

IN THE SUPREME COURT OF THE STATE OF NEVADA

GUSTAVO RAMOS,
Appellant,

vs.

THE STATE OF NEVADA,
Respondent.

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Supreme Court Case No. 79781

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ORIGINAL

NOTC

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FILED IN OPEN COURT

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CLERK OF THE COURT

JUN 13 2018

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DISTRICT COURT

CLARK COUNTY, NEVADA

C-10-269839-1
NOTC
Notice
4764481



THE STATE OF NEVADA,

Plaintiff,

v.

GUSTAVO RAMOS

#1516662

Defendant.

CASE NO: C-10-269839-1

DEPT. NO: IX

**NOTICE OF DEFENDANT'S WAIVER OF RIGHT TO TRIAL & PENALTY HEARING
BY JURY IN CONSIDERATION OF THE STATE OF NEVADA'S WITHDRAWAL OF
NOTICE OF INTENT TO SEEK DEATH PENALTY**

COMES NOW, the Defendant, GUSTAVO RAMOS, by and through his attorneys of record, Ivette Amelburu Maningo, of the Law Offices of Ivette Amelburu Maningo, and Abel M. Yanez, Esq., of the Nobles & Yanez Law Firm, and hereby submits his Waiver of Right to Trial

1 and Penalty Hearing by Jury in Consideration of the State of Nevada's Withdrawal of Notice of
2 Intent to Seek Death Penalty.

3 DATED this 13th day of June, 2018.

4 **Nobles & Yanez Law Firm**

Law Offices of Ivette Amelburu Maningo

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Attorneys for Defendant Gustavo Ramos

DECLARATION

IVETTE AMELBURU MANINGO, ESQ., and ABEL M. YANEZ, ESQ., make the following declaration pursuant to N.R.S. § 53.045:

1. We are attorneys duly licensed to practice law in the State of Nevada. We have been appointed to represent Defendant Gustavo Ramos in the present matter.

2. We are more than 18 years of age and are competent to testify as to the matter stated herein. We are familiar with the procedural history of the case and the substantive allegations made by the State of Nevada, including its Notice of Intent to Seek Death Penalty. We have personal knowledge of the facts stated herein or have been informed of these facts and believe them to be true.

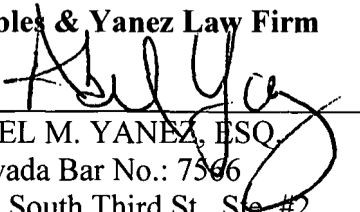
3. We have discussed with Mr. Ramos his right to have his case tried before a jury and the benefits and consequences of waiving this right. We have also discussed with Mr. Ramos his right to have a penalty hearing tried before a jury if he were to be convicted of First Degree Murder.

4. We have also thoroughly discussed with Mr. Ramos the process by which his case may be tried before the Court as well as a penalty hearing to be heard by the Court if convicted of First Degree Murder.

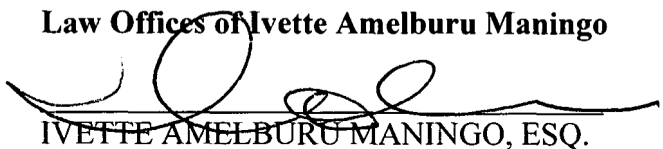
We declare under penalty of perjury that the following is true and correct.

EXECUTED this 13th day of June, 2018.

Nobles & Yanez Law Firm


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Attorneys for Defendant Gustavo Ramos

DECLARATION

GUSTAVO RAMOS makes the following declaration pursuant to N.R.S. § 53.045:

1. I agree and consent to allow my attorneys Ivette Amelburu Maningo, and Abel M. Yanez to request a bench trial as opposed to a jury trial in my upcoming trial in C-10-269839-1 set to begin in May of 2019.

2. I understand that I have both a constitutional and statutory right to have my case tried before a jury.

3. I understand that the State previously filed a Notice of Intent to Seek Death Penalty in this case.

4. My attorneys and I have thoroughly discussed the differences between a bench trial and a jury trial and the benefits and consequences of each. I understand that by requesting a bench trial that I give up my right to have an impartial jury hear and decide my case. I understand that instead of a jury, the Judge will hear the case and decide guilt or non-guilt.

5. I understand that the decision to select a bench trial is a serious and weighty matter requiring careful consideration. I have discussed this matter multiple times with my attorneys and have instructed them to request a bench trial in this case in exchange for the State of Nevada withdrawing its Notice of Intent to Seek Death Penalty.

6. I understand that there is a possibility of a penalty phase in the event that I am found guilty of trial of First Degree Murder. I understand that I have a right to have a jury hear the penalty phase and decide my punishment if convicted of First Degree Murder. I understand that instead of a jury, the Judge will hear the case and decide the appropriate penalty in exchange for the State of Nevada withdrawing its Notice of Intent to Seek Death Penalty.

7. I understand that the decision to select the Judge to hear the case and decide the

1 appropriate penalty, if convicted of First Degree Murder, is a serious and weighty matter requiring
2 careful consideration. I have discussed this matter multiple times with my attorneys and have
3 instructed them to request that the Judge hear the penalty rather than a jury in this case in exchange
4 for the State of Nevada withdrawing its Notice of Intent to Seek Death Penalty.

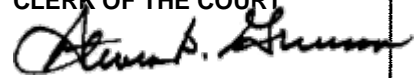
5 8. I understand that I have not been promised a bench trial in front of any specific Judge
6 of the Eighth Judicial District Court. However, in the event that Judge Jennifer P. Togliatti is
7 unavailable to be the Judge at my bench trial, myself and the State of Nevada have agreed that the
8 case would be tried and decided, including any appropriate penalty if convicted, by Judge Douglas
9 W. Herndon.
10

11 I declare under penalty of perjury that the ~~following~~^{foregoing} is true and correct.

12 EXECUTED this 13th day of June, 2018.

13
14 

15 _____
16 GUSTAVO RAMOS
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MDSM

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,)	
)	
Plaintiff,)	CASE NO: C-10-269839-1
)	
v.)	DEPT. NO: IX
)	
GUSTAVO RAMOS)	
#1516662)	
)	
Defendant.)	

MOTION TO DISMISS

COMES NOW, the Defendant, GUSTAVO RAMOS, by and through his attorneys, Ivette Amelburu Maningo, of the Law Offices of Ivette Amelburu Maningo, and Abel M. Yanez, Esq., of the Nobles & Yanez Law Firm, and hereby requests that this Honorable Court dismiss the Information with prejudice, or, in the alternative, any other equitable relief permitted by law. In the event the Court requires further facts to decide the issue raised in this Motion, an evidentiary hearing is respectfully requested.

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

4
5 DATED this 11th day of September, 2018.

6 **Nobles & Yanez Law Firm**

Law Offices of Ivette Amelburu Maningo

7 /s/ Abel Yanez

/s/ Ivette Maningo

8 ABEL M. YANEZ, ESQ.

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12 *Attorneys for Defendant Gustavo Ramos*

13
14 **NOTICE OF MOTION**

15 TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

16 YOU WILL PLEASE TAKE NOTICE that Ivette Amelburu Maningo, of the Law Offices
17 of Ivette Amelburu Maningo, and Abel M. Yanez, Esq., of the Nobles & Yanez Law Firm, will
18 bring the above and foregoing Motion to Dismiss on for hearing before the Court on the 25 day
19 of Sept. 2018, at 9:00 a.m.

20 DATED this 11th day of September, 2018.

21 **Nobles & Yanez Law Firm**

Law Offices of Ivette Amelburu Maningo

22 /s/ Abel Yanez

/s/ Ivette Maningo

23 ABEL M. YANEZ, ESQ.

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28 *Attorneys for Defendant Gustavo Ramos*

1 POINTS AND AUTHORITIES

2 **FACTS**

3 Defendant, GUSTAVO RAMOS (hereinafter "RAMOS"), is charged with Open Murder
4 with Use of a Deadly Weapon, Victim 65 Years of Age or Older (Count 1), Open Murder with Use
5 of a Deadly Weapon, Victim 65 Years of Age or Older (Count 2), and Sexual Assault with Use of
6 a Deadly Weapon Victim 65 Years of Age or Older (Count 3).¹ RAMOS has pled not guilty to all
7 charges and trial is currently set for May 13, 2019.

8 The general facts of the case that are relevant to this Motion are as follows: On May 16,
9 1998, 75-year-old Wallace Siegel (hereinafter "Mr. Siegel") was found murdered inside his
10 apartment at the Camlu Retirement Home,² a dormitory style complex. Mr. Siegel's body was
11 discovered by his adult son, Jack Siegel (hereinafter "Jack"), who was temporarily living with his
12 father at the time of his death. Jack started living with his dad in March of 1998 because he was
13 caring for his father after Mr. Siegel had surgery on his fractured left hip. Jack claimed that he was
14 not at home at the time of his father's murder and had left the residence late at night in his father's
15 car to go the hospital due to knee pain he claims he was suffering from. After returning home and
16 discovering his father's dead body, Jack called 911. Amazingly, after being prompted by the 911
17 operator to perform CPR on his father to try and save his life, Jack refused to do so, claiming that
18 his father would not want to be resuscitated.
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21 The police questioned Jack on the day of his father's apparent murder, including questions
22 about his father's car. Specifically, during the recorded interrogation, he was asked the following:
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25 ¹ On July 27, 2012, the Court dismissed a former Count 4 (Sexual Penetration of a Dead Human
26 Body) of the Amended Information, pursuant to a motion to dismiss filed by RAMOS.
27 However, the State has yet to file a Second Amended Information reflecting the dismissal of
28 Count 4.

² On May 17, 1998, 86-year-old Helen Sabraw was found murdered inside her apartment at the
Camlu Retirement Home. It is the State's theory that the same person who killed Mr. Siegel also
killed Ms. Sabraw.

1 Q. Do you have any reason to believe we might find anything in the car? As far as blood or
anything like that?

2 A. No.

3 However, when the police later searched Mr. Siegel's car, they found what appeared to
4 be blood on the carpet as well as on the steering wheel of the car. A presumptive test was
5 positive for blood. Nevertheless, after finding this inculpatory and critical evidence, the police
6 never sought to question Jack again about the blood they found in Mr. Siegel's car. In 2012, the
7 police DNA tested the blood found on the carpet and steering wheel. No DNA profile could be
8 obtained from the blood on the steering wheel, but a partial DNA profile was obtained from the
9 carpet stain, which was consistent with Mr. Siegel. The estimated frequency of the DNA profile
10 among unrelated people in the general population is rarer than 1 in 1.36 million.
11

12 At the time of the crime in 1998, the police had other, incriminating evidence—in
13 addition to the blood found in the car—that pointed to Jack's guilt in the murder of his father.
14 For example, in 1998, through its interview of Jack's siblings (i.e., Mr. Siegel's other children),
15 the police learned and documented that the family suspected that Jack, his girlfriend Martha
16 Morales, and her friends, were responsible for Mr. Siegel's and Ms. Sabraw's death. Mr.
17 Siegel's family told the police that, at that time, Jack was on probation in California and that
18 Jack had told his siblings that Ms. Sabraw was killed by a person named "Ax."³
19

20 The police also learned and documented shortly after the murder that during the time
21 Jack was living and caring for his father, he became very stressed and angry because he did not
22 feel he was getting any support from his brothers and sisters. Jack had become stressed out and
23 angry from caring for his elderly father. The police learned that Jack did not want to care for his
24 father and had gotten into an argument with his father over money shortly before his murder. As
25 to the cause of death, the police concluded that, based on the severity of the injuries to Mr.
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27
28 ³ Like the evidence of the blood in Mr. Siegel's car, the police also failed to question Jack about
this critical evidence.

1 Siegel's head, the murder was "'overkill' and that whoever the suspect is was angry with the
2 victim." Mr. Siegel also had a \$100,000.00 insurance policy and 4 CD annuities at the time of
3 his death, which Jack and his siblings sought to recover and which also became the basis of civil
4 litigation by the insurance company and Mr. Siegel's siblings.

5 Shockingly, six years later, Jack—now living in California—contacted the Las Vegas
6 Metropolitan Police Department (LVMPD) and requested to speak to them again about his
7 father's murder. Jack told the police that he wanted to speak to them because he believed
8 "someone was setting him up to take the fall for the murder of his father" and that he had
9 documentation to prove it.⁴ Jack drove from California to Las Vegas to meet with Detectives
10 Hardy and Mogg of the LVMPD on June 22, 2004. *See id.* Apparently, the police failed to
11 record the interview as the State has never provided a recorded copy of the interview. *See id.*
12 Additionally, according to the Officer's Report, Jack "wanted to provide" to the detectives
13 "numerous piles of paperwork" Jack thought proved his suspicions that someone was trying to
14 frame him. *Id.* Apparently, the police either never collected these documents or failed to retain
15 the documents and impound them into evidence.

16 What Jack—a prime suspect in his father's murder—exactly told the police, and what
17 evidence he provided them, has been lost forever to RAMOS's extreme prejudice. The State has
18 failed to collect and/or preserve crucial evidence and has thereby deprived RAMOS of his Due
19 Process right to a fair trial under the U.S. and Nevada Constitutions.

20 Consequently, RAMOS moves this Honorable Court to dismiss the Information with
21 prejudice. In the alternative to dismissing the Information, whether the Court finds that this is a
22 case of failure to collect evidence or failure to preserve evidence, RAMOS moves this
23 Honorable Court for any other equitable relief. If the Court believes further information is
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28 ⁴ The State has provided a two-page Officer's Report that summarizes the 2004 interview. *See Ex.*
"A."

1 required to rule on RAMOS's Motion, he respectfully requests an evidentiary hearing on the
2 issues raised herein.

3 ARGUMENT

4 I. Introduction

5 Nevada law distinguishes between the government's failure to collect evidence versus the
6 its failure to preserve evidence. *See Daniels v. State*, 114 Nev. 261, 266, 956 P.2d 111 (1998) ("In
7 relying on case law involving the failure to preserve evidence, Daniels fails to distinguish between
8 collection and preservation of evidence."). This case meets at the crossroads of these two legal
9 issues and confirms the necessity of having an evidentiary hearing to determine what type of issue
10 exists here and, therefore, what analysis the court must conduct to resolve it. It is not known if the
11 police actually collected the evidence provided by Jack and then simply lost or destroyed it, or if
12 the police never even collected the evidence Jack wanted to provide them.

13 Nevada law is clear, to establish a violation of due process "resulting from the state's loss
14 or destruction of evidence, a defendant must demonstrate either (1) that the state lost or destroyed
15 the evidence in bad faith, or (2) that the loss unduly prejudiced the defendant's case and the
16 evidence possessed an exculpatory value that was apparent before the evidence was destroyed."
17 *Mortensen v. State*, 115 Nev. 273, 283, 986 P.2d 1105, 1111-12 (1999) (quoting *Sheriff v. Warner*,
18 112 Nev. 1234, 1239-40, 926 P.2d 775, 778 (1996)). To establish prejudice, the defendant must
19 show that it could be reasonably anticipated that the evidence would have been exculpatory and
20 material to the defense. *Cook v. State of Nevada*, 114 Nev. 120, 125, 953 P.2d 712, 715 (1998)
21 (citing *Boggs v. State*, 95 Nev. 911, 913, 604 P.2d 107, 108 (1979)).

22 Alternatively, the Nevada Supreme Court has approved a two-part test to determine if a due
23 process violation has occurred as a result of the State's failure to collect evidence and, if so, the
24 appropriate remedy. *See Daniels*, 14 Nev. at 267, 956 P.2d at 115. The first part of the test
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1 “requires the defense to show that the evidence was ‘material,’ meaning that there is a reasonable
2 probability that, had the evidence been available to the defense, the result of the proceedings
3 would have been different.” *Id.* “If the evidence was material, then the court must determine
4 whether the failure to gather evidence was the result of mere negligence, gross negligence, or a bad
5 faith attempt to prejudice the defendant’s case.” *Id.* The Court has explained that if “mere
6 negligence is involved, no sanctions are imposed, but the defendant can still examine the
7 prosecution’s witnesses about the investigative deficiencies. When gross negligence is involved,
8 the defense is entitled to a presumption that the evidence would have been unfavorable to the
9 State.” *Id.* Lastly, the Court has stated that when bad faith is established, “dismissal of the charges
10 may be an available remedy based upon an evaluation of the case as a whole.”
11

12 After an evidentiary hearing,⁵ RAMOS is confident that the court will conclude that—
13 whether this is a case of failure to preserve evidence or a failure to gather evidence—he has
14 established a due process violation by the State and dismissal of the Information is warranted.
15

16 **II. The State’s Failure to Preserve Evidence Warrants Dismissal of the** 17 **Information**

18 As stated above, the Nevada Supreme Court has held that there may be a violation of the
19 Due Process Clause of the Fifth and Fourteenth Amendments to the U.S. Constitution, when the
20 State loses evidence due to inadequate governmental handling. *See Crockett v. State*, 95 Nev. 859,
21 865, 603 P.2d 1078, 1081 (1979). In *Crockett*, the Court reiterated that the test for determining
22 whether a due process violation has occurred requires a defendant to show either (1) bad faith or
23 connivance on the part of the government, or (2) prejudice from its loss. *See id.* Here, as to the
24 police’s failure to record Jack’s second police interview, as well as its failure to preserve the
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27 ⁵ At a minimum, Jack Siegel and Detectives Hardy and Mogg should testify at the evidentiary
28 hearing so that the court and parties can determine what happened at their meeting in 2004 and
what documents were produced by Jack to the two detectives.

documents he provided to the police, there has been bad faith or connivance by the State and prejudice from its loss, even though RAMOS must establish only one of these two factors to prevail.

A. Bad Faith or Connivance

The Nevada Supreme Court has never explained the exact definition of “bad faith or connivance.” However in Hall v. State, the Court did prescribe factors that a court should take into consideration in determining its meaning. Hall v. State, 105 Nev. 7, 768 P.2d 349 (1989). In Hall, the defendant was charged with driving under the influence causing serious bodily injury. *See Hall*, 105 Nev. at 8-9, 768 P.2d at 349-50. The defendant’s blood sample was stored in a laboratory for approximately one year, but eventually disposed of due to routine procedure to make room in the laboratory for newly arriving samples. *See id.* In his motion to dismiss, the defendant argued that his due process rights were violated and his case unduly prejudiced by the State’s loss of the blood sample. *See id.* On the issue of bad faith or connivance, the Court stated:

In the present case, there is nothing in the record to indicate that the state acted in bad faith when it disposed of the blood sample. The chemist who disposed of the sample had saved it for a reasonable period of time and then disposed of it in accordance with his routine practice and for a legitimate purpose. Accordingly, we conclude that the state was not acting in bad faith when it disposed of the sample.

Hall, 105 Nev. at 8-9, 768 P.2d at 350. Thus, the Court viewed as relevant to the inquiry of whether the State acted in bad faith: (1) Whether the evidence was saved for a reasonable period of time; (2) Whether it was disposed of in accordance with routine practice or procedure; and (3) Whether there was a legitimate purpose for destroying it.

Here, defense counsel has received no information from the District Attorney’s Office as to whether Jack’s second interview was recorded (apparently, it wasn’t, as no recording or transcription has ever been provided), or that the documents he provided to the detectives were ever collected. Additionally, the State has not provided any proof that this critical evidence was

1 ever saved for a reasonable period of time, or that, if so, the documents were disposed of in
2 accordance with routine procedure, or that there was a legitimate purpose for destroying them.⁶

3 Thus, per the Nevada Supreme Court's holding in Hall, the State has acted in bad faith by
4 failing to preserve this crucial evidence. By simply indicating that this evidence is not available,
5 the State is not relieved of its burden to preserve crucial evidence. As such, the Information in this
6 case should be dismissed due to the blatant violation of the Due Process Clause of the Fifth and
7 Fourteenth Amendments.

8 **B. Prejudice from the Loss of Evidence**

9
10 Alternatively, if a defendant cannot show bad faith or connivance on the part of the
11 government, he can prevail in his due process argument if he can show that the lost or destroyed
12 evidence possessed an exculpatory value that was apparent before the evidence was destroyed. *See*
13 Sheriff v. Warner, 112 Nev. 1234, 1240, 926 P.2d 775, 778 (1996). Here, it is crystal clear that the
14 loss evidence was exculpatory. A prime suspect in the murder of Mr. Siegel, his own son, Jack,
15 told the police right after the murder that there would be no blood found inside the car he was the
16 last person to drive. Yet blood was found inside the car. Further, the police had knowledge that
17 Jack had motive to kill his father and that even his own family suspected he was involved in his
18 father's death.

19
20 Years later, this same suspect requested to speak to the police because he claimed that he
21 had "numerous piles of paperwork" which showed that someone was trying to frame him for his
22 dad's murder. What exactly Jack told the police during that second interview, and the numerous
23 documents he said would prove someone was framing him, are the definition of exculpatory as
24 Jack's conduct makes him even more of a suspect than he was in 1998. Indeed, at the end of the
25
26

27 ⁶ Indeed, the defense has attended a file review, has visited the evidence vault, and has made
28 several inquiries via email and in open court regarding the missing video recording and documents
and has been informed by the State that the evidence does not exist.

1 2004 interview, Jack suspiciously asked the detectives “how he came across with his information,”
2 which, in turn, the detectives took to mean that Jack “was trying to see if [the detectives’] believed
3 him or not.” Ex. “A.”

4 Additionally, this evidence is exculpatory because, assuming the truth of Jack’s claims of
5 being framed, it points to an alternate suspect who committed the murders and then tried to frame
6 his son for the crime. To be sure, there is no evidence that RAMOS was the person who may have
7 been trying to frame Jack. Jack told the police in 2004 that he believed the person trying to frame
8 him was a black male. *See* Ex. A.

10 In Sparks v. State, 104 Nev. 316, 759 P.2d 180 (1988), the defendant claimed self-defense
11 after she was accused of killing her father. *See id.* at 317. Pursuant to their investigation, the police
12 found a loaded .357 caliber handgun at the crime scene in a felt bag in the master bedroom closet
13 of the house defendant and father shared. *See id.* at 318. The police visually examined the gun and
14 bag for blood and hair, but neither were observed, and no chemical tests were performed. *See id.*
15 Although initially booked into evidence, the gun and bag were released within the month to the
16 father’s son. *See id.* The State’s examination of the gun after it was rebooked revealed no blood
17 and only unidentified fingerprints. *See id.* The defendant alleged that she has been unduly
18 prejudiced from the loss of evidence. The Court agreed and held:

21 There was no witness to the homicide. [Defendant’s] claim of self-defense rested,
22 almost exclusively, on her own testimony. Blood, hair, or fingerprints if found on
23 the weapon would have been critical, corroborative evidence supporting her
24 testimony. . . . The State cannot be allowed to benefit in such a manner from its
25 failure to preserve evidence. . . . We hold that the conviction must be reversed and
26 all charges dismissed.

27 *Id.* at 319-20.

28 Here, like the defendant in Sparks, there was no independent witness to the murders.
Compounding the problem is the fact that this is a cold case from 1998, which inherently makes it

1 unlikely that alternative suspects can be located and investigated so far removed from the date of
2 the crime. Nevertheless, the detectives in this case were given a golden opportunity to secure
3 critical evidence from Jack himself by recording their interview of him and, just as importantly,
4 preserving the numerous documents Jack provided to the police, which he believed proved
5 someone was trying to frame him for his dad's murder.
6

7 In short, RAMOS has shown that the failure to record Jack's second interview and the
8 destruction or loss of the documents provided by Jack, resulted from bad faith or connivance by
9 the State. RAMOS has also shown prejudice from its loss. Thus, under either alternative theory,
10 the State has violated RAMOS' due process right and, consequently, the Information should be
11 dismissed.
12

13 Alternatively, if the Court believes that dismissal is not warranted, RAMOS respectfully
14 requests a jury instruction declaring that Jack's statements in his 2004 police interview and the
15 paperwork he provided the detectives is presumed to show that someone other than RAMOS
16 committed the two murders. *See Sanborn v. State*, 107 Nev. 339, 812 P.2d 1279, 1286 (1991)
17 (holding that because the State mishandled evidence in its possession, "the trial court shall instruct
18 the jury that because the state failed to test the firearm that was used . . . for blood and
19 fingerprints, the weapon is irrefutably presumed to have been held and fired by the victim. . .").
20 As the Supreme Court explained in *Sanborn*, it would still be left to the trier of fact to weigh all the
21 evidence and decide whether the prosecution has proven beyond a reasonable doubt whether
22 RAMOS was guilty of murder. *See Sanborn*, 107 Nev. at 408, 812 P.2d at 1286.
23

24 **III. The State's Failure to Collect Evidence Warrants Dismissal of the Information**

25 Assuming the detectives in this case failed to collect the "numerous piles of paperwork"
26 Jack wanted to provide them, and/or failed to record the 2004 interview, a due process violation
27 undoubtedly occurred. To prove such a violation, RAMOS must show that the evidence the
28

1 detectives failed to collect was material, “meaning that there is a reasonable probability that, had
2 the evidence been available to the defense, the result of the proceedings would have been
3 different.” See Daniels, 14 Nev. at 267, 956 P.2d at 115.

4 Admittedly, this is a very difficult standard to apply as it seems to assume a post-trial
5 application. In other words, if the case hasn’t gone to trial, how can a court reasonably determine
6 whether the “proceedings would have been different,” if the evidence had been available to the
7 defense? However, the test can be applied by balancing the totality of the known and available
8 evidence with the evidence the government has failed to gather.

10 Jack was suspected by the police and his own family of killing his father. There are two
11 pieces of evidence allegedly connecting RAMOS to these murders. RAMOS’s palm print
12 supposedly found on a newspaper inside of Mr. Siegel’s room and RAMOS’s DNA found on a
13 tee-shirt allegedly found inside of Ms. Sabraw’s room. Both pieces of evidence are easily
14 transferable from one person to another, or from one item onto another. Furthermore, based on the
15 location where the fingerprint and DNA was found, this evidence can easily be moved from one
16 location to another and is highly susceptible to abuse by someone trying to frame another person.

18 In light of the known and available evidence described above, the evidence the detectives
19 failed to collect clearly shows a “reasonable probability” that if the evidence were available to the
20 defense, the case would be different. Whether the evidence was further inculpatory as to Jack—
21 who already had a cloud of suspicion hanging over his head, whether the evidence created another
22 suspect who committed the murders as Jack believed, or a combination of the two, the missing
23 evidence clearly proves that the proceedings would be different if the detectives would have
24 collected it and made it available to the defense.

26 Assuming the evidence the detectives failed to gather was material, “then the court must
27 determine whether the failure to gather evidence was the result of mere negligence, gross
28

1 negligence, or a bad faith attempt to prejudice the defendant's case." *Id.* As described above, if
2 "mere negligence is involved, no sanctions are imposed, but the defendant can still examine the
3 prosecution's witnesses about the investigative deficiencies. When gross negligence is involved,
4 the defense is entitled to a presumption that the evidence would have been unfavorable to the
5 State." *Id.* Lastly, the Supreme Court has stated that when bad faith is established, "dismissal of
6 the charges may be an available remedy based upon an evaluation of the case as a whole." *Id.*

7
8 Here, at a minimum, the detectives' failure to collect the evidence in 2004 was gross
9 negligence. Indeed, it was gross negligence for the police to not re-interview Jack in 1998 after the
10 police discovered blood inside of Mr. Siegel's car. Based on the clearly exculpatory value of the
11 evidence the detectives failed to collect, as well as how easy and simple it would have been to
12 collect the evidence, the inevitable conclusion is that the government acted with bad faith and
13 prejudiced RAMOS's case. As such, the Information must be dismissed. Alternatively, if the Court
14 feels dismissal is unwarranted in this case, RAMOS submits that a jury instruction is required
15 holding that a presumption applies that the missing evidence would have been unfavorable to the
16 government and/or favorable to RAMOS.

18 CONCLUSION

19 Based on the foregoing reasons, RAMOS respectfully submits that, if the Court finds that
20 the State failed to preserve evidence in this case, that it:

21 (1) Dismiss the Information with prejudice; or, in the alternative
22

23 (2) Require a jury instruction, pursuant to Sanborn v. State, declaring that Jack's
24 statements in his 2004 police interview and the paperwork he provided the detectives is
25 presumed to show that someone other than RAMOS committed the two murders.

26 ///

1 If the Court finds that the State failed to collect evidence in this case, RAMOS requests that
2 the Court:

3 (1) Dismiss the Information with prejudice; or, in the alternative

4 (2) Require a jury instruction declaring that a presumption applies that the missing
5 evidence would have been unfavorable to the State and/or favorable to RAMOS.

6 If the Court believes it needs further information to decide RAMOS's Motion, he requests
7 that the Court order an evidentiary hearing.
8

9 DATED this 11th day of September, 2018.

10 **Nobles & Yanez Law Firm**

Law Offices of Ivette Amelburu Maningo

12 /s/ Abel Yanez

/s/ Ivette Maningo

13 ABEL M. YANEZ, ESQ.

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17 *Attorneys for Defendant Gustavo Ramos*
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EX. "A"

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
OFFICER'S REPORT

EVENT #: 980516-0400

FOLLOW-UP

SUBJECT

DIVISION REPORTING: ISD DIVISION OF OCCURRENCE: ISD
DATE AND TIME OCCURRED: 6/22/04 1000 HRS. LOCATION OF OCCURRENCE: HOMICIDE OFFICE

VICTIM:

WALLACE SIEGEL
ADD: 4255 S. SPENCER #120
LAS VEGAS, NV. 89121
DOB 8/23/22 S.S.#471-16-1965

PERSON INTERVIEWED:

JACK SIEGEL
ADD: 17350 E. TEMPLE AVE. #77
LA PUENTE, CA. 91744
H) (626) 839-0717

I. DETAILS:

On 6/22/04 at approximately 1000 hours, Jack Siegel responded to the LVMPD Homicide Office in reference to providing further information about his fathers Homicide case. Jack Siegel had made previous arrangements to meet with us on this date and time. Jack Siegel said he drove from California to make this meeting.

Jack Siegel was interviewed by Detective Mogg and myself as to the information he wanted to provide. Jack Siegel brought with him numerous piles of paperwork which he thought indicated someone was setting him up to take the fall for the murder of his father.

Jack Siegel said he came out to Las Vegas on 3/16/98 until his father was killed. Jack Siegel said he remembered a lady being found deceased in a bathtub at the Camlu Apartments on April 28, 1998 and he was under the impression it was from burning water. Jack Siegel said they hired Homestead Healthcare to help with his fathers care. Jack Siegel described one of the workers from Homestead Healthcare as a black male adult. Jack Siegel also said he believes that Helen Sabraw was being taken care of by the same company.

Jack Siegel remembered that on the day he found his father deceased, he went to the emergency room at Desert Springs Hospital because his knee was hurting. Jack Siegel

Date and Time of Report: 6/24/04 0900

Officer: K. Haedy P#: 30

Approved: _____

Officer: _____ P#: _____

SIGNATURE: _____

AA 0271

CONTINUATION REPORT

ID/Event Number: 980516-0400

Page 2 of 2

thought he arrived at the emergency room at 0100 hours and left at approximately 0500 hours. Jack Siegel then went to the Walgreens near his fathers residence to get his prescription filled and then came back to Camlu. Jack Siegel came through the front door and went to his fathers room which is when he found his father deceased. Jack Siegel said he pulled on the cord to summon help from the staff at Camlu. Jack Siegel said a nurses assistant who he described as a black male responded and observed Siegels father covered with blood. Jack Siegel thought it was unusual that the nurses assistant did not have any reaction when observing the scene. Jack Siegel said the nurses assistant then went to the assisted living side.

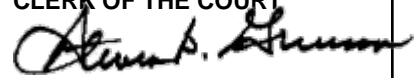
Jack Siegel said after the death of his father he went to live with Ian his brother from March 1997 until April 2002. Jack Siegel settled a workmans comp complaint in 1999. On 5/17/99. Jack Siegel tried to open a Water and Power Credit Union account but could not because of a bankruptcy. Jack Siegel learned that an account had been opened at the Water and Power Credit Union in his fathers name on 5/17/98. This was one day after the murder occurred. Jack Siegel said the account number for this account was 818804. Upon researching this account, the manager told him there was a number 4 on the signature card indicating the account was opened in Inglewood, Ca. and he had never been to Inglewood, Ca. Jack Siegel gave the following as contact information for the Credit Union. Water and Power Company Credit Union 1053 Sunset Boulevard Los Angeles, Ca. 90012-2182 (213) 580-1600 with a contact person as Mr. Michael Huizar.

Jack Siegel also relayed that in 2000 or 2001 there was a crime series in Riverside or San Bernardino where a subject would break into senior citizen nursing homes and beat the occupants. This resulted in a death of one of the occupants and a black male was subsequently arrested.

Jack Siegel produced some copies of United States Savings Bonds in his name but cashed in San Francisco, California. Jack Siegel said he did not purchase those Savings Bonds but has purchased savings bonds in the past as an investment. Jack Siegel also produced a credit report showing a credit card account in his name but that it was not his. Jack Siegel had been having some problems with his place of employment over some labor issues and was in the process of filing appeals. Jack Siegel felt that because of all the problems he has been having, his opinion is that someone was trying to set him up by killing his father hoping Jack Siegel would be arrested for the Homicide. By doing this Jack Siegel would be in custody and would not have been able to discover the issues with his savings bonds and credit card. At the conclusion of the meeting, Jack Siegel asked us how he came across with his information which we felt he was trying to see if we believed him or not.

For further information see all reports under above event number.

AA 0272



OPPS

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DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

GUSTAVO RAMOS,
#1516662

Defendant.

CASE NO: C-10-269839-1

DEPT NO: IX

STATE'S OPPOSITION TO DEFENDANT'S MOTION TO DISMISS

DATE OF HEARING: 10/30/18
TIME OF HEARING: 9:00 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through PAMELA WECKERLY, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in Opposition to Defendant's Motion To Dismiss.

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

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1 **POINTS AND AUTHORITIES**

2
3 **STATEMENT OF FACTS**

4 On May 16, 1998, at approximately 4:52 a.m., 75-year old Wallace Siegel was found
5 murdered in unit 120 of the Camlu Retirement Home located at 4255 South Spencer.

6 On May 17, 1998, at approximately 11:10 a.m., 86 year old Helen Sabraw was found
7 murdered in unit 212 of the Camlu Retirement Home located at 4255 South Spencer.

8 In May 1998, Wallace Siegel was recovering from hip replacement surgery. During
9 his recovery, his son, Jack Siegel, was staying with him in his apartment at the Camlu
10 Retirement Home. The complex is a dormitory style complex with locked public access doors
11 that were designed to prevent access to the individual housing units.

12 Jack left his dad alone late at night on May 15 and into the early morning hours of May
13 16, 1998. Jack left to have his swollen knee drained at a local hospital (which was later verified
14 by medical records). He left the door to his dad's apartment unlocked. Upon returning at 4:50
15 a.m., Jack saw the dead body of his father – now covered in blood—sitting in a reclining chair
16 where Wallace typically slept. Wallace has massive head trauma. Jack immediately called
17 911.

18 Police personnel found a 25 pound dumbbell on the floor near Wallace. It was covered
19 in blood. The dumbbell belonged to Jack Siegel. The “matching” dumbbell was in Jack's
20 room. An autopsy later revealed that Wallace suffered a skull fracture and died of blunt force
21 trauma. Wallace's money clip and wallet were empty. Robbery appeared to be the motive.
22 A patent bloody palm print was observed on the Las Vegas Review Journal page found on the
23 floor near Wallace's body. See Exhibit 1. Although the print did not belong to Jack, he was
24 considered a suspect given his alibi. Police developed no evidence implicating Jack and the
25 case was cold for 12 years.

26 On May 17, 1998, Peggy Parks arrived at unit 212 of the Camlu Retirement Home to
27 check on her friend, 86 year old Helen Sabraw. The door to Helen's apartment was unlocked.
28

1 Peggy entered the apartment and found her friend lying on the floor. Helen was covered in
2 blood.

3 Helen was wearing only a nightgown which was pulled above her breasts. Her
4 underwear were off and found under her head. Her bra was off and found near her body. There
5 was fecal matter on the carpet near her leg.

6 Helen's apartment was in disarray. Among other items, was a chair, with apparent
7 blood, turned upside down on Helen's bed. Helen was stabbed numerous times to her head,
8 face, torso, left thigh, and buttock. Two knives were found near the body. One under her leg
9 and one at the foot of her bed. An autopsy revealed that she died by stab wounds to her heart
10 and pulmonary artery.

11 A man's grey t-shirt and white muscle shirt were found near Helen. Both had blood
12 transfer on them. Police developed no suspects and the case was cold for 12 years.

13 On June 26, 2009, DNA from the two shirt found in the Sabraw scene was submitted
14 for testing. DNA was recovered from the armpit area of the grey t-shirt and the profile was
15 uploaded into CODIS. CODIS produced a match to Gustavo Ramos. Thereafter, a search
16 warrant was used to get a buccal swab from Ramos and the CODIS results were confirmed.
17 The estimated frequency of DNA in the population is rarer than 1 in 30 billion. Once Ramos
18 was identified, his fingerprints were compared to the bloody print found on the Las Vegas
19 Review journal page in Wallace Siegel's apartment. The examiner concluded that the print
20 was consistent with the right palm print of Gustavo Ramos.

21 Prior to the DNA hit in 2009, Metro detectives documented a contact interview with
22 Jack Siegel on June 22, 2004. The contact was documented in a police report. Defendant
23 Ramos complains that the interview, although documented in a police report, was not
24 recorded. Jack also had paperwork that was not impounded or collected by detectives. The
25 defense has not indicated whether they attempted to contact Jack Siegel to get copies of this
26 paperwork. The case was in district court in January 2011. The current attorneys for Gustavo
27 Ramos were appointed in May 2014. Apparently, in the ensuing four years they made no
28 effort to secure the documents nor contact with Jack Siegel.

1 The State opposes Ramos's motion to dismiss.

2 **ARGUMENT**

3 First, Defendant Ramos references an interview of Jack Siegel and paperwork as the
4 basis for the motion. None of this relates to the Sabraw crimes, so dismissal is inappropriate.
5 Secondly, the interview Ramos claims is lost was documented in a police report. Moreover,
6 there is no indication that the paperwork that Jack Siegel brought to the interview is lost. The
7 defense is free to contact Mr. Siegel and request that he bring the paperwork at issue.

8 A. Destruction of Evidence Versus Failure to Gather Evidence

9 The Nevada Supreme Court has characterized the distinction between instances in
10 which the police fail to preserve evidence versus fail to gather evidence as a question of
11 whether the police or the State ever had possession and control over the evidence. See
12 Johnson v. State, 117 Nev. 153, 167, 17 P.3d 1008, 1017 (2001). In this case, detectives met
13 with Jack Siegel and did not impound the paperwork he had with him. As mentioned above,
14 this does not mean that the paperwork no longer exists. More importantly, however, they did
15 not and have not impounded other paperwork that fails to shed light on who is responsible for
16 the crimes. Because they never had control over the paperwork, the issue must be analyzed
17 according to case law which focuses on a "failure to gather" evidence if at all.

18 B. Failure to Gather Evidence

19 The Nevada Supreme Court clearly articulated the rule regarding the State's failure to
20 gather evidence in Daniels v. State, 114 Nev. 261, 956 P.2d 111 (1998). Generally, the Nevada
21 Supreme Court explained that police officer have no duty to collect all potential evidence from
22 a crime scene, id. at 268, 956 P.2d at 115, but noted that some injustices could arise from the
23 State's failure to gather evidence under certain circumstances. Id. at 267, 956 P.2d at 115. In
24 Daniels, the court explained a two-part test. The first prong of the test "requires the defense
25 to show that the evidence was 'material,' meaning that there was a reasonable probability that,
26 had the evidence been available to the defense, the result of the proceeding would have been
27 different." Id., 956 P.2d at 115. If the evidence is found to be "material" then the court must
28 "determine whether the failure to gather evidence was the result of mere negligence, or a bad

1 faith attempt to prejudice the defendant's case." Id. Significantly, in situations involving mere
2 negligence, "no sanctions are imposed, but the defendant can still examine the prosecution's
3 witnesses about investigative deficiencies." Id. (citation omitted). If the court finds gross
4 negligence, "the defense is entitled to a presumption that the evidence would have been
5 unfavorable to the State." Id. (citation omitted). "In cases of bad faith . . . dismissal of the
6 charges may be an available remedy based upon an evaluation of the case as a whole." Id.

7 1. Defendant Ramos Fails the First Prong of the Test.

8 The test enunciated in Daniels provides that in case where the defense is claiming the
9 State failed to gather evidence, the defense has the burden of establishing that the evidence
10 was "material." Id. Thus, it is the burden of the defense to illustrate to a reasonable probability
11 that, had the evidence been available to the defense, the result of the proceeding would have
12 been different." Id. In applying this test, the Nevada Supreme Court has clearly held that
13 mere speculation on the part of the defense that a particular piece of evidence might have been
14 exculpatory is insufficient to satisfy this prong of the test.

15 For instance, in Daniels, after a jury convicted Daniels of first degree murder, Daniels
16 raised a claim regarding the detective's failure to draw his blood upon arrest. According to
17 Daniels, had the State gathered this evidence, it would have revealed that he had ingested PCP
18 prior to the crime and bolstered his defense that he lacked capacity to specifically intent the
19 murder be committed. Id. at 266, 956 P.2d at 114. The Nevada Supreme Court rejected the
20 claim that the blood evidence was even "material." Instead the court concluded that "whether
21 the blood evidence would likely have prevented Daniel's conviction is pure speculation." Id.
22 at 268, 956 P.2d at 115.

23 In Randolph v. State, 117 Nev. 970, 36 P.3d 424 (2001), The Nevada Supreme Court
24 again rejected a defendant's speculative claims about the materiality of evidence that was not
25 gathered by the police. In Randolph, both Randolph and his co-defendant, Garner, were
26 charged with multiple crimes including murder with use of a deadly weapon for the shooting
27 murder of Shelly Lokken while she worked as a graveyard shift bartender. A witness who
28 saw both Randolph and Garner return to a trailer after the murder saw Garner change out of

1 his clothing. The clothing that Garner was wearing upon arrest tested negative for blood. Id.
2 at 986, 36 P.3d at 435. When police arrested Garner, the noted that the trunk of his car
3 contained a pile of clothing, but they did not look through it to see if it included the clothing
4 originally worn by Garner as described by the witness. Id. On appeal, Randolph claimed that
5 the State failed to father “potentially exculpatory” evidence because if the police had found
6 the clothing and if Garner’s clothing had tested positive for blood, it would have supported
7 Randolph’s claim that Garner was, in fact, the shooter. Randolph argued that he was entitled
8 to a jury instruction that the “ungathered evidence was presumed to be unfavorable to the
9 State.” Id. at 987, 36 P.3d 435.

10 The Nevada Supreme Court concluded that Randolph failed to satisfy the first prong of
11 the Daniels test. The court explained:

12 Randolph has not shown that the ungathered evidence was material. If
13 testing of Garner’s clothing or shoes had revealed the victim’s blood, it is
14 possible that Randolph might not have received the death sentence.
15 However, Randolph has not demonstrated a reasonable probability that such
16 testing would have revealed any blood. He offers no evidence to corroborate
his allegation that Garner was the shooter. The possibility that Garner’s
clothing and shoes would have been favorable to his case remains mere
speculation.

17 Id. at 987, 36 P.3d at 435.

18 Applying the foregoing analysis to the instant case, Defendant Ramos fails to satisfy
19 the first prong of the Daniels test. Ramos can point to nothing that would change the facts of
20 this case that implicate him: that in a closed setting, his fingerprint was found in blood at one
21 murder scene and that his DNA was found at another scene, within 24 hours, at a locked down
22 facility. No paperwork in the possession of Jack Siegel changes those essential facts. Thus,
23 Ramos fails prong of the Daniels test.

24 2. Defendant Ramos fails the Second Prong of the Daniels Test.

25 Although unnecessary to discuss given that Defendant Ramos’s claim does not meet
26 the first prong of the test required in failure to gather evidence cases, the State also notes that
27 Defendant Ramos also would not be entitled to any of the “remedies” discussed in Daniels
28 because Defendant Ramos does not satisfy the second prong of the test as well. As previously

1 discussed, the second inquiry in failure to gather evidence situations is whether the failure to
2 gather evidence is the produce of negligence, gross negligence, or bad faith. See Daniels, 114
3 Nev. at 267, 956 P.2d at 115. If the failure to gather evidence was the product of negligence,
4 no sanction is imposed. If the failure to father evidence amounts to gross negligence, then the
5 defense is entitled to s presumption that the evidence would have been unfavorable to the
6 State. If the failure to gather was done in bad faith, dismissal is “an available remedy based
7 upon an evaluation of the case as a whole.” Id.

8 After being convicted of first degree murder with use of a deadly weapon and other
9 charges, Daniels alleged that the police failed to gather his blood. According to Daniels, has
10 his blood been collected, he could have demonstrated that he lacked the specific intent to
11 commit murder because he had ingested and was under the influence of PCP at the time of the
12 crime. After concluding that Daniels had not satisfied the first part of the prescribed analysis
13 in failure to gather evidence cases, the Nevada Supreme Court also noted that “Daniels failed
14 to establish that the State’s failure to gather blood evidence was caused by negligence, gross
15 negligence, or bad faith.” Id. at 268, 956 P.2d at 116. The court reasoned that although the
16 detective had been aware that witnesses had described Daniels’s behavior as strange, he also
17 knew that the nurse who performed Daniels’s initial medical screening did not notice any signs
18 that Daniels was under the influence of a controlled substance and that Daniels had told her
19 that he had not taken any drugs. The detective also explained that prior to his interview of
20 Daniels, Daniels had admitted to smoking marijuana the previous day, but denied recent drug
21 use. Id. Therefore, the court found that “a reasonable jury could not find the detective was
22 negligent, grossly negligent or acted in bad faith by deferring to the nurse’s professional
23 judgment and Daniels’ own assertion that he was not intoxicated.” Id.

24 The Nevada Supreme Court conducted the same analysis in Randolph v. State, 117
25 Nev. 970, 36 P.3d 424 (2001). Once again, after finding that Randolph had not met the first
26 prong of the failure to father evidence test in complaining that the police did not attempt to
27 gather Garner’s clothing and shoes, the Nevada Supreme Court found that Randolph did not
28

1 show that the failure to gather the evidence was the product of gross negligence or bad faith.

2 The court explained:

3 Even assuming the evidence was material, the failure to collect it was at worst
4 negligent. First, Randolph had not shown that the police could have collected
5 the brown shirt and pants. He simply assumes that a search of the trailer or
6 the clothing in the trunk of Garner's car would have uncovered them.
7 Second, Randolph has not shown that the potential evidentiary significance
8 of Garner's shoes, which were available to police, was so obvious that it was
9 gross negligence not to impound and test them.

10 Id. at 987-88, 36 P.3d at 435.

11 The instant crimes occurred in 1998. The cases were unsolved. In 2004, Jack Siegel
12 met with detectives. At this time, the detectives had no leads or forensic testing results, nor
13 any clear suspects—certainly not Gustavo Ramos. After meeting with Jack Siegel, they
14 conclude that the paperwork he brought has no relevance and they do not impound it. Five
15 years later, in 2009, forensic testing results come in and Defendant Ramos is implicated. It is
16 impossible for the detectives to have acted in bad faith. In 2004, they had no way of knowing
17 who the suspect would be and that only Ramos would be forensically linked to both homicides.

18 CONCLUSION

19 Based on the foregoing, the State asks the Court to deny the instant motion.

20 DATED this 9th day of October, 2018.

21 Respectfully submitted,

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

25 BY /s/PAMELA WECKERLY
26 PAMELA WECKERLY
27 Chief Deputy District Attorney
28 Nevada Bar #6163

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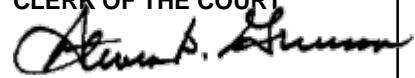
CERTIFICATE OF ELECTRONIC TRANSMISSION

I hereby certify that service of the above and foregoing was made this 9th day of
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BY: /s/ Deana Daniels
Secretary for the District Attorney's Office

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ROPP

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,)
)
Plaintiff,)
)
v.)
)
GUSTAVO RAMOS)
#1516662)
)
Defendant.)
_____)

CASE NO: C-10-269839-1

DEPT. NO: IX

REPLY TO STATE'S OPPOSITION TO DEFENDANT'S MOTION TO DISMISS

COMES NOW, the Defendant, GUSTAVO RAMOS, by and through his attorneys, Ivette Amelburu Maningo, of the Law Offices of Ivette Amelburu Maningo, and Abel M. Yanez, Esq., of the Nobles & Yanez Law Firm, and hereby submits his Reply to the State of Nevada's Opposition to Defendant's Motion to Dismiss.

///

///

///

1 This Reply is made based upon all the papers and pleadings on file herein, the attached
2 Memorandum of Points and Authorities in support hereof, and oral argument at the time set for
3 hearing Defendant's Motion or at an evidentiary hearing.

4
5 DATED this 19th day of October, 2018.

6 **Nobles & Yanez Law Firm**

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1 **POINTS AND AUTHORITIES**

2 **FACTS**

3 Defendant, GUSTAVO RAMOS (hereinafter “RAMOS”), hereby incorporates by reference
4 the statements of facts detailed in his original Motion. Additionally, a response is required to the
5 State of Nevada’s (hereinafter “State”) baseless accusation that RAMOS’s attorneys “made no effort
6 to secure the documents nor contact Jack Siegel.” *Opp.*, pg. 3, lns. 27-28.

7 First, RAMOS’s attorneys did make numerous attempts to speak to Jack Siegel, including
8 traveling to California to try and speak to him in person. Jack refused to meet with RAMOS’s
9 attorneys. Additionally, RAMOS’s attorneys interviewed two of Jack’s sisters in California to get
10 further information about Jack and the documents he provided the two Metro detectives. Apparently,
11 the State has a bad memory as one of Jack’s sister notified the assigned district attorneys about the
12 meeting immediately after she met with RAMOS’s attorneys.

13 Second, it is incredulous that the State would blame RAMOS’s attorneys and not the Metro
14 detectives who actually met and interviewed Jack Siegel (hereinafter “Jack”), the same persons that
15 viewed the important exculpatory documents, but failed to impound them. The State’s argument is
16 a red herring. Because the State has no plausible defense for the detectives’ actions in failing to
17 record Jack’s second interview and secure the exculpatory documents he provided them, the State
18 seeks to blame anyone else, including RAMOS’s own attorneys! The State—and not RAMOS’s
19 attorneys—failed to collect and/or preserve crucial evidence and has thereby deprived RAMOS of
20 his Due Process right to a fair trial under the U.S. and Nevada Constitutions.

21 **ARGUMENT**

22 **I. An Evidentiary Hearing is Required**

23 Nevada law distinguishes between the government’s failure to collect evidence versus the its
24 failure to preserve evidence. In its Opposition, the State asserts that this is a case of possible failure
25 to preserve evidence not failure to collect evidence. With all due respect to the State, that conclusion
26
27
28

1 is yet to be determined. The State makes several unverified claims that the Metro detectives “did not
2 impound the paperwork,” “never had control over the paperwork,” but that “this doesn’t mean that
3 the paperwork no longer exists.” *Opp.*, pg. 4, lns. 12-16. The State also asserts that after the
4 detectives met with Jack in 2004, they “conclude[ed] that the paperwork he brought [had] no
5 relevance and they [did] not impound it.” *Opp.*, pg. 8, lns. 10-11.

6
7 However, these assumptions are proof that an evidentiary hearing is required and witnesses
8 like Jack, and the two detectives that interviewed him in 2004, should testify under oath as to what
9 is fact and what is assumption.¹ The Court cannot simply accept the State’s self-serving
10 representations on the issue of whether these documents were ever impounded and retained by the
11 detectives and whether the documents still possibly exist.

12 The State argues that the issue of Jack’s second interview and the exculpatory documents do
13 not “relate” to the murder of Helen Sabraw. *Opp.*, pg. 4, ln. 4. However, both the police investigation
14 finding, and the State’s prosecution theory, is that the person who murder Jack’s father also
15 murdered Ms. Sabraw. Additionally, according to the Officer’s Report, Jack spoke to the police
16 during the second interview about Ms. Sabraw’s murder and his suspicion that an alternate suspect—
17 a black male adult who worked for Homestead Healthcare—could have been responsible for both
18 murders. Notably, during the initial police investigation in 1998, the police found what it labeled as
19 the pubic hair of black male in Ms. Sabraw’s crime scene.
20

21 22 **II. The State’s Failure to Collect Evidence Warrants Dismissal of the Information**

23 The State argues in its Opposition that RAMOS cannot satisfy the first prong of Daniels that
24 the ungathered evidence was material. *See Daniels v. State*, 114 Nev. 261, 266, 956 P.2d 111 (1998).
25 In particular, the State argues that “no paperwork in the possession of Jack Siegel changes [the]
26

27 ¹ The State argues that the “defense is free to contact [Jack] and request that he bring the
28 paperwork at issue.” *Opp.*, pg. 4, lns. 6-7. As explained above, Jack has steadfastly refused to
speak to RAMOS’s attorneys. Consequently, only an evidentiary hearing, where Jack is
subpoenaed to testify, will satisfy the State’s argument.

1 essential facts” that “in a closed setting, his fingerprint was found in blood at one murder scene and
2 that his DNA was found at another scene, within 24 hours, at a locked down facility.” *Opp.*, pg. 6,
3 ln. 22. Again, the State is making very broad assumptions.

4 Because no one, but the two Metro detectives and Jack, have seen the exculpatory paperwork,
5 the State is no position to argue that those documents “would [not] change the facts of this case that
6 implicates” RAMOS. *Opp.*, pg. 6, lns. 19-20. In fact, the known facts of this case make it “reasonably
7 probable”² that Jack’s paperwork was material for distinct reasons.

9 First, the paperwork provided to the two detectives is inculpatory as to Jack—who already
10 has a cloud of suspicion hanging over his head—because why would someone who has not been
11 accused of a crime set up a meeting with the police six years after the crime’s commission to try and
12 prove that someone was framing him? Indeed, the two detectives even noted in their Officer’s Report
13 that after their meeting with Jack ended he asked them “how he came across with his information.”
14 Further, the detectives noted “we felt he was trying to see if we believed him or not.”

15 Second, if Jack’s suspicions of someone framing are in fact correct, the evidence is also
16 inculpatory as to the unknown suspect. If the documents had been properly preserved, this would
17 have given both the police and RAMOS’s attorneys an opportunity to try and identify the suspect
18 who actually committed the murders and who tried to frame Jack.

20 Either of these reasons clearly create a “reasonable probability” that would have undermined
21 confidence in the outcome of the proceeding.

22 The second prong of Daniels requires the Court to “determine whether the failure to gather
23 evidence was the result of mere negligence, gross negligence, or a bad faith attempt to prejudice the
24 defendant’s case.” *See Daniels*, 14 Nev. at 267, 956 P.2d at 115. In its analysis of this prong in its

25
26 ² It must underscored that this legal standard mandated by Daniels is significantly less than proof
27 beyond a reasonable doubt or clear and convincing evidence. In the context of Brady v. Maryland
28 violations, the Nevada Supreme Court has explained that a “reasonable probability” is a probability
sufficient to undermine confidence in the outcome of the proceeding. *See Jimenez v. State*, 112 Nev.
610, 619, 918 P.2d 687, 692 (1996).

1 Opposition, the State inexplicably argues that when the detectives interviewed Jack in 2004, “the
2 detectives had no leads or forensic testing results, nor any clear suspects.” However, this is belied
3 by the police reports.

4 As detailed in RAMOS’s Motion, the police questioned Jack on the day of his father’s
5 murder in 1998. Specifically, Jack told police that they would not find any blood in his father’s car—
6 the car Jack was driving and had exclusive control of during the time his father was murdered.
7 When the police later searched his father’s car, they found blood-like stains on the carpet as well
8 as on the steering wheel of the car, which presumptively tested positive for blood.³ The police
9 never sought to question Jack again about the blood they found in Mr. Siegel’s car and did not
10 speak to him again until Jack himself set up the 2004 interview—apparently, the two detectives
11 failed to question Jack about the blood found in his father’s car in 1998.

13 Additionally, in 1998, through its interview of Jack’s brothers and sisters, the police
14 learned that the family suspected that Jack, his girlfriend, and her friends, were responsible for
15 his father’s and Ms. Sabraw’s death. The siblings told the police that Jack was on probation in
16 California and that Jack had told his siblings that Ms. Sabraw was killed by a person named
17 “Ax.” The police also discovered that during the time Jack was living and caring for his father,
18 he had become stressed out and angry from caring for his elderly father. The police learned that
19 Jack did not want to care for his father and had gotten into an argument with his father over
20 money shortly before his murder.

22 In short, at the time of Jack’s second interview in 2004, the police had a mountain of
23 evidence pointing to Jack as the person who murdered his father and Ms. Sabraw. Consequently,
24 the detectives’ failure to record Jack’s second interview and impound the exculpatory documents
25 he provided them is bad faith.
26

27 ³ In 2012, the police DNA tested the blood, which returned as consistent with Jack’s father, with
28 an estimated frequency of the DNA profile among unrelated people being rarer than 1 in 1.36
million.

CONCLUSION

Based on RAMOS's original Motion and the foregoing reasons, he respectfully submits that, if the Court finds that the State failed to preserve evidence in this case, that it:

(1) Dismiss the Information with prejudice; or, in the alternative

(2) Require a jury instruction, pursuant to Sanborn v. State, declaring that Jack's statements in his 2004 police interview and the paperwork he provided the detectives is presumed to show that someone other than RAMOS committed the two murders.

If the Court finds that the State failed to collect evidence in this case, RAMOS requests that the Court:

(1) Dismiss the Information with prejudice; or, in the alternative

(2) Require a jury instruction declaring that a presumption applies that the missing evidence would have been unfavorable to the State and/or favorable to RAMOS.

If the Court believes it needs further information to decide RAMOS's Motion, he requests that the Court order an evidentiary hearing.

DATED this 19th day of October, 2018.

Nobles & Yanez Law Firm

Law Offices of Ivette Amelburu Maningo

/s/ Abel Yanez

/s/ Ivette Maningo

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DISTRICT COURT
CLARK COUNTY, NEVADA

CASE#: C-10-269839

DEPT. IX

GUSTAVO RAMOS,

Defendant.

THURSDAY, NOVEMBER 29, 2018

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

APPEARANCES:

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PAMELA WECKERLY, ESQ.
Chief Deputies District Attorney

IVETTE A. MANINGO, ESQ.
ABEL M. YANEZ, ESQ.

ALICIA HERRERA
MARIELLA LOPEZ
MAGDALENA BECERRA
Court Interpreters

RECORDED BY: YVETTE SISON, COURT RECORDER

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1 THURSDAY, NOVEMBER 29, 2018 AT 11:17 A.M.

2

3 [Colloquy between the Court and the Court Marshal]

4 Okay. The Defendant is present. C269839. He's going to
5 have -- the Defendant has the services of the Court certified interpreter,
6 plural, two of them.

7 Sir, you have hearing equipment that allows the interpretation
8 to happen while the interpreter's seated behind you. If, for some reason,
9 the speaker cuts out of your hearing equipment, I need you to let us
10 know; can you do that please?

11 [The Defendant responds with the use of the Court interpreter]

12 THE DEFENDANT: Yes.

13 THE COURT: Thank you. So, sir, do me a favor. When
14 you're testifying keep in mind that they can only go so fast.

15 THE WITNESS: Yes, Your Honor.

16 THE COURT: The Defense has called the first witness. Sir, if
17 you could raise your hand -- right hand and be sworn by my clerk.

18 **CLIFFORD MOGG**

19 [having been called as a witness and being first duly sworn,
20 testified as follows:]

21 THE COURT CLERK: Thank you. Please be seated. State
22 and spell your first and last name for the record.

23 THE WITNESS: Clifford, C-L-I-F-F-O-R-D Mogg, M-O-G-G.

24 **DIRECT EXAMINATION**

25 BY MS. MANINGO:

1 Q Good morning, Detective Mogg, how are you?

2 A Good morning.

3 Q Is it still detective?

4 A Yes.

5 Q Okay. So, how are you currently employed?

6 A I'm a detective with the Las Vegas Metropolitan Police

7 Department homicide --

8 THE COURT: Wait. Problem. What's the problem?

9 THE COURT INTERPRETER: Your Honor, can I sit next to
10 him?

11 THE COURT: Okay.

12 [Pause in proceedings]

13 BY MS. MANINGO:

14 Q I'm sorry. How are you currently employed?

15 A I'm a detective with the Las Vegas Metropolitan Police

16 Department homicide section. I've been a police officer for over 30
17 years. I've been with Metro for almost 23 and assigned to the homicide
18 section for 15 years.

19 Q Okay. So, I'm sorry. How were you employed first in 1998?

20 Were you already with the department?

21 A I was with Metro.

22 Q Okay.

23 A In '98 I think I was a robbery detective.

24 Q Okay. And what was the year that you first started in
25 homicide?

1 A 2003.

2 Q Okay. So, you're aware that this case was actually a case
3 where the incident actually occurred in 1998; is that correct?

4 A That's correct.

5 Q Okay. And at the time I realize that you were on robbery
6 detail, but did you have anything whatsoever at that time to do with this
7 case?

8 A No.

9 Q You weren't assigned in any way?

10 A I was not.

11 Q Okay. And in 2003 when you moved to homicide, were you
12 immediately assigned to this case or how did you come about being on
13 this case?

14 A So, Detective Hardy and Detective Chandler were the
15 investigating detectives for the murder of Mr. Siegel which occurred
16 back in May of '98. Detective Chandler retired. Then Detective Hardy
17 became my partner when I went to homicide in 2003.

18 Q Okay.

19 A We were partners in 2004 when we conducted the interview
20 with Mr. Siegel's son, Jack.

21 Q Okay. So, it's your understanding that Mr. Ken Hardy was
22 actually on this case from the inception of the case?

23 A That's my understanding.

24 Q Okay. And so in 2003 when you became partners with Mr.
25 Ken Hardy you, for lack of a better term, were assigned the case with

1 him; is that right?

2 A He maintained control of the case because he had started it
3 initially and was part of that initial investigation. When I became his
4 partner, then I just assisted him in whatever follow-up needed to be
5 done on any cases that he had handled previous to that.

6 Q Okay. And so in 2003 did you begin doing -- any follow-up
7 work on this case?

8 A No.

9 Q Okay. Was it at that time -- was it considered a cold case at
10 that time?

11 A Well, it depends what your definition of a cold case is.

12 Q And actually let me rephrase that. What was the procedural, I
13 guess, the posture of the case at the time when you were assigned the
14 case?

15 A So, I was never assigned this case.

16 Q Okay.

17 A Like I said, our cases are never closed until an arrest is made
18 or until we can clear 'em exceptionally. So, when I became Detective
19 Hardy's partner in 2003, if there were have been any leads to follow-up
20 on any of his previous cases including this one from 1998, then I would
21 have assisted him in that. So, my initial involvement in this case
22 happened in June of 2004.

23 Q Okay. And your initial involvement would be the interview of
24 Mr. Jack Siegel; is that correct?

25 A That's correct.

1 Q Okay. So, leading up to that interview, tell me how that
2 interview came about and what you did in preparation for that interview?

3 A So, I'm aware that Mr. Siegel, the son, had been interviewed
4 in 1998 at the time of his father's murder. Apparently he had a
5 connection or a phone number or something for Detective Hardy, and he
6 had reached out at some point June or just prior to June of 2004 to
7 Detective Hardy to schedule this meeting where he said that he may
8 have some additional information that he wanted to share with Detective
9 Hardy.

10 So, Detective Hardy scheduled the meeting and I believe that
11 took place on June 22nd 2004 and that would have been in our office
12 over on Charleston.

13 Q Okay. So, it's your understanding it was a connection via
14 telephone; correct?

15 A My understanding, yes.

16 Q Okay. So, it's not that you're aware of any emails or any
17 documentation with regards to the conversations leading up to the
18 meeting?

19 A I don't believe we were doing a lot of emailing with people
20 back then, but it's my understanding it was a phone call.

21 Q Okay. And so what did you do yourself first in preparation for
22 actually conducting that interview?

23 A So, since Detective Hardy was one of the initial detectives to
24 respond on this murder, he kind of gave me an overview of what had
25 happened and where their investigation was to that date. I may have

1 looked through the case file. I'm sure I would have. I just don't recall
2 specifically doing that back then prior to this interview. But that would
3 have been our normal course of conducting the investigation and any
4 follow-ups is to review what had been done and then see if anything was
5 new prior to going into the interview.

6 Q So, it would have been customary for you to try to get up to
7 speed at that point before you sat with Mr. Hardy and conducted an
8 interview with this individual --

9 A Correct.

10 Q -- is that right?

11 A Yes.

12 Q Okay. So, was the time we talked about where this --

13 THE COURT: Can you get the interpreter some water?

14 THE COURT INTERPRETER: Thank you.

15 THE COURT: You're welcome.

16 BY MS. MANINGO:

17 Q So, we talked about cold case before. What is the definition,
18 at least in your department's perspective, of what a cold case is?

19 A So, our cases basically go cold for a better -- lack of a better
20 term. Once we don't have any leads to follow-up on, nothing has
21 occurred on a case in months or years and we've exhausted, for the
22 most part, all investigative leads that we have.

23 Q Okay. So, the case isn't closed. It's just you've exhausted
24 your leads and it's kind of at a holding pattern; is that fair?

25 A The case is still open.

1 Q Okay.

2 A We just don't have anything at that moment to do to follow-up
3 on it.

4 Q Okay. So, in that cold case scenario, any leads you might get,
5 for example, would be helpful; is that right?

6 A Yes.

7 Q And generally worth following up on; correct?

8 A Correct.

9 Q At this time this case involves the killing of two elderly victims;
10 is that correct?

11 A Yes.

12 Q Okay. And at the time, at least by the time you get on the
13 case, it's the homicide detectives belief and the theory of -- well, at that
14 point your belief that these cases may be connected; is that right?

15 A So, if I could explain. There are two murders. One occurs
16 May 17th which is Mr. Siegel. Then there's another one with a lady, I
17 forget her last name, first name is Helen which occurred --

18 Q It's Sabraw.

19 A -- the next day. Two separate teams of detectives were
20 assigned. So, Detective Hardy and Detective Chandler handled Mr.
21 Siegel's murder and then I believe it was Detective Vacarro and it might
22 have been Messnar [phonetic] that handled the other murder.

23 Q Okay. So, at the time by the time you were assigned and you
24 said you were getting up to speed on the case and you had had an
25 overview, at the time it was believed at the time that potentially these

1 two cases were actually connected; is that right?

2 A That's correct.

3 Q Okay. So, you mentioned that the meeting was actually at the
4 homicide office with Mr. Jack Siegel on June 22nd; did I get that right?

5 A Correct.

6 Q So, that would be six years after the actual killings in 1998,
7 approximately?

8 A Correct.

9 Q And at the time did Mr. Siegel drive from California to meet
10 you?

11 A I believe he came out from California.

12 Q Okay. And at that time he wanted to provide further
13 information about basically his father's homicide; correct?

14 A Yes.

15 Q He felt he had lead for you?

16 A Yes.

17 Q Okay. And particularly that someone was setting him up to
18 take the fall for the murder of his father; do you remember that?

19 A That's what he believed.

20 Q Okay. And when he traveled from California he also brought a
21 significant amount of documentation with him to explain or prove to you
22 where he was going with it; is that right?

23 A I don't recall all the documents or how many he brought. I
24 know that there was a couple that had to deal with an account at a credit
25 union, and then I believe there was a couple of savings bonds or

1 something like that.

2 Q Okay. And we'll get to more specifics on paperwork. But safe
3 to say it that it was a significant amount of paperwork?

4 A I couldn't tell you if it was a significant amount or not.

5 Q Okay.

6 A I know what was put into our officer's report that synopsized
7 the interview and it doesn't appear there was a significant amount.

8 Q Okay. And the officer's report that you're referring to, is that a
9 report that was generated by Detective Hardy two days on the 6/24?

10 A Correct.

11 Q Okay. Was there any other report other than the one
12 generated by Detective Hardy?

13 A No.

14 Q Okay. So, did you review that report in preparation for the
15 hearing?

16 A I did.

17 Q Okay. Do you happen to have a copy with -- copy of it with
18 you?

19 A I do.

20 Q Okay. If you need to refer to it for any reason to refresh your
21 recollection just let the Court know.

22 A Okay.

23 Q What else did you review actually in preparation for the
24 hearing other than the report generated by Hardy?

25 A I looked back through the case file just to familiarize myself

1 with the case.

2 Q Okay. And when you say the case file you mean -- is that the
3 homicide binder which you're generally looking at or is there a different
4 case file that you're looking at?

5 A No. It's what left of the binder.

6 Q Okay. Was it not intact when you reviewed it?

7 A Well, a lot of the information, the photos and things like that,
8 are not in it anymore, those are archived. So, it's just basically
9 paperwork that as in there.

10 Q Okay. But most of the reports, officer's reports related to both
11 cases were in the homicide file; is that right?

12 A For the most part --

13 Q For the most part.

14 A -- from what I can remember.

15 Q Okay. And do you remember reviewing any notes that were
16 made by any of the detectives that were still on the homicide file as
17 well?

18 A There are no notes in there. It's all reports.

19 Q Okay. And with regards to the amount of paperwork, is it fair
20 to say that the report said that there was numerous piles of paperwork
21 provided by Jack, Mr. Siegel?

22 A I don't recall if it said piles.

23 Q And if it refreshes your recollection, please go ahead and take
24 a look at that. I believe Mr. Hardy noted that there were numerous piles
25 of paperwork provided by Mr. -- or brought with Mr. Siegel?

1 A If he wrote piles then that's what he wrote in there. I don't
2 recall piles of paperwork.

3 Q Okay. Would it refresh your recollection to take a look at the
4 report just to -- so we're accurate there?

5 A Well, I don't have any doubt that's what he typed.

6 Q Okay. So, you agree that that's what he wrote?

7 A I just don't have a recollection of piles of paperwork.

8 Q Right. Would it refresh your recollection though if you took a
9 look at the report really quick just to make sure?

10 THE COURT: Okay. Can we move on? It's not going to
11 refresh his collection on whether there were piles of paperwork and he
12 already hasn't disputed what's in the report.

13 BY MS. MANINGO:

14 Q During the interview was the interview recorded; do you
15 know?

16 A I don't believe so.

17 Q Okay. In reviewing the file was there any trace of a transcript
18 or any type of cassette or anything that would indicate it was recorded?

19 A It was not.

20 Q Okay. And was there ever a reference to that in your review?

21 A None.

22 Q Okay. You did mention the -- a prior interview with him was
23 recorded with him back in 1998; correct?

24 A That's correct.

25 Q Is that the only interview of Jack Siegel that you know that's

1 recorded?

2 A Yes.

3 Q Okay. And who would have made the decision to record or
4 not record that?

5 A So, when we were speaking with someone who comes in and
6 says they have information concerning a murder, obviously we refresh
7 our memory on the case prior to speaking to the person, and then when
8 we come in we kind of get a background as to, you know, tell me what
9 you know, how did you come about this information, who is this person.
10 And if the initial interview with the people indicates to us that they have
11 no knowledge of a specific suspect in the case or have no pertinent
12 information concerning a suspect or motive in the case, then we may not
13 record it because there's nothing there for us to act on. We document it
14 which is what Detective Hardy did in his officer's report.

15 Q Okay. And you referred to someone that may not have any
16 knowledge of anything or any motive or anything. Fair to say that at the
17 very least Mr. Siegel was a victim family member in the case; correct?

18 A That's correct.

19 Q And then in addition to that, he was actually a suspect in the
20 case; is that right?

21 A I don't know that he was ever a suspect.

22 Q Okay.

23 A He was interviewed.

24 Q It's your understanding that Mr. Siegel was not a suspect in
25 the case?

1 A And, again, that case occurred back in 1998 and I was not on
2 the original case, but if he would have been a suspect then the interview
3 that would have been done with him back in 1998 would have been a
4 little bit different than the way it was conducted, and six years later
5 having Detective Hardy as my partner, never mentioned that Mr. Siegel
6 was a suspect in the murder of his father.

7 Q Okay. So, Mr. Hardy never mentioned it. Do you believe that
8 -- well, I guess Mr. Hardy is the one that would know; is what you're
9 saying?

10 A That's correct.

11 Q During -- you talked about the questioning of Mr. Siegel and
12 how it would have gone differently. Do you remember during that
13 questioning in 1998 if he was specifically asked do you have any reason
14 to believe we might find anything in the car that you were in, blood or
15 anything like that? Do you remember that line of questioning with Mr.
16 Siegel?

17 A Oh, I'm sure that would have been a line of questioning.
18 Again, I wasn't present for the interview in '98. I briefly reviewed the
19 statements that were taken in conjunction with that case, but I have no
20 doubt that that would have been a question that would have been asked
21 to anybody.

22 Q Okay. And so the Court is aware, Mr. Siegel was actually in
23 possession of his father's car during -- allegedly during the time that his
24 father was killed that night; is that right?

25 A I don't know.

1 Q Based on the information you've acquired from the case and
2 the interview with Mr. Siegel, that's not something that you know?

3 A I couldn't determine who had possession of the vehicle just by
4 glancing through the reports.

5 Q Okay. Do you remember -- you said you -- did you actually --
6 I'm sorry if I didn't remember this. Did you actually review Mr. Siegel's
7 interview?

8 A No; I just glanced through it.

9 Q Okay. And so if you asked him whether there would be blood
10 in the car, the question is were you possibly in contact with your father
11 who had blood on him at the time; I mean, that's where you're going with
12 that though; right?

13 A No. The question would be is there any reason why we would
14 find blood or any other evidence in your vehicle. That would be the
15 question just to see what the response would be.

16 Q Okay. And the response actually was no; is that right? Do
17 you remember?

18 A I don't.

19 Q Okay.

20 A I didn't conduct the interview. Like I said, I briefly glanced
21 through his interview.

22 Q Okay. And is it true that actually blood was found in the car
23 after Mr. Siegel was questioned about that?

24 A There was blood found in the vehicle.

25 Q Okay. And there was two areas of blood, one was a DNA

1 mixture on the car carpet; do you recall that?

2 A I don't.

3 Q Okay. And would it refresh your recollection to take a look at
4 anything in order to -- so that actually was the case or not?

5 A It would because I wasn't there. So, any reports --

6 Q Okay.

7 A -- that would be all I would be able to go off of.

8 THE COURT: So, you're saying it wouldn't refresh your
9 recollection because you weren't there or that it could? What's she's
10 asking you if she showed you something would you independently
11 remember it --

12 THE WITNESS: No.

13 THE COURT: -- as opposed to just constantly regurgitating
14 what's in a report which wouldn't be your personal knowledge? That's
15 what she's getting at.

16 THE WITNESS: I wasn't there, Your Honor. I have no idea
17 what happened at the scene.

18 THE COURT: So, the answer to that is no.

19 BY MS. MANINGO:

20 Q When you say you weren't there, what do you mean by that?
21 You weren't there at the homicide? Is that what you mean generally
22 or --

23 A Correct. In '98 I was in robbery.

24 Q Okay. But you are the person who eventually had reviewed
25 this case in order to interview Jack Siegel; right?

1 A I go back to Detective Hardy who was one of the lead
2 investigators in that murder.

3 Q I understand.

4 A He was there in '98; he was there with me in '04. He is the
5 one that would know the most detail and asked the questions.

6 Q Okay. And so you were asked today to be here -- you were
7 contacted by the State to be here; correct?

8 A Correct.

9 Q To testify regarding this case; correct?

10 A Regarding my and Detective Hardy's interview with Mr. Siegel
11 on June 22nd of 2004.

12 Q Okay. And have you -- did you talk to Mr. Hardy in
13 preparation for this case?

14 A I did not.

15 Q Do you know if he was contacted by the State --

16 A I do not.

17 Q -- to testify?

18 A I do not.

19 Q You do not?

20 A No.

21 Q Okay. So, you testified that you -- you don't know the
22 specifics, but you know there was blood in the car; right?

23 A Correct.

24 Q And let's talk about a couple other things. At the time of the
25 interview that you conducted also was part of the case, were you aware

1 that Mr. Jack Siegel's siblings actually suspected Jack and/or his
2 girlfriend of being involved in the killing of his father?

3 A I was not.

4 Q Were you aware that he told his family that a man named Ax
5 killed Ms. Sabraw?

6 A Who.

7 Q A man named Ax killed Ms. Sabraw?

8 A I was not.

9 Q Were you aware that Mr. Siegel was -- that there was
10 evidence that Mr. Siegel was stressed and frustrated for actually having
11 to care for his dad?

12 A I was not.

13 Q Okay. Are you aware that several people were interviewed
14 that were carrying for him said -- that gave homicide information with
15 regards to the fact that he didn't have any support from the siblings, did
16 not want to be there, and was frustrated?

17 A I know that people were interviewed in '98, but I don't know
18 any of the details about those interviews.

19 Q Okay. And you said that when you reviewed the homicide file
20 there was no notes this time in the homicide file; correct?

21 A That's correct. Everything had been -- that's in the file had
22 been reduced to reports.

23 Q And do you remember at the time back in 2003 if there were
24 notes in the file?

25 MS. WECKERLY: Okay. Just to clarify something. The

1 Defense wanted a review of the homicide file. I pulled the original
2 homicide file with the notes. The DA's office has that. Detective Mogg
3 doesn't have those notes because we furnished them to the Defense for
4 your file review. So, I think that's the discrepancy. The notes still exist.

5 MS. MANINGO: I didn't -- I didn't know that.

6 MS. WECKERLY: Okay. So -- that's --just so we're kind of
7 not miscommunicating here. The DA has the original notes. They've
8 been provided to the Defense.

9 MS. MANINGO: Okay.

10 BY MS. MANINGO:

11 Q Notes are often taken during the time of -- the detectives were
12 interviewing the people involved in the case; is that correct?

13 A Correct.

14 Q Victims, right, or witnesses?

15 A We don't take notes from our victim interviews because
16 they're normally not alive.

17 Q Okay. So --

18 MS. MANINGO: May I approach, Your Honor?

19 THE COURT: Sure.

20 MS. MANINGO: Actually, can I mark these, Your Honor?

21 THE COURT: Sure as soon as my clerk gets back. She
22 stepped out for half a second.

23 MS. MANINGO: Okay.

24 THE COURT: But they will be marked Defense A when she
25 gets back. So, you can just refer to them as Defense Exhibit A.

1 MS. MANINGO: Thank you, Your Honor.

2 THE COURT: And for the record could you state what those
3 are?

4 MS. MANINGO: I'm going to show you.

5 THE COURT: Oh, could you state what those are?

6 BY MS. MANINGO:

7 Q I'm going to show you what's been marked as -- what will be
8 marked as Defense Exhibit A. This is a copy of -- Ms. Weckerly just
9 referred to notes from the homicide file that was taken by the DA and
10 apparently are just in her custody now. If you remember those notes
11 that were in the file before Ms. Weckerly took them?

12 A Okay. I didn't see any notes in the case file. Again, this
13 would have been back in '98. These notes here are from 2000. I wasn't
14 in homicide then.

15 Q Okay. But you did say you reviewed the file in preparation for
16 this particular interview with Mr. Siegel. So, that's what I'm asking. Do
17 you remember seeing these notes and reviewing them in preparation for
18 interviewing Mr. Siegel on June 22nd, 2004?

19 A I don't recall reviewing notes 14 years ago, but these notes --

20 Q If you remember --

21 A -- they don't look familiar to me so I didn't see them.

22 Q If I could have those back from you.

23 A Okay.

24 Q So, again, Mr. Hardy would be the one who would be able to
25 testify specifically to these notes because it was his case?

1 A I can't tell you if he can testify to those notes or not.

2 Q Okay. Were you aware that he had -- Mr. Siegel had an
3 argument over money shortly before the murder with his father?

4 A I was not.

5 Q Okay.

6 MS. WECKERLY: I'm objecting to the -- I understand that you
7 can ask the question but I think it assumes facts not in evidence and
8 there's a couple of layers of hearsay in there.

9 THE COURT: Sustained.

10 BY MS. MANINGO:

11 Q Were you aware that there was an insurance policy for
12 \$100,000 and four CD annuities that were in existence?

13 MS. WECKERLY: Same objection.

14 THE COURT: Well, if she wants to ask whether instead of
15 were and quit pronouncing it as a fact because we don't have that in the
16 record right now then I'll allow it. You know, whether there was a
17 \$100,000 life insurance policy and four annuities.

18 BY MS. MANINGO:

19 Q I'm sorry. Do you know whether there was?

20 A No, ma'am.

21 Q Do you know whether or not the detectives in this case
22 concluded that this overkill and that they believed the assailant was
23 angry with the victim?

24 A I believe I read that in a report.

25 Q Okay. Do you know whether or not Mr. Siegel had a drug

1 problem and was arrested for possession of methamphetamine?

2 A I do not.

3 THE COURT: Was there a timeframe on that that you're
4 asking? I mean, like --

5 MR. MANINGO: I'm sure -- it would, yes.

6 THE COURT: -- as he sits here today or at the time of the
7 interview, I guess?

8 BY MS. MANINGO:

9 Q At the time that you interviewed him, were you aware that --
10 did you know whether or not he was shortly before then arrested for
11 possession of methamphetamine?

12 A I do not.

13 Q So, during this interview was it -- it was pretty -- this is six
14 years later; right?

15 A Correct.

16 Q It was pretty clear that Mr. Siegel was still concerned about
17 someone framing him; right?

18 A Yes.

19 Q At least from Mr. Siegel's point of view he was still concerned
20 that he was a suspect in the case?

21 A I believe he was concerned that from what he said what I
22 recall from the report that someone was trying to frame him for his
23 father's murder so that they could use his name and get these credit
24 cards or savings bonds, whatever it was.

25 Q At the end of the interview basically -- he -- after you

1 interviewed him and after he presents his -- these piles of paperwork, he
2 actually asked you, you know, how did I do, how did I come across; do
3 you remember that?

4 A I do.

5 Q Okay. Kind of trying to figure out whether or not you believed,
6 I guess, what he was discussing with you?

7 MS. WECKERLY: Objection; calls for speculation.

8 BY MS. MANINGO:

9 Q What was your impression of --

10 THE COURT: You should rephrase though. Go ahead.

11 BY MS. MANINGO:

12 Q What was your impression with regards to that statement he
13 made?

14 A It's unusual for people to ask us how I came across, but it's
15 not something that we would say, oh, there's the person who committed
16 the crime.

17 Q Would you agree it's also a bit unusual for six years after the
18 fact for a suspect to come back to you and try to engage you again;
19 would you agree?

20 MS. WECKERLY: Objection. She said suspect. I don't think
21 the detective said that he considered Mr. Siegel a suspect.

22 BY MS. MANINGO:

23 Q You, yourself, did not consider Mr. Siegel a suspect
24 apparently; is that right?

25 A As far as I knew nobody did.

1 Q Okay.

2 A At the point where I conducted the interview in '04.

3 Q Okay. So, if another detective came in and said Mr. Siegel
4 was a suspect at one point, would you disagree with that?

5 THE COURT: One moment, please. Okay. Can you move
6 the mic closer to you? No, over here. Okay. It's not your fault. It's just
7 the way it is. It's technology. You don't have to whisper. What I'm
8 going to ask the Defendant to do is move his chair back about six or
9 eight inches, move your chair, and then I'm to ask Ms. Interpreter to
10 move back about six or eight inches from the table. So, could you
11 repeat the question because my court recorder has a problem.

12 BY MS. MANINGO:

13 Q So, if another detective came in and testified that at one point
14 Mr. Siegel was a suspect, would you disagree with that?

15 A That would be their testimony.

16 Q But you don't -- in other words, you didn't believe he was a
17 suspect, but if someone said he was that would be acceptable if it was a
18 detective who was on the case at the time?

19 THE COURT: Okay. I'm going to ask you to rephrase. Do
20 you have any reason to dispute that someone might have -- a detective
21 believed him to be a suspect at some point in this case? Any reason to
22 dispute that? You don't have any reason to affirm it. Do you have a
23 reason to dispute it?

24 THE WITNESS: I don't have any knowledge one way or the
25 other, Your Honor.

1 THE COURT: Okay.

2 BY MS. MANINGO:

3 Q But when they asked you to come testify here, did you
4 express to them that you didn't have any knowledge of the case to that
5 regard?

6 A The reason why I was asked to come and testify is concerning
7 the 2004 interview of Mr. Siegel that I did with Mr. Hardy, not the
8 investigation that was conducted in 1998 or anything that occurred
9 during that investigation prior to 2004. That's all I know.

10 Q Regardless of whether it was your view that Mr. Siegel was a
11 suspect, it's clear that this is a victim family member coming to you; is
12 that right?

13 A Correct.

14 Q Okay. So, what the victim's family member may have to say
15 and bring to you with leads could be relevant; is that right?

16 A It could be.

17 Q Okay. So, it's not that he was being dismissed; is it?

18 A No.

19 Q During this interview were there follow-up questions with
20 regards to the blood that was in car?

21 A Not to my knowledge.

22 Q Okay. Any follow-up questions with regards to the fact that his
23 siblings suspected him as involved?

24 A Not to my knowledge.

25 Q And any conversations or follow-up with regards to his

1 girlfriend, Mr. Siegel's girlfriend, Martha Morales?

2 A I didn't even know he had a girlfriend.

3 Q Okay. Did you know whether there was DNA found in the
4 hallway of an unknown female?

5 A No.

6 Q Okay. The paper work that was brought, did you actually
7 review the paperwork at the time?

8 A Well, clearly it's referenced in the officer's report. We would
9 have looked at the documentation that Mr. Siegel would have brought in
10 to us and if it would have been relevant in the course of our investigation
11 as to a possible suspect or motive in the case, then we would have
12 acted on that.

13 We would not necessarily had made copies of anything nor
14 documented anything in a recording if there was nothing of relevance to
15 a suspect in the case or a motive in the case in which case, based on
16 the officer's report that was written two days later and my recollection of
17 what was in the report, there is nothing in there that indicates to us that
18 he specifically knew a person who was involved in the murder of his
19 father or a motive behind the murder of his father.

20 Q Okay. And we'll talk about that in a minute. So, it's your -- is
21 it your recollection that you went through the piles of paperwork at that
22 time?

23 A We would have looked at the documentation that he would
24 have brought to us.

25 Q And do you remember if in fact you took them from him?

1 A Took, no.

2 Q Yeah.

3 A No, we didn't take them.

4 Q Yeah. If you obtained the paperwork?

5 A We wouldn't have taken them if they were not relevant to our

6 investigation.

7 Q No. I'm not asking your independent recollection. Did you

8 obtain paperwork from Jack Siegel that day?

9 A No.

10 Q Okay. And do you know did he take it with him again?

11 A I'm assuming he took it with him because we don't have it.

12 Q Okay. Is it -- based on that answer, is it a possibility that you

13 have it but you haven't seen it?

14 A No.

15 Q Okay. And what was it in? Was it in binders in -- how did it

16 come? In his hands, in bags? How did that paperwork --

17 A Counsel, that was 14 years ago. I don't remember.

18 Q And I apologize. We're trying to figure out some specifics

19 about it.

20 A I understand.

21 Q Okay. So, you don't remember how -- what he kept it in or

22 how he brought it?

23 A I do not.

24 Q And I think you mentioned that you don't remember making

25 copies of it?

1 A If there would have been something of evidentiary value, we
2 would have made copies of it. It would have went into the case file or at
3 least been impounded, and there is no record of either one of those.

4 Q So, you had the opportunity -- you could impound it or you
5 could put it in the homicide file; correct?

6 A If it's of evidentiary value.

7 Q So -- okay. You did not collect it?

8 A Because it must not have had any evidentiary value.

9 THE COURT: Oh, like the 19th time. Come on, counsel. What
10 are you trying to get at? I don't mind letting you have all day. I just don't
11 want to hear the same thing.

12 BY MS. MANINGO:

13 Q What was the downside of collecting it?

14 A It had no evidentiary value and what were we going to do with
15 it. It had no value to us.

16 Q All right. Let's talk about specifically, was there paperwork in
17 there regarding Homestead health care and a black male adult?

18 A He mentioned during the course of the interview that there
19 had been a woman who had died, he thought, I checked that out. We
20 didn't handle any incidents where a woman had died back in April at that
21 same facility.

22 And then he talked about Helen's death and he said that she
23 had the same health care provider that his father did which isn't unusual
24 because that's their facility. And then he also mentioned that it was an
25 African-American male that was employed by them and moved to a

1 different branch of the company. That was it.

2 Q Okay. So, there was a black male that worked for Homestead
3 health care was what Jack was telling you, and that would be relevant
4 because there was Negroid hairs, according to the reports, found at the
5 crimes scene for Sabraw; correct?

6 A So, the crime scene was investigated in 1998.

7 Q Mm-hmm.

8 A This interview was conducted six years later and he had no
9 idea who the black male was.

10 Q Right. He didn't have a name; is that what you're saying?

11 A That's correct.

12 Q But he did say that there was a black male who Sabraw and
13 Siegel had in common that cared for them; correct?

14 A No. He believed that the African-American male worked for
15 this company.

16 Q Okay. And what about the papers?

17 A All he knew was that that the person that came into the room
18 when he discovered his father.

19 Q Okay. And do you recall the person that came into the room
20 when he discovered his father actually worked there at the facility where
21 this occurred?

22 A I had no idea because that was 1998.

23 Q Okay. So, the home care health that Mr. Siegel was referring
24 to was not an employee of the facility this occurred at; is that correct?

25 A When he was telling us about this person, and again looking

1 at the officer's report, it doesn't seem like he really knew what he was
2 talking about, just that he assumed that there was this African-American
3 male that worked for the company that may have had some loose
4 connection between his father and possibly this other lady, and that was
5 it.

6 Q Okay. And is it fair to say that at one point homicide was
7 looking for a black male; correct?

8 A I don't know.

9 Q Okay. And what about the paperwork? Was there information
10 with regards to Homestead health care and this person working in that
11 pile of paperwork?

12 A I don't recall.

13 Q With regards to water and power credit union accounts, Mr.
14 Siegel informed you that day that he had learned the day after his dad
15 was killed, an account was opened in his father's name in Southern
16 California; is that right?

17 A That's what he told us. But then he kind of contradicted that
18 later on when he talked about trying to open an account at that same
19 credit union but was denied because he had a bankruptcy.

20 Q Wasn't it true that he specifically said that an account was
21 open the day after and it was not him that opened the account?

22 A That's what he told us.

23 Q And it was in his father's name?

24 A That's correct.

25 Q That, of course, might be relevant; correct?

1 A Well, if the person opened it in his father's name then that
2 person was not providing their name to the company which wouldn't give
3 us any lead as to who the person was, Then this case or this account
4 was supposedly opened a day after his father was murdered back in
5 1998. This was now 2004. So, there would not be any surveillance
6 video.

7 Q Did you check whether there was surveillance video?

8 A I'm pretty sure that Detective Hardy would have followed up
9 on anything that he thought would have been relevant to his case.

10 Q So, you don't know whether Detective Hardy checked the
11 photo surveillance video?

12 A I didn't do it.

13 Q Okay. And do you know if someone went to go talk to the
14 manager or an employee there to see if they remember that?

15 A I have no idea.

16 Q Was the paperwork that was in the piles was there specific
17 information with regards to that transaction or what Mr. Siegel had
18 recovered with regards to that?

19 A I don't recall if he had paperwork for that or if he just had the
20 information.

21 Q And there's no way to know now because you guys or at least
22 from your point of view because you don't have the paperwork?

23 A Correct.

24 Q With regards to -- you had mentioned this before that he
25 talked about U.S. saving bonds and credit reports that indicated that

1 there -- someone opening things in his name; is that right?

2 A That's what he said.

3 Q Okay. And there were -- there was paperwork produced to
4 that extent in those piles; is that right?

5 A I don't recall off the top of my head. Again, it was 14 years
6 ago and I don't remember.

7 Q And if I told you that Detective Hardy's report says that this
8 paperwork was produced by him that day, would you agree with that?

9 A Yes.

10 Q Do you remember how much paperwork with regards to that
11 was produced?

12 A I do not.

13 MS. MANINGO: Court's indulgence.

14 Q You mentioned that when you were reviewing parts of the file
15 in preparation for this hearing that it wasn't all there, and you said some
16 of it was archived; what does that mean?

17 A Like photos and things like that that we don't need to keep in a
18 case file because they're stored by Metro.

19 Q Okay. And where are they archived?

20 A Metro records, photo lab.

21 Q Okay. If I was trying to get any archived records from Metro,
22 do you know if it's the records department that I would get it from; if you
23 know?

24 A That's who all requests go through is records.

25 MS. MANINGO: Pass the witness.

1 **CROSS-EXAMINATION**

2 BY MS. WECKERLY:

3 Q Detective Mogg, at the time you did this interview in 2004, this
4 was six years into the homicide investigation or thereabouts; right?

5 A Correct.

6 Q And at the time in 2004 you might have been familiar back
7 then 2004 with forensics reports that had come in between the date of
8 the murder and the time that you guys met with Mr. Siegel in 2004?

9 A Correct.

10 Q And those forensic reports might have had bearing on whether
11 or not he was still considered or could be considered a suspect at that
12 point?

13 A Yes.

14 Q And between 1998 and 2004, while you might not have
15 participated in investigating an alibi or something like that that he had,
16 that could have been done by other detectives in that ensuing time?

17 A It was done by other detectives.

18 Q Yeah. And so when you sit there in 2004, you're dealing with
19 someone who is coming in and talking about an investigation that, up to
20 that date, your participation -- you didn't have any; is that fair?

21 A That's correct.

22 Q But you and Detective Hardy sat down with Mr. Siegel and
23 reviewed the paperwork that he brought in?

24 A Yes.

25 Q And had either one of you considered any of the documents

1 that he brought relevant, you would have done something to either copy
2 the document or follow-up; is that fair?

3 A That's correct.

4 Q But you're -- and your recollection, and it's noted in the report,
5 that most of the documents related to savings bonds or financial
6 documents associated with Mr. Jack Siegel?

7 A Correct.

8 Q Not with the homicide?

9 A No.

10 Q And nonetheless though, I mean, you're -- well Detective
11 Hardy noted in a report all of the things that were said. I mean, that was
12 documented about the various topics discussed by Jack Siegel during
13 that interview?

14 A Yes.

15 Q And that was kept in a report by Metro?

16 A Correct.

17 Q And all of the topics he discussed were listed or are kind of
18 detailed in paragraphs of that two page report that's single spaced; is
19 that fair?

20 A Yes.

21 MS. WECKERLY: Thank you. I'll pass the witness.

22 **REDIRECT EXAMINATION**

23 BY MS. MANINGO:

24 Q You said that all the things that were discussed were
25 documented. This is back in 2004 you said; correct?

1 A I'm sorry. I didn't hear what you're saying.

2 Q This is back in 2004; correct?

3 A When I interviewed him?

4 Q Yes.

5 A Yes.

6 Q And you've just testified that all the topics that you've

7 discussed were actually listed in the report; is that right?

8 A Correct.

9 Q Okay. Again, this was recorded; right?

10 A That's correct.

11 Q And you weren't able to review transcripts from an interview

12 back in 2004; is that right?

13 A That's correct.

14 Q And fair to say this could be a summary of what you

15 discussed; right?

16 A It is a summary.

17 Q Okay. But not all the information and everything you

18 discussed is potentially in this report; right?

19 A No. The important points from that interview are documented.

20 Q What you believed were important at the time; correct?

21 A Correct.

22 Q Again, this is not your report though?

23 A That's correct.

24 Q The only way to know exactly what was discussed was if it

25 were recorded at this time considering the time -- the passage of time; is

1 that fair?

2 A That's correct.

3 MS. MANINGO: Court's indulgence.

4 BY MS. MANINGO:

5 Q The decision to not take the paperwork and that it was not
6 relevant, was that your decision?

7 A It would have been a decision mostly based on what Detective
8 Hardy knew about the case since he was one of the original detectives,
9 and this is the first time that I had any interaction in the case. So, it
10 would have been ultimately his decision as to what we took and what we
11 didn't.

12 MS. MANINGO: Pass the witness.

13 MS. WECKERLY: Nothing else, Your Honor.

14 THE COURT: Thank you very much for your testimony, sir.
15 You're excused.

16 THE WITNESS: Thank you.

17 THE COURT: Defense, call your next witness.

18 MR. YANEZ: Jack Siegel.

19 **JACK SIEGEL**

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

22 THE COURT CLERK: Thank you. Please be seated. State
23 and spell your first and last name for the record.

24 THE WITNESS: Jack Siegel, S-I-E-G-E-L, Jack, J-A-C-K.

25 MR. YANEZ: Thank you, Judge.D

1 **DIRECT EXAMINATION**

2 BY MR. YANEZ:

3 Q Jack, good afternoon.

4 A Good afternoon.

5 Q My name is Abel Yanez. Me and you have never met in
6 person before; is that correct?

7 A Sure.

8 Q Do you remember having a telephone conversation with me
9 within the past couple of years?

10 A I remember a -- somebody calling me. I've never seen who it
11 was; I don't remember a name.

12 Q Do you remember speaking to someone who told you that
13 they were lawyers for the person who was accused of the murder of
14 your father; do you remember that?

15 A I remember a PI -- a PI and a lawyer or lawyers. It could be
16 either one.

17 Q So, you remember that telephone conversation?

18 A Yes.

19 Q And you remember that lawyer or PI wanting to speak to you
20 about this case; correct?

21 A Yes.

22 Q Okay. And your response was that you did not want to speak
23 to them; is that correct?

24 A Yes.

25 Q Okay. And currently you live in California?

1 A Yes.

2 Q Okay. Where in California do you live?

3 A I now reside in La Puente.

4 Q Okay. And what major city is that by?

5 A L.A. County.

6 Q Okay. Fair enough. Back in 1998, approximately May of
7 1998 before your father's passing, you were living here in Las Vegas?

8 A Yes, I was staying in Las Vegas.

9 Q And that's what I meant by living. At least -- your father
10 passed away at approximately May 16th of 1998; does that sound about
11 right?

12 A He did pass away on May 16th.

13 Q And for at least two to three months before your father's
14 passing, you were staying here in Las Vegas with your father?

15 A I showed up the day he was released from the hospital to the
16 point of murder to help him rehabilitate because, at that time according
17 to my father, they just taught him how to get in and out of a bathtub, a
18 man with a broken hip.

19 Q And is that the reason your dad -- the reason you came out to
20 take care of him is because father, a few months before his death, had
21 broke his hip; correct?

22 A I -- yes.

23 Q Okay. And do you know as you sit here today approximately
24 how many months before his death that you came out here? Was it
25 weeks, months, years?

1 A I do not understand the meaning of your question.

2 Q Okay. Not a problem, I'll rephrase it. Any time you don't
3 understand my question, please ask and I'll rephrase it. We agreed that
4 your dad died on May 16th. Do you remember about what month you
5 came out to take care of him?

6 A The same day he was released from the hospital in which his
7 surgery took place.

8 Q And do you know what month that took place?

9 A February.

10 Q Okay. So, from approximately February until May, you were
11 staying here in Las Vegas caring for your father?

12 A Helping him in rehab, yes.

13 Q Okay. And your father had surgery because of that broken
14 hip; correct?

15 A Hip replacement.

16 Q Hip replacement. I'm sorry. And that was the surgery that he
17 had?

18 A Yes.

19 Q Okay. And at that time your father owned a car?

20 A Yes, he did, yes.

21 Q Okay. After he broke his hip and he had his surgery and you
22 came out here he stopped driving; is that correct?

23 A Yes.

24 Q Okay. You would do all the driving of the car?

25 A When he had -- yes.

1 Q And, again, so we're clear. I'm talking now the time period
2 that you moved out here in about February or you came to stay out here
3 in February until May. During that time period your father didn't drive;
4 correct?

5 A Right.

6 Q Okay. You did all the driving when you had to go to the store,
7 you had to take your father anywhere; correct?

8 A Except for the one week I had taken off. Homestead had
9 taken care of him for a week.

10 Q Understood.

11 A A week before he passed away, two weeks, something like
12 that.

13 Q Okay. But at least from February until May, if someone drove
14 the car it would be you driving the car; correct?

15 A And that -- yes.

16 Q Okay.

17 A To only specific places.

18 Q Correct. Now, after -- you called 9-1-1 when you found your
19 father's dead body inside of his room; correct?

20 A I also pulled the cord. I had made arrangements with
21 management where they were ready to move my dad into one of these
22 -- six people to a room home. In order for him to stay in his place, I had
23 a meeting with management, with the nurse in charge, to have a cord
24 run from his bedroom to a chair in which he slept in because he
25 preferred that, to pull the cord so that somebody on the assisted living

1 side could come to his aid because I had mentioned that I could get my
2 dad up in a couple months to be able to take care of his medication and
3 himself in order to maintain his residency.

4 Q When the police did come out, as far as you could tell, the
5 police investigated the death of your father; correct?

6 A I have no idea what the police did after I was -- after we
7 closed my dad's estate.

8 Q Well, one of the things you do know is that they interviewed
9 you; correct?

10 A On three different occasions they did.

11 Q Okay. And when was the first occasion? Was that the day of
12 that you had found --

13 A All three were the same day.

14 Q Okay.

15 A And then once we went to the -- see some detective one time,
16 and that was it.

17 Q Okay. The day of, if I understood you, there were three
18 different interviews that day?

19 A Yes, sir.

20 Q Okay. Were by -- were they by the same detective --

21 A No.

22 Q -- or different detectives?

23 A Different.

24 THE COURT: Sir, could you do me a favor? Could you let
25 him finish the question because we have --

1 THE WITNESS: I'm sorry, Your Honor.

2 THE COURT: That's okay. We have recording equipment so
3 it can't record two people speaking at once.

4 THE WITNESS: I apologize.

5 THE COURT: That's okay.

6 MR. YANEZ: Thank you, Judge.

7 BY MR. YANEZ:

8 Q And I'm sorry. You said there were three different detectives
9 or police officers that questioned you?

10 A Three different.

11 Q Okay. Do you remember if any of those three were recorded
12 in any way by a video recorder or by a tape recorder or anything to that
13 extent?

14 A All three recorded my -- recorded, yes, all three did record
15 something.

16 Q Okay. But you're sure about that?

17 A Yes. They offered me my rights as to needing a lawyer. I do
18 believe they did that.

19 Q Do you remember the three interviews on that day in May of
20 1998 where they took place? I know you said three. So, interview one,
21 do you remember where that took place?

22 A I remember one in the car.

23 Q And when you say the --

24 A That was the last one.

25 Q I'm sorry. The one you say in the car, what car are you talking

1 about?

2 A I imagine it would be his car.

3 Q His being the police officer or the detective?

4 A He -- that's who he represented was your department or was
5 the police department.

6 Q Okay. So, as far as you remember the first interview took
7 place in the police officer's or detective's car?

8 A The last one I remember was the detective in the car. I do
9 remember three different interviews. I also remember that my sister had
10 called to try to trip me because one of the officers had called her to see
11 if I could -- if my information would change, if my side of the story had
12 changed.

13 Q I'm sorry. What do you mean by that? Your sister -- your
14 sister called you or who did your sister call?

15 A She called me to see how I was.

16 Q And which sister are you referring to?

17 A My older sister.

18 Q Okay. And what is her name?

19 A Leslee Karen Siegel.

20 Q And that was the day -- that same day of May 16th?

21 A That same day.

22 Q Okay. And I'm sorry. I think the word you used was she's
23 was trying to trip you up?

24 A That was my feeling.

25 Q Okay. And what did you -- what do you mean by that?

1 A Because of the police officers had called her to see if I would
2 change my story or --

3 Q How do you know that?

4 A I know that -- I know that because she may have told me -- I
5 believe she told me.

6 Q So, I don't want to forget. So three interviews. I just want to
7 kind of get an idea -- you said one took place in the detective or police
8 officer's car. Do you remember another one, the second and the third,
9 where they took place at?

10 A All three if I remember -- this is now 2018. We're talking about
11 2000 -- 1998. To my best recollection [sic] -- recollection, three separate
12 interviews, three separate officers, three sets of hand prints and palm
13 prints, and one we had to make -- well, two were taken there of my
14 brother and I. One was a request from PD here from a private source of
15 a third set of prints, mainly the palm print.

16 Q Let me -- I don't mean to cut you off, but I kind of -- I don't
17 want to drag on all afternoon. I know you're here from California. I first
18 want to lock down -- you said three different interviews, three different
19 detectives. One took place in a police officer car. The other two, where
20 did they take place at?

21 A They took outside of the car. They were outside of the car.
22 Where they took place, that's what I remember, outside the car.

23 Q Both of those?

24 A Yes.

25 Q And do you -- you mentioned that they read you your rights in

1 one of those interviews?

2 A I remember them reading rights to all three. I had nothing to
3 hide.

4 Q And in at least one of those -- and I know we're talking 20
5 years later so I'm asking to the best of your recollection -- in one of
6 those interviews the detective or the police officer asked you whether
7 you were involved or responsible for the death of your father; is that
8 correct?

9 A I don't remember that question coming up as a answer
10 question thing.

11 Q Okay. You don't remember in any of those interviews, any of
12 those detectives asking whether you're the one who killed your father?

13 A I said no to anybody who asked me I said no.

14 Q Okay. So, let me clarify because I don't know if I
15 misunderstood you. I'm a little confused. My question is do you
16 remember during any of those interviews, a police officer or detective,
17 asking you whether you killed your father?

18 A I did not. I never killed my father. I was never --

19 THE COURT: Okay. Sir, sir. The question wasn't whether
20 you killed your father.

21 THE WITNESS: No, I did not.

22 THE COURT: Let me finish. Do you remember if the police
23 officer asked you that?

24 THE WITNESS: No, I do not.

25 MR. YANEZ: Thank you, Judge. Well, we have a stipulation,

1 Judge. I don't want to --

2 THE WITNESS: There --

3 THE COURT: Did you want to change an answer, sir? Do
4 you want to change an answer?

5 THE WITNESS: No, I'll [indiscernible]. I'm sorry.

6 THE COURT: That's okay.

7 MR. YANEZ: Judge, can I approach?

8 THE COURT: The witness?

9 MR. YANEZ: Yes.

10 THE COURT: Do you have a question?

11 MR. YANEZ: I'm going to. I want him to review something
12 and then I'm going to ask him a question. It's one of his transcribed
13 statements to the police.

14 THE COURT: Okay.

15 BY MR. YANEZ:

16 Q Jack, if you could just read briefly to yourself and then I'm
17 going to ask you a question. Do you see where it says Q right there?
18 Do you see that, Jack?

19 A Yes. And that was my answer?

20 MR. YANEZ: Well, I just want you to read -- would you read
21 that yourself, and it's page 13. It's the third question from the bottom.
22 Were you able to read that and the answer?

23 THE WITNESS: This is the one you're talking about.

24 MR. YANEZ: Yeah. Just let me know when you're done
25 reading and then I'm going to ask you a question about it.

1 THE WITNESS: Okay.

2 BY MR. YANEZ:

3 Q You've had a chance to read that, Jack?

4 A If it's written like that sounding in the head.

5 Q Well, my question is did you get a change to read that?

6 A I did read it.

7 Q Okay. And you'd agree with me what you read the Q, the
8 question part, the police officer asked you by chance you didn't go on
9 one of those raves and walk over to your father when he's sleeping and
10 hit him in the head did you, and your answer was no; is that correct?

11 A Yes. I did not hit him in the head.

12 Q Okay. The detectives though did ask you whether you were
13 responsible or you're the one who killed your father based on what you
14 just read; correct?

15 A From what I just read it said I did not hit him in the head.

16 Q Okay. And the detective asked you whether you did hit him in
17 the head; correct?

18 A And I said no.

19 Q Okay. One of the -- I want to move this along a bit -- one of
20 the other questions that the detective asked you was about your father's
21 car. Do you remember him asking you a question about your father's
22 car?

23 A Refresh my -- like I said, you need to refresh my memory.

24 Q Absolutely. What you told -- in general, your memory, what
25 you told the detectives was that when you're -- you left your father's

1 apartment or where he was staying at and you were staying with him,
2 you left because you were having knee pain. So, you decided to go to
3 the hospital; do you remember telling that to the police?

4 A Yes, sir.

5 Q Okay. And so when you left you told the detectives your dad
6 was alive and asleep on the couch?

7 A I -- yes, I did let 'em know where I was going, yes.

8 Q Okay. And you left to go to the hospital in your father's car?

9 A Yes.

10 Q Okay. And then when you came back hours later you told the
11 police you found your father dead?

12 A I found him dead, yes.

13 Q So -- during the time -- during the time you left to go to the
14 hospital for knee pain, you got to the hospital in your father's car, right,
15 that's what you just said?

16 A Yes.

17 Q Okay. The detectives, or the detective at least in this
18 transcribed interview that I have, asked you about whether there would
19 be any blood found inside your father's car; do you remember that?

20 A Not knowing what he was describing, I don't remember -- it's
21 been years. I don't know what he asked.

22 Q Okay.

23 A But he does do finger sticks because he does have a blood
24 sugar problem and it's possible while he was driving when he could
25 drive that there would be some blood on -- inside the car.

1 Q Hold on. Let me -- I want to make sure so we're not spinning
2 our wheels here. I believe the answer to your question was you don't
3 remember the detective asking anything about whether --

4 A I can't -- at this year and time, no, I cannot remember. I tried
5 -- I cannot remember.

6 MR. YANEZ: Permission to approach, Judge?

7 THE COURT: Yes.

8 MR. YANEZ: And the same thing we did before. I'm just going to
9 ask you to read to yourself the question and answer and then I'm going
10 to ask you questions about it. And, again, you can take your time with it.
11 But on the third question from the bottom there's the Q and then the A.
12 Can you just read that Q and A to yourself and let me know when you're
13 done because I'm going to ask you some questions.

14 THE WITNESS: Okay.

15 BY MR. YANEZ:

16 Q You've had an opportunity to review that, sir?

17 A Do I have a --

18 Q Hold on. I just want to make --

19 A The first one. Okay. The question I do and the answer I do.

20 Q Okay. So, the detective asked you, do you have any reason
21 to believe we might find anything in the car as far as blood or anything
22 like that? That was the question; correct?

23 A That was the question, yes, sir.

24 Q Okay. And your answer was no?

25 A True.

1 Q Okay. Do you remember speaking to the police after May 16th
2 of 1998?

3 A Just the one time. I believe his name was -- he's got blond
4 hair. Christensen, I think, his name was. That was the last time I
5 interacted with the police department.

6 Q Christensen a police officer or a detective? I'm sorry. Who is
7 Christensen?

8 A Christen -- he was the lead detective. The last time I was
9 here when he did that. This is the second time I've been here. The first
10 time, he's now retired, but he was the lead detective at that time.

11 Q You did an interview with him after May 16th, 1998?

12 A We -- my whole family was there. Well, my brothers, I know,
13 were there, my older brothers.

14 Q Let me ask you this. Do you remember coming to Las Vegas
15 in June of 2004 to speak to the police?

16 A Oh, that one I do. Okay. I did -- I don't remember the year. I
17 did show up at that time, yes, I do.

18 Q Do you remember -- was it you that set up that interview?

19 A I asked to be -- asked to -- I asked to have them look at
20 something I had.

21 Q Okay. And as far as you can remember, that was
22 approximately June of 2004; does that sound about right?

23 A Approximately. It sounds right, yeah.

24 Q And at that time you were living in Las -- I'm sorry -- you were
25 living in California in June of 2004?

1 A I was living in -- yes, sir.

2 Q Okay. And you contacted -- do you remember the name of
3 the detective or detectives that you spoke to?

4 A Well, at that time I believe it's now Detective Hardy that is part
5 -- he was the partner of the lead detective on my dad's murder. He was
6 then -- I guess he was the only one left of that duo that was part of my
7 dad's investigation.

8 Q And in between your father's death when you gave those
9 three interviews and the interview that you did here in Las Vegas in
10 about June of 2004, do you remember speaking to the police or
11 detective or being interviewed or questioned during those six years
12 approximately?

13 A Yeah. It was Hardy, it started with an H, and some new guy,
14 new individual I have no -- he was never part of the original
15 investigation.

16 Q Okay. So, you did speak to police officers during that time?

17 A I -- there was two in the room at the time. Whether they were
18 police or not, they said they were.

19 Q Okay. Let me -- I'm going to state my question again because
20 we might be missing each other. You've already told us that you spoke
21 with the police three times on May 16th, 1998. You've already just told
22 us too that you came to Las Vegas to speak to at least Detective Hardy
23 in June of 2004. Okay. So, that's approximately [indiscernible], that's
24 approximately six years, give or take.

25 A Right.

1 Q And question, sir, is --

2 A Yes.

3 Q -- during those six years --

4 A Yes.

5 Q -- did you speak to any police officer or detectives or give
6 interviews to the police about your father's death?

7 A Just the one time you -- I came out here in approximately
8 2004.

9 Q Okay. And do you remember calling the detective and asking
10 to meet with them?

11 A Yes, I did.

12 Q Okay. What did you tell the detectives why you wanted to
13 meet with them?

14 A I don't remember. I wanted to just have them look at some
15 documentation that I received -- yes, I do not remember the exact
16 reason why I called them. I do remember why I wanted to meet with
17 them.

18 Q Okay. Why did you want to meet with them?

19 A I wanted to meet with them because of documentation of
20 record integrity of L.A. County who is also my tax collector and my
21 employer and discrepancies in monies missing.

22 Q Do you remember telling the detective, at least Detective
23 Hardy, that you wanted to talk to them because you felt or believed that
24 someone was trying to frame you for the murder of your father?

25 A Yes, based upon the amount of evidence that -- I was the only

1 suspect. They found one more print they couldn't identify. Las Vegas
2 got some money to do forensic evidence, they did it, and through that
3 ability to obtain funds to do something that's how they got this character.

4 Q You just stated that you were their only suspect. What did you
5 mean by that and why do you say that?

6 A I say that because I -- that's because that's who they were --
7 that's how I was being picked up as the suspect because I brought
8 weights to work out with, just weights. I would push him down to
9 breakfast in the morning and have him eat breakfast. I would go for a
10 walk. I had something there just to lift with, just to curl, you know, basic
11 stuff. And these would be the weights that they used -- the weight that
12 this character, the person that is on trial now, utilized to hit him in the
13 head four times.

14 Q So, you told the detectives that you wanted to meet with them
15 because you felt someone was framing you for your dad's murder, and
16 that you had documents or proof of --

17 A I had --

18 Q -- what you thought; is that fair to say?

19 A Possible, possible connection to --

20 Q Okay.

21 A -- me being framed due to the fact that they only found one
22 print, and there was one they couldn't identify.

23 Q And you -- you agree to come here to Las Vegas for that
24 interview?

25 A Yes.

1 Q Okay. Did you -- did you come by car or did you fly down
2 here?

3 A No, I drove down.

4 Q Okay. Did you go with anyone else or was it just you?

5 A No, I had company.

6 Q Okay. Who were you with?

7 A Just two friends of mine that came down.

8 Q Okay. Do you remember their names?

9 A I do remember a Martha; I do remember a Yesenia.

10 Q Okay. Do you know Martha's last name?

11 A It would have been Morales.

12 Q Okay. And you're saying she was a friend of yours?

13 A She was a friend.

14 Q And the other person was Yesenia?

15 A Yeah.

16 Q Do you know Yesenia's last name?

17 A Yesenia Orozco. They were just companions coming down
18 with me keeping me company.

19 Q Did they go with you to the interview with the detective?

20 A No, no.

21 Q Do you remember as you sit here today what documents or
22 information, actual physical documents, that you had and took to that
23 interview with the police in 2004?

24 A Well, basically, it was a false tax lien. It was --

25 Q Hold on. I want to stop you so I don't keep going back. What

1 false tax lien; can you give a description of that?

2 A It started in 1998. I was on a IA, a worker's comp case that
3 included my low back and stress. During that time, I came back to work.
4 We settled out in '99. I could have been back to work in August of '99.
5 It sat there on somebody's desk, the same person who said I was over
6 paid. And they made a -- and they sent me two different statements
7 because one they didn't take out taxes and the other time they did take
8 out taxes.

9 Q And let me stop you right there. So, again, the tax thing then
10 you called it a false tax lien. The tax lien was against your taxes -- your
11 income tax, your property?

12 A Property.

13 Q Okay. Against you personally?

14 A Well, I can't say against me personally but --

15 Q What I mean. I'm sorry. What I mean by that is your
16 property?

17 A Okay. My property.

18 Q Okay.

19 A I paid in -- I paid it off. I called the property tax. I spoke to a
20 person named Scott who happened to tell me that all my property taxes
21 was cleared.

22 Q Okay. And I don't mean to cut you off, but I just want to stay
23 relevant to what we're discussing here today. I don't mean to be rude.

24 A Okay.

25 Q You indicated some of the documents you brought were the

1 documentation about a tax lien that was against your property?

2 A Basically I didn't find out --

3 Q Correct?

4 A No, I didn't have that. I didn't find out till 2010.

5 Q And my question is that is some of the documents that you
6 brought in 2004 to show the detectives; correct?

7 A No.

8 Q You didn't bring that with you?

9 A No, I did not.

10 Q Okay. But you told the detective about that?

11 A No, I did not.

12 Q You did not. Okay. And that's why I want to make sure we're
13 on the same page. I want to know what -- first of all, what you brought
14 with you document wise to the detectives?

15 A When I returned in 2000, I finally got back to work. I worked
16 for four days. A similar female who also was just -- just hired by the lab
17 department, she got paid four days. I called my payroll person. I did not
18 get paid for four days. I did not work enough days in a pay period to
19 generate a four day check. But a woman who got hired the same day I
20 came back, she got paid for four days.

21 Q I understand that, Jack.

22 A I don't know how you understand that.

23 Q And let me -- I'm going to ask this and tell me if you don't
24 understand the question. What I want to talk to you about right now is
25 what documents --

1 A That's what I wanted them to know.

2 Q Okay. Here's my -- my question is, and what I'm going to ask
3 you questions about is what actual documents, if you can describe them
4 to me, we can go one at a time, that you gave the detectives. Do you
5 have a memory --

6 A I didn't -- the detectives would not look at any of my
7 documents because they said the only people that could go across state
8 lines was the FBI.

9 THE COURT: Okay. So, here's what we're going to do, right,
10 because I have like a thousand things to do and I, at some point, have to
11 get to them.

12 So, what I'm going to ask you to do is I'm going to ask you to
13 tell us, to the best of your recollection, don't explain the whole thing.
14 Just tell us what the paper was. It was a paper from my office, it was a
15 paper about my paycheck, it was a paper about home health; it was a
16 paper about aliens on Mars. What the paperwork was.

17 THE WITNESS: Yeah, I -- I'm sorry, Your Honor, really I am.

18 THE COURT: Just don't tell us what it had to do with. Just
19 tells us what the paper was.

20 THE WITNESS: Okay. The paperwork was from how -- we
21 have a code of equity -- code of conduct within L.A. County that talks
22 about -- sorry-- talks about record integrity.

23 THE COURT: Did you bring the code on conduct?

24 THE WITNESS: I can bring an issue with me.

25 THE COURT: No, no. When you went to the detectives.

1 THE WITNESS: Oh, yes, I did, yes, ma'am.

2 THE COURT: Okay. Did you bring paperwork about your
3 employment?

4 THE WITNESS: Yes.

5 THE COURT: Whether it's about your pay, your checks --

6 THE WITNESS: Yes.

7 THE COURT: -- your retirement, your benefits. Was it
8 paperwork about your employment? Yes or no.

9 THE WITNESS: No.

10 THE COURT: Okay. Was it paperwork about the property
11 you owned? Any paperwork about the property you own?

12 THE WITNESS: Can I cut to the chase and just say it had to
13 do with payroll?

14 THE COURT: If you could cut to the case, sir, I wouldn't be
15 asking you these questions.

16 THE WITNESS: Okay. Sorry. I'll be quiet. I apologize.

17 THE COURT: I wouldn't be interrupting counsel because I'm
18 in physical pain.

19 MR. YANEZ: And, Judge, I have a few specifics. Hopefully
20 this will --

21 THE COURT: Sure.

22 MR. YANEZ: -- get us back on track.

23 BY MR. YANEZ:

24 Q Do you remember giving the detectives documentation about
25 a account that was opened at the water and power credit union under

1 your father's name; do you remember that?

2 A I did not give an account under my father's name because the
3 account would have been through Ian M. Siegel not --

4 Q No. My question -- my question --

5 A No, I did not give them a copy of my father's account.

6 Q Okay. That's based on your memory sitting here today;
7 correct?

8 A That's based upon --

9 Q Okay.

10 A -- how water and power puts numbers on individual account
11 members who are part of my brother who was the original opener of that
12 account.

13 Q Do you remember talking to the detectives -- and I'm not
14 talking about documents -- do you remember telling the detectives that
15 someone that opened up an account --

16 A Yes, I --

17 Q Hold on. Let me finish the question. Do you remember telling
18 the detectives that someone opened an account in California using your
19 father's name the day after his murder which would have been May
20 17th? Do you remember telling them, telling the detectives that?

21 A After -- yes, I possibly can.

22 Q Okay. That's a good enough answer. The -- do you
23 remember providing the detectives with documents about U.S. saving
24 bonds in your name that were cashed in San Francisco; do you
25 remember that?

1 A Yes, I do.

2 Q Okay. And do you remember talking to the detectives about
3 those cashed savings bonds?

4 A Yes. I don't remember talking to them, but I do remember
5 bringing them up.

6 Q Okay. Do you remember in total about how many pages of
7 documents you gave the detectives?

8 A I did not give the detectives any documents. As I mentioned
9 before, what happened on the other side of the border in California they
10 could not look at anything until the FBI got involved because it is a
11 interstate type of situation.

12 Q Understood. Did you bring documents with you to that
13 interview in 2004?

14 A Yes, I did -- yes, I did.

15 Q Okay. When you saw the detectives, you were physically in
16 front of them, did you have those documents with you?

17 A I started -- yes, I did.

18 Q Okay. Those documents that you had in your hands, okay,
19 I'm not asking you whether they took them or you gave it to them, how
20 many pages approximately did you have?

21 A I had a duffle bag next to me and some in front of me.

22 Q Okay. So, it is fair to say a large amount?

23 A Large amount.

24 Q And did you try or attempt to give those documents or show
25 those documents to the detective?

1 A Yes, I did.

2 Q Okay. And your testimony is that those detectives refused to
3 look at them?

4 A Yes, I did.

5 Q Okay. When you were done with that interview, where did
6 those documents go? Did you take them with you?

7 A I put them back where they -- into the duffle bag or the bag
8 that I brought them in or a plastic bag.

9 Q So, those detectives did not take a single piece of paper of
10 those documents that you took to that interview; correct?

11 A Correct. They said it'd make a good story though.

12 Q Do you know where those documents are today?

13 A I've been through them so much I could not tell you where
14 they are. I've moved several times between now and then.

15 Q You don't know if you have those in your possession?

16 A I have some. I've requested some from the treasury
17 department. When I did return back to work that's also -- when I did
18 return back to return I had cancelled savings bonds in April of '96 which
19 means I would have gotten one from May in June. I should not have
20 gotten one.

21 Q Let me ask you this, sir. That interview in June of 2004, do
22 you know if that interview was either video recorded or tape recorded?

23 A No, I do not.

24 Q You don't know or you know it wasn't?

25 A I do not know.

1 Q You do not know. Okay. Now, do you remember
2 approximately, that interview in June of 2004, how long that interview
3 took?

4 A I could not give you a timeframe.

5 Q Those documents that you tried to give the detectives, did you
6 ever give copies of those documents to anyone else?

7 A I -- yes, I have.

8 Q Who had you given those documents to?

9 A Some documents -- these would have been documents that
10 happened in 2005.

11 Q Hold on. I just want to make sure we're on the same page.

12 A I know. I understand.

13 Q Okay. I'm specifically talking about the documents you tried to
14 give those detectives. You said they were in a duffle bag and some in
15 front of you. You took them with you. Those documents, do you know if
16 you gave a copy to anyone else?

17 A The only time the documents were given to anybody was to a
18 psychiatrist who went back to 2003 and gave me 75% of a mental
19 illness, of a mood disorder, and hypertension and everything else.

20 Q Did you ever try to give those documents to any other police
21 officers or detectives after that meeting in June 2004?

22 A I have no need to see the police in 2004. Up to that time,
23 2000, I was picked up on a warrant for a failure to appear in Court.

24 Q Your belief, you're belief that someone -- the reason you set
25 up this interview with the police is because someone was trying to frame

1 you for your dad's murder. Did you discuss this belief with anyone else
2 besides those two detectives?

3 A No. What I did say is I was framed.

4 Q Did you discuss that with Yesenia? Did you discuss that with
5 Martha?

6 A No, I did not. They just were -- just people to drive up with.

7 Q Okay. Did you know the other -- you're aware that there was
8 a elderly female who was found killed the day after -- approximately the
9 day after your dad was found; you're aware of that?

10 A I'm aware through my sisters.

11 Q Okay. Do you remember talking to the detectives about who
12 you thought killed that person?

13 A No, I did not. I was never asked about that person because it
14 happened after my dad's murder.

15 Q Do you remember that female's name?

16 A I say Sachaw [phonetic], Helen.

17 Q Helen Sabraw; does that sound right?

18 A It could be. I refer to her as Sachaw. That's all I remember.

19 Q Okay. Back then when you were staying with your dad from
20 February until May, did you know this Helen Sabraw? Did you interact
21 with her?

22 A I -- there was one time somebody asked me to pick up
23 Dramamine because that's how they fell asleep or it would help them
24 sleep. That would have been -- besides my father's group sessions
25 once a week with other Jewish members and talking to two other

1 women, she would have been the only one that I knew about.

2 Q Do you have a memory of speaking to Helen?

3 A I wouldn't -- I don't remember a name. I remember a woman
4 present and at the time I dropped the Dramamine off. The two women
5 that I spoke to sat in the table next to my dad and we just had a
6 conversation. That would be -- and just the members of his group that
7 he was involved with at Saturday services or something like that.

8 Q The few hours before you left your dad's apartment to go to
9 the hospital for your knee pain, was Helen or any other female inside of
10 your dad's apartment?

11 A No. I let my dad know I was going because of the tremendous
12 amount of pain; I was going to the ER because there was a fever that
13 was on my knee. I instinctively went right instead of left because the
14 hospital was -- so I went right, right, right, and signed in at 1 o'clock
15 there.

16 Q With your interview with the detectives in June of 2004, do you
17 remember talking to them about your belief that a black male adult could
18 have been responsible for the death of your father and Ms. Sabraw; do
19 you remember that conversation?

20 A All the information I received about anything was that they
21 found the DNA.

22 Q Hold on sir. I want to make sure that you --

23 A I don't remember.

24 Q -- that my question. Okay. Do you remember telling the
25 detectives that a company called Homestead health care had for a week

1 taken care of your dad while you were out of town?

2 A Homestead Senior Care.

3 Q Do you remember that?

4 A Yes, I do.

5 Q Do you remember telling the detectives that you believed
6 there was a black male adult who worked for that company --

7 A It was a black female -- I'm sorry -- it was a black female who
8 took care of my dad.

9 Q Okay. But my question is do you remember telling the
10 detective that it was a black male who took care of your dad and also
11 you believed took care of Helen Sabraw; do you remember that?

12 A No, I do not remember saying that.

13 Q Okay. Do you remember telling the detectives that a person
14 by the name of Ax, A-X, was responsible for the death of your father and
15 Helen Sabraw?

16 A Never -- and I'm sorry -- never asked about an A-X.

17 Q Okay. You don't remember telling the detectives anything
18 about a person named Ax?

19 A Ax was never part of my -- no, I do not.

20 Q Okay. Do you remember telling anyone at all about a person
21 named Ax, A-X, whether it's your sister or anyone else in your family?

22 A Never. Don't remember.

23 Q And you don't know a person by the name of Ax or do you
24 know a person by the name of Ax?

25 A I do not know a person named Ax.

1 Q Do you know a person by the name of John Valdez?

2 A Yes, I do.

3 Q Okay. Who is John Valdez?

4 A John Valdez was introduced to me by a person that I -- he's
5 just someone that I was introduced to.

6 Q Okay. Is he a friend? How do you know him?

7 A A friend. After a while a friend, yes.

8 Q Okay. Did you tell the detectives, your sister, or anyone else
9 that he may have been involved in the murder of your father?

10 A No. I never mentioned him as a murderer of anybody.

11 Q Okay. Back then when you were taking care of your dad,
12 besides helping him physically move around, you were also helping him
13 with his banking or his financial things; is that correct?

14 A No.

15 Q Okay. You never helped your dad with his banking?

16 A Not that I can recall. Please restructure that as to what you
17 mean by banking.

18 Q Sir, part of -- you already explained to the Court that some of
19 the things you did to help your dad was help him move around, right,
20 because physically he wasn't well?

21 A Doctor appointments, grocery shopping.

22 Q Okay.

23 A And physical therapy.

24 Q All right. And part of that did it include helping your dad with
25 his financial things; for instance, paying bills, credit cards, going to the

1 bank, bank accounts, stuff like that?

2 A No. He could do all his own writing.

3 Q So, you never helped him in any way with that?

4 A No, I did not.

5 Q Okay.

6 A That I can recall.

7 Q You were aware at that time that your dad had a life insurance
8 policy?

9 A No.

10 Q Okay. Were you aware of any bank accounts he may have
11 had --

12 A No.

13 Q -- or annuities?

14 A No, not till after was murdered.

15 THE COURT: Ms. Weckerly, how lengthy is your --

16 MS. WECKERLY: The other witness? Oh, the cross?

17 Probably less than five minutes.

18 THE COURT: Okay. And your other witness is who? Your
19 witness, I mean?

20 MS. WECKERLY: We're going to discuss whether we're
21 going to call her. It's Leslee Siegel.

22 THE COURT: Okay.

23 MS. WECKERLY: But she would be very brief.

24 THE COURT: How brief?

25 MS. WECKERLY: Five minutes.

1 THE COURT: Okay. Mr. Yanez --

2 MR. YANEZ: I'm getting close, I'm getting close to wrapping
3 up, Judge. Court's indulgence.

4 THE COURT: Because I have to break in the middle, you
5 know.

6 BY MR. YANEZ:

7 Q I do have a few more questions, Jack. You told the Court that
8 none of the documents that you wanted to provide the detectives took
9 them. Are you aware after you're meeting with the detectives in June of
10 2004 whether they followed up or did any further investigation about
11 what you told them during that interview in June 2004?

12 A It would make a nice story or a book or a movie or something.
13 You should write about it.

14 Q Okay.

15 A Like it meant nothin' to him.

16 Q Okay. Is there any reason why you just described it like that?
17 Is that how they described it to you or is there a reason why you just
18 said it like that?

19 A No. This was given to me by Hardy that this would probably
20 make a good book.

21 Q But those were the words he used?

22 A Something like that. Whatever it was that I brought it would
23 make a good story, book maybe. I don't know. I thought that --

24 Q So, after that interview of June 2004, you never received a
25 phone call from Hardy or any other detective saying based on our

1 meeting I followed up and here's what I have?

2 A Exactly. I only got a summons to come back and that was
3 after 2004 we had a hearing and that was the last time. I stayed away
4 from the whole thing altogether. I was not -- except for what my sisters
5 told me and meeting with the DA.

6 Q A while back I asked you a question about that first interview
7 back in May of 1998 where the detective asked you questions about
8 whether there would be blood in your father's car; remember those
9 questions I asked you?

10 A Yes, I do.

11 Q Okay. In the interview six years later in June of 2004, did they
12 ask you any questions about whether blood had or had not been found
13 in that car?

14 A I -- right. They did not ask. It was discovered in the
15 investigation of the murder that it was due to the finger sticks because
16 he has blood sugar problems.

17 Q Who told you this?

18 A This was discovered by who was ever doing the investigation.
19 It was determined that the blood came from him doing finger sticks and
20 keeping sugar pills in case it would have dropped, he could pop a sugar
21 pill and he would be just fine.

22 Q Is this something a detective or a police officer actually told
23 you or is this just a memory that you have?

24 A No, it's not a memory. It was due to an investigative --
25 investigation of the murder itself because they --

1 THE COURT: Okay. Wait, wait.

2 THE WITNESS: -- confiscated the car.

3 THE COURT: Sir, sir.

4 THE WITNESS: Right. Yeah, no.

5 THE COURT: The question was did someone tell you that?

6 Not what your summary of the investigation was.

7 THE WITNESS: Okay. Nobody personally told me anything.

8 THE COURT: Okay. Thank you.

9 BY MR. YANEZ:

10 Q The two people that you came to Las Vegas with, Yesenia
11 and Martha Morales, are you aware of whether during that time or any
12 other time the police attempted to interview those two people?

13 A They did not attempt to do anything with them as they were
14 not part of the investigation.

15 MR. YANEZ: I have nothing further at this point, Judge.

16 THE COURT: Cross-examination.

17 **CROSS-EXAMINATION**

18 BY MS. WECKERLY:

19 Q Mr. Siegel, I really just have one question. I want to talk about
20 the paperwork that you brought in the duffle bag that was six years after
21 the murder; you know what I'm talking about?

22 A Yes, yes.

23 Q That paperwork, did it all relate to like government entities and
24 your employment and things that occurred in California?

25 A Yes, they did, and that's -- yes.

1 Q Okay. And is that why the detective said, you know, we don't
2 investigate what happened in another state. The only -- the FBI can
3 cross state lines.

4 A Right.

5 MR. YANEZ: I'm going to object as to speculation as to why
6 the detectives thought something.

7 THE COURT: Sustained. One seconds, please. She has to
8 re-ask the question or ask a different question, excuse me. Okay.

9 BY MS. WECKERLY:

10 Q Okay. In response to that -- those issues that you showed
11 them in that paperwork, is that when they mentioned the FBI?

12 A Yes.

13 MS. WECKERLY: Thank you. I have nothing else.

14 MR. YANEZ: Just briefly, Judge.

15 **REDIRECT EXAMINATION**

16 BY MR. YANEZ:

17 Q At the time you believed someone in June of 2004, at that
18 time you believed someone was trying to frame you for the murder of
19 your father; is that correct?

20 A Yes.

21 Q Okay. And you believed that the documents that you had in
22 that duffle bag supported or substantiated or proved that belief; correct?

23 A There was not -- not to -- I don't know how to answer that. I'm
24 sorry.

25 Q Okay. Let me ask you this. Do you have any prior felony

1 convictions?

2 A No, I do not.

3 Q Okay. Have you ever been on probation in California?

4 A For traffic.

5 Q Okay. For traffic as in driving a car violations?

6 A Right.

7 Q I'm going to try to rephrase that last question and it's my last
8 question.

9 A Sure.

10 Q The reason you brought those documents in that duffle bag to
11 your interview was to show the police some type of proof of your belief
12 that you were being framed; is that fair to say?

13 A Yes.

14 MR. YANEZ: Okay. Thank you.

15 THE COURT: Anything else?

16 MS. WECKERLY: No, Your Honor.

17 THE COURT: Thank you very much for your testimony, sir.
18 You're excused. If you're going to call another witness I'm going to have
19 do it in an hour. I can't -- you know, maybe like 2:20. Can you --

20 MS. WECKERLY: Sure.

21 THE COURT: You want to call someone? Okay.

22 MR. YANEZ: And, Judge, I don't know if this makes a
23 difference because I don't know if the witness is out of state.

24 THE COURT: Sir, you can go.

25 MR. YANEZ: We were going to ask for the hearing to be

1 continued in part because we would like Detective Hardy to come testify
2 based on what Detective Mogg said. So, I don't know of that -- if we just
3 want to move everything to that point. I just bring that to the Court's
4 attention.

5 THE COURT: It's not if she's from -- no.

6 MS. WECKERLY: She's from California.

7 THE COURT: Okay. Could you ask her to come back at
8 2:20?

9 MS. WECKERLY: Sure.

10 THE COURT: Okay. So, you're on notice that they're going
11 to ask to have the detective come. Okay.

12 [Recess taken at 1:08 p.m.]

13 [Proceedings resumed at 2:27 p.m.]

14 THE COURT: The record shall reflect all counsel. Defendant
15 is present for the hearing and the Defendant still has the services of the
16 Court certified interpreter. Do you want to call your witness now?

17 MR. PESCI: The State calls Leslee Siegel.

18 MR. YANEZ: And, Judge, I know we previously invoked the
19 exclusionary rule. That obviously it's still applying.

20 MR. PESCI: She's not a witness in the case.

21 MR. YANEZ: Thank you.

22 THE COURT: Okay. Do you need help?

23 THE WITNESS: No, thank you. I'll manage.

24 THE COURT: If you could face my clerk and raise your hand
25 to be sworn.

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LESLIE SIEGEL

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

THE COURT CLERK: Thank you. Please be seated. State
and spell your first and last name for the record.

THE WITNESS: I'm Leslee Siegel.

THE COURT: Go ahead -- now you can have a seat. State
and spell your name, please.

THE WITNESS: Leslee Karen Siegel, L-E-S-L-E-E
K-A-R-E-N S-I-E-G-E-L.

MR. PESCI: May I proceed, Your Honor?

THE COURT: Yes. Thank you.

DIRECT EXAMINATION

BY MR. PESCI:

Q Thank you. Ma'am, did you recently have surgery?

A Yes.

Q Is that part of the reason why you're having difficulty walking?

A Yes. I had spinal surgery.

Q If I've understood you correctly it does actually hurt if you sit
for too long?

A Yes.

MR. PESCI: With Her Honor's permission if at some point
you're uncomfortable, is it okay if she stands, Your Honor?

THE COURT: Of course.

MR. PESCI: So, just let us know if you get to that point and

1 then you can stand up with her permission. Okay.

2 THE WITNESS: Okay.

3 BY MR. PESCI:

4 Q Thank you, ma'am. I want to ask you who was Wallace Siegel
5 to you?

6 A My father.

7 Q Okay. And if you could raise your voice a little bit. I'm very
8 sorry.

9 A My father.

10 Q Thank you. And there's a woman that's translating so we'll try
11 and go slow, really more me than you, so that the translation can occur
12 between our conversation. Okay.

13 A Okay.

14 Q Thank you, ma'am. And who is Jack Siegel to you?

15 A My youngest brother.

16 Q Okay. What's the age difference between you and him, how
17 many years?

18 A Three.

19 Q Okay.

20 A Three or four. He's 57, I'm 52 -- 54.

21 Q I wasn't trying to ask your age, ma'am, I know I shouldn't do
22 that. I'm just trying to figure out how close the two of you were in age?

23 A I think it's four -- three or four years.

24 Q Okay.

25 THE COURT: Are you the older one or the younger one?

1 THE WITNESS: I'm older than he is.

2 THE COURT: So, you're 57?

3 THE WITNESS: I'm 64.

4 THE COURT: Oh, 64.

5 BY MR. PESCI:

6 Q So, ma'am, silly question. But have you known your brother
7 his entire life?

8 A Yes.

9 Q Okay. Do you remember him going into the armed services?

10 A Yes.

11 Q What year was that?

12 A It was in the late '70s into the early '80s.

13 Q Do you remember when he was discharged or when he came
14 out of the Navy?

15 A He came out in the '80s.

16 Q I apologize. I jumped the -- did he serve in the Navy?

17 A Yes, he did.

18 Q Okay. Did you notice a change in his behavior after he was
19 discharged from the military?

20 A Yes.

21 Q Okay. Could you describe that?

22 A He wasn't the same. He became a little bit more paranoid and
23 just -- he was different.

24 Q All right. And let me ask you this. You said it was the '80s
25 that he came out of the military?

1 A I believe so.

2 Q Okay. And that paranoid that you just described, did you
3 personally experience that interacting with your brother starting in the
4 '80s and moving up to today?

5 A Yes.

6 Q In your opinion, from your personal interaction with him, has
7 that worsened over the years?

8 A Yes.

9 Q Okay. Now, I want to kind of jump to 1998. In 1998, did you
10 have much interaction with your brother?

11 A Not a lot, no.

12 Q Okay. But at the time of your father's murder, did you have
13 some interaction even if it's on the phone, with your brother, Jack?

14 A Yes.

15 Q Okay. How would describe his mental health in '98 after your
16 father's death?

17 A He was just different, very, very different. It was -- he became
18 paranoid.

19 Q Okay. Let me jump forward to 2004 leaving 1998 behind and
20 going to 2004. Did you interaction with your brother during that time
21 period?

22 A Not a lot, no.

23 Q Okay. I apologize for asking, but is the lack of interaction
24 somewhat due to your brother's mental health?

25 A Partly.

1 Q Okay. And let me put it to you this way. If you have or when
2 you had conversations with him, have you had difficulty having a
3 coherent conversation with him?

4 A At times, yes.

5 Q How so? Why? What happens?

6 A It's just hard to communicate with him because he doesn't --
7 he's like a mentally ill person that you can't discuss things with because
8 they just don't -- they don't listen. They have in their own mind what
9 they want to say and that's all they want to say.

10 Q Okay. And speaking about a particular topic considering the
11 context of your brother's mental health, has he ever talked to you about
12 L.A. County doing something to him and doing him wrong as far as his
13 employment?

14 A Yes.

15 Q Okay. Has he been fixated on that particular issue?

16 A Yeah.

17 Q Do you know whether or not or did he ever tell you that he
18 was going to talk to the Metropolitan police department about his
19 concerns about what L.A. County had done to him?

20 A No.

21 Q Okay. Have you had any conversations with him where he
22 talked to you about the concept of L.A. County doing things wrong to
23 him?

24 A There were times but not in 2004. It was prior.

25 Q Prior to. Okay. So, do you remember those conversations

1 happening after your dad's murder?

2 A Yes.

3 Q Okay. And did that become something that he became even
4 more fixated on after your father's murder?

5 A Yes.

6 MR. PESCI: Okay. Pass the witness, Your Honor.

7 THE COURT: Cross-examination.

8 MR. YANEZ: Thank you.

9 **CROSS-EXAMINATION**

10 BY MR. YANEZ:

11 Q Good afternoon, Ms. Siegel.

12 A Good afternoon.

13 Q We have met before; correct?

14 A Did we? I don't know.

15 Q I get to ask the questions here.

16 A I remember her coming to my apartment.

17 Q Well, yeah, Ivette is more memorable than me. Do you
18 remember that there was a couple of other males --

19 A Yes.

20 Q Okay. So, you remember Ivette who is my co-counsel though
21 to my right?

22 A Yes.

23 Q Okay. And do you remember we came out to your house to
24 talk to you about this case?

25 A Yes.

1 Q Okay. And we spoke for at least a good hour. Would you
2 consider it about an hour or so we spoke?

3 A No.

4 Q Okay.

5 A Less.

6 Q Okay. But we spoke in some detail about this case; correct?

7 A It was more yelling and screaming at me. I mean, me yelling
8 at you guys for trespassing.

9 Q Okay.

10 A And not being honest with me.

11 Q Okay. And besides that, we did talk about this case; correct?

12 A There was more screaming and yelling around about, but not
13 on particular items and stuff because I needed to know if you were for
14 my dad's side or for his side, and the three of you didn't give me an
15 answer. All you said you were in exploratory or whatever for the case,
16 and I didn't want to talk to you and I found out that it was for him.

17 Q Okay. And obviously we could agree to disagree on that. My
18 focus is more on this hearing.

19 A Okay.

20 Q We did discuss your brother, Jack?

21 A Yes.

22 Q We discussed his possible involvement in the murder of your
23 father; correct?

24 A That I don't remember on the involvement part, no.

25 Q Okay. But you're willing to agree that we did speak about

1 Jack; correct?

2 A Yes.

3 Q Okay. You'd agree with me that throughout our conversation
4 you didn't mention anything about his mental health and his paranoia or
5 anything about that mental health aspect of your brother?

6 A No.

7 Q Okay. Do you remember in our conversation us discussing
8 about your thoughts of your brother's involvement in your dad's murder?

9 MR. PESCI: Judge, I'm going to object as to the relevance to
10 the context of this particular motion about the preservation of evidence
11 by police officers and her testimony as related to that.

12 MR. YANEZ: Well, it's cross-examination. She's mentioned
13 about his mental health and her interactions with him and I think that
14 relates to that, Judge.

15 MR. PESCI: The limited scope of my direct was to put in
16 context his mental health as far as the times and the years. As far as
17 their motion goes, they are trying to say that the police should have
18 preserved something. She can provide no evidence in that regard.

19 MR. YANEZ: Well then why did -- I mean --

20 THE COURT: It's a foundational question as it is -- if this is
21 relevant and why it's relevant to you would be what this witness opinion
22 may or may not have been and whether it was communicated to the
23 police or not. If not, then it's not relevant; right? So, I almost agree with
24 you but not quite until I know the answer to those two questions.

25 MR. YANEZ: Thank you, Judge. Can I proceed? Thank you.

1 BY MR. YANEZ:

2 Q Let me ask the question again. During our conversation -- let
3 me back up one other thing. Besides me and Ivette -- I'm not sure if I
4 asked you -- there was another male present; correct?

5 A Yes.

6 Q Okay. During our conversation -- that conversation took place
7 right at the front doorstep of your house; correct?

8 A Correct.

9 Q Okay. During that conversation we asked and we discussed
10 about your thoughts on your brother's involvement in your dad's murder;
11 do you remember that?

12 A I don't, not that particular part, no.

13 Q Do you remember you saying that you didn't know if your
14 brother was involved in your dad's murder or not; do you remember
15 that?

16 A I don't remember saying that.

17 Q Okay. Do you remember telling us that you spoke to a
18 Detective Hall in the year 2000?

19 A Yes. I don't know the year but I did speak to Detective Hall.

20 Q Okay. And we discussed that conversation that you had with
21 Detective Hall?

22 A For a short minute.

23 Q Okay. And that conversation that you had with Detective Hall
24 was approximately a couple years after your dad had passed away?

25 A Yes.

1 Q Okay. Does about June of 2000, does that sound about right
2 of when you would have spoken with Detective Hall about your dad's
3 case?

4 A No.

5 Q Okay.

6 A No.

7 Q Okay.

8 A No.

9 Q Okay. But it was a couple years after your dad's murder?

10 A It's just last year that we talked.

11 Q I'm sorry. Maybe I'm confused. Not when we talked. I'm
12 referencing -- now we're speaking solely about your conversation with
13 Detective Hall.

14 A I don't remember the year.

15 Q Okay. Was it approximately a few years after your dad had
16 passed?

17 A A few. Around 2005.

18 Q Okay. Is it possible that it was before that year?

19 A No. It was after he had been caught.

20 Q Okay. But you think it was in 2005; is that correct?

21 A Yes.

22 Q Okay. That conversation with Detective Hall, irrespective of
23 the date, I want to go over that with you. Okay. Do you remember
24 telling Detective Hall that you thought your brother and others were
25 involved in your dad's murder?

1 A No.

2 Q Okay. Do you remember telling Detective Hall about a person
3 named Martha Morales?

4 A I honestly don't remember the conversations we had.

5 Q Do you know a person by the name of Martha Morales?

6 A Yes.

7 Q Okay. And who is that person?

8 A She was my brother's girlfriend.

9 Q Okay. Do you remember what years they were boyfriend and
10 girlfriend?

11 A From the '80s. They met at the hospital.

12 Q So, at the time of your dad's death in 1998 they were
13 boyfriend and girlfriend at that time?

14 A Yes.

15 Q Do you remember talking to the detective about a person
16 named John Valdez?

17 A I don't know who he is.

18 Q Okay. Do you remember talking to me, Ivette and the other
19 male that was present about a guy named John who may have been
20 involved in your dad's murder?

21 A I remember the conversation being brought up, but I also
22 remember saying I don't know who that is. I never met him. I don't
23 know who he is.

24 Q I'm sorry for jumping back and forth between our conversation
25 and yours with the detective, but going back to your conversation with

1 the detective --

2 A Mm-hmm.

3 Q -- do you remember talking to him about a person named Ax,
4 A-X, being involved in your dad's murder and in the murder of Helen
5 Sabraw, the woman who lived upstairs?

6 A No.

7 Q You don't have any memory of that?

8 A There -- no.

9 Q Do you remember talking to Detective Hall about a person
10 named Mierito, M-I-E-R-T-O?

11 A No.

12 Q And another question with your conversation with Detective
13 Hall. Do you remember telling Detective Hall that you believe Jack, your
14 brother, and his girlfriend, Martha Morales, and some of Martha's friends
15 were the ones responsible for your dad's death?

16 A I never said those words.

17 Q Was there -- did you use any other type of different words or
18 different language besides the way I just expressed it to -- let me finish
19 real quick

20 A Okay.

21 Q -- to convey to the detective that you thought your brother and
22 his girlfriend -- friends were involved?

23 A No.

24 Q Okay. So, your testimony today under oath is that in no way,
25 shape or form did you ever tell Detective Hall that your brother was

1 involved or may be possibly involved in your dad's murder?

2 A I do not remember ever saying that to him.

3 Q Okay. Him being the detective?

4 A Yes.

5 Q Okay. You don't remember saying that?

6 A No.

7 Q Is that your testimony?

8 A No.

9 Q Okay. Not that it's not a possibility that you said that or is your
10 testimony I never said that period?

11 A I didn't ask that many questions.

12 Q So, you note as you testify today you never said those words?

13 A I never said those words that I know of.

14 Q Or words to those effect?

15 A Right.

16 Q Okay. Do you remember talking to Detective Hall and telling
17 him that at that time when your dad passed away that your brother Jack
18 was involved with methamphetamines?

19 A Yes.

20 Q Okay. What do you remember telling the detective about
21 that?

22 MR. PESCI: Judge, I'm going to object. I don't understand
23 the relevance to this proceeding. This is beyond the scope of my direct.
24 It doesn't go to what the detectives did in 2004.

25 MR. YANEZ: Well --

1 THE COURT: Can I -- can I see counsel in the hallway so I
2 don't --

3 MR. PESCI: Sure.

4 [Sidebar at 2:44 p.m. -- not recorded]

5 [Proceedings resumed at 2:47 p.m.]

6 THE COURT: Okay. Because the areas of inquiry relates to
7 what detectives would or should have known at or around the time of the
8 interview and/or before the interview that might have put them on notice
9 related to reasons they might have kept the documents, the objection is
10 overruled with the understanding that I'm allowing a wide latitude on a
11 myriad of issues associated with Mr. Siegel because, A, there's no jury
12 here, B, arguably it would be relevant to what a detective context in an
13 investigation would be. And so for those reasons I'm allowing wide
14 latitude. The objection's overruled. Do you remember your question?

15 MR. YANEZ: I think I do, Judge. I'll ask it again and just --

16 THE COURT: Okay, go ahead.

17 MR. YANEZ: Thank you.

18 BY MR. YANEZ:

19 Q I believe you answered that you do remember speaking to
20 Detective Hall about your brother's use or involvement with
21 methamphetamine?

22 A Yeah. Can I speak to them just I -- because there's
23 something I want to ask them.

24 THE COURT: No.

25 THE WITNESS: Can I ask -- should I tell [indiscernible].

1 Okay.

2 THE COURT: You can ask me something, but the problem is
3 you can't have a conversation in the middle of your testimony.

4 THE WITNESS: The meeting with Detective Hall and I, it was
5 at my aunt's and my cousin's and they were the ones speaking more to
6 him than me.

7 THE COURT: Okay. That's fine.

8 THE WITNESS: So, I mean, a lot of the questions he's asking
9 me are things that were said not by me but by my aunt and my cousin
10 and my aunt has since passed away.

11 THE COURT: That's fine. All you can do is answer the
12 questions as asked.

13 THE WITNESS: Okay.

14 THE COURT: So, if the answer is did you say this and did you
15 say that, if you believe the answer's no then the answer is no, and you
16 believe the answer is I don't remember then the answer is I don't
17 remember. If you believe is answer is yes the answer's yes. That's all
18 you can do.

19 THE WITNESS: Okay.

20 THE COURT: Okay.

21 BY MR. YANEZ:

22 Q And I'm going to back up one second. I'm assuming you
23 spoke to more than just one police officer or detective beside Detective
24 Hall so that would be years of this case since your dad's passing; is that
25 fair to say?

1 A I only spoke to Detective Chandler and that was the day that
2 we found out my father was brutally murdered.

3 Q So, that's May of 1998?

4 A Yes.

5 Q You remember speaking to Detective Chandler on that date?

6 A On the telephone, yes.

7 Q Okay. Do you have a memory of speaking to any other
8 detective besides Chandler and besides Detective Hall that we were just
9 talking about?

10 A No. Unless I'm confusing Detective Hardy with Detective
11 Chandler --

12 Q Okay.

13 A -- because it was on the phone.

14 Q So, I'm going to make my questions a little more general as to
15 who you spoke to. As to any detective that you might have spoken to,
16 the topic of your brother's involvement with methamphetamine was
17 discussed?

18 A Briefly.

19 Q Okay. What part of that was discussed?

20 A It was a discussion that was brought up by my aunt with
21 Detective Hall, and then Detective Hall had asked if I had known of
22 anything and I said in the past, yes, but at that time, no.

23 Q Do you remember talking to any detective about your brother
24 being involved in your dad's murder due to his involvement with
25 methamphetamines?

1 A No.

2 Q Did you have any discussions with any detective about your
3 brother's involvement in our father's death because either his girlfriend
4 or the girlfriend's friends were involved with methamphetamine?

5 A I believe it was a friend of his girlfriend of somebody that I
6 don't know of, but the meeting was very brief and very short. I really
7 didn't speak to as many people as other members of the family did.

8 Q So, your testimony is that you did not discuss that with the
9 detectives?

10 A Not that I can remember in full detail.

11 Q Do you -- do you know a person by the name of Jim
12 Timmons?

13 A Yes.

14 Q Okay. Who is Jim Timmons?

15 A Jim Timmons, as I knew, was a man who used to be the
16 administrator or the manager, he and his wife, managed the Camlu, and
17 I didn't know him until one day he walked into my father's hospital room
18 and we asked him how he knew where my dad was because they were
19 no longer working at Camlu anymore.

20 Q And do you remember talking to any police officer or any
21 detective about him, your belief that he may have been involved in your
22 father's death?

23 A Yes.

24 Q Okay. Can you explain that, please?

25 A Because when my dad was in for his hip surgery, they came

1 in and wanted our family to write letters saying that the new managers
2 were Nazis, and we just felt that that was awfully strange, and he and
3 his wife moved into the apartment complex right next door to the Camlu.

4 Q And you -- those concerns that you had that you explained,
5 you told that or communicated that to at least one police officer or
6 detective?

7 A Yes. And I don't know who that was.

8 Q Okay. So, you have no idea if there was any follow-up in
9 regards to what you believe or suspected?

10 A I wasn't told of anything, no.

11 Q Around the time your dad passed away but after his death,
12 maybe that same day or a day after, did you speak to your brother, Jack,
13 on the telephone?

14 A I was in Las Vegas after -- when we found out my father was
15 murdered, we drove to Vegas 'cause we had to bury him.

16 Q Do you remember what day you would have arrived?

17 A We came the day he was murdered, that morning. It was
18 about 9 o'clock in the morning.

19 Q Either before you arrived here or while you were here, did you
20 have a telephone conversation or an in person conversation with your
21 brother, Jack, about what happened to your dad?

22 A No. Do you ever remember having a conversation with Jack
23 questioning him, trying to kind of get a confession or have him admit of
24 his involvement in your dad's murder?

25 A No.

1 MR. YANEZ: I have nothing further, Judge.

2 MR. PESCI: May I, Your Honor?

3 THE COURT: Yes.

4 MR. PESCI: Thank you.

5 **CROSS-EXAMINATION**

6 BY MR. PESCI:

7 Q Ma'am, you were just asked a lot of questions about a
8 conversation that you had with a Detective Hall; do you remember that?

9 A Yes.

10 Q You were asked specifically when it was that you had that
11 conversation. At first you said you thought it -- I wrote it down -- was
12 around 2005?

13 A It was shortly after -- is he the Defendant -- it was shortly after
14 he was caught and I spoke to Detective Hall when I arrived in Vegas and
15 went to my aunt's, and we called him to come because my aunt and my
16 cousin had a lot of questions to ask.

17 Q Understand. And that's exactly where I wanted to get to. At
18 first you thought it might have been around 2005, but then you said after
19 him -- and I wrote down a note because I was trying to figure out who
20 you were referring to. And if I'm understanding you correctly you're
21 saying it's after this particular Defendant in Court was arrested?

22 A Yes. But I believe it was in 2006 now because I --

23 Q Okay. So 2006 sticks out in your head?

24 A Yeah, because I remember getting married.

25 Q So, let me ask -- oh, I'm sorry. You remember getting married

1 in 2006?

2 A In 2006.

3 Q Okay. But as far as knowing for sure that it was after the
4 Defendant was arrested, are you sure that it was after the Defendant
5 was arrested?

6 A Yes.

7 Q Okay. So, if the Defendant was arrested in 2009, 2010, it
8 would have absolutely no bearing on a conversation in 2004 because
9 five or six years had passed?

10 MR. YANEZ: I'm going to object as to leading, Judge.

11 THE COURT: Sustained. Can you rephrase?

12 MR. PESCI: Okay.

13 BY MR. PESCI:

14 Q Ma'am, if you know for sure that your conversation with
15 Detective Hall happened after the Defendant was arrested, the
16 detectives wouldn't know anything about that conversation back in '04
17 because he hadn't been in arrested yet?

18 MR. YANEZ: I'm going to object as to speculation what the
19 detective knew or didn't know.

20 MR. PESCI: Well, Judge, the whole point of this cross-
21 examination is based on what she had imputed to those detectives
22 which would have been imputed to the detectives in '04, and we're
23 establishing that in fact she had a conversation --

24 THE COURT: Rephrase. Did they have any reason to know
25 before 2010 after they arrested the Defendant?

1 MR. PESCI: She's got it worded perfectly.

2 BY MR. PESCI:

3 Q Would they have any reason to know after his arrest in 2010?

4 A Okay. What's the question?

5 THE COURT: Talking about a certain subject matter that he's
6 referring to, are you familiar with what he's talking about?

7 THE WITNESS: The conversation with Detective Hall.

8 MR. PESCI: Correct.

9 BY MR. PESCI:

10 Q Everything you told Detective Hall, everything Defense
11 counsel just went through with you about that conversation with
12 Detective Hall; are we there?

13 A Yes.

14 Q Okay. And that information you gave to Detective Hall, not
15 other detectives?

16 A No.

17 Q Okay.

18 A -- just Detective Hall.

19 Q Correct. And then you're sure but you're not sure of the date,
20 but you're sure your conversation with Defendant Hall was after the
21 Defendant was arrested?

22 A Yes.

23 Q Thank you.

24 MR. YANEZ: Just briefly.

25 **REDIRECT EXAMINATION**

1 BY MR. YANEZ:

2 Q I just want to make sure we're not stuck with Detective Hall.
3 You've had and you said more than one conversation with detectives
4 besides Detective Hall?

5 A Just the day of my dad's murder or the day that we found out.

6 Q Okay. And you're one hundred percent sure of that?

7 A I can't be one hundred percent sure of that.

8 Q Okay. So, it's possible you could have these dates wrong;
9 correct?

10 A I do remember speaking to somebody the day that -- because
11 I wanted to know what happened. After that, I don't remember calling.
12 The only time we ever called after that was Detective Hall.

13 Q Do you remember the questions I asked you about whether
14 you ever told a detective that your brother, Martha Morales, her friends
15 were involved in your dad's murder; remember when I asked you those
16 questions?

17 A Yes.

18 Q And whether you ever told the detective about that?

19 A Yes.

20 Q Okay. As to those statements that I asked you whether you
21 asked any detective about, if there exists a detective's notes that say
22 that conversation happened in June of 2000, do you have any reason to
23 disagree with that date?

24 A I can't honestly remember the dates. All I remember is I
25 remember when I spoke with Detective Hall because I wanted to know

1 how they found him.

2 Q Okay.

3 A And my aunt and my cousins were the ones questioning
4 Detective Hall more than myself.

5 Q And I'm sorry. You said they were your cousins. What were
6 you're cousin's name? I'm sorry.

7 A My cousin Margie Bender and my aunt Marilyn Travis.

8 MR. YANEZ: Okay. Thank you, ma'am. Thank you, Judge.

9 THE COURT: Thank you very much for your testimony,
10 ma'am. You're excused. I appreciate it.

11 THE WITNESS: Thank you.

12 THE COURT: And my marshal is going to help you descend
13 the witness stand. Make sure we're outside the presence of the
14 witnesses in the case for the purposes of this hearing, at least. So, the
15 Defense wishes to call --

16 MR. YANEZ: Detective Hardy.

17 THE COURT: -- retired Detective Hardy. Is there any way to
18 find out when he would be available?

19 MS. WECKERLY: He's a defense investigator now. He has
20 His own investigation company. He's retired from Metro.

21 THE COURT: Is there any way to find -- I'm not keeping up
22 with all --

23 MS. MANINGO: We can try to find out when he's available.

24 THE COURT: So, do you -- could you do that soon? He's
25 here in town; right?

1 MS. WECKERLY: Yes.

2 MS. MANINGO: I mean, we could try to find out soon. I don't
3 know if we want to maybe set a date and see if he's okay with that date
4 or would -- I don't -- should we call your chambers or how do we deal
5 with that?

6 THE COURT: Well, it would be nice to know if he could do
7 any afternoon next week.

8 MS. MANINGO: Next week afternoon?

9 THE COURT: Mm-hmm. And the reason is because I start a
10 case with Jobe and Kane on December 11th. It's going to go longer than
11 a week. Then, you know, a lot of people can't come to Court around,
12 you know, Christmas Eve. And then I'm not, you know, there's a limited
13 time window.

14 MR. YANEZ: So, you're looking at about -- you said anytime
15 next week, Judge, literally a week, the 6th, the 7th?

16 THE COURT: One moment. The 4th or the 6th in the
17 afternoon, like 1:30.

18 MS. MANINGO: Is it okay to call chambers by tomorrow to
19 see if I could get a hold of him and see if he can come?

20 THE COURT: Well, I was going to set a status check
21 tomorrow and see if he could --

22 MS. MANINGO: Oh, okay.

23 THE COURT: -- like maybe 11 or something. See if you can
24 get a hold of him between now and then. If you can't, you can't. I get it.
25 Great. I'm sure the guy has a life. But if you could.

1 MS. MANINGO: So, status check tomorrow.

2 THE COURT: Status check tomorrow at -- let's say 11:15.

3 MS. MANINGO: 11:15.

4 THE COURT: Yeah. And then I could even do basically the
5 afternoon of the 4th, the afternoon of the 6th. I could do late morning of
6 the 5th because the following week I start a trial. So, if he can, he can. If
7 he can't, then I would be looking at like the 26th -- no, 27th or 28th.

8 MS. MANINGO: I will try to let you know by tomorrow at
9 11:15. Thank you.

10 MS. WECKERLY: Can we just wait five minutes? We're
11 trying to see if we can get a text to him --

12 THE COURT: Sure.

13 MS. WECKERLY: -- so we could get the date right now.

14 THE COURT: If you have the Ken Hardy bat line by all means
15 use it.

16 MS. WECKERLY: Well, Mr. Pesci might.

17 MR. PESCI: You know, I don't know. It could be an out of
18 date one but I'm going to try.

19 THE COURT: Okay. It would be easier for me if you -- if we
20 knew before we left here.

21 MR. PESCI: Yeah, this could be an old Metro number.

22 THE COURT: Who knows. You could call Hardy
23 Investigation and he might answer the phone. Are you moving to admit
24 Defense Exhibit A?

25 MS. MANINGO: Yes, Your Honor.

1 THE COURT: Any objection to Defense Exhibit A for the
2 purposes of this hearing?

3 MS. WECKERLY: No, Your Honor.

4 THE COURT: It's admitted.

5 **[DEFENSE EXHIBIT A ADMITTED]**

6 MR. PESCI: He says he just went into a doctor's appointment
7 and he can in about an hour. Sorry.

8 THE COURT: Okay. So, tomorrow at 9:15.

9 MR. PESCI: What did you say? The 4th, 6th, for evidentiary,
10 Your Honor.

11 THE COURT: I said afternoon at 1:30 or reasonably close
12 thereto of the 4th or the 6th or late morning December 5th like, you know,
13 10:30 when we'd done with other hearings and things, 11. And then we
14 were looking at -- I don't even want to say the other options.

15 MR. PESCI: Okay.

16 MS. WECKERLY: We'll make one of those work.

17 THE COURT: Okay. That would be nice if he's around.
18 Okay. So, I'm just going to have it on calendar tomorrow at 11:15 to
19 figure out when we can conclude this evidentiary hearing.

20 MS. MANINGO: Thank you, Your Honor.

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1 MR. YANEZ: Thank you.

2 THE COURT: Okay. Thank you.

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4 [Proceedings concluded at 3:07 p.m.]
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21 ATTEST: I do hereby certify that I have truly and correctly transcribed
22 the audio/video proceedings in the above-entitled case to the best of my
23 ability.

24 
25 PATRICIA SLATTERY
Court Transcriber

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THE STATE OF NEVADA,
Plaintiff,
vs.
GUSTAVO RAMOS,
Defendant.

VS.

TUESDAY, DECEMBER 4, 2018

APPEARANCES:

For the Defendant: IVETTE A. MANINGO, ESQ.
ABEL M. YANEZ, ESQ.

Spanish Interpreter: Alicia Herrera

RECORDED BY: PATTI SLATTERY, COURT RECORDER

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Las Vegas, Nevada; Tuesday, December 4, 2018
[Hearing commenced at 1:43 p.m.]

THE COURT: This is the time set for hearing in State versus Gustavo Ramos, C269839-1. The record shall reflect the presence of the Defendant who has the services of the Court Certified Interpreter. Ms. Interpreter, could you state your appearance?

THE INTERPRETER: Alicia Herrera.

THE COURT: Counsel, can you state your appearances for the record?

MS. WECKERLY: Pam --

MS. MANINGO: Ivette --

MS. WECKERLY: Oh sorry. Go ahead.

MS. MANINGO: -- Ivette Maningo on behalf of Mr. Ramos.

MR. YANEZ: Abel Yanez co-counsel.

MS. WECKERLY: Pam Weckerly and Giancarlo Pesci on behalf of the State, Your Honor.

MS. MANINGO: May we proceed?

THE COURT: Do you want to call your witness?

MR. PESCI: It's their witness.

MS. MANINGO: The defense calls Detective Ken Hardy.

THE COURT: Is it retired detective?

THE WITNESS: Yes.

THE COURT: Okay.

THE MARSHAL: Come on up.

1 THE COURT: Stand up. If you'll face my Clerk, raise your
2 right hand and be sworn.

3 **KEN HARDY**

4 [having been called as a witness and being first duly sworn,
5 testified as follows:]

6 THE CLERK: Please be seated. Will you please state your
7 full name, spelling your first and last name for the record?

8 THE WITNESS: My name is Ken Hardy, K-E-N, H-A-R-D-Y.

9 THE CLERK: Thank you.

10 **DIRECT EXAMINATION**

11 **BY MS. MANINGO:**

12 Q Good afternoon --

13 A Good afternoon.

14 Q -- Mr. Hardy. How are you?

15 A Good.

16 Q You just mentioned I think to the Court that you are retired
17 detective?

18 A Yes.

19 Q Okay. I apologize if I call you detective sometimes throughout
20 this. It's just a habit, but for the record you are retired from Metro; is that
21 right?

22 A Yes, I am.

23 Q Okay. And how are you employed more specifically in 1998?

24 A In 1998 I was a detective with the homicide section.

25 Q Okay. And when did -- when did you start with the Las Vegas

1 Metropolitan Police Department?

2 A I started with them September 6th, 1985.

3 Q And so when did you move to homicide; do you remember?

4 A April of 1995.

5 Q Okay. So in 1998 at the time of this inception of this case, you
6 had been on homicide for approximately three years or less than that; do
7 you remember?

8 A Approximately three years.

9 Q Okay.

10 A Just over.

11 Q And what was your role in the case that we're here for today;
12 what was your role in that investigation?

13 A In that investigation, my partner at the time was Detective
14 Chandler. Detective Chandler had responded to the original call out I
15 believe on May 16th, 1998. He went with another squad member,
16 Detective Mikolainis because I was out of town. And when I returned I
17 believe as early as May 19th I became involved in the case.

18 Q Okay. So Detective Chandler was your partner, but Mikolainis
19 also worked on the case?

20 A Yes.

21 Q Okay. And do you know what their roles were generally at the
22 scene or for this case?

23 A The way it works is that two -- at the time they were just rolling
24 two detectives to the scene. One detective would take the scene. The
25 other one would interview the witnesses. In this case, Detective

1 Chandler handled the scene. Detective Mikolainis interviewed the
2 witnesses.

3 Q And when you came back approximately on the 19th and
4 started working on the case, did Mikolainis continue as well to work on
5 the case if you recall?

6 A Not that I recall. More or less he had filled in for me while I
7 was out of town over that weekend. I believe it was on a Saturday when
8 it occurred.

9 Q Okay.

10 A And so afterwards then I would get caught up sort of speak
11 with Detective Chandler. And then we would then move forward with the
12 case.

13 Q Okay. Aside from homicide detectives, were there also other
14 general -- other detectives on the case?

15 A On the case, yes.

16 Q On Mr. Siegel's case?

17 A Yes.

18 Q Okay. And was there another event that was somehow
19 potentially related to Mr. Siegel's case?

20 A Yes.

21 Q And what event was that if you recall?

22 A The following day they had discovered another victim in the
23 same Camlu Retirement Home if you will and that was handled by
24 different detectives. They handled it as a separate case.

25 Q Okay. So they were handled by separate detectives

1 altogether?

2 A Yes.

3 Q Okay. Now obviously this has been a lot of years; were you
4 able to review your case file --

5 A I --

6 Q -- in preparation for this hearing?

7 A -- I reviewed what was -- what was given to me. For the most
8 I didn't review all the statements and things, but I reviewed some of the
9 items and the dates of what had occurred.

10 Q Okay. Within that -- well first of all, who provided you with
11 parts of your case file?

12 A The District Attorney's Office.

13 Q Okay. And in part of that review, did you see Mr. Jack
14 Siegel's voluntary statement; is that something that you reviewed?

15 A I believe it was in there. I did not review it as I had not taken
16 their statement.

17 Q Okay. And do you remember also reviewing a report that you
18 generated from a meeting with Mr. Siegel in 2004?

19 A Yes.

20 Q Okay. And do you also recall reviewing notes of officer
21 detective notes --

22 A Yes.

23 Q -- in that packet as well?

24 A Yes, I did.

25 Q Okay.

1 May I approach, Your Honor?

2 THE COURT: Yes.

3 BY MS. MANINGO:

4 Q Mr. Hardy, I'm showing you what's been admitted as Defense
5 Exhibit A. If you mind -- if you don't mind flipping through that.

6 A Okay.

7 Q You just testified that there were notes that you reviewed in
8 the packet provided by the District Attorney. Did -- did it include these
9 notes that --

10 A Yes.

11 Q -- are contained in Exhibit A?

12 A Yes.

13 Q And I'd like to go through that packet with you. The first page
14 of that packet, can you tell me what that appears to be?

15 A The first page has a date of 6/21, 2000 in the top left corner
16 with the time. This -- these notes were written by Detective Chandler
17 and it has to do with what Detective Chandler had done or who he had
18 talked to. And in this case, he had talked to Roselyn Siegel and then 30
19 minutes after that he spoke to Leslie Siegel and wrote notes based on
20 what I'm assuming is based on their conversation.

21 The second page is --

22 Q And let me -- let me --

23 A Okay.

24 Q -- just stop you right there. And you said these were written by
25 Detective Chandler; correct?

1 A Yes. Yes.

2 Q And he was the primary detective on the case?

3 A Yes.

4 Q And how do you know they were written by him?

5 A I was his partner for approximately eight years and I know his
6 handwriting.

7 Q Okay. And fair to say that generally speaking Leslie Siegel
8 6/21, 2000 the notes reflect that she had potentially some information
9 with regards to the case; is that right?

10 A Yes.

11 Q And about the involvement of -- potential involvement of her
12 brother, his girlfriend and her friends; correct?

13 A Yes.

14 Q And there's names that are listed there including Martha
15 Morales, John Valdez, a name by the name of Nieto and also Ax; is that
16 right?

17 A Yes.

18 Q And according to Leslie she believed that all these people
19 were potentially involved and -- and responsible for the death of her
20 father; is that right?

21 A Yes.

22 Q Okay. And it reflects that Jack had told her that a person by
23 the name of Ax had killed Ms. Sabraw; is that right?

24 A Yes.

25 Q Okay.

1 A They were referring to the lady upstairs.

2 Q And that was the -- the case that you said was handled by
3 other detectives, but potentially connected?

4 A Yes.

5 Q Okay. So you were turning the page to -- and what is that?

6 A That is a phone message that was given to Detective
7 Chandler from a George Goldstein on May 17th which would have been
8 the next morning at 10 o'clock. And it basically says that he was
9 brother-in-law of Wolly [phonetic] Siegel. And Detective Chandler in his
10 handwriting said they returned the call the next day and left a message.

11 Q Okay. And -- and this -- this would have been in 1998;
12 correct?

13 A I would assume that, yes, since it --

14 Q At the bottom of it says return call on 5/18 '98?

15 A Yes.

16 Q Okay. The next page, what -- what is that?

17 A This is again notes written by Detective Chandler outlining the
18 victim's family. And I know that Detective Chandler would do this on
19 most of the -- the cases where he would put all the contact information
20 for the victim's family so he had a telephone book if you will to contact
21 the family.

22 Q Okay. And the next page, what is that?

23 A These are handwritten notes. These -- these came out -- the
24 notes before were from like an eight and a half by eleven yellow notepad
25 and these notes would appear to have come from the steno books that

1 we would write -- routinely take out in the field to write our notes. And
2 these were notes, but they were not written by Detective Chandler.

3 Q Okay. Do you recognize the handwriting?

4 A I don't recognize the handwriting, but I do recognize the
5 content of the notes. I believe there's four pages and I believe that to be
6 Detective Mikolainis' handwriting because those were the people that he
7 interviewed.

8 Q Okay. So that's one, two, three, four, so that's four pages and
9 contained in those four pages are notes from interviews -- what appears
10 to be interviews with Mr. Jack Siegel --

11 A Yes.

12 Q -- correct?

13 A Yes.

14 Q And a Jackie --

15 A Yes.

16 Q -- Homestead Center care; is that correct?

17 A Senior care.

18 Q I'm sorry. Senior care; is that right?

19 A Yes.

20 Q Okay. And those -- those notes reflect that the person who
21 was caring for Mr. Siegel for about a week had made an observation that
22 Mr. Jack Siegel was -- being the son was stressed and not getting
23 support from his brothers and his sisters; right?

24 A That's what is written underneath Jackie's name who I believe
25 Detective Mikolainis interviewed.

1 Q Okay. And the next person on the next page would be notes
2 from an interview with Janet West; is that correct?

3 A Yes.

4 Q And Janet West, it's noted that she's the administrator for
5 Ameripark?

6 A Yes.

7 Q Do you know what Americapark - Ameripark is?

8 A I do not.

9 Q Okay. Do you know if Janet West was the administrator that
10 was associated with that building where Camlu was?

11 A I would -- I would assume that -- that is the building and that
12 she's the administrator, but it looks like she lives in Unit 217 at the same
13 complex though.

14 Q Okay. And those notes from the interview reflect that the son
15 being Jack Siegel gets tired of staying with his dad and that he had told
16 her that he was frustrated for being there. He did not want to be there; is
17 that right?

18 A Yes.

19 Q And that he actually had got in an argument with his father in
20 front of her regarding money; is that right?

21 A Yes.

22 Q Flipping over to the next page; what -- what is this? I guess
23 the next two pages do you know what -- what that is?

24 A What I -- Dr. Stanley is the doctor that treated Jack at Desert
25 Springs Hospital. So I'm assuming that that is a contact number for Dr.

1 Stanley along with the RN who triaged the patient. And the admitting
2 clerk's name and phone number and the admitting nurse as to what the
3 admitting nurse had told. I believe this to be Detective Mikolainis'
4 writing.

5 Q So fair to say that this is information that appears to be notes
6 from information gathered at the hospital; correct?

7 A Yes.

8 Q And the hospital being where Jack Siegel was treated for a
9 knee condition that night; correct?

10 A Yes.

11 Q The -- the next page, what does that appear to be?

12 A It appears to be a rough sketch of a diagram of the scene and
13 that handwriting is also Detective Chandler's.

14 Q And is that something that's customarily done by the scene
15 detective?

16 A Yes.

17 Q And the next page.

18 A The next page is also Detective Chandler's handwriting. It
19 says right handed, touched the left hand and arm, had fur -- com fur
20 chest and used the phone in the bedroom and that would be relevant to
21 the prints that they were going to process --

22 Q Okay.

23 A -- which I believe they actually recovered Jack's prints on that
24 phone that was in -- in the bedroom.

25 Q Okay.

1 A And that he also called 9-1-1 from that phone or he -- he used
2 that phone to call.

3 Q And the last page.

4 A The last page --

5 Q I realize it's a little hard to read.

6 A It is hard. But it -- it again appears to be Detective Chandler's
7 handwriting where he talked to a Bella Hasselson [phonetic] with the
8 birthdate, social, address and it's in reference to her receiving obviously
9 a phone call from Roselyn. And they called Roselyn back and Jack
10 called Ian.

11 Q Okay.

12 A And then there's Ian's contact information on the bottom.

13 Q Okay. So that -- that completes basically the packet of -- of
14 the notes that are in Exhibit A; correct?

15 A Yes.

16 Q Okay. So Jack Siegel the son of the deceased in this case
17 was the primary suspect?

18 A Yes.

19 Q Okay. He was -- why was he the primary suspect in this
20 case?

21 A He was the last one to be with his dad. He's also the one who
22 found his dad. Outside of -- the other family members were out of town
23 at that time. All the information was gathered to determine if Jack was in
24 fact telling the truth as to where he was.

25 Q Okay. Fair to say also that at the time it was believed that

1 Jack had a motive --

2 A Yes.

3 Q -- or more than one motive; is that right?

4 A Yes.

5 Q Okay. You learned in your investigation that he had a
6 hundred -- that his father had a hundred thousand dollar life insurance
7 policy; correct?

8 A Yes.

9 Q And some CD annuities; right?

10 A Yes.

11 Q And as reflected in the notes, you had learned that they -- him
12 and his dad had been fighting over money?

13 A Yes.

14 Q And that he again based on the notes felt burdened basically
15 for having to take care of his father; correct?

16 A Yes.

17 Q And that the family -- his own family believed that he was
18 involved?

19 A Yes.

20 Q Also isn't it true that based on the injuries that homicide
21 detectives had concluded that whoever the assailant was was angry with
22 the victim and was overkill; do you recall that?

23 A I don't recall that, but I know -- again, I wasn't at the scene, so
24 I didn't get to see the victim and/or I didn't go to the autopsy. But I know
25 -- I believe that they -- they believed the weapon was a barbell,

1 dumbbell. It was still inside the apartment.

2 Q Okay. In addition, there was actually blood found in the car
3 that Jack was driving that night; correct?

4 A Yes.

5 Q Jack Siegel had control of his father's car not only that night,
6 but at least for three months; do you recall that?

7 A Yes.

8 Q His father, he was injured and wasn't able to drive at all.

9 A Correct.

10 Q Okay. And during the interview which I realize you did not
11 take, but if you recall, during the interview detectives were curious and
12 asked Jack is there any reason we're going to find anything in the car
13 that's incriminating, for example blood; do you remember that?

14 A No. I know that the vehicle was processed for blood and
15 blood was found inside that vehicle.

16 Q Okay.

17 A But as far as Jack's response, I don't recall what his actual
18 response was. And again I didn't read that statement prior.

19 Q Okay. Would -- well, the response in the voluntary statement
20 is he says no, would you like to -- I mean would you have any reason to
21 dispute that or would you like to review the --

22 A No.

23 Q -- voluntary portion?

24 A If he said no in his statement, I'm sure he said that they
25 shouldn't find blood in the car.

1 Q Okay. And again, in fact, they did find blood in the car;
2 correct?

3 A Yes, they did.

4 Q Okay. And you just mentioned that the vehicle was actually
5 towed to the lab for processing; correct?

6 A I know that the vehicle was towed in the lab.

7 Q Okay. So the fact that they observed blood in the car
8 particularly on the steering wheel and that Jack had control of that
9 vehicle for the last three months that was a significant fact?

10 A Yes.

11 Q And that's the primary reason that that was towed to the lab
12 for processing?

13 A Absolutely.

14 Q Now we know that the car was processed. That processing
15 was mentioned in some reports; correct?

16 A Yes, it was.

17 Q Okay. And there -- did you review a towing slip that showed
18 that it was towed to the lab?

19 A Yes.

20 Q And are you aware that the blood not only was swabbed and
21 processed, but later tested as well?

22 A Yes.

23 Q Okay. And in fact the results generally of that test was that
24 there was human blood on the steering wheel?

25 A Yes.

1 Q And that the blood on the carpet was consistent with the
2 victim, Wallace Siegel?

3 A Yes.

4 Q Now, you just mentioned that there -- that it was processed,
5 but is there a report with regards to that specific processing of the
6 vehicle or any impound from that vehicle?

7 A There should be a crime scene report accompanied with a
8 evidence impound report if they had recovered anything other than say
9 latent lifts. If they recovered the registration, if they recovered anything
10 else, they -- there would be an evidence impound to accompany that as
11 to who did it, when they did it, where they did it.

12 Q Okay. So in this case we know because of later testing that
13 the -- there were swabs of blood taken from the steering wheel and the
14 carpet?

15 A Yes.

16 Q And we know that if you recall -- do you recall that there was a
17 receipt from Walgreen's that was also impounded?

18 A Yes. I saw the receipt.

19 Q Okay. But in reviewing what you have, you did not find in the
20 reports to that --

21 A I didn't find the --

22 Q -- associated with that?

23 A -- I didn't find the reports of the processing of the vehicle at the
24 lab. I did not find any evidence impound reports of anything that was
25 impounded at the lab in reference to that --

1 Q Okay.

2 A -- along with known fingerprints that were rolled from
3 everybody that worked at that place.

4 I remember we went out and had taken buckle swabs and
5 fingerprints from everybody that worked at the Camlu place for
6 comparison purposes. And from reviewing the packet of crime scene
7 reports, I -- I couldn't tell you who was out there to roll those fingerprints
8 along with who processed the vehicle.

9 Q Okay. So they were in the packet provided to you. Is it your
10 understanding generally that these reports are just missing from the file
11 altogether?

12 A If I was -- if I was given a copy of the file, then the so-called
13 homicide file, those reports are missing.

14 Q Okay. And is it your understanding that you were given a
15 copy of the homicide file?

16 A Yes.

17 Q Okay. And along the lines of missing reports, I guess I want to
18 talk to you about the process for preserving documents in -- in this type
19 of case. Obviously as detectives you gather information, make reports,
20 documents the notes we reviewed; correct?

21 A Yes.

22 Q Okay. And those type of documents generated by homicide,
23 where do those end up?

24 A The -- let me back up. What generated by homicide what
25 specifically?

1 Q Well --

2 A Reports?

3 Q -- I guess those are examples, but -- and maybe you could just
4 enlighten me in generally, but anything that you gather including notes,
5 documents, printouts, whatever it is that you're gathering in your
6 investigation, where are those kept?

7 A They should be kept in the file.

8 Q Okay.

9 A There -- if there was -- to make a backup copy if you will,
10 normally an event number is written on the top of whatever that
11 document is and it's sent to records. Records would then know from
12 that event number that it belongs with that and then it would then get
13 filed in the Metro records file of that homicide.

14 All the notes that Detective Chandler had taken, those would
15 only be in the homicide case file. They would not be -- these I'm sure
16 were not sent to records.

17 Q Okay.

18 A They're just notes for anybody that's handling, looking at the
19 case, they can open it up and see when, where, who. The file itself is
20 the most complete part.

21 Q Okay. And when you say file, do you -- do you generally keep
22 those in binders?

23 A Yes.

24 Q Okay. And how does the DA get your file?

25 A The DA will get our file. So when -- say we go out on a

1 homicide and we start generating voluntary statements, when those
2 statements -- if an arrest was made say right at the time of the incident,
3 if there's an arrest made and once we start getting those statements in,
4 we would copy them and put them in a basket that their DA runner picks
5 up. Also a copy would go down to records and a copy would go into the
6 file. The so-called original is supposed to go to records, copies in the file
7 and then a copy goes to the DA's office.

8 If reports are -- say an arrest is made later on and now we're
9 going to make a submission to the District Attorney's Office based on
10 that, then we copy everything that we have at that time, also put it in the
11 bin or go meet with the District Attorney's Office and say here's a case
12 we just made the arrest on and either review it or hand it off to them
13 because sometimes they can get pretty voluminous [sic].

14 And so they -- that is how the District Attorney's Office would
15 get it. Preparing for Court and coming to Court, normally we sit down
16 with the District Attorney's Office and review what's in the file, what they
17 have, what they don't have --

18 Q Okay. And in that --

19 A -- and things.

20 Q -- in that process, you know, let's say you start gathering
21 materials after you've already met with the District Attorney, if you get
22 something new you try to distribute it accordingly?

23 A Yes.

24 Q Okay. And when you say you hand over the binder to them, is
25 that for them to copy it?

1 A No. We don't hand over the -- we don't hand over the binder.
2 We would make a copy. We would keep the binder. If we were to
3 review it, we would take the binder with us, but we're not supposed to.
4 We're supposed to keep the binder in the homicide office and/or with us
5 when we go to Court or back or to their office --

6 Q Okay.

7 A -- or out in the field working on it.

8 Q Why don't you leave it with the DA's Office?

9 A That as the -- if it gets lost and anywhere, we don't have a
10 homicide file.

11 Q Okay. And so if -- if a binders turned over and left with the
12 DA, it shouldn't have happened; is that right?

13 A No. It shouldn't have happened.

14 Q Okay. Is the reason you don't do that, has there been issues
15 in the past about DA's losing files?

16 A Well, there -- there has been issues. And there was even
17 orders given to us not to take the binder. They can come over and look
18 at them, but we're not supposed to so-call drop the binder. We can go
19 over there and review it, but we're not to just say here -- here you go,
20 take it back to your office, let us know when you're done.

21 Q Okay. So the -- fair to say the homicide file number one is to
22 stay intact with all the information?

23 A Yes.

24 Q And two, not to be left with the District Attorney?

25 A Yes.

1 Q Okay. So back to Jack as the prime suspect in the case.
2 There comes a time where while he's a suspect and no arrest is -- is
3 made; is that right?

4 A No.

5 Q Okay. And there comes a time where I guess the case is cold
6 or stagnant; is that right?

7 A Yes.

8 Q Okay. And do you remember -- well with -- strike that -- when
9 that occurs, when -- when a homicide file has become cold for use of a
10 better term, what happens to that file?

11 A That file all along is kept in a storage room. It's not separated
12 between cold and active. Normally on the detective's desk or the cases
13 that they're working on, if they've made an arrest and they're just waiting
14 to go to Court, it goes into a file room and they're put on the shelves by
15 the -- by the event number in chronological order by when they occurred
16 going back to I believe the 50's that I can say was the oldest homicide
17 file. Even the unsolves are back there.

18 Q Okay. And so what happens with the actual case, does it stay
19 assigned to the detectives that are still the force?

20 A The case is still assigned. Like so when this case it was
21 assigned to Chandler -- I believe it's technically Chandler Mikolainis
22 because that's who had rolled out on it. And then if say Detective
23 Chandler had retired and -- which I had come up -- I had come back and
24 worked with Detective Chandler on it, so Detective Chandler retires, now
25 any -- anything further that comes in, they would look for if one of the

1 two partners were still around and then that person would handle
2 anything that comes in.

3 Q And in this case that was you?

4 A Yes.

5 Q And -- and it is fair to say that the reason that's done is
6 because you would be the person that had the information on the case
7 that's most knowledgeable?

8 A Most familiar with.

9 Q Okay. So here if -- before Chandler retired, Detective
10 Chandler was the person kind of fielding any calls that came in; is that
11 right?

12 A Yes.

13 Q So if there were any leads, he would be the one potentially
14 following up on them?

15 A Yes.

16 Q And potentially if he asked you to follow up, you would as
17 well?

18 A Yes. And if Detective Chandler was on vacation for that week
19 and something came in, then the call would then get sent to me.

20 Q Okay. And I guess this is kind of an obvious question, but
21 these are -- this is a double homicide, very serious case; correct?

22 A Yes.

23 Q And so if -- if there are basically calls with potential leads,
24 they're usually worth following up on; is that fair to say?

25 A Yes.

1 Q Okay. Now in 2000 we went over some notes that you said
2 were written by Detective Chandler. Apparently he was still in contact
3 with the family; correct?

4 A Yes.

5 Q Okay. And in this particular case, a Leslie Siegel had given
6 him the information in 2000 --

7 A Yes.

8 Q -- that we talked about earlier?

9 A Yes.

10 Q And do -- do you know what -- what was followed up on?

11 A I don't know.

12 Q Okay.

13 A I don't know if Detective Chandler had attempted to identify
14 him or locate him. I don't know what Detective Chandler would have
15 done with that information when he received it.

16 Q Okay. If you would have received that information -- well, let
17 me back up, at the time there was already results of -- of an unknown
18 female victim's DNA found on a handle of the door near Mr. Siegel's
19 apartment; correct?

20 A Yes.

21 Q Okay. And it was found in blood?

22 A Yes.

23 Q Okay. And so I understand Mr. Chandler took these notes. If
24 you would have had this information, fair to say that you would have
25 followed up on this Martha Morales situation; is that right?

1 A Yes.

2 Q You didn't see anything in the file that you reviewed
3 whatsoever that Martha Morales was ever interviewed; correct?

4 A Or identified or contacted, no.

5 Q And fair to say it would have been at least worth finding out if
6 she could be contacted if she could be swabbed and if that unknown
7 female DNA and blood was hers?

8 MS. WECKERLY: Your Honor, I'm going to object at this
9 point. We're here for --

10 THE COURT: Sustained.

11 MS. WECKERLY: -- a failure to gather --

12 THE COURT: Sustained as to relevance.

13 MS. WECKERLY: -- from 2004.

14 THE COURT: Sustained.

15 MS. MANINGO: And just for the record, Your Honor, I would
16 say relevance is -- is what was known at the time.

17 THE COURT: Sustained. We're past what was known at the
18 time into argument about the value of it.

19 MS. MANINGO: Thank you, Your Honor.

20 THE COURT: So I sustained the objection.

21 MS. MANINGO: Thank you.

22 BY MS. MANINGO:

23 Q So those notes that we refer to were in 2000 which is two
24 years after the homicide. In 2004, six years later, Mr. Siegel made
25 contact with the Department?

1 A Yes.

2 Q Okay. Do you recall how he contacted the Department or if
3 you spoke to him specifically first? How -- do you remember how that
4 happened?

5 A I don't recall exactly how it happened due to -- my belief is that
6 he calls and says he's coming to Vegas. And we set down a day -- a
7 date and time that we're going to be there to talk to him as to what he
8 wants to talk about.

9 Q Okay. And do you recall what the conversation was on the
10 phone?

11 A Not at all.

12 Q Okay. Do you remember making notes or are there any notes
13 about conversation?

14 A No.

15 Q Okay. And you said he was coming to Las Vegas. So where
16 was he traveling from?

17 A I would assume he was traveling from California.

18 Q Okay. And it was your understanding he was making that trip
19 specifically to speak to the detectives?

20 A Yes.

21 Q Okay. About -- again trying to provide information about his
22 father's homicide?

23 A Yes.

24 Q And he actually brought documentation to assist the
25 investigation?

1 A Yes.

2 Q You already testified that you generated a report from that
3 meeting. Do you know if notes were actually taken during that meeting
4 similar to the ones that we reviewed prior?

5 A There would have been notes because I wouldn't have typed
6 that report at the time he was -- we were talking to him. So I had to have
7 been able to get that information off of my notes.

8 Q Okay.

9 A Put it into a report and then the notes are destroyed --

10 Q Okay.

11 A -- after the reports authored.

12 Q And that was my next question. So those notes don't exist?

13 A No.

14 Q Okay. And was the interview recorded?

15 A No.

16 Q And who would have made the decision -- first of all it was you
17 and Detective Mogg; correct?

18 A Yes.

19 Q And who would have made the decision not to record?

20 A I -- I would have. And it's not -- I'll say it's not a decision, but it
21 was a type of interview. If Detective Mogg thought it should have been
22 recorded, he could have said let's do it and we can agree on that. But I
23 was -- I -- if I thought it should have been recorded, I would have
24 recorded it.

25 Q Okay. So during -- during this interview, when Jack arrived, I

1 believe your report says he brought piles of paperwork with him.

2 A Yes.

3 Q Do you recall the form that they were in like were they in bags,
4 in binders? What -- do you recall?

5 A I don't. I don't even recall this meeting. I mean until -- until I
6 got that phone calls of this meeting in 2004, I don't recall meeting with
7 him.

8 Q Okay. But again you've reviewed your report?

9 A I have.

10 Q Okay. And so again this is six years later and there's no
11 arrest, but it's fair to say that Jack is still in the pool of suspects; is that
12 fair?

13 A Sure. It's unsolved.

14 Q Okay. And he's clearly still worried about being a suspect?

15 A Yes, he is.

16 Q And he wants to know if he still is?

17 A Yes.

18 Q And even at the end of the interview, I believe you report
19 reflects that he asks, you know, how did I come across --

20 A Yes.

21 Q -- is that right?

22 A Yes.

23 Q Would you say that that's unusual?

24 A It is. Do we believe his story? It is unusual. I mean it's
25 normally like how believable am I, let me see if they are agreeing with

1 what I said.

2 Q Okay. And his comment was suspect enough that you put it in
3 your report?

4 A It was.

5 Q Okay. How many -- if you recall, how -- you said piles; how
6 much was it?

7 A I don't recall if it was this or this or two of them, but I did say
8 piles. I would imagine that's plural, more than one pile of papers.

9 Q Okay.

10 THE COURT: Could you do me a favor? When you say this
11 or this, for the record, could you estimate with -- you know, what your
12 hand gestures are demonstrating? Three inches --

13 THE WITNESS: Okay.

14 THE COURT: -- six inches, twelve inches.

15 THE WITNESS: I'm not even -- I don't even know the inches
16 as too much as is it one pile or two piles.

17 THE COURT: When you say this and this, the record isn't
18 clear. So you're -- you're not estimating how high the piles are. You're
19 just saying one pile or two with no -- taller than my head from a table,
20 shorter than my shoulders; no estimate whatsoever?

21 THE WITNESS: I don't recall. I don't recall the -- the volume
22 of the papers whether there was one or two piles or three piles. I don't
23 recall what paperwork he brought in.

24 THE COURT: Okay. So the reason I'm asking is 'cause
25 you're behind that screen and you said this or this and I know you

1 moved your hands and so I --

2 THE WITNESS: Okay.

3 THE COURT: -- I just want to make sure you're estimating a
4 two's or three or one six-inch pile. You're just saying piles. Could have
5 been one, could have been more than one, I don't know how tall they
6 were and I don't know how many documents were in them; is that what
7 you're saying?

8 THE WITNESS: I will say that it was more than one because I
9 put it in my report that it was plural --

10 THE COURT: Piles with an S.

11 THE WITNESS: -- as far as piles.

12 THE COURT: Okay. Sorry.

13 BY MS. MANINGO:

14 Q So you don't have an independent recollection of how much
15 paperwork there was. But is it fair to say if -- because you put piles of
16 paperwork in your report that it was a lot?

17 A Yes.

18 Q Okay. Do you remember if you inventoried what was in there -
19 - the paperwork?

20 A I can tell you I didn't inventory 'cause if I would have
21 inventoried it, there would have been another report and/or copy of what
22 it was.

23 Q Okay. Do you recall whether you made copies of those piles?

24 A No. I'm positive I did not make copies.

25 Q Okay. And do you recall if any of them were impounded?

1 A No. I don't -- I don't believe anything there had the relevance
2 to impound them in relation to the case.

3 Q And at this juncture I guess what you're saying is that you
4 don't -- you know they weren't impounded because you don't have an
5 independent recollection of that; is that right?

6 A Correct.

7 Q And there's no report reflecting that?

8 A Correct.

9 Q Okay. And other than -- well let's talk about what was in the
10 paperwork if you recall. Your report reflects certain things that were
11 discussed at the very least.

12 A Yes.

13 Q And you also say from time to time that he produced
14 paperwork; do you recall what with regards to Homestead Healthcare
15 was in the paperwork?

16 A No.

17 Q Okay. Do you -- in your report you said that the reason that
18 Mr. Siegel was saying that this was relevant was because there were
19 negroid hairs found at Sabraw scene; correct?

20 A Yes.

21 Q And that he had information that there was a African-American
22 male that actually took care of both of those victims?

23 A Yes.

24 Q Okay. But you don't recall what the paperwork exactly was?

25 A No.

1 Q Okay. And with regards to the Water and Power Credit Union
2 account if you recall your report reflects that there was information about
3 an account opened on the following day of Mr. Siegel's death. It was
4 opened in his name in California.

5 A Yes.

6 Q Okay. And do you know what paperwork he had with regards
7 to that?

8 A I don't other than it -- I believe in my report it also indicates
9 that the number that was on that piece of paper indicated what branch
10 the account was opened at.

11 Q Okay. So it is fair to say that based on the information you put
12 on your report, he did have paperwork with regards to the Water and
13 Power Credit; is that right?

14 A Yes.

15 Q 'Cause you obtained information from the paperwork?

16 A Yes.

17 Q Okay. And there was also U.S. saving bonds and a credit
18 report produced by him --

19 A Yes.

20 Q -- correct?

21 A Yes.

22 Q Okay. So those are the things -- some of the things
23 mentioned in your report. Is it fair to say that there were piles of
24 paperwork and there's -- there was probably more paperwork than just
25 those things related to those items?

1 A Well, it'd be fair to say.

2 Q Fair to say that you could have collected the paperwork; right?

3 A I could have.

4 Q Okay. In case someone needed it down the road?

5 A I could have.

6 Q Okay. Not only homicide, but the Court; correct?

7 A Yes.

8 Q Okay. And also fair to say that other than storing the

9 paperwork, there's no -- there would have been no downside in

10 collecting it; is that fair to say?

11 A Other than the size and where to store it, there would be no

12 downside as far as -- if there was the relevance of it tying it to the

13 suspect of the homicide 'cause that's how we were focused on.

14 MS. MANINGO: Court's indulgence.

15 BY MS. MANINGO:

16 Q Jack believed that this paperwork was relevant?

17 MS. WECKERLY: Objection. Calls for speculation.

18 THE COURT: Sustained.

19 BY MS. MANINGO:

20 Q Was it your impression that based on your interview with him

21 and based on him traveling from California with these piles of

22 paperwork, that he believed that they were relevant?

23 A I would say that he believed they were relevant which is why

24 he brought them to our attention.

25 Q One of the reasons he believed some of that paperwork was

1 relevant was because he felt that he was being framed?

2 A Yes.

3 Q And that there was someone trying to get him out of the way?

4 MS. WECKERLY: Objection. Calls for speculation.

5 THE COURT: Well, I mean the last two questions called for
6 speculation --

7 MS. WECKERLY: I know.

8 THE COURT: -- and you didn't object, so --

9 MS. WECKERLY: I just -- I'm trying to move it along, but --

10 THE COURT: -- it's --

11 MS. MANINGO: Okay.

12 THE COURT: -- sustained. It's sustained.

13 BY MS. MANINGO:

14 Q Is it fair that based on your impression, you wrote in your
15 report Jack Siegel felt that because all the problems he is having, his
16 opinion is that someone was trying to set him up by killing his father
17 hoping that Jack would be arrested for homicide, by doing this Jack
18 would be in custody and will not be able to discover what they're doing
19 to him?

20 A Those were my words in my report.

21 MS. MANINGO: Pass the witness.

22 CROSS EXAMINATION

23 BY MS. WECKERLY:

24 Q Sir, when -- when did you retire from homicide?

25 A June 2011.

1 Q Okay. So back in 2004 this is about at the time you were
2 meeting with Mr. Siegel it's about six years after the homicide?

3 A Yes, it is.

4 Q Okay. During that time period at Metro homicide, had you
5 been approved in other cases to travel to California to follow up on
6 investigations?

7 A Yes.

8 Q And if that was something that was important in this particular
9 case speaking with Mr. Siegel, do you think you would have asked for
10 approval or permission to go to California to speak with him?

11 A Yes.

12 Q Now in this particular case, it appears from your report that it
13 was him that requested a meeting with homicide in 2004; is that fair?

14 A He did request the meeting.

15 Q And at that time there -- is it fair to say there's no suspect and
16 -- and the case is cold in terms of the murder of Wallace Siegel?

17 A Yes.

18 Q And at the time you and Detective Mogg sit down with Jack
19 Siegel, what is the -- the primary forensic piece of evidence that -- that
20 you know exists in the -- in the scene of Wallace Siegel's murder?

21 A A bloody fingerprint on the newspaper.

22 Q And at that time in 2004 had Mr. Jack Siegel's prints been
23 compared to that bloody print?

24 A Yes.

25 Q And had he been eliminated?

1 A Yes.

2 Q So at the time you sit down in 2004, he's been eliminated from
3 that bloody print?

4 A Yes.

5 Q Okay. But he comes and he wants to talk to yourself. And
6 was your partner Detective Mogg at that point in time?

7 A In 2004, yes.

8 Q Okay. And he brings these piles of paperwork as you
9 memorialized in your report?

10 A Yes.

11 Q If you had seen anything tying anyone including Mr. Siegel or
12 anyone else to the homicide or found anything that you deem relevant in
13 that paperwork, what would your practice have been at the time in 2004?

14 A I would have followed up on a fresh lead and run with it 'til we
15 were done running.

16 Q Do you have any independent recollection of Jack Siegel
17 himself like as a person?

18 A Yeah.

19 Q And -- I mean can you give us your impression of him that you
20 got from that interview?

21 A Well from -- from the time that we originally -- again, I came to
22 the -- involved in the case maybe three days after.

23 Q Sure.

24 A We were still dealing with Jack Siegel.

25 Q Right.

1 A And then also that back in 2004 my impression as far as his
2 personality --

3 Q Yes.

4 A -- he -- I describe him just a little different.

5 Q Okay.

6 A A little different.

7 Q And was there another brother or son of Wallace Siegel that
8 yourself and other detectives dealt with as well in terms of the progress
9 of the investigation?

10 A Yes.

11 Q And -- and who was that?

12 A Ian.

13 Q And so would you say yourself and Detective Chandler dealt
14 with Mr. Ian Siegel quite a bit in terms of the progress of the
15 investigation?

16 A Correct.

17 Q And if Jack Siegel -- if you had seen anything about this
18 paperwork that struck you as -- at all as relevant to the homicide
19 investigation, he was -- he was offering it to you so you would have --
20 you would have at least made a copy of it I think is your testimony?

21 A If -- if I thought that it was relevant to the identification of the
22 suspect, yes, we would have obtained that paperwork.

23 Q Okay. But that just wasn't what he produced to you in 2004
24 and that event appeared relevant?

25 A I can -- I -- because I don't recall what it was.

1 Q Yes.

2 A If it was pertinent, relevant, something that we needed to go
3 do, we would have kept it. We would not just given it back to him.

4 Q Thank you.

5 REDIRECT EXAMINATION

6 BY MS. MANINGO:

7 Q You don't recall what was in that paperwork?

8 A I don't.

9 Q Okay. And with regards to travel to California, Jack
10 volunteered to come here; correct?

11 A He did.

12 Q Okay. And of course you agreed to meet with him?

13 A Of course.

14 Q Because at the very least he was the family member; correct?

15 A Correct.

16 Q And he was still in the suspect pool?

17 A Correct.

18 Q You said that you were dealing with the other brother, Ian. Ian
19 was never a suspect?

20 A No.

21 Q And Ms. Weckerly asked you that whether you were aware
22 that Jack was eliminated from the failed -- the bloody fingerprint found in
23 the -- at the scene; correct?

24 A Yes.

25 Q It's fair to say that eliminating him from that print doesn't

1 necessarily eliminate him as being in the suspect pool?

2 A Correct. I mean there was -- the blood found in the car which
3 was actually not relevant to any of it anyways. And I should say it wasn't
4 the stand alone evidence that you normally find blood in somebody's
5 vehicle that matches the victim and therefore you know beyond -- you
6 know that that -- that that is the suspect in the case.

7 Q What -- what --

8 A But in this case it was Wollie's car -- Wallace's car.

9 Q Correct. And you -- you knew it was Wollie's car from the very
10 beginning; correct?

11 A Yes.

12 Q But you also knew that Jack had control of that vehicle for
13 months?

14 A Yes.

15 Q You knew the blood was actually on the steering wheel;
16 correct?

17 A Yes.

18 Q And that Jack had been driving it for months?

19 A Yes.

20 Q Not Mr. Siegel?

21 A Yes.

22 Q And it was important enough that you felt along with obviously
23 your partner that you needed to tow that vehicle --

24 A Yes.

25 Q -- have it -- have it sealed, towed and taken all the way to

1 Metro lab to try to verify that that was the victim's blood; is that right?

2 A Yes.

3 Q And Mr. Siegel could not be eliminated as --

4 A Could not.

5 Q -- being the source of that blood?

6 A No.

7 Q In fact, the blood was consistent with his?

8 A The blood was --

9 Q The blood was consistent with being Jack Siegel's? I realize it

10 wasn't identified.

11 A Right.

12 Q But the report and the results were that the blood found in the

13 vehicle was consistent with Mr. Siegel's?

14 A I recall it was human blood on the wheel and Wollie's blood on

15 the carpet.

16 MS. MANINGO: No further questions.

17 MS. WECKERLY: Nothing else, Your Honor.

18 THE COURT: Thank you very much for your testimony, sir.

19 THE WITNESS: Thank you.

20 THE COURT: You're excused.

21 THE WITNESS: These.

22 MS. MANINGO: You can leave them up there.

23 THE WITNESS: Okay.

24 THE COURT: So is that an exhibit or no?

25 MS. MANINGO: I was going to approach and --

1 THE COURT: Thank you. Do you have any other witnesses
2 you wish to call?

3 MS. MANINGO: We do -- we do not.

4 THE COURT: Do you have any witnesses you wish to call?

5 MS. WECKERLY: No. Thank you, Your Honor.

6 THE COURT: Okay. Did you want to grab that and give it
7 back to me?

8 MS. MANINGO: If I may.

9 THE COURT: Okay. Do you want a transcript of this hearing,
10 any other day? And if so --

11 MR. YANEZ: Yeah. I was --

12 MS. MANINGO: Please. Please, Your Honor.

13 THE COURT: Could you prepare an order?

14 MS. MANINGO: Okay.

15 THE COURT: So here's the problem. My Court Recorder
16 isn't here today because she's sick. She has the flu. So I can't give you
17 an ETA. So maybe we could set a status check transcript and any
18 supplemental brief on -- I mean I'm not going to have a transcript by
19 then, but just say, you know, she be -- she be sitting here and I could
20 say, when could you have it done. And we can set up a little briefing
21 schedule. So maybe next week --

22 MS. MANINGO: Sure.

23 THE COURT: -- a Tuesday of next week?

24 MS. MANINGO: Sure.

25 THE COURT: Could you do that?

1 MS. MANINGO: Yeah. And I'm just going to check. I'm sure
2 it's fine. I just want to make sure that I'm in another Department. That's
3 fine. Thank you, Judge.

4 THE COURT: Okay. So we'll pass this matter one week for
5 status check transcript, status check supplemental briefing on transcript
6 just so that we could have Yvette here and literally tell us, you know,
7 what her timeframe is. I will say this, I start trial Tuesday, so she may
8 have to farm it out.

9 [Colloquy between the Court and the Clerk]

10 THE COURT: How exigent is this?

11 MS. MANINGO: We -- I mean whenever the transcript is
12 available, we can prepare. So I wouldn't say it's something that's, you
13 know, that needs to be done right away.

14 THE COURT: Like I'm not going to be able to get it done like
15 within a week and a half or --

16 MS. WECKERLY: That's fine.

17 THE COURT: Okay.

18 MS. MANINGO: Yeah. That's fine with us.

19 THE COURT: Okay. So I'll talk to her. We will talk to her and
20 -- and then Tuesday -- wait. Do I have a murder calendar? How about
21 Wednesday? I have a murder calendar on Wednesday at 9:30, so we
22 could just come in here at get the answer.

23 MS. WECKERLY: That's fine.

24 MS. MANINGO: That would be even better. Thank you.

25 THE COURT: Okay. So Wednesday the 12th at 9:30 is the

1 murder calendar. I'll put this on and then you can tell me, you know -- I
2 mean I can tell you what she said and see if that works and it gives her
3 time. If she can't do it, to find out how long whoever is going to do it
4 would need. So I'll see you on this particular case the 12th at 9:30.

5 MS. MANINGO: Thank you, Your Honor. And should I send
6 the order down before then or should I just bring it with me to Court?
7 Before then, okay. Thank you.

8 THE COURT: The sooner you send it, the sooner we get
9 started on it.

10 MS. MANINGO: Okay. Thank you.

11 THE COURT: Is there anything else?

12 MS. MANINGO: There's not from the defense.

13 MS. WECKERLY: Not on behalf of the State, Your Honor.

14 THE COURT: Okay. So I'll see you on this case on the -- on
15 Wednesday.

16 MS. MANINGO: Thank you.

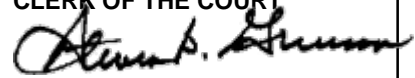
17 THE COURT: Thank you.

18 [Hearing concluded at 2:41 p.m.]

19 * * * * *

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

24 
Michelle Ramsey
25 Court Transcriber



SUPPL

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,)	
)	
Plaintiff,)	CASE NO: C-10-269839-1
)	
v.)	DEPT. NO: III
)	
GUSTAVO RAMOS)	
#1516662)	
)	
Defendant.)	
_____)	

DEFENDANT'S SUPPLEMENT TO MOTION TO DISMISS

COMES NOW, the Defendant, GUSTAVO RAMOS, by and through his attorneys, Ivette Amelburu Maningo, of the Law Offices of Ivette Amelburu Maningo, and Abel M. Yanez, Esq., of the Nobles & Yanez Law Firm, and hereby submits his Supplement to his Motion to Dismiss, based on the evidentiary hearings that were held on November 29 and December 4, 2018.

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1 This Supplement is made based upon all the papers and pleadings on file herein, the
2 attached Memorandum of Points and Authorities in support hereof, and oral argument at the time
3 set for hearing Defendant's Motion to Dismiss.

4
5 DATED this 6th day of February, 2019.

6
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Attorneys for Defendant Gustavo Ramos

1 **POINTS AND AUTHORITIES**

2 **FACTS**

3 The general facts of this case that are relevant to Defendant, GUSTAVO RAMOS's
4 (hereinafter "RAMOS"), Motion to Dismiss, were laid out in detail in RAMOS's original Motion
5 and are hereby incorporated by reference. Based on RAMOS's Motion, the Court granted an
6 evidentiary hearing, which took place on November 29, 2018, and December 4, 2018. At the
7 conclusion of the evidentiary hearing, the Court granted the parties the option to file supplemental
8 briefing based on the testimony presented at the hearing.
9

10 At the hearing held on November 29, 2018, witnesses Detective Clifford Mogg (hereinafter
11 "Mogg"), Jack Siegel (hereinafter "Jack"), and Leslee Sigel (hereinafter "Leslee") testified. In
12 general, Mogg testified that he was not assigned to murder cases until 2003, five years after the
13 alleged murder in this case. *See Trans. 11/29/18*, pgs. 4-5. Mogg stated that Detective Ken Hardy
14 (hereinafter "Hardy") was the lead investigator in the investigation of Wallace Siegel's murder and
15 that he only assisted in the investigation. *See id.* at 6. He stated that his initial involvement in the
16 case was the interview of Jack Siegel in June of 2004. *See id.* at 6, 34. In preparation for the
17 interview, Mogg testified that he received an overview of the case from Hardy and that he "looked
18 through the case file." *Id.* at 7-8. He explained that this preparation "would have been our normal
19 course of conducting the investigation." *Id.* at 8.
20

21 However, as to the specifics of Jack's interview, Mogg could barely remember any of the
22 details. Mogg testified that he couldn't "recall all the documents" that Jack brought or "how many
23 he brought." *See id.* at 10. He deferred to Hardy as being the person who would know the details of
24 what happened during Jack's interview and if the detectives followed up on any of the information
25 Jack provided them. *See id.* at 15, 18, 32, 37. Despite Mogg's lack of memory, on the critical issue
26 of why the detectives failed to collect the physical documents Jack wanted to provide them, he
27 testified that they would have collected Jack's documentation "if it would have been relevant in
28

1 the course of our investigation as to a possible suspect or motive in the case.” *Id.* at 27-29.

2 Jack’s memory of the June 2004 interview differed greatly from Mogg’s in critical aspects.
3 Jack stated that he tried to give the detectives a “duffle bag” of documents which showed that
4 someone was trying to frame him for his dad’s murder. *Id.* at 61, 72-73. However, he stated that
5 the detectives refused to look at his documentation, and therefore, it was never collect by them.
6 *See id.* at 58, 61-62. According to Jack, the detectives, somewhat mockingly, told him that his
7 belief that someone was trying to frame him would “make a good story” or “nice story or a book
8 or a movie.” *Id.* at 62, 69. He further described Hardy’s refusal to collect his documentation as if
9 “it meant nothin’ to him.” *Id.* at 69.
10

11 Although the State called Leslee as a witness, her testimony essentially has no relevance to
12 the issues raised in RAMOS’s Motion to Dismiss. The State’s apparent reason for calling her as a
13 witness was to somehow discredit Jack’s testimony by trying to paint him as a paranoid, crazy
14 person. *See id.* at 77-80. This, in turn, would presumably justify the detectives’ failure to collect
15 the documents Jack wanted to provide them. However, as detailed in Hardy’s testimony, it was
16 Leslee who at the time of her father’s murder told the police that she suspected that Jack, his
17 girlfriend Martha Morales, and her friends, were responsible for Wallace Siegel’s and Ms.
18 Sabraw’s murders. *See Trans. 12/4/18*, pgs. 9-10. She also told the police that, at that time, Jack
19 was on probation in California and that Jack had told his siblings that Ms. Sabraw was killed by a
20 person named “Ax.” *See id.*
21
22

23 Hardy testified at the hearing held on December 4, 2018. Hardy confirmed that he had
24 worked on the investigation of Wallace Siegel’s death since the case’s inception in May of 1998.
25 *See id.* at 5. He became the lead detective on the case after the former lead detective, Detective
26 Chandler, retired. As lead detective, Hardy acknowledged that Jack was a primary suspect in both
27 murders and remained a suspect at the time of Jack’s interview in June of 2004. *See id.* at 14, 29,
28

39-40.

As to the details of Jack's interview, Hardy, like Mogg, could not remember much. In fact, Hardy explained that he did not even remember the meeting. *See id.* at 29. Similarly, like Mogg, despite Hardy's lack of memory, on the critical issue of why he failed to collect Jack's documentation, he explained that he didn't "believe anything there had the relevance to impound them in relation to the case." *Id.* at 31-32. However, Hardy acknowledged that he could have collected Jack's documents in case it was needed to be reviewed by others during the course of the case, like defense attorneys or the courts. *See id.* at 34.

ARGUMENT

When RAMOS filed his Motion to Dismiss, it was unknown whether this case involved an issue of failure to collect evidence or a failure to preserve evidence. As explained in RAMOS's Motion, Nevada law distinguishes between the government's failure to collect evidence versus the its failure to preserve evidence. *See Daniels v. State*, 114 Nev. 261, 266, 956 P.2d 111 (1998) ("In relying on case law involving the failure to preserve evidence, Daniels fails to distinguish between collection and preservation of evidence."). Based on the testimony provided by all the witnesses at the evidentiary hearing, it now appears that this case involves the failure to collect evidence. Although their memories of the June 2004 interview differ, both the detectives and Jack agree that the detectives never collected the "piles of paperwork" that Jack attempted to provide them. Indeed, according to Jack's testimony, Mogg and Hardy refused to even look at the "duffle bag" of documents he wanted the detectives to review. *Trans. 11/29/18*, pgs. 61-62.

Consequently, to resolve RAMOS's Motion to dismiss, the proper analysis is the two-part test approved by the Nevada Supreme Court in *Daniels*. *See Daniels*, 14 Nev. at 267, 956 P.2d at 115. The *Daniels* test is used to determine if a due process violation has occurred as a result of the State's failure to collect evidence and, if so, what the appropriate remedy is. The first part of the

1 test “requires the defense to show that the evidence was ‘material,’ meaning that there is a
2 reasonable probability that, had the evidence been available to the defense, the result of the
3 proceedings would have been different.”¹ *Id.* “If the evidence was material, then the court must
4 determine whether the failure to gather evidence was the result of mere negligence, gross
5 negligence, or a bad faith attempt to prejudice the defendant’s case.” *Id.* The Court has explained
6 that if “mere negligence is involved, no sanctions are imposed, but the defendant can still examine
7 the prosecution’s witnesses about the investigative deficiencies. When gross negligence is
8 involved, the defense is entitled to a presumption that the evidence would have been unfavorable
9 to the State.” *Id.* Lastly, the Court has stated that when bad faith is established, “dismissal of the
10 charges may be an available remedy based upon an evaluation of the case as a whole.”
11

12 **I. The State’s Failure to Collect Evidence Warrants Dismissal of the Information**

13 Because the detectives failed to collect the “numerous piles of paperwork” Jack wanted to
14 provide them, and/or failed to record the 2004 interview, a due process violation occurred. To
15 prove such a violation, RAMOS must show that the evidence the detectives failed to collect was
16 material. *See Daniels*, 14 Nev. at 267, 956 P.2d at 115 (“[A] reasonable probability that, had the
17 evidence been available to the defense, the result of the proceedings would have been different.”).
18

19 The starting point of this analysis is what the detectives knew, or should have known,
20 based on their investigation, the moment they interviewed Jack in June of 2004. According to the
21 documents contained in Defense Exhibit “A,” admitted at the evidentiary hearing, and confirmed
22 by Hardy during his testimony, the detectives should have known the following facts:
23

24 When questioned by the police on the day of his father’s apparent murder, Jack—who was
25 the only person driving his father’s car the preceding three months before his father’s death—told
26

27 ¹ Admittedly, this is a very difficult standard to apply as it seems to assume a post-trial application.
28 In other words, if the case hasn’t gone to trial, how can a court reasonably determine whether the
“proceedings would have been different,” if the evidence had been available to the defense?

1 the police that no blood would be found inside the car. However, when the police later searched
2 the car, they found what appeared to be blood on the carpet of the driver's side, as well as on the
3 steering wheel of the car. A presumptive test was positive for blood. Nevertheless, after finding
4 this inculpatory and critical evidence, the police never sought to question Jack about it during the
5 2004 interview. *See Trans. 12/4/18*, pgs. 9-10.

6 Furthermore, the police learned and documented that Jack's siblings suspected that Jack,
7 his girlfriend Martha Morales, and her friends, were responsible for Wallace Siegel's and Ms.
8 Sabraw's death. Jack's siblings told the police that, at that time, Jack was on probation in
9 California and that Jack had told his siblings that Ms. Sabraw was killed by a person named
10 "Ax." Like the evidence of the blood in Wallace Siegel's car, the police also failed to question
11 Jack about this critical evidence. *See id.*

12 The police also learned and documented shortly after the murder that during the time
13 Jack was living and caring for his father, he became very stressed and angry because he did not
14 feel he was getting any support from his brothers and sisters. Jack had become stressed out and
15 angry from caring for his father. The police learned that Jack did not want to care for his father
16 and had gotten into an argument with his father over money shortly before his murder. As to the
17 cause of death, the police concluded that, based on the severity of the injuries to Wallace
18 Siegel's head, the murder was "'overkill' and that whoever the suspect is was angry with the
19 victim." Mr. Siegel also had a \$100,000.00 insurance policy and 4 CD annuities at the time of
20 his death, which Jack and his siblings sought to recover and which also became the basis of civil
21 litigation by the insurance company and Mr. Siegel's siblings. *See id.*

22 The difficulty in this case is that, because the detectives failed to collect a single page of
23 the piles of paperwork Jack tried to provide them, it is impossible to know how material that
24

1 evidence was.² However, in light of the facts described above which were known by the detectives
2 at the time they met with Jack in 2004, the evidence the detectives failed to collect shows a
3 “reasonable probability” that if the evidence were available to the defense, the case would be
4 different. Whether the evidence was further inculpatory as to Jack—who already had a cloud of
5 suspicion hanging over his head, whether the evidence created another suspect who committed the
6 murders as Jack believed, or a combination of the two, the missing evidence shows that the
7 proceedings would be different if the detectives would have collected it and made it available to
8 the defense.
9

10 Assuming the evidence the detectives failed to gather was material, “then the court must
11 determine whether the failure to gather evidence was the result of mere negligence, gross
12 negligence, or a bad faith attempt to prejudice the defendant’s case.” Daniels, 14 Nev. at 267, 956
13 P.2d at 115. If “mere negligence is involved, no sanctions are imposed, but the defendant can still
14 examine the prosecution’s witnesses about the investigative deficiencies. When gross negligence is
15 involved, the defense is entitled to a presumption that the evidence would have been unfavorable
16 to the State.” *Id.* Lastly, the Supreme Court has stated that when bad faith is established, “dismissal
17 of the charges may be an available remedy based upon an evaluation of the case as a whole.” *Id.*
18

19 At a minimum, the detectives’ failure to collect Jack’s documentation in 2004 was gross
20 negligence. Indeed, it was gross negligence for the police not to question Jack about the blood
21 discovered inside of Wallace Siegel’s car and the statements made by Jack’s siblings inculpatory
22 Jack in his father’s murder.
23
24

25
26 ² Based on the “Officer’s Report” Hardy authored in 2004 regarding the detectives’ interview of
27 Jack, it is known what some of the documents the detectives could have collected. Specifically, the
28 Report references United States Savings Bonds in Jack’s name which were cashed without his
consent and a credit report showing a credit card account in Jack’s name opened without his
consent. Jack believed that if he were to be falsely arrested for his father’s murder, he would be
unable to do anything about the unauthorized savings bond and credit card account.

1 Besides the exculpatory value of Jack's documentation, collecting it could have been easily
2 accomplished, at little or no cost, and with no inconvenience to the government. Hardy testified as
3 such at the evidentiary hearing. *See Trans. 12/4/18*, pg. 34. If this had been done, this critical
4 evidence could have been properly reviewed and investigated by RAMOS's counsel and the
5 courts, rather than relying on the detectives' conclusionary statements that if Jack's documentation
6 had been relevant, they would have collected it.

7 The inevitable conclusion is that the government acted with bad faith and prejudiced
8 RAMOS's case. Consequently, the Information must be dismissed as the proper remedy. However,
9 if the Court feels dismissal is unwarranted in this case, RAMOS submits that a jury instruction is
10 required holding that a presumption applies that Jack's documentation would have been
11 unfavorable to the government and/or favorable to RAMOS.
12

13 CONCLUSION

14 Based on the foregoing reasons, RAMOS respectfully submits that because the State failed
15 to collect material evidence in this case, he requests that the Court:
16

17 (1) Dismiss the Information with prejudice; or, in the alternative

18 (2) Require a jury instruction declaring that a presumption applies that the missing
19 evidence would have been unfavorable to the State and/or favorable to RAMOS.
20

21 DATED this 6th day of February, 2019.

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IN THE SUPREME COURT OF THE STATE OF NEVADA

GUSTAVO RAMOS,

Appellant,

v.

THE STATE OF NEVADA,

Respondent.

Supreme Court Case No. 79781

APPELLANT'S APPENDIX

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