

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAIDEN CARUSO,
Appellant,

v.

THE STATE OF NEVADA,
Respondent.

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Clerk of Supreme Court

Case No. 80361

RESPONDENT'S APPENDIX

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INDEX

<u>Document</u>	<u>Page No.</u>
District Court Minutes of 05/08/19 (Calendar Call).....	27
Recorder's Transcripts of 04/23/19 (All Pending Motions), filed 05/01/20	1-10
Recorder's Transcripts of 05/02/19 (All Pending Motions), filed 05/05/20	11-26
State's Exhibit 89, dated 07/31/19	28-29
State's Exhibit 93, dated 07/31/19	30-31
State's Exhibit 97, dated 07/31/19	32-33
State's Exhibit 100, dated 07/31/19	34-35
State's Exhibit 108, dated 07/31/19	36-37
State's Exhibit 118, dated 07/31/19	38-39
State's Exhibit 120, dated 07/31/19	40-41

CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on 2nd day of September, 2020. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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1 RTRAN

2
3
4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7 THE STATE OF NEVADA,
8 Plaintiff,

CASE NO: C-18-333318-1
C-18-333318-2

9 vs.

DEPT. III

10 JAIDEN CARUSO and KODY
11 HARLAN,
12 Defendants.

13 BEFORE THE HONORABLE DOUGLAS W. HERNDON, DISTRICT COURT JUDGE
14 TUESDAY, APRIL 23, 2019

15 **RECORDER'S TRANSCRIPT OF HEARING RE:**
16 **ALL PENDING MOTIONS**

17
18 APPEARANCES:

19
20 For the State:

GIANCARLO PESCI, ESQ.
SARA E. OVERLY, ESQ.
Chief Deputy District Attorneys

21
22
23 For the Defendants:

24 Jaiden Caruso:
Kody Harlan:

JASON R. MARGOLIS, ESQ.
RYAN K. HELMICK, ESQ.

25 RECORDED BY: JILL JACOBY, COURT RECORDER

1 **Las Vegas, Nevada; Tuesday, April 23, 2019**

2 [Proceeding commenced at 1:46 p.m.]

3
4 THE COURT: And what else you got, Ryan?

5 MR. HELMICK: Kody Harlan on --

6 THE CLERK: 17

7 MR. HELMICK: -- 17

8 THE COURT: Is Mace here as well?

9 MR. PESCI: No, Judge.

10 THE COURT: No.

11 MR. MARGOLIS: I'm gonna stand in for him, Judge.

12 THE COURT: You got it? Okay. One second, guys. All right. So
13 what we have on today on the case, it's on for status check on trial preparedness
14 for our May 13th trial date. We also have Mr. Harlan's motion to sever, or in the
15 alternative, to deem certain statements inadmissible. Mr. Caruso joined. It's a
16 non-substantive joinder, but that he did join into that motion. All right. Mr.
17 Helmick.

18 MR. HELMICK: Thank you very much, Your Honor. In regards to the

19 --

20 THE COURT: And both the defendants are present in custody. I'm
21 sorry.

22 MR. HELMICK: Thank you, yes. In regards to the motion to sever,
23 the -- and I won't rehash everything -- but the decisive factor here, according to
24 the United States Supreme Court in *Zafirino* [sic] is prejudice. In any severance
25 motion, that's the decisive factor. It talks about the risk of prejudice -- prejudice

1 being heightened when the degrees of culpability are different; which they are
2 here, between these two individuals. Based upon the charges, the degrees of
3 culpability are from zero to a hundred on these two individuals. But if we take -- if
4 we take a step back and just kind of look at the prejudicial aspect of things, there
5 are -- there are some evil facts in this case that those evil aspects of this case
6 apply mainly to Caruso.

7 And the concern that I have is that if we -- if we put them side by side
8 in trial, there's gonna be facts that come out that talk about how they were
9 friends. How they -- how Mr. Harlan even lived at Caruso's house. How they
10 drove to the Cool Lilac house together. How they left the Cool Lilac house
11 together. How they did all these things together. But that doesn't mean that they
12 were together in killing Mr. Minkler. That doesn't mean they were a part --
13 together as a part of some robbery. And so my concern is that putting them side
14 by side, you're gonna have the bad aspects of this case, which we know from
15 very overwhelming evidence on Caruso, they're gonna -- they're gonna have
16 some hate. And that hate is going to spill over to Harlan in this case. It's gonna
17 infect his case. And that's my concern.

18 THE COURT: All right. Mr. Pesci.

19 MR. PESCI: Thank you, Your Honor. Sara Overly and Giancarlo
20 Pesci on behalf of the State. Your Honor, we responded in our opposition and
21 pointed out that in the *Zafiro* case cited to you by the defense, the Supreme
22 Court of the United States said it's not, per se, a reason to sever because of
23 antagonistic defenses. And what the defense has failed to tell you is what
24 specific trial rights will be impeded by being seated next to the co-defendant.
25 There's nothing that has been articulated to you, and there is nothing that can be

1 articulated to you.

2 The fact that some evidence is more damning to one defendant and
3 not the other, does not create a basis for a severance. Especially when you can
4 take into consideration, vicarious liability, Your Honor. And so this is not a
5 question of who was there and who done it. So the fact that they were together
6 before and they went there together, doesn't do anything; because if the case is
7 severed, that evidence is still coming in. There is evidence that will come in on a
8 severed case or a non-severed case. And that's a really important concept to
9 keep in mind.

10 There is nothing that they have said that would impede it. When it
11 comes to the *Bruton*, which is the secondary portion of this, the State's not
12 seeking to introduce -- will not seek to introduce anything one defendant said the
13 other defendant did. Now, if it's in the course and furtherance of the conspiracy,
14 clearly that's admissible evidence; we pointed it out in our response. And so
15 there's no basis here for severance and the motion should be denied.

16 THE COURT: Ryan?

17 MR. HELMICK: I mean, just briefly. In regards to the *Bruton* issue, I
18 suppose that is moot, because Mr. Pesci has agreed that he is not gonna
19 introduce some of the --

20 THE COURT: Yeah, I --

21 MR. HELMICK: -- concerns that I had.

22 THE COURT: -- just so that we're really clear on that. I understood
23 there are four aspects of the Caruso statement to the detectives that you were
24 specifically addressing that the State was specifically agreeing they would not
25 use, correct?

1 MR. PESCI: Correct. When -- when Caruso is talking to the detective
2 and says that Harlan did A, B, and C, we're not seeking to introduce that. We
3 cannot seek to introduce that.

4 THE COURT: Okay. All right. So, yeah, I would agree that that's
5 kind of a moot point --

6 MR. HELMICK: Okay.

7 THE COURT: -- obviously. And that the other things related to
8 potential statements that are part of an ongoing conspiracy, those are different
9 things that we'll address at the time of trial. But are there any other statements to
10 the detective that you guys were seeking to introduce? I know you complained of
11 four particular things. But are there other aspects of statements to the detectives
12 that in --

13 MR. PESCI: Sure.

14 THE COURT: -- any way implicate any of these things, or no?

15 MR. PESCI: Things that place him there at the time. Things --

16 THE COURT: No, I'm not --

17 MR. PESCI: -- that he admits --

18 THE COURT: -- I don't mean Caruso talking about Caruso. I'm just
19 saying there isn't anything else --

20 MR. PESCI: No.

21 THE COURT: Okay.

22 MR. PESCI: No. Not -- not what Caruso saying that the other or vice
23 versa for that matter, because it's been joined in by the co-defendant.

24 THE COURT: Got it. Okay. All right, Ryan, you can go ahead finish
25 up.

1 MR. HELMICK: I'll submit it, Your Honor. I mean --

2 THE COURT: Well, look I -- I would agree that I don't believe there's
3 any particular trial rights that are being prejudiced. There is a difference between
4 degree of culpability when we're charging co-defendants and you've got one co-
5 defendant charged with, like, possession of narcotics and a stolen vehicle and
6 the other co-defendant charged with three counts of murder. I mean, that --
7 there's a very good argument to be made there that my client's level of culpability
8 and involvement in this case is so de minimis concerning the other aspects of it
9 that they should be severed.

10 I think it's different when you're talking about here, where everybody is
11 charged with the same crimes and the jury is tasked with addressing conduct to
12 figure out what, if anything, they think each of the individuals is -- is, you know,
13 guilty of. And I don't think that just saying each of the gentlemen may want to
14 point the finger at the other one, in terms of who actually killed this young man. I
15 don't think those are what we contemplate as mutually antagonistic defenses for
16 purposes of severance. I think that the law is pretty clear on what really
17 contemplates mutually antagonistic defendants -- or defenses and I don't think
18 this is it. So all in all I think it's appropriate that the matter stays joined and I'm
19 going to deny the motion to sever.

20 MR. HELMICK: Okay, thank you.

21 THE COURT: And then there was -- the other matter I think is set for
22 April 30th, correct? That's the --

23 MR. PESCI: There is one. Another one just got filed, I think, today or
24 yesterday.

25 THE COURT: Okay. And then we have our trial date of May 13th, but

1 I also know that I've approved some funding for an expert. So I don't know how
2 that's going to impact our trial date or whether you guys had any communication
3 about that.

4 MR. PESCI: The expert, I don't know anything about that.

5 THE COURT: Okay.

6 MR. HELMICK: Well, I did file the notice of expert, timely, --

7 THE COURT: Okay.

8 MR. HELMICK: -- for Mr. Alan Donaldson. All I've been waiting for
9 was -- was to get the funds approved. We're gonna have him jump on it this
10 week.

11 THE COURT: Okay.

12 MR. HELMICK: And -- and he may not do a report.

13 THE COURT: Okay.

14 MR. HELMICK: I don't think it's gonna be that technical where he
15 would need to. And then -- so I don't think that's gonna cause any delay. But --

16 THE COURT: All right.

17 MR. HELMICK: -- there was another reason that we had the hearing
18 today. I don't know if Your Honor addressed that yet. It was in regards to
19 leaving the offer open for Mr. Harlan. I just want to make a record that he still
20 rejects that offer that has been given to him.

21 THE COURT: Okay. All right. So I don't know. I'm assuming Mr.
22 Caruso may still be amenable to his offer, but Mr. Harlan is rejecting his offer.

23 MR. MARGOLIS: And that was part of why the, I mean, the reason
24 for our joinder was largely based on the fact that there is real prejudice, not
25 potential prejudice, to Mr. Caruso in negotiation of this case right now.

1 THE COURT: Right.

2 MR. MARGOLIS: On account of that.

3 THE COURT: The -- the prejudice being that he can't avail himself of
4 the offer.

5 MR. MARGOLIS: Correct.

6 THE COURT: That -- that doesn't really have any difference between
7 --

8 MR. MARGOLIS: I know.

9 THE COURT: -- the severance, so --

10 MR. MARGOLIS: I know.

11 THE COURT: -- so I -- I get your concern about that, though, and the
12 frustration. So all right. Is the offer withdrawn at this point then?

13 MR. PESCI: As to the co-defendant, yes.

14 THE COURT: Okay. All right. So --

15 MR. PESCI: Judge, also if I could -- I apologize that I interrupted you.

16 THE COURT: No, that's okay.

17 MR. PESCI: You were asking about trial readiness earlier. We have
18 subpoenaed from the Henderson Police Department all the records related to this
19 case. We have a good portion of them. We've already provided that to the
20 defense counsel previously. On Friday, I received a stack probably about four
21 inches deep of paperwork. In addition, they told me they have 150 gigabytes
22 worth of data on a server that I have to get an external hard drive to them to get.
23 So --

24 THE COURT: Okay.

25 MR. PESCI: -- i'm in the process of doing that. As soon as I found

1 that out I provided that information `cause I got the email about the 150 --

2 THE COURT: Is that phones or computers?

3 MR. PESCI: I believe it's phones.

4 THE COURT: Okay.

5 MR. PESCI: I think there's, like, there's a multitude of kids with
6 Snapchat accounts and there's a ton of video and photos associated therewith.

7 THE COURT: Okay.

8 MR. PESCI: So I'm getting that as soon as I can.

9 THE COURT: Well --

10 MR. PESCI: And as soon as I get it --

11 THE COURT: -- so here's what I was going to say. Next week we
12 have two dates set; one for the motion in limine on the 30th and then the calendar
13 call is on May the 2nd. I would prefer just to do -- have you come back once
14 rather than both days.

15 MR. HELMICK: Sure.

16 THE COURT: And based on that, my inclination is to say let's come
17 on the later day, the 2nd, to give you as much time as you can to figure out what's
18 going on.

19 MR. PESCI: That would be great too because another motion came
20 in. So can we calendar that for the calendar call as well?

21 THE COURT: What's the other motion?

22 MR. HELMICK: I filed another motion in limine yesterday.

23 THE COURT: For?

24 MR. PESCI: To preclude the parents of the decedent from testifying
25 at trial.

1 THE COURT: Okay. So we will calendar that for May 2nd as well. So
2 we'll have the defense motion in limine regarding bad acts. We will have the
3 defense motion in limine regarding testimony of the decedent's parents. Those
4 will both be on May 2nd. And we will vacate the April 30th date. And then we'll
5 talk more about preparedness for trial at that time as well, okay?

6 MR. PESCI: Thank you, Your Honor.

7 MR. HELMICK: Okay. Thank you, Your Honor.

8 MR. MARGOLIS: Thank you.

9 THE COURT: Thank you.

10 [Proceeding concluded at 1:55 p.m.]

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

23 
24 Stacey Ray
25 Court Recorder/Transcriber



1 RTRAN

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3
4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7 THE STATE OF NEVADA,
8 Plaintiff,

CASE NO: C-18-333318-1
C-18-333318-2

9 vs.

DEPT. III

10 JAIDEN CARUSO and KODY
11 HARLAN,
12 Defendant.

13 BEFORE THE HONORABLE DOUGLAS W. HERNDON, DISTRICT COURT JUDGE
14 THURSDAY, MAY 2, 2019

15 **RECORDER'S TRANSCRIPT OF HEARING RE:**
16 **ALL PENDING MOTIONS**

17
18 APPEARANCES:

19
20 For the State:

GIANCARLO PESCI, ESQ.
Chief Deputy District Attorney

21
22 For the Defendants
23 Jaiden Caruso:
24 Kody Harlan:

MACE J. YAMPOLSKY, ESQ.
RYAN K. HELMICK, ESQ.

25 RECORDED BY: JILL JACOBY, COURT RECORDER

1 **Las Vegas, Nevada; Thursday, May 2, 2019**

2 [Proceeding commenced at 9:27 a.m.]

3
4 MR. YAMPOLSKY: Good morning, Your Honor.

5 THE COURT: What do you got, Mace?

6 MR. YAMPOLSKY: We have Mr. Caruso and Mr. Helmick has the co-
7 defendant --

8 THE COURT: Got it.

9 MR. YAMPOLSKY: -- Mr. Harlan.

10 THE COURT: Who has that for the State?

11 MR. YAMPOLSKY: Mr. Pesci is here.

12 THE COURT: Oh, all right. I didn't see you Giancarlo, sorry.

13 MR. PESCI: That's okay.

14 THE COURT: Caruso and Harlan on page 1 and 2, -- 333318.
15 Gentlemen are both present in custody. Counsel are all present. This is on for
16 calendar call. We also have the two motions pending. So why don't we start
17 with your motions, Ryan.

18 MR. HELMICK: Thank you very much. In reading Mr. Pesci's
19 responses, I think the first two are moot at this point because -- and we're only
20 talking in regards to the guilty phase of the trial. The State had indicated that
21 they're not going to use the facts about the vehicle being stolen. Nor are they
22 going to show Facebook photos and videos, and so forth, in the guilt phase.

23 THE COURT: Okay.

24 MR. HELMICK: Certainly understand the State's position in the
25 penalty phase.

1 THE COURT: Okay.

2 MR. HELMICK: I don't have any objection to that. The only thing that
3 I do want to talk about, that was not agreed upon, was the possible testimony of
4 the deceased parents.

5 THE COURT: Okay.

6 MR. HELMICK: And I think that there still is -- well I mean, I guess it
7 depends. The reason I filed a motion was as a precautionary measure for the
8 State to not put, specifically, the mother up there and talk about things, about his
9 character and talk about things that are irrelevant. And I understand that if that
10 were the case, I could certainly object and we could deal with that in the trial. But
11 I filed it just as a precautionary measure. The argument by the State was that
12 there is some relevant evidence, so to speak, that -- that Mrs. Shanklit, I think her
13 last name is --

14 THE COURT: Correct.

15 MR. HELMICK: -- was texting her son and there was a loss of a
16 communication at some point, right?

17 THE COURT: Okay.

18 MR. HELMICK: And so they have a witness by the name of Detective
19 Lipich that can certainly -- that went through his cell phones; that can get all that
20 information out. I understand that the State can put on their case however they
21 want to put it on. Call whatever witness they want to put on. But that's the only
22 concern and that's the reason I wrote -- wrote that motion was a precautionary
23 measure as to what they're going to get in to --

24 THE COURT: Okay.

25 MR. HELMICK: -- with the mother.

1 THE COURT: Okay.

2 MR. HELMICK: Or the parents.

3 THE COURT: With regard to the -- the other aspect of the bad acts
4 motion, regarding bad acts and prior videographic evidence; I know the State
5 said we're not going to go into the fact that the car was stolen. We're not going
6 into the fact that the gun was stolen. But they were referencing -- they
7 referenced some things you didn't reference. And I'm assuming that you are
8 conceding the admissibility of the other parts of it were that the car was pulled
9 over, that there was a --

10 MR. HELMICK: Sure.

11 THE COURT: -- speeding, fleeing, whatever characterization was.

12 MR. HELMICK: Sure.

13 THE COURT: But that that's, kind of, more of a res gestae than it is
14 really bad acts anyway. So you weren't objecting to that part of it, correct?

15 MR. HELMICK: No.

16 THE COURT: Okay. So just in regard to the parents, Mr. Pesci?

17 MR. PESCI: Judge, any percipient witness can testify. Just because
18 it's a parent doesn't exclude them from testimony. We understand that there can
19 be inflammatory testimony; we're not going to present that. And so the parents
20 may testify depending on how the case shakes out and as percipient witnesses
21 to any facts they are allowed to.

22 THE COURT: All right. Anything further?

23 MR. HELMICK: No, Your Honor.

24 THE COURT: Okay. In regard to the motion seeking to exclude the
25 witness testimony, I would agree that in principle, just because Ms. Shanklin and

1 Mr. Winkler are the parents, doesn't equate to some kind of automatic prejudice
2 for them to testify in the trial phase portion. So to the extent they have relevant
3 and admissible evidence, they are allowed to testify like anybody else. I mean,
4 there are certain things that you all could stipulate to in particular cases and then
5 the State has to kind of abide by that. For instance, if somebody's an ex-felon --
6 it's an ex-felon firearm charge and you don't want the nature of that felony
7 coming before the jury, then you could stipulate to that status.

8 But other than that, you're right. They have the right to kind of
9 present their case in whatever fashion that they want to. Whether it's having the
10 parents offer the identification -- identify property like: the wallet, the phone,
11 things like that in this case. Or talk about time periods where there was
12 communication, lack of communication, whatever it may be.

13 So, I'm not going to exclude them but, obviously, anything about
14 character and victim impact is -- is -- and I know Mr. Pesci knows this -- will --will
15 be withheld until we get to a penalty phase if we -- if we need to.

16 In regard to the other motion that I will grant the motion to exclude
17 any reference to the fact that the vehicle that was being driven was alleged to
18 have been stolen; and or a gun that was located or used, was alleged to have
19 been stolen. But the other acts regarding the nature of the driving, whether you
20 characterize it as fleeing, things of that nature; that will all still be admissible as
21 res gestae evidence. Okay?

22 MR. PESCI: Thank you, Your Honor.

23 MR. HELMICK: Understood.

24 THE COURT: All right. And how about our -- well, how are we doing
25 with your expert?

1 MR. HELMICK: Everything's -- everything's fine with our expert. No -
2 - yeah.

3 THE COURT: Okay.

4 MR. HELMICK: And I did receive the hard drive from Mr. Pesci
5 yesterday.

6 THE COURT: Okay.

7 MR. HELMICK: I've went over everything.

8 THE COURT: Okay.

9 MR. HELMICK: And the only issue that I had was viewing the
10 surveillance from the mall. And I'm going to email the State today about that.

11 THE COURT: Okay.

12 MR. HELMICK: But other than that, we're ready.

13 THE COURT: You're good?

14 MR. HELMICK: We have everything we need.

15 THE COURT: Okay. Mr. Yampolsky as well?

16 MR. YAMPOLSKY: No way. Your Honor, I'm sorry, but I thought this
17 case was gonna plead, number one. Number two, I started a robbery trial which,
18 thankfully plead on the first day. I did a six-day murder trial in state court. I just
19 finished a seven-day trial in federal court, a murder trial, which ended on
20 Tuesday. And -- and I'm not ready. I mean, I -- I need a continuance. There's
21 no way I could be ready. Spoken to Mr. Pesci, the State does not object. And I
22 haven't seen the new and improved discovery. As I said, I just finished; and I'm
23 still in, like, post-trial frazzle mode.

24 THE COURT: All right. Well, we'll -- okay, so, I thought everybody
25 was going to be ready. I wasn't aware that you had all these other trials leading

1 up to it. I mean, obviously, the idea with our homicide trials is that, you know,
2 they, kind of, take a priority over something. And if we're going to have trial
3 scheduling conflicts, that's what we try and discover early on. So that we don't
4 end up here at calendar call trying to continue things. I'm sympathetic to the
5 federal court issue because a lot of the times they don't tell you when you're
6 going to trial until you're going to trial.

7 MR. PESCI: Judge, if I could, I apologize. Making the record, Mr.
8 Yampolsky is yet to pick up -- we're in the process of getting it to him -- but it's a -
9 - from his client alone, it's 120 gigabytes worth of video, photos, text messages.

10 THE COURT: Okay.

11 MR. PESCI: From the co-defendant, it's -- I think it's, like, all total, the
12 discovery that's come in is over 150 gigabytes. And so there -- there's quite a bit
13 that has to be digested, at least by Mr. Yampolsky; as that has come in from
14 computer forensic analysis of phones.

15 THE COURT: Okay, why don't you guys approach the bench.

16 [Bench conference begins at 9:34 a.m.]

17 THE COURT: This is going to be one of those days. So when are
18 you going to be in a position to know how much --

19 MR. YAMPOLSKY: Who the fuck knows.

20 THE COURT: -- time you need? Well, let me -- you're -- you're
21 waiting to get the discovery --

22 MR. YAMPOLSKY: No, I'm waiting to get the discovery.

23 THE COURT: Okay.

24 MR. YAMPOLSKY: I mean, I'm pretty diligent --

25 THE COURT: Okay.

1 MR. YAMPOLSKY: -- you know, I mean, but that's, I mean, it sounds
2 like, you know, in a term of art, a fuck load. And it's gonna take me awhile to get
3 through it. So I don't know. How long is it going to take me, Giancarlo?

4 MR. HELMICK: Well --

5 MR. YAMPOLSKY: A month?

6 MR. HELMICK: -- I just went through all of it. It's not that -- it's not --

7 MR. PESCI: No.

8 MR. HELMICK: -- a lot of it is the same stuff that we already --

9 THE COURT: I would --

10 MR. HELMICK: -- have.

11 THE COURT: -- imagine a lot of it is duplicitous.

12 MR. HELMICK: Yeah, it's --

13 MR. YAMPOLSKY: But I've got four times as much as him if my math
14 is correct.

15 MR. PESCI: There's -- my recollection is there's 850 videos, alone,
16 from --

17 MR. HELMICK: Oh okay.

18 MR. PESCI: -- from --

19 MR. HELMICK: Well, he's got way more video's than me.

20 MR. PESCI: Yeah, so, there's a --

21 THE COURT: What, the videos --

22 MR. PESCI: -- great disparity --

23 THE COURT: -- on the phone?

24 MR. PESCI: Yes.

25 THE COURT: Okay.

1 MR. PESCI: They have nothing to do but smoke pot and video
2 themselves.

3 THE COURT: Okay.

4 MR. HELMICK: Okay.

5 MR. PESCI: Like, my -- my hope for the future --

6 THE COURT: That's gonna be -- needs to be the new law.

7 MR. PESCI: -- generation has gone off the cliff.

8 MR. HELMICK: This is --

9 THE COURT: So, you're not using any of that stuff.

10 MR. PESCI: Well --

11 MR. YAMPOLSKY: I'm still gonna look at it.

12 THE COURT: I know you're going to look at it.

13 MR. PESCI: Potentially -- potentially we will because there's video
14 from the day of.

15 THE COURT: Okay.

16 MR. PESCI: And so --

17 THE COURT: All right.

18 MR. PESCI: -- and text messages going back and forth, and so, I
19 mean, Judge, this is something -- the defense requested this, understandably.

20 THE COURT: Okay.

21 MR. PESCI: I asked for it from Henderson.

22 THE COURT: Right.

23 MR. PESCI: I had to have special requests to Henderson to get it.
24 And then --

25 THE COURT: Okay.

1 MR. PESCI: -- the homicide detective couldn't even get it because it
2 was on their server.

3 THE COURT: Okay.

4 MR. PESCI: Because it was so large. And so we got that and as
5 soon as I got that I told defense counsel, bring me, you know, over about a 200
6 gigabyte jump drive and, we'll get it to you.

7 MR. YAMPOLSKY: And, actually, we didn't have one that big. We've
8 ordered it, so I mean I haven't seen it.

9 THE COURT: Is there any chance of -- of him pleading and you going
10 to trial? Or is it a, going to --

11 MR. YAMPOLSKY: No.

12 THE COURT: -- stay as a conditional, they both plead or they don't
13 plead?

14 MR. PESCI: It's contingent -- It's conditional at this point.

15 THE COURT: Okay. But, I mean, there's no chance of that changing.

16 MR. PESCI: Well, I mean, there -- there could be. I don't know if
17 someone's gonna offer me information that I don't currently know.

18 THE COURT: Oh, no, okay.

19 MR. PESCI: But I mean, I'm not trying to be coy, Judge. It's just --

20 THE COURT: No -- no, I'm just asking. I mean, sometimes we get
21 the conditional pleas and people say, oh that's -- I don't really care. So let me do
22 this then. I'm going to continue the calendar call over to Tuesday. I want you to
23 get the discovery. Have a chance -- I'm not asking you to go through it all before
24 Tuesday; I want you to get it.

25 MR. YAMPOLSKY: Okay.

1 THE COURT: And so you understand what all it is.
2 MR. YAMPOLSKY: Okay.
3 THE COURT: And then you can talk about if -- if I'm to continue it,
4 and if I'm continuing it jointly, how much time you need to be ready for trial. You
5 should be able to answer that by Tuesday. Giancarlo can't tell you that. You've
6 got to tell me that on your own.
7 MR. YAMPOLSKY: Yeah I -- I --
8 THE COURT: Figure it out.
9 MR. YAMPOLSKY: -- understand that.
10 THE COURT: Figure out where you --
11 MR. YAMPOLSKY: I'm ready to plead right now.
12 THE COURT: I know you are. I know you are.
13 MR. PESCI: We are too on something else.
14 MR. HELMICK: Something else.
15 THE COURT: Well, maybe you need to be talking to Giancarlo. But
16 anyway, if I'm going to reset it, I want to know when everybody's available so we
17 don't have this again. You know not to do this.
18 MR. YAMPOLSKY: It wasn't --
19 THE COURT: No --
20 MR. YAMPOLSKY: -- my fault that --
21 THE COURT: -- no. It is your fault.
22 MR. YAMPOLSKY: -- no. They pushed that federal trial; snuck it in
23 on me.
24 THE COURT: Yeah, but that's not the only one you mentioned.
25 MR. YAMPOLSKY: No, but --

1 THE COURT: If you --
2 MR. YAMPOLSKY: -- that one was before. The Federal one's the
3 one that --
4 THE COURT: I know --
5 MR. YAMPOLSKY: -- killed me.
6 THE COURT: -- but you can't rely on your belief the guy's going to
7 get to plead, and then have to continue the trial. We've got to know that ahead of
8 time.
9 MR. YAMPOLSKY: All right.
10 THE COURT: All right?
11 MR. YAMPOLSKY: I'm sorry.
12 THE COURT: Just in the future.
13 MR. YAMPOLSKY: All right.
14 MR. HELMICK: Well, couple more things. So -- is it -- are you
15 anticipating continuing it so I can stop working on this thing every single day.
16 THE COURT: My -- yes.
17 MR. HELMICK: Okay.
18 THE COURT: My --
19 MR. YAMPOLSKY: Yeah.
20 THE COURT: -- anticipation will be --
21 MR. YAMPOLSKY: Yeah.
22 THE COURT: -- that if I have to continue it, I'm continuing then
23 together since I've kept them together.
24 MR. HELMICK: Okay. All right.
25 THE COURT: And they -- and it's a waiver, so.

1 MR. HELMICK: It's a -- oh, they waived?
2 MR. YAMPOLSKY: Yeah.
3 THE COURT: They both --
4 MR. PESCI: They waived and filed writs in addition to waiving.
5 MR. HELMICK: That's true.
6 THE COURT: So yeah, I mean, if your guy was on an invoke status --
7 MR. HELMICK: Yeah.
8 THE COURT: -- then we'd probably be having somewhat of a
9 different conversation. But since they both waived, if I'm going to continue it, I
10 want to continue them both, but I want to do it in a short fashion. I just don't
11 when that's going to be just yet. So you may --
12 MR. HELMICK: I understand.
13 THE COURT: -- have to work really hard for the next month or so
14 watching --
15 MR. HELMICK: I hate that.
16 THE COURT: -- videos of pot smoking.
17 MR. HELMICK: Yeah. Ok and I may, you know, address the custody
18 status.
19 THE COURT: His bail status? Yeah, I figured that.
20 MR. HELMICK: All right.
21 THE COURT: It's okay.
22 MR. HELMICK: Okay.
23 THE COURT: All right.
24 [Bench conference ends at 9:38 a.m.]
25 THE COURT: All right. So what we're going to do is go ahead and

1 continue our calendar call over to Tuesday to give Mr. Yampolsky an opportunity
2 to get a copy of all the discovery that's being provided; and I recognize there's a
3 lot of discovery that's going to come off the phone in terms of video's, text
4 messages, etc. And as I indicated at the bench, yes, because both defendants
5 had previously waived their right to speedy trial, If I'm going to continue it, my
6 inclination would be to continue both of them together, obviously. But not for a
7 lengthy period of time. So I want to find a date that's going to be convenient to
8 everybody that we can plan to go forward on. So we'll see you on Tuesday, the
9 7th at 9:00 a.m.

10 MR. HELMICK: Okay. Thank you, Your Honor.

11 THE COURT: Thank you.

12 MR. YAMPOLSKY: Thank you, Your Honor.

13 MR. PESCI: Thank you.

14 MR. YAMPOLSKY: Oh, Your Honor?

15 THE COURT: Yep.

16 MR. YAMPOLSKY: I don't know what the Court's calendar is, but I'm
17 not supposed to be in the jurisdiction on Tuesday. The only day I'm in next week
18 is Wednesday. So I don't know if the Court even has criminal calendar on
19 Wednesday. If not, I can send Mr. Margolis, but frankly, I'd prefer to do it myself.

20 THE COURT: Well, we don't have a criminal calendar on
21 Wednesday, but we do now.

22 MR. YAMPOLSKY: Okay, great.

23 THE COURT: So, I'll see you at 9:30 on Wednesday --

24 MR. YAMPOLSKY: Thank you.

25 THE COURT: -- the 8th. Okay?

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MR. HELMICK: Was it --

THE COURT: Ryan, are you available that day?

MR. HELMICK: -- is that the 8th?

MR. YAMPOLSKY: Yes.

THE COURT: Yeah.

MR. HELMICK: Yeah, I'll be here.

THE COURT: Giancarlo?

MR. PESCI: Yes.

THE COURT: Okay. Thank you.

MR. HELMICK: Thank you.

[Proceeding concluded at 9:40 a.m.]

* * * * *

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



Stacey Ray

Court Recorder/Transcriber

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Felony/Gross Misdemeanor

COURT MINUTES

May 08, 2019

C-18-333318-1 State of Nevada
 vs
 Jaiden Caruso

May 08, 2019 09:30 AM Calendar Call

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

COURT CLERK: Schlitz, Kory

RECORDER: Jacoby, Jill

REPORTER:

PARTIES PRESENT:

Giancarlo Pesci	Attorney for Plaintiff
Jaiden Caruso	Defendant
Mace J. Yampolsky	Attorney for Defendant
State of Nevada	Plaintiff

JOURNAL ENTRIES

APPEARANCES CONTINUED: Defendant HARLAN present in custody represented by K. Ryan Helmick 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



RA 000028

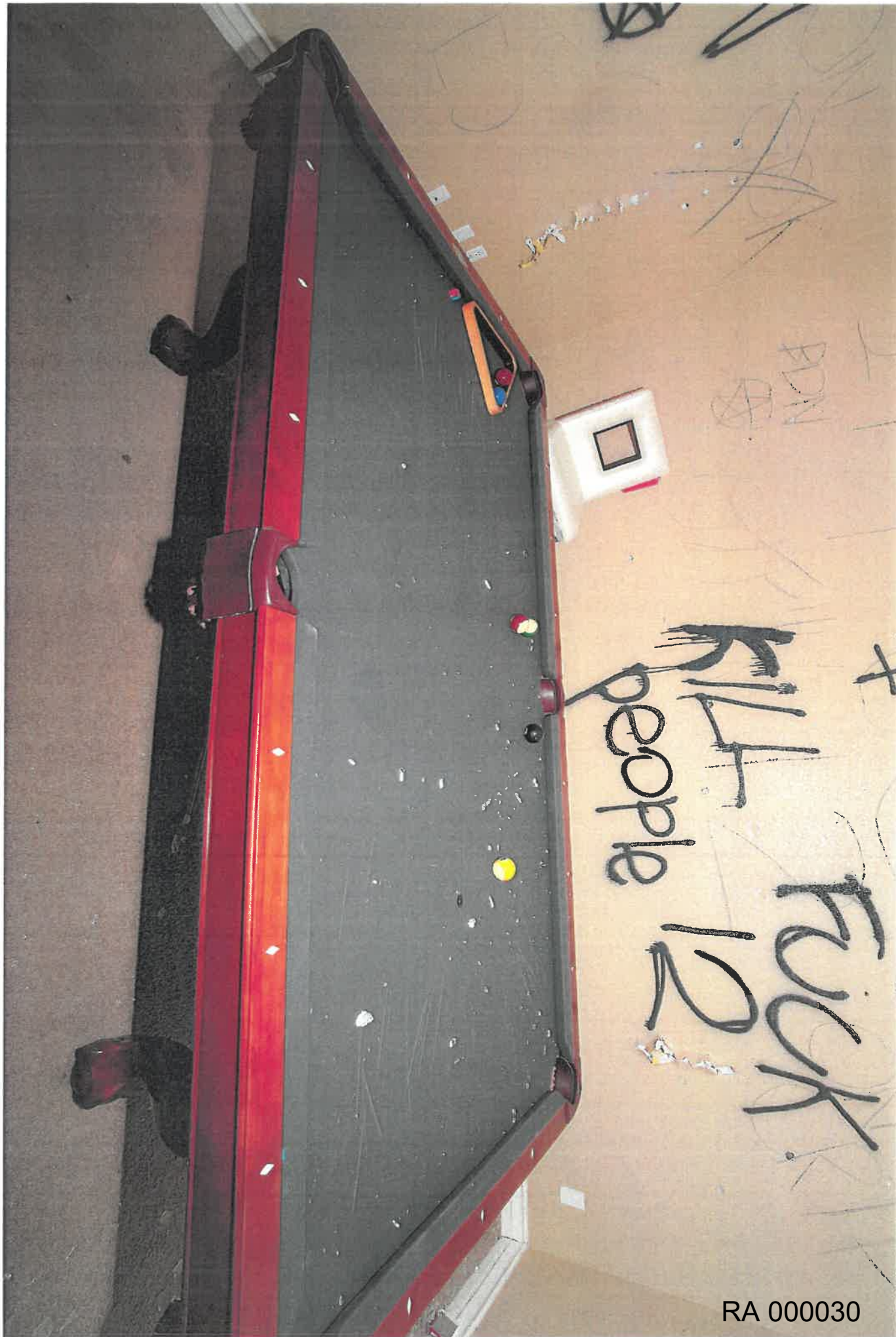
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