraw's body was discovered initially by her friend, Peggy Ann Parks. Parks  
25 notified management at the Camlu Retirement Home and called 9-1-1. While Peggy Ann  
26 Parks was notifying management, Helen Sabraw's son, Mark, arrived to visit his mother.  
27 Mark entered his mother's apartment and saw her dead body. Mark ran to the telephone  
28 inside Helen's apartment and also called 9-1-1.

1 4. Representatives from the Las Vegas Metropolitan Police Department ("LVMPD") - -  
2 including patrol officers, homicide detectives, and crime scene analysts - - responded.  
3 Witness statements were taken from several civilian witnesses, and numerous reports were  
4 generated and filed by police officers, detectives, and crime scene analysts regarding Helen  
5 Sabraw's sexual assault and murder.

6 5. The murders of Wallace Siegel and Helen Sabraw remained "cold" for more than a  
7 decade.

8 6. On June 26, 2009, a request was submitted to the LVMPD Biology/DNA detail to  
9 determine if a profile could be obtained from either of the two shirts found at the Helen  
10 Sabraw murder scene. Forensic Scientist Julie Marschner ultimately established a DNA  
11 profile from the gray t-shirt armpit cuttings which was consistent with a mixture of three (3)  
12 individuals, the major profile being male. Forensic Scientist Marschner concluded that the  
13 major profile was consistent with Gustavo Ramos-Martinez, and the estimated frequency of  
14 the profile was rarer than 1 in 30 million.

15 7. A forensic request was then submitted to have the known prints of Gustavo Ramos-  
16 Martinez compared to the bloody patent print located on, and collected from, the page of the  
17 Las Vegas Review Journal page from the Wallace Siegel murder scene. The bloody patent  
18 print was identified to the right palm of Gustavo Ramos-Martinez.

#### 19 PROCEDURAL HISTORY

20 8. On December 16, 2010, a preliminary hearing was held before Justice of the Peace  
21 William Jansen in Case 10F19783X against Gustavo Ramos-Martinez based on the  
22 following charges in an Amended Criminal Complaint:

23 Murder With Use of a Deadly Weapon, Victim 65 Years of Age or  
24 Older (Count 1 – Wallace Siegel);

25 Murder With Use of a Deadly Weapon, Victim 65 Years of Age or  
26 Older (Count 2 – Helen Sabraw);

27 Sexual Assault With Use of a Deadly Weapon Victim 65 Years of Age  
28 or Older (Count 3); and

1 Sexual Penetration of a Dead-Human Body (Count 4).

2 9. Defendant argued to Judge Jansen that the charges of Sexual Assault with Use of a  
3 Deadly Weapon Victim 65 Years of Age or Older (Count 3) and Sexual Penetration of a  
4 Dead-Human Body (Count 4) were time-barred by the statute of limitations. Judge Jansen  
5 did not rule on the statute of limitations issue, but instead ruled it was not "proven" or  
6 "established" that there was sexual assault or penetration. Therefore, he dismissed the  
7 counts of Sexual Assault with Use of a Deadly Weapon Victim 65 Years of Age or Older  
8 (Count 3) and Sexual Penetration of a Dead-Human Body (Count 4).

9 10. On or about January 28, 2011, the State filed a Motion for Leave to File Information  
10 by Affidavit pursuant to NRS §173.035(2). On or about February 16, 2011, this Court  
11 granted the State's motion and reinstated the charges of Sexual Assault with Use of a Deadly  
12 Weapon Victim 65 Years of Age or Older (Count 3) and Sexual Penetration of a Dead-  
13 Human Body (Count 4) because the Justice of the Peace articulated and applied the wrong  
14 standard when it dismissed the counts.

15 11. On or about June 27, 2012, Defendant Ramos filed in this Court the instant Motion to  
16 Dismiss Counts 3 and 4 of the Amended Information based on the statute of limitations.

17 **FINDINGS & CONCLUSION AS TO COUNT 3**

18 12. Defendant argues that Count 3 must be dismissed because NRS §171.085(1) provides  
19 that a complaint charging the crime of sexual assault must be filed "within 4 years after the  
20 commission of the offense." Defendant argues that "the State had until May 16, 2002 to file  
21 a complaint or forever be time barred" from charging the sexual assault of Helen Sabraw."  
22 Motion at 3.

23 13. The State opposes Defendant's motion arguing that the statute of limitations has been  
24 removed by virtue of NRS §171.083(1).

25 14. The Defendant's reply argues that requirements of NRS 171.083(1) have not been  
26 satisfied.

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28 ///

1 15. NRS §171.083 provides:

2 **If, at any time during the period of limitation prescribed in NRS 171.085 and**  
3 **171.095, a victim of a sexual assault or a person authorized to act on behalf**  
4 **of a victim of sexual assault files with a law enforcement officer a written**  
5 **report concerning the sexual assault,** the period of limitation prescribed in  
6 NRS 171.085 and 171.095 is removed and **there is no limitation** of the time  
7 within which a prosecution for the sexual assault must be commenced.  
8 Nev.Rev.Stat. §171.083(1) (emphasis added).

9 16. In the instant case, Helen Sabraw, the “victim” contemplated in NRS §171.083(1),  
10 was murdered. She could not report the rape herself. Therefore, “a person authorized to act  
11 on [her] behalf” was required to file a “written report” with a “law enforcement officer.”

12 17. Helen Sabraw’s friend, Peggy Ann Parks, and her son, Mark Sabraw, both called 9-1-  
13 1 immediately upon discovering Helen Sabraw’s body and provided information to officers  
14 of the Las Vegas Metropolitan Police Department. Both Peggy Ann Parks and Mark Sabraw  
15 were authorized to act on behalf of their dead friend and mother, respectively.

16 18. Further, police officers with LVMPD meet the definition of “law enforcement  
17 officer” in NRS §171.083(5)(b). That subsection defines law enforcement officers to include  
18 “[a]n officer of a metropolitan police department...”

19 19. Finally, a “written report” was filed. Peggy Ann Parks completed a Las Vegas  
20 Metropolitan Police Department Voluntary Statement, and the information that both Parks  
21 and Sabraw provided to the police department was incorporated into various written reports,  
22 including:

23 Las Vegas Metropolitan Police Department Incident Recall generated on May  
24 17, 1998 (reflecting information about reported crime: “POSS 420 FEM 70’S  
25 FOUND NUDE ON FLOOR BLOOD EVERYWHERE...”);

26 Las Vegas Metropolitan Police Department Voluntary Statement completed by  
27 Peggy Ann Parks on May 17, 1998.;



1 Clark County Coroner Medical Examiner Autopsy Report dated May 18, 1998,  
2 which states: Anus: "There are lacerations of the anal verge at the 9-o'clock  
3 and 11-o'clock positions. There are fairly superficial and but appear to be very  
4 recent. There is generalized contusion surrounding the anal orifice." Vagina:  
5 "There is some contusion at the introitus. No recent mechanical injury noted.  
6 There is focal scarring at the fourchet.;

7 Las Vegas Metropolitan Police Department Crime Scene Report authored by  
8 Crime Scene Analyst K. Adkins on May 19, 1998, which described the scene  
9 including the location, condition and position of Helen Sabraw and clothing  
10 items near her body.;

11 Las Vegas Metropolitan Police Department Officer's Report authored by  
12 Detective P. Ramos on June 03, 1998, entitled "MURDER WITH DEADLY  
13 WEAPON/SEXUAL ASSAULT." The report summarizes the autopsy of Helen  
14 Sabraw as follows: "During the autopsy, Dr. Green examined the victim's  
15 rectal area and observed some trauma to the victim's rectum. Dr. Green  
16 observed that the rectum appeared to have been penetrated and it was believed  
17 that the victim had suffered a sexual assault to her rectum."

18 20. This Court finds that all of the requirements of NRS §171.083(1) were  
19 satisfied in this case. Accordingly, the time limitation in which charges relating to  
20 Helen Sabraw's sexual assault were required to be filed was removed.

21 **FINDINGS & CONCLUSION AS TO COUNT 4**

22 21. Defendant argues that Count 4 must be dismissed because NRS §171.085(2) provides  
23 that a complaint charging "any felony other than sexual assault, murder, theft, robbery,  
24 burglary, forgery and arson, must be filed within 3 years after the commission of the  
25 offense." Defendant argues that "the State had until May 16, 2001 to file a complaint or  
26 forever be time barred" from charging the sexual penetration of a dead human body of Helen  
27 Sabraw. Motion at 3.

1 22. The State counters that the analysis above regarding NRS §171.083(1) applies  
2 with equal force to Count 4 (Sexual Penetration of a Dead Human Body) because  
3 Count 4 is simply an alternative charge to Count 3.

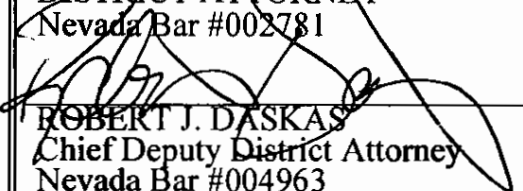
4 23. This Court finds that sexual penetration of a dead human body does not qualify  
5 as "sexual assault" for purposes of NRS 171.083(1). Therefore, Count 4 is barred by  
6 the statute of limitations.

7 Now, therefore, it is hereby ORDERED that Defendant's Motion to Dismiss  
8 Count 3 and 4 of the Amended Information is DENIED as to Count 3 but GRANTED  
9 as to Count 4.

10 DATED this 1<sup>st</sup> day of July, 2012.

  
DISTRICT JUDGE

14  
15 DAVID ROGER  
16 DISTRICT ATTORNEY  
16 Nevada Bar #002781

17   
18 ROBERT J. DASKAS  
18 Chief Deputy District Attorney  
19 Nevada Bar #004963

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21 REVIEWED BY:

22   
23  
24 SCOTT COFFEE  
25 Deputy Public Defender

26  
27 dd-mvu  
28

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

GUSTAVO RAMOS,

Appellant,

v.

THE STATE OF NEVADA,

Respondent.

Supreme Court Case No. 79781

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**APPELLANT'S APPENDIX**

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**CERTIFICATE OF SERVICE**

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 31st day of March, 2020. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Steven Wolfson, Clark County District Attorney's Office

Aaron Ford, Nevada Attorney General

Jamie J. Resch, Resch Law, PLLC d/b/a Conviction Solutions

By: 

Employee, Resch Law, PLLC d/b/a Conviction Solutions