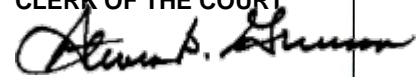


**K. RYAN HELMICK, ESQ.**  
Nevada State Bar No. 12769  
**RICHARD HARRIS LAW FIRM**  
801 South Fourth Street  
Las Vegas, Nevada 89101  
Phone (702) 333-3333  
Fax (702) 444-4466

Electronically Filed  
12/23/2019 12:39 PM  
Steven D. Grierson  
CLERK OF THE COURT



Electronically Filed  
Jan 03 2020 10:33 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**EIGHTH JUDICIAL DISTRICT COURT  
FOR THE DISTRICT OF NEVADA**


STATE OF NEVADA,  
Plaintiff,  
vs.  
KODY HARLAN,  
Defendant,

Case No: C-18-333318-2  
Dept: 3

**NOTICE OF APPEAL**

NOTICE is hereby given that Defendant, KODY HARLAN, hereby appeals to the Supreme Court of the State of Nevada from the verdict and procedure of July 29, 2019 through August 7, 2019. Additionally, Mr. Harlan appeals the District Court's denial of his Motion for a New Trial as well as the District Courts ruling on the limitations set upon the evidentiary hearing for the Motion for a New Trial, both hearings taking place on October 10, 2019 and on November 25, 2019. Lastly, Mr. Harlan appeals his sentencing that took place on December 10, 2019.

DATED this 23 day of December, 2019.

By:   
**K. RYAN HELMICK, ESQ.**  
Nevada State Bar No. 12769  
**RICHARD HARRIS LAW FIRM**

801 South Fourth Street  
Las Vegas, Nevada 89101  
Phone (702) 333-3333  
Fax (702) 444-4466

**CERTIFICATE OF SERVICE**

I hereby certify that on the 23 day of December 2019. I served a true and correct copy of the foregoing document entitled **NOTICE OF APPEAL** to those listed below by sending a copy via electronic mail and/or U.S. mail to and/or via hand delivery:

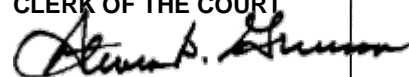
SUPREME COURT CLERK  
Supreme Court Building  
201 S. Carson Street  
Carson City, Nevada 89701

CLARK COUNTY DISTRICT ATTORNEY  
[giancarlo.pesci@clarkcountynvda.com](mailto:giancarlo.pesci@clarkcountynvda.com)  
[Sarah.Overly@clarkcountynvda.com](mailto:Sarah.Overly@clarkcountynvda.com)

By:

  
An employee of Richard Harris Law Firm

1 K. Ryan Helmick, Esq.  
2 Richard Harris Law Firm, LLP.  
3 801 S. 4<sup>th</sup> St.  
4 Las Vegas, NV 89101  
5 Telephone (702) 333-3333  
6 Ryan@thedefenders.net



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

9 In the matter of the application of,

10 KODY HARLAN,  
11 Appellant,

12 STATE OF NEVADA,  
13 Respondent

Case No.: C-18-333318-2  
Dept. No.: 3

14 **CASE APPEAL STATEMENT**

15 1. Name of appellant filing this case appeal statement:

16 **Kody Harlan**

17 2. Identify the judge issuing the decision, judgment, or order appealed  
18 from:

19 **The Honorable Judge Douglas Herndon**

20 3. Identify each appellant and the name and address of counsel for  
21 each appellant:

22 **Kody Harlan, Appellant**  
23 **K. Ryan Helmick, Esq.**  
24 **Richard Harris Law Firm, LLP.**  
25 **801 S. 4<sup>th</sup> St.**  
26 **Las Vegas, NV 89101**

**Telephone (702) 333-3333**  
**Ryan@thedefenders.net**

4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much and provide the name and address of that respondent's trial counsel):

**STEVE WOLFSON**  
**District Attorney**  
**200 Lewis Ave.**  
**Las Vegas, NV 89155**  
**702-671-2650**

**AARON FORD, ESQ.**  
**Nevada Attorney General**  
**100 North Carson Street**  
**Carson City, Nevada 89701-4717**

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

**N/A**

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

**Retained**

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



**Counsel will be appointed upon undersigned's Motion to Withdraw.**

8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of entry of the district court order granting such leave:

**N/A**

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

**7-17-18**

10. Provide a brief description of the nature of the action and result in the district court, including the type of judgment or order being appealed and the relief granted by the district court:

**Appellant was charged by way of Information on July 17, 2018. Jury Trial began on July 29, 2019 and lasted until August 7, 2019. Appellant was convicted of all counts in the Information. A hearing was held on October 10, 2019 in regard to Appellant's Motion for New Trial based upon multiple allegations of juror misconduct. The District Court judge excluded many aspects of misconduct alleged and ordered an evidentiary hearing on one specific issue only. A limited evidentiary hearing was held on November 25, 2019, in regard to the Motion for a New Trial based upon juror misconduct. This motion was denied by the District Court Judge. Appellant was sentenced on December 10, 2019 and Judgment of Conviction entered on December 12, 2019.**

11. Indicate whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court and, if

1 so, the caption and Supreme Court docket number of the prior  
2 proceeding:

3 N/A

4  
5 12. Indicate whether this appeal involves child custody or visitation:

6 N/A

7 13. If this is a civil case, indicate whether this appeal involves the  
8 possibility of settlement:

9 N/A

10  
11  
12 Dated this 23 day of December 2019.

13  
14 By 

15 K. Ryan Helmick, Esq.

16 Richard Harris Law Firm, LLP.

17 801 S. 4<sup>th</sup> St.

18 Las Vegas, NV 89101

19 Telephone (702) 333-3333

20 Ryan@thedefenders.net  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

I hereby certify that on the 13 day of December 2019, I served  
a true and correct copy of the foregoing document entitled **CASE APPEAL STATEMENT**  
to those listed below by sending a copy via electronic mail and/or U.S. mail to and/or via  
hand delivery:

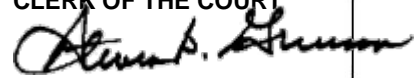
SUPREME COURT CLERK  
Supreme Court Building  
201 S. Carson Street  
Carson City, Nevada 89701

STEVE WOLFSON  
District Attorney  
200 Lewis Ave.  
Las Vegas, NV 89155  
702-671-2650

AARON FORD, ESQ.  
Nevada Attorney General  
100 North Carson Street  
Carson City, Nevada 89701-4717

By:

  
An Employee of Richard Harris Law Firm



**K. RYAN HELMICK, ESQ.**  
Nevada State Bar No. 12769  
**RICHARD HARRIS LAW FIRM**  
801 South Fourth Street  
Las Vegas, Nevada 89101  
Phone (702) 333-3333  
Fax (702) 444-4466

**EIGHTH JUDICIAL DISTRICT COURT  
FOR THE DISTRICT OF NEVADA**

KODY HARLAN,

Appellant,

vs.

STATE OF NEVADA,

Respondent.

Case No: C-18-333318-2  
Dept: 3

**REQUEST FOR TRANSCRIPT**

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

Kody Harlan, Appellant named above, requests preparation of a transcript of the proceedings before the district court, as follows:

The Honorable Judge Douglas Herndon:

Date(s) of Proceedings:

Portions of the transcripts requested:

- 1) 7/29/19-8/7/19: Jury Trial
- 2) 10/10/19: Motion to Set Aside Guilty Verdict as to Counts One and Two, in the Alternative Motion for a New Trial.
- 3) 11/25/19: Motion to Set Aside Guilty Verdict as to Counts One and Two, in the Alternative Motion for a New Trial



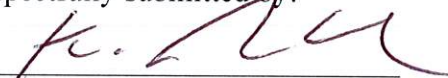
4) 12/10/19: Sentencing

Number of copies required: Two.

I hereby certify that on this 23 day of December, 2019 I ordered this transcript from the court reporter named above, and hereby certify that Appellant is indigent pursuant to his inability to afford appellate counsel and was previously declared indigent by the Henderson Justice Court at which point he was appointed original trial counsel and therefore should be exempt from paying the required deposit.

DATED this 23 day of December 2019.

Respectfully submitted by:



**K. RYAN HELMICK, ESQ.**

Nevada State Bar No. 12769

**RICHARD HARRIS LAW FIRM**

830 South Fourth Street

Las Vegas, Nevada 89101

Phone (702) 333-3333

Fax (702) 444-4466

**RICHARD HARRIS LAW FIRM**

801 S. 4<sup>th</sup> St.  
Las Vegas, Nevada 89101  
702-333-3333

**CERTIFICATE OF SERVICE**

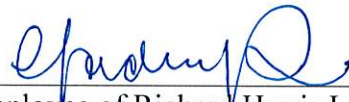
I hereby certify that on the 23 day of December 2019. I served a true and correct copy of the foregoing document entitled **REQUEST FOR TRANSCRIPTS** to those listed below by sending a copy via electronic mail and/or U.S. mail to:

SUPREME COURT CLERK  
Supreme Court Building  
201 S. Carson Street  
Carson City, Nevada 89701

STEVE WOLFSON  
District Attorney  
200 Lewis Ave.  
Las Vegas, NV 89155  
702-671-2650

AARON FORD, ESQ.  
Nevada Attorney General  
100 North Carson Street  
Carson City, Nevada 89701-4717

By:



An employee of Richard Harris Law Firm

EIGHTH JUDICIAL DISTRICT COURT

**CASE SUMMARY**  
**CASE NO. C-18-333318-2**

State of Nevada  
vs  
Kody Harlan

§ Location: Department 3  
§ Judicial Officer: Herndon, Douglas W.  
§ Filed on: 07/10/2018  
§ Case Number History:  
§ Cross-Reference Case Number: C333318  
§ Defendant's Scope ID #: 5124517  
§ ITAG Case ID: 1993788  
§ Lower Court Case # Root: 18FH1236  
§ Lower Court Case Number: 18FH1236B

CASE INFORMATION

Offense	Statute	Deg	Date	Case Type:	Felony/Gross Misdemeanor
1. 1ST DEGREE MURDER WITH USE OF A DEADLY WEAPON	200.030.1	F	06/08/2018		
Filed As: MURDER WITH USE OF A DEADLY WEAPON	F	7/17/2018		Case Status:	12/12/2019 Closed
Arrest: 06/11/2018					
2. ROBBERY WITH USE OF A DEADLY WEAPON	200.380	F	06/08/2018		
3. ACCESSORY TO MURDER WITH USE OF A DEADLY WEAPON	195.030.1	F	06/08/2018		

**Related Cases**

C-18-333318-1 (Multi-Defendant Case)

**Statistical Closures**

12/12/2019 Jury Trial - Conviction - Criminal

DATE

CASE ASSIGNMENT

**Current Case Assignment**

Case Number C-18-333318-2  
Court Department 3  
Date Assigned 07/11/2018  
Judicial Officer Herndon, Douglas W.

PARTY INFORMATION


		Lead Attorneys
<b>Defendant</b>	<b>Harlan, Kody</b>	<b>Helmick, Kirk R.</b> <i>Retained</i> 702-333-3333(W)
<b>Plaintiff</b>	<b>State of Nevada</b>	<b>Wolfson, Steven B</b> 702-671-2700(W)


DATE


EVENTS & ORDERS OF THE COURT

INDEX

**EVENTS**

07/10/2018  Criminal Bindover - Confidential

07/10/2018  Criminal Bindover

07/17/2018  Information  
Party: Plaintiff State of Nevada  
*Information*

**CASE SUMMARY**  
**CASE NO. C-18-333318-2**


















07/30/2018	 Reporters Transcript <i>Reporter's Transcript of Preliminary Hearing, 7/9/18</i>
08/01/2018	 Media Request and Order <i>Media Request And Order Allowing Camera Access To Court Proceedings</i>
09/13/2018	 Petition for Writ of Habeas Corpus Filed by: Defendant Harlan, Kody <i>Petition For Writ Of Habeas Corpus</i>
09/17/2018	 Return Party: Plaintiff State of Nevada <i>State's Return to Writ of Habeas Corpus</i>
11/09/2018	 Order Filed By: Plaintiff State of Nevada <i>Order Denying Defendant's Pretrial Petition for Writ of Habeas Corpus</i>
01/22/2019	 Media Request and Order <i>Media Request And Order Allowing Camera Access To Court Proceedings.... KTNV</i>
03/29/2019	 Substitution of Attorney Filed by: Defendant Harlan, Kody <i>Substitution of Attorney</i>
04/05/2019	 Notice of Witnesses and/or Expert Witnesses Filed By: Defendant Harlan, Kody <i>Notice of Witnesses and/or Expert Witnesses</i>
04/08/2019	 Motion Filed By: Defendant Harlan, Kody <i>Defendant Harlan's Motion to Sever or in the Alternative Motion to Deem Statements of the Co-Defendant Inadmissible</i>
04/09/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
04/09/2019	 Receipt of Copy <i>Receipt of Copy</i>
04/09/2019	 Notice of Witnesses and/or Expert Witnesses Filed By: Plaintiff State of Nevada <i>State's Notice of Witnesses and/or Expert Witnesses</i>
04/11/2019	 Opposition Filed By: Plaintiff State of Nevada <i>State's Opposition to Defendant Harlan's Motion to Sever or in the Alternative Motion to Deem Statements of the Co-Defendant Inadmissible</i>
04/18/2019	 Motion Filed By: Defendant Harlan, Kody <i>Defendant's Motion in Limine Regarding Prior Bad Acts and Photo/Videographic Evidence</i>




**CASE SUMMARY**  
**CASE NO. C-18-333318-2**


04/18/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
04/22/2019	 Motion Filed By: Defendant Harlan, Kody <i>Defendant's Motion in Limine Seeking to Exclude Witness Testimony</i>
04/22/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
04/25/2019	 Opposition Filed By: Plaintiff State of Nevada <i>State's Opposition to Defendant Harlan's Motion in Limine Regarding Prior Bad Acts and Photo/Videographic Evidence</i>
04/26/2019	 Opposition Filed By: Plaintiff State of Nevada <i>State's Opposition to Defendant Harlan's Motion in Limine Seeking to Exclude Witness Testimony</i>
05/01/2019	 Receipt of Copy <i>Receipt of Copy</i>
05/09/2019	 Motion Filed By: Defendant Harlan, Kody <i>Motion for Bail Reduction</i>
05/09/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
05/10/2019	 Opposition Filed By: Plaintiff State of Nevada <i>State's Opposition to Defendant Harlan's Motion for Bail Reduction</i>
05/10/2019	 Exhibits Filed By: Plaintiff State of Nevada <i>State's Notice of CD as Exhibit 'I' to State's Opposition to Defendant Harlan's Motion for Bail Reduction, for Hearing on May 14, 2019</i>
05/14/2019	 Receipt of Copy Filed by: Plaintiff State of Nevada <i>Receipt of Copy</i>
05/15/2019	 Order Filed By: Plaintiff State of Nevada <i>Order Denying Defendant's Motion to Sever, or in the Alternative, Motion to Deem Statements of the Co-Defendant Inadmissible</i>
05/20/2019	 Order Filed By: Plaintiff State of Nevada <i>Order Denying Defendant's Motion for Bail Reduction</i>
06/12/2019	 Supplemental Witness List <i>State's Supplemental Notice of Witnesses and/or Expert Witnesses</i>


**CASE SUMMARY**  
**CASE NO. C-18-333318-2**


07/19/2019	 Supplemental Witness List Filed by: Plaintiff State of Nevada <i>State's Second Supplemental Notice of Witnesses and/or Expert Witnesses</i>
07/29/2019	 Supplemental Witness List Filed by: Plaintiff State of Nevada <i>State's Third Supplemental Notice of Witnesses and/or Expert Witnesses</i>
07/29/2019	 Stipulation and Order
07/30/2019	 Filed Under Seal <i>Misc Juvenile Documents</i>
07/30/2019	 Jury List
08/06/2019	 Media Request and Order <i>Media Request And Order Allowing Camera Access To Court Proceedings.. KLAS</i>
08/06/2019	 Amended Jury List
08/07/2019	 Verdict
08/07/2019	 Instructions to the Jury
08/13/2019	 Motion to Set Aside Filed By: Defendant Harlan, Kody <i>Notice of Motion to Place on Caeldnar to Set Aside Guilty Verdict as to Counts One and Two; In the Alternative Motion for a New Trial and to Request Additional Time for Supplemental Briefing</i>
08/13/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
08/20/2019	 Opposition Filed By: Plaintiff State of Nevada <i>State's Oppositon to Deft's Motion to Set Aside Jury Verdict as to Counts one and Two: or in the Alternative Motion for New Trial and Supplemental Briefing</i>
08/28/2019	 Media Request and Order <i>Media Request And Order Allowing Camera Access To Court Proceedings</i>
09/04/2019	 PSI
09/11/2019	 Supplemental Filed by: Defendant Harlan, Kody <i>Supplemental Briefing for Motion for New Trial</i>
09/12/2019	 Supplemental Brief <i>SUPPLEMENTAL BRIEFING FOR MOTION FOR NEW TRAIL</i>
09/26/2019	 Opposition <i>State's Supplemental Opposition to Defendant's Motion for New Trial</i>


**CASE SUMMARY**  
**CASE NO. C-18-333318-2**


10/03/2019  **Response**  
Filed by: Defendant Harlan, Kody  
*Response to State's Opposition to Harlan's Supplemental Briefing for Motion for New Trial*


10/14/2019  **Order**  
Filed By: Defendant Harlan, Kody  
*Order*

12/09/2019  **Memorandum**  
Filed By: Defendant Harlan, Kody  
*Defendant's Sentencing Memorandum*

12/12/2019  **Judgment of Conviction**  
*Judgment of Conviction*

12/23/2019  **Notice of Appeal (criminal)**  
Party: Defendant Harlan, Kody  
*Notice of Appeal*

12/23/2019  **Request**  
Filed by: Defendant Harlan, Kody  
*Request for Transcript*

12/23/2019  **Case Appeal Statement**  
Filed By: Defendant Harlan, Kody  
*Case Appeal Statement*

**DISPOSITIONS**

07/18/2018 **Plea** (Judicial Officer: Herndon, Douglas W.)

1. MURDER WITH USE OF A DEADLY WEAPON  
Not Guilty  
PCN: Sequence:
2. ROBBERY WITH USE OF A DEADLY WEAPON  
Not Guilty  
PCN: Sequence:
3. ACCESSORY TO MURDER WITH USE OF A DEADLY WEAPON  
Not Guilty  
PCN: Sequence:

08/07/2019 **Disposition** (Judicial Officer: Herndon, Douglas W.)

1. 1ST DEGREE MURDER WITH USE OF A DEADLY WEAPON  
Guilty  
PCN: Sequence:
2. ROBBERY WITH USE OF A DEADLY WEAPON  
Guilty  
PCN: Sequence:
3. ACCESSORY TO MURDER WITH USE OF A DEADLY WEAPON  
Guilty  
PCN: Sequence:

12/10/2019 **Adult Adjudication** (Judicial Officer: Herndon, Douglas W.)

**CASE SUMMARY****CASE NO. C-18-333318-2**

1. 1ST DEGREE MURDER WITH USE OF A DEADLY WEAPON

06/08/2018 (F) 200.030.1 (DC50006)

PCN: Sequence:

Sentenced to Nevada Dept. of Corrections

Term: Life with the possibility of parole after:20 Years

Consecutive Enhancement:Deadly Weapon Enhancement, Minimum:48 Months, Maximum:120 Months

12/11/2019 **Adult Adjudication** (Judicial Officer: Herndon, Douglas W.)

2. ROBBERY WITH USE OF A DEADLY WEAPON

06/08/2018 (F) 200.380 (DC50138)

PCN: Sequence:

Sentenced to Nevada Dept. of Corrections

Term: Minimum:48 Months, Maximum:120 Months

Consecutive Enhancement:Deadly Weapon Enhancement, Minimum:48 Months, Maximum:120 Months

Concurrent: Case Number Count 1

12/11/2019 **Adult Adjudication** (Judicial Officer: Herndon, Douglas W.)

3. ACCESSORY TO MURDER WITH USE OF A DEADLY WEAPON

06/08/2018 (F) 195.030.1 (DC53090)

PCN: Sequence:

Sentenced to Nevada Dept. of Corrections


Term: Minimum:18 Months, Maximum:60 Months

Concurrent: Charge Count 1

Credit for Time Served: 549 Days

**Fee Totals:**


Administrative Assessment Fee	25.00
\$25	
DNA Analysis Fee	150.00
\$150	
Fine - ASK	250.00
Genetic Marker Analysis AA Fee	3.00
\$3	
Indigent Defense Civil Assessment	250.00
Fee - ASK	
Fee Totals \$	678.00

**HEARINGS**07/18/2018  **Initial Arraignment** (10:00 AM) (Judicial Officer: De La Garza, Melisa)

Plea Entered;

Journal Entry Details:

*Deputized Law Clerk, Ashley Lacher also appearing for the State. DEFT. HARLAN ARRAIGNED, PLED NOT GUILTY, and INVOKED the 60-DAY RULE. Due to the nature of the charges, COURT ORDERED, matter set for a status check regarding a trial setting. COURT ORDERED, pursuant to Statute, Counsel has 21 days from today for the filing of any Writs; if the Preliminary Hearing Transcript has not been filed as of today, Counsel has 21 days from the filing of the Transcript; FURTHER ORDERED, Deft s request for discovery and State s request for reciprocal discovery is GRANTED pursuant to Statute and State law. CUSTODY 7/31/18 9:00 AM STATUS CHECK: TRIAL SETTING (DEPT. 3);*

07/31/2018  **Status Check: Trial Setting** (9:00 AM) (Judicial Officer: Herndon, Douglas W.)**07/31/2018, 08/15/2018**

Continued;

Matter Heard;

Journal Entry Details:

*Also present: Codefendant Caruso, in custody, represented by Mace Yampolsky, Esq. Court stated defendants previously pled not guilty and waived their right to a speedy trial, noting a trial date needs to be set. Conference at the Bench. Discussion regarding trial dates. COURT ORDERED, matter SET for trial. Discussion regarding writ filing*



**CASE SUMMARY****CASE NO. C-18-333318-2**

period. Mr. Yampolsky requested 30 days from today to file any Writs. State submitted. COURT ORDERED, counsel has 30 DAYS from today to file any Writs, matter SET for Status Check. Court requested counsel use the November 21, 2018 date if they file any Writs. CUSTODY 11/07/18 9:30 AM STATUS CHECK: TRIAL READINESS 5/02/19 9:00 AM CALENDAR CALL 5/14/19 10:00 AM JURY TRIAL;

Continued;

Matter Heard;

Journal Entry Details:

Also present: Taleen Pandukht, Chief Deputy District Attorney. Codefendant J. Caruso, in custody, represented by Keith Brower, Esq. Ms. Pandukht advised Mr. Pesci will be present on this matter. Matter TRAILED and RECALLED. Mr. Pesci now present. Mr. Yampolsky advised that Mr. Caruso previously pled not guilty and waived his right to a speedy trial. Mr. Brower stated Mr. Harlan pled not guilty and technically invoked, however, he wishes to waive his right to a speedy trial. Upon Court's inquiry, Mr. Harlan WAIVED the 60-DAY Rule. COURT FURTHER ORDERED, counsel has 21-DAYS after receipt of copy of the transcripts to file any Writs. Mr. Pesci stated matter will not go in front of the Death Review Committee, noting the defendants are under the age. Pursuant to EDCR 1.30 and 1.31 this court ORDERS the case REASSIGNED to Department 3. Discussion regarding trial setting. Mr. Brower requested a status check, noting he may be filing a Writ. State had no opposition to setting a status check. COURT ORDERED, matter SET for Status Check. CUSTODY 8/15/18 9:30 AM STATUS CHECK: TRIAL SETTING (BOTH);

11/07/2018



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

**11/07/2018, 01/23/2019, 02/06/2019, 03/20/2019, 04/23/2019**

Matter Continued;

Matter Continued;

Matter Continued;

Set Status Check;

Matter Heard;

Matter Continued;

Matter Continued;

Matter Continued;

Set Status Check;

Matter Heard;

Journal Entry Details:

APPEARANCES CONTINUED: Defendant CARUSO present in custody represented by Mace Yampolsky Esq. Mr. Brower stated he believes the case will be resolved, however parties do not have a Guilty Plea Agreement, and requested the matter be continued two weeks to enter a plea. Mr. Pesci confirmed the representations. COURT ORDERED, matter SET for status check; trial date STANDS. CUSTODY 4/3/19 9:30 A.M. STATUS CHECK: NEGOTIATIONS 5/2/19 9:00 A.M. CALENDAR CALL 5/13/19 10:00 A.M. JURY TRIAL;

Matter Continued;

Matter Continued;

Matter Continued;

Set Status Check;

Matter Heard;

Journal Entry Details:

APPEARANCES CONTINUED: Defendant CARUSO present in custody represented by Mace Yampolsky Esq. Mr. Yampolsky stated Mr. Pesci is ill, and they are anticipating an offer being made, and requested the trial date remain and requested another status check be set. Ms. Overly confirmed the representations. COURT ORDERED, matter CONTINUED. CUSTODY CONTINUED TO: 3/20/19 9:30 A.M. 5/2/19 9:00 A.M. CALENDAR CALL 5/13/19 10:00 A.M. JURY TRIAL;

Matter Continued;

Matter Continued;

Matter Continued;

Set Status Check;

Matter Heard;

Journal Entry Details:

APPEARANCES CONTINUED: Defendant CARUSO present in custody represented by Mace Yampolsky Esq. Mr. Yampolsky indicated Mr. Pesci is currently in trial, and requested the matter be continued, and stated he was hopeful the State would make an offer before then. COURT ORDERED, matter CONTINUED. CUSTODY CONTINUED TO: 2/6/19 9:30 A.M. 5/2/19 9:00 A.M. CALENDAR CALL 5/13/19 10:00 A.M. JURY TRIAL;

Matter Continued;

Matter Continued;




Matter Continued;

Set Status Check;

Matter Heard;

# CASE SUMMARY

CASE NO. C-18-333318-2

11/07/2018	<b>Petition for Writ of Habeas Corpus (9:30 AM)</b> (Judicial Officer: Herndon, Douglas W.) Denied;
11/07/2018	 <b>All Pending Motions (9:30 AM)</b> (Judicial Officer: Herndon, Douglas W.) Matter Heard; Journal Entry Details: <i>PETITION FOR WRIT OF HABEAS CORPUS... STATUS CHECK: TRIAL READINESS... APPEARANCES CONTINUED: Defendant CARUSO present in custody represented by Mace Yampolsky Esq. Ms. Yampolsky stated no problem with the trial date, and Mr. Brower confirmed the representations. Mr. Pesci stated parties can come and complete a file review. COURT DIRECTED parties to complete a file review PRIOR to next status check date. Upon Court's inquiry, Mr. Pesci stated he does not believe there is any outstanding forensic testing, however would look into it. COURT FURTHER DIRECTED parties to get an update on the forensics in this case, and ORDERED, matter CONTINUED. Mr. Brower submitted on the pleading regarding the Writ. Mr. Pesci submitted. COURT STATED ITS FINDINGS, and DENIED the Petition for Writ of Habeas Corpus, adding this Petition raised the same issue that was in the earlier Writ. CUSTODY CONTINUED TO: 1/23/19 9:30 A.M. 5/2/19 9:00 A.M. CALENDAR CALL 5/14/19 10:00 A.M. JURY TRIAL;</i>
04/03/2019	 <b>Status Check (9:30 AM)</b> (Judicial Officer: Herndon, Douglas W.) Status Check: Negotiations Set Status Check; Status Check: Negotiations Journal Entry Details: <i>APPEARANCES CONTINUED: Defendant CARUSO present in custody represented by Mace Yampolsky Esq. Mr. Helmick indicated he spoke with Defendant Harlan regarding the negotiations thoroughly and the Defendant has decided to reject the negotiation at this time and requested to proceed with trial. Mr. Yampolsky indicated Defendant Caruso wanted to proceed with the negotiations, however they were contingent offers. Mr. Pesci informed the Court the State was under the impression both Defendants were going to plead. Mr. Pesci stated with regards to Defendant CARUSO, the offer was a Second Degree Murder with a right to argue, and with regards to Defendant HARLAN the offer was Voluntary Manslaughter with use of a Deadly Weapon, State has the right to argue, and confirmed the offers were contingent. Upon Court's inquiry, Defendant CARUSO confirmed he wanted to accept the offer that was relayed; Defendant HARLAN confirmed he wanted to reject the offer. Mr. Pesci stated he does not believe Mr. Helmick has all the Discovery from prior counsel. Mr. Helmick confirmed he does not have all of the Discovery, and he has been trying to get caught up, and provided USB's to the State who will provide the remaining Discovery. Upon Court's inquiry, Mr. Pesci suggested the Offer reaming open for two to three weeks, for Defense Counsel can review the remaining Discovery. COURT ORDERED, matter SET for status check. CUSTODY 4/23/19 9:00 A.M. STATUS CHECK: TRIAL READINESS 5/2/19 9:00 A.M. CALENDAR CALL 5/13/19 10:00 A.M. JURY TRIAL;</i>
04/23/2019	<b>Motion to Sever (1:00 PM)</b> (Judicial Officer: Herndon, Douglas W.) <i>Defendant Harlan's Motion to Sever or in the Alternative Motion to Deem Statements of the Co-Defendant inadmissible</i> Motion Denied;
04/23/2019	 <b>All Pending Motions (1:00 PM)</b> (Judicial Officer: Herndon, Douglas W.) Matter Heard; Journal Entry Details: <i>STATUS CHECK: TRIAL READINESS... DEFENDANT HARLAN'S MOTION TO SEVER OR IN THE ALTERNATIVE MOTION TO DEEM STATEMENTS OF THE CO-DEFENDANT INADMISSABLE.. APPEARANCES CONTINUED: Defendant CARUSO present in custody represented by Jason Margolis Esq. Mr. Helmick argued in support of the Motion to Sever, stated the decisive factor is prejudice, adding the degrees of culpability is different between the two Defendants. Mr. Pesci argued against the Motion, pointing out the Supreme Court has said it is not a reason to sever due to antagonistic defenses. Mr. Pesci informed the Court the State is not seeking to introduce anything the Defendant's said to each other, arguing there is no basis for a severance in this matter. COURT STATED ITS FINDINGS, and ORDERED, Motion to Sever DENIED. COURT FURTHER ORDERED, Defendant's Motion In Limine RESET to May 2, 2019. Mr. Helmick stated he has obtained and expert, and he does not know if he will produce a report, however it should be completed before trial. Mr. Helmick also stated for the record that the offer for Defendant HARLAN is still being rejected by the Defendant. Upon Court's inquiry, Mr. Pesci stated the offer is withdrawn as to Defendant Harlan. Mr. Pesci informed the Court the State has subpoenaed all the records related to this case from Henderson Police Department, and last Friday he received a stack of paperwork, and the Police Department additionally stated they have 150 gigabits of data, and Mr. Pesci will provide a drive to the Department. CUSTODY 5/2/19 9:00 A.M. CALENDAR CALL... DEFENDANT'S MOTION IN LIMINE REGARDING PRIOR BAD ACTS AND PHOTO/VIDEOGRAPHIC EVIDENCE... DEFENDANT'S MOTION IN LIMINE SEEKING TO EXCLUDE WITNESS TESTIMONY 5/13/19 10:00 A.M. JURY TRIAL;</i>
05/02/2019	

**CASE SUMMARY**  
**CASE NO. C-18-333318-2**



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

**05/02/2019, 05/08/2019**

Matter Continued;

Trial Date Set;

Journal Entry Details:

*APPEARANCES CONTINUED: Defendant CARUSO present in custody represented by Mace Yampolsky Esq. COURT ADVISED the Calendar Call was continued for Mr. Yampolsky to obtain the Discovery and to estimate when he would be ready to proceed with trial. Mr. Yampolsky confirmed he did receive the Discovery adding, there is a removable drive that works fine on his desktop, however is not compatible with his MAC computer. Mr. Yampolsky informed the Court there are 850 videos, which are 10-30 seconds long, and 5,000 photos, and text messages, which he believes would take over twenty hours to review. Mr. Helmick requested to have the trial set in July. Colloquy regarding trial dates. Upon Court's inquiry, Mr. Pesci suggested this trial will take longer than a week. COURT ORDERED trial date VACATED and RESET; status check SET. Mr. Helmick stated for the record there was another offer extended to Defendant Harlan of Accessory to Murder, Robbery with the State having the right to argue, and Defendant Harlan has rejected it. Upon Court's inquiry, Mr. Pesci stated the offers will remain open with the Defendants until the status check. CUSTODY 6/12/19 9:30 A.M. STATUS CHECK: TRIAL READINESS 7/18/19 9:00 A.M. CALENDAR CALL 7/29/19 10:00 A.M. JURY TRIAL;*

Matter Continued;

Trial Date Set;

**05/02/2019 Motion in Limine (9:00 AM)** (Judicial Officer: Herndon, Douglas W.)

*Defendant's Motion in Limine Regarding Prior Bad Acts and Photo/Videographic Evidence*

Motion Granted;

**05/02/2019 Motion in Limine (9:00 AM)** (Judicial Officer: Herndon, Douglas W.)

*Defendant's Motion in Limine Seeking to Exclude Witness Testimony*

Motion Denied;

**05/02/2019 All Pending Motions (9:00 AM)** (Judicial Officer: Herndon, Douglas W.)

Matter Heard;

Journal Entry Details:

*DEFENDANT'S MOTION IN LIMINE REGARDING PRIOR BAD ACTS AND PHOTO/VIDEOGRAPHIC EVIDENCE... DEFENDANT'S MOTION IN LIMINE SEEKING TO EXCLUDE WITNESS TESTIMONY... CALENDAR CALL. APPEARANCES CONTINUED: Defendant CARUSO present in custody represented by Mace Yampolsky Esq. Mr. Helmick stated in reading the State's response, the Motion in Limine Regarding Prior Bad Acts is moot, since they are talking with regards to the guilt phase of the trial, and the State had indicated they will not use the facts about the vehicle being stolen, nor are they going to show facebook videos or photos during the guilt phase. Mr. Helmick argued the in support of the Motion to Exclude Witness Testimony, stated he filed the Motion as a precautionary measure, for the State to not call the mother of the victim, and to what information they were going to get into with her. Mr. Pesci argued anyone percipient witness can testify, even if they are a parent, and they will not present inflammatory testimony. COURT STATED ITS FINDINGS and ORDERED, Motion in Limine Seeking to Exclude Witness Testimony DENIED; Motion in Limine Regarding Prior Bad Acts and Photo / Videographic Evidence is GRANTED IN PART with regards the State will exclude any reference to the vehicle that was being driven, was alleged to be stolen, and / or gun that was alleged to use was alleged stolen. Upon Court's inquiry, Mr. Helmick stated everything was fine with his expert, and he received a hard drive from Mr. Pesci, adding the only issue is viewing surveillance from a mall, however would announce ready today. Upon Court's inquiry, Mr. Yampolsky announced not ready, adding he has been in back to back trials. Mr. Pesci stated he had about 150 gigabytes of Discovery, and at least 120 of that pertained to Defendant Caruso. CONFERENCE AT BENCH. COURT ORDERED, calendar call CONTINUED to give Mr. Yampolsky an opportunity to obtain the Discovery; and STATED both Defendants WAIVED their right to a speedy trial, and the trials would be continued together. CUSTODY 5/8/19 9:30 A.M. CALENDAR CALL;*

**05/13/2019 CANCELED Jury Trial (10:00 AM)** (Judicial Officer: Herndon, Douglas W.)

*Vacated - per Judge*

**05/14/2019 Motion to Reduce (9:00 AM)** (Judicial Officer: Herndon, Douglas W.)

*Defendant's Motion for Bail Reduction*

Motion Denied; Defendant's Motion for Bail Reduction

Journal Entry Details:

*Mr. Helmick argued in support of motion and requested bail be set in the amount of \$50,000.00 with a condition of house arrest. Opposition by the State. Further argument by Mr. Helmick. COURT ORDERED, motion DENIED and bail STANDS. CUSTODY;*

# CASE SUMMARY

CASE NO. C-18-333318-2

06/12/2019



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

06/12/2019, 07/10/2019

Matter Continued;

Matter Heard;

Journal Entry Details:

*APPEARANCES CONTINUED: Defendant CARUSO present in custody represented by Mace Yampolsky Esq. Mr. Helmick indicated no issues with the trial date and is ready to proceed. Mr. Yampolsky stated he has concerns however ready to proceed. Mr. Pesci indicated the State anticipates being ready, and requested the calendar call remain to verify the witnesses. COURT ORDERED, trial date STANDS. CUSTODY 7/18/19 9:00 A.M. CALENDAR CALL 7/29/19 10:00 A.M. JURY TRIAL;*

Matter Continued;

Matter Heard;

Journal Entry Details:

*APPEARANCES CONTINUED: Defendant CARUSO present in custody represented by Mace Yampolsky Esq. Upon Court's inquiry, Mr. Helmick stated everything was fine, and Mr. Yampolsky stated no issues with past disclosures or phone dump that would impact the trial date. Mr. Pesci anticipates being ready. COURT STATED this trial date is FIRM for the set date, and ORDERED status check CONTINUED. CUSTODY CONTINUED TO: 7/10/19 9:30 A.M. . 7/18/19 9:00 A.M. CALENDAR CALL 7/29/19 10:00 A.M. JURY TRIAL;*

07/18/2019



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

Matter Heard;

Journal Entry Details:

*APPEARANCES CONTINUED: Defendant CARUSO present in custody represented by Mace Yampolsky Esq. Mr. Pesci announced ready, stating there are 25-30 witnesses. Mr. Helmick announced ready. Mr. Yampolsky announced ready. COURT ORDERED, trial date STANDS. Upon Court's inquiry, Mr. Pesci stated he sent over a Stipulation to Waive Penalty Hearing to Defense counsel, and he has not heard anything back. Both Mr. Helmick and Mr. Yampolsky stated they have not had a chance to speak with their respect Defendants yet. CUSTODY 7/29/19 10:00 A.M. JURY TRIAL;*

07/29/2019



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

07/29/2019-08/01/2019, 08/05/2019-08/07/2019

Matter Heard;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

*APPEARANCES CONTINUED: Defendant CARUSO present in custody represented by Mace Yampolsky Esq. and Jason Margolis Esq. OUTSIDE THE PRESENCE OF THE JURY PANEL Court made a record of the Jury question during deliberations. JURY PANEL PRESENT At the hour of 2:48 p.m. the Jury returned with a verdict of GUILTY on COUNT 1 - FIRST DEGREE MURDER WITH USE OF A DEADLY WEAPON, and GUILTY on COUNT 2 - ROBBERY WITH USE OF A DEADLY WEAPON, and GUILTY on COUNT 3 - ACCESSORY TO MURDER WITH USE OF A DEADLY WEAPON. OUTSIDE THE PRESENCE OF THE JURY PANEL COURT ORDERED, matter REFERRED to Parole & Probation for a Pre-Sentence Investigation (PSI) Report; matter SET for sentencing. CUSTODY 9/18/19 9:30 A.M. SENTENCING;*

Matter Heard;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

*APPEARANCES CONTINUED: Defendant CARUSO present in custody represented by Mace Yampolsky Esq. and Jason Margolis Esq. OUTSIDE THE PRESENCE OF THE JURY PANEL COURT STATED Juror #14 Ms. Evans who is alternate #1 called Chambers to inform that her husband has been admitted into the hospital, and the Court dismissed her. Counsel stated no objection. JURY PANEL PRESENT Testimony and Exhibits presented. (See Worksheets). OUTSIDE THE PRESENCE OF THE JURY PANEL Court stated they received the information that Mr. Helmick wanted to seek Larceny as a lesser included. Arguments by counsel. COURT STATED ITS FINDINGS adding Larceny is not a lesser included. JURY PANEL PRESENT Closing arguments by Ms. Overly, and Mr. Yampolsky. OUTSIDE THE PRESENCE OF THE JURY PANEL Mr. Pesci stated his contemporaneous challenge of the*



# CASE SUMMARY

## CASE NO. C-18-333318-2

*demonstrative exhibit Me. Helmick wants to use in his closing arguments. COURT SO NOTED. JURY PANEL PRESENT Closing arguments by Mr. Helmick and Mr. Pesci. At the hour of 4:38 p.m. the Jury retired to deliberate. COURT recessed for the evening and DIRECTED Jurors to return tomorrow; and ORDERED matter CONTINUED. CUSTODY CONTINUED TO: 8/7/19 9:00 A.M.;*

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

Journal Entry Details:

*APPEARANCES CONTINUED: Defendant CARUSO present in custody represented by Mace Yampolsky Esq. and Jason Margolis Esq. OUTSIDE THE PRESENCE OF THE JURY PANEL Mr. Helmick indicated parties stipulated to Defense Exhibits D & E. Mr. Pesci stated no objection. Colloquy regarding the redacted Agreement to Testify exhibit. JURY PANEL PRESENT Testimony and Exhibits presented. (See Worksheets). State rests. OUTSIDE THE PRESENCE OF THE JURY PANEL Mr. Helmick stated when he was question Detective Nichols, he mention the Mercedes Benz being stolen, and parties specifically agreed to not bring up that aspect of the case, adding that was an error on the Detectives part and it was prejudice to Defendant Harlan, especially since he was the driver of the vehicle. Mr. Helmick further argued he does not want the Jury to point the finger at Defendant Harlan as the person who stole the vehicle, and requested a mistrial on behalf of Defendant Harlan. Mr. Yampolsky joined the mistrial request, stating it should be a prosecutorial mistrial, even though neither one of the prosecutors cause the error. Mr. Pesci stated this was not deliberative, and it should not be a prosecutorial mistrial since the State did not ask the question, it was asked during cross examination by Mr. Helmick. Mr. Pesci requested an curative instruction be given to the Jury, and the State does not think a mistrial is appropriate. Mr. Helmick stated a curative instruction brings more attention to the issue. COURT DIRECTED parties to meet and confer regarding what instruction should be given to the Jury over the lunch break; and ORDERED Motion for Mistrial DENIED. COURT ADMONISHED Defendant Harlan and Defendant Caruso of their right to testify. OUTSIDE THE PRESENCE OF THE JURY PANEL Mr. Yampolsky stated there was previously a Motion to Sever, and he would like to renew his Motion, due to Mr. Helmick's question on Detective Nichols, adding it suggest prejudice against Defendant Caruso for no fault of his own since both Defendants are being tried together, stating this is a Burton issue. Mr. Pesci stated there is no Bruton issue. COURT STATED they do not believe there was a Bruton issue as well, ADDING the statement by the Detective will be cured, and Motion for Severance DENIED. JURY PANEL PRESENT Court instructed the Jury, stating when Detective Nichols was testifying, he made a mistake and said something that was inaccurate in reference to a vehicle in this case being stolen, which was an error and inaccurate and is not evidence in the case, and DIRECTED the Jurors to disregard the alleged allegation. Mr. Helmick stated on behalf of Defendant Harlan, the Defense rests. Mr. Yampolsky stated there was one witness he is planning on calling, however is not available until tomorrow and requested the trial be continued until then. COURT recessed for the evening and DIRECTED Jurors to return tomorrow; and ORDERED matter CONTINUED. OUTSIDE THE PRESENCE OF THE JURY PANEL Jury Instructions Settled. CUSTODY CONTINUED TO: 8/6/19 12:00 P.M.;*

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

Journal Entry Details:

*APPEARANCES CONTINUED: Defendant CARSUO present in custody represented by Mace Yampolsky Esq. and Jason Margolis Esq. OUTSIDE THE PRESENCE OF THE JURY PANEL JURY PANEL PRESENT Testimony and Exhibits presented. (See Worksheets). COURT recessed for the evening and DIRECTED Jurors to return tomorrow; and ORDERED matter CONTINUED. CUSTODY CONTINUED TO: 8/5/19 9:00 A.M.;*

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

Journal Entry Details:

*APPEARANCES CONTINUED: Defendant CARUSO present in custody represented by Mace Yampolsky Esq. OUTSIDE THE PRESENCE OF THE JURY PANEL Mr. Pesci requested to discuss ground rules, and stated there is going to be evidence of drug usage, not only by the Defendants and other juveniles, and the State's perspective is, the drug use is part of the entire picture of the case, and there could be negative or bad acts that can be attributed to the Defendants, however the State cannot present it's case without using the information, adding he believes the Defense is*

**CASE SUMMARY****CASE NO. C-18-333318-2**

not opposing the drug use being brought up. Mr. Yampolsky and Mr. Helmick confirmed the representations. Mr. Pesci further stated there are other crimes, and or potential crimes littered within the case, for example the stolen vehicle, and parties agree not to ask any questions regarding the stolen vehicle to the police officer who performed the stop. Mr. Pesci further stated they are only seeking to introduce particular items off the phone extraction, adding there was an alleged pool party between the time of the murder and the arrest, noting there was a shot fired and the State does not plan on introducing that evidence. Mr. Helmick stated he was going to address the pool party with some of the witnesses. Mr. Yampolsky requested the pool party information not be introduced. **COURT RESERVED** its ruling regarding bringing up the pool party. Mr. Pesci informed the Court it is not the State's intent to call the Decedents mother or sister, and they will be present in the courtroom, and parties stipulate to who the victim is. Mr. Helmick and Mr. Yampolsky stipulated. Mr. Pesci further stated Defendant CARUSO's mother could be a recipient witness, potentially, however the State does think its appropriate for her to be present during trial. Mr. Yampolsky stated he does not plan on calling Defendant's CARUSO's mother as a witness. Mr. Helmick stated no opposition as well. **JURY PANEL PRESENT** Jury sworn. Court instructed the Jury. Clerk read the Information. Opening Statements by Ms. Overly, Mr. Yampolsky and Mr. Helmick. Testimony and Exhibits presented. (See Worksheets). **OUTSIDE THE PRESENCE OF THE JURY PANEL** Mr. Pesci requested the Court canvass the Defendants. Upon Court's inquiry, Defendant HARLAN confirmed he spoke with his attorney regarding being found guilty of what the evidence shows, and it was to be used a trial strategy. Upon Court's inquiry, Defendant CARUSO confirmed he spoke with his attorney about shooting the gun as a trial strategy. **JURY PANEL PRESENT** Testimony and Exhibits continued. (See Worksheets). **COURT** recessed for the evening and **DIRECTED** Jurors to return tomorrow; and **ORDERED** matter **CONTINUED**. **CUSTODY CONTINUED TO: 8/1/19 11:00 A.M.;**

Matter Heard;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

**APPEARANCES CONTINUED:** Defendant CARUSO present in custody represented by Mace Yampolsky Esq. and Jason Margolis Esq. **OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL** Mr. Pesci indicated he spoke with the Victim Advocate who informed him the Decedents family was getting on the elevator to leave last night along with Prospective Juror #551 Denise Phillips, who all three parties agreed to release since she was disruptive during Jury Selection. Mr. Pesci stated he immediately informed Defense counsel, and requested the panel be brought in entirely and questioned as to who was in the elevator, adding the panel still includes the Prospective Jurors who the Court excused last night, and were going to inform them this morning. Mr. Helmick and Mr. Yampolsky stated no objection. **PROSPECTIVE JURY PANEL PRESENCE** Colloquy regarding Prospective Jurors who were riding in the elevator with Prospective Juror #551 Denise Phillips after she was released. **OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL** Prospective Juror #497 Araceles Diaz, #418 Sydney Gebhart, and #463 Sylvia Robinson individually voir dire regarding what Prospective Juror #551 Denise Phillips was saying in the elevator. **PROSPECTIVE JURY PANEL PRESENCE** Continued Voir Dire. **OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL** Prospective Juror #418 Sydney Gebhart present. **COURT ADVISED** she can go to her appointment and does not need to return this afternoon, and if selected for the Jury the Court will contact her. Challenges for cause placed on the record. Mr. Helmick requested to reopen the discussion with regards to the two buzz words of russian roulette, and abandoned house, adding every time he has tried to explain this case to someone in his office, they do not remember the case unless references those specific words. Mr. Helmick stated he as a legitimate concern with regards to those facts coming out during trial that the Jurors will remember the case. Mr. Pesci stated his objection to using the words, adding the Jurors have been asked about the media, and no one has said they remember anything. **COURT STATED** when completing Jury Selection, the questions are not fact specific, and when counsel adds things that are alleged to be facts, to jog a Jurors memory is basically informing them of facts of the case, which is not done during Jury selection. Mr. Yampolsky joined in with Mr. Helmick's request, and requested if before parties are going to complete their preemptory challenges if the Court brings up again if any of the Prospective Jurors remember anything about the case. Mr. Pesci stated no objection. **OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL** Mr. Pesci stated he received an e-mail that the Court received Tracio Meadows juvenile information and the State did not get it, or view it. **COURT STATED** they received a multitude of e-mails, and Tracio Meadows had prior juvenile offenses, that showed warning and dismissed, adding in 2016 there was a charge, and he was placed on probation, and in April of 2018, there was a Petition for Malicious Destruction of Private Property, and later in 2018 the Petition for Accessory to Murder Charge which were both negotiated to include an agreement to testify and to admit to the Petition for Malicious Destruction of Property, in which he was placed on probation for. **COURT ADVISED**, parties can question Tracio Meadows with regards to the Petition for Malicious Destruction of Property conviction, since it was part of the negotiation with the Agreement to Testify, which can be questioned, along with the Accessory to Murder Charge and **STATED** parties were provided copies of those Petitions. **COURT FURTHER STATED** Mr. Helmick raised an issue that a member of Defendant HARLAN's family indicated that a Prospective Juror may have been speaking with the victims family. Prospective Juror #542 Karen Rice individually voir dire. **PROSPECTIVE JURY PANEL PRESENCE** Continued Voir Dire. Preemptory Challenges completed. Jury selected. Court recessed for the evening and directed Jurors to return tomorrow. **COURT ORDERED**, matter **CONTINUED**. **CUSTODY CONTINUED TO: 7/31/19 9:00 A.M.;**

# CASE SUMMARY

## CASE NO. C-18-333318-2

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

Verdict;

Journal Entry Details:

*Stipulation and Order FILED IN OPEN COURT... APPEARANCES CONTINUED: Defendant CARUSO present in custody represented by Mace Yampolsky Esq. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL Mr. Pesci informed the Court he does not see the Victim's family, and was not sure if they would be present today. Mr. Pesci further stated there were two fingerprint reports that he provided via e-mail on Friday, adding Defense inquired if there were any reports awhile back, so he asked, and found out there were three, and the State is hoping to get the third report today and will provide a copy to Defense. Mr. Pesci further stated there is a witness in this case Traceo Meadows who is a Juvenile who has been charged in relation to these events, and the negotiations was reached to stay the charges associated with this case, adding there is an agreement to testify. Mr. Pesci informed the Court when he met with the witness and his attorney, he did not have a copy of the Agreement to Testify, and the attorney informed him it was sealed, so the State requested a copy from the Juvenile Division and provided a copy to Defense counsel. Mr. Pesci requested a ruling by the Court as to what can and cannot be brought up with the whiteness. Colloquy regarding the witnesses probation. Mr. Pesci conveyed the State has a representative from Snap Chat who is out of State, adding they have the authenticating paperwork, and the State's intent is to use it utilize it as a business record, however Snap Chat representatives do not get into detail as to if the Snap is a reply or not. Mr. Pesci requested the Defense agree to the authenticity of the Snap Chats. Mr. Helmick confirmed he did received two fingerprint reports. Mr. Pesci stated the third report is of a fingerprint from a kitchen sink nozzle with Defendant Caruso's fingerprint on it, however the State does not need it, adding they have video of it. Mr. Helmick stated no objection to the Snap Chat being authenticated with the documents instead of bringing in the witness. Mr. Yampolsky stated no objection as well. COURT STATED the Snap Chat information will be admitted without the need for a witness, additionally stating anything involving the witness and his agreement to testify is appropriate on cross examination. Colloquy regarding family member seating during Jury selection. Mr. Pesci informed the Court the Defendant have signed a Stipulation and Order to waive the penalty hearing. Upon Court's inquiry, Defendant HARLAN and Defendant CARUSO confirmed they agree to waive the penalty phase of trial. PROSPECTIVE JURY PANEL PRESENCE Introductions by Court and Counsel. Clerk called roll. Voir dire commenced. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL Mr. Pesci stated he requested from the Juvenile Division and the released was signed, and the State received the document, opened it and saw there were reports and immediately forwarded the document to the Court, and the State will not review it unless approved by the Court. COURT STATED it was 105 pages of documents, they are currently reviewing. Mr. Pesci further stated his objections to Mr. Helmicks openings. Challenges for cause placed on the record. PROSPECTIVE JURY PANEL PRESENCE Voir dire continued. Court recessed for the evening and DIRECTED Jurors to return tomorrow. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL Additional challenges for cause placed on the record. COURT ADVISED the CPS records they received and there is no Juvenile Records, and each party can have a copy. COURT ORDERED, matter CONTINUED. CUSTODY CONTINUED TO: 7/30/19 10:30 A.M.;*

08/29/2019



**Motion to Set Aside (9:00 AM)** (Judicial Officer: Herndon, Douglas W.)

08/29/2019, 11/25/2019

*Defendant Kody Harlan's Notice of Motion to Place on Calendar to Set Aside Guilty Verdict as to Counts One and Two; In the Alternative Motion for a New Trial and to Request Additional Time for Supplemental Briefing Hearing Set; Defendant's Notice of Motion to Place on Caeldnar to Set Aside Guilty Verdict as to Counts One and Two; In the Alternative Motion for a New Trial and to Request Additional Time for Supplemental Briefing*

*Motion Denied;*

*Hearing Set; Defendant's Notice of Motion to Place on Caeldnar to Set Aside Guilty Verdict as to Counts One and Two; In the Alternative Motion for a New Trial and to Request Additional Time for Supplemental Briefing*

*Motion Denied;*

Journal Entry Details:

*APPEARANCES CONTINUED: Defendant CARUSO present in custody represented by Mace Yampolsky Esq. COURT STATED the Motion was filed, and the State filed an Opposition, and the Court became aware the Defense is requesting additional time to complete supplemental briefing. Mr. Helmick stated he was not aware the State filed an Opposition and requested a couple of weeks. Mr. Pesci stated it was e-filed on August 20, 2019. COURT ORDERED, Extension GRANTED for supplemental briefing; briefing schedule SET as follows: Defendant's Supplemental Motion shall be filed on or before September 12, 2019; State's Supplemental's Opposition shall be due on or before September 26, 2019; Defendant's Supplemental Reply shall be due on or before October 3, 2019; matter SET for Hearing. COURT FURTHER ORDERED, Sentencing date RESET. CUSTODY 10/10/16 9:00 A.M. HEARING RE: MOTION TO SET ASIDE GUILTY VERDICT AS TO COUNTS ONE AND TWO, IN THE ALTERNATIVE MOTION FOR A NEW TRIAL 10/16/19 9:30 A.M.. SENTENCING;*

**CASE SUMMARY**  
**CASE NO. C-18-333318-2**

10/10/2019	 <b>Hearing</b> (10:30 AM) (Judicial Officer: Herndon, Douglas W.) <b>10/10/2019, 11/25/2019</b> <i>Hearing Re: Motion to Set Aside Guilty Verdict as to Counts One and Two, in the Alternative Motion for a New Trial</i> Matter Continued; Hearing Re: Motion to Set Aside Guilty Verdict as to Counts One and Two, in the Alternative Motion for a New Trial Matter Heard; Matter Continued; Hearing Re: Motion to Set Aside Guilty Verdict as to Counts One and Two, in the Alternative Motion for a New Trial Matter Heard; Journal Entry Details: <i>APPEARANCES CONTINUED: Defendant CARUSO present in custody represented by Jason Margolis Esq. Mr. Helmick inquired if the Court feels the Motion was proper with regards to the response he provided. COURT STATED Mr. Helmick filed the Motion, and shortly thereafter there was an Ex-Parte request to obtain Jury information for the Defense to pursue what they were trying to pursue, adding the Court did not think it was appropriate to be brought up in Open Court, since it was an Ex-Parte issue, and the Court would agree the Supplemental Brief is more about Juror misconduct. Mr. Helmick argued cumulative effect of everything, pointing out there is a lot of little instances of Juror misconduct that each one carries its own respective weight. Mr. Helmick argued the Jury was unable to perform their duties due to the misconduct that was brought into the Jury room, through the use of the cell phones, through talking about the stolen vehicle, even though the Court admonished the Jurors to not discuss it, and through the Caruso letter, which is a form of whether or not he testified. Mr. Helmick argued the theme of the State's case is that this murder occurred during a robbery, and the Defense's theme is that it occurred accidentally, adding the additional evidence that was brought it should not have been. Mr. Helmick requested an evidentiary hearing be set. Mr. Margolis argued the cumulative effect of several items of extrinsic evidence was used to bamboozle and to mislead Ms. Esparza, which can cause prejudice in the verdict. COURT STATED they were under the impression once the Defense submitted the Ex-Parte Motion they had already talked to a Juror, and the Court did not have communication with the Defense, however informed the Law Clerk to inform parties this was a matter for open court. Mr. Pesci argued they've had the information to communicate with Jurors for over a month and the State would object to continuance or an Evidentiary Hearing, since there is already representation by counsel who spoke to a Juror who did not remember or anyone who could corroborate Ms. Esparza's claims. Further arguments by Mr. Helmick who requested additional Juror information. COURT STATED ITS FINDINGS and ORDERED, a limited Evidentiary Hearing is GRANTED with regards to the Juror's statement that there was discussion about the stolen vehicle and how it made it more likely there was a robbery and a murder. COURT STATED the Evidentiary Hearing will be done with Ms. Esparza and any other Jurors. Mr. Helmick and Mr. Pesci stated a joint request to obtain Juror information. COURT SO ORDERED; sentencing date VACATED. CUSTODY 11/15/19 9:00 A.M. EVIDENTIARY HEARING;</i>
10/16/2019	<b>CANCELED Sentencing</b> (9:30 AM) (Judicial Officer: Herndon, Douglas W.) <i>Vacated - per Judge</i>
11/25/2019	 <b>All Pending Motions</b> (9:00 AM) (Judicial Officer: Herndon, Douglas W.) Matter Heard; Journal Entry Details: <i>DEFENDANT KODY HARLAN'S NOTICE OF MOTION TO PLACE ON CALENDAR TO SET ASIDE GUILTY VERDICT AS TO COUNTS ONE AND TWO; IN THE ALTERNATIVE MOTION FOR A NEW TRIAL...DEFENDANT JAIDEN CARUSO'S JOINDER TO DEFENDANT KODY HARLAN'S MOTION TO SET ASIDE GUILTY VERDICT AS TO COUNTS ONE AND TWO; IN THE ALTERNATIVE MOTION FOR A NEW TRIAL...HEARING RE: MOTION TO SET ASIDE GUILTY VERDICT AS TO COUNTS ONE AND TWO, IN THE ALTERNATIVE MOTION FOR A NEW TRIAL (BOTH) Testimony presented. (See worksheet). Following arguments by counsel, Court FINDS based on the totality of the evidence, this does not rise to a level of prejudice or render a different verdict, ORDERED, motion and joinder DENIED. FURTHER ORDERED, matter SET for sentencing. CUSTODY (BOTH) 12/10/19 9:00 AM SENTENCING (BOTH);</i>
12/10/2019	 <b>Sentencing</b> (9:00 AM) (Judicial Officer: Herndon, Douglas W.) Defendant Sentenced; Journal Entry Details: <i>APPEARANCES CONTINUED: Defendant CARUSO present in custody represented by Mace Yampolsky Esq. DEFENDANT HARLAN ADJUDGED GUILTY of COUNT 1 - 1ST DEGREE MURDER WITH USE OF A DEADLY WEAPON (F) and COUNT 2 - ROBBERY WITH USE OF A DEADLY WEAPON (F) and COUNT 3 - ACCESSORY TO MURDER WITH USE OF A DEADLY WEAPON (F). Mr. Pesci argued for a life sentence. Statement by Defendant. Mr. Helmick argued for 20-50 years with a minimum consecutive sentence for the deadly weapon portion and for all counts to run concurrent. Victim Speakers sworn and testified. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, a \$150.00 DNA Analysis fee including testing to determine genetic markers, and \$3.00 DNA Collection fee, and a \$250.00 Fine, and \$250.00 Indigent Defense Civil Assessment fee, Defendant SENTENCED in COUNT 1 - to a MAXIMUM term of LIFE with a MINIMUM parole eligibility of TWENTY (20) YEARS in the</i>



EIGHTH JUDICIAL DISTRICT COURT

**CASE SUMMARY**

**CASE NO. C-18-333318-2**

*Nevada Department of Corrections (NDC) plus a CONSECUTIVE term of a MINIMUM of FORTY-EIGHT (48) MONTHS and a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS in the NDC, for the Deadly Weapon Enhancement, and in COUNT 2 - to a MINIMUM of FORTY-EIGHT (48) MONTH to a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS in the NDC, plus a CONSECUTIVE term of a MINIMUM of FORTY-EIGHT (48) MONTHS and a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS in the NDC, for the Deadly Weapon Enhancement, CONCURRENT TO COUNT 1, COUNT 3 - to a MINIMUM of EIGHTEEN (18) MONTHS and a MAXIMUM of SIXTY (60) MONTHS in the NDC, CONCURRENT TO COUNT 1, WITH FIVE HUNDRED FORTY-NINE (549) DAYS credit for time served. BOND, if any, EXONERATED. NDC;*

DATE

FINANCIAL INFORMATION

**Defendant** Harlan, Kody

Total Charges

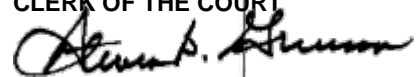
678.00

Total Payments and Credits

0.00

**Balance Due as of 12/24/2019**

**678.00**



DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

KODY HARLAN, #5124517, aka Kody W.  
Harlan,

Defendant.

CASE NO. C-18-333318-2

DEPT. NO. III

JUDGMENT OF CONVICTION

(JURY TRIAL)

The Defendant previously entered pleas of not guilty to the crimes of MURDER WITH USE OF A DEADLY WEAPON (Category A Felony – NRS 200.010, 200.030, 193.165), ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony – NRS 200.380) and ACCESSORY TO MURDER WITH USE OF A DEADLY WEAPON (Category C Felony – NRS 195.030, 195.040, 200.010, 200.030) and the matter having been tried before a jury and the Defendant having been found guilty of the crimes of COUNT 1 – FIRST DEGREE MURDER WITH USE OF A DEADLY WEAPON, COUNT 2 – ROBBERY WITH USE OF A DEADLY WEAPON, and COUNT 3 – ACCESSORY TO MURDER WITH USE OF A DEADLY WEAPON, thereafter, on the 10<sup>th</sup> day of December, 2019, the Defendant was present in court for sentencing with his counsel, K. RYAN HELMICK, Esq., and good cause appearing,

THE DEFENDANT IS HEREBY ADJUDGED guilty of said crimes as set forth in the jury's verdict and, in addition to the \$25.00 Administrative Assessment Fee, \$150.00 DNA Analysis fee, including testing to determine genetic markers, \$250.00 Indigent Defense Civil Assessment Fee, \$3.00 DNA Collection Fee, and a \$250.00 Fine, the Defendant is SENTENCED as follows:

Jury Trial  
☐ Dismissed (during trial)  
☐ Acquittal  
☐ Guilty Plea with Sent. (during trial)  
☒ Conviction

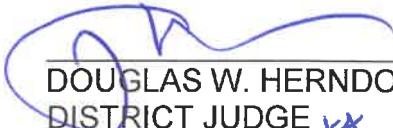
1 COUNT 1 - LIFE in the Nevada Department of Corrections (NDC) with a  
2 minimum parole eligibility of TWENTY (20) YEARS; plus a CONSECUTIVE term of a  
3 MINIMUM of FORTY-EIGHT (48) MONTHS and a MAXIMUM of ONE HUNDRED  
4 TWENTY (120) MONTHS for the deadly weapon enhancement;

5 COUNT 2 – a MINIMUM of FORTY-EIGHT (48) MONTHS and a MAXIMUM of  
6 ONE HUNDRED TWENTY (120) MONTHS in the Nevada Department of Corrections  
7 (NDC); plus a CONSECUTIVE term of a MINIMUM of FORTY-EIGHT (48) MONTHS  
8 and a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS for the deadly weapon  
9 enhancement; CONCURRENT to Count 1;

10 COUNT 3 – a MINIMUM of EIGHTEEN (18) MONTHS and a MAXIMUM of  
11 SIXTY (60) MONTHS; CONCURRENT to Count 1; with FIVE HUNDRED FORTY-NINE  
12 (549) DAYS credit for time served.

13  
14 DATED this 10<sup>th</sup> day of December, 2019.

15  
16  
17  
18 slr

  
DOUGLAS W. HERNDON  
DISTRICT JUDGE 

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**July 18, 2018**

C-18-333318-2      State of Nevada  
vs  
Kody Harlan

**July 18, 2018      10:00 AM      Initial Arraignment**

**HEARD BY:** De La Garza, Melisa

**COURTROOM:** RJC Lower Level Arraignment

**COURT CLERK:** Kristen Brown

**RECORDER:** Kiara Schmidt

**REPORTER:**

**PARTIES**

**PRESENT:**      Brower, Keith      Attorney  
                 Harlan, Kody      Defendant

**JOURNAL ENTRIES**

- Deputized Law Clerk, Ashley Lacher also appearing for the State.

DEFT. HARLAN ARRAIGNED, PLED NOT GUILTY, and INVOKED the 60-DAY RULE. Due to the nature of the charges, COURT ORDERED, matter set for a status check regarding a trial setting. COURT ORDERED, pursuant to Statute, Counsel has 21 days from today for the filing of any Writs; if the Preliminary Hearing Transcript has not been filed as of today, Counsel has 21 days from the filing of the Transcript; FURTHER ORDERED, Deft s request for discovery and State s request for reciprocal discovery is GRANTED pursuant to Statute and State law.

CUSTODY

7/31/18 9:00 AM STATUS CHECK: TRIAL SETTING (DEPT. 3)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****July 31, 2018**

C-18-333318-2      State of Nevada  
vs  
Kody Harlan

**July 31, 2018      9:00 AM      Status Check: Trial Setting**

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

**COURT CLERK:** Deborah Miller

**RECORDER:** Sara Richardson

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Brower, Keith	Attorney
	Harlan, Kody	Defendant
	Pesci, Giancarlo	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Also present: Taleen Pandukht, Chief Deputy District Attorney.  
Codefendant J. Caruso, in custody, represented by Keith Brower, Esq.

Ms. Pandukht advised Mr. Pesci will be present on this matter. Matter TRAILED and RECALLED. Mr. Pesci now present. Mr. Yampolsky advised that Mr. Caruso previously pled not guilty and waived his right to a speedy trial. Mr. Brower stated Mr. Harlan pled not guilty and technically invoked, however, he wishes to waive his right to a speedy trial. Upon Court's inquiry, Mr. Harlan WAIVED the 60-DAY Rule. COURT FURTHER ORDERED, counsel has 21-DAYS after receipt of copy of the transcripts to file any Writs. Mr. Pesci stated matter will not go in front of the Death Review Committee, noting the defendants are under the age. Pursuant to EDCR 1.30 and 1.31 this court ORDERS the case REASSIGNED to Department 3. Discussion regarding trial setting. Mr. Brower requested a status check, noting he may be filing a Writ. State had no opposition to setting a status check. COURT ORDERED, matter SET for Status Check.

**CUSTODY**

PRINT DATE:      12/24/2019      Page 2 of 46      Minutes Date:      July 18, 2018



8/15/18 9:30 AM STATUS CHECK: TRIAL SETTING (BOTH)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****August 15, 2018**

C-18-333318-2      State of Nevada  
vs  
Kody Harlan

**August 15, 2018      9:30 AM      Status Check: Trial Setting**

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

**COURT CLERK:** Deborah Miller

**RECORDER:** Sara Richardson

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Brower, Keith	Attorney
	Harlan, Kody	Defendant
	Pesci, Giancarlo	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Also present: Codefendant Caruso, in custody, represented by Mace Yampolsky, Esq.

Court stated defendants previously pled not guilty and waived their right to a speedy trial, noting a trial date needs to be set. Conference at the Bench. Discussion regarding trial dates. COURT ORDERED, matter SET for trial. Discussion regarding writ filing period. Mr. Yampolsky requested 30 days from today to file any Writs. State submitted. COURT ORDERED, counsel has 30 DAYS from today to file any Writs, matter SET for Status Check. Court requested counsel use the November 21, 2018 date if they file any Writs.

**CUSTODY**

11/07/18 9:30 AM STATUS CHECK: TRIAL READINESS

5/02/19 9:00 AM CALENDAR CALL

5/14/19 10:00 AM JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**November 07, 2018**

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C-18-333318-2      State of Nevada  
                                 vs  
                                 Kody Harlan

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**November 07, 2018      9:30 AM      All Pending Motions**

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

**COURT CLERK:** Kory Schlitz

**RECORDER:** Sara Richardson

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Brower, Keith	Attorney
	Harlan, Kody	Defendant
	Pesci, Giancarlo	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- PETITION FOR WRIT OF HABEAS CORPUS... STATUS CHECK: TRIAL READINESS...

APPEARANCES CONTINUED: Defendant CARUSO present in custody represented by Mace Yampolsky Esq.

Ms. Yampolsky stated no problem with the trial date, and Mr. Brower confirmed the representations. Mr. Pesci stated parties can come and complete a file review. COURT DIRECTED parties to complete a file review PRIOR to next status check date. Upon Court's inquiry, Mr. Pesci stated he does not believe there is any outstanding forensic testing, however would look into it. COURT FURTHER DIRECTED parties to get an update on the forensics in this case, and ORDERED, matter CONTINUED.

Mr. Brower submitted on the pleading regarding the Writ. Mr. Pesci submitted. COURT STATED ITS FINDINGS, and DENIED the Petition for Writ of Habeas Corpus, adding this Petition raised the same issue that was in the earlier Writ.

CUSTODY

CONTINUED TO: 1/23/19 9:30 A.M.

5/2/19 9:00 A.M. CALENDAR CALL

5/14/19 10:00 A.M. JURY TRIAL







**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**March 20, 2019**

C-18-333318-2      State of Nevada  
vs  
Kody Harlan

**March 20, 2019      9:30 AM      Status Check: Trial  
Readiness**

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

**COURT CLERK:** Kory Schlitz

**RECORDER:** Sara Richardson

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Brower, Keith	Attorney
	Harlan, Kody	Defendant
	Pesci, Giancarlo	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- APPEARANCES CONTINUED: Defendant CARUSO present in custody represented by Mace Yampolsky Esq.

Mr. Brower stated he believes the case will be resolved, however parties do not have a Guilty Plea Agreement, and requested the matter be continued two weeks to enter a plea. Mr. Pesci confirmed the representations. COURT ORDERED, matter SET for status check; trial date STANDS.

**CUSTODY**

4/3/19 9:30 A.M. STATUS CHECK: NEGOTIATIONS

5/2/19 9:00 A.M. CALENDAR CALL

5/13/19 10:00 A.M. JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****April 03, 2019**

C-18-333318-2      State of Nevada  
vs  
Kody Harlan

**April 03, 2019****9:30 AM****Status Check****Status Check:  
Negotiations****HEARD BY:** Herndon, Douglas W.**COURTROOM:** RJC Courtroom 16C**COURT CLERK:** Kory Schlitz**RECORDER:** Sara Richardson**REPORTER:****PARTIES**

<b>PRESENT:</b>	Harlan, Kody	Defendant
	Helmick, Ryan K.	Attorney
	Pesci, Giancarlo	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- APPEARANCES CONTINUED: Defendant CARUSO present in custody represented by Mace Yampolsky Esq.

Mr. Helmick indicated he spoke with Defendant Harlan regarding the negotiations thoroughly and the Defendant has decided to reject the negotiation at this time and requested to proceed with trial. Mr. Yampolsky indicated Defendant Caruso wanted to proceed with the negotiations, however they were contingent offers. Mr. Pesci informed the Court the State was under the impression both Defendants were going to plead. Mr. Pesci stated with regards to Defendant CARUSO, the offer was a Second Degree Murder with a right to argue, and with regards to Defendant HARLAN the offer was Voluntary Manslaughter with use of a Deadly Weapon, State has the right to argue, and confirmed the offers were contingent. Upon Court's inquiry, Defendant CARUSO confirmed he wanted to accept the offer that was relayed; Defendant HARLAN confirmed he wanted to reject the offer. Mr. Pesci stated he does not believe Mr. Helmick has all the Discovery from prior counsel. Mr. Helmick confirmed he does not have all of the Discovery, and he has been trying to get caught up,

and provided USB's to the State who will provide the remaining Discovery. Upon Court's inquiry, Mr. Pesci suggested the Offer reaming open for two to three weeks, for Defense Counsel can review the remaining Discovery. COURT ORDERED, matter SET for status check.

CUSTODY

4/23/19 9:00 A.M. STATUS CHECK: TRIAL READINESS

5/2/19 9:00 A.M. CALENDAR CALL

5/13/19 10:00 A.M. JURY TRIAL



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****April 23, 2019**

C-18-333318-2      State of Nevada  
vs  
Kody Harlan

**April 23, 2019****1:00 PM****All Pending Motions****HEARD BY:** Herndon, Douglas W.**COURTROOM:** RJC Courtroom 16C**COURT CLERK:** Kory Schlitz**RECORDER:** Jill Jacoby**REPORTER:****PARTIES**

<b>PRESENT:</b>	Harlan, Kody	Defendant
	Helmick, Ryan K.	Attorney
	Overly, Sarah	Attorney
	Pesci, Giancarlo	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- STATUS CHECK: TRIAL READINESS... DEFENDANT HARLAN'S MOTION TO SEVER OR IN THE ALTERNATIVE MOTION TO DEEM STATEMENTS OF THE CO-DEFENDANT INADMISSABLE..

APPEARANCES CONTINUED: Defendant CARUSO present in custody represented by Jason Margolis Esq.

Mr. Helmick argued in support of the Motion to Sever, stated the decisive factor is prejudice, adding the degrees of culpability is different between the two Defendants. Mr. Pesci argued against the Motion, pointing out the Supreme Court has said it is not a reason to sever due to antagonistic defenses. Mr. Pesci informed the Court the State is not seeking to introduce anything the Defendant's said to each other, arguing there is no basis for a severance in this matter. COURT STATED ITS FINDINGS, and ORDERED, Motion to Sever DENIED. COURT FURTHER ORDERED, Defendant's Motion In Limine RESET to May 2, 2019. Mr. Helmick stated he has obtained and expert, and he does

not know if he will produce a report, however it should be completed before trial. Mr. Helmick also stated for the record that the offer for Defendant HARLAN is still being rejected by the Defendant. Upon Court's inquiry, Mr. Pesci stated the offer is withdrawn as to Defendant Harlan. Mr. Pesci informed the Court the State has subpoenaed all the records related to this case from Henderson Police Department, and last Friday he received a stack of paperwork, and the Police Department additionally stated they have 150 gigabits of data, and Mr. Pesci will provide a drive to the Department.

**CUSTODY**

5/2/19 9:00 A.M. CALENDAR CALL... DEFENDANT'S MOTION IN LIMINE REGARDING PRIOR BAD ACTS AND PHOTO/VIDEOGRAPHIC EVIDENCE... DEFENDANT'S MOTION IN LIMINE SEEKING TO EXCLUDE WITNESS TESTIMONY

5/13/19 10:00 A.M. JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****May 02, 2019**

C-18-333318-2      State of Nevada  
vs  
Kody Harlan

**May 02, 2019****9:00 AM****All Pending Motions****HEARD BY:** Herndon, Douglas W.**COURTROOM:** RJC Courtroom 16C**COURT CLERK:** Kory Schlitz**RECORDER:** Jill Jacoby**REPORTER:****PARTIES**

<b>PRESENT:</b>	Harlan, Kody	Defendant
	Helmick, Ryan K.	Attorney
	Pesci, Giancarlo	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- DEFENDANT'S MOTION IN LIMINE REGARDING PRIOR BAD ACTS AND PHOTO/VIDEOGRAPHIC EVIDENCE... DEFENDANT'S MOTION IN LIMINE SEEKING TO EXCLUDE WITNESS TESTIMONY... CALENDAR CALL..

APPEARANCES CONTINUED: Defendant CARUSO present in custody represented by Mace Yampolsky Esq.

Mr. Helmick stated in reading the State's response, the Motion in Limine Regarding Prior Bad Acts is moot, since they are talking with regards to the guilt phase of the trial, and the State had indicated they will not use the facts about the vehicle being stolen, nor are they going to show facebook videos or photos during the guilt phase. Mr. Helmick argued the in support of the Motion to Exclude Witness Testimony, stated he filed the Motion as a precautionary measure, for the State to not call the mother of the victim, and to what information they were going to get into with her. Mr. Pesci argued anyone percipient witness can testify, even if they are a parent, and they will not present inflammatory testimony. COURT STATED ITS FINDINGS and ORDERED, Motion in Limine

Seeking to Exclude Witness Testimony DENIED; Motion in Limine Regarding Prior Bad Acts and Photo / Videographic Evidence is GRANTED IN PART with regards the State will exclude any reference to the vehicle that was being driven, was alleged to be stolen, and / or gun that was alleged to use was alleged stolen.

Upon Court's inquiry, Mr. Helmick stated everything was fine with his expert, and he received a hard drive from Mr. Pesci, adding the only issue is viewing surveillance from a mall, however would announce ready today. Upon Court's inquiry, Mr. Yampolsky announced not ready, adding he has been in back to back trials. Mr. Pesci stated he had about 150 gigabytes of Discovery, and at least 120 of that pertained to Defendant Caruso. CONFERENCE AT BENCH.

COURT ORDERED, calendar call CONTINUED to give Mr. Yampolsky an opportunity to obtain the Discovery; and STATED both Defendants WAIVED their right to a speedy trial, and the trials would be continued together.

CUSTODY

5/8/19 9:30 A.M. CALENDAR CALL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****May 08, 2019**

C-18-333318-2      State of Nevada  
vs  
Kody Harlan

**May 08, 2019      9:30 AM      Calendar Call**

**HEARD BY:** Herndon, Douglas W.**COURTROOM:** RJC Courtroom 16C**COURT CLERK:** Kory Schlitz**RECORDER:** Jill Jacoby**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- APPEARANCES CONTINUED: Defendant CARUSO present in custody represented by Mace Yampolsky Esq.

COURT ADVISED the Calendar Call was continued for Mr. Yampolsky to obtain the Discovery and to estimate when he would be ready to proceed with trial. Mr. Yampolsky confirmed he did receive the Discovery adding, there is a removable drive that works fine on his desktop, however is not compatible with his MAC computer. Mr. Yampolsky informed the Court there are 850 videos, which are 10-30 seconds long, and 5,000 photos, and text messages, which he believes would take over twenty hours to review. Mr. Helmick requested to have the trial set in July. Colloquy regarding trial dates. Upon Court's inquiry, Mr. Pesci suggested this trial will take longer than a week. COURT ORDERED trial date VACATED and RESET; status check SET. Mr. Helmick stated for the record there was another offer extended to Defendant Harlan of Accessory to Murder, Robbery with the State having the right to argue, and Defendant Harlan has rejected it. Upon Court's inquiry, Mr. Pesci stated the offers will remain open with the Defendants until the status check.

**CUSTODY****6/12/19 9:30 A.M. STATUS CHECK: TRIAL READINESS****PRINT DATE:** 12/24/2019**Page 17 of 46****Minutes Date:** July 18, 2018



7/18/19 9:00 A.M. CALENDAR CALL

7/29/19 10:00 A.M. JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**May 14, 2019**

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C-18-333318-2      State of Nevada  
                                 vs  
                                 Kody Harlan

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**May 14, 2019**

**9:00 AM**

**Motion to Reduce**

**Defendant's Motion  
for Bail Reduction**

**HEARD BY:** Herndon, Douglas W.

**COURTROOM:** RJC Courtroom 16C

**COURT CLERK:** April Watkins

**RECORDER:** Jill Jacoby

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Harlan, Kody	Defendant
	Helmick, Ryan K.	Attorney
	Pesci, Giancarlo	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Mr. Helmick argued in support of motion and requested bail be set in the amount of \$50,000.00 with a condition of house arrest. Opposition by the State. Further argument by Mr. Helmick. COURT ORDERED, motion DENIED and bail STANDS.

CUSTODY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**June 12, 2019**

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C-18-333318-2      State of Nevada  
                                 vs  
                                 Kody Harlan

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**June 12, 2019**

**9:30 AM**

**Status Check: Trial  
Readiness**

**HEARD BY:** Herndon, Douglas W.

**COURTROOM:** RJC Courtroom 16C

**COURT CLERK:** Kory Schlitz

**RECORDER:** Sandra Pruchnic

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Harlan, Kody	Defendant
	Helmick, Ryan K.	Attorney
	Pesci, Giancarlo	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- APPEARANCES CONTINUED: Defendant CARUSO present in custody represented by Mace Yampolsky Esq.

Upon Court's inquiry, Mr. Helmick stated everything was fine, and Mr. Yampolsky stated no issues with past disclosures or phone dump that would impact the trial date. Mr. Pesci anticipates being ready. COURT STATED this trial date is FIRM for the set date, and ORDERED status check CONTINUED.

CUSTODY

CONTINUED TO: 7/10/19 9:30 A.M. .

7/18/19 9:00 A.M. CALENDAR CALL

7/29/19 10:00 A.M. JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**July 10, 2019**

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C-18-333318-2      State of Nevada  
vs  
Kody Harlan

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**July 10, 2019**

**9:30 AM**

**Status Check: Trial  
Readiness**

**HEARD BY:** Herndon, Douglas W.

**COURTROOM:** RJC Courtroom 16C

**COURT CLERK:** Kory Schlitz

**RECORDER:** Jill Jacoby

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Harlan, Kody	Defendant
	Helmick, Ryan K.	Attorney
	Pesci, Giancarlo	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- APPEARANCES CONTINUED: Defendant CARUSO present in custody represented by Mace Yampolsky Esq.

Mr. Helmick indicated no issues with the trial date and is ready to proceed. Mr. Yampolsky stated he has concerns however ready to proceed. Mr. Pesci indicated the State anticipates being ready, and requested the calendar call remain to verify the witnesses. COURT ORDERED, trial date STANDS.

**CUSTODY**

7/18/19 9:00 A.M. CALENDAR CALL

7/29/19 10:00 A.M. JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**July 18, 2019**

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C-18-333318-2      State of Nevada  
vs  
Kody Harlan

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**July 18, 2019      9:00 AM      Calendar Call**

**HEARD BY:** Herndon, Douglas W.

**COURTROOM:** RJC Courtroom 16C

**COURT CLERK:** Kory Schlitz

**RECORDER:** Judy Chappell

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Harlan, Kody	Defendant
	Helmick, Ryan K.	Attorney
	Pesci, Giancarlo	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- APPEARANCES CONTINUED: Defendant CARUSO present in custody represented by Mace Yampolsky Esq.

Mr. Pesci announced ready, stating there are 25-30 witnesses. Mr. Helmick announced ready. Mr. Yampolsky announced ready. COURT ORDERED, trial date STANDS. Upon Court's inquiry, Mr. Pesci stated he sent over a Stipulation to Waive Penalty Hearing to Defense counsel, and he has not heard anything back. Both Mr. Helmick and Mr. Yampolsky stated they have not had a chance to speak with their respect Defendants yet.

CUSTODY

7/29/19 10:00 A.M. JURY TRIAL



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**July 29, 2019**

C-18-333318-2      State of Nevada  
vs  
Kody Harlan

**July 29, 2019      10:00 AM      Jury Trial**

**HEARD BY:** Herndon, Douglas W.

**COURTROOM:** RJC Courtroom 16C

**COURT CLERK:** Kory Schlitz

**RECORDER:** Jill Jacoby

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Harlan, Kody	Defendant
	Helmick, Ryan K.	Attorney
	Overly, Sarah	Attorney
	Pesci, Giancarlo	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Stipulation and Order FILED IN OPEN COURT...

APPEARANCES CONTINUED: Defendant CARUSO present in custody represented by Mace Yampolsky Esq.

**OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL**

Mr. Pesci informed the Court he does not see the Victim's family, and was not sure if they would be present today. Mr. Pesci further stated there were two fingerprint reports that he provided via e-mail on Friday, adding Defense inquired if there were any reports awhile back, so he asked, and found out there were three, and the State is hoping to get the third report today and will provide a copy to Defense. Mr. Pesci further stated there is a witness in this case Traceo Meadows who is a Juvenile who has been charged in relation to these events, and the negotiations was reached to stay the charges associated with this case, adding there is an agreement to testify. Mr. Pesci informed the Court when he met with the witness and his attorney, he did not have a copy of the Agreement to

Testify, and the attorney informed him it was sealed, so the State requested a copy from the Juvenile Division and provided a copy to Defense counsel. Mr. Pesci requested a ruling by the Court as to what can and cannot be brought up with the whiteness. Colloquy regarding the witnesses probation. Mr. Pesci conveyed the State has a representative from Snap Chat who is out of State, adding they have the authenticating paperwork, and the State's intent is to use it utilize it as a business record, however Snap Chat representatives do not get into detail as to if the Snap is a reply or not. Mr. Pesci requested the Defense agree to the authenticity of the Snap Chats. Mr. Helmick confirmed he did received two fingerprint reports. Mr. Pesci stated the third report is of a fingerprint from a kitchen sink nozzle with Defendant Caruso's fingerprint on it, however the State does not need it, adding they have video of it. Mr. Helmick stated no objection to the Snap Chat being authenticated with the documents instead of bringing in the witness. Mr. Yampolsky stated no objection as well. COURT STATED the Snap Chat information will be admitted without the need for a witness, additionally stating anything involving the witness and his agreement to testify is appropriate on cross examination. Colloquy regarding family member seating during Jury selection. Mr. Pesci informed the Court the Defendant have signed a Stipulation and Order to waive the penalty hearing. Upon Court's inquiry, Defendant HARLAN and Defendant CARUSO confirmed they agree to waive the penalty phase of trial.

#### PROSPECTIVE JURY PANEL PRESENCE

Introductions by Court and Counsel. Clerk called roll. Voir dire commenced.

#### OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL

Mr. Pesci stated he requested from the Juvenile Division and the released was signed, and the State received the document, opened it and saw there were reports and immediately forwarded the document to the Court, and the State will not review it unless approved by the Court. COURT STATED it was 105 pages of documents, they are currently reviewing. Mr. Pesci further stated his objections to Mr. Helmicks openings. Challenges for cause placed on the record.

#### PROSPECTIVE JURY PANEL PRESENCE

Voir dire continued.

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

#### OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL

Additional challenges for cause placed on the record. COURT ADVISED the CPS records they received and there is no Juvenile Records, and each party can have a copy. COURT ORDERED, matter CONTINUED.

#### CUSTODY

CONTINUED TO: 7/30/19 10:30 A.M.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****July 30, 2019**

C-18-333318-2      State of Nevada  
vs  
Kody Harlan

**July 30, 2019****10:30 AM****Jury Trial****HEARD BY:** Herndon, Douglas W.**COURTROOM:** RJC Courtroom 16C**COURT CLERK:** Kory Schlitz**RECORDER:** Jill Jacoby**REPORTER:****PARTIES**

<b>PRESENT:</b>	Harlan, Kody	Defendant
	Helmick, Ryan K.	Attorney
	Overly, Sarah	Attorney
	Pesci, Giancarlo	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- APPEARANCES CONTINUED: Defendant CARUSO present in custody represented by Mace Yampolsky Esq. and Jason Margolis Esq.

**OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL**

Mr. Pesci indicated he spoke with the Victim Advocate who informed him the Decedents family was getting on the elevator to leave last night along with Prospective Juror #551 Denise Phillips, who all three parties agreed to release since she was disruptive during Jury Selection. Mr. Pesci stated he immediately informed Defense counsel, and requested the panel be brought in entirely and questioned as to who was in the elevator, adding the panel still includes the Prospective Jurors who the Court excused last night, and were going to inform them this morning. Mr. Helmick and Mr. Yampolsky stated no objection.

**PROSPECTIVE JURY PANEL PRESENCE**

Colloquy regarding Prospective Jurors who were riding in the elevator with Prospective Juror #551

Denise Phillips after she was released.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL

Prospective Juror #497 Araceles Diaz, #418 Sydney Gebhart, and #463 Sylvia Robinson individually voir dire regarding what Prospective Juror #551 Denise Phillips was saying in the elevator.

PROSPECTIVE JURY PANEL PRESENCE

Continued Voir Dire.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL

Prospective Juror #418 Sydney Gebhart present. COURT ADVISED she can go to her appointment and does not need to return this afternoon, and if selected for the Jury the Court will contact her. Challenges for cause placed on the record. Mr. Helmick requested to reopen the discussion with regards to the two buzz words of russian roulette, and abandoned house, adding every time he has tried to explain this case to someone in his office, they do not remember the case unless references those specific words. Mr. Helmick stated he as a legitimate concern with regards to those facts coming out during trial that the Jurors will remember the case. Mr. Pesci stated his objection to using the words, adding the Jurors have been asked about the media, and no one has said they remember anything. COURT STATED when completing Jury Selection, the questions are not fact specific, and when counsel adds things that are alleged to be facts, to jog a Jurors memory is basically informing them of facts of the case, which is not done during Jury selection. Mr. Yampolsky joined in with Mr. Helmick's request, and requested if before parties are going to complete their preemptory challenges if the Court brings up again if any of the Prospective Jurors remember anything about the case. Mr. Pesci stated no objection.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL

Mr. Pesci stated he received an e-mail that the Court received Tracio Meadows juvenile information and the State did not get it, or view it. COURT STATED they received a multitude of e-mails, and Tracio Meadows had prior juvenile offenses, that showed warning and dismissed, adding in 2016 there was a charge, and he was placed on probation, and in April of 2018, there was a Petition for Malicious Destruction of Private Property, and later in 2018 the Petition for Accessory to Murder Charge which were both negotiated to include an agreement to testify and to admit to the Petition for Malicious Destruction of Property, in which he was placed on probation for. COURT ADVISED, parties can question Tracio Meadows with regards to the Petition for Malicious Destruction of Property conviction, since it was part of the negotiation with the Agreement to Testify, which can be questioned, along with the Accessory to Murder Charge and STATED parties were provided copies of those Petitions. COURT FURTHER STATED Mr. Helmick raised an issue that a member of Defendant HARLAN's family indicated that a Prospective Juror may have been speaking with the victims family. Prospective Juror #542 Karen Rice individually voir dire.

PROSPECTIVE JURY PANEL PRESENCE

Continued Voir Dire. Peremptory Challenges completed. Jury selected. Court recessed for the evening and directed Jurors to return tomorrow.

COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 7/31/19 9:00 A.M.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****July 31, 2019**

C-18-333318-2      State of Nevada  
vs  
Kody Harlan

**July 31, 2019****9:00 AM****Jury Trial****HEARD BY:** Herndon, Douglas W.**COURTROOM:** RJC Courtroom 16C**COURT CLERK:** Kory Schlitz**RECORDER:** Jill Jacoby**REPORTER:****PARTIES**

<b>PRESENT:</b>	Harlan, Kody	Defendant
	Helmick, Ryan K.	Attorney
	Overly, Sarah	Attorney
	Pesci, Giancarlo	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- APPEARANCES CONTINUED: Defendant CARUSO present in custody represented by Mace Yampolsky Esq.

**OUTSIDE THE PRESENCE OF THE JURY PANEL**

Mr. Pesci requested to discuss ground rules, and stated there is going to be evidence of drug usage, not only by the Defendants and other juveniles, and the State's perspective is, the drug use is part of the entire picture of the case, and there could be negative or bad acts that can be attributed to the Defendants, however the State cannot present it's case without using the information, adding he believes the Defense is not opposing the drug use being brought up. Mr. Yampolsky and Mr. Helmick confirmed the representations. Mr. Pesci further stated there are other crimes, and or potential crimes littered within the case, for example the stolen vehicle, and parties agree not to ask any questions regarding the stolen vehicle to the police officer who performed the stop. Mr. Pesci further stated they are only seeking to introduce particular items off the phone extraction, adding there was an alleged pool party between the time of the murder and the arrest, noting there was a

shot fired and the State does not plan on introducing that evidence. Mr. Helmick stated he was going to address the pool party with some of the witnesses. Mr. Yampolsky requested the pool party information not be introduced. COURT RESERVED its ruling regarding bringing up the pool party. Mr. Pesci informed the Court it is not the State's intent to call the Decedents mother or sister, and they will be present in the courtroom, and parties stipulate to who the victim is. Mr. Helmick and Mr. Yampolsky stipulated. Mr. Pesci further stated Defendant CARUSO's mother could be a recipient witness, potentially, however the State does think its appropriate for her to be present during trial. Mr. Yampolsky stated he does not plan on calling Defendant's CARUSO's mother as a witness. Mr. Helmick stated no opposition as well.

JURY PANEL PRESENT

Jury sworn. Court instructed the Jury. Clerk read the Information. Opening Statements by Ms. Overly, Mr. Yampolsky and Mr. Helmick.

Testimony and Exhibits presented. (See Worksheets).

OUTSIDE THE PRESENCE OF THE JURY PANEL

Mr. Pesci requested the Court canvass the Defendants. Upon Court's inquiry, Defendant HARLAN confirmed he spoke with his attorney regarding being found guilty of what the evidence shows, and it was to be used a trial strategy. Upon Court's inquiry, Defendant CARUSO confirmed he spoke with his attorney about shooting the gun as a trial strategy.

JURY PANEL PRESENT

Testimony and Exhibits continued. (See Worksheets).

COURT recessed for the evening and DIRECTED Jurors to return tomorrow; and ORDERED matter CONTINUED.

CUSTODY

CONTINUED TO: 8/1/19 11:00 A.M.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**August 01, 2019**

C-18-333318-2      State of Nevada  
vs  
Kody Harlan

**August 01, 2019      11:00 AM      Jury Trial**

**HEARD BY:** Herndon, Douglas W.

**COURTROOM:** RJC Courtroom 16C

**COURT CLERK:** Kory Schlitz

**RECORDER:** Jill Jacoby

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Harlan, Kody	Defendant
	Helmick, Ryan K.	Attorney
	Overly, Sarah	Attorney
	Pesci, Giancarlo	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- APPEARANCES CONTINUED: Defendant CARSUO present in custody represented by Mace Yampolsky Esq. and Jason Margolis Esq.

OUTSIDE THE PRESENCE OF THE JURY PANEL

JURY PANEL PRESENT

Testimony and Exhibits presented. (See Worksheets).

COURT recessed for the evening and DIRECTED Jurors to return tomorrow; and ORDERED matter CONTINUED.

CUSTODY



CONTINUED TO: 8/5/19 9:00 A.M.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**August 05, 2019**

C-18-333318-2      State of Nevada  
vs  
Kody Harlan

**August 05, 2019      9:00 AM      Jury Trial**

**HEARD BY:** Herndon, Douglas W.

**COURTROOM:** RJC Courtroom 16C

**COURT CLERK:** Kory Schlitz

**RECORDER:** Jill Jacoby

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Harlan, Kody	Defendant
	Helmick, Ryan K.	Attorney
	Overly, Sarah	Attorney
	Pesci, Giancarlo	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- APPEARANCES CONTINUED: Defendant CARUSO present in custody represented by Mace Yampolsky Esq. and Jason Margolis Esq.

**OUTSIDE THE PRESENCE OF THE JURY PANEL**

Mr. Helmick indicated parties stipulated to Defense Exhibits D & E. Mr. Pesci stated no objection. Colloquy regarding the redacted Agreement to Testify exhibit.

**JURY PANEL PRESENT**

Testimony and Exhibits presented. (See Worksheets). State rests.

**OUTSIDE THE PRESENCE OF THE JURY PANEL**

Mr. Helmick stated when he was question Detective Nichols, he mention the Mercedes Benz being stolen, and parties specifically agreed to not bring up that aspect of the case, adding that was an error on the Detectives part and it was prejudice to Defendant Harlan, especially since he was the driver of

the vehicle. Mr. Helmick further argued he does not want the Jury to point the finger at Defendant Harlan as the person who stole the vehicle, and requested a mistrial on behalf of Defendant Harlan. Mr. Yampolsky joined the mistrial request, stating it should be a prosecutorial mistrial, even though neither one of the prosecutors cause the error. Mr. Pesci stated this was not deliberative, and it should not be a prosecutorial mistrial since the State did not ask the question, it was asked during cross examination by Mr. Helmick. Mr. Pesci requested an curative instruction be given to the Jury, and the State does not think a mistrial is appropriate. Mr. Helmick stated a curative instruction brings more attention to the issue. COURT DIRECTED parties to meet and confer regarding what instruction should be given to the Jury over the lunch break; and ORDERED Motion for Mistrial DENIED.

COURT ADMONISHED Defendant Harlan and Defendant Caruso of their right to testify.

#### OUTSIDE THE PRESENCE OF THE JURY PANEL

Mr. Yampolsky stated there was previously a Motion to Sever, and he would like to renew his Motion, due to Mr. Helmick's question on Detective Nichols, adding it suggest prejudice against Defendant Caruso for no fault of his own since both Defendants are being tried together, stating this is a Burton issue. Mr. Pesci stated there is no Bruton issue. COURT STATED they do not believe there was a Bruton issue as well, ADDING the statement by the Detective will be cured, and Motion for Severance DENIED.

#### JURY PANEL PRESENT

Court instructed the Jury, stating when Detective Nichols was testifying, he made a mistake and said something that was inaccurate in reference to a vehicle in this case being stolen, which was an error and inaccurate and is not evidence in the case, and DIRECTED the Jurors to disregard the alleged allegation. Mr. Helmick stated on behalf of Defendant Harlan, the Defense rests. Mr. Yampolsky stated there was one witness he is planning on calling, however is not available until tomorrow and requested the trial be continued until then. COURT recessed for the evening and DIRECTED Jurors to return tomorrow; and ORDERED matter CONTINUED.

#### OUTSIDE THE PRESENCE OF THE JURY PANEL

Jury Instructions Settled.

#### CUSTODY

CONTINUED TO: 8/6/19 12:00 P.M.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**August 06, 2019**

C-18-333318-2      State of Nevada  
vs  
Kody Harlan

**August 06, 2019      12:00 AM      Jury Trial**

**HEARD BY:** Herndon, Douglas W.

**COURTROOM:** RJC Courtroom 16C

**COURT CLERK:** Kory Schlitz

**RECORDER:** Jill Jacoby

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Harlan, Kody	Defendant
	Helmick, Ryan K.	Attorney
	Overly, Sarah	Attorney
	Pesci, Giancarlo	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- APPEARANCES CONTINUED: Defendant CARUSO present in custody represented by Mace Yampolsky Esq. and Jason Margolis Esq.

**OUTSIDE THE PRESENCE OF THE JURY PANEL**

COURT STATED Juror #14 Ms. Evans who is alternate #1 called Chambers to inform that her husband has been admitted into the hospital, and the Court dismissed her. Counsel stated no objection.

**JURY PANEL PRESENT**

Testimony and Exhibits presented. (See Worksheets).

**OUTSIDE THE PRESENCE OF THE JURY PANEL**

Court stated they received the information that Mr. Helmick wanted to seek Larceny as a lesser included. Arguments by counsel. COURT STATED ITS FINDINGS adding Larceny is not a lesser

included.

JURY PANEL PRESENT

Closing arguments by Ms. Overly, and Mr. Yampolsky.

OUTSIDE THE PRESENCE OF THE JURY PANEL

Mr. Pesci stated his contemporaneous challenge of the demonstrative exhibit Me. Helmick wants to use in his closing arguments. COURT SO NOTED.

JURY PANEL PRESENT

Closing arguments by Mr. Helmick and Mr. Pesci. At the hour of 4:38 p.m. the Jury retired to deliberate.

COURT recessed for the evening and DIRECTED Jurors to return tomorrow; and ORDERED matter CONTINUED.

CUSTODY

CONTINUED TO: 8/7/19 9:00 A.M.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**August 07, 2019**

C-18-333318-2      State of Nevada  
vs  
Kody Harlan

**August 07, 2019      9:00 AM      Jury Trial**

**HEARD BY:** Herndon, Douglas W.

**COURTROOM:** RJC Courtroom 16C

**COURT CLERK:** Kory Schlitz

**RECORDER:** Jill Jacoby

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Harlan, Kody	Defendant
	Helmick, Ryan K.	Attorney
	Overly, Sarah	Attorney
	Pesci, Giancarlo	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- APPEARANCES CONTINUED: Defendant CARUSO present in custody represented by Mace Yampolsky Esq. and Jason Margolis Esq.

OUTSIDE THE PRESENCE OF THE JURY PANEL

Court made a record of the Jury question during deliberations.

JURY PANEL PRESENT

At the hour of 2:48 p.m. the Jury returned with a verdict of GUILTY on COUNT 1 - FIRST DEGREE MURDER WITH USE OF A DEADLY WEAPON, and GUILTY on COUNT 2 - ROBBERY WITH USE OF A DEADLY WEAPON, and GUILTY on COUNT 3 - ACCESSORY TO MURDER WITH USE OF A DEADLY WEAPON.

OUTSIDE THE PRESENCE OF THE JURY PANEL

COURT ORDERED, matter REFERRED to Parole & Probation for a Pre-Sentence Investigation (PSI)

Report; matter SET for sentencing.

CUSTODY

9/18/19 9:30 A.M. SENTENCING

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****August 29, 2019**

C-18-333318-2

State of Nevada

vs

Kody Harlan

**August 29, 2019****9:00 AM****Motion to Set Aside**

**Defendant's Notice of  
Motion to Place on  
Caeldnar to Set Aside  
Guilty Verdict as to  
Counts One and Two;  
In the Alternative  
Motion for a New  
Trial and to Request  
Additional Time for  
Supplemental  
Briefing**

**HEARD BY:** Herndon, Douglas W.**COURTROOM:** RJC Courtroom 16C**COURT CLERK:** Kory Schlitz**RECORDER:** Jill Jacoby**REPORTER:****PARTIES****PRESENT:**

Harlan, Kody  
Helmick, Ryan K.  
Pesci, Giancarlo  
State of Nevada

Defendant  
Attorney  
Attorney  
Plaintiff

**JOURNAL ENTRIES**

- APPEARANCES CONTINUED: Defendant CARUSO present in custody represented by Mace Yampolsky Esq.

COURT STATED the Motion was filed, and the State filed an Opposition, and the Court became aware the Defense is requesting additional time to complete supplemental briefing. Mr. Helmick



stated he was not aware the State filed an Opposition and requested a couple of weeks. Mr. Pesci stated it was e-filed on August 20, 2019. COURT ORDERED, Extension GRANTED for supplemental briefing; briefing schedule SET as follows: Defendant's Supplemental Motion shall be filed on or before September 12, 2019; State's Supplemental's Opposition shall be due on or before September 26, 2019; Defendant's Supplemental Reply shall be due on or before October 3, 2019; matter SET for Hearing. COURT FURTHER ORDERED, Sentencing date RESET.

**CUSTODY**

10/10/16 9:00 A.M. HEARING RE: MOTION TO SET ASIDE GUILTY VERDICT AS TO COUNTS ONE AND TWO, IN THE ALTERNATIVE MOTION FOR A NEW TRIAL

10/16/19 9:30 A.M.. SENTENCING

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****October 10, 2019**

C-18-333318-2      State of Nevada  
vs  
Kody Harlan

<b>October 10, 2019</b>	<b>10:30 AM</b>	<b>Hearing</b>	<b>Hearing Re: Motion to Set Aside Guilty Verdict as to Counts One and Two, in the Alternative Motion for a New Trial</b>
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**HEARD BY:** Herndon, Douglas W.**COURTROOM:** RJC Courtroom 16C**COURT CLERK:** Kory Schlitz**RECORDER:** Jill Jacoby**REPORTER:****PARTIES**

<b>PRESENT:</b>	Harlan, Kody	Defendant
	Helmick, Ryan K.	Attorney
	Overly, Sarah	Attorney
	Pesci, Giancarlo	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- APPEARANCES CONTINUED: Defendant CARUSO present in custody represented by Jason Margolis Esq.

Mr. Helmick inquired if the Court feels the Motion was proper with regards to the response he provided. COURT STATED Mr. Helmick filed the Motion, and shortly thereafter there was an Ex-Parte request to obtain Jury information for the Defense to pursue what they were trying to pursue, adding the Court did not think it was appropriate to be brought up in Open Court, since it was an Ex-Parte issue, and the Court would agree the Supplemental Brief is more about Juror misconduct. Mr. Helmick argued cumulative effect of everything, pointing out there is a lot of little instances of Juror

misconduct that each one carries its own respective weight. Mr. Helmick argued the Jury was unable to perform their duties due to the misconduct that was brought into the Jury room, through the use of the cell phones, through talking about the stolen vehicle, even though the Court admonished the Jurors to not discuss it, and through the Caruso letter, which is a form of whether or not he testified. Mr. Helmick argued the theme of the State's case is that this murder occurred during a robbery, and the Defense's theme is that it occurred accidentally, adding the additional evidence that was brought it should not have been. Mr. Helmick requested an evidentiary hearing be set. Mr. Margolis argued the cumulative effect of several items of extrinsic evidence was used to bamboozle and to mislead Ms. Esparza, which can cause prejudice in the verdict. COURT STATED they were under the impression once the Defense submitted the Ex-Parte Motion they had already talked to a Juror, and the Court did not have communication with the Defense, however informed the Law Clerk to inform parties this was a matter for open court. Mr. Pesci argued they've had the information to communicate with Jurors for over a month and the State would object to continuance or an Evidentiary Hearing, since there is already representation by counsel who spoke to a Juror who did not remember or anyone who could corroborate Ms. Esparza's claims. Further arguments by Mr. Helmick who requested additional Juror information. COURT STATED ITS FINDINGS and ORDERED, a limited Evidentiary Hearing is GRANTED with regards to the Juror's statement that there was discussion about the stolen vehicle and how it made it more likely there was a robbery and a murder. COURT STATED the Evidentiary Hearing will be done with Ms. Esparza and any other Jurors. Mr. Helmick and Mr. Pesci stated a joint request to obtain Juror information. COURT SO ORDERED; sentencing date VACATED.

CUSTODY

11/15/19 9:00 A.M. EVIDENTIARY HEARING

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**November 25, 2019**

C-18-333318-2      State of Nevada  
vs  
Kody Harlan

**November 25, 2019      9:00 AM      All Pending Motions**

**HEARD BY:** Herndon, Douglas W.

**COURTROOM:** RJC Courtroom 16C

**COURT CLERK:** April Watkins

**RECORDER:** Jill Jacoby

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Harlan, Kody	Defendant
	Helmick, Kirk R.	Attorney
	Overly, Sarah	Attorney
	Pesci, Giancarlo	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- DEFENDANT KODY HARLAN'S NOTICE OF MOTION TO PLACE ON CALENDAR TO SET ASIDE GUILTY VERDICT AS TO COUNTS ONE AND TWO; IN THE ALTERNATIVE MOTION FOR A NEW TRIAL...DEFENDANT JAIDEN CARUSO'S JOINDER TO DEFENDANT KODY HARLAN'S MOTION TO SET ASIDE GUILTY VERDICT AS TO COUNTS ONE AND TWO; IN THE ALTERNATIVE MOTION FOR A NEW TRIAL...HEARING RE: MOTION TO SET ASIDE GUILTY VERDICT AS TO COUNTS ONE AND TWO, IN THE ALTERNATIVE MOTION FOR A NEW TRIAL (BOTH)

Testimony presented. (See worksheet).

Following arguments by counsel, Court FINDS based on the totality of the evidence, this does not rise to a level of prejudice or render a different verdict, ORDERED, motion and joinder DENIED. FURTHER ORDERED, matter SET for sentencing.

CUSTODY (BOTH)

12/10/19 9:00 AM SENTENCING (BOTH)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****December 10, 2019**

C-18-333318-2      State of Nevada  
vs  
Kody Harlan

**December 10, 2019      9:00 AM      Sentencing**

**HEARD BY:** Herndon, Douglas W.**COURTROOM:** RJC Courtroom 16C**COURT CLERK:** Kory Schlitz**RECORDER:** Jill Jacoby**REPORTER:****PARTIES**

<b>PRESENT:</b>	Harlan, Kody	Defendant
	Helmick, Kirk R.	Attorney
	Overly, Sarah	Attorney
	Pesci, Giancarlo	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- APPEARANCES CONTINUED: Defendant CARUSO present in custody represented by Mace Yampolsky Esq.

DEFENDANT HARLAN ADJUDGED GUILTY of COUNT 1 - 1ST DEGREE MURDER WITH USE OF A DEADLY WEAPON (F) and COUNT 2 - ROBBERY WITH USE OF A DEADLY WEAPON (F) and COUNT 3 - ACCESSORY TO MURDER WITH USE OF A DEADLY WEAPON (F). Mr. Pesci argued for a life sentence. Statement by Defendant. Mr. Helmick argued for 20-50 years with a minimum consecutive sentence for the deadly weapon portion and for all counts to run concurrent. Victim Speakers sworn and testified. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, a \$150.00 DNA Analysis fee including testing to determine genetic markers, and \$3.00 DNA Collection fee, and a \$250.00 Fine, and \$250.00 Indigent Defense Civil Assessment fee, Defendant SENTENCED in COUNT 1 - to a MAXIMUM term of LIFE with a MINIMUM parole eligibility of TWENTY (20) YEARS in the Nevada Department of Corrections (NDC) plus a CONSECUTIVE term of a MINIMUM of FORTY-EIGHT (48) MONTHS and a MAXIMUM of ONE

HUNDRED TWENTY (120) MONTHS in the NDC, for the Deadly Weapon Enhancement, and in COUNT 2 - to a MINIMUM of FORTY-EIGHT (48) MONTH to a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS in the NDC, plus a CONSECUTIVE term of a MINIMUM of FORTY-EIGHT (48) MONTHS and a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS in the NDC, for the Deadly Weapon Enhancement, CONCURRENT TO COUNT 1, COUNT 3 - to a MINIMUM of EIGHTEEN (18) MONTHS and a MAXIMUM of SIXTY (60) MONTHS in the NDC, CONCURRENT TO COUNT 1, WITH FIVE HUNDRED FORTY-NINE (549) DAYS credit for time served. BOND, if any, EXONERATED.

NDC

## EXHIBIT(S) LIST

**Case No.: C-18-333318-1 & -2**

**Hearing / Trial Date: 7/29/19**

**Dept. No.: II**

**Judge: Douglas W. Herndon**

**Court Clerk: Kory Schlitz**

**Plaintiff: State of Nevada**

**Recorder / Reporter: Jill Jacoby**

**Counsel for Plaintiff: G. Pesci & S. Overly**

**VS.**

**Defendant:** Jaiden Caruso & Kody Harlan

**Counsel for Defendant:** M. Yampolsky & R. Helmick

## HEARING / TRIAL BEFORE THE COURT

**STATE'S EXHIBITS**

[illegible]



obj

	DC 3	State v. Kody Harlan and Jaiden Caruso	Date	Date		
	#	ITEM	DESCRIPTION	OFFERED	ADMITTED	
WA	1	Map	Aerial Map of Chevron Crash Scene	7/31/19	7/31/19	no
WA	2	Map	Aerial Map of Chevron to The Villas	7/31/19	7/31/19	no
WA	3	Map	Aerial Map of 2736 Cool Lilac Ave.	8/6/19	8/6/19	no
WA	4	Map	Aerial Map of The Villas Apts	7/31/19	7/31/19	no
WA	5	Photo	Jaiden Caruso Face	7/31/19	7/31/19	no
WA	6	Photo	Kody Harlan Full Body Front	7/31/19	7/31/19	no
WA	7	Photo	Kody Harlan Full Body Back	1	1	1
WA	8	Photo	Kody Harlan Face	7/31/19	7/31/19	no
		<u>Chevron Crash Scene</u>				
WA	9	Photo	Sunset Street Sign	7/31/19	7/31/19	no
WA	10	Photo	Scene facing Green Valley Sign	↓	↓	↓
WA	11	Photo	Scene facing Sunset Sign			
WA	12	Photo	Scene with both vehicles			
WA	13	Photo	Scene facing Henderson Library			
WA	14	Photo	Mercedes crash on passenger side			
WA	15	Photo	Mercedes crash on driver side			
WA	16	Photo	Mercedes crash facing front of vehicle			
WA	17	Photo	Front damage to dark vehicle			
WA	18	Photo	Passenger side view of dark vehicle			
WA	19	Photo	Rear license view of Mercedes	7/31/19	7/31/19	no
WA	20	Photo	Multicolored shirt in back seat of Mercedes	7/31/19	7/31/19	no
WA	21	Photo	Wallet in back floor of Mercedes	↓	↓	↓
WA	22	Photo	Open wallet			
WA	23	Photo	iPhone in driver's seat of Mercedes			
WA	24	Photo	iPhone and charger in passenger seat of Mercedes			
WA	25	Photo	Shop Palace Shopping bag			
WA	26	Photo	Revolver on floorboard of passenger seat			
WA	27	Photo	Closer Image of Revolver			
WA	28	Photo	Closer image of iPhone and charger			
WA	29	Photo	Front facing photo of iPhone connected to charger			
WA	30	Photo	Revolver with bullet on floorboard	↓	↓	↓
WA	31	Photo	Bullet on floorboard			
WA	32	Photo	Bullet with measurement			
WA	33	Photo	Headstamp of bullet with measurement			
WA	34	Photo	Revolver with measurement			
WA	35	Photo	Revolver cylinder with bullet			
WA	36	Photo	Magazine in side compartment of door			
WA	37	Photo	Closer Image of magazine			
WA	38	Photo	Magazine with measurement			

WA	39	Photo	Magazine bullet headstamps with measurement	7/31/19	7/31/19	no
WA	40	Photo	Open trunk of Mercedes	↓	↓	↓
WA	41	Photo	Nike Air Sie 10 sneakers in box	↓	↓	↓
WA	42	Photo	Footlocker receipt in trunk	↓	↓	↓
WA	43	Photo	Footlocker receipt (closer image)	7/31/19	7/31/19	no
			<del>Coroner Photos</del>			
WA	44	Photo	Front face with Event tag	7/31/19	7/31/19	no
WA	45	Photo	Left view of bullet impact with Event tag	↓	↓	↓
WA	46	Photo	Open mouth with Event tag	↓	↓	↓
WA	47	Photo	Full Face with towel with Event tag	↓	↓	↓
WA	48	Photo	Bullet fragments from neck	7/31/19	7/31/19	no
			<del>Mercedes at Crime Lab</del>			
WA	49	Photo	Full view of passenger side	7/31/19	7/31/19	no
WA	50	Photo	Full view of damaged driver's side	↓	↓	↓
WA	51	Photo	View of Trunk and License	↓	↓	↓
WA	52	Photo	Wallet with Minkler Silverado ID	↓	↓	↓
WA	53	Photo	Minkler Silverado H.S. ID	↓	↓	↓
WA	54	Photo	Rear passenger seat compartment with LVMPD knife	↓	↓	↓
WA	55	Photo	Closer image of LVMPD knife in compartment	↓	↓	↓
WA	56	Photo	LVMPD Knife with measurement	↓	↓	↓
WA	57	Photo	Smith and Wesson knife in backseat	↓	↓	↓
WA	58	Photo	Multicolored shirt	↓	↓	↓
WA	59	Photo	Smith and Wesson knife	↓	↓	↓
WA	60	Photo	Open trunk	↓	↓	↓
WA	61	Photo	Left Black Air Jordan in trunk	↓	↓	↓
WA	62	Photo	Left Black Air Jordan with measurement	↓	↓	↓
WA	63	Photo	Left Black Air Jordan with blood	↓	↓	↓
WA	64	Photo	Backpack in trunk with Footlocker receipt	↓	↓	↓
WA	65	Photo	Footlocker receipt with measurement	↓	↓	↓
WA	66	Photo	Nike Air Force One Box	↓	↓	↓
WA	67	Photo	Mike Air Force One Box and Size 10 tag	↓	↓	↓
WA	68	Photo	White Nike Air Force One Sneakers in box	↓	↓	↓
WA	69	Photo	Left Shoe White Nike Air Force One Sneaker	7/31/19	7/31/19	no
			<del>2736 Cool Lilac Ave.</del>			
WA	70	Diagram	Crime Scene Diagram	7/31/19	7/31/19	stop
WA	71	Photo	Street front view of residence	↓	↓	↓
WA	72	Photo	2736 street sign	↓	↓	↓
WA	73	Photo	Front Door with card	7/31/19	7/31/19	stop

UA	74	Photo	Closer Image of Front Door with card	7/31/19	7/31/19	Stip
UA	75	Photo	Backyard gate			
UA	76	Photo	Closer Image of Backyard gate			
UA	77	Photo	Backyard facing residence			
UA	78	Photo	Corner view of broken back window			
UA	79	Photo	Window glass in rocks			
UA	80	Photo	Straight view of broken windows			
UA	81	Photo	Backyard facing rear wall			
UA	82	Photo	Kitchen view facing back door/blinds			
UA	83	Photo	Kitchen facing island and refrigerator			
UA	84	Photo	Kitchen island and living room with bloody sheet			
UA	85	Photo	Island view facing refrigerator			
UA	86	Photo	Clorox wipes and charger on floor			
UA	87	Photo	Living room with blood on floor/carpet			
UA	88	Photo	Living room/kitchen with bloody towel and clorox wipe			
UA	89	Photo	Living Room graffiti "Fuck 12"			
UA	90	Photo	Kitchen facing island/dining table with bloody towel and Clorox			
UA	91	Photo	Bloody towel and sheet			
UA	92	Photo	Bloody towel/sheet and bag on floor			
UA	93	Photo	Pool Table with graffiti			
UA	94	Photo	Hallway view to closet with door open			
UA	95	Photo	Corner view to closet with blood			
UA	96	Photo	Inside door to hallway closet with blood			
UA	97	Photo	Body faced down with knees bent inside closet			
UA	98	Photo	Bottom of left foot			
UA	99	Photo	Bottom of right foot			
UA	100	Photo	"Fuck Matt" spray painted on closet door			
UA	101	Photo	Closer image of "Fuck Matt"			
UA	102	Photo	Bullet hole to living room ceiling			
UA	103	Photo	Closer image of bullet hole to ceiling			
UA	104	Photo	Samsung phone in tarp			
UA	105	Photo	Samsung phone (front)			
UA	106	Photo	Samsung phone (back)			
UA	107	Photo	Kitchen facing dining room with bloody towel/sheet with ID tags			
UA	108	Photo	Bloody towel/sheet with ID tag			
UA	109	Photo	Sink faucet with ID tag			
UA	110	Photo	Clorox wipe with ID tag			
UA	111	Photo	Nike sneakers with bag on floor with tag	7/31/19	7/31/19	Stip

WA	112	Photo	Spray Paint can with ID tag	7/31/19	7/31/19	Stop
WA	113	Photo	Nike shoe and cigar filter with ID tag	↓	↓	↓
WA	114	Photo	Living room view from hallway with ID tags	↓	↓	↓
WA	115	Photo	View into kitchen from living room with ID tags	↓	↓	↓
WA	116	Photo	Bullet hole in ceiling with tag	↓	↓	↓
WA	117	Photo	Blood on kitchen floor with ID tags	↓	↓	↓
WA	118	Photo	Body in closet with "RIP" spray painted	↓	↓	↓
WA	119	Photo	Minkler Full Body Face Up	↓	↓	↓
WA	120	Photo	Minkler pants with blood and pockets	↓	↓	↓
WA	121	Photo	Teeth and blood on carpet	↓	↓	↓
WA	122	Photo	Backyard broken fence/gate	↓	↓	↓
WA	123	Photo	Samsung phone on tarp in closet	↓	↓	↓
WA	124	Photo	Closer image of Samsung on tarp	7/31/19	7/31/19	Stop
			<b>Phones</b>			
WA	125	Photo	Black iPhone front	8/5/19	8/5/19	no
WA	126	Photo	Black iPhone front with reflection	↓	↓	↓
WA	127	Photo	Black iPhone back	↓	↓	↓
WA	128	Photo	Black iPhone front with charger attached	↓	↓	↓
WA	129	Photo	Black iPhone back (Model A1784)	↓	↓	↓
WA	130	Photo	Jaiden Caruso Apple ID	↓	↓	↓
WA	131	Photo	Jaiden Caruso Apple ID with Gmail email addresses	↓	↓	↓
WA	132	Photo	Front Samsung Phone	↓	↓	↓
WA	133	Photo	Back Samsung Phone cracked	↓	↓	↓
WA	134	Photo	Samsung Sim Card	↓	↓	↓
WA	135	Photo	Samsung phone back shattered	↓	↓	↓
WA	136	Photo	Samsung phone taken apart	↓	↓	↓
WA	137	Photo	Internal mechanics of Samsung	↓	↓	↓
WA	138	Photo	Full Samsung taken apart	8/5/19	8/5/19	no
			<b>Autopsy-Photos</b>			
WA	139	Photo	Coroner Case Tag	7/31/19	7/31/19	no
WA	140	Photo	Full face	↓	↓	↓
WA	141	Photo	Bullet impact with measurement	↓	↓	↓
WA	142	Photo	Left Side View of Bullet with measurement	↓	↓	↓
WA	143	Photo	Clothing spread out	↓	↓	↓
WA	144	Photo	Bloody Civil Regime Shirt	↓	↓	↓
WA	145	Photo	X-Ray of Bullet impact	7/31/19	7/31/19	no
			<b>Footlocker-Video</b>			
WA	146	Video	Video inside Footlocker Store at Galleria Mall	8/1/19	8/1/19	no
			<b>Jaiden's Phone</b>			
WA	147	Video	Videos pulled from Jaiden's phone	8/5/19	8/5/19	no

WA

		-Matthew's Phone			
148	Video	Videos pulled from Matthew's Phone	7/31/19	7/31/19	no

Jaiden Carmo

## EXHIBIT(S) LIST

[illegible]

## EXHIBIT(S) LIST

**Case No.: C-18-333318-1 & -2**

Hearing Date:

JUL 29 2019

Dept. No.: III

**Judge:**

**Court Clerk:**

**KORY SCHLITZ**

Plaintiff: **State of Nevada**

Recorder:

JILL JACOBY

**Counsel for Plaintiff:**

Gr. Pesci &

**VS.**

Defendant: Jaiden Caruso &  
Kody Harlan

**Counsel for Defendant:**

Counsel for Defendant: M. Yampolsky  
+ R. Helmick

## TRIAL BEFORE THE COURT

## DEFENDANT'S EXHIBITS

[illegible]

# EXHIBIT(S) LIST

Case No.: C-18-333318-1 & -2

Hearing Date: JUL 29 2019

Dept. No.: III

Judge: DOUGLAS W. HERNDON

Court Clerk: KORY SCHLITZ

Recorder: JILL JACOBY

Counsel for Plaintiff: G. Pesci &

S. Overly

Counsel for Defendant: M. Yampolsky  
& R. Helmick

vs.

Defendant: Jaiden Caruso &  
Kody Harlan

## TRIAL BEFORE THE COURT

### COURT'S EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted
1	Jury Names & Arizona List	7/30/19		
2	States opening Power point	7/31/19		
3	Juror Question	7/31/19		
4	Juror Question	7/31/19		
5	Juror Question	7/31/19		
6	Juror Question	7/31/19		
7	Juror Question	7/31/19		
8	Juror Question	7/31/19		
9	Juror Question	7/31/19		
10	Juror Question	8/1/19		
11	Juror Question	8/1/19		
12	Juror Question	8/1/19		
13	Juror Question	8/1/19		
14	Juror Question	8/1/19		
15	Juror Question	8/1/19		
16	Juror Question	8/1/19		
17	Juror Question	8/1/19		







EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE  
**NOTICE OF DEFICIENCY**  
ON APPEAL TO NEVADA SUPREME COURT

K. RYAN HELMICK, ESQ.  
801 S. 4<sup>TH</sup> ST.  
LAS VEGAS, NV 89101

DATE: December 24, 2019  
CASE: C-18-333318-2

**RE CASE:** STATE OF NEVADA vs. KODY HARLAN aka KODY W. HARLAN

NOTICE OF APPEAL FILED: December 23, 2019

**YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.**

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

☐

Case Appeal Statement

- NRAP 3 (a)(1), Form 2



Order (*for hearing held on November 25, 2019*)



Notice of Entry of Order(*for hearing held on November 25, 2019*)

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NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. **The district court clerk shall apprise appellant of the deficiencies in writing**, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (e) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

# Certification of Copy

State of Nevada }  
County of Clark } SS:

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

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

STATE OF NEVADA,

Plaintiff(s),

vs.

KODY HARLAN  
aka KODY W. HARLAN,

Defendant(s).

Case No: C-18-333318-2

Dept No: III

now on file and of record in this office.

**IN WITNESS THEREOF**, I have hereunto  
Set my hand and Affixed the seal of the  
Court at my office, Las Vegas, Nevada  
This 24 day of December 2019.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk