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Electronically Filed
Mar 19 2020 04:06 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

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6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
7 **STATE OF NEVADA IN AND FOR**
8 **THE COUNTY OF CLARK**

9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs.

12 DAVID BURNS aka D-SHOT,

13 Defendant,

Case No: C-10-267882-2

Dept No: XII

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16 **NOTICE OF APPEAL**

17
18 Notice is hereby given that the Defendant above named, hereby appeals to the Supreme
19 Court of Nevada from the Judgment of Conviction (Jury Trial) entered in this action on May 5,
20 2015.

21 STEVEN D. GRIERSON, CLERK OF THE COURT

22 /s/ Heather Ungermann

23 Heather Ungermann, Deputy Clerk

24
25 CERTIFICATE OF E-SERVICE / MAILING

26 I hereby certify that on this 17 day of March 2020, I served a copy of this Notice of Entry on the following:

27 ☒ By e-mail:

28 Clark County District Attorney's Office
Attorney General's Office – Appellate Division-

☒ The United States mail addressed as follows:

David Burns # 1139521

Jamie J. Resch, Esq

P.O. Box 1989

2620 Regatta Dr., Suite 102

Ely, NV 89301

Las Vegas, NV 89128

☒ This appeal was electronically submitted to the Clerk of the Supreme Court.

/s/ Heather Ungermann

Heather Ungermann, Deputy Clerk



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6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
7 **STATE OF NEVADA IN AND FOR**
8 **THE COUNTY OF CLARK**

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10 STATE OF NEVADA,

11 Plaintiff(s),

12 vs.

13 DAVID BURNS aka D-SHOT,

14 Defendant(s),

Case No: C-10-267882-2

Dept No: XII

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17 **CASE APPEAL STATEMENT**

18 1. Appellant(s): David Burns

19 2. Judge: J. Charles Thompson

20 3. Appellant(s): David Burns

21 Counsel:

22 Jamie J. Resch, Esq.
23 2620 Regatta Dr., Suite 102
24 Las Vegas, NV 89128

25 4. Respondent: The State of Nevada

26 Counsel:

27 Steven B. Wolfson, District Attorney
28 200 Lewis Ave.
Las Vegas, NV 89101

(702) 671-2700

5. Appellant(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A

Respondent(s)'s Attorney Licensed in Nevada: Yes
Permission Granted: N/A

6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: Yes

7. Appellant Represented by Appointed Counsel On Appeal: Yes

8. Appellant Granted Leave to Proceed in Forma Pauperis: N/A

9. Date Commenced in District Court: October 13, 2010

10. Brief Description of the Nature of the Action: Criminal

Type of Judgment or Order Being Appealed: Judgment of Conviction

11. Previous Appeal: Yes

Supreme Court Docket Number(s): 64809, 68497, 69959, 77424

12. Child Custody or Visitation: N/A

Dated This 17 day of March 2020.

Steven D. Grierson, Clerk of the Court

/s/ Heather Ungermann

Heather Ungermann, Deputy Clerk
200 Lewis Ave
PO Box 551601
Las Vegas, Nevada 89155-1601
(702) 671-0512

cc: David Burns

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY**CASE NO. C-10-267882-2**

State of Nevada
vs
David Burns

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Location: **Department 12**
Judicial Officer: **Leavitt, Michelle**
Filed on: **10/13/2010**
Case Number History:
Cross-Reference Case Number: **C267882**
Defendant's Scope ID #: **2757610**
Grand Jury Case Number: **10GJ054**
Supreme Court No.: **69959**
77424

CASE INFORMATION

Offense	Statute	Deg	Date	Case Type:	Felony/Gross Misdemeanor
1. CONSPIRACY TO COMMIT ROBBERY	200.380	F	08/07/2010	Case Status: 07/09/2015 Closed	
2. CONSPIRACY TO COMMIT MURDER	200.010	F	08/07/2010		
3. BURGLARY WHILE IN POSSESSION OF FIREARM	205.060	F	08/07/2010		
4. ROBBERY WITH USE OF A DEADLY WEAPON	200.380	F	08/07/2010		
5. FIRST DEGREE MURDER WITH USE OF A DEADLY WEAPON	200.030	F	08/07/2010		
6. ROBBERY WITH USE OF A DEADLY WEAPON	200.380	F	08/07/2010		
7. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON	200.030	F	08/07/2010		
8. BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM	200.481	F	08/07/2010		

Related Cases

C-10-267882-1 (Multi-Defendant Case)

C-10-267882-3 (Multi-Defendant Case)

Statistical Closures

07/09/2015 Jury Trial - Conviction - Criminal

Warrants

Indictment Warrant - Burns, David (Judicial Officer: Bell, Linda Marie)
10/13/2010 11:45 AM Returned - Served
Hold Without Bond

DATE**CASE ASSIGNMENT****Current Case Assignment**

Case Number C-10-267882-2
Court Department 12
Date Assigned 07/02/2018
Judicial Officer Leavitt, Michelle

PARTY INFORMATION**Defendant Burns, David James***Lead Attorneys*

Resch, Jamie J.
Retained
702-483-7360(W)

Plaintiff State of Nevada

Wolfson, Steven B
702-671-2700(W)

DATE**EVENTS & ORDERS OF THE COURT****INDEX**

CASE SUMMARY
CASE NO. C-10-267882-2

EVENTS

10/13/2010	 Superseding Indictment <i>Superseding Indictment</i>
10/13/2010	 Warrant <i>Indictment Warrant</i>
10/25/2010	 Indictment Warrant Return
10/26/2010	 Transcript of Proceedings <i>Transcript of Hearing Held on October 12, 2010</i>
10/28/2010	 Notice of Intent to Seek Death Penalty
11/04/2010	 Joinder To Motion <i>Defendant David Burns Joinder to Co-Defendant Willie Mason's Motion to Preserve and Produce Evidence, Including Potentially Exculpatory Evidence</i>
11/04/2010	 Motion <i>Motion for Extension of Time to File Petition for Writ of Habeas Corpus</i>
11/10/2010	 Amended <i>Amended Motion for Extension of Time to File Petition for Writ of Habeas Corpus</i>
11/15/2010	 Receipt of Copy
12/03/2010	 Transcript of Proceedings Party: Defendant Burns, David James <i>Transcript of Hearing Held on December 2, 2010</i>
12/14/2010	 Petition for Writ of Habeas Corpus
12/16/2010	 Receipt of Copy
12/22/2010	 Return to Writ of Habeas Corpus
12/23/2010	 Motion to Continue <i>Unopposed Motion to Continue Hearing on Petition for Writ of Habeas Corpus</i>
01/07/2011	 Motion <i>Motion to File Reply Memorandum to State's Return to Writ of Habeas Corpus</i>
02/15/2011	 Order Denying Filed By: Defendant Burns, David James <i>Order Denying Defendant's Pretrial Petition for Writ of Habeas Corpus</i>
03/28/2011	 Transcript of Proceedings Party: Plaintiff State of Nevada <i>Transcript of Hearing Held on January 18, 2011</i>

CASE SUMMARY
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09/21/2011	 Motion to Continue Trial <i>Motion to Continue Trial Setting</i>
07/18/2012	 Motion for Discovery <i>Motion for Discovery of Institutional Records and Files Necessary to a Fair Trial</i>
07/18/2012	 Motion <i>Motion to Invoke Heightened Standard of Review Due to the State Seeking Death Penalty</i>
07/18/2012	 Motion <i>Motion to Invoke Heightened Standard of Review Due to the State Seeking Death Penalty</i>
07/18/2012	 Motion <i>Motion to Prohibit the Use of Peremptory Challenges to Exclude Jurors who Express Concerns about Capital Punishment</i>
07/18/2012	 Motion to Bifurcate <i>Motion to Bifurcate Penalty Phase</i>
07/18/2012	 Motion to Compel <i>Motion to Compel Production of the Defendant's Direct and Vicarious Statements</i>
07/18/2012	 Motion <i>Motion to Prohibit the State from Arguing Statutory Mitigating Factors Not Raised by the Defense</i>
07/18/2012	 Motion <i>Motion for Disclosure of the State's Witnesses' Juvenile Records</i>
07/18/2012	 Motion <i>Motion for Henthorn Material</i>
07/18/2012	 Motion <i>Motion to Preclude Victims' Family Members' Statements Regarding the Defendant, the Crime, and the Sentence</i>
07/18/2012	 Motion <i>Motion to Bar the Admission of Cumulative Victim Impact Evidence in Violation of the Due Process Clause</i>
07/18/2012	 Motion to Dismiss <i>Motion to Dismiss Rule 250 Notice of Intent Due to Federal Due Process Violations</i>
07/18/2012	 Motion <i>Motion to Federalize All Motions, Objections, Requests, and Other Applications for Proceedings</i>
07/18/2012	 Motion <i>Motion to Allow the Defense to Argue Last in Penalty Phase</i>
07/18/2012	 Motion <i>Motion to Disqualify Potential Jurors who would Impose the Death Penalty in all Convictions for First Degree Murder</i>
07/18/2012	 Motion to Compel <i>Motion to Compel Timely Disclosure of Information Relating to Aggravating and Mitigating Factors</i>

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07/20/2012	 Affidavit of Service
07/23/2012	 Opposition to Motion <i>State's Opposition to Defendant's Motion to Argue Last at the Penalty Phase</i>
07/23/2012	 Opposition to Motion <i>State's Opposition to Defendant's Motion to Bar the Admission of Cumulative Victim Impact Evidence in Violation of the Due Process Clause</i>
07/23/2012	 Opposition to Motion <i>State's Opposition to Defendant's Motion to Bifurcate Penalty Phase</i>
07/23/2012	 Opposition to Motion <i>State's Opposition to Defendant's Motion to Compel Production of the Defendant's Direct and Vicarious Statements</i>
07/23/2012	 Opposition to Motion <i>State's Opposition to Defendant's Motion for Discovery of Juvenile Records of State Witnesses</i>
07/23/2012	 Opposition to Motion <i>State's Opposition to Defendant's Motion to Disqualify Potential Jurors Who Would Impose the Death Penalty in All Convictions for First Degree Murder</i>
07/23/2012	 Opposition to Motion <i>State's Opposition to Defendant's Motion to Federalize All Motions, Objections, Requests, and Other Applications for Proceedings</i>
07/23/2012	 Opposition to Motion <i>State's Opposition to Defendant's Motion for Henthorn Material</i>
07/23/2012	 Opposition to Motion <i>State's Opposition to Defendant's Motion to Prohibit the Use of Peremptory Challenges to Exclude Jurors Who Express Concerns About Capital Punishment</i>
07/23/2012	 Opposition to Motion <i>State's Opposition to Defendant's Motion to Prohibit the Prosecution from Arguing Statutory Mitigating Factors Not Raised by the Defense</i>
07/23/2012	 Opposition to Motion <i>State's Opposition to Dismiss Rule 250 Notice of Intent Due to Federal Due Process Violations</i>
07/23/2012	 Response <i>State's Response to Defendant's Motion for Discovery of Institutional Records and Files Necessary to a Fair Trial</i>
07/23/2012	 Response <i>State's Response to Compel Timely Disclosure of Information Relating to Aggravating and Mitigating Factors</i>
07/23/2012	 Response <i>State's Response for Disclosure of Uncharged Acts Which State Intends to Utilize at Trial</i>
07/23/2012	 Motion <i>Motion for Individual Sequestered Voir Dire</i>

CASE SUMMARY
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07/23/2012	 Motion <i>Motion for Disclosure of Uncharged Acts Related to the Criminal Conduct of the Defendant</i>
07/23/2012	 Motion <i>Motion for Jury Questionnaire</i>
07/23/2012	 Response <i>State's Response to Defendant's Motion to Apply Heightened Standard of Review and Care in this Case Because the State is Seeking the Death Penalty</i>
07/23/2012	 Response <i>State's Response to Defendant's Motion to Preclude Victim's Family Members' Statements Regarding the Defendant, the Crime and the Sentence</i>
07/23/2012	 Opposition to Motion <i>State's Opposition to Defendant's Motion for Individual Sequestered Voir Dire</i>
07/23/2012	 Response <i>State's Response to Defendant's Motion for Jury Questionnaire</i>
07/23/2012	 Supplement to Opposition <i>Supplement to State's Opposition to Defendant's Motion to Bar the Admission of Cumulative Victim Impact Evidence in Violation of the Due Process Clause</i>
07/26/2012	 Affidavit of Service
07/31/2012	 Ex Parte Motion <i>Ex Parte Motion for Release of Medical Records</i>
07/31/2012	 Order <i>Order Releasing Medical Records</i>
08/07/2012	 Joinder To Motion <i>Defendant Cousins' Joinder in Co-Defendant Burns' Motion to Bar the Admission of Cumulative Victim Impact Evidence in Violation of the Due Process Clause</i>
08/07/2012	 Joinder To Motion <i>Defendant Cousins' Joinder in Co-Defendant Burn's Motion for Disclosure of the State's Witnesses' Juvenile Records</i>
08/07/2012	 Joinder To Motion <i>Defendant Cousins' Joinder in Co-Defendant Burns' Motion to Preclude Victims' Family Members' Statements Regarding the Defendant, the Crime, and the Sentence</i>
08/07/2012	 Joinder To Motion <i>Defendant Cousins' Joinder in Co-Defendant Burns' Motion for Discovery of Institutional Records and Files Necessary to a Fair Trial</i>
08/07/2012	 Joinder To Motion <i>Defendant Cousins' Joinder in Co-Defendant Burns' Motion to Compel Production of the Defendant's Direct and Vicarious Statements</i>
08/07/2012	 Joinder To Motion <i>Defendant Cousins' Joinder in Co-Defendant Burns' Motion for Disclosure of Uncharged Acts Related to the Criminal</i>

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Conduct of the Defendant

08/07/2012	 Joinder To Motion <i>Defendant Cousins' Joinder in Co-Defendant Burns' Motion for Henthorn Material</i>
08/07/2012	 Joinder To Motion <i>Defendant Cousins' Joinder in Co-Defendant Burns' Motion for Jury Questionnaire</i>
08/07/2012	 Joinder To Motion <i>Defendant Cousins' Joinder in Co-Defendant Burns' Motion to Federalize all Motions, Objections, Requests, and Other Applications for Proceedings</i>
08/07/2012	 Joinder To Motion <i>Defendant Cousins' Joinder in Co-Defendant Burns' Motion for Individual Sequestered Voir Dire</i>
08/09/2012	 Motion in Limine <i>Motion in Limine to Preclude the State from Moving to Admit into Evidence Photographs Overly Prejudicial to Defendant</i>
08/09/2012	 Motion to Strike Filed By: Defendant Burns, David James <i>Motion to Strike Surplus Language from the Superseding Indictment</i>
08/16/2012	 Opposition to Motion <i>State's Opposition to Defendant Burns' Motion in Limine to Preclude the State from Moving to Admit into Evidence Photographs Overly Prejudicial to Defendant</i>
08/16/2012	 Opposition to Motion <i>State's Opposition to Defendant Burns' Motion to Strike Surplus Language from the Superseding Indictment</i>
08/17/2012	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on October 4, 2011</i>
08/17/2012	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on August 14, 2012</i>
08/22/2012	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on August 21, 2012</i>
08/28/2012	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on November 23, 2010</i>
08/28/2012	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on October 26, 2010</i>
10/16/2012	 Subpoena Duces Tecum
05/31/2013	 Motion to Compel <i>Defendant's Motion to Compel Disclosure of Exculpatory Evidence</i>
05/31/2013	 Reply to Opposition <i>Reply to State's Opposition to Defendant's Motion for Disclosure of Juvenile Records of the State's Witnesses</i>

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05/31/2013	 Reply to Opposition <i>Reply to State's Opposition to Defendant's Motion to Bifurcate the Penalty Hearing</i>
05/31/2013	 Reply to Opposition <i>Reply to State's Opposition to Defendant's Motion to Disqualify Potential Jurors who would Impose the Death Penalty in All Convictions for First Degree Murder</i>
05/31/2013	 Reply to Opposition <i>Reply to State's Opposition to Defendant's Motion in Limine to Preclude the State from Moving to Admit into Evidence Photographs Prejudicial to Defendant</i>
05/31/2013	 Reply to Opposition <i>Reply to State's Opposition to Defendant's Motion to Prohibit the Use of Peremptory Challenges to Exclude Jurors who Express Concerns about Capital Punishment</i>
05/31/2013	 Reply to Opposition <i>Reply to State's Opposition to Defendant's Motion to Strike Surplus Language from the Superseding Indictment</i>
05/31/2013	 Reply to Opposition <i>Reply to State's Opposition to Defendant's Motion to Dismiss Rule 250 Notice of Intent Due to Federal Due Process Violations</i>
05/31/2013	 Reply to Opposition <i>Reply to State's Opposition to Defendant's Motion to Prohibit the Prosecution from Arguing and the Court from Giving Instructions Regarding Statutory Mitigating Factors not Raised by the Defense</i>
05/31/2013	 Reply to Opposition <i>Reply to State's Opposition to Defendant's Motion to Compel Production of the Defendants Direct and Vicarious Statements</i>
05/31/2013	 Reply to Opposition <i>Reply to State's Opposition to Defendant's Motion for Henthorn Material</i>
05/31/2013	 Reply to Opposition <i>Reply to State's Opposition to Defendant's Motion to Bar the Admission of Cumulative Victim Impact Evidence in Violation of the Due Process Clause</i>
07/19/2013	 Motion to Strike <i>Motion to Strike the State's Notice of Intent to Seek the Death Penalty Based on the Cost of Capital Punishment and Attendant Policy Considerations, or in the Alternative, Motion to Stay Capital Proceedings Pending the Outcome of the Audit Related to Assembly Bill 444</i>
07/25/2013	 Opposition to Motion <i>State's Opposition to Defendant's Motion to Strike the State's Notice of Intent to Seek the Death Penalty Based on the Cost of Capital Punishment and Attendant Policy Considerations, or in the Alternative, Motion to Stay Capital Proceedings Pending the Outcome of the Audit Related to Assembly Bill 444</i>
07/25/2013	 Notice of Hearing
07/29/2013	 Receipt of Copy
08/23/2013	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on July 18, 2013</i>

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08/23/2013	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on August 20, 2013</i>
08/26/2013	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on August 22, 2013</i>
08/26/2013	 Reply to Opposition <i>Reply to State's Opposition to Motion to Strike the State's Notice of Intent to Seek the Death Penalty Based on the Cost of Capital Punishment and Attendant Policy Considerations, or in the Alternative, Motion to Stay Capital Proceedings Pending the Outcome of the Audit Related to Assembly Bill 444</i>
09/04/2013	 Notice of Expert Witnesses <i>Notice of Expert Witnesses [NRS 174.234(2)]</i>
09/06/2013	 Notice of Witnesses <i>Notice of Witnesses [NRS 174.234(1)(a)]</i>
09/09/2013	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on August 27, 2013</i>
09/11/2013	 Supplemental <i>Supplemental Exhibits (#29-50) In Support to Motion to Strike the State's Notice of Intent to Seek the Death Penalty Based on the Cost of Capital Punishment and Attendant Policy Considerations, or in the Alternative, Motion to Stay Capital Proceedings Pending the Outcome of the Audit Related to Assembly Bill 444</i>
09/11/2013	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on September 5, 2013</i>
09/13/2013	 Motion to Continue Trial <i>Motion to Continue Trial Setting on an Order Shortening Time</i>
09/18/2013	 Order Denying Motion <i>Order Denying Motion for Henthorn Material Filed 7/18/12</i>
09/18/2013	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on September 12, 2013</i>
09/19/2013	 Media Request and Order <i>Media Request and Order Allowing Camera Access to Court Proceedings</i>
09/20/2013	 Notice <i>Notice of Evidence in Support of Aggravating Circumstances</i>
10/07/2013	 Order Denying Motion <i>Order Denying Defendant's Motion to Strike the State's Notice of Intent to Seek the Death Penalty Based on the Cost of Capital Punishment and Attendant Policy Considerations, or in the Alternative, Motion to Stay Capital Proceedings Pending the Outcome of the Audit Related to Assembly Bill 444</i>
10/07/2013	 Media Request and Order <i>Media Request and Order Allowing Camera Access to Court Proceedings</i>
10/09/2013	

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	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on September 19, 2013</i>
10/09/2013	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on October 1, 2013</i>
10/10/2013	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on October 8, 2013</i>
10/31/2013	 Motion <i>Motion to Place on Calendar to Confirm Trial</i>
11/19/2013	 Filed Under Seal Filed By: Plaintiff State of Nevada <i>Order for Defendant David Burns' Counsel to Show Cause Why He Should Not Be Held in Contempt of Court (Sealed)</i>
11/22/2013	 Ex Parte Order Filed By: Defendant Burns, David James <i>Ex-Parte Order Releasing Clark County Detention Center Records</i>
11/22/2013	 Ex Parte Order Filed By: Defendant Burns, David James <i>Ex-Parte Order for In-Camera Review of Pre-Sentence Reports</i>
11/26/2013	 Filed Under Seal <i>Defendant's Response to Order to Show Cause as to Why Counsel Should Not Be Held in Contempt of Court (Sealed)</i>
11/27/2013	 Order Vacating <i>Order Vacating Hearing and Sealing Documents</i>
12/09/2013	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on November 12, 2013</i>
09/15/2014	 Notice of Expert Witnesses <i>Notice of Expert Witnesses [NRS 174.234(2)]</i>
09/15/2014	 Motion to Strike <i>Renewed Motion to Strike the State's Notice of Intent to Seek the Death Penalty Based on the Cost of Capital Punishment and Attendant Policy Considerations, or in the Alternative, Motion to Stay Capital Proceedings Pending the Outcome of the Audit Related to Assembly Bill 444</i>
09/30/2014	 Motion <i>Motion to Disclose Payments to Witnesses by Clark County District Attorney's Office</i>
10/02/2014	 Motion <i>Motion to Place on Calendar for a Status Check on In Camera Review and Motion for Production of Information Related to Jerome Thomas on an Order Shortening Time</i>
10/03/2014	 Notice of Witnesses
10/06/2014	 Supplemental <i>Supplemental Notice of Expert Witnesses [NRS 174.234(2)]</i>

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CASE NO. C-10-267882-2


















10/08/2014	 Order <i>Order on Defendant's Motion for Evidentiary Hearing and Requesting Investigation of Possible Recording of Attorney-Client Privileged Conversations with Inmate Incarcerated in CCDC</i>
10/09/2014	 Motion <i>Motion for the Disclosure of Materials and Facts Relative to Future Prosecutions of State's Witnesses Pursuant to Giglio on an Order Shortening time</i>
10/10/2014	 Supplemental <i>Supplemental Notice of Witnesses [NRS 174.234(1)(a)]</i>
10/10/2014	 Joinder To Motion <i>Joinder to Defendant Mason's Motion to Sever or in the Alternative Request for a New Venire and Request for Evidentiary Hearing</i>
10/12/2014	 Motion in Limine <i>Defendant's Motions in Limine #1-3</i>
10/12/2014	 Motion <i>Motion to Preclude the State from Conducting Background Checks on Potential Jurors Unless Results are Produced to the Defense</i>
10/13/2014	 Motion to Vacate <i>Motion to Vacate Ex Parte Order Allowing Jury Commissioner to Conduct Background Checks on Potential Jurors for Production to the Parties on an Order Shortening Time</i>
10/13/2014	 Opposition to Motion <i>State's Opposition to Defendant's Motion in Limine #1-3</i>
10/13/2014	 Notice of Witnesses <i>Notice of Witnesses [NRS 174.234(2)]</i>
10/13/2014	 Motion to Continue Trial <i>Motion to Continue Trial Setting on an Order Shortening Time</i>
10/14/2014	 Opposition to Motion <i>State's Opposition to Defendant's Motion to Continue Trial</i>
10/14/2014	 Receipt of Copy
10/14/2014	 Opposition to Motion <i>State's Opposition to Defendant's Motion to Preclude the State from Conducting Background Checks on Potential Jurors Unless Results are Produced to the Defense</i>
10/14/2014	 Ex Parte Application <i>Ex-Parte Application for Order for Production of Medical Records</i>
10/14/2014	 Order <i>Order Setting Hearing on Motion for Order Releasing Clark County Detention Center Records and Reports Related to Stephanie Cousins, Monica Martinez, Jerome Thomas, Quentin White, and Dellane D. Bryant, Jr.</i>
10/14/2014	 Supplemental

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Second Supplemental Notice of Expert Witnesses [NRS 174.234(2)]

10/15/2014	 Ex Parte Order <i>Ex Parte Order for Contact Visit with Expert Rebecca Williams to Visit Facility with Equipment</i>
10/15/2014	 Supplemental <i>Second Supplemental Notice of Witnesses [NRS 174.234(1)(a)]</i>
10/15/2014	 Supplemental <i>Supplemental Notice of Witnesses</i>
10/15/2014	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on September 16, 2014</i>
10/15/2014	 Supplemental <i>Supplemental Notice of Witnesses [NRS 174.234(2)]</i>
10/16/2014	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on September 23, 2014</i>
10/16/2014	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on September 25, 2014</i>
10/17/2014	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on October 7, 2014</i>
10/21/2014	 Order <i>Order for Transcript</i>
10/21/2014	 Amended Order <i>Amended Order on Defendant's Motion for Evidentiary Hearing and Requesting Investigation of Possible Recording of Attorney-Client Privileged Conversations with Inmate Incarcerated in CCDC</i>
10/24/2014	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on October 14, 2014</i>
11/07/2014	 Notice of Motion <i>Notice of Motion and Motion to Strike Defendant's Expert Notice, or in the Alternative, Motion for Discovery</i>
11/21/2014	 Opposition to Motion <i>Opposition to Motion to Strike Defendant's Expert Notice or in the Alternative Motion for Discovery</i>
12/01/2014	 Motion <i>Motion to Place on Calendar for Status Check on Return of In-Camera Review of CPS Records</i>
12/01/2014	 Motion for Discovery
12/08/2014	 Order Granting Motion <i>Filed By: Defendant Burns, David James Order Granting Motion to Vacate Ex Parte Order Allowing Jury Commissioner to Conduct Background Checks on Potential Jurors for Production to the Parties</i>

CASE SUMMARY
CASE NO. C-10-267882-2

12/12/2014	 Filed Under Seal Filed By: Plaintiff State of Nevada <i>Transcript of Hearing Held on October 16, 2014 (Sealed)</i>
12/16/2014	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on October 20, 2014</i>
12/16/2014	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on December 11, 2014</i>
12/18/2014	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on December 18, 2014</i>
12/31/2014	 Supplemental <i>Supplemental Notice of Expert Witnesses [NRS 174.234(2)]</i>
01/05/2015	 Supplemental <i>Supplemental Notice of Evidence in Support of Aggravating Circumstances</i>
01/09/2015	 Filed Under Seal <i>Ex-Parte Order to Receive MRI (Filed Under Seal) (Sealed)</i>
01/12/2015	 Supplemental <i>Third Supplemental Notice of Witnesses [NRS 174.234(1)(a)]</i>
01/12/2015	 Order to Release Medical Records <i>Order for Production of Medical Records</i>
01/12/2015	 Order to Release Medical Records <i>Order for Production of Medical Records</i>
01/12/2015	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on January 9, 2015</i>
01/13/2015	 Supplemental <i>Second Supplemental Notice of Witnesses [NRS 174.234(2)]</i>
01/15/2015	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on January 6, 2015</i>
01/20/2015	 Supplemental <i>Fourth Supplemental Notice of Witnesses [NRS 174.234(1)(a)]</i>
01/21/2015	 Ex Parte Order <i>Ex Parte Order to Comply with Subpoena</i>
01/21/2015	 Ex Parte Order <i>Ex Parte Order to Comply with Subpoena</i>
01/21/2015	 Ex Parte Order <i>Ex Parte Order to Comply with Subpoena</i>

CASE SUMMARY
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01/21/2015	 Ex Parte Order <i>Ex Parte Order to Comply with Subpoena</i>
01/21/2015	 Ex Parte Order <i>Ex Parte Order to Comply with Subpoena</i>
01/21/2015	 Ex Parte Order <i>Ex Parte Order to Comply with Subpoena</i>
01/21/2015	 Ex Parte Order <i>Ex Parte Order to Comply with Subpoena</i>
01/22/2015	 Reporters Transcript <i>Transcript of Hearing Held on January 20, 2015</i>
01/22/2015	 Reporters Transcript <i>Transcript of Hearing Held on January 21, 2015</i>
01/22/2015	 Ex Parte Order <i>Ex Parte Order for Clark County Detention Center to Produce Records Related to Stephanie Cousins and Monica Martinez</i>
01/22/2015	 Supplemental <i>Third Supplemental Notice of Witnesses [NRS 174.234(2)]</i>
01/23/2015	 Reporters Transcript <i>Transcript of Hearing Held on January 22, 2015</i>
01/26/2015	 Reporters Transcript <i>Transcript of Hearing Held on January 23, 2015</i>
01/26/2015	 Ex Parte Order <i>Ex Parte Order to Comply with Subpoena</i>
01/26/2015	 Ex Parte Order <i>Ex Parte Order to Comply with Subpoena</i>
01/26/2015	 Jury List
01/26/2015	 Motion in Limine <i>Motion in Limine to Prohibit the Presentation of a Summary Regarding the Course of Investigation</i>
01/27/2015	 Reporters Transcript <i>Transcript of Hearing Held on January 26, 2015</i>
01/28/2015	 Reporters Transcript <i>Transcript of Hearing Held on January 27, 2015</i>
01/29/2015	 Reporters Transcript <i>Transcript of Hearing Held on January 28, 2015</i>

CASE SUMMARY
CASE NO. C-10-267882-2

01/29/2015	 Ex Parte Order <i>Ex Parte Order to Comply with Subpoena</i>
01/30/2015	 Reporters Transcript <i>Transcript of Hearing Held on January 29, 2015</i>
02/02/2015	 Transcript of Proceedings <i>Transcript of Hearing Held on January 30, 2015</i>
02/02/2015	 Order <i>Order for Daily Transcripts Nunc Pro Tunc</i>
02/04/2015	 Opposition to Motion in Limine <i>State's Opposition to Defendant's Motion in Limine to Prohibit the Presentation of a Summary Regarding the Course of Investigation</i>
02/04/2015	 Amended Jury List
02/05/2015	 Amended Jury List <i>Second Amended Jury List</i>
02/06/2015	 Reporters Transcript <i>Transcript of Hearing Held on February 5, 2015</i>
02/09/2015	 Reporters Transcript <i>Transcript of Hearing Held on February 6, 2015</i>
02/09/2015	 Stipulation and Order <i>Stipulation and Order Waiving Separate Penalty Hearing</i>
02/10/2015	 Reporters Transcript <i>Transcript of Hearing Held on February 9, 2015</i>
02/11/2015	 Reporters Transcript <i>Transcript of Hearing Held on February 10, 2015</i>
02/12/2015	 Media Request and Order <i>Media Request and Order Allowing Camera Access to Court Proceedings</i>
02/12/2015	 Reporters Transcript <i>Transcript of Hearing Held on February 11, 2015</i>
02/13/2015	 Reporters Transcript <i>Transcript of Hearing Held on February 12, 2015</i>
02/17/2015	 Instructions to the Jury
02/17/2015	 Verdict
02/18/2015	 Reporters Transcript <i>Transcript of Hearing Held on February 17, 2015</i>

CASE SUMMARY
CASE NO. C-10-267882-2

03/02/2015	 Order Denying Motion <i>Order Denying Defendant Burns' Motion in Limine to Prohibit the Preservation of a Summary Regarding the Course of Investigation</i>
04/01/2015	 PSI <i>Pre-Sentence Investigation Report (Unfiled) Confidential</i>
04/24/2015	 Filed Under Seal <i>Sentencing Memorandum (Sealed)</i>
05/05/2015	 Judgment of Conviction <i>Judgment of Conviction (Jury Trial)</i>
07/09/2015	 Criminal Order to Statistically Close Case
10/13/2015	 Inmate Filed - Petition for Writ of Habeas Corpus Party: Defendant Burns, David James <i>Petition for Writ of Habeas Corpus (Postconviction)</i>
10/13/2015	 Request Filed by: Defendant Burns, David James
10/13/2015	 Motion for Appointment of Attorney Filed By: Defendant Burns, David James <i>Motion to Appoint Counsel</i>
10/13/2015	 Motion Filed By: Defendant Burns, David James <i>Motion for Production of Documents, Papers, Pleadings and Tangible Property of Defendant</i>
10/13/2015	 Motion to Withdraw As Counsel Filed By: Defendant Burns, David James <i>Motion to Withdraw Counsel</i>
10/13/2015	 Application to Proceed in Forma Pauperis Filed By: Defendant Burns, David James <i>Application to Proceed Informa Pauperis (Sealed)</i>
10/23/2015	 Certificate <i>Financial Certificate (Sealed)</i>
10/29/2015	 Order for Petition for Writ of Habeas Corpus
10/29/2015	 Notice of Hearing
01/26/2016	 Response <i>State's Response to Defendant's Pro Per Post-Conviction Petition for Writ of Habeas Corpus, Motion to Appoint Counsel, and Request for an Evidentiary Hearing</i>
03/11/2016	 Notice of Appeal (criminal) <i>Notice of Appeal</i>

CASE SUMMARY
CASE NO. C-10-267882-2

03/14/2016	 Case Appeal Statement
03/21/2016	 Findings of Fact, Conclusions of Law and Order
03/21/2016	 Certificate of Service
03/22/2016	 Notice of Entry <i>Notice of Entry of Findings of Fact, Conclusions of Law and Order</i>
03/21/2017	 NV Supreme Court Clerks Certificate/Judgment -Remanded <i>Nevada Supreme Court Clerk's Certificate Judgment - Reversed and Remand</i>
06/01/2017	 Order Filed By: Defendant Burns, David James <i>Order for Transcripts at State's Expense</i>
07/13/2017	 Recorders Transcript of Hearing <i>Recorders Transcript of Hearing Re: Sentencing, April 23, 2015</i>
08/15/2017	 Ex Parte Order <i>Ex Parte Order Approving Paralegal Expenses</i>
11/27/2017	 Supplemental Filed by: Defendant Burns, David James <i>Supplement to Petition for Writ of Habeas Corpus (Post-Conviction)</i>
11/27/2017	 Exhibits Filed By: Defendant Burns, David James <i>Petitioner's Exhibits In Support Of Supplement To Post-Conviction Petition For Writ Of Habeas Corpus</i>
01/16/2018	 Response Filed by: Plaintiff State of Nevada <i>State's Response to Defendant's Supplement to Petition for Writ of Habeas Corpus</i>
02/06/2018	 Reply Filed by: Defendant Burns, David James <i>Reply to State's Response to Supplement to Petition for Writ of Habeas Corpus (Post-Conviction)</i>
04/24/2018	 Order for Production of Inmate Party: Plaintiff State of Nevada <i>Order for Production of Inmate David Burnes, BAC #1139521</i>
07/05/2018	 Notice of Hearing <i>Notice of Hearing</i>
09/26/2018	 Ex Parte Order Filed By: Defendant Burns, David James <i>Ex Parte Order Appointing Counsel for Purposes of Appeal</i>
10/25/2018	 Findings of Fact, Conclusions of Law and Order Filed By: Plaintiff State of Nevada

CASE SUMMARY
CASE NO. C-10-267882-2

10/29/2018	 Notice of Entry Filed By: Plaintiff State of Nevada <i>Notice of Entry of Findings of Fact, Conclusions of Law and Order</i>
11/08/2018	 Notice of Appeal (criminal) Party: Defendant Burns, David James <i>Notice of Appeal</i>
11/08/2018	 Request Filed by: Defendant Burns, David James <i>Request for Transcripts Pursuant to NRAP 9(a)(3)</i>
11/08/2018	 Case Appeal Statement Filed By: Defendant Burns, David James <i>Case Appeal Statement</i>
12/05/2018	 Recorders Transcript of Hearing <i>Argument, April 17, 2018</i>
12/05/2018	 Recorders Transcript of Hearing <i>Recorder's Transcript Re: Evidentiary Hearing, Thursday, September 20, 2018</i>
02/25/2020	 NV Supreme Court Clerks Certificate/Judgment - Affd/Rev Part <i>Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Affirmed in Part, Reversed in Part and Remand</i>
02/26/2020	 Notice of Hearing <i>Notice of Hearing</i>
03/12/2020	 Findings of Fact, Conclusions of Law and Order Filed By: Defendant Burns, David James <i>Findings of Fact, Conclusions of Law and Order Granting Petition for Writ of Habeas Corpus (Post-Conviction)</i>
03/17/2020	 Notice of Entry Filed By: Defendant Burns, David James <i>Notice of Entry of Findings of Fact, Conclusions of Law and Order</i>
03/17/2020	 Notice of Appeal (criminal) Party: Defendant Burns, David James <i>Notice of Appeal</i>
03/17/2020	 Case Appeal Statement Filed By: Defendant Burns, David James <i>Case Appeal Statement</i>

DISPOSITIONS

10/26/2010	Plea (Judicial Officer: Tao, Jerome T.) 1. CONSP ROBBERY Not Guilty PCN: Sequence: 2. CONSP MURDER Not Guilty PCN: Sequence:
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CASE SUMMARY
CASE NO. C-10-267882-2

3. BURGLARY WHILE IN POSSESSION OF FIREARM
Not Guilty
PCN: Sequence:
4. ROBBERY WITH A DEADLY WEAPON
Not Guilty
PCN: Sequence:
5. MURDER WITH A DEADLY WEAPON
Not Guilty
PCN: Sequence:
6. ROBBERY WITH A DEADLY WEAPON
Not Guilty
PCN: Sequence:
7. ATT. MURDER WITH A DEADLY WEAPON
Not Guilty
PCN: Sequence:
8. BATTERY W/ SBH DOMESTIC VIOLENCE W/ DEADLY WEAPON
Not Guilty
PCN: Sequence:

04/23/2015 **Disposition** (Judicial Officer: Tao, Jerome T.)

1. CONSPIRACY TO COMMIT ROBBERY
Guilty
PCN: Sequence:
2. CONSPIRACY TO COMMIT MURDER
Guilty
PCN: Sequence:
3. BURGLARY WHILE IN POSSESSION OF FIREARM
Guilty
PCN: Sequence:
4. ROBBERY WITH USE OF A DEADLY WEAPON
Guilty
PCN: Sequence:
5. FIRST DEGREE MURDER WITH USE OF A DEADLY WEAPON
Guilty
PCN: Sequence:
6. ROBBERY WITH USE OF A DEADLY WEAPON
Guilty
PCN: Sequence:
7. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON
Guilty
PCN: Sequence:
8. BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM
Guilty
PCN: Sequence:

04/23/2015 **Adult Adjudication** (Judicial Officer: Tao, Jerome T.)

1. CONSPIRACY TO COMMIT ROBBERY

CASE SUMMARY**CASE NO. C-10-267882-2**

08/07/2010 (F) 200.380 (5013C)

PCN: Sequence:

Sentenced to Nevada Dept. of Corrections
Term: Minimum:12 Months, Maximum:72 Months
Concurrent: Charge 5

04/23/2015 **Adult Adjudication** (Judicial Officer: Tao, Jerome T.)

2. CONSPIRACY TO COMMIT MURDER

08/07/2010 (F) 200.010 (5000C)

PCN: Sequence:

Sentenced to Nevada Dept. of Corrections
Term: Minimum:24 Months, Maximum:120 Months
Concurrent: Charge 5

04/23/2015 **Adult Adjudication** (Judicial Officer: Tao, Jerome T.)

3. BURGLARY WHILE IN POSSESSION OF FIREARM

08/07/2010 (F) 205.060 (9989)

PCN: Sequence:

Sentenced to Nevada Dept. of Corrections
Term: Minimum:24 Months, Maximum:180 Months
Concurrent: Charge 5

04/23/2015 **Adult Adjudication** (Judicial Officer: Tao, Jerome T.)

4. ROBBERY WITH USE OF A DEADLY WEAPON

08/07/2010 (F) 200.380 (4967)

PCN: Sequence:

Sentenced to Nevada Dept. of Corrections
Term: Minimum:24 Months, Maximum:180 Months
Consecutive Enhancement:Use of a Deadly Weapon, Minimum:24 Months, Maximum:180 Months
Concurrent: Charge 5

04/23/2015 **Adult Adjudication** (Judicial Officer: Tao, Jerome T.)

5. FIRST DEGREE MURDER WITH USE OF A DEADLY WEAPON

08/07/2010 (F) 200.030 (5045)

PCN: Sequence:

Sentenced to Nevada Dept. of Corrections
Term: Life without the possibility of parole
Consecutive Enhancement:Use of a Deadly Weapon, Minimum:40 Months, Maximum:240 Months

04/23/2015 **Adult Adjudication** (Judicial Officer: Tao, Jerome T.)

6. ROBBERY WITH USE OF A DEADLY WEAPON

08/07/2010 (F) 200.380 (4967)

PCN: Sequence:

Sentenced to Nevada Dept. of Corrections
Term: Minimum:24 Months, Maximum:180 Months
Consecutive Enhancement:Use of a Deadly Weapon, Minimum:24 Months, Maximum:180 Months
Concurrent: Charge 7

04/23/2015 **Adult Adjudication** (Judicial Officer: Tao, Jerome T.)

7. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

08/07/2010 (F) 200.030 (5045A)

PCN: Sequence:

Sentenced to Nevada Dept. of Corrections
Term: Minimum:48 Months, Maximum:240 Months
Consecutive Enhancement:Use of a Deadly Weapon, Minimum:40 Months, Maximum:240 Months

CASE SUMMARY

CASE NO. C-10-267882-2

Consecutive: Charge 5

04/23/2015 **Adult Adjudication** (Judicial Officer: Tao, Jerome T.)
 8. BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM
 08/07/2010 (F) 200.481 (4932)
 PCN: Sequence:

Sentenced to Nevada Dept. of Corrections
 Term: Minimum:24 Months, Maximum:180 Months
 Concurrent: Charge 7
 Credit for Time Served: 1671 Days

Fee Totals:

AA Fee - Battery	
Domestic Violence	35.00
\$35	
Administrative	
Assessment Fee	25.00
\$25	
Fee Totals \$	60.00

03/21/2017 **Amended Disposition** (Judicial Officer: Tao, Jerome T.) Reason: Appeal Reversed/Remanded

1. CONSPIRACY TO COMMIT ROBBERY
 Appeal Reversed/Remanded
 PCN: Sequence:
2. CONSPIRACY TO COMMIT MURDER
 Appeal Reversed/Remanded
 PCN: Sequence:
3. BURGLARY WHILE IN POSSESSION OF FIREARM
 Appeal Reversed/Remanded
 PCN: Sequence:
4. ROBBERY WITH USE OF A DEADLY WEAPON
 Appeal Reversed/Remanded
 PCN: Sequence:
5. FIRST DEGREE MURDER WITH USE OF A DEADLY WEAPON
 Appeal Reversed/Remanded
 PCN: Sequence:
6. ROBBERY WITH USE OF A DEADLY WEAPON
 Appeal Reversed/Remanded
 PCN: Sequence:
7. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON
 Appeal Reversed/Remanded
 PCN: Sequence:
8. BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM
 Appeal Reversed/Remanded
 PCN: Sequence:

03/21/2017 **Amended Supreme Court Reversal/Remand** (Judicial Officer: Tao, Jerome T.) Reason: Appeal Reversed/Remanded

1. CONSPIRACY TO COMMIT ROBBERY
 08/07/2010 (F) 200.380 (5013C)
 PCN: Sequence:

03/21/2017 **Amended Supreme Court Reversal/Remand** (Judicial Officer: Tao, Jerome T.) Reason: Appeal Reversed/Remanded

2. CONSPIRACY TO COMMIT MURDER

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. C-10-267882-2

08/07/2010 (F) 200.010 (5000C)

PCN: Sequence:

03/21/2017 **Amended Supreme Court Reversal/Remand** (Judicial Officer: Tao, Jerome T.) Reason: Appeal Reversed/Remanded
3. BURGLARY WHILE IN POSSESSION OF FIREARM

08/07/2010 (F) 205.060 (9989)

PCN: Sequence:

03/21/2017 **Amended Supreme Court Reversal/Remand** (Judicial Officer: Tao, Jerome T.) Reason: Appeal Reversed/Remanded
4. ROBBERY WITH USE OF A DEADLY WEAPON

08/07/2010 (F) 200.380 (4967)

PCN: Sequence:

03/21/2017 **Amended Supreme Court Reversal/Remand** (Judicial Officer: Tao, Jerome T.) Reason: Appeal Reversed/Remanded
5. FIRST DEGREE MURDER WITH USE OF A DEADLY WEAPON

08/07/2010 (F) 200.030 (5045)

PCN: Sequence:

03/21/2017 **Amended Supreme Court Reversal/Remand** (Judicial Officer: Tao, Jerome T.) Reason: Appeal Reversed/Remanded
6. ROBBERY WITH USE OF A DEADLY WEAPON

08/07/2010 (F) 200.380 (4967)

PCN: Sequence:

03/21/2017 **Amended Supreme Court Reversal/Remand** (Judicial Officer: Tao, Jerome T.) Reason: Appeal Reversed/Remanded
7. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

08/07/2010 (F) 200.030 (5045A)


PCN: Sequence:

03/21/2017 **Amended Supreme Court Reversal/Remand** (Judicial Officer: Tao, Jerome T.) Reason: Appeal Reversed/Remanded
8. BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM

08/07/2010 (F) 200.481 (4932)

PCN: Sequence:

HEARINGS

10/13/2010  **Grand Jury Indictment** (11:45 AM) (Judicial Officer: Bell, Linda Marie)

MINUTES

Warrant

Inactive Indictment Warrant

Matter Heard;

Journal Entry Details:

David Schubert, DDA, and Pamela Weckerly, DDA, present for the State of Nevada. - Chris Farrell, Grand Jury Foreperson, stated to the Court that at least twelve members had concurred in the return of the true bill during deliberation, but had been excused for presentation to the Court. State presented Grand Jury Case Number 10AGJ054B-C to the Court. COURT ORDERED, the Indictment may be filed and is assigned Case Numbers as follow: C267882-2 - Burns C267882-3 - Cousins Said cases are assigned to Department 4. Ms. Weckerly requested warrants and argued bail. COURT ORDERED, ARREST WARRANTS WILL ISSUE, NO BAIL for Deft. Burns and BAIL SET AT \$1.5 million for Deft. Cousins. Matter set for arraignment. Exhibit(s) 1-25 previously lodged with Clerk of District Court on 9-29-10. Exhibit(s) 1a and 26 lodged with Clerk of District Court. WARRANT (CUSTODY - BOTH) 10-21-10 9:00 AM INITIAL ARRAIGNMENT (DEPT. 4 - BOTH) ;

SCHEDULED HEARINGS

Initial Arraignment (10/21/2010 at 9:00 AM) (Judicial Officer: Hardcastle, Kathy)


CASE SUMMARY
CASE NO. C-10-267882-2

10/21/2010, 10/26/2010

10/21/2010 **Initial Arraignment** (9:00 AM) (Judicial Officer: Hardcastle, Kathy)

10/21/2010, 10/26/2010

Matter Continued;


10/26/2010  **Indictment Warrant Return** (9:00 AM) (Judicial Officer: Hardcastle, Kathy)

Events: 10/25/2010 Indictment Warrant Return

Plea Entered;

Journal Entry Details:

ARRAIGNMENT (BURNS) DEFT. BURNS ARRAIGNED, PLED NOT GUILTY, and WAIVED the 60-DAY RULE. COURT ORDERED, matter set for trial. CUSTODY 10/11/11 9:00 AM CALENDAR CALL 10/17/11 10:00 AM JURY TRIAL ;

11/23/2010  **Motion** (9:00 AM) (Judicial Officer: Hardcastle, Kathy)

Events: 11/04/2010 Motion

Amended Motion For Extension Of Time To File Petition For Writ Of Habeas Corpus


Granted;

Journal Entry Details:

DEFT'S AMENDED MOTION FOR EXTENSION OF TIME TO FILE PETITION FOR WRIT OF HABEAS CORPUS Counsel advised they have been a trial for the last 3 weeks and requested 14 additional days to file writ. COURT ORDERED, Motion GRANTED for 21 ADDITIONAL DAYS FROM TODAY. CUSTODY ;

12/02/2010 **CANCELED All Pending Motions** (8:30 AM) (Judicial Officer: Glass, Jackie)

Vacated - On in Error

12/02/2010  **Joinder** (9:00 AM) (Judicial Officer: Hardcastle, Kathy)

Events: 11/04/2010 Joinder To Motion

Defendant David Burns Joinder To Co-Defendant Willie Mason's Motion To Preserve And Produce Evidence, Including Potentially Exculpatory Evidence

Granted in Part;

Journal Entry Details:

DEFT'S MOTION TO PRESERVE AND PRODUCE EVIDENCE ESPECIALLY POTENTIALLY EXCULPATORY EVIDENCE ...DEFT'S PETITION FOR WRIT OF HABEAS CORPUS Arguments by counsel as to Motion to Preserve and Produce. COURT noted any any exculpatory evidence that State becomes aware of they are required to produce, but they are not required to go out and investigate for the defense to see if the possibility exists. Following statements and argument of counsel. COURT ORDERED as follows: 1. Any exculpatory evidence must be revealed, all written or recorded statements, memos, summaries or videos that have already been prepared, or prepared before going to trial must be produced. 2. Court will allow counsel to go through State and detective files for names and contact information of witnesses, and interview detective, but there is no guarantee that the information will be in the file. 3. Court will allow criminal histories of Deft's, co- defendants and insofar as felony convictions of victims or potential witnesses. Mr. Powell requested if State runs SCOPE on any potential juror that they be provided that information and COURT ORDERED, request DENIED. 4. Statements made by Defendants regarding the case that will be or could be used by the State needs to be revealed to the Defendants, but noted that casual statements during transport back and forth will not be considered a violation of Courts ruling. 5. State to provide whatever autopsy reports and medical records, they have to defense. 6. Any forensic evidence State has in file Deft. can look at and reports to be provided. 7. Informants names and addresses do not need to be produced unless they provide exculpatory evidence or they will a witness at trial. 8. All reports, maps, documentation will be produced pursuant to statute. 9. All photos, line-ups, copies, 91, tape and CAB record can be subpoenaed to the Police Department. 10. Whatever criminal history of Defendant State is aware of will be provided. 11. Information on hypothesis has been use or attempted on any witness is DENIED. 12. Charts, maps concerning cellular tower is DENIED except what they present at trial or whatever is in the detectives files or State's files. 13. If digital imaging or enhancement are used will be provided. As for documentation of overt criminal acts not specified in the Indictment, State noted they will file a separate motion on that issue. COURT SO NOTED. ;

01/06/2011 **CANCELED Motion** (9:00 AM) (Judicial Officer: Hardcastle, Kathy)

Vacated - On in Error

01/18/2011  **Petition for Writ of Habeas Corpus** (9:00 AM) (Judicial Officer: Hardcastle, Kathy)


Denied;

Journal Entry Details:

CASE SUMMARY

CASE NO. C-10-267882-2

DEFT'S PETITION FOR WRIT OF HABEAS CORPUS Arguments by counsel. COURT stated findings and ORDERED, Writ is DENIED. CUSTODY ;

10/04/2011	 Motion to Continue Trial (8:30 AM) (Judicial Officer: Tao, Jerome T.) <i>Motion to Continue Trial Setting</i> Granted; Journal Entry Details: <i>There being no opposition, COURT ORDERED, motion to continue trial GRANTED; trial date VACATED and RESET. CUSTODY 8/21/11 8:30 A.M. CALENDAR CALL 8/27/11 10:30 A.M. JURY TRIAL ;</i>
10/11/2011	CANCELED Calendar Call (8:30 AM) (Judicial Officer: Tao, Jerome T.) <i>Vacated</i>
10/17/2011	CANCELED Jury Trial (10:30 AM) (Judicial Officer: Hardcastle, Kathy) <i>Vacated</i>
08/14/2012	Motion for Discovery (8:30 AM) (Judicial Officer: Tao, Jerome T.) 08/14/2012, 07/18/2013 Events: 07/18/2012 Motion for Discovery <i>Motion for Discovery of Institutional Records and Files Necessary to a Fair Trial</i> Continued; Granted; Continued; Granted;
08/14/2012	Motion (8:30 AM) (Judicial Officer: Tao, Jerome T.) 08/14/2012, 07/18/2013 Events: 07/18/2012 Motion <i>Motion to Invoke Heightened Standard of Review Due to the State Seeking Death Penalty</i> Continued; Denied; Continued; Denied;
08/14/2012	CANCELED Motion (8:30 AM) (Judicial Officer: Tao, Jerome T.) <i>Vacated - On in Error</i> <i>Motion to Invoke Heightened Standard of Review Due to the State Seeking Death Penalty</i>
08/14/2012	Motion (8:30 AM) (Judicial Officer: Tao, Jerome T.) 08/14/2012, 07/18/2013 Events: 07/18/2012 Motion <i>Motion to Prohibit the Use of Peremptory Challenges to Exclude Jurors Who Express Concerns About Capital Punishment</i> Continued; Denied in Part; Continued; Denied in Part;
08/14/2012	Motion to Bifurcate (8:30 AM) (Judicial Officer: Tao, Jerome T.) 08/14/2012, 07/18/2013 Events: 07/18/2012 Motion to Bifurcate <i>Motion to Bifurcate Penalty Phase</i> Continued; Denied; Continued; Denied;
08/14/2012	Motion to Compel (8:30 AM) (Judicial Officer: Tao, Jerome T.) 08/14/2012, 07/18/2013


CASE SUMMARY
CASE NO. C-10-267882-2

	<p>Events: 07/18/2012 Motion to Compel <i>Motion to Compel Production of the Defendant's Direct and Vicarious Statements</i> Continued; Granted; Continued; Granted;</p>
08/14/2012	<p>Motion (8:30 AM) (Judicial Officer: Tao, Jerome T.) 08/14/2012, 07/18/2013 Events: 07/18/2012 Motion <i>Motion to Prohibit the State from Arguing Statutory Mitigating Factors Not Raised by the Defense</i> Continued; Granted in Part; Continued; Granted in Part;</p>
08/14/2012	<p>Motion (8:30 AM) (Judicial Officer: Tao, Jerome T.) 08/14/2012, 07/18/2013 Events: 07/18/2012 Motion <i>Motion for Disclosure of the State's Witnesses' Juvenile Records</i> Continued; Granted; Continued; Granted;</p>
08/14/2012	<p>Motion (8:30 AM) (Judicial Officer: Tao, Jerome T.) 08/14/2012, 07/18/2013 Events: 07/18/2012 Motion <i>Motion for Henthorn Material</i> Continued; Denied Without Prejudice; Continued; Denied Without Prejudice;</p>
08/14/2012	<p>Motion (8:30 AM) (Judicial Officer: Tao, Jerome T.) 08/14/2012, 07/18/2013 Events: 07/18/2012 Motion <i>Motion to Preclude Victims' Family Members' Statements Regarding the Defendant, The Crime, and the Sentence</i> Continued; Granted; Continued; Granted;</p>
08/14/2012	<p>Motion (8:30 AM) (Judicial Officer: Tao, Jerome T.) 08/14/2012, 07/18/2013 Events: 07/18/2012 Motion <i>Motion to Bar the Admission of Cumulative Victim Impact Evidence in Violation of the Due Process Clause</i> Continued; Deferred Ruling; Continued; Deferred Ruling;</p>
08/14/2012	<p>Motion to Dismiss (8:30 AM) (Judicial Officer: Tao, Jerome T.) 08/14/2012, 07/18/2013 <i>Motion to Federalize All Motions, Objections, Requests, and Other Applications for Proceedings</i> Continued; Denied;</p>

CASE SUMMARY
CASE NO. C-10-267882-2

	Continued; Denied;
08/14/2012	Motion (8:30 AM) (Judicial Officer: Tao, Jerome T.) 08/14/2012, 07/18/2013 Events: 07/18/2012 Motion <i>Motion to Allow the Defense to Argue Last in Penalty Phase</i> Continued; Denied; Continued; Denied;
08/14/2012	Motion (8:30 AM) (Judicial Officer: Tao, Jerome T.) 08/14/2012, 07/18/2013 Events: 07/18/2012 Motion <i>Motion to Disqualify Potential Jurors Who Would Impose the Death Penalty in all Convictions for First Degree Murder</i> Continued; Deferred Ruling; Continued; Deferred Ruling;
08/14/2012	Motion to Compel (8:30 AM) (Judicial Officer: Tao, Jerome T.) 08/14/2012, 07/18/2013 Events: 07/18/2012 Motion to Compel <i>Motion to Compel Timely Disclosure of Information Relating to Aggravating and Mitigating Factors</i> Continued; Granted; Continued; Granted;
08/14/2012	Motion (8:30 AM) (Judicial Officer: Tao, Jerome T.) 08/14/2012, 07/18/2013 Events: 07/23/2012 Motion <i>Motion for Individual Sequestered Voir Dire</i> Continued; Denied Without Prejudice; Continued; Denied Without Prejudice;
08/14/2012	Motion (8:30 AM) (Judicial Officer: Tao, Jerome T.) 08/14/2012, 07/18/2013 Events: 07/23/2012 Motion <i>Motion for Disclosure of Uncharged Acts Related to the Criminal Conduct of the Defendant</i> Continued; Matter Resolved; Continued; Matter Resolved;
08/14/2012	Motion (8:30 AM) (Judicial Officer: Tao, Jerome T.) 08/14/2012, 07/18/2013 Events: 07/23/2012 Motion <i>Motion for Jury Questionnaire</i> Continued; Granted; Continued; Granted;

CASE SUMMARY
CASE NO. C-10-267882-2


08/14/2012	<p>Joinder (8:30 AM) (Judicial Officer: Tao, Jerome T.)</p> <p>Events: 07/18/2012 Motion 08/07/2012 Joinder To Motion</p> <p>Data Entry Error; set in wrong deft</p>
08/14/2012	<p>CANCELED Joinder (8:30 AM) (Judicial Officer: Tao, Jerome T.)</p> <p><i>Vacated</i> <i>Defendant Cousin's Joinder in Co- Defendant Burn's Motion for Disclosure of the State's Witnesses' Juvenile Records</i></p>
08/14/2012	<p>CANCELED Joinder (8:30 AM) (Judicial Officer: Tao, Jerome T.)</p> <p><i>Vacated</i> <i>Defendant Cousin's Joinder in Co-Defendant Burn's Motion to Preclude Victims' Family Members' Statements Regarding the Defendant, The Crime, and the Sentence</i></p>
08/14/2012	<p>CANCELED Joinder (8:30 AM) (Judicial Officer: Tao, Jerome T.)</p> <p><i>Vacated</i> <i>Defendant Cousins' Joinder in Co-Defendant Burns' Motion for Discovery of Institutional Records and Files Necessary to a Fair Trial</i></p>
08/14/2012	<p>CANCELED Joinder (8:30 AM) (Judicial Officer: Tao, Jerome T.)</p> <p><i>Vacated</i> <i>Mason's Request to Join in Burns' Motion for Jury Questionnaire</i></p>
08/14/2012	<p>Motion in Limine (8:30 AM) (Judicial Officer: Tao, Jerome T.)</p> <p>08/14/2012, 07/18/2013</p> <p>Events: 08/09/2012 Motion in Limine <i>Motion in Limine to Preclude the State From Moving to Admit Into Evidence Photographs Overly Prejudicial to Defendant</i> Continued; Deferred Ruling; Continued; Deferred Ruling;</p>
08/14/2012	<p>Motion to Strike (8:30 AM) (Judicial Officer: Tao, Jerome T.)</p> <p>08/14/2012, 07/18/2013</p> <p>Events: 08/09/2012 Motion to Strike <i>Motion to Strike Surplus Language From The Superseding Indictment</i> Continued; Denied; Continued; Denied;</p>
08/14/2012	<p> All Pending Motions (8:30 AM) (Judicial Officer: Tao, Jerome T.)</p> <p>Matter Continued; Journal Entry Details:</p> <p><i>DEFT'S MOTION FOR DISCOVERY OF INSTITUTIONAL RECORDS AND FILED NECESSARY TO A FAIR TRIAL...DEFT'S MOTION TO INVOKE HEIGHTENED STANDARD OF REVIEW DUE TO THE STATE SEEKING DEATH PENALTY...DEFT'S MOTION TO PROHIBIT THE USE OF PEREMPTORY CHALLENGES TO EXCLUDE JURORS WHO EXPRESS CONCERNS ABOUT CAPITAL PUNISHMENT...DEFT'S MOTION TO BIFURCATE PENALTY PHASE...DEFT'S MOTION TO COMPEL PRODUCTION OF THE DEFT'S DIRECT AND VICARIOUS STATEMENTS...DEFT'S MOTION TO PROHIBIT THE STAE FROM ARGUING STATUTORY MITIGATING FACTORS NOT RAISED BY THE DEFENSE...DEFT'S MOTION FOR DISCLOSURE OF THE STATE'S WITNESSES' JUVENILE RECORDS...DEFT'S MOTION FOR HENTHORN MATERIAL...DEFT'S MOTION TO PRECLUDE VICTIMS' FAMILY MEMBERS' STATEMENTS REGARDING THE DEFT, THE CRIME AND THE SENTENCE...DEFT'S MOTION TO BAR THE ADMISSION OF CUMULATIVE VICTIM IMPACT EVIDENCE IN VIOLATION OF THE DUE PROCESS CLAUSE...DEFT'S MOTION TO FEDERALIZE ALL MOTIONS, OBJECTIONS, REQUESTS AND OTHER APPLICATIONS FOR PROCEEDINGS...DEFT'S MOTION TO ALLOW THE DEFENSE TO ARGUE LAST IN PENALTY PHASE...DEFT'S MOTION TO DISQUALIFY POTENTIAL JURORS WHO WOULD IMPOSE THE DEALTH PENALTY IN ALL CONVICTIONS FOR FIRST DEGREE MURDER...DEFT'S MOTION TO COMPEL TIMELY DISCLOSURE OF INFORMATION RELATING TO AGGRAVATING AND</i></p>

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MITIGATING FACTORS...DEFT' S MOTION FOR INDIVIDUAL SEQUESTERED VOIR DIRE...DEFT'S MOTION FOR DISCLOSURE OF UNCHARGED ACTS RELATED TO THE CRIMINAL CONDUCT OF THE DEFT...DEFT'S MOTION FOR JURY QUESTIONNAIRE...DEFT'S MOTION TO DISMISS RULE 250 NOTICE OF INTENT DUE TO FEDERAL DUE PROCESS...DEFT'S MOTION IN LIMINE TO PRECLUDE THE STATE FROM MOVING TO ADMIT INTO EVIDENCE PHOTOGRAPHS OVERLY PREJUDICIAL TO DEFT...DEFT'S MOTION TO STRIKE SURPLUS LANGUAGE FROM THE SUPERSEDING INDICTMENT Mr. Sgro advised all parties are in agreement to continue the trial as to all Defendants that is currently set on 8/27/12; the State will agree to the severance of Deft Cousins and all motions scheduled to be heard today will be continued closer to the new trial date with the exception of the Motion to Continue Trial and Motion to Sever. Additionally, Mr. Sgro advised they will not seek a severance between Defts Mason and Burns. **COURT ORDERED**, Deft Mason's Motion to Continue Trial and Deft Cousins Motion to Sever Trial are **GRANTED**. **COURT ORDERED**, all trial dates **VACATED**; trial date **RESET** as to Deft Cousins and matter set for status check to re-set the Motions and trial dates as to Defts Mason and Burns. Mr. Ericsson stated that he will re-file the Motions as to Deft Cousins as needed. **CUSTODY 8/21/12 8:30 AM STATUS CHECK: RE-SET MOTIONS / TRIAL DATE ;**

08/21/2012 **CANCELED Calendar Call** (8:30 AM) (Judicial Officer: Tao, Jerome T.)
Vacated

08/21/2012  **Status Check** (8:30 AM) (Judicial Officer: Tao, Jerome T.)
Re-set Motions / Trial Date
Reset;
Journal Entry Details:
Colloquy as to resetting the trial and all of the Motions. Following COURT ORDERED, matter set for trial in October with the Motions being heard two months prior. CUSTODY 9/24/13 8:30 AM CALENDAR CALL (#1) 10/7/13 9:00 AM JURY TRIAL (#1) ALL MOTIONS....7/25/13 10:30 AM ;

08/27/2012 **CANCELED Jury Trial** (9:00 AM) (Judicial Officer: Tao, Jerome T.)
Vacated

06/11/2013  **Motion to Compel** (8:30 AM) (Judicial Officer: Tao, Jerome T.)
06/11/2013, 07/18/2013, 10/01/2013, 10/08/2013
Defendant's Motion to Compel Disclosure of Exculpatory Evidence
Matter Continued;
Continued;
Continued;
Continued;
duplicate
Matter Continued;
Continued;
Continued;
Continued;
duplicate
Matter Continued;
Continued;
Continued;
Continued;
duplicate
Matter Continued;
Continued;
Continued;
Continued;
duplicate
Journal Entry Details:
Court noted it did not receive a response from the State. Ms. Rinetti appeared for Ms. Weckerly, advised she is in trial and requested this motion be continued to the date of the other pre-trial motions on July 25, 2013. Clerk advised the Court is dark that day and the motions had been move, with counsel's acquiescence, to July 3, 2013. Ms. Rinetti advised Ms. Weckerly will just be coming off trial and requested they be continued to later in the month. Mr. Oram had no objection. COURT ORDERED, the motion set for today and all motions set on July 3 to be CONTINUED. CUSTODY ... CONTINUED 7/18/13 10:30 AM CLERK'S NOTE: JEA contacted Ms. Burke to advise the motions have been moved to July 18, 2013 at 10:30 AM. ;

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07/18/2013



All Pending Motions (10:30 AM) (Judicial Officer: Tao, Jerome T.)

Matter Heard;

Journal Entry Details:

TWENTY MOTIONS SUBMITTED BY DEFT BURNS...JOINDERS BY DEFT MASON DEFT BURNS MOTION FOR HENTHORN MATERIAL...DEFT MASON'S JOINDER MOTION: Court provided a copy of an Order it wrote in a different case as to this issue. Statements by Mr. Sgro including that when they send a subpoena to Metro, they get a letter that they need to contact the DA as all of the information comes from them after Metro gets the subpoena quashed. Colloquy as to the Court doing an in-camera review of this material. Mr. DiGiacomo advised if they come across any material that they feel is Gigilio, they will submit to the Court for in-camera review. Statements by Mr. Sgro. Following, COURT ORDERED, DENIED without prejudice. DEFT BURNS MOTION FOR DISCOVERY OF INSTITUTIONAL RECORDS AND FILES NECESSARY TO A FAIR TRIAL: There are 10 specific requests. Court noted it appears that #'s 3-8 are unopposed and GRANTED. Colloquy as to items #1&2, Court noted Mr. Sgro can get the records himself. Mr. Sgro advised that some times the records are different. Statements by Mr. DiGiacomo. COURT ORDERED, as to any records from CCDC, if there is a concern, counsel to compare. Colloquy as to letters. Ms. Burke requested to join in this Motion. COURT SO ORDERED. Statements by Mr. Sgro. As to #9&10, following statement by Mr. Sgro, GRANTED as unopposed as long as they are items they are entitled to. COURT ORDERED, GRANTED. DEFT BURNS MOTION TO INVOKE HEIGHTENED STANDARD OF REVIEW DUE TO THE STATE SEEKING DEATH PENALTY: Submitted by Mr. Oram to preserve the record. Statements by Ms. Weckerly and requested the existing law be followed. COURT ORDERED, DENIED as it is unclear what specific relief counsel is requesting. DEFT BURNS MOTION TO PROHIBIT THE USE OF PEREMPTORY CHALLENGES TO EXCLUDE JURORS WHO EXPRESS CONCERNS ABOUT CAPITAL PUNISHMENT: Mr. Oram advised that some Courts will excuse potential jurors simply because they say it will be very hard to impose a sentence of death, would like the Court be cognizant and requested a ruling by the Court to avoid having to have side bars in front of the Jury. Statements by the Court. Mr. Oram would like a potential juror that hesitates as to the death penalty, not be arbitrarily kicked off the panel. Ms. Weckerly stated this motion pertains to peremptory challenges, not for cause challenges. Continued arguments by Ms. Weckerly. Following, COURT ORDERED, as to the peremptory challenges is DENIED: as to for cause challenges, will DEFER TO TRIAL. (DENIED IN PART) DEFT BURNS MOTION TO BIFURCATE PENALTY PHASE: Statements by Mr. Sgro in support of this Motion. Statements by Ms. Weckerly in opposition. Following, COURT ORDERED, DENIED. DEFT BURNS MOTION TO COMPEL PRODUCTION OF THE DEFT'S DIRECT AND VICARIOUS STATEMENTS...DEFT MASON'S JOINDER MOTION: Court noted this is not really opposed. Mr. Oram is preserving the record and would request any statements be given 60 days prior to trial, however, the State has indicated they have provided all statements. Statements by Mr. DiGiacomo including that to his knowledge, all statements have been provided. COURT ORDERED, GRANTED. Mr. Sgro requested a bright line rule. DEFT BURNS MOTION TO PROHIBIT THE STATE FROM ARGUING STATUTORY MITIGATING FACTORS NOT RAISED BY THE DEFENSE: Statements by Mr. Oram including that the State not list mitigators to the Jury. Mr. DiGiacomo is in agreement, but that doesn't limit them as to argument. COURT ORDERED, GRANTED as to Jury instructions, as to any argument, it will be DEFERRED to trial. (GRANTED IN PART) DEFT BURNS MOTION FOR DISCLOSURE OF THE STATE'S WITNESSES' JUVENILE RECORDS...DEFT MASON'S JOINDER MOTION: Statements by Mr. Sgro including that they would request Juvenile records from any witness that is now under the age of 23. Statements by Mr. DiGiacomo. Colloquy as to sealed records. Continued statements by Mr. Sgro. COURT ORDERED, any material witness who is currently 23 years of age or younger, the Juvenile records are to be delivered to the Court for an in-camera review. Mr. Sgro will submit a copy of the names. COURT ORDERED, GRANTED. DEFT BURNS MOTION TO PRECLUDE VICTIM'S FAMILY MEMBERS' STATEMENTS REGARDING THE DEFT, THE CRIME AND THE SENTENCE...DEFT MASON'S JOINDER MOTION: Statements by Mr. Oram and is concerned during penalty phase, a family member will ask for the worse possible sentence or blurt something out. Mr. Oram requested an Order from this Court. Ms. Weckerly advised they do admonish the victim's family members of what they can and can not say. Colloquy as to any written letters from family members. Court directed counsel to review prior to their testimony. Statements by Ms. Burke. COURT ORDERED, GRANTED. DEFT BURNS MOTION TO BAR THE ADMISSION OF CUMULATIVE VICTIM IMPACT EVIDENCE IN VIOLATION OF THE DUE PROCESS CLAUSE...DEFT MASON'S JOINDER MOTION: Statements by Mr. Sgro in support of this Motion. COURT ORDERED, matter DEFERRED TO TRIAL. DEFT BURNS MOTION TO DISMISS RULE 250 NOTICE OF INTENT DUE TO FEDERAL DUE PROCESS VIOLATIONS: Statements by Mr. Oram in support of this Motion and would request Rule 250 be found unconstitutional and in violation of due process. Pursuant to the Nevada Supreme Court and the Maestas case, COURT ORDERED, DENIED. DEFT BURNS MOTION TO FEDERALIZE ALL MOTIONS, OBJECTIONS, REQUESTS AND OTHER APPLICATIONS FOR PROCEEDINGS...DEFT MASON'S JOINDER MOTION: Arguments by Mr. Oram in support of this Motion including "hearsay", confrontation and the Crawford ruling. Additionally, would request that all objections be considered being Federalized. Court advised how he handles objections during trial and that counsel are given the opportunity to memorialize during the next break outside the presence of the Jury. Statements by Ms. Burke. Submitted by Mr. DiGiacomo. COURT ORDERED, DENIED. DEFT BURNS MOTION TO ALLOW THE DEFENSE TO ARGUE LAST IN PENALTY PHASE: Statements by Mr. Oram. COURT ORDERED, DENIED. DEFT BURNS MOTION TO DISQUALIFY POTENTIAL JURORS WHO WOULD IMPOSE THE DEATH PENALTY IN ALL CONVICTIONS FOR FIRST DEGREE MURDER: Court noted this is a mirror image of Jurors who would never impose the death penalty. Statements by Mr. Sgro in support of this Motion. Colloquy as to jury questionnaire. Statements by Mr. DiGiacomo. Following, COURT ORDERED, DEFERRED TO TRIAL. DEFT BURNS MOTION TO COMPEL TIMELY DISCLOSURE OF INFORMATION RELATING TO AGGRAVATING AND MITIGATING FACTORS: Mr. Sgro requested 60 days before trial. Mr. DiGiacomo objected and stated it is 15 days by Court rule

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and they have asked for reciprocal discovery. Continued statements by Mr. Sgro and Mr. DiGiacomo. Following, Court directed counsel to disclose 15 days prior to trial. Mr. DiGiacomo requested the same 15 days once the Notice of Witnesses is filed. Colloquy as to the Mitigation Specialist by Mr. Sgro. Following, Mr. DiGiacomo requested under NRS 174.245 Defense comply to provide information 15 days prior to trial, and under NRS 50.305 an Order for underlying information the expert is going to rely on (if there is one) to be given 15 days prior to trial. **COURT ORDERED, GRANTED. DEFT BURNS MOTION FOR INDIVIDUAL SEQUESTERED VOIR DIRE...DEFT MASON'S JOINDER MOTION: COURT ORDERED, DENIED** without prejudice. Statements by Mr. Oram. Statements by Court as to how he handles the questioning of prospective Jurors. **DEFT BURNS MOTION FOR DISCLOSURE OF UNCHARGED ACTS RELATED TO THE CRIMINAL CONDUCT OF THE DEFT...DEFT MASON'S JOINDER MOTION:** Statements by Mr. Oram including that a witness will blurt something out that should have resulted in a hearing, i.e. drugs or gang involvement. Statements by Mr. DiGiacomo including that he is not seeking to bring anything out that would be considered a bad act. Upon Court's inquiry, Mr. DiGiacomo advised the Defendants are gang members, but he does not intend to bring this out per say in the guilt phase. ;

Court noted that drugs and possible gang membership will be discussed during trial, however, if anything else, counsel need to comply with the law and a Petrocelli Hearing will be needed. Statements by Mr. DiGiacomo including that they do not expect to present any bad act evidence. Continued arguments by Mr. Oram including that this case was based on a robbery and nothing to do with gangs; if they think gang membership is going to be brought out, there needs to be a Petrocelli Hearing first. Statements by Court. Mr. DiGiacomo advised this Motion is over broad and that he is not intending to prove up the Defendant as a gang member. Statements by Ms. Burke. Following, Court admonished counsel not to intentionally ask questions as to gang membership. **COURT ORDERED, RESOLVED. DEFT BURNS MOTION FOR JURY QUESTIONNAIRE...DEFT MASON'S JOINDER MOTION:** Ms. Burke is in agreement with a questionnaire. Mr. DiGiacomo does not feel they are very helpful but will submit. Mr. Oram advised they can probably reach an agreement as to the questions for the questionnaire. **COURT ORDERED, GRANTED** if it can be worked out. **DEFT BURNS MOTION IN LIMINE TO PRECLUDE THE STATE FROM MOVING TO ADMIT INTO EVIDENCE PHOTOGRAPHS OVERLY PREJUDICIAL TO DEFT...DEFT MASON'S JOINDER MOTION:** Statements by Mr. Oram including that he would request to be shown the pictures Mr. DiGiacomo is going to use in his opening power point prior to trial. **COURT ORDERED, DEFERRED TO TRIAL. DEFT BURNS MOTION TO STRIKE SURPLUS LANGUAGE FROM THE SUPERSEDING INDICTMENT:** Court noted this has to do with nicknames. Following colloquy, **COURT ORDERED, DENIED. DEFT BURNS MOTION TO COMPEL DISCLOSURE OF EXCULPATORY EVIDENCE:** Upon Court's inquiry, Mr. Oram does not feel they are missing anything. Following colloquy, **COURT ORDERED, matter CONTINUED** to calendar call date. Ms. Burke advised that she has a capital trial set in Dept. 24 that it is set to go the last week in August that will last 6 weeks with Mr. DiGiacomo. Statements by Mr. DiGiacomo. Colloquy as to the trial date. Ms. Weckerly requested to wait and see if that trial is going forward before moving the date. Colloquy as to jury questionnaire. **COURT ORDERED, matter set for status check. CUSTODY 8/20/13 8:30 AM STATUS CHECK: JURY QUESTIONNAIRE / TRIAL READINESS 10/1/13 8:30 AM DEFT BURNS MOTION TO COMPEL DISCLOSURE OF EXCULPATORY EVIDENCE ;**

08/20/2013  **Status Check (8:30 AM)** (Judicial Officer: Tao, Jerome T.)

08/20/2013, 08/22/2013, 08/27/2013

Status Check: Jury Questionnaire / Trial Readiness

Matter Continued;

Matter Continued;

Matter Resolved;

Journal Entry Details:

Upon Court's inquiry, Mr. Oram advised there are 3 questions they can not agree on. Mr. DiGiacomo advised that he had a meeting yesterday with Mr. Oram and Ms. Burke and concurred that they disagree as to 3 questions. Court stated the 3 questions are 1) identify race; 2) Political party and 3) how do you get your news. Arguments by Mr. Oram, Ms. Burke and Mr. DiGiacomo as to all 3 questions. Following, **COURT ORDERED, as to Race: this will be allowed, however, the word "optional" will be attached; As to Political party: this will be allowed, however, the word "optional" will be attached and as to: how do you get your news: it will be allowed, but is to be rephrased.** Upon Court's inquiry, Ms. Burke advised she has a few Motions in Limine to file, but that she should be ready for trial. Mr. Oram advised they will be ready for trial. **COURT ORDERED, matter RESOLVED** and directed counsel to provide a clean copy of the questionnaire as soon as possible. Mr. DiGiacomo advised he would provide one today. **CUSTODY ;**

Matter Continued;

Matter Continued;

Matter Resolved;

Journal Entry Details:

Upon Court's inquiry, Mr. Oram advised he reviewed a questionnaire from another case that had been answered. Ms. Burke stated she thought they had agreed to use the questionnaire from the Dept. 24 case. Mr. DiGiacomo advised there was no such agreement and that they had litigated 3 days to come up with that questionnaire. **MATTER TRAILED AND RECALLED:** Mr. Oram advised they are close to having a questionnaire done and that there are 3 questions they are having issues with. Following colloquy, **COURT ORDERED, matter CONTINUED** to next week, but that the questionnaire needs to be finalized soon. Ms. Burke **FILED IN OPEN COURT** her Motion to Sever and requested it be heard. Following colloquy, **COURT SO ORDERED. CUSTODY ... CONTINUED 8/27/13 8:30 AM ;**

Matter Continued;

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Matter Continued;

Matter Resolved;

Journal Entry Details:

Mr. DiGiacomo advised he has not seen the questionnaire, anticipates being ready and requested a one week. Following colloquy, Ms. Burke stated she e-mailed a previous questionnaire to Mr. DiGiacomo. Upon Court's inquiry, Mr. DiGiacomo advised he will be ready for trial and would oppose a continuance. Ms. Burke advised she is going to submit a Motion to Sever that might impact the trial. Mr. DiGiacomo stated he thought they had already handled a severance Motion. Following colloquy, COURT ORDERED, matter CONTINUED to Thursday and will address the Motion once it has been filed. CUSTODY ... CONTINUED 8/22/13 8:30 AM ;

09/05/2013



Motion to Strike (8:30 AM) (Judicial Officer: Tao, Jerome T.)

09/05/2013, 09/12/2013

Deft's Motion to Strike the State's Notice of Intent to Seek the Death Penalty Based on the Cost of Capital Punishment and Attendant Policy Considerations Or in the Alternative, Motion to Stay Capital Proceedings Pending the Outcome of the Audit Related to Assembly Bill 444

Matter Continued;

Motion Denied;

Journal Entry Details:

Ms. Burke advised she would like to join in the Motion for Deft Mason. Statements by Mr. Sgro in support of his Motion including that he would like a stay for a decision as to this issue and that the trial be reset in 2015. Further, as to the power point presented to Court, Mr. Sgro requested it be marked as a Court's exhibit. COURT SO ORDERED. Continued arguments by Mr. Sgro. Statements by Ms. Weckerly in support of their opposition including that it is not proper to grant a stay. Following additional arguments by counsel, Court stated that based on the law today, his motion is DENIED. FURTHER, the request for stay is also DENIED. Ms. Burke advised that she will be filing a Motion to Continue Trial as they just received 3,600 pages of medical records. Upon Court's inquiry, Mr. DiGiacomo advised he could not find where he had electronically sent the medical records, so he resent them to counsel. Statements by Mr. Sgro. Additionally, Mr. DiGiacomo stated that he has contacted San Bernardino and that whatever they had as to gang involvement was related only to the co-defendant, Mason and it has been given to Ms. Burke. Colloquy as to the dates given to file things in the previous Order by Ms. Burke. Objections stated by Mr. DiGiacomo and requested the Order remain as is. Upon Court's inquiry, Mr. DiGiacomo advised it is in relation to the expert and filing 21 days prior to trial and that the Court may have given the Defense 14 days. Following colloquy, Court DENIED WITHOUT PREJUDICE the request at this time. CUSTODY ;

Matter Continued;

Motion Denied;

Journal Entry Details:

Arguments by Ms. Burke in support of her Motion including that in her Motion and Reply, she pointed out situations where the Court had already separated the death and non-death people and noted the State did not address this at all in their response. Court advised if it had been granted, there would not be an opinion. Ms. Burke stated there are a number of grounds in which to grant this Motion other than an antagonistic defense. Continued arguments by Ms. Burke including that death penalty juries are more conviction prone. Statements by Mr. Sgro as to the antagonistic defense. Statements by Mr. DiGiacomo. Mr. Sgro requested to join in this Motion. Continued argument in support of the Motion by Mr. Sgro. Conference at the Bench. Following, COURT ORDERED, Deft's Motion to Sever Trial is DENIED WITHOUT PREJUDICE and noted this can be revisited at the time of trial or at penalty, if need be. As to Deft Burns Motion, Court directed Mr. Sgro provide the power point prior to the hearing next week and to give a copy to the State especially if there is anything new. Mr. Sgro advised that it tracks the brief and does not believe there is anything new. Ms. Burke advised she does not have the medical records for the victim nor the gang records. Mr. DiGiacomo advised he has given everyone the medical records and that he is in the process of getting the gang records from San Bernardino. Following colloquy, Court directed Mr. DiGiacomo copy the disk of medical records again for Ms. Burke. Additionally, Ms. Burke advised that yesterday she received the Notice of Witnesses with 26 names and that while some are the same, she does not know if this will impede her being ready for trial. Court so noted. CUSTODY ... CONTINUED 9/12/13 10:00 AM ;

09/19/2013

CANCELED Motion to Continue Trial (8:30 AM) (Judicial Officer: Tao, Jerome T.)

Vacated - per Secretary

09/19/2013



Motion to Continue Trial (8:30 AM) (Judicial Officer: Tao, Jerome T.)

Motion to Continue Trial Setting on an Order Shortening Time

Matter Continued;

Journal Entry Details:


Court noted it did not receive a written opposition from Mr. DiGiacomo. Mr. DiGiacomo concurred and advised he only received the Motion 48 hours ago. As to the palm print, Mr. DiGiacomo advised the report should be done within the week and advised if there is no answer by the time of calendar call, he has no objection to a continuance. Statements by Ms. Burke as to the reason for the continuance being the 3,600 pages of medical records; that she has

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only read 100 pages, the victim had 17 different doctors and was in the hospital for almost 3 months which will impact the Jury. Statements by Mr. Oram as to the medications she was on and possible effects. Mr. Sgro concurred and advised this is an identity case. Statements by Mr. DiGiacomo that Defense knew 3 years ago that the victim had been in the hospital. Following continued arguments by all counsel, COURT ORDERED, Motion GRANTED, however, will be CONTINUED to calendar call due to the Jury Questionnaires. Conference at the Bench. Additionally, matter set for status check as to trial setting and that October 28th is a date that the Court is looking at for the start of trial. CUSTODY 10/1/13 8:30 AM STATUS CHECK: TRIAL SETTING ;


10/01/2013 **Calendar Call** (8:30 AM) (Judicial Officer: Tao, Jerome T.)
*Calendar Call (#1)
to be reset
Reset;*


10/01/2013 **Status Check** (8:30 AM) (Judicial Officer: Tao, Jerome T.)
*Status Check: Trial Setting
Matter Heard;*

10/01/2013  **All Pending Motions** (8:30 AM) (Judicial Officer: Tao, Jerome T.)
*Matter Heard;
Journal Entry Details:
CALENDAR CALL...STATUS CHECK: TRIAL SETTING...DEFT'S MOTION TO COMPEL DISCLOSURE OF EXCULPATORY EVIDENCE Conference at the Bench. Pursuant to that conference, Court noted Ms. Burke is WITHDRAWING as counsel due to health reasons and Mr. Langford is APPOINTED as new counsel. Motion to Continue Trial is GRANTED and trial date is VACATED. Following colloquy, dates of 2/24, 3/3 and 3/10 are being considered for the new trial date. COURT ORDERED, matter set for status check next week for counsel to review their calendars. Further, Deft's Motion to Compel will also be continued to next date. CUSTODY 10/8/13 8:30 AM STATUS CHECK: RESET TRIAL DATE...DEFT'S MOTION TO COMPEL DISCLOSURE OF EXCULPATORY EVIDENCE ;*

10/07/2013 **CANCELED Jury Trial** (9:00 AM) (Judicial Officer: Tao, Jerome T.)
*Vacated
Jury Trial (#1)*

10/08/2013 **Status Check** (8:30 AM) (Judicial Officer: Tao, Jerome T.)
*Status Check: Reset Trial Date
Trial Date Set;*

10/08/2013  **All Pending Motions** (8:30 AM) (Judicial Officer: Tao, Jerome T.)
*Matter Heard;
Journal Entry Details:
STATUS CHECK: TRIAL SETTING...DEFT'S MOTION TO COMPEL DISCLOSURE OF EXCULPATORY EVIDENCE Colloquy as to trial date. Following, COURT ORDERED, matter set for trial in June and upon inquiry, counsel feel the trial should take about 4 weeks. FURTHER, Motion CONTINUED to calendar call date. CUSTODY 5/27/14 8:30 AM CALENDAR CALL (#1) 6/2/14 9:00 AM JURY TRIAL (#1) ;*

11/12/2013  **Motion** (8:30 AM) (Judicial Officer: Tao, Jerome T.)
*Deft's Motion to Place on Calendar to Confirm Trial
Motion Granted;
Journal Entry Details:
Mr. Oram advised Ms. Weckerly is detained in another Courtroom and requested a new date be given. Court so noted and advised there appears to be a problem with the June trial date. Ms. Weiner concurred. Mr. Langford advised Deft Mason was not brought to Court and while he has spoken with him as to the change in trial date, would request he be brought to Court. COURT SO ORDERED. Following colloquy, COURT ORDERED, Motion GRANTED, trial date VACATED and RESET. FURTHER, Deft Mason and Deft Cousins to be placed on calendar. CUSTODY 9/30/14 8:30 AM CALENDAR CALL (#1)(MASON & BURNS) 10/6/14 9:00 AM JURY TRIAL (#1)(MASON & BURNS) 11/14/13 8:30 AM STATUS CHECK: TRIAL (MASON) 11/19/13 8:30 AM STATUS CHECK: TRIAL (COUSINS) ;*

12/03/2013 **CANCELED Show Cause Hearing** (10:30 AM) (Judicial Officer: Tao, Jerome T.)
*Vacated - per Judge
Order for Defendant David Burns' Counsel to Show Cause Why He Should Not Be Held in Contempt of Court*

01/03/2014  **Minute Order** (11:16 AM) (Judicial Officer: Tao, Jerome T.)

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MINUTE ORDER RE: RELEASE OF DOCUMENTS

Decision Made; MINUTE ORDER RE: RELEASE OF DOCUMENTS

Journal Entry Details:

The Office of the Attorney General having submitted certain Presentence Reports pursuant to the Ex Parte Order for In-Camera Review of Presentence Report filed November 22, 2013; and the Court having reviewed said reports and having redacted certain portions of said reports; IT IS HEREBY ORDERED that the Presentence Reports are hereby released to counsel for the parties. Because the Presentence Reports contain confidential personal information such as social security numbers and names of family members who are not participants in this case, the Presentence Reports are to be maintained by the Court and the parties UNDER SEAL. Any motions or documents filed with the Court that reference any such confidential information must be filed with the Court UNDER SEAL. The Court's Judicial Executive Assistant shall notify counsel to pick up copies of said reports from chambers.;

05/27/2014 **CANCELED Calendar Call** (8:30 AM) (Judicial Officer: Tao, Jerome T.)

Vacated

Calendar Call (#1)

06/02/2014 **CANCELED Jury Trial** (9:00 AM) (Judicial Officer: Tao, Jerome T.)

Vacated

Jury Trial (#1)

09/16/2014  **Status Check** (8:30 AM) (Judicial Officer: Tao, Jerome T.)

Status Check: Trial Readiness and Jury Questionnaire

Matter Heard;

Journal Entry Details:

Court inquired if counsel still wanted a Jury Questionnaire. Ms. Weckerly advised that one has been circulating between all parties and that she will have the final one today before noon. Upon Court's inquiry, Counsel advised they feel the trial will take 3-4 weeks. Mr. Sgro advised a Pre-trial Motion was granted that the Juvenile records of the State's witnesses, 23 years of age or younger, were supposed to be provided for an in-camera review, however, he has never heard anything. Court advised it was not sure if it has seen them or not. Ms. Weckerly advised she thought they had been Ordered, however, will check and provide if they have not. Additionally, Mr. Sgro stated another Motion that was granted was to compel the production of all Defendant's direct and vicarious statements 60 days before trial. Mr. Sgro advised they didn't get anything 30 days ago and would like to know from the State if they have anything that they have not produced. Mr. Weckerly advised there is not. Mr. Oram inquired if there are any phone calls that the State intends to use. Ms. Weckerly advised she has no problem letting them know about the calls for her case-in-chief and will let the Defense know about 1 week prior to trial but cannot identify any calls that they might use in rebuttal. Conference at the Bench. Following conference, COURT ORDERED, matter set for status check as to the Jury Questionnaire and any other issues that might affect the trial. CUSTODY 9/23/14 8:30 AM STATUS CHECK: QUESTIONNAIRE / DISCOVERY ISSUES ;

09/23/2014  **Status Check** (8:30 AM) (Judicial Officer: Tao, Jerome T.)

Status Check: Questionnaire / Discovery Issues

Matter Heard;

Journal Entry Details:

Mr. Sgro advised there are some issues as to the readiness of his expert and Investigator due to financial issues, that have now been resolved. However, Mr. Sgro advised his Investigator is on vacation until October 3rd and he is unable to proceed due to the lack of availability of the people retained to help him. Ms. Weckerly objected to the trial being continued due to a billing mishap that happened last January and requested an affidavit from the OAC. Mr. Sgro stated that it took 6 months to get the billing straightened out; that he was never told they would not pay the bills, but was advised that he was spending too much money on this one case; so, he put everyone on hiatus and when the billing was resolved, his experts and Investigator were notified, but he was advised they had picked up other cases and he was put on the bottom of the list. Mr. Langford advised he is in a similar situation with one of his experts, that he thought a notice was filed, which it has not and now when he files it, the State will object. Ms. Weckerly advised they will waive any objection. Colloquy as to possibly severing the Defendants. Mr. DiGiacomo stated he is not convinced that Mr. Sgro has established a basis for a continuance and requested an affidavit be filed to investigate the allegations made; that the affidavit should indicate what the communication is, what the problem was and why it is the witnesses cannot be available, which needs to be attached to a Motion to Continue. Additionally, Mr. DiGiacomo objected to Mr. Sgro unilaterally making a decision to slow down the process because there is some problem with the OAC, that was never brought before the Court and never notified the State. Following additional colloquy and upon Court's inquiry, Mr. Sgro advised he needs 60-90 days to be ready for trial. Continued objections by Ms. Weckerly and Mr. DiGiacomo. Following, COURT ORDERED, trial date VACATED and RESET TWO (2) WEEKS past 10/6/14. Additionally, Ms. Weckerly advised she will provide a new Jury Questionnaire to chambers today. 10/14/14 8:30 AM CALENDAR CALL 10/20/14 9:00 AM JURY TRIAL ;

CASE SUMMARY
CASE NO. C-10-267882-2

09/25/2014	 Motion to Strike (8:30 AM) (Judicial Officer: Tao, Jerome T.) <i>Deft's Renewed Motion to Strike the State's Notice of Intent to Seek the Death Penalty Based on the Cost of Capital Punishment and Attendant Policy Considerations, Or in the alternative, Motion to Stay Capital Proceedings Pending the Outcome of the Audit Related to Assembly Bill 444</i> Motion Denied; Journal Entry Details: <i>Ms. Weaver appeared for Mr. Sgro. Upon Court's inquiry, Mr. DiGiacomo submitted on the prior opposition as there is no new argument. Mr. Oram submitted on the pleading. COURT ORDERED, Motion DENIED. Conference at the Bench. CUSTODY ;</i>
09/30/2014	CANCELED Calendar Call (8:30 AM) (Judicial Officer: Tao, Jerome T.) <i>Vacated</i> <i>Calendar Call (#1)</i>
10/06/2014	CANCELED Jury Trial (9:00 AM) (Judicial Officer: Tao, Jerome T.) <i>Vacated</i> <i>Jury Trial (#1)</i>
10/07/2014	 Motion (8:30 AM) (Judicial Officer: Tao, Jerome T.) <i>Defendant's Motion to Place on Calendar for a Status Check on In Camera Review and Motion for Production of Information Related to Jerome Thomas on an Order Shortening Time</i> Motion Granted; Journal Entry Details: <i>Court noted it never received any records as to Jerome Thomas. Mr. Sgro advised this was granted back on 7/13 and realized that this process was never done. Additionally, Mr. Sgro stated they will need records as to the victim, Devonia Newman and also as to Donovan Roland. Statements by Mr. DiGiacomo. Following, Mr. Sgro advised he will provide an Order for these records to be provided by Judge Voy to this Court for an in-camera review. COURT ORDERED, Motion GRANTED. Court noted there were several ex-parte Motions provided to chambers, one of which is an Order to have a witness that is incarcerated in California brought to Nevada. Following colloquy, Court SIGNED the Order and provided it to Mr. Sgro. The second one has to do with the Jury Commissioner. Conference at the Bench. Pursuant to that conference, the Order was SIGNED and provided to Mr. Sgro. Mr. Sgro advised they have a file review tomorrow at 2:30 and requested that everything be there, especially the homicide books. Mr. DiGiacomo advised they will be present. Mr. Sgro requested the State supplement the Notice of Witness List to provide good addresses. Mr. DiGiacomo advised to the extent they have the information, he will provide tomorrow at the file review. Following colloquy, Mr. Sgro to provide a list to Mr. DiGiacomo and if there is anyone that he does not have information on, it can be discussed at calendar call. COURT ORDERED, GRANTED. Mr. Oram advised his private phone calls with Defendant have been recorded and requested a hearing to determine how this is happening. Following continued arguments, Mr. Sgro requested an Order to Show Cause. Court advised he will make some phone call and directed counsel to do so as well and the matter can be further discussed next week at calendar call. Mr. Sgro requested the record as to Jerome Thomas be unsealed. Mr. DiGiacomo advised the warrant is still an active warrant and he can't have that, but to the extent there is an affidavit for an arrest warrant, it should be in the homicide books and it can be provided again tomorrow. Following continued arguments, COURT ORDERED, the record will not be unsealed, however, Mr. DiGiacomo can provide the document under seal to Mr. Sgro. Mr. DiGiacomo advised there is no additional discovery as to Jerome Thomas' case other than the affidavit in support of the arrest warrant, that is part of the homicide books. Court so noted. CUSTODY ;</i>
10/14/2014	 Calendar Call (10:00 AM) (Judicial Officer: Tao, Jerome T.) 10/14/2014, 10/16/2014 <i>Calendar Call (#1)</i> Matter Continued; Trial Date Set; Matter Continued; Trial Date Set; Journal Entry Details: <i>Court noted procedurally, there are 3 motions set for today, however, was given several motions yesterday and upon inquiry, Mr. DiGiacomo stated he is aware of them and answered a few. Additionally, Mr. Langford filed a Motion to Sever as to Deft Mason which is set for next week. Arguments by Mr. Sgro as to the Motion to Continue Trial submitted yesterday including that he has repeatedly asked for discovery only to be told that he has already received it. Mr. Sgro stated that he did receive video, however, it was upside down or mirror imaged and the file that said Autopsy was something entirely different. Court noted that Mr. Sgro waited until right before trial to try and obtain several records and upon inquiry, Mr. Sgro stated that when he asks for it, the response is, "you need to get it from the District Attorney". Mr. Sgro stated he did not wait until the last minute, that he has been trying for several months to obtain discovery; that what he has and what the State thinks they have given them are two different things. For instance, the</i>

CASE SUMMARY

CASE NO. C-10-267882-2

cell phone record report came in such a big font that they cannot match up the calls with the towers as the tower information prints out on a different page. Mr. Sgro advised that Mr. DiGiacomo handed Mr. Oram two thumb drives this morning that contain the discovery they did not have from the file review and requested this matter be continued to Thursday to see if they have everything. Arguments by Mr. DiGiacomo outlining the number of times the file has been reviewed and the number of times discovery has been provided. Mr. DiGiacomo stated that he feels this is Mr. Sgro's way of getting out of the trial, again. The last time at the file review, Mr. Sgro stated that the only thing he needed was the 3,600 pages of medical records for the victim and needed a continuance to review them. Statements by Ms. Weckerly. Mr. Langford informed the Court that an antagonistic defense is developing. Upon Court's inquiry, Mr. Sgro advised that there were some statements that he disclosed to Mr. Langford that had not been disclosed before. Mr. Sgro objected to the prospective Jury panel and stated there are only 9 out of 150 African/Americans in the panel and requested a hearing. Court noted that in its review of the questionnaires, that the majority of them did not fill out the race section. Following additional colloquy by all counsel, Court noted it will be addressed on Monday at the time of Jury selection. Court noted that the Motions set for today and all of the Motions submitted yesterday will be placed on calendar to be heard on Thursday. Mr. DiGiacomo advised that he spoke with Capt. Forbes at CCDC (Clark County Detention Center) as to Attorney phone calls and was advised that Mr. Oram's number was not blocked, but has since been. Statements by Mr. Oram. Mr. Sgro advised he will be endorsing 2 experts. Mr. DiGiacomo requested to address this on Thursday. COURT ORDERED, all matters CONTINUED to Thursday. CUSTODY ... CONTINUED 10/16/14 10:30 AM ;

- 10/14/2014 **CANCELED Motion** (10:00 AM) (Judicial Officer: Tao, Jerome T.)
Vacated - On in Error
Motion for the Disclosure of Materials and Facts Relative to Future Prosecutions of State's Witnesses Pursuant to Giglio on an Order Shortening time
- 10/16/2014 **Motion to Compel** (10:30 AM) (Judicial Officer: Tao, Jerome T.)
10/16/2014, 10/20/2014
Defendant's Motion to Compel Disclosure of Exculpatory Evidence
Matter Continued;
Off Calendar;
Matter Continued;
Off Calendar;
- 10/16/2014 **Motion** (10:30 AM) (Judicial Officer: Tao, Jerome T.)
10/16/2014, 10/20/2014
Defendant's Motion to Disclose Payments to Witnesses by Clark County District Attorney's Office
Matter Continued;
Motion Granted;
Matter Continued;
Motion Granted;
- 10/16/2014 **Status Check** (10:30 AM) (Judicial Officer: Tao, Jerome T.)
10/16/2014, 10/20/2014
Status Check: Phone Calls
Matter Continued;
No Ruling;
Matter Continued;
No Ruling;
- 10/16/2014 **Status Check** (10:30 AM) (Judicial Officer: Tao, Jerome T.)
Status Check: Jury Questionnaires
Set Status Check;
- 10/16/2014 **Motion** (10:30 AM) (Judicial Officer: Gates, Lee A.)
10/16/2014, 10/20/2014, 01/13/2015
Defendant's Motion for the Disclosure of Materials and Facts Relative to Future Prosecutions of State's Witnesses Pursuant to Giglio on an Order Shortening Time
Continued;
Matter Continued;
Motion Not Addressed;
Continued;
Matter Continued;
Motion Not Addressed;

CASE SUMMARY
CASE NO. C-10-267882-2




	Continued; Matter Continued; Motion Not Addressed;
10/16/2014	Joinder (10:30 AM) (Judicial Officer: Tao, Jerome T.) 10/16/2014, 10/20/2014 <i>Joinder to Defendant Mason's Motion to Sever or in the Alternative Request for a New Venire and Request for Evidentiary Hearing</i> Matter Continued; Withdrawn; Matter Continued; Withdrawn;
10/16/2014	Motion in Limine (10:30 AM) (Judicial Officer: Tao, Jerome T.) 10/16/2014, 10/20/2014 <i>Defendant's Motions in Limine # 1-3</i> Matter Continued; Matter Heard; Matter Continued; Matter Heard;
10/16/2014	Motion (10:30 AM) (Judicial Officer: Tao, Jerome T.) 10/16/2014, 10/20/2014 <i>Motion to Preclude the State from Conducting Background Checks on Potential Jurors Unless Results are Provided to the Defense</i> Matter Continued; Matter Resolved; Matter Continued; Matter Resolved;
10/16/2014	Motion to Vacate (10:30 AM) (Judicial Officer: Tao, Jerome T.) <i>Motion to Vacate Ex Parte Order Allowing Jury Commissioner to Conduct Background Checks on Potential Jurors for Production to the Parties on an Order Shortening Time</i> Denied;
10/16/2014	Motion to Continue Trial (10:30 AM) (Judicial Officer: Tao, Jerome T.) <i>Motion to Continue Trial Setting on an Order Shortening Time</i> Granted;
10/16/2014	Motion for Discovery (10:30 AM) (Judicial Officer: Tao, Jerome T.) 10/16/2014, 10/20/2014 <i>Ex-Parte Application for Order for Production of Medical Records</i> Matter Continued; Motion Granted; Matter Continued; Motion Granted;
10/16/2014	CANCELED Motion for Discovery (10:30 AM) (Judicial Officer: Tao, Jerome T.) <i>Vacated - On in Error</i> <i>Ex-Parte Order Releasing Clark County Detention Center Records and Reports Related to Stephanie Cousins, Monica Martinez, Jerome Thomas, Quentin White, and Dellane E. Bryant, Jr.</i>
10/16/2014	Motion for Discovery (10:30 AM) (Judicial Officer: Tao, Jerome T.) 10/16/2014, 10/20/2014 <i>Order Setting Hearing on Motion for Order Releasing Clark County Detention Center Records and Reports Related to Stephanie Cousins, Monica Martinez, Jerome Thomas, Quentin White, and Dellane D. Bryant, Jr.</i> Matter Continued; Matter Resolved; Matter Continued; Matter Resolved;

CASE SUMMARY
CASE NO. C-10-267882-2

10/16/2014	 All Pending Motions (10:30 AM) (Judicial Officer: Tao, Jerome T.) Matter Heard;
10/20/2014	CANCELED Jury Trial (9:00 AM) (Judicial Officer: Tao, Jerome T.) Vacated - per Judge Jury Trial (#1)
10/20/2014	 All Pending Motions (10:00 AM) (Judicial Officer: Tao, Jerome T.) Matter Heard; Journal Entry Details: ALL PENDING MOTIONS (BOTH DEFTS): Mr. Langford advised that he formally filed joinders to the co-defendant's Motions. DEFT'S MOTION TO DISCLOSE PAYMENTS TO WITNESSES BY CLARK COUNTY DISTRICT ATTORNEY'S OFFICE (BURNS): Mr. DiGiacomo advised that no funds have been paid on this case. Arguments by Mr. Sgro including that he would like to know if the witnesses are getting paid to come in for pre-trial. Mr. DiGiacomo advised the statutes were changed several years ago and the office policy is that no one is paid for pre-trial. Following additional arguments, Court directed the State contact VWAC to see if any payments were made and if there were, they are to be submitted to chambers for an in-camera review. Mr. Langford stated the witnesses get \$25/day and \$.56/mile which could add up to quite a bit and the concern is that the witnesses are getting paid for their testimony. Following additional colloquy, COURT ORDERED, GRANTED. DEFT'S MOTION FOR THE DISCLOSURE OF MATERIALS AND FACTS RELATIVE TO FUTURE PROSECUTIONS OF STATE'S WITNESSES PURSUANT TO GIGLIO ON AN ORDER SHORTENING TIME (BURNS): Statements by Mr. Sgro and Ms. Weckerly in support of their respective positions. As this is premature, COURT ORDERED, matter CONTINUED to calendar call. DEFT'S JOINDER TO DEFT MASON'S MOTION TO SEVER OR IN THE ALTERNATIVE REQUEST FOR A NEW VENIRE AND REQUEST FOR EVIDENTIARY HEARING (BURNS): Mr. Sgro advised this Motion is WITHDRAWN. COURT SO ORDERED. DEFT'S MOTIONS IN LIMINE #1-3: 3) TO PRECLUDE REFERENCE TO ASSEMBLY BILL 444: COURT ORDERED, GRANTED as unopposed as long as the door is not opened. 2) TO PRECLUDE LAW ENFORCEMENT FROM GIVING LAY WITNESS TESTIMONY AS TO THE IDENTITY OF THE SUSPECT ON THE SURVEILLANCE VIDEO: Arguments by Mr. Sgro in support of his position including that he feels a hearing is necessary. Arguments by Mr. DiGiacomo including that Defendant's hair is different, he is 5 years older, however, the Detectives that will speak about the video, had contact with Defendant 4 1/2 years ago. Following, Court does not feel a hearing is necessary and ORDERED, DEFERRED TO TRIAL. 3) TO PRECLUDE THE STATE FROM ADMITTING THE SIX-PACK PHOTOGRAPHIC LINEUP OF DAVID BURNS SIGNED BY DE'VONIA NEWMAN AND TO PRECLUDE THE IN-COURT IDENTIFICATION OF DEFENDANT BURNS BY NEWMAN: Arguments by Mr. Sgro as to the six-pack and feels it is unduly suggestive. Arguments by Mr. DiGiacomo. Statements by Court. As to in-Court identification, Mr. Sgro advised he addressed his concerns earlier as the Defendants will be the only African Americans at the table. Arguments by Mr. DiGiacomo. Following, COURT ORDERED, DENIED. DEFT'S MOTION TO PRECLUDE THE STATE FROM CONDUCTING BACKGROUND CHECKS ON POTENTIAL JURORS UNLESS RESULTS ARE PROVIDED TO THE DEFENSE (BURNS): Court noted what Defense wants is if the State runs checks on any of the Jurors, the information be given to them. Statements by Mr. Sgro including that he does not have access to SCOPE or NCIC and would request if the State finds out any information, that they turn it over. Continued arguments by Mr. Sgro and Mr. DiGiacomo. COURT ORDERED, any evidence of prior arrest whether or not it resulted in a conviction or any evidence uncovered from NCIC or SCOPE which indicate that a prospective Juror has lied on their questionnaire, is to be given to the Defense. DEFT'S MOTION FOR ORDER RELEASING CLARK COUNTY DETENTION CENTER RECORDS AND REPORTS RELATED TO STEPHANIE COUSINS, MONICA MARTINEZ, JEROME THOMAS, QUENTINE WHITE AND DELLANE D. BRYANT, JR: Mr. DiGiacomo advised he has issued subpoenas for all records and will submit anything that needs to be submitted to Court for in-camera review. COURT ORDERED, RESOLVED. DEFT'S EX-PARTE APPLICATION FOR ORDER FOR PRODUCTION OF MEDICAL RECORDS: Counsel agree that Mr. Thomas went to Utah under the name of Albert Davis for treatment and that Mr. Thomas did not go to UMC so there are no records. Mr. Sgro explained the need to obtain these records and requested an Order to obtain the records from Utah. Mr. DiGiacomo advised he had no objection as long as he receives a copy of the records as well. COURT ORDERED, GRANTED. DEFT'S MOTION TO COMPEL DISCLOSURE OF EXCULPATORY EVIDENCE (BURNS): Mr. DiGiacomo advised they will follow the statutory and constitutional obligations and feels this has been covered by all of the other Motions for Discovery. Mr. Sgro concurred and requested it be taken OFF CALENDAR. COURT SO ORDERED. DEFT'S MOTION TO SEVER OR IN THE ALTERNATIVE REQUEST FOR A NEW VENIRE (MASON): At request of counsel, COURT ORDERED, WITHDRAWN. DEFT'S MOTION TO SUPPRESS (MASON): Court advised this issue was discussed last week. COURT ORDERED, MOOT. Mr. Sgro advised as to Jerome Thomas, they have a letter that Defendant sent Detective Bunting, but they only have the envelope, no letter. Mr. DiGiacomo advised he does not have the letter either and will ask Detective Bunting about it. Mr. Sgro requested an updated Notice of Witnesses with the correct addresses. Ms. Weckerly advised they will provide that, however, would also like the correct addresses for the Defense witnesses as well as the underlying discovery as to the experts. As the trial has been continued, pursuant to statute, COURT ORDERED, all witnesses list are to be update with current addresses. CUSTODY ;
12/02/2014	CANCELED Status Check (8:30 AM) (Judicial Officer: Tao, Jerome T.)

CASE SUMMARY
CASE NO. C-10-267882-2

Vacated - per Judge
Status Check: Jury Questionnaires

12/11/2014	<p>Motion (8:30 AM) (Judicial Officer: Tao, Jerome T.) 12/11/2014, 12/18/2014 <i>Defendant's Motion to Place on Calendar for Status Check on Return of In Camera Review of CPS Records</i> Matter Continued; Matter Heard; Matter Continued; Matter Heard;</p>
12/11/2014	<p>Motion for Discovery (8:30 AM) (Judicial Officer: Tao, Jerome T.) 12/11/2014, 12/18/2014 <i>Defendant's Motion for Discovery</i> Matter Continued; Matter Heard; Matter Continued; Matter Heard;</p>
12/11/2014	<p> All Pending Motions (8:30 AM) (Judicial Officer: Tao, Jerome T.) Matter Continued; Journal Entry Details: <i>DEFENDANT'S MOTION TO PLACE ON CALENDAR FOR STATUS CHECK ON RETURN OF IN CAMERA CPS RECORDS...DEFENDANT'S MOTION FOR DISCOVERY Court noted it received word that this matter was to be continued. Ms. Kollins advised Ms. Weckerly was going to appear. MATTER TRAILED AND RECALLED: Court noted it is at the end of the calendar and Ms. Weckerly has not appeared. There being another matter set next week, COURT ORDERED, today's matters are CONTINEUD to next week as well. CUSTODY ... CONTINUED 12/18/14 8:30 AM ;</i></p>
12/18/2014	<p>Motion to Strike (8:30 AM) (Judicial Officer: Tao, Jerome T.) <i>State's Notice of Motion and Motion to Strike Defendant's Expert Notice, or in the Alternative, Motion for Discovery</i> Matter Heard;</p>
12/18/2014	<p> All Pending Motions (8:30 AM) (Judicial Officer: Tao, Jerome T.) Matter Heard; Journal Entry Details: <i>STATE'S MOTION TO STRIKE DEFENDANT'S EXPERT NOTICE, OR IN THE ALTERNATIVE, MOTION FOR DISCOVERY...DEFENDANT'S MOTION FOR DISCOVERY...DEFENDANT'S MOTION TO PLACE ON CALENDAR FOR STATUS CHECK ON RETURN OF IN CAMERA REVIEW OF CPS RECORDS AS TO MOTION TO STRIKE: Court noted this motion relates to the Fetal Alcohol Syndrome experts. Mr. Sgro advised they would comply with the 21 day statute, but was concerned if the trial was going to be re-set due to this Court's appointment. Court advised Sr. Judge Thompson is going to hear this trial. Ms. Weckerly stated that as long as they receive the materials by 12/30, she is fine. Mr. Sgro stated he will do his best to get the material to the State. Following colloquy, COURT ORDERED, matter set for status check. AS TO DISCOVERY. Mr. Sgro advised there is no issue. AS TO CPS RECORDS: Mr. Sgro requested this Court turn over what is has reviewed. Following colloquy, Mr. Sgro suggested that the records be turned over to them and the State for review and if they feel something is too sensitive, they can bring it up to Judge Thompson. Ms. Weckerly had no objection. Court noted that there has been nothing in the records he has reviewed. COURT ORDERED, CPS records to be turned over to Mr. Sgro's Office. CUSTODY 1/6/15 8:30 AM STATUS CHECK: ALL OUTSTANDING DISCOVER ISSUES ;</i></p>
01/06/2015	<p>Status Check (9:30 AM) (Judicial Officer: Thompson, Charles) <i>Status Check: All Outstanding Discovery Issues</i> Matter Heard;</p>
01/06/2015	<p>Status Check (9:30 AM) (Judicial Officer: Thompson, Charles) <i>Status Check: Jury Questionnaires</i> Matter Heard;</p>
01/06/2015	<p> All Pending Motions (9:30 AM) (Judicial Officer: Thompson, Charles) Matter Heard; Journal Entry Details:</p>

CASE SUMMARY**CASE NO. C-10-267882-2**

STATUS CHECK: ALL OUTSTANDING DISCOVERY ISSUES (BOTH)...STATUS CHECK: JURY QUESTIONNAIRES (BOTH) Colloquy as to scheduling. Counsel agreed to return this afternoon. Mr. Sgro advised there is still a discovery issue, that there are several things that still have not been received. Additionally, Mr. Sgro advised he received a Supplemental Notice of Aggravating Circumstances yesterday that includes some of this outstanding discovery. Further, there is an issue that the Notice of Expert Witnesses was filed one day late. Colloquy as to Jury questionnaires. Court advised there are 49 prospective Jurors that all parties agree to be excused. Further, this Court will not be granting all of the Jurors that any side wants to excuse. Mr. Sgro objects to the panel of 150 as there are not enough African Americans in the panel. Mr. Sgro would like the whole panel brought in prior to their being excused to see exactly how many African Americans there were on the panel. Statements by Mr. DiGiacomo. Court noted that if they are excused, they will not have to appear. Continued arguments by Mr. Sgro as to systematic under representation. **MATTER TRAILED. 3:48 PM MATTER RECALLED:** Items of discovery still needed by Mr. Sgro: 1) Mr. Sgro would like the medical records of Jerome Thomas from Utah. Ms. Weckerly advised they never received any records, that at the time of the search warrant, it was discovered that Mr. Thomas used an alias in Utah and that the only thing they have is the face sheet that shows the alias name and possibly an x-ray. Following colloquy, Mr. Sgro to prepare an Order for those records. Further, Mr. Sgro advised Mr. Thomas is incarcerated in San Bernardino and they are trying to get him here for trial. Court so noted. 2) Mr. Sgro advised they have an envelope from Jerome Thomas to Detective Bunting with no letter and would like a copy of the letter. Following colloquy, Ms. Weckerly will contact Detective Bunting today and inquire about the letter. 3) Mr. Sgro requested updated contact information as to the State's witnesses as they are still listed on Michael Lane, which is 4 years old and incorrect. Conference at the Bench. Pursuant to that conference, Ms. Weckerly will provide the best information she has by the end of the week. 4) Mr. Sgro advised he does have some jail phone call records, however, he does not have the "gaps of time" listed on page 4 of his Motion. Following colloquy, Ms. Weckerly advised they will tell counsel what phone calls they intend to use one week prior to trial and will check with Mr. DiGiacomo as to the "missing" content. 5) Mr. Sgro advised there were photographs shown to witnesses during their interviews and would like those. Ms. Weckerly advised this is not an identity case as there is a testifying co-defendant, however, she will speak with Detectives to find out what photos they used during the interviews. 6) Mr. Sgro advised Cornelius Mayo has picked up 2 felony cases since this case and would like to know what benefit he received. Ms. Weckerly advised they have discussed with Mr. Mayo as well as his counsel and the benefit is that they are not proceeding on those two cases until he testifies. Mr. Sgro advised he is concerned that there is nothing in writing. Ms. Weckerly concurred, there is no written agreement. Colloquy as to counsel meeting in chambers on Friday at 8:30 AM. As to Jury Questionnaires: Court noted each counsel submitted a list of the Prospective Jurors they would like excused, however, it will not grant all of them. Court advised the Jury Commissioner will be notified to EXCUSE the following Prospective Jurors (in numerical order): 029, 096, 098, 102, 115, 122, 126, 130, 147, 167, 172, 184, 185, 194, 196, 215, 292, 312, 324, 327, 332, 335, 346, 350, 356, 370, 372, 378, 397, 402, 408, 423, 426, 432, 438, 454, 458, 461, 468, 473, 479, 481, 500, 508, 516, 517, 518, 526, 534, 543, 546, 551, 555, 571, 580, 610, 615, 632, 638, 639, 654, 677, 682, 695, 701, 703, 709, 714, 726, 742, 759, 769, 772 and 776. Mr. Sgro requested an additional 4 peremptory challenges for both sides, 2 for each Defendant and 4 for the State. Following colloquy, Court DENIED request. Court advised there will be 3 Alternates and that they need to pass 35 Jurors for cause. Mr. Oram advised he has a Federal sentencing the morning of 1/26 and requested to start trial at 1:00 PM. Following colloquy, **COURT SO ORDERED. CUSTODY 1/9/15 8:30 AM STATUS CHECK: DISCOVERY (in chambers) 1/20/15 1:00 PM JURY TRIAL ;**

01/09/2015

**At Request of Court (8:30 AM)** (Judicial Officer: Thompson, Charles)*At Request of Court: Discovery*

Matter Heard; At Request of the Court: Discovery

Journal Entry Details:

Defendants Mason and Burns were not present. Initially the Court met with the following counsel in Chambers: Marc DiGiacomo and Pam Weckerly for the State of Nevada; Robert Langford for Deft Mason; Christopher Oram, Anthony P. Sgro, and Melinda Weaver for Deft Burns. The following issues were discussed: 1) Prospective Jurors Excused: Court advised that two additional Prospective Jurors (Badge No. 335 and 772) are being excused by the Court. Court cited the reasons and counsel so stipulated. COURT NOTED there remains seventy-five prospective jurors for voir dire and a listing was provided to all counsel. 2) Outstanding Discovery Issues: A. Envelope contents - Mr. Sgro advised he had still not received the contents of the envelope that was previously discussed. Mr. DiGiacomo represented there was no recollection of the actual letters/correspondence included in the envelope, but there's the conclusion that it consisted of correspondence between Martinez to Jobloc(sp?), nothing from Jerome Thomas. Mr. Sgro accepted Mr. DiGiacomo's representation that the envelope contents were probably filed away without incident and there was no recollection of it. Mr. DiGiacomo reiterated that Mr. Sgro has been given all discovery. B. Availability of a CD disc of the Interview with "Monica" - Mr. Oram requested this and Mr. DiGiacomo stated that a special program will be required in order to transfer it to a disc. Mr. Oram stated he will arrange a contact with Mr. DiGiacomo's office to get this accomplished. C. Telephone Records - Mr. Sgro requested the State make a representation on record about the telephone call records. Mr. DiGiacomo confirmed that the State received the subpoena but all telephone records prior to 4/5/11 are not available. He noted that "Stephanie's conversation" was given to Mr. Sgro. Mr. Langford confirmed he did not represent Deft Mason at that time; there was another lawyer of record and those records are privileged. 3) Mr. Sgro's "Ex-Parte Order to Receive MRI (FILED UNDER SEAL)", previously signed by Judge Tao - Mr. Sgro advised that Deft Burns needs to be transported for an MRI as recommended by his doctor. COURT ADVISED it will place on the record that the Court Clerk is to file the signed order in Open Court. 4) Mr. Sgro's "Order for Production of Medical Records" for Albert Davis aka Jerome Thomas -

CASE SUMMARY

CASE NO. C-10-267882-2

Court signed the order and returned it to Mr. Sgro for filing. 4) Trial Scheduling Issues: Both Mr. Sgro and Mr. Langford presented requests for trial scheduling changes. Mr. Sgro requested dark days of Feb. 2nd and 3rd and Mr. Langford requested a dark day of Feb. 27th. COURT SO NOTED. All counsel agreed that the trial can still remain on schedule for completion since the Jury Questionnaires have helped alleviate time for voir dire. COURT ADVISED of the trial schedule for the first four days during which voir dire will be conducted. The dates are noted below and have been entered into Odyssey. (Mr. Langford left the meeting at this time.) 5) Discussion held regarding cell phone expert Larry Smith. Both sides agreed that Smith was an expert in cell phones and "phone dumps" and will be called at trial for testimony. COURT ORDERED a short recess, after which the case was called in the Dept 20 courtroom and was placed on the JAVS recording system. COURT ORDERED, the "EX-PARTE ORDER TO RECEIVE MRI (FILED UNDER SEAL)", to be FILED IN OPEN COURT at this time. HEARING CONCLUDED. CUSTODY (MASON and BURNS) 1/13/15 8:30 AM Calendar Call 1/20/15 1:00 PM Jury Trial Start 1/21/15 9:30 AM Jury Trial Continuance 1/22/15 10:00 AM Jury Trial Continuance 1/23/15 9:00 AM Jury Trial Continuance ;

01/13/2015  **Minute Order (7:00 AM)** (Judicial Officer: Thompson, Charles)

Minute Order - No Hearing Held;


Journal Entry Details:

Court has received a request from Dr. Phillip Larsen to excuse Juror Sharon Kurgin. Pursuant to that request, Court advised Juror #599 is excused.;

01/13/2015 **Calendar Call (8:30 AM)** (Judicial Officer: Gates, Lee A.)

Calendar Call (#1)


Matter Heard;

01/13/2015  **All Pending Motions (8:30 AM)** (Judicial Officer: Gates, Lee A.)

Matter Heard;

Journal Entry Details:

CALENDAR CALL (#1)...DEFENDANT'S MOTION FOR THE DISCLOSURE OF MATERIALS AND FACTS RELATIVE FUTURE PROSECUTIONS OF STATE'S WITNESSES PURSUANT TO GIGLIO ON AN ORDER SHORTENING TIME Court Service Officer advised Deft Mason refused to come to Court today. Upon Court's inquiry, Mr. Sgro advised the State had until today to let them know if they were going to use any jail calls as to either Defendant; that the understanding is they are not as to Deft. Burns and that there are 10 calls pertaining to Deft Mason out of San Bernardino. Mr. DiGiacomo concurred that they will not use any of the phone calls unless Defense opens the door. Counsel advised they were ready for trial. Court noted Jury selection is set to begin at 1:00 PM on Tuesday, January 20, 2015. Further, Deft's Motion not addressed. CUSTODY 1/20/15 1:00 PM JURY TRIAL ;

01/20/2015  **Jury Trial (1:00 PM)** (Judicial Officer: Thompson, Charles)

01/20/2015-01/23/2015, 01/26/2015-01/30/2015, 02/05/2015-02/06/2015, 02/09/2015-02/13/2015, 02/17/2015

Jury Trial (#1)

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Jury Deliberating;

Jury Deliberating;

Verdict;

Journal Entry Details:

9:00 AM Jury arrives to continue deliberations. 4:27 PM OUTSIDE PRESENCE OF THE JURY: Court advised while the Jury was deliberating on Friday, they had a question and wanted a read back of Monica Martinez' testimony. Upon clarification from the Jury and after a conference call with counsel, 2 discs were made of the testimony of Monica Martinez, 1/28/15 (marked Court's 18) and 1/29/15 (marked Court's 19). Today, during deliberations, the Jury wanted clarification as to Count 5, counsel were summoned to chambers and an answer was sent in by the Court. 4:33 PM JURY PRESENT: Court noted the Jury, the Defendants and counsel, except for Mr. Sgro, were present. Jury

CASE SUMMARY

CASE NO. C-10-267882-2

Foreperson advised they had reached a verdict. Clerk read the following: AS TO DEFT MASON: COUNT 1 - Conspiracy to Commit Robbery - GUILTY; COUNT 2 - Conspiracy to Commit Murder - GUILTY; COUNT 3 - Burglary While in Possession of a Firearm - GUILTY; COUNT 4 - Robbery With Use of a Deadly Weapon - GUILTY; COUNT 5 - Murder With Use of a Deadly Weapon - GUILTY of FIRST DEGREE MURDER WITH USE OF A DEADLY WEAPON. SPECIAL VERDICT: The Jury unanimously finds the murder was committed during the perpetration of a robbery and/or burglary; COUNT 6 - Robbery With Use of a Deadly Weapon (DeVonia Newman) - GUILTY; COUNT 7 - Attempt Murder With Use of a Deadly Weapon - GUILTY, and; COUNT 8 - Battery With a Deadly Weapon Resulting in Substantial Bodily Harm - GUILTY. AS TO DEFT BURNS: COUNT 1 - Conspiracy to Commit Robbery - GUILTY; COUNT 2 - Conspiracy to Commit Murder - GUILTY; COUNT 3 - Burglary While in Possession of a Firearm - GUILTY; COUNT 4 - Robbery With Use of a Deadly Weapon - GUILTY; COUNT 5 - Murder With Use of a Deadly Weapon - GUILTY of FIRST DEGREE MURDER WITH USE OF A DEADLY WEAPON. SPECIAL VERDICT: 1) The Jury unanimously finds the murder was committed during the perpetration of a robbery and/or burglary and 2) The Jury does not unanimously find the Defendant guilty under a single theory of Murder of the First Degree; COUNT 6 - Robbery with Use of a Deadly Weapon (DeVonia Newman) - GUILTY; COUNT 7 - Attempt Murder With Use of a Deadly Weapon - GUILTY and; COUNT 8 - Battery With a Deadly Weapon Resulting in Substantial Bodily Harm - GUILTY. At request of Mr. Oram, the Jury was polled. Court advised the Jury they do not need to hear a Penalty Phase due to the Stipulation that was filed 2/9. Court thanked and excused the Jury. Court referred the matter to the Division of Parole and Probation for Pre-sentence Investigation Reports and ORDERED, set for sentencing. CUSTODY (BOTH) 4/9/15 8:30 AM SENTENCING (BOTH) ;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Jury Deliberating;

Jury Deliberating;

Verdict;

Journal Entry Details:

9:00 AM Jury arrives to continue deliberations. 4:15 PM There being no verdict, the Jury was EXCUSED for the weekend and directed to report Tuesday at 9:00 am. EVENING RECESS. ... CONTINUED 2/17/15 9:00 AM ;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Jury Deliberating;

Jury Deliberating;

Verdict;

Journal Entry Details:

9:46 AM JURY PRESENT: Court noted the Jury, the Defendants and all counsel were present. Closing arguments by Mr. Sgro. 10:33 AM BREAK. 10:47 AM JURY PRESENT: Court noted all present as before. Closing arguments continued by Mr. Sgro. 11:30 AM BREAK. 11:42 AM JURY PRESENT: Court noted all present as before. Closing arguments by Mr. DiGiacomo. 12:46 PM Jury retired to deliberate. Court excused the Alternate but advised her she would be on call. 4:30 PM EVENING RECESS. ... CONTINUED 2/13/15 9:00 AM ;

Trial Continues;

CASE SUMMARY
CASE No. C-10-267882-2

9:38 AM OUTSIDE PRESENCE OF JURY: Statements by Mr. Sgro as to exhibit #309 and feels it needs to be redacted. Arguments by Mr. DiGiacomo. Following, COURT ORDERED, State's exhibit #309 to be redacted (the first two pages need to be removed). 9:59 AM JURY PRESENT: Court noted the Jury, the Defendants and all counsel are present. Testimony and exhibits continued (see worksheets). 12:40 AM LUNCH BREAK. 1:57 PM OUTSIDE PRESENCE OF JURY: Discussion by counsel as to letters the State wants to introduce. Arguments by Mr. DiGiacomo and Mr. Sgro. Following, Court advised State's Proposed #337, #338, #340, #336 and #344 will not be admitted. 2:09

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9:27 AM OUTSIDE PRESENCE OF JURY: Mr. Sgro advised the State stipulates to the admission of Defense U which is a report for gunshot residue on Cornelius Mayo. Ms. Weckerly concurred. 9:40 AM JURY PRESENT: Court noted the Jury, the Defendants and all counsel are present. Testimony and exhibits continued (see worksheets). 12:38 PM LUNCH BREAK. 1:55 PM OUTSIDE PRESENCE OF JURORS: Court advised counsel that one of the Jurors needs to leave by 5:00 PM today to fly out for a funeral. Mr. Oram advised they just received a 911 call about Stephanie

CASE SUMMARY

CASE NO. C-10-267882-2

Cousins and would object as they will not have a chance to cross examine Ms. Cousins. Arguments by Mr. DiGiacomo including that the daughter of Stephanie Cousins, who made the call, will be in Court. Following continued arguments by Mr. Sgro, Mr. Oram and Mr. DiGiacomo, COURT ORDERED, it will be received. 2:07 PM JURY PRESENT: Court noted all present as before. Testimony and exhibits continued (see worksheets). 3:37 PM JURY EXCUSED. OUTSIDE PRESENCE OF JURY: Mr. DiGiacomo expects Det. Bunting to testify Monday or Tuesday and advised the Defense needs to let him know the portions they want redacted from the statement. Mr. Sgro advised he objects to colloquy by Police but has no objection to a question followed by an answer. Following, Court directed Mr. Sgro to provide by Sunday morning. EVENING RECESS. ... CONTINUED 2/9/15 9:30 AM ;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

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Trial Continues;

Trial Continues;

Trial Continues;

Jury Deliberating;

Jury Deliberating;

Verdict;

Journal Entry Details:

9:45 AM OUTSIDE PRESENCE OF JURY: Mr. Sgro advised that two children will be testifying and is concerned of hearsay statements. Mr. DiGiacomo and Ms. Weckerly promised they would not elicit any hearsay statements. Statements by Mr. Sgro as to the Tool Mark Expert. COURT ORDERED, ruling reserved. Court advised it received a call from Juror #1, Kelly Rowan and due to medical issues with her husband, Court has excused her and Alternate #1 will be placed in her seat. 10:03 AM JURY PRESENT: Court advised Juror #1, Kelly Rowan has been excused and Alternate #1 was placed in seat #1 and sworn as part of the Jury. Court advised the Jury, the Defendants and all counsel are present. Testimony and exhibits continued (see worksheets). 12:02 PM LUNCH BREAK. 1:04 PM JURY PRESENT: Court advised all present as before. 1:25 PM BREAK. 1:35 PM OUTSIDE PRESENCE OF JURY: Court advised Juror #7, Mary Paradis has taken ill and is excused. Alternate #1 Cindy Arnold will move into seat 7. 1:37 PM JURY PRESENT: Court advised as Ms. Paradis is ill, she is excused and Alternate Cindy Arnold will be sworn and sit in seat #7. Testimony and exhibits continued (see worksheets). 3:18 PM OUTSIDE PRESENCE OF JURY: Mr. Sgro moved for mistrial as he feels Mr. DiGiacomo suggested burden shifting. Following statements by Mr. Sgro and Mr. DiGiacomo, Court DENIED request for mistrial. Mr. Sgro requested a curative instruction be given to the Jury upon their return. Mr. DiGiacomo had no objection. 3:34 PM JURY PRESENT: Court noted all present as before. Testimony and exhibits continued (see worksheets). 5:26 PM EVENING RECESS. ... CONTINUED 2/6/15 9:30 AM ;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Jury Deliberating;

Jury Deliberating;

Verdict;

Journal Entry Details:

9:38 AM JURY PRESENT: Court noted the Defendants, the Jury and all counsel are present. Testimony and exhibits continued (see worksheets). 11:00 AM OUTSIDE PRESENCE OF JURORS: Mr. Sgro objected to Courtroom decorum of Mr. DiGiacomo. Court noted that all counsel are to act properly in Court. Mr. Sgro requested a hearing as to the jail letters, as they were told the District Attorney tells the jail when and when not to copy the letters. Mr. DiGiacomo argued that the Homicide Detectives direct the jail as to the copying of letters, that his homicide book is opened on the

CASE SUMMARY

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table and that Mr. Sgro has every piece of paper that he has. 11:21 AM JURY PRESENT: Court noted all present as before. 12:04 PM LUNCH BREAK. 1:24 PM OUTSIDE PRESENCE OF JURORS: Statements by Mr. Oram and Mr. DiGiacomo as to the testimony of D. Rowland. Following, Court OVER RULED objection. Mr. Langford moved again for severance based on the fact that he just learned that the next witness D. Rowland is now going to finger Deft Mason as the shooter and not Deft Burns. Arguments by Mr. Sgro and Mr. DiGiacomo. Following, COURT ORDERED, Motion to Sever is DENIED. 1:44 PM JURY PRESENT: Court noted all present as before. Testimony and exhibits continued (see worksheets). 2:58 PM OUTSIDE PRESENCE OF JURORS: Court noted it appeared that witness D. Rowland was less than truthful. Arguments by Mr. DiGiacomo and Mr. Sgro in support of their positions as to the Crowley case and statutes 51.035 and 51.325 and the admission of D. Rowland's Grand Jury testimony. Following, Court advised it is admissible. 3:14 PM JURY PRESENT: Court noted all present as before. Testimony and exhibits continued (see worksheets). 3:30 PM EVENING RECESS. ... CONTINUED 2/5/15 9:30 AM ;

Trial Continues;

Trial Continues;

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Trial Continues;

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Trial Continues;

Trial Continues;

Jury Deliberating;

Jury Deliberating;

Verdict;

Journal Entry Details:

9:43 AM JURY PRESENT: Court advised the Defendants, Jurors and all counsel were present. Testimony continues (see worksheets). 11:57 AM LUNCH BREAK. OUTSIDE PRESENCE OF JURY: Court advised upon review, the ruling as to Monica Martinez being unchained is REVERSED and ORDERED, that she will be unchained upon her return to the stand. 1:06 PM JURY PRESENT: Court noted all present as before. Testimony and exhibits continued (see worksheets). 4:37 PM Jury released for the evening. OUTSIDE PRESENCE OF JURY: Mr. DiGiacomo advised it appears that Mr. Oram is going to elicit the hearsay statements of Job-loc. Arguments by Mr. Oram in support of his position. Colloquy as to co-conspirator statements. Following, Court advised the statements will be allowed. EVENING RECESS. ... CONTINUED 1/30/15 9:30 AM ;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

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Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Jury Deliberating;

Jury Deliberating;

Verdict;

Journal Entry Details:

9:26 AM OUTSIDE PRESENCE OF JURY: Mr. Sgro advised that co-offender Monica Martinez's attorneys have been present during the proceedings and is concerned they will speak to their client about what has been happening. Statements by Mr. DiGiacomo and Mr. Oram. 9:36 AM JURY PRESENT: Court noted the presence of counsel, the Defendants and the Jury. Testimony and exhibits continued (see worksheets). 10:56 AM OUTSIDE PRESENCE OF JURY: Statements by Mr. Oram as to a continuing objection without having to explain objection each time during the testimony of Ms. Cousins. Court so noted. 11:11 AM JURY PRESENT: Court noted all present as before. Testimony and exhibits continued (see worksheets). LUNCH BREAK. OUTSIDE PRESENCE OF JURY: Mr. DiGiacomo is offering exhibit #274, Monica Martinez's interview, that they have redacted it down to 5 1/2 hours. No objections by Mr. Langford. Objections by Mr. Oram as he does not feel it is admissible. Following colloquy, Court OVERRULED

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objection. Mr. Langford advised he is joining in the objection as to the confrontation clause. Mr. Sgro stated he has sent out several subpoenas to Ms. Martinez's family member, does not know what they look like and requested to know the identity of the male in the back row. Upon inquiry, male advised he was the Uncle of Ms. Martinez. 1:09 PM JURY PRESENT: Court noted all present as before. Testimony and exhibits continued (see worksheets). 2:43 PM OUTSIDE PRESENCE OF JURY: Mr. Sgro requested Ms. Martinez be unshackled for the cross examination. Court DENIED request. 3:02 PM JURY PRESENT: Court noted all present as before. Testimony and exhibits continued (see worksheets). 4:29 PM Jury excused. OUTSIDE PRESENCE OF JURY: Mr. Langford requested Ms. Martinez be unshackled. Following colloquy, Court DENIED request. EVENING RECESS. ... CONTINUED 1/29/15 9:30 AM ;

Trial Continues;

Trial Continues;

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Trial Continues;

Trial Continues;

Trial Continues;

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Trial Continues;

Trial Continues;

Jury Deliberating;

Jury Deliberating;

Verdict;

Journal Entry Details:

10:08 AM JURY PRESENT: Court noted all counsel, Defendants and the Jury panel are present. Introductions by Court. Superseding Indictment read by the Clerk. Opening statements by Ms. Weckerly and Mr. Sgro. OUTSIDE PRESENCE OF THE JURY: Ms. Weckerly advised Mr. Sgro used the word "guilty" in his opening statement and noted that when the State used this word in their opening statement, in another case, the case was reversed. LUNCH BREAK. 1:08 PM JURY PRESENT: Court noted all present as before. Opening statement by Mr. Langford. Testimony and exhibits presented (see worksheets). 2:40 PM OUTSIDE PRESENCE OF JURY: Mr. Oram advised there is a part of Monica's recorded statement where she refers to the name of the gang and would like that part redacted. Statements by Mr. DiGiacomo. Following, COURT ORDERED, the reference to the gang name will be redacted. 2:48 PM JURY PRESENT: Court noted all present as before. Testimony and exhibits continued (see worksheets). 4:25 PM Jury excused. OUTSIDE PRESENCE OF JURY: Colloquy as to page 213 of Monica's statement. COURT ORDERED, that page does not need to be redacted, only what was discussed earlier. EVENING RECESS. ... CONTINUED 1/28/15 9:30 AM ;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Jury Deliberating;

Jury Deliberating;

Verdict;

Journal Entry Details:

8:53 AM OUTSIDE PRESENCE OF PROSPECTIVE ALTERNATE JURORS: Court advised it has completed the selection of 12 Jurors; that it has gone through the list of 50 Prospective Juror Questionnaires and advised the Prospective Jurors that are being excused based on their answers as to the death penalty, etc. After the excusals, Court advised there are 23 remaining Prospective Jurors and this Court feels that they will be able to pass 7 to obtain the 3 Alternate Jurors. 9:45 AM PROSPECTIVE ALTERNATE JURORS PRESENT: Introductions by Court and counsel. Voir dire administered to the panel. Jury selection begins. 10:54 AM BREAK 11:22 AM OUTSIDE PRESENCE OF PROSPECTIVE ALTERNATE JURORS: Juror #666 was brought in and questioned and as he is a Felon, he was EXCUSED. Arguments by Mr. Sgro as to Juror #645 being passed for cause and would again challenge. Statements by

CASE SUMMARY

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Mr. DiGiacomo. Court DENIED challenge. 11:27 AM PROSPECTIVE ALTERNATE JURORS PRESENT: Jury selection continues. 12:05 PM LUNCH. OUTSIDE PRESENCE OF PROSPECTIVE ALTERNATE JURORS: Mr. DiGiacomo advised there are 5 African Americans on the panel today, bringing the total to 14 African Americans and advised there is no basis for a hearing. 1:18 PM PROSPECTIVE ALTERNATE JURORS PRESENT: Jury selection continues. 2:54 PM 3 Alternate Jurors were selected and sworn. Court excused remaining prospective Jurors. The Alternates were directed to come back tomorrow at 10:00 AM. EVENING RECESS. ... CONTINUED 1/27/15 10:00 AM ;

Trial Continues;

Trial Continues;

Trial Continues;

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Trial Continues;

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Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Jury Deliberating;

Jury Deliberating;

Verdict;

Journal Entry Details:

9:13 AM OUTSIDE PRESENCE OR PROSPECTIVE JURORS: Court advised counsel of the Jurors that are not present today. 9:25 AM PROSPECTIVE JURORS PRESENT: Introductions by Court and counsel. Voir dire administered to panel. Jury selection begins. 10:58 AM OUTSIDE PRESENCE OF PROSPECTIVE JURORS: Mr. Sgro requested to challenge for cause Prospective Jurors #509 and #521. Arguments by Mr. Sgro and Mr. DiGiacomo. Court DENIED challenge. 11:17 AM PROSPECTIVE JURORS PRESENT: Jury selection continues. 12:23 PM LUNCH BREAK. 1:26 PM PROSPECTIVE JURORS PRESENT: Jury selection continues. 3:07 PM OUTSIDE PRESENCE OF PROSPECTIVE JURORS: Mr. DiGiacomo advised the panel today consisted of at least 2 African Americans. 3:19 PM PROSPECTIVE JURORS PRESENT: Jury selection continues. 4:11 PM OUTSIDE PRESENCE OF PROSPECTIVE JURORS: Court noted 28 Prospective Jurors have been passed for cause, each side has 8 Peremptory Challenges. Batson challenge as to Prospective Juror #91. Following arguments by Mr. Sgro and Mr. DiGiacomo, Court DENIED challenge. 4:28 PM PROSPECTIVE JURORS PRESENT: 12 Jurors selected and sworn. Court thanked and excused the remaining panel. Jurors were directed to report on Tuesday, 1/27 at 10:00 AM. ...CONTINUED 1/26/15 9:00 AM ;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Jury Deliberating;

Jury Deliberating;

Verdict;

Journal Entry Details:

9:26 AM OUTSIDE PRSENCE OF PROSPECTIVE JURORS: Counsel stipulated to the dismissal of Prospective Jurors #496 and #367. Court advised it is also excusing Prospective Juror #469. Arguments by Mr. Langford as to #496. Following COURT ORDERED, Prospective Jurors #367 and #469 are EXCUSED. Mr. Sgro argued for more Peremptory Challenges and if the Court is not going to grant that, then would request a severance so that Mr. Langford can get the Jury that he wants. Arguments by Mr. DiGiacomo including there is no basis to change the statute and no basis for the severance. COURT ORDERED, request DENIED. Mr. Sgro advised he had provided some additional records to the State; that there is an Order for an MRI, however, the Jail will not tell them when or where it will be. Statements by Mr. DiGiacomo. 9:54 AM PROSPECTIVE JURORS PRESENT: Introductions by Court and

CASE SUMMARY

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counsel. Voir dire administered to panel. Jury selection begins. 11:50 AM LUNCH BREAK. OUTSIDE PRESENCE OF PROSPECTIVE JURORS: Court noted that after the panel was given the voir dire, the JEA advised that Prospective Juror #494 showed up and was advised to return with the panel tomorrow. Colloquy as to the Jury selection schedule. 1:07 PM PROSPECTIVE JURORS PRESENT: Jury selection continues. 2:29 PM OUTSIDE PRESENCE OF PROSPECTIVE JURORS: Mr. Sgro challenged #521 based on the answers given to questions by Mr. Langford. Statements by Mr. Oram and Mr. DiGiacomo. Following, challenge DENIED. 2:49 PM PROSPECTIVE JURORS PRESENT: Jury selection continues. Jurors passed for cause were directed to return tomorrow, 1/23 at 3:30 PM. OUTSIDE PRESENCE OF PROSPECTIVE JURORS: Court noted that it would pass 28 Jurors by Friday and pick the 12 members of the Jury from them and then on Monday, another panel will be brought in to pass 7 to pick the 3 Alternates. Objections stated by Mr. Sgro. EVENING RECESS. ... CONTINUED 1/23/15 9:00 AM ;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Jury Deliberating;

Jury Deliberating;

Verdict;

Journal Entry Details:

9:30 AM OUTSIDE PRESENCE OF PROSPECTIVE JURORS: Colloquy as to the jail calls of Monica Martinez and Stephanie Cousins from October 2011 to present, from August 2010 to 2011, the Jail had a different carrier and those records could not be produced. Mr. Sgro requested the State provide these if they have them. Mr. DiGiacomo advised he has provided the calls from April 2011 to present pursuant to the dates listed on Mr. Sgro's Motion. Colloquy as to Prospective Jurors #289, #315 and #280 being excused. 9:50 AM PROSPECTIVE JURORS PRESENT: Introductions by Court and counsel. Voir Dire administered to panel. Jury selection begins. 11:46 AM OUTSIDE PRESENCE OF PROSPECTIVE JURORS: Mr. DiGiacomo advised there were 2 African Americans on this panel. Ms. Weckerly advised of the other minorities also on the panel. LUNCH BREAK. 12:59 PM OUTSIDE PRESENCE OF PROSPECTIVE JURORS: Parties stipulate to excuse Prospective Juror #201. COURT SO ORDERED. 1:02 PM PROSPECTIVE JURORS PRESENT: Jury selection continues. OUTSIDE PRESENCE OF PROSPECTIVE JURORS: COURT ORDERED, by stipulation, Prospective Jurors #280, #315, #289 and #295 are EXCUSED. 1:59 PM PROSPECTIVE JURORS PRESENT: Jury selection continues. 3:41 PM Court directed the Prospective Jurors that were passed for cause, to return on Friday, January 23rd at 3:30 PM. OUTSIDE PRESENCE OF PROSPECTIVE JURORS: Mr. Langford advised the Prospective Jurors excused today because of their answers/beliefs as to the death penalty, would have been good jurors for Deft Mason. Court so noted. EVENING RECESS. ... CONTINUED 1/22/15 9:30 AM ;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Jury Deliberating;

Jury Deliberating;


Verdict;

Journal Entry Details:

OUTSIDE PRESENCE OF PROSPECTIVE JURORS: Mr. Oram provided 2 folders of California Youth records, one of which is 512 pages and the other is 616 pages to the State. 1:20 PM PROSPECTIVE JURORS PRESENT:

CASE SUMMARY
CASE NO. C-10-267882-2


Introductions by Court and counsel. Jury selection begins. 2:56 PM OUTSIDE PRESENCE OF PROSPECTIVE JURORS: Mr. Langford advised he knows Prospective Juror #101 as they worked together at the Sport Chalet. Statements by Mr. Sgro and requested this Juror be excused. Court DENIED request at this time. Mr. Sgro requested Prospective Juror #93 be excused based on her husband's upcoming surgery. Objections by Mr. DiGiacomo. Court advised based on her answers to the questions, it does not rise to the level for excusal for cause. Further, Mr. Sgro advised there are 3 African Americans on this panel, and that he still is requesting a hearing as to the issue of not enough African Americans on the panel. Court so noted. Mr. Oram advised they have received 4,000 phone calls from the State. 3:28 PM PROSPECTIVE JURORS PRESENT: Jury selection continues. 6:15 PM Prospective Jurors that were passed are excused and directed to return on Friday at 3:30 PM. COURT ORDERED, EVENING RECESS. ... CONTINUED 1/21/15 9:30 AM ;

02/05/2015  **Motion** (8:30 AM) (Judicial Officer: Thompson, Charles)

Deft Burns' Motion in Limine to Prohibit the Presentation of a Summary Regarding the Course of Investigation
Motion Denied;

Journal Entry Details:

Arguments by Mr. Oram and Mr. DiGiacomo in support of their respective positions. Mr. Langford advised that he has joined in this Motion. Following additional arguments, COURT ORDERED, Motion DENIED. CUSTODY ;

04/09/2015  **Sentencing** (8:30 AM) (Judicial Officer: Thompson, Charles)

04/09/2015, 04/23/2015

Matter Continued;

Defendant Sentenced;

Journal Entry Details:

Sentencing Memorandum FILED IN OPEN COURT (under seal). Following statements by counsel and Defendant. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, and \$35.00 Domestic Violence fee, Deft. SENTENCED as follows to counts: 1. CONSPIRACY TO COMMIT ROBBERY (F), a MAXIMUM of SEVENTY TWO (72) MONTHS and MINIMUM of TWELVE (12) MONTHS in the Nevada Department of Corrections (NDC). 2. CONSPIRACY TO COMMIT MURDER (F), a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS and MINIMUM TWENTY FOUR (24) MONTHS in the Nevada Department of Corrections (NDC). 3. BURGLARY WHILE IN POSSESSION OF A FIREARM, a MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS and MINIMUM TWENTY FOUR (24) MONTHS in the Nevada Department of Corrections (NDC). 4. ROBBERY WITH USE OF DEADLY WEAPON (F), a MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS and MINIMUM TWENTY FOUR (24) MONTHS in the Nevada Department of Corrections (NDC) plus enhancement of a CONSECUTIVE term of a MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS and MINIMUM TWENTY FOUR (24) MONTHS in the Nevada Department of Corrections (NDC) for use of a deadly weapon. 5. FIRST DEGREE MURDER WITH USE OF A DEADLY WEAPON (F), LIFE WITHOUT PAROLE plus enhancement of MAXIMUM of TWO HUNDRED FORTY (240) MONTHS and MINIMUM FORTY (40) MONTHS in the Nevada Department of Corrections (NDC) for use of a deadly weapon. 6. ROBBERY WITH USE OF A DEADLY WEAPON (F), a MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS and MINIMUM TWENTY FOUR (24) MONTHS in the Nevada Department of Corrections (NDC) plus enhancement of a CONSECUTIVE term of a MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS and MINIMUM TWENTY FOUR (24) MONTHS in the Nevada Department of Corrections (NDC) for use of a deadly weapon. 7. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (F), a MAXIMUM of TWO HUNDRED FORTY (240) MONTHS and MINIMUM FORTY EIGHT (48) MONTHS in the Nevada Department of Corrections (NDC) plus enhancement of a CONSECUTIVE term of a MAXIMUM of TWO HUNDRED FORTY (240) MONTHS and MINIMUM FORTY (40) MONTHS in the Nevada Department of Corrections (NDC) for use of a deadly weapon. 8. BATTERY WITH A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (F), a MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS and MINIMUM TWENTY FOUR (24) MONTHS in the Nevada Department of Corrections (NDC). with 1,671 days CREDIT FOR TIME SERVED. COUNTS 1,2,3,4 to run CONCURRENT with Count 5. Counts 6 & 8 to run CONCURRENT with Count 7. Count 7 to run CONSECUTIVE to Count 5. NDC ;

Matter Continued;

Defendant Sentenced;

Journal Entry Details:

Court noted that counsel want a continuance. Mr. Oram concurred and requested two weeks. Ms. Weckerly had no objection. COURT ORDERED, matter CONTINUED TWO (2) WEEKS. CUSTODY ... CONTINUED 4/23/15 8:30 AM ;

02/16/2016 **Petition for Writ of Habeas Corpus** (8:30 AM) (Judicial Officer: Johnson, Eric)

Events: 10/29/2015 Order for Petition for Writ of Habeas Corpus



Defendant's Pro Per Petition for Writ of Habeas Corpus

Denied;

02/16/2016 **Motion for Appointment of Attorney** (8:30 AM) (Judicial Officer: Johnson, Eric)

CASE SUMMARY





CASE NO. C-10-267882-2

	<i>Defendant's Pro Per Motion to Appoint Counsel</i> Motion Denied;
02/16/2016	Motion (8:30 AM) (Judicial Officer: Johnson, Eric) <i>Defendant's Pro Per Motion to Withdraw Counsel</i> Motion Granted;
02/16/2016	Motion (8:30 AM) (Judicial Officer: Johnson, Eric) <i>Defendant's Pro Per Motion for Production of Documents, Papers, Pleadings and Tangible Property of Defendant</i> Motion Denied;
02/16/2016	Request (8:30 AM) (Judicial Officer: Johnson, Eric) <i>Defendant's Requesting the Court Give a Evidentiary Hearing on Issues Listed in Writ of Habeas Corpus</i> Denied;
02/16/2016	 All Pending Motions (8:30 AM) (Judicial Officer: Johnson, Eric) Matter Heard; Journal Entry Details: <i>Court noted Defendant is in prison and not present today and proffered several Motions. AS TO DEFENDANT'S PRO PER MOTION: ...TO WITHDRAW COUNSEL: COURT ORDERED, GRANTED. ...TO APPOINT COUNSEL: Court noted it received the State's response; that there are no difficult issues, Defendant is able to comprehend the proceedings and does not need counsel as there is no additional discovery. Therefore, COURT ORDERED, DENIED. ...PETITION FOR WRIT OF HABEAS CORPUS: Court noted grounds 1,2,3,10,12,14 & 15 pertain to instances of prosecutorial misconduct, however, these should have been raised in direct appeal and not in a post-conviction writ. As to ground 4: Counsel was Ineffective for Failing to Object or Raise on Direct Appeal an Alleged Instance of "Witness Coaching": Defendant contends counsel was ineffective for not objecting to this. However, the Court advised it had been watching the lawyers in the back and had not seen them do anything that could be interpreted as witness coaching. As to ground 5: Counsel was Ineffective for Failing to Raise Prosecutorial and Police Misconduct on Direct Appeal: Counsel cannot be deemed ineffective for failing to raise this issue on direct appeal, as Defendant waived his appellate rights. Additionally, Defendant failed to show how the outcome of the trial would have been different and does not cite to where in the record these alleged statements by the witness were made and did not attach the interview to the exhibit. As to ground 6: Counsel was Ineffective for Failing to Raise Prosecutorial Misconduct on Direct Appeal: Defendant waived his appellate rights, thus it would have been futile to file an appeal. As to ground 7: Counsel was Ineffective for Failing to Raise Mental Disabilities for Removal of the Death Penalty as Defendant Stipulated to a Sentence of Life Without Parole: Defendant's claims are belied by the record, the death penalty was removed as a possible option. Further, Defendant failed to present any evidence that he qualifies as intellectually disabled as described by Atkins v Virginia. As to ground 8: Counsel was Ineffective for Discussing Stephanie Cousin's Statements to the Police: Court noted it is a strategic decision by defense counsel as to what to ask the Detectives and witnesses. Further, Bruton does not apply to non-testimonial statements like a statement of a co-conspirator, so her testimony would not violate his confrontation rights. As to ground 9: Counsel was Ineffective as Defendant Waived his Right to a Direct Appeal and Defendant had no right to Counsel for a Post-Conviction Habeas Petition: Defendant waived his right to a direct appeal, thus counsel cannot be deemed ineffective for failing to file one. As to ground 11: Counsel was Ineffective for Failing to Object as the Prosecutor Made Fair Comments on the Evidence Presented During Closing Argument: Defendant claims his counsel was ineffective for not objecting to the Prosecutor "injecting his own opinion of facts not in evidence". However, Defendant's claims are belied by the record and are without merit. Further, Defendant cannot show any prejudice suffered as a result of these arguments. As to ground 13: Counsel was Ineffective for Failing to Object at Trial or for Failing to Cross Examine Witnesses about an Alleged Lie about Defendant's Mental Issues: Defendant's claim is essentially about the alleged failures to cross-examine a particular witness about an issue. However, these claims relate to trial strategy, which is "virtually unchallengeable". Further, Defendant cannot show prejudice and fails to prove how the outcome of his trial would have been different. For all the above reasons, COURT ORDERED, Pro Per Petition DENIED. ... FOR PRODUCTION OF DOCUMENTS, PAPERS, PLEADINGS AND TANGIBLE PROPERTY OF DEFENDANT: COURT ORDERED, DENIED. DEFENDANT'S REQUESTING THE COURT GIVE A EVIDENTIARY HEARING ON ISSUES LISTED IN WRIT OF HABEAS CORPUS: COURT ORDERED, DENIED. NDC ;</i>
03/30/2017	 Confirmation of Counsel (9:00 AM) (Judicial Officer: Johnson, Eric) Counsel Confirmed; Journal Entry Details: <i>Court noted Defendant is in prison and not present today. Upon Court's inquiry, Mr. Resch advised he can confirm as counsel of record. COURT SO ORDERED. Mr. Resch requested a status check in sixty days to set a briefing schedule after he reviews the file. Ms. Rose had no objection. COURT ORDERED, matter SET for status check in SIXTY (60) DAYS. NDC 6/1/17 9:00 AM STATUS CHECK: SET BRIEFING SCHEDULE;</i>

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. C-10-267882-2

06/01/2017	 Status Check (9:00 AM) (Judicial Officer: Johnson, Eric) <i>Status Check: Set Briefing Schedule</i> Briefing Schedule Set; Journal Entry Details: <i>Defendant is in prison and not present today. Upon Court's inquiry, Mr. Resch advised he has reviewed all the pleadings, however, he needs to have the sentencing transcript prepared. Mr. Resch requested at least 6 months for his brief. Following colloquy, COURT ORDERED the following briefing schedule: Mr. Resch to file by 11/30; The State to respond by 1/16; Mr. Resch to reply by 2/16 and matter SET for argument. NDC 3/8/18 9:00 AM ARGUMENT;</i>
04/17/2018	 Argument (8:30 AM) (Judicial Officer: Johnson, Eric) Hearing Set; Journal Entry Details: <i>Defendant is in prison and not present today. Arguments in support of the Petition including requesting an Evidentiary Hearing by Mr. Resch. Objections by Mr. DiGiacomo. Following, Court noted it does not see a lot in terms of an Evidentiary Hearing, however, due to the conviction and significant sentence, Court will grant an Evidentiary Hearing to explore whether or not there were certain understandings or misleading's by trial counsel to the Defendant as to the issue of direct appeal and you can question trial counsel as to other decisions that were made during the course of trial, but it will not be opened up as to ineffectiveness of counsel. Upon inquiry, counsel feel the hearing will take 2-3 hours. COURT ORDERED, matter SET for hearing. NDC 6/29/18 8:30 AM EVIDENTIARY HEARING;</i>
06/29/2018	CANCELED Evidentiary Hearing (8:30 AM) (Judicial Officer: Johnson, Eric) <i>Vacated</i>
07/18/2018	 Status Check (8:30 AM) (Judicial Officer: Leavitt, Michelle) Hearing Set; Journal Entry Details: <i>Deft. not present. Upon Court's inquiry, Mr. Resch requested to set an Evidentiary Hearing the week of September 18, 2018. Mr. Pesci had no objection. COURT ORDERED, matter SET for Evidentiary Hearing. NDC 9/20/18 10:30 AM EVIDENTIARY HEARING;</i>
09/20/2018	 Evidentiary Hearing (10:30 AM) (Judicial Officer: Leavitt, Michelle) Matter Heard; Journal Entry Details: <i>Deft. present in custody. Court noted this evidentiary hearing is a limited hearing as to one claim on whether or not Deft. was denied a direct appeal. Anthony Sgro, Esq., and Christopher Oram, Esq., provided sworn testimony. Deft. David Burns, sworn and testified. Mr. Resch made arguments regarding testimony provided by Mr. Sgro, Mr. Oram and Deft; and further argued regarding Deft. having tried to explain to his attorneys as to issues for appeal. Ms. Bluth opposed the Petition; and argued as to written stipulation at trial. Court noted neither attorneys were asked whether there was misconduct during closing arguments, discussions were made about habeas relief, and there were no discussions that the Court heard, as to direct appeal or appellate rights that survived the stipulation. Further arguments by Mr. Resch as to possible misunderstanding. COURT ORDERED, Deft's Petition DENIED. Discussions as to no final order having been done yet addressing everything. State to prepare the order from today's proceedings. Court advised Deft. he has the right to appeal the decision made today. Upon Court's inquiry, Deft. confirmed he understands this. Mr. Resch to continue to represent Deft. on appeal. Mr. Resch noted he will submit an order regarding him remaining on the case. NDC;</i>
03/10/2020	Status Check (8:30 AM) (Judicial Officer: Leavitt, Michelle) <i>Regarding Supreme Court Order</i> Matter Heard; Regarding Supreme Court Order Journal Entry Details: <i>Defendant not present. Upon Court's inquiry, Mr. Resch confirmed he is happy to do the appeal and has prepared the proposed Findings, which includes an Order of Appointment. COURT ORDERED, Mr. Resch APPOINTED to handle the direct appeal.;</i>

DATE

FINANCIAL INFORMATION

Defendant Burns, David James	
Total Charges	60.00
Total Payments and Credits	0.00
Balance Due as of 3/17/2020	60.00

CASE SUMMARY

CASE NO. C-10-267882-2


CLERK OF THE COURT

JOC

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

DAVID JAMES BURNES
aka D-Shot
#2757610

Defendant.

CASE NO. C267882-2

DEPT. NO. XX

JUDGMENT OF CONVICTION
(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of
COUNT 1 – CONSPIRACY TO COMMIT ROBBERY (Category B Felony) in violation of
NRS 199.480, 200.380; COUNT 2 – CONSPIRACY TO COMMIT MURDER (Category
B Felony) in violation of NRS 199.480, 200.010, 200.030; COUNT 3 – BURGLARY
WHILE IN POSSESSION OF A FIREARM (Category B Felony) in violation of NRS
205.060; COUNTS 4 & 6 – ROBBERY WITH USE OF A DEADLY WEAPON (Category
B Felony) in violation of NRS 200.380, 193.165; COUNT 5 – MURDER WITH USE OF
A DEADLY WEAPON (Category A Felony) in violation of NRS 200.010, 200.03;
COUNT 7 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B

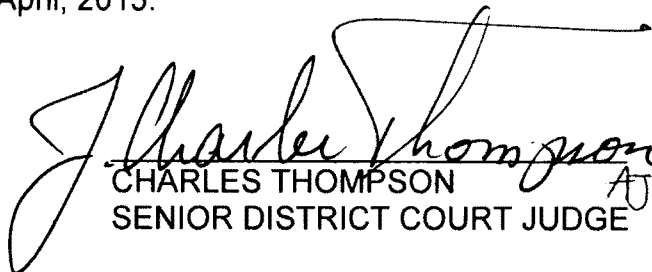
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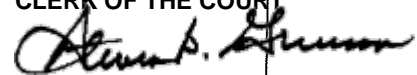
1 Felony) in violation of NRS 200.010, 200.030, 193.165, 193.330; and COUNT 8 –
2 BATTERY WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of
3 NRS 200.481; and the matter having been tried before a jury and the Defendant
4 having been found guilty of said crimes; thereafter, on the 23rd day of April, 2015, the
5 Defendant was present in court for sentencing with his counsel, ANTHONY SGRO,
6 ESQ., and good cause appearing,

7
8 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense(s) and, in
9 addition to the \$25.00 Administrative Assessment Fee, \$35.00 Domestic Violence Fee
10 and \$150.00 DNA Analysis Fee including testing to determine genetic markers, plus a
11 \$3.00 DNA Collection Fee, the Defendant is SENTENCED to the Nevada Department of
12 Corrections (NDC) as follows: AS TO **COUNT 1** - TO A MAXIMUM of SEVENTY-TWO
13 (72) MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS; AS TO
14 **COUNT 2** - TO A MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a
15 MINIMUM Parole Eligibility of TWENTY-FOUR (24) MONTHS; AS TO **COUNT 3** - TO A
16 MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS with a MINIMUM Parole
17 Eligibility of TWENTY-FOUR (24) MONTHS; AS TO **COUNT 4** – TO A MAXIMUM of
18 ONE HUNDRED EIGHTY (180) MONTHS with a MINIMUM Parole Eligibility of
19 TWENTY-FOUR (24) MONTHS, plus a CONSECUTIVE term of ONE HUNDRED
20 EIGHTY (180) MONTHS with a MINIMUM parole eligibility of TWENTY-FOUR (24)
21 MONTHS for use of a deadly weapon; AS TO **COUNT 5** – LIFE WITHOUT parole, plus
22 a CONSECUTIVE term of TWO HUNDRED FORTY (240) MONTHS with a MINIMUM
23 Parole Eligibility of FORTY (40) MONTHS for use of a deadly weapon; AS TO
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1 **COUNT 6** - TO A MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS with a
2 MINIMUM Parole Eligibility of TWENTY-FOUR (24) MONTHS, plus a CONSECUTIVE
3 term of ONE HUNDRED EIGHTY (180) MONTHS with a MINIMUM parole eligibility of
4 TWENTY-FOUR (24) MONTHS for use of a deadly weapon; AS TO **COUNT 7** - TO A
5 MAXIMUM of TWO HUNDRED FORTY (240) MONTHS with a MINIMUM Parole
6 Eligibility of FORTY-EIGHT (48) MONTHS plus a CONSECUTIVE term of TWO
7 HUNDRED FORTY (240) MONTHS with a MINIMUM parole eligibility of FORTY (40)
8 MONTHS for use of a deadly weapon; AND AS TO **COUNT 8** - TO A MAXIMUM of
9 ONE HUNDRED EIGHTY (180) MONTHS with a MINIMUM Parole Eligibility of
10 TWENTY-FOUR (24) MONTHS; with ONE THOUSAND SIX HUNDRED SEVENTY-
11 ONE (1,671) DAYS credit for time served. COUNTS 1, 2, 3 & 4 to run
12 CONCURRENT with Count 5, COUNTS 6 & 8 to run CONCURRENT with Count 7;
13 and COUNT 8 to run CONSECUTIVE to Count 5.
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17
18 DATED this 70th day of April, 2015.

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21 
22 CHARLES THOMPSON
23 SENIOR DISTRICT COURT JUDGE
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27
28



1 **FCL**

2 RESCH LAW, PLLC d/b/a Conviction Solutions

3 By: Jamie J. Resch

4 Nevada Bar Number 7154

5 2620 Regatta Dr., Suite 102

6 Las Vegas, Nevada, 89128

7 Telephone (702) 483-7360

8 Facsimile (800) 481-7113

9 Jresch@convictionsolutions.com

10 Attorney for Petitioner

DISTRICT COURT

CLARK COUNTY, NEVADA

11 DAVID BURNS,

12 Petitioner,

13 vs.

14 THE STATE OF NEVADA,

15 Respondent.

Case No.: C-10-267882-2

Dept. No: XII

**FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND ORDER GRANTING PETITION
FOR WRIT OF HABEAS CORPUS (POST-
CONVICTION)**

Date of Hearing: March 10, 2020

Time of Hearing: 8:30 a.m.

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20 This cause having come on for hearing before the Honorable Michelle Leavitt, District
21 Court Judge, on March 10, 2020, the Petitioner in the custody of the Nevada Department of
22 Corrections and represented by his court-appointed attorney of record, Jamie J. Resch, Esq., and
23 Respondent represented by Steven B. Wolfson, District Attorney, by and through a deputy
24 district attorney, and the Court having considered the matter, including previously filed briefs,
25 arguments, and documents on file herein, and the Nevada Supreme Court's Order of Remand,
26 and now therefore makes the following findings of facts and conclusions of law:
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28

Conviction Solutions
2620 Regatta Dr., Suite 102
Las Vegas, Nevada 89128

FINDINGS OF FACT

1. In a post-conviction petition filed November 27, 2017, Burns alleged among other claims that he had been denied his right to a direct appeal. In the Findings of Fact, Conclusions of Law, and Order denying the petition dated October 25, 2018, the District Court determined that counsel was not ineffective for failing to file a notice of appeal after Burns' conviction and sentence, and that Burns never asked his trial attorneys to file a direct appeal.

2. In a decision dated January 23, 2020, the Nevada Supreme Court reversed and remanded the denial of post-conviction relief on the issue of denial of a direct appeal. The Nevada Supreme Court held that "Counsel's duty to file a notice of appeal when one is requested is not affected by the perceived merits of the defendant's claims on appeal. Burns' request required counsel to prepare a notice of appeal." The case was remanded to this Court to provide "the relief set forth in NRAP 4(c)."

3. One such finding required by the Rules of Appellate Procedure and specifically NRAP 4(c) is that the post-conviction petition that asserts the appeal deprivation claim was timely. The Court here finds Burns's petition was in fact timely, as the November 27, 2017 petition was supplemental to a timely filed original petition dated October 13, 2015.

4. Another finding required by the rule is whether petitioner has established a valid appeal-deprivation claim and is entitled to a direct appeal with assistance of appointed or retained counsel. Burns has so established this as well, because the Nevada Supreme Court's decision on appeal from the denial of post-conviction relief says so. Burns has established ineffective assistance of counsel and presumed prejudice arising therefrom on his claim that he was deprived of a direct appeal.

CONCLUSIONS OF LAW

1. "In all criminal prosecutions, the accused shall enjoy the right to...have the Assistance of Counsel for his defense." U.S. Const. amend. VI. "[T]he right to counsel is the right to the effective assistance of counsel." Strickland v. Washington, 466 U.S. 668, 686 (1984). In Nevada, the appropriate vehicle for review of whether counsel was effective is a post-conviction relief proceeding. McKague v. Warden, 112 Nev. 159, 912 P.2d 255, 258 at n. 4 (1996). In order to assert a claim for ineffective assistance of counsel, the petitioner must prove that he was denied "reasonably effective assistance" of counsel by satisfying the two-pronged test set forth in Strickland. See State v. Love, 109 Nev. 1136, 865 P.2d 322, 323 (1993). Under Strickland, the defendant must show that his counsel's representation fell below an objective standard of reasonableness, and that, absent those errors, there is a reasonable probability that the result of the proceedings would have been different. Strickland, 466 U.S. at 697.

2. Trial counsel has a duty to file a direct appeal when the client's desire to challenge the conviction or sentence can be reasonably inferred from the totality of the circumstances, focusing on what counsel knew or should have known at the time. Toston v. State, 127 Nev. Adv. Op. 87, 267 P.3d 795 (2011), see also Davis v. State, 115 Nev. 17, 974 P.2d 658, 660 (1999) ("[I]f the client does express a desire to appeal, counsel is obligated to file the notice of appeal on the client's behalf"). Prejudice is presumed for purposes of establishing the ineffective assistance of counsel when counsel's conduct completely denies a convicted defendant of a direct appeal. Toston, 267 P.3d at 800, citing Lozada v. State, 110 Nev. 349, 871 P.2d 944, 949 (1994).

1 3. The Court therefore finds, as directed by the Nevada Supreme Court, that Petitioner
2 received ineffective assistance of counsel because a direct appeal was requested and counsel
3 failed to file a timely notice of appeal. As a result, Petitioner suffered presumed prejudice due to
4 the complete loss of an opportunity to present a direct appeal.
5

6 4. NRAP 4(c) provides that an untimely notice of appeal from a judgment of conviction and
7 sentence may be filed when "[a] post-conviction petition for a writ of habeas corpus has been
8 timely and properly filed in accordance with the provisions of NRS 34.720 to NRS 34.830,
9 asserting a viable claim that the petitioner was unlawfully deprived of the right to a timely direct
10 appeal from a judgment of conviction and sentence, and [t]he district court in which the petition
11 is considered enters a written order containing...specific findings of fact and conclusions of law
12 finding that the petitioner has established a valid appeal-deprivation claim and is entitled to a
13 direct appeal with the assistance of appointed or retained appellate counsel..." NRAP 4(c)(1)(a)-
14 (b). This order satisfies those requirements.
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ORDER

IT IS HEREBY ORDERED that Petitioner David Burns's Petition for Writ of Habeas Corpus is **GRANTED**, and the Court finds Petitioner was unlawfully deprived of the right to a timely direct appeal from a judgment of conviction and sentence in District Court Case C-10-267882-2, and;

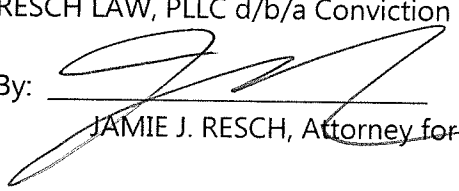
IT IS FURTHER ORDERED that Petitioner having previously been found to be indigent is appointed counsel to represent him on his direct appeal. Jamie Resch, Esq. is authorized to continue to represent David Burns on direct appeal, and;

IT IS FURTHER ORDERED that the District Court Clerk shall prepare and file within five (5) days of the entry of this order a notice of appeal from the judgment of conviction and sentence on the petitioner's behalf. Pursuant to NRAP 4(c)(2), the District Court Clerk shall serve certified copies of the district court's written order and the notice of appeal required by Rule 4(c) on the petitioner and petitioner's counsel in the post-conviction proceeding, the respondent, the Attorney General, the district attorney of the county in which the petitioner was convicted (Clark County, Nevada), the appellate counsel appointed to represent the petitioner in the direct appeal, and the clerk of the Supreme Court.

Dated this 10 day of March, 2020.


HONORABLE DISTRICT COURT JUDGE

Submitted By:
RESCH LAW, PLLC d/b/a Conviction Solutions

By: 
JAMIE J. RESCH, Attorney for Petitioner



NEO

**DISTRICT COURT
CLARK COUNTY, NEVADA**

DAVID BURNS,

Petitioner,

vs.

THE STATE OF NEVADA,

Respondent,

Case No: C-10-267882-2

Dept No: XII

**NOTICE OF ENTRY OF FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER**

PLEASE TAKE NOTICE that on March 12, 2020, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on March 17, 2020.

STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Heather Ungermann

Heather Ungermann, Deputy Clerk

CERTIFICATE OF E-SERVICE / MAILING

I hereby certify that on this 17 day of March 2020, I served a copy of this Notice of Entry on the following:

☒ By e-mail:

Clark County District Attorney's Office
Attorney General's Office – Appellate Division-

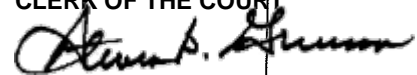
☒ The United States mail addressed as follows:

David Burns # 1139521
P.O. Box 1989
Ely, NV 89301

Jamie J. Resch, Esq.
2620 Regatta Dr., Suite 102
Las Vegas, NV 89128

/s/ Heather Ungermann

Heather Ungermann, Deputy Clerk



1 **FCL**

2 RESCH LAW, PLLC d/b/a Conviction Solutions

3 By: Jamie J. Resch

4 Nevada Bar Number 7154

5 2620 Regatta Dr., Suite 102

6 Las Vegas, Nevada, 89128

7 Telephone (702) 483-7360

8 Facsimile (800) 481-7113

9 Jresch@convictionsolutions.com

10 Attorney for Petitioner

11 DISTRICT COURT

12 CLARK COUNTY, NEVADA

13 DAVID BURNS,

14 Petitioner,

15 vs.

16 THE STATE OF NEVADA,

17 Respondent.

Case No.: C-10-267882-2

Dept. No: XII

**FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND ORDER GRANTING PETITION
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Date of Hearing: March 10, 2020

Time of Hearing: 8:30 a.m.

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20 This cause having come on for hearing before the Honorable Michelle Leavitt, District
21 Court Judge, on March 10, 2020, the Petitioner in the custody of the Nevada Department of
22 Corrections and represented by his court-appointed attorney of record, Jamie J. Resch, Esq., and
23 Respondent represented by Steven B. Wolfson, District Attorney, by and through a deputy
24 district attorney, and the Court having considered the matter, including previously filed briefs,
25 arguments, and documents on file herein, and the Nevada Supreme Court's Order of Remand,
26 and now therefore makes the following findings of facts and conclusions of law:
27
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FINDINGS OF FACT

1. In a post-conviction petition filed November 27, 2017, Burns alleged among other claims that he had been denied his right to a direct appeal. In the Findings of Fact, Conclusions of Law, and Order denying the petition dated October 25, 2018, the District Court determined that counsel was not ineffective for failing to file a notice of appeal after Burns' conviction and sentence, and that Burns never asked his trial attorneys to file a direct appeal.

2. In a decision dated January 23, 2020, the Nevada Supreme Court reversed and remanded the denial of post-conviction relief on the issue of denial of a direct appeal. The Nevada Supreme Court held that "Counsel's duty to file a notice of appeal when one is requested is not affected by the perceived merits of the defendant's claims on appeal. Burns' request required counsel to prepare a notice of appeal." The case was remanded to this Court to provide "the relief set forth in NRAP 4(c)."

3. One such finding required by the Rules of Appellate Procedure and specifically NRAP 4(c) is that the post-conviction petition that asserts the appeal deprivation claim was timely. The Court here finds Burns's petition was in fact timely, as the November 27, 2017 petition was supplemental to a timely filed original petition dated October 13, 2015.

4. Another finding required by the rule is whether petitioner has established a valid appeal-deprivation claim and is entitled to a direct appeal with assistance of appointed or retained counsel. Burns has so established this as well, because the Nevada Supreme Court's decision on appeal from the denial of post-conviction relief says so. Burns has established ineffective assistance of counsel and presumed prejudice arising therefrom on his claim that he was deprived of a direct appeal.

CONCLUSIONS OF LAW

1. "In all criminal prosecutions, the accused shall enjoy the right to...have the Assistance of Counsel for his defense." U.S. Const. amend. VI. "[T]he right to counsel is the right to the effective assistance of counsel." Strickland v. Washington, 466 U.S. 668, 686 (1984). In Nevada, the appropriate vehicle for review of whether counsel was effective is a post-conviction relief proceeding. McKague v. Warden, 112 Nev. 159, 912 P.2d 255, 258 at n. 4 (1996). In order to assert a claim for ineffective assistance of counsel, the petitioner must prove that he was denied "reasonably effective assistance" of counsel by satisfying the two-pronged test set forth in Strickland. See State v. Love, 109 Nev. 1136, 865 P.2d 322, 323 (1993). Under Strickland, the defendant must show that his counsel's representation fell below an objective standard of reasonableness, and that, absent those errors, there is a reasonable probability that the result of the proceedings would have been different. Strickland, 466 U.S. at 697.

2. Trial counsel has a duty to file a direct appeal when the client's desire to challenge the conviction or sentence can be reasonably inferred from the totality of the circumstances, focusing on what counsel knew or should have known at the time. Toston v. State, 127 Nev. Adv. Op. 87, 267 P.3d 795 (2011), see also Davis v. State, 115 Nev. 17, 974 P.2d 658, 660 (1999) ("[I]f the client does express a desire to appeal, counsel is obligated to file the notice of appeal on the client's behalf"). Prejudice is presumed for purposes of establishing the ineffective assistance of counsel when counsel's conduct completely denies a convicted defendant of a direct appeal. Toston, 267 P.3d at 800, citing Lozada v. State, 110 Nev. 349, 871 P.2d 944, 949 (1994).

1 3. The Court therefore finds, as directed by the Nevada Supreme Court, that Petitioner
2 received ineffective assistance of counsel because a direct appeal was requested and counsel
3 failed to file a timely notice of appeal. As a result, Petitioner suffered presumed prejudice due to
4 the complete loss of an opportunity to present a direct appeal.
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6 4. NRAP 4(c) provides that an untimely notice of appeal from a judgment of conviction and
7 sentence may be filed when "[a] post-conviction petition for a writ of habeas corpus has been
8 timely and properly filed in accordance with the provisions of NRS 34.720 to NRS 34.830,
9 asserting a viable claim that the petitioner was unlawfully deprived of the right to a timely direct
10 appeal from a judgment of conviction and sentence, and [t]he district court in which the petition
11 is considered enters a written order containing...specific findings of fact and conclusions of law
12 finding that the petitioner has established a valid appeal-deprivation claim and is entitled to a
13 direct appeal with the assistance of appointed or retained appellate counsel..." NRAP 4(c)(1)(a)-
14 (b). This order satisfies those requirements.
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ORDER

IT IS HEREBY ORDERED that Petitioner David Burns's Petition for Writ of Habeas Corpus is **GRANTED**, and the Court finds Petitioner was unlawfully deprived of the right to a timely direct appeal from a judgment of conviction and sentence in District Court Case C-10-267882-2, and;

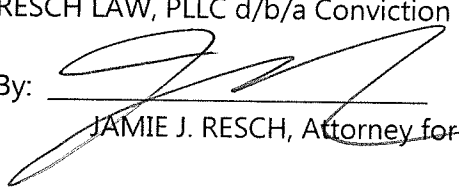
IT IS FURTHER ORDERED that Petitioner having previously been found to be indigent is appointed counsel to represent him on his direct appeal. Jamie Resch, Esq. is authorized to continue to represent David Burns on direct appeal, and;

IT IS FURTHER ORDERED that the District Court Clerk shall prepare and file within five (5) days of the entry of this order a notice of appeal from the judgment of conviction and sentence on the petitioner's behalf. Pursuant to NRAP 4(c)(2), the District Court Clerk shall serve certified copies of the district court's written order and the notice of appeal required by Rule 4(c) on the petitioner and petitioner's counsel in the post-conviction proceeding, the respondent, the Attorney General, the district attorney of the county in which the petitioner was convicted (Clark County, Nevada), the appellate counsel appointed to represent the petitioner in the direct appeal, and the clerk of the Supreme Court.

Dated this 10 day of March, 2020.


HONORABLE DISTRICT COURT JUDGE

Submitted By:
RESCH LAW, PLLC d/b/a Conviction Solutions

By: 
JAMIE J. RESCH, Attorney for Petitioner

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 13, 2010

C-10-267882-2 State of Nevada
 vs
 David Burns

October 13, 2010 11:45 AM Grand Jury Indictment

HEARD BY: Bell, Linda Marie

COURTROOM: RJC Courtroom 15C

COURT CLERK: Tina Hurd

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- David Schubert, DDA, and Pamela Weckerly, DDA, present for the State of Nevada.
- Chris Farrell, Grand Jury Foreperson, stated to the Court that at least twelve members had concurred in the return of the true bill during deliberation, but had been excused for presentation to the Court. State presented Grand Jury Case Number 10AGJ054B-C to the Court. COURT ORDERED, the Indictment may be filed and is assigned Case Numbers as follow:

C267882-2 - Burns

C267882-3 - Cousins

Said cases are assigned to Department 4. Ms. Weckerly requested warrants and argued bail. COURT ORDERED, ARREST WARRANTS WILL ISSUE, NO BAIL for Deft. Burns and BAIL SET AT \$1.5 million for Deft. Cousins. Matter set for arraignment. Exhibit(s) 1-25 previously lodged with Clerk of District Court on 9-29-10. Exhibit(s) 1a and 26 lodged with Clerk of District Court.

WARRANT (CUSTODY - BOTH)

10-21-10 9:00 AM INITIAL ARRAIGNMENT (DEPT. 4 - BOTH)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 26, 2010

C-10-267882-2 State of Nevada
 vs
 David Burns

October 26, 2010 9:00 AM Indictment Warrant Return

HEARD BY: Hardcastle, Kathy

COURTROOM: RJC Courtroom 10D

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	BURNS, DAVID	Defendant
	Di Giacomo, Marc P.	Attorney
	Powell, Jonathan L.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- ARRAIGNMENT (BURNS)

DEFT. BURNS ARRAIGNED, PLED NOT GUILTY, and WAIVED the 60-DAY RULE. COURT ORDERED, matter set for trial.

CUSTODY

10/11/11 9:00 AM CALENDAR CALL

10/17/11 10:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 23, 2010

C-10-267882-2 State of Nevada
 vs
 David Burns

November 23, 2010 9:00 AM Motion

HEARD BY: Hardcastle, Kathy

COURTROOM: RJC Courtroom 10D

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	BURNS, DAVID	Defendant
	Di Giacomo, Marc P.	Attorney
	Powell, Jonathan L.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- DEFT'S AMENDED MOTION FOR EXTENSION OF TIME TO FILE PETITION FOR WRIT OF HABEAS CORPUS

Counsel advised they have been a trial for the last 3 weeks and requested 14 additional days to file writ. COURT ORDERED, Motion GRANTED for 21 ADDITIONAL DAYS FROM TODAY.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 02, 2010

C-10-267882-2 State of Nevada
 vs
 David Burns

December 02, 2010 9:00 AM Joinder

HEARD BY: Hardcastle, Kathy

COURTROOM: RJC Courtroom 10D

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- DEFT'S MOTION TO PRESERVE AND PRODUCE EVIDENCE ESPECIALLY POTENTIALLY EXCULPATORY EVIDENCE ...DEFT'S PETITION FOR WRIT OF HABEAS CORPUS

Arguments by counsel as to Motion to Preserve and Produce. COURT noted any any exculpatory evidence that State becomes aware of they are required to produce, but they are not required to go out and investigate for the defense to see if the possibility exists. Following statements and argument of counsel. COURT ORDERED as follows:

1. Any exculpatory evidence must be revealed, all written or recorded statements, memos, summaries or videos that have already been prepared, or prepared before going to trial must be produced.
2. Court will allow counsel to go through State and detective files for names and contact information of witnesses, and interview detective, but there is no guarantee that the information will be in the file.
3. Court will allow criminal histories of Deft's, co- defendants and insofar as felony convictions of victims or potential witnesses. Mr. Powell requested if State runs SCOPE on any potential juror that

they be provided that information and COURT ORDERED, request DENIED.

4. Statements made by Defendants regarding the case that will be or could be used by the State needs to be revealed to the Defendants, but noted that casual statements during transport back and forth will not be considered a violation of Courts ruling.
5. State to provide whatever autopsy reports and medical records, they have to defense.
6. Any forensic evidence State has in file Deft. can look at and reports to be provided.
7. Informants names and addresses do not need to be produced unless they provide exculpatory evidence or they will a witness at trial.
8. All reports, maps, documentation will be produced pursuant to statute.
9. All photos, line-ups, copies, 91, tape and CAB record can be subpoenaed to the Police Department.
10. Whatever criminal history of Defendant State is aware of will be provided.
11. Information on hypothesis has been use or attempted on any witness is DENIED.
12. Charts, maps concerning cellular tower is DENIED except what they present at trial or whatever is in the detectives files or State's files.
13. If digital imaging or enhancement are used will be provided.

As for documentation of overt criminal acts not specified in the Indictment, State noted they will file a separate motion on that issue. COURT SO NOTED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 18, 2011

C-10-267882-2 State of Nevada
vs
David Burns

**January 18, 2011 9:00 AM Petition for Writ of Habeas
Corpus**

HEARD BY: Hardcastle, Kathy

COURTROOM: RJC Courtroom 10D

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	BURNS, DAVID	Defendant
	Oram, Christopher R	Attorney
	Sgro, Anthony Patrick	Attorney
	State of Nevada	Plaintiff
	Weckerly, Pamela C	Attorney

JOURNAL ENTRIES

- DEFT'S PETITION FOR WRIT OF HABEAS CORPUS

Arguments by counsel. COURT stated findings and ORDERED, Writ is DENIED.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 04, 2011

C-10-267882-2 State of Nevada
 vs
 David Burns

October 04, 2011 8:30 AM Motion to Continue Trial

HEARD BY: Tao, Jerome T. **COURTROOM:** RJC Courtroom 10D

COURT CLERK: Monique Alberto

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT: BURNS, DAVID Defendant
 Di Giacomo, Marc P. Attorney
 Sgro, Anthony Patrick Attorney
 State of Nevada Plaintiff
 Weckerly, Pamela C Attorney

JOURNAL ENTRIES

- There being no opposition, COURT ORDERED, motion to continue trial GRANTED; trial date VACATED and RESET.

CUSTODY

8/21/11 8:30 A.M. CALENDAR CALL

8/27/11 10:30 A.M. JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 14, 2012

C-10-267882-2 State of Nevada
vs
David Burns

August 14, 2012

8:30 AM

All Pending Motions

HEARD BY: Tao, Jerome T.

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	BURNS, DAVID	Defendant
	Di Giacomo, Marc P.	Attorney
	Oram, Christopher R	Attorney
	Sgro, Anthony Patrick	Attorney
	State of Nevada	Plaintiff
	Weckerly, Pamela C	Attorney

JOURNAL ENTRIES

- DEFT'S MOTION FOR DISCOVERY OF INSTITUTIONAL RECORDS AND FILED NECESSARY TO A FAIR TRIAL...DEFT'S MOTION TO INVOKE HEIGHTENED STANDARD OF REVIEW DUE TO THE STATE SEEKING DEATH PENALTY...DEFT'S MOTION TO PROHIBIT THE USE OF PEREMPTORY CHALLENGES TO EXCLUDE JURORS WHO EXPRESS CONCERNS ABOUT CAPITAL PUNISHMENT...DEFT'S MOTION TO BIFURCATE PENALTY PHASE...DEFT'S MOTION TO COMPEL PRODUCTION OF THE DEFT'S DIRECT AND VICARIOUS STATEMENTS...DEFT'S MOTION TO PROHIBIT THE STAE FROM ARGUING STATUTORY MITIGATING FACTORS NOT RAISED BY THE DEFENSE...DEFT'S MOTION FOR DISCLOSURE OF THE STATE'S WITNESSES' JUVENILE RECORDS...DEFT'S MOTION FOR HENTHORN MATERIAL...DEFT'S MOTION TO PRECLUDE VICTIMS' FAMILY MEMBERS' STATEMENTS REGARDING THE DEFT, THE CRIME AND THE SENTENCE...DEFT'S MOTION TO BAR THE ADMISSION OF CUMULATIVE VICTIM IMPACT EVIDENCE IN VIOLATION OF THE DUE PROCESS CLAUSE...DEFT'S MOTION TO FEDERALIZE ALL MOTIONS, OBJECTIONS, REQUESTS AND OTHER APPLICATIONS FOR

PROCEEDINGS...DEFT'S MOTION TO ALLOW THE DEFENSE TO ARGUE LAST IN PENALTY PHASE...DEFT'S MOTION TO DISQUALIFY POTENTIAL JURORS WHO WOULD IMPOSE THE DEATH PENALTY IN ALL CONVICTIONS FOR FIRST DEGREE MURDER...DEFT'S MOTION TO COMPEL TIMELY DISCLOSURE OF INFORMATION RELATING TO AGGRAVATING AND MITIGATING FACTORS...DEFT' S MOTION FOR INDIVIDUAL SEQUESTERED VOIR DIRE...DEFT'S MOTION FOR DISCLOSURE OF UNCHARGED ACTS RELATED TO THE CRIMINAL CONDUCT OF THE DEFT...DEFT'S MOTION FOR JURY QUESTIONNAIRE...DEFT'S MOTION TO DISMISS RULE 250 NOTICE OF INTENT DUE TO FEDERAL DUE PROCESS...DEFT'S MOTION IN LIMINE TO PRECLUDE THE STATE FROM MOVING TO ADMIT INTO EVIDENCE PHOTOGRAPHS OVERLY PREJUDICIAL TO DEFT...DEFT'S MOTION TO STRIKE SURPLUS LANGUAGE FROM THE SUPERSEDING INDICTMENT

Mr. Sgro advised all parties are in agreement to continue the trial as to all Defendants that is currently set on 8/27/12; the State will agree to the severance of Deft Cousins and all motions scheduled to be heard today will be continued closer to the new trial date with the exception of the Motion to Continue Trial and Motion to Sever. Additionally, Mr. Sgro advised they will not seek a severance between Defts Mason and Burns. COURT ORDERED, Deft Mason's Motion to Continue Trial and Deft Cousins Motion to Sever Trial are GRANTED. COURT ORDERED, all trial dates VACATED; trial date RESET as to Deft Cousins and matter set for status check to re-set the Motions and trial dates as to Defts Mason and Burns. Mr. Ericsson stated that he will re-file the Motions as to Deft Cousins as needed.

CUSTODY

8/21/12 8:30 AM STATUS CHECK: RE-SET MOTIONS / TRIAL DATE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 21, 2012

C-10-267882-2 State of Nevada
 vs
 David Burns

August 21, 2012 8:30 AM Status Check

HEARD BY: Tao, Jerome T. **COURTROOM:** RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	BURNS, DAVID	Defendant
	Di Giacomo, Marc P.	Attorney
	Sgro, Anthony Patrick	Attorney
	State of Nevada	Plaintiff
	Weckerly, Pamela C	Attorney

JOURNAL ENTRIES

- Colloquy as to resetting the trial and all of the Motions. Following COURT ORDERED, matter set for trial in October with the Motions being heard two months prior.

CUSTODY

9/24/13 8:30 AM CALENDAR CALL (#1)

10/7/13 9:00 AM JURY TRIAL (#1)

ALL MOTIONS....7/25/13 10:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 11, 2013

C-10-267882-2 State of Nevada
vs
David Burns

June 11, 2013 8:30 AM Motion to Compel

HEARD BY: Tao, Jerome T.

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	Burns, David	Defendant
	Oram, Christopher R	Attorney
	Rinetti, Dena I.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Court noted it did not receive a response from the State. Ms. Rinetti appeared for Ms. Weckerly, advised she is in trial and requested this motion be continued to the date of the other pre-trial motions on July 25, 2013. Clerk advised the Court is dark that day and the motions had been move, with counsel's acquiescence, to July 3, 2013. Ms. Rinetti advised Ms. Weckerly will just be coming off trial and requested they be continued to later in the month. Mr. Oram had no objection. COURT ORDERED, the motion set for today and all motions set on July 3 to be CONTINUED.

CUSTODY

... CONTINUED 7/18/13 10:30 AM

CLERK'S NOTE: JEA contacted Ms. Burke to advise the motions have been moved to July 18, 2013 at 10:30 AM.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 18, 2013

C-10-267882-2 State of Nevada
vs
David Burns

July 18, 2013

10:30 AM

All Pending Motions

HEARD BY: Tao, Jerome T.

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	Burns, David	Defendant
	Di Giacomo, Marc P.	Attorney
	Oram, Christopher R	Attorney
	Sgro, Anthony Patrick	Attorney
	State of Nevada	Plaintiff
	Weckerly, Pamela C	Attorney

JOURNAL ENTRIES

- TWENTY MOTIONS SUBMITTED BY DEFT BURNS...JOINDERS BY DEFT MASON

DEFT BURNS MOTION FOR HENTHORN MATERIAL...DEFT MASON'S JOINDER MOTION:
Court provided a copy of an Order it wrote in a different case as to this issue. Statements by Mr. Sgro including that when they send a subpoena to Metro, they get a letter that they need to contact the DA as all of the information comes from them after Metro gets the subpoena quashed. Colloquy as to the Court doing an in-camera review of this material. Mr. DiGiacomo advised if they come across any material that they feel is Gigilio, they will submit to the Court for in-camera review. Statements by Mr. Sgro. Following, COURT ORDERED, DENIED without prejudice.

DEFT BURNS MOTION FOR DISCOVERY OF INSTITUTIONAL RECORDS AND FILES
NECESSARY TO A FAIR TRIAL: There are 10 specific requests. Court noted it appears that #'s 3-8 are unopposed and GRANTED. Colloquy as to items #1&2, Court noted Mr. Sgro can get the records

himself. Mr. Sgro advised that some times the records are different. Statements by Mr. DiGiacomo. COURT ORDERED, as to any records from CCDC, if there is a concern, counsel to compare. Colloquy as to letters. Ms. Burke requested to join in this Motion. COURT SO ORDERED. Statements by Mr. Sgro. As to #9&10, following statement by Mr. Sgro, GRANTED as unopposed as long as they are items they are entitled to. COURT ORDERED, GRANTED.

DEFT BURNS MOTION TO INVOKE HEIGHTENED STANDARD OF REVIEW DUE TO THE STATE SEEKING DEATH PENALTY: Submitted by Mr. Oram to preserve the record. Statements by Ms. Weckerly and requested the existing law be followed. COURT ORDERED, DENIED as it is unclear what specific relief counsel is requesting.

DEFT BURNS MOTION TO PROHIBIT THE USE OF PEREMPTORY CHALLENGES TO EXCLUDE JURORS WHO EXPRESS CONCERNS ABOUT CAPITAL PUNISHMENT: Mr. Oram advised that some Courts will excuse potential jurors simply because they say it will be very hard to impose a sentence of death, would like the Court be cognizant and requested a ruling by the Court to avoid having to have side bars in front of the Jury. Statements by the Court. Mr. Oram would like a potential juror that hesitates as to the death penalty, not be arbitrarily kicked off the panel. Ms. Weckerly stated this motion pertains to peremptory challenges, not for cause challenges. Continued arguments by Ms. Weckerly. Following, COURT ORDERED, as to the peremptory challenges is DENIED; as to for cause challenges, will DEFER TO TRIAL. (DENIED IN PART)

DEFT BURNS MOTION TO BIFURCATE PENALTY PHASE: Statements by Mr. Sgro in support of this Motion. Statements by Ms. Weckerly in opposition. Following, COURT ORDERED, DENIED.

DEFT BURNS MOTION TO COMPEL PRODUCTION OF THE DEFT'S DIRECT AND VICARIOUS STATEMENTS...DEFT MASON'S JOINDER MOTION: Court noted this is not really opposed. Mr. Oram is preserving the record and would request any statements be given 60 days prior to trial, however, the State has indicated they have provided all statements. Statements by Mr. DiGiacomo including that to his knowledge, all statements have been provided. COURT ORDERED, GRANTED. Mr. Sgro requested a bright line rule.

DEFT BURNS MOTION TO PROHIBIT THE STATE FROM ARGUING STATUTORY MITIGATING FACTORS NOT RAISED BY THE DEFENSE: Statements by Mr. Oram including that the State not list mitigators to the Jury. Mr. DiGiacomo is in agreement, but that doesn't limit them as to argument. COURT ORDERED, GRANTED as to Jury instructions, as to any argument, it will be DEFERRED to trial. (GRANTED IN PART)

DEFT BURNS MOTION FOR DISCLOSURE OF THE STATE'S WITNESSES' JUVENILE RECORDS...DEFT MASON'S JOINDER MOTION: Statements by Mr. Sgro including that they would request Juvenile records from any witness that is now under the age of 23. Statements by Mr. DiGiacomo. Colloquy as to sealed records. Continued statements by Mr. Sgro. COURT ORDERED, any material witness who is currently 23 years of age or younger, the Juvenile records are to be delivered to the Court for an in-camera review. Mr. Sgro will submit a copy of the names. COURT

ORDERED, GRANTED.

DEFT BURNS MOTION TO PRECLUDE VICTIM'S FAMILY MEMBERS' STATEMENTS REGARDING THE DEFT, THE CRIME AND THE SENTENCE...DEFT MASON'S JOINDER MOTION: Statements by Mr. Oram and is concerned during penalty phase, a family member will ask for the worse possible sentence or blurt something out. Mr. Oram requested an Order from this Court. Ms. Weckerly advised they do admonish the victim's family members of what they can and can not say. Colloquy as to any written letters from family members. Court directed counsel to review prior to their testimony. Statements by Ms. Burke. COURT ORDERED, GRANTED.

DEFT BURNS MOTION TO BAR THE ADMISSION OF CUMULATIVE VICTIM IMPACT EVIDENCE IN VIOLATION OF THE DUE PROCESS CLAUSE...DEFT MASON'S JOINDER MOTION: Statements by Mr. Sgro in support of this Motion. COURT ORDERED, matter DEFERRED TO TRIAL.

DEFT BURNS MOTION TO DISMISS RULE 250 NOTICE OF INTENT DUE TO FEDERAL DUE PROCESS VIOLATIONS: Statements by Mr. Oram in support of this Motion and would request Rule 250 be found unconstitutional and in violation of due process. Pursuant to the Nevada Supreme Court and the Maestas case, COURT ORDERED, DENIED.

DEFT BURNS MOTION TO FEDERALIZE ALL MOTIONS, OBJECTIONS, REQUESTS AND OTHER APPLICATIONS FOR PROCEEDINGS...DEFT MASON'S JOINDER MOTION: Arguments by Mr. Oram in support of this Motion including "hearsay", confrontation and the Crawford ruling. Additionally, would request that all objections be considered being Federalized. Court advised how he handles objections during trial and that counsel are given the opportunity to memorialize during the next break outside the presence of the Jury. Statements by Ms. Burke. Submitted by Mr. DiGiacomo. COURT ORDERED, DENIED.

DEFT BURNS MOTION TO ALLOW THE DEFENSE TO ARGUE LAST IN PENALTY PHASE: Statements by Mr. Oram. COURT ORDERED, DENIED.

DEFT BURNS MOTION TO DISQUALIFY POTENTIAL JURORS WHO WOULD IMPOSE THE DEATH PENALTY IN ALL CONVICTIONS FOR FIRST DEGREE MURDER: Court noted this is a mirror image of Jurors who would never impose the death penalty. Statements by Mr. Sgro in support of this Motion. Colloquy as to jury questionnaire. Statements by Mr. DiGiacomo. Following, COURT ORDERED, DEFERRED TO TRIAL.

DEFT BURNS MOTION TO COMPEL TIMELY DISCLOSURE OF INFORMATION RELATING TO AGGRAVATING AND MITIGATING FACTORS: Mr. Sgro requested 60 days before trial. Mr. DiGiacomo objected and stated it is 15 days by Court rule and they have asked for reciprocal discovery. Continued statements by Mr. Sgro and Mr. DiGiacomo. Following, Court directed counsel to disclose 15 days prior to trial. Mr. DiGiacomo requested the same 15 days once the Notice of Witnesses is filed. Colloquy as to the Mitigation Specialist by Mr. Sgro. Following, Mr. DiGiacomo

requested under NRS 174.245 Defense comply to provide information 15 days prior to trial, and under NRS 50.305 an Order for underlying information the expert is going to rely on (if there is one) to be given 15 days prior to trial. COURT ORDERED, GRANTED.

DEFT BURNS MOTION FOR INDIVIDUAL SEQUESTERED VOIR DIRE...DEFT MASON'S JOINDER MOTION: COURT ORDERED, DENIED without prejudice. Statements by Mr. Oram. Statements by Court as to how he handles the questioning of prospective Jurors.

DEFT BURNS MOTION FOR DISCLOSURE OF UNCHARGED ACTS RELATED TO THE CRIMINAL CONDUCT OF THE DEFT...DEFT MASON'S JOINDER MOTION: Statements by Mr. Oram including that a witness will blurt something out that should have resulted in a hearing, i.e. drugs or gang involvement. Statements by Mr. DiGiacomo including that he is not seeking to bring anything out that would be considered a bad act. Upon Court's inquiry, Mr. DiGiacomo advised the Defendants are gang members, but he does not intend to bring this out per say in the guilt phase.

- Court noted that drugs and possible gang membership will be discussed during trial, however, if anything else, counsel need to comply with the law and a Petrocelli Hearing will be needed. Statements by Mr. DiGiacomo including that they do not expect to present any bad act evidence. Continued arguments by Mr. Oram including that this case was based on a robbery and nothing to do with gangs; if they think gang membership is going to be brought out, there needs to be a Petrocelli Hearing first. Statements by Court. Mr. DiGiacomo advised this Motion is over broad and that he is not intending to prove up the Defendant as a gang member. Statements by Ms. Burke. Following, Court admonished counsel not to intentionally ask questions as to gang membership. COURT ORDERED, RESOLVED.

DEFT BURNS MOTION FOR JURY QUESTIONNAIRE...DEFT MASON'S JOINDER MOTION: Ms. Burke is in agreement with a questionnaire. Mr. DiGiacomo does not feel they are very helpful but will submit. Mr. Oram advised they can probably reach an agreement as to the questions for the questionnaire. COURT ORDERED, GRANTED if it can be worked out.

DEFT BURNS MOTION IN LIMINE TO PRECLUDE THE STATE FROM MOVING TO ADMIT INTO EVIDENCE PHOTOGRAPHS OVERLY PREJUDICIAL TO DEFT...DEFT MASON'S JOINDER MOTION: Statements by Mr. Oram including that he would request to be shown the pictures Mr. DiGiacomo is going to use in his opening power point prior to trial. COURT ORDERED, DEFERRED TO TRIAL.

DEFT BURNS MOTION TO STRIKE SURPLUS LANGUAGE FROM THE SUPERSEDING INDICTMENT: Court noted this has to do with nicknames. Following colloquy, COURT ORDERED, DENIED.

DEFT BURNS MOTION TO COMPEL DISCLOSURE OF EXCULPATORY EVIDENCE: Upon Court's inquiry, Mr. Oram does not feel they are missing anything. Following colloquy, COURT ORDERED, matter CONTINUED to calendar call date.

Ms. Burke advised that she has a capital trial set in Dept. 24 that it is set to go the last week in August that will last 6 weeks with Mr. DiGiacomo. Statements by Mr. DiGiacomo. Colloquy as to the trial date. Ms. Weckerly requested to wait and see if that trial is going forward before moving the date.

Colloquy as to jury questionnaire. COURT ORDERED, matter set for status check.

CUSTODY

8/20/13 8:30 AM STATUS CHECK: JURY QUESTIONNAIRE / TRIAL READINESS

10/1/13 8:30 AM DEFT BURNS MOTION TO COMPEL DISCLOSURE OF EXCULPATORY EVIDENCE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 20, 2013

C-10-267882-2 State of Nevada
vs
David Burns

August 20, 2013 **8:30 AM** **Status Check**

HEARD BY: Tao, Jerome T. **COURTROOM:** RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	Burns, David	Defendant
	Di Giacomo, Marc P.	Attorney
	Oram, Christopher R	Attorney
	State of Nevada	Plaintiff
	Weiner, Meredith	Attorney

JOURNAL ENTRIES

- Mr. DiGiacomo advised he has not seen the questionnaire, anticipates being ready and requested a one week. Following colloquy, Ms. Burke stated she e-mailed a previous questionnaire to Mr. DiGiacomo. Upon Court's inquiry, Mr. DiGiacomo advised he will be ready for trial and would oppose a continuance. Ms. Burke advised she is going to submit a Motion to Sever that might impact the trial. Mr. DiGiacomo stated he thought they had already handled a severance Motion. Following colloquy, COURT ORDERED, matter CONTINUED to Thursday and will address the Motion once it has been filed.

CUSTODY

... CONTINUED 8/22/13 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 22, 2013**

C-10-267882-2 State of Nevada
vs
David Burns

August 22, 2013 8:30 AM Status Check

HEARD BY: Tao, Jerome T. **COURTROOM:** RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	Burns, David	Defendant
	Di Giacomo, Marc P.	Attorney
	Oram, Christopher R	Attorney
	State of Nevada	Plaintiff
	Weckerly, Pamela C	Attorney
	Weiner, Meredith	Attorney

JOURNAL ENTRIES

- Upon Court's inquiry, Mr. Oram advised he reviewed a questionnaire from another case that had been answered. Ms. Burke stated she thought they had agreed to use the questionnaire from the Dept. 24 case. Mr. DiGiacomo advised there was no such agreement and that they had litigated 3 days to come up with that questionnaire. MATTER TRAILED AND RECALLED: Mr. Oram advised they are close to having a questionnaire done and that there are 3 questions they are having issues with. Following colloquy, COURT ORDERED, matter CONTINUED to next week, but that the questionnaire needs to be finalized soon. Ms. Burke FILED IN OPEN COURT her Motion to Sever and requested it be heard. Following colloquy, COURT SO ORDERED.

CUSTODY

... CONTINUED 8/27/13 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 27, 2013**

C-10-267882-2 State of Nevada
vs
David Burns

August 27, 2013 8:30 AM Status Check

HEARD BY: Tao, Jerome T. **COURTROOM:** RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	Burns, David	Defendant
	Di Giacomo, Marc P.	Attorney
	Oram, Christopher R	Attorney
	State of Nevada	Plaintiff
	Weiner, Meredith	Attorney

JOURNAL ENTRIES

- Upon Court's inquiry, Mr. Oram advised there are 3 questions they can not agree on. Mr. DiGiacomo advised that he had a meeting yesterday with Mr. Oram and Ms. Burke and concurred that they disagree as to 3 questions. Court stated the 3 questions are 1) identify race; 2) Political party and 3) how do you get your news. Arguments by Mr. Oram, Ms. Burke and Mr. DiGiacomo as to all 3 questions. Following, COURT ORDERED, as to Race: this will be allowed, however, the word "optional" will be attached; As to Political party: this will be allowed, however, the word "optional" will be attached and as to: how do you get you news: it will be allowed, but is to be rephrased. Upon Court's inquiry, Ms. Burke advised she has a few Motions in Limine to file, but that she should be ready for trial. Mr. Oram advised they will be ready for trial. COURT ORDERED, matter RESOLVED and directed counsel to provide a clean copy of the questionnaire as soon as possible. Mr. DiGiacomo advised he would provide one today.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****September 05, 2013**

C-10-267882-2 State of Nevada
vs
David Burns

September 05, 2013 8:30 AM Motion

HEARD BY: Tao, Jerome T.**COURTROOM:** RJC Courtroom 10D**COURT CLERK:** Linda Skinner**RECORDER:** Sara Richardson**REPORTER:****PARTIES**

PRESENT:	Burns, David	Defendant
	Di Giacomo, Marc P.	Attorney
	Oram, Christopher R	Attorney
	Sgro, Anthony Patrick	Attorney
	State of Nevada	Plaintiff
	Weckerly, Pamela C	Attorney

JOURNAL ENTRIES

- Arguments by Ms. Burke in support of her Motion including that in her Motion and Reply, she pointed out situations where the Court had already separated the death and non-death people and noted the State did not address this at all in their response. Court advised if it had been granted, there would not be an opinion. Ms. Burke stated there are a number of grounds in which to grant this Motion other than an antagonistic defense. Continued arguments by Ms. Burke including that death penalty juries are more conviction prone. Statements by Mr. Sgro as to the antagonistic defense. Statements by Mr. DiGiacomo. Mr. Sgro requested to join in this Motion. Continued argument in support of the Motion by Mr. Sgro. Conference at the Bench. Following, COURT ORDERED, Deft's Motion to Sever Trial is DENIED WITHOUT PREJUDICE and noted this can be revisited at the time of trial or at penalty, if need be.

As to Deft Burns Motion, Court directed Mr. Sgro provide the power point prior to the hearing next week and to give a copy to the State especially if there is anything new. Mr. Sgro advised that it

tracks the brief and does not believe there is anything new.

Ms. Burke advised she does not have the medical records for the victim nor the gang records. Mr. DiGiacomo advised he has given everyone the medical records and that he is in the process of getting the gang records from San Bernardino. Following colloquy, Court directed Mr. DiGiacomo copy the disk of medical records again for Ms. Burke. Additionally, Ms. Burke advised that yesterday she received the Notice of Witnesses with 26 names and that while some are the same, she does not know if this will impede her being ready for trial. Court so noted.

CUSTODY

... CONTINUED 9/12/13 10:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****September 12, 2013**

C-10-267882-2 State of Nevada
vs
David Burns

September 12, 2013 10:00 AM Motion to Strike

HEARD BY: Tao, Jerome T.**COURTROOM:** RJC Courtroom 10D**COURT CLERK:** Linda Skinner**RECORDER:** Debbie Winn**REPORTER:****PARTIES**

PRESENT:	Burns, David	Defendant
	Di Giacomo, Marc P.	Attorney
	Oram, Christopher R	Attorney
	Sgro, Anthony Patrick	Attorney
	State of Nevada	Plaintiff
	Weckerly, Pamela C	Attorney

JOURNAL ENTRIES

- Ms. Burke advised she would like to join in the Motion for Deft Mason. Statements by Mr. Sgro in support of his Motion including that he would like a stay for a decision as to this issue and that the trial be reset in 2015. Further, as to the power point presented to Court, Mr. Sgro requested it be marked as a Court's exhibit. COURT SO ORDERED. Continued arguments by Mr. Sgro. Statements by Ms. Weckerly in support of their opposition including that it is not proper to grant a stay. Following additional arguments by counsel, Court stated that based on the law today, his motion is DENIED. FURTHER, the request for stay is also DENIED. Ms. Burke advised that she will be filing a Motion to Continue Trial as they just received 3,600 pages of medical records. Upon Court's inquiry, Mr. DiGiacomo advised he could not find where he had electronically sent the medical records, so he resent them to counsel. Statements by Mr. Sgro. Additionally, Mr. DiGiacomo stated that he has contacted San Bernardino and that whatever they had as to gang involvement was related only to the co-defendant, Mason and it has been given to Ms. Burke. Colloquy as to the dates given to file things in the previous Order by Ms. Burke. Objections stated by Mr. DiGiacomo and requested

the Order remain as is. Upon Court's inquiry, Mr. DiGiacomo advised it is in relation to the expert and filing 21 days prior to trial and that the Court may have given the Defense 14 days. Following colloquy, Court DENIED WITHOUT PREJUDICE the request at this time.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****September 19, 2013**

C-10-267882-2 State of Nevada
vs
David Burns

September 19, 2013 8:30 AM Motion to Continue Trial

HEARD BY: Tao, Jerome T.**COURTROOM:** RJC Courtroom 10D**COURT CLERK:** Linda Skinner**RECORDER:** Sara Richardson**REPORTER:****PARTIES**

PRESENT:	Burns, David	Defendant
	Di Giacomo, Marc P.	Attorney
	Oram, Christopher R	Attorney
	Sgro, Anthony Patrick	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Court noted it did not receive a written opposition from Mr. DiGiacomo. Mr. DiGiacomo concurred and advised he only received the Motion 48 hours ago. As to the palm print, Mr. DiGiacomo advised the report should be done within the week and advised if there is no answer by the time of calendar call, he has no objection to a continuance. Statements by Ms. Burke as to the reason for the continuance being the 3,600 pages of medical records; that she has only read 100 pages, the victim had 17 different doctors and was in the hospital for almost 3 months which will impact the Jury. Statements by Mr. Oram as to the medications she was on and possible effects. Mr. Sgro concurred and advised this is an identity case. Statements by Mr. DiGiacomo that Defense knew 3 years ago that the victim had been in the hospital. Following continued arguments by all counsel, COURT ORDERED, Motion GRANTED, however, will be CONTINUED to calendar call due to the Jury Questionnaires. Conference at the Bench. Additionally, matter set for status check as to trial setting and that October 28th is a date that the Court is looking at for the start of trial.

CUSTODY

PRINT DATE: 03/17/2020

Page 24 of 101

Minutes Date: October 13, 2010

10/1/13 8:30 AM STATUS CHECK: TRIAL SETTING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 01, 2013

C-10-267882-2 State of Nevada
vs
David Burns

October 01, 2013 8:30 AM All Pending Motions

HEARD BY: Tao, Jerome T. **COURTROOM:** RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	Burns, David	Defendant
	Oram, Christopher R	Attorney
	State of Nevada	Plaintiff
	Weckerly, Pamela C	Attorney

JOURNAL ENTRIES

- CALENDAR CALL...STATUS CHECK: TRIAL SETTING...DEFT'S MOTION TO COMPEL DISCLOSURE OF EXCULPATORY EVIDENCE

Conference at the Bench. Pursuant to that conference, Court noted Ms. Burke is WITHDRAWING as counsel due to health reasons and Mr. Langford is APPOINTED as new counsel. Motion to Continue Trial is GRANTED and trial date is VACATED. Following colloquy, dates of 2/24, 3/3 and 3/10 are being considered for the new trial date. COURT ORDERED, matter set for status check next week for counsel to review their calendars. Further, Deft's Motion to Compel will also be continued to next date.

CUSTODY

10/8/13 8:30 AM STATUS CHECK: RESET TRIAL DATE...DEFT'S MOTION TO COMPEL DISCLOSURE OF EXCULPATORY EVIDENCE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 08, 2013

C-10-267882-2 State of Nevada
 vs
 David Burns

October 08, 2013 8:30 AM All Pending Motions

HEARD BY: Tao, Jerome T. **COURTROOM:** RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT: Burns, David Defendant
 Di Giacomo, Marc P. Attorney
 Oram, Christopher R Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- STATUS CHECK: TRIAL SETTING...DEFT'S MOTION TO COMPEL DISCLOSURE OF EXCULPATORY EVIDENCE

Colloquy as to trial date. Following, COURT ORDERED, matter set for trial in June and upon inquiry, counsel feel the trial should take about 4 weeks. FURTHER, Motion CONTINUED to calendar call date.

CUSTODY

5/27/14 8:30 AM CALENDAR CALL (#1)

6/2/14 9:00 AM JURY TRIAL (#1)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 12, 2013

C-10-267882-2 State of Nevada
 vs
 David Burns

November 12, 2013 8:30 AM Motion

HEARD BY: Tao, Jerome T.

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	Burns, David	Defendant
	Joseph, Lindsey D	Attorney
	Oram, Christopher R	Attorney
	State of Nevada	Plaintiff
	Weiner, Meredith	Attorney

JOURNAL ENTRIES

- Mr. Oram advised Ms. Weckerly is detained in another Courtroom and requested a new date be given. Court so noted and advised there appears to be a problem with the June trial date. Ms. Weiner concurred. Mr. Langford advised Deft Mason was not brought to Court and while he has spoken with him as to the change in trial date, would request he be brought to Court. COURT SO ORDERED. Following colloquy, COURT ORDERED, Motion GRANTED, trial date VACATED and RESET. FURTHER, Deft Mason and Deft Cousins to be placed on calendar.

CUSTODY

9/30/14 8:30 AM CALENDAR CALL (#1)(MASON & BURNS)

10/6/14 9:00 AM JURY TRIAL (#1)(MASON & BURNS)

11/14/13 8:30 AM STATUS CHECK: TRIAL (MASON)

11/19/13 8:30 AM STATUS CHECK: TRIAL (COUSINS)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 03, 2014

C-10-267882-2 State of Nevada
vs
David Burns

January 03, 2014

11:16 AM

Minute Order

**MINUTE ORDER
RE: RELEASE OF
DOCUMENTS**

HEARD BY: Tao, Jerome T.

COURTROOM: RJC Courtroom 03F

COURT CLERK: Katherine Streuber

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Office of the Attorney General having submitted certain Presentence Reports pursuant to the Ex Parte Order for In-Camera Review of Presentence Report filed November 22, 2013; and the Court having reviewed said reports and having redacted certain portions of said reports; IT IS HEREBY ORDERED that the Presentence Reports are hereby released to counsel for the parties. Because the Presentence Reports contain confidential personal information such as social security numbers and names of family members who are not participants in this case, the Presentence Reports are to be maintained by the Court and the parties UNDER SEAL. Any motions or documents filed with the Court that reference any such confidential information must be filed with the Court UNDER SEAL. The Court's Judicial Executive Assistant shall notify counsel to pick up copies of said reports from chambers.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****September 16, 2014**

C-10-267882-2 State of Nevada
vs
David Burns

September 16, 2014 8:30 AM Status Check

HEARD BY: Tao, Jerome T.

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	Burns, David	Defendant
	Oram, Christopher R	Attorney
	Sgro, Anthony Patrick	Attorney
	State of Nevada	Plaintiff
	Weckerly, Pamela C	Attorney

JOURNAL ENTRIES

- Court inquired if counsel still wanted a Jury Questionnaire. Ms. Weckerly advised that one has been circulating between all parties and that she will have the final one today before noon. Upon Court's inquiry, Counsel advised they feel the trial will take 3-4 weeks. Mr. Sgro advised a Pre-trial Motion was granted that the Juvenile records of the State's witnesses, 23 years of age or younger, were supposed to be provided for an in-camera review, however, he has never heard anything. Court advised it was not sure if it has seen them or not. Ms. Weckerly advised she thought they had been Ordered, however, will check and provide if they have not. Additionally, Mr. Sgro stated another Motion that was granted was to compel the production of all Defendant's direct and vicarious statements 60 days before trial. Mr. Sgro advised they didn't get anything 30 days ago and would like to know from the State if they have anything that they have not produced. Mr. Weckerly advised there is not. Mr. Oram inquired if there are any phone calls that the State intends to use. Ms. Weckerly advised she has no problem letting them know about the calls for her case-in-chief and will let the Defense know about 1 week prior to trial but cannot identify any calls that they might use in rebuttal. Conference at the Bench. Following conference, COURT ORDERED, matter set for status

check as to the Jury Questionnaire and any other issues that might affect the trial.

CUSTODY

9/23/14 8:30 AM STATUS CHECK: QUESTIONNAIRE / DISCOVERY ISSUES

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****September 23, 2014**

C-10-267882-2 State of Nevada
vs
David Burns

September 23, 2014 8:30 AM Status Check

HEARD BY: Tao, Jerome T.**COURTROOM:** RJC Courtroom 10D**COURT CLERK:** Linda Skinner**RECORDER:** Sara Richardson**REPORTER:****PARTIES**

PRESENT:	Burns, David	Defendant
	Di Giacomo, Marc P.	Attorney
	Oram, Christopher R	Attorney
	Sgro, Anthony Patrick	Attorney
	State of Nevada	Plaintiff
	Weckerly, Pamela C	Attorney

JOURNAL ENTRIES

- Mr. Sgro advised there are some issues as to the readiness of his expert and Investigator due to financial issues, that have now been resolved. However, Mr. Sgro advised his Investigator is on vacation until October 3rd and he is unable to proceed due to the lack of availability of the people retained to help him. Ms. Weckerly objected to the trial being continued due to a billing mishap that happened last January and requested an affidavit from the OAC. Mr. Sgro stated that it took 6 months to get the billing straightened out; that he was never told they would not pay the bills, but was advised that he was spending too much money on this one case; so, he put everyone on hiatus and when the billing was resolved, his experts and Investigator were notified, but he was advised they had picked up other cases and he was put on the bottom of the list.

Mr. Langford advised he is in a similar situation with one of his experts, that he thought a notice was filed, which it has not and now when he files it, the State will object. Ms. Weckerly advised they will waive any objection. Colloquy as to possibly severing the Defendants.

Mr. DiGiacomo stated he is not convinced that Mr. Sgro has established a basis for a continuance and requested an affidavit be filed to investigate the allegations made; that the affidavit should indicate what the communication is, what the problem was and why it is the witnesses cannot be available, which needs to be attached to a Motion to Continue. Additionally, Mr. DiGiacomo objected to Mr. Sgro unilaterally making a decision to slow down the process because there is some problem with the OAC, that was never brought before the Court and never notified the State. Following additional colloquy and upon Court's inquiry, Mr. Sgro advised he needs 60-90 days to be ready for trial. Continued objections by Ms. Weckerly and Mr. DiGiacomo.

Following, COURT ORDERED, trial date VACATED and RESET TWO (2) WEEKS past 10/6/14. Additionally, Ms. Weckerly advised she will provide a new Jury Questionnaire to chambers today.

10/14/14 8:30 AM CALENDAR CALL

10/20/14 9:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 25, 2014

C-10-267882-2 State of Nevada
vs
David Burns

September 25, 2014 8:30 AM Motion to Strike

HEARD BY: Tao, Jerome T.

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	Burns, David	Defendant
	Di Giacomo, Marc P.	Attorney
	Oram, Christopher R	Attorney
	State of Nevada	Plaintiff
	Weaver, Melinda	Attorney
	Weckerly, Pamela C	Attorney

JOURNAL ENTRIES

- Ms. Weaver appeared for Mr. Sgro. Upon Court's inquiry, Mr. DiGiacomo submitted on the prior opposition as there is no new argument. Mr. Oram submitted on the pleading. COURT ORDERED, Motion DENIED. Conference at the Bench.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****October 07, 2014**

C-10-267882-2 State of Nevada
vs
David Burns

October 07, 2014 8:30 AM Motion

HEARD BY: Tao, Jerome T.**COURTROOM:** RJC Courtroom 10D**COURT CLERK:** Linda Skinner**RECORDER:** Sara Richardson**REPORTER:****PARTIES**

PRESENT:	Burns, David	Defendant
	Di Giacomo, Marc P.	Attorney
	Oram, Christopher R	Attorney
	Sgro, Anthony Patrick	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Court noted it never received any records as to Jerome Thomas. Mr. Sgro advised this was granted back on 7/13 and realized that this process was never done. Additionally, Mr. Sgro stated they will need records as to the victim, Devonian Newman and also as to Donovan Roland. Statements by Mr. DiGiacomo. Following, Mr. Sgro advised he will provide an Order for these records to be provided by Judge Voy to this Court for an in-camera review. COURT ORDERED, Motion GRANTED.

Court noted there were several ex-parte Motions provided to chambers, one of which is an Order to have a witness that is incarcerated in California brought to Nevada. Following colloquy, Court SIGNED the Order and provided it to Mr. Sgro. The second one has to do with the Jury Commissioner. Conference at the Bench. Pursuant to that conference, the Order was SIGNED and provided to Mr. Sgro.

Mr. Sgro advised they have a file review tomorrow at 2:30 and requested that everything be there, especially the homicide books. Mr. DiGiacomo advised they will be present.

Mr. Sgro requested the State supplement the Notice of Witness List to provide good addresses. Mr. DiGiacomo advised to the extent they have the information, he will provide tomorrow at the file review. Following colloquy, Mr. Sgro to provide a list to Mr. DiGiacomo and if there is anyone that he does not have information on, it can be discussed at calendar call. COURT ORDERED, GRANTED.

Mr. Oram advised his private phone calls with Defendant have been recorded and requested a hearing to determine how this is happening. Following continued arguments, Mr. Sgro requested an Order to Show Cause. Court advised he will make some phone call and directed counsel to do so as well and the matter can be further discussed next week at calendar call.

Mr. Sgro requested the record as to Jerome Thomas be unsealed. Mr. DiGiacomo advised the warrant is still an active warrant and he can't have that, but to the extent there is an affidavit for an arrest warrant, it should be in the homicide books and it can be provided again tomorrow. Following continued arguments, COURT ORDERED, the record will not be unsealed, however, Mr. DiGiacomo can provide the document under seal to Mr. Sgro. Mr. DiGiacomo advised there is no additional discovery as to Jerome Thomas' case other than the affidavit in support of the arrest warrant, that is part of the homicide books. Court so noted.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****October 14, 2014**

C-10-267882-2 State of Nevada
vs
David Burns

October 14, 2014 10:00 AM Calendar Call

HEARD BY: Tao, Jerome T.**COURTROOM:** RJC Courtroom 10D**COURT CLERK:** Linda Skinner**RECORDER:** Sara Richardson**REPORTER:****PARTIES**

PRESENT:	Burns, David	Defendant
	Di Giacomo, Marc P.	Attorney
	Oram, Christopher R	Attorney
	Sgro, Anthony Patrick	Attorney
	State of Nevada	Plaintiff
	Weckerly, Pamela C	Attorney

JOURNAL ENTRIES

- Court noted procedurally, there are 3 motions set for today, however, was given several motions yesterday and upon inquiry, Mr. DiGiacomo stated he is aware of them and answered a few. Additionally, Mr. Langford filed a Motion to Sever as to Deft Mason which is set for next week. Arguments by Mr. Sgro as to the Motion to Continue Trial submitted yesterday including that he has repeatedly asked for discovery only to be told that he has already received it. Mr. Sgro stated that he did receive video, however, it was upside down or mirror imaged and the file that said Autopsy was something entirely different. Court noted that Mr. Sgro waited until right before trial to try and obtain several records and upon inquiry, Mr. Sgro stated that when he asks for it, the response is, "you need to get it from the District Attorney". Mr. Sgro stated he did not wait until the last minute, that he has been trying for several months to obtain discovery; that what he has and what the State thinks they have given them are two different things. For instance, the cell phone record report came in such a big font that they cannot match up the calls with the towers as the tower information prints out on a different page. Mr. Sgro advised that Mr. DiGiacomo handed Mr. Oram two thumb drives

this morning that contain the discovery they did not have from the file review and requested this matter be continued to Thursday to see if they have everything.

Arguments by Mr. DiGiacomo outlining the number of times the file has been reviewed and the number of times discovery has been provided. Mr. DiGiacomo stated that he feels this is Mr. Sgro's way of getting out of the trial, again. The last time at the file review, Mr. Sgro stated that the only thing he needed was the 3,600 pages of medical records for the victim and needed a continuance to review them. Statements by Ms. Weckerly.

Mr. Langford informed the Court that an antagonistic defense is developing. Upon Court's inquiry, Mr. Sgro advised that there were some statements that he disclosed to Mr. Langford that had not been disclosed before.

Mr. Sgro objected to the prospective Jury panel and stated there are only 9 out of 150 African/ Americans in the panel and requested a hearing. Court noted that in its review of the questionnaires, that the majority of them did not fill out the race section. Following additional colloquy by all counsel, Court noted it will be addressed on Monday at the time of Jury selection.

Court noted that the Motions set for today and all of the Motions submitted yesterday will be placed on calendar to be heard on Thursday.

Mr. DiGiacomo advised that he spoke with Capt. Forbes at CCDC (Clark County Detention Center) as to Attorney phone calls and was advised that Mr. Oram's number was not blocked, but has since been. Statements by Mr. Oram.

Mr. Sgro advised he will be endorsing 2 experts. Mr. DiGiacomo requested to address this on Thursday.

COURT ORDERED, all matters CONTINUED to Thursday.

CUSTODY

... CONTINUED 10/16/14 10:30 AM

THE SEALED PORTION
OF THESE MINUTES
WILL FOLLOW VIA
U.S. MAIL.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****October 20, 2014**

C-10-267882-2 State of Nevada
vs
David Burns

October 20, 2014 10:00 AM All Pending Motions

HEARD BY: Tao, Jerome T.**COURTROOM:** RJC Courtroom 10D**COURT CLERK:** Linda Skinner**RECORDER:** Sara Richardson**REPORTER:****PARTIES**

PRESENT:	Burns, David	Defendant
	Di Giacomo, Marc P.	Attorney
	Oram, Christopher R	Attorney
	Sgro, Anthony Patrick	Attorney
	State of Nevada	Plaintiff
	Weckerly, Pamela C	Attorney

JOURNAL ENTRIES

- ALL PENDING MOTIONS (BOTH DEFTS):

Mr. Langford advised that he formally filed joinders to the co-defendant's Motions.

DEFT'S MOTION TO DISCLOSE PAYMENTS TO WITNESSES BY CLARK COUNTY DISTRICT ATTORNEY'S OFFICE (BURNS): Mr. DiGiacomo advised that no funds have been paid on this case. Arguments by Mr. Sgro including that he would like to know if the witnesses are getting paid to come in for pre-trial. Mr. DiGiacomo advised the statutes were changed several years ago and the office policy is that no one is paid for pre-trial. Following additional arguments, Court directed the State contact VWAC to see if any payments were made and if there were, they are to be submitted to chambers for an in-camera review. Mr. Langford stated the witnesses get \$25/day and \$.56/mile which could add up to quite a bit and the concern is that the witnesses are getting paid for their testimony. Following additional colloquy, COURT ORDERED, GRANTED.

DEFT'S MOTION FOR THE DISCLOSURE OF MATERIALS AND FACTS RELATIVE TO FUTURE PROSECUTIONS OF STATE'S WITNESSES PURSUANT TO GIGLIO ON AN ORDER SHORTENING TIME (BURNS): Statements by Mr. Sgro and Ms. Weckerly in support of their respective positions. As this is premature, COURT ORDERED, matter CONTINUED to calendar call.

DEFT'S JOINDER TO DEFT MASON'S MOTION TO SEVER OR IN THE ALTERNATIVE REQUEST FOR A NEW VENIRE AND REQUEST FOR EVIDENTIARY HEARING (BURNS): Mr. Sgro advised this Motion is WITHDRAWN. COURT SO ORDERED.

DEFT'S MOTIONS IN LIMINE #1-3: 3) TO PRECLUDE REFERENCE TO ASSEMBLY BILL 444: COURT ORDERED, GRANTED as unopposed as long as the door is not opened. 2) TO PRECLUDE LAW ENFORCEMENT FROM GIVING LAY WITNESS TESTIMONY AS TO THE IDENTITY OF THE SUSPECT ON THE SURVEILLANCE VIDEO: Arguments by Mr. Sgro in support of his position including that he feels a hearing is necessary. Arguments by Mr. DiGiacomo including that Defendant's hair is different, he is 5 years older, however, the Detectives that will speak about the video, had contact with Defendant 4 1/2 years ago. Following, Court does not feel a hearing is necessary and ORDERED, DEFERRED TO TRIAL. 3) TO PRECLUDE THE STATE FROM ADMITTING THE SIX-PACK PHOTOGRAPHIC LINEUP OF DAVID BURNS SIGNED BY DE'VONIA NEWMAN AND TO PRECLUDE THE IN-COURT IDENTIFICATION OF DEFENDANT BURNS BY NEWMAN: Arguments by Mr. Sgro as to the six-pack and feels it is unduly suggestive. Arguments by Mr. DiGiacomo. Statements by Court. As to in-Court identification, Mr. Sgro advised he addressed his concerns earlier as the Defendants will be the only African Americans at the table. Arguments by Mr. DiGiacomo. Following, COURT ORDERED, DENIED.

DEFT'S MOTION TO PRECLUDE THE STATE FROM CONDUCTING BACKGROUND CHECKS ON POTENTIAL JURORS UNLESS RESULTS ARE PROVIDED TO THE DEFENSE (BURNS): Court noted what Defense wants is if the State runs checks on any of the Jurors, the information be given to them. Statements by Mr. Sgro including that he does not have access to SCOPE or NCIC and would request if the State finds out any information, that they turn it over. Continued arguments by Mr. Sgro and Mr. DiGiacomo. COURT ORDERED, any evidence of prior arrest whether or not it resulted in a conviction or any evidence uncovered from NCIC or SCOPE which indicate that a prospective Juror has lied on their questionnaire, is to be given to the Defense.

DEFT'S MOTION FOR ORDER RELEASING CLARK COUNTY DETENTION CENTER RECORDS AND REPORTS RELATED TO STEPHANIE COUSINS, MONICA MARTINEZ, JEROME THOMAS, QUENTINE WHITE AND DELLANE D. BRYANT, JR: Mr. DiGiacomo advised he has issued subpoenas for all records and will submit anything that needs to be submitted to Court for in-camera review. COURT ORDERED, RESOLVED.

DEFT'S EX-PARTE APPLICATION FOR ORDER FOR PRODUCTION OF MEDICAL RECORDS: Counsel agree that Mr. Thomas went to Utah under the name of Albert Davis for treatment and that Mr. Thomas did not go to UMC so there are no records. Mr. Sgro explained the need to obtain these

records and requested an Order to obtain the records from Utah. Mr. DiGiacomo advised he had no objection as long as he receives a copy of the records as well. COURT ORDERED, GRANTED.

DEFT'S MOTION TO COMPEL DISCLOSURE OF EXCULPATORY EVIDENCE (BURNS): Mr. DiGiacomo advised they will follow the statutory and constitutional obligations and feels this has been covered by all of the other Motions for Discovery. Mr. Sgro concurred and requested it be taken OFF CALENDAR. COURT SO ORDERED.

DEFT'S MOTION TO SEVER OR IN THE ALTERNATIVE REQUEST FOR A NEW VENIRE (MASON): At request of counsel, COURT ORDERED, WITHDRAWN.

DEFT'S MOTION TO SUPPRESS (MASON): Court advised this issue was discussed last week. COURT ORDERED, MOOT.

Mr. Sgro advised as to Jerome Thomas, they have a letter that Defendant sent Detective Bunting, but they only have the envelope, no letter. Mr. DiGiacomo advised he does not have the letter either and will ask Detective Bunting about it.

Mr. Sgro requested an updated Notice of Witnesses with the correct addresses. Ms. Weckerly advised they will provide that, however, would also like the correct addresses for the Defense witnesses as well as the underlying discovery as to the experts.

As the trial has been continued, pursuant to statute, COURT ORDERED, all witnesses list are to be update with current addresses.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 11, 2014

C-10-267882-2 State of Nevada
 vs
 David Burns

December 11, 2014 8:30 AM All Pending Motions

HEARD BY: Tao, Jerome T. **COURTROOM:** RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT: Burns, David Defendant
 Kollins, Stacy L. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- DEFENDANT'S MOTION TO PLACE ON CALENDAR FOR STATUS CHECK ON RETURN OF IN CAMERA CPS RECORDS...DEFENDANT'S MOTION FOR DISCOVERY

Court noted it received word that this matter was to be continued. Ms. Kollins advised Ms. Weckerly was going to appear.

MATTER TRAILED AND RECALLED: Court noted it is at the end of the calendar and Ms. Weckerly has not appeared. There being another matter set next week, COURT ORDERED, today's matters are CONTINEUD to next week as well.

CUSTODY

... CONTINUED 12/18/14 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 18, 2014

C-10-267882-2 State of Nevada
 vs
 David Burns

December 18, 2014 8:30 AM All Pending Motions

HEARD BY: Tao, Jerome T. **COURTROOM:** RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	Burns, David	Defendant
	Oram, Christopher R	Attorney
	Sgro, Anthony Patrick	Attorney
	State of Nevada	Plaintiff
	Weckerly, Pamela C	Attorney

JOURNAL ENTRIES

- STATE'S MOTION TO STRIKE DEFENDANT'S EXPERT NOTICE, OR IN THE ALTERNATIVE, MOTION FOR DISCOVERY...DEFENDANT'S MOTION FOR DISCOVERY...DEFENDANT'S MOTION TO PLACE ON CALENDAR FOR STATUS CHECK ON RETURN OF IN CAMERA REVIEW OF CPS RECORDS

AS TO MOTION TO STRIKE: Court noted this motion relates to the Fetal Alcohol Syndrome experts. Mr. Sgro advised they would comply with the 21 day statute, but was concerned if the trial was going to be re-set due to this Court's appointment. Court advised Sr. Judge Thompson is going to hear this trial. Ms. Weckerly stated that as long as they receive the materials by 12/30, she is fine. Mr. Sgro stated he will do his best to get the material to the State. Following colloquy, COURT ORDERED, matter set for status check.

AS TO DISCOVERY. Mr. Sgro advised there is no issue.

AS TO CPS RECORDS: Mr. Sgro requested this Court turn over what is has reviewed. Following colloquy, Mr. Sgro suggested that the records be turned over to them and the State for review and if they feel something is too sensitive, they can bring it up to Judge Thompson. Ms. Weckerly had no objection. Court noted that there has been nothing in the records he has reviewed. COURT ORDERED, CPS records to be turned over to Mr. Sgro's Office.

CUSTODY

1/6/15 8:30 AM STATUS CHECK: ALL OUTSTANDING DISCOVER ISSUES

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 06, 2015

C-10-267882-2 State of Nevada
 vs
 David Burns

January 06, 2015

9:30 AM

All Pending Motions

HEARD BY: Thompson, Charles

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Susan Dolorfino

REPORTER:

PARTIES

PRESENT:	Burns, David	Defendant
	Di Giacomo, Marc P.	Attorney
	Oram, Christopher R	Attorney
	Sgro, Anthony Patrick	Attorney
	State of Nevada	Plaintiff
	Weckerly, Pamela C	Attorney

JOURNAL ENTRIES

- STATUS CHECK: ALL OUTSTANDING DISCOVERY ISSUES (BOTH)...STATUS CHECK: JURY QUESTIONNAIRES (BOTH)

Colloquy as to scheduling. Counsel agreed to return this afternoon.

Mr. Sgro advised there is still a discovery issue, that there are several things that still have not been received. Additionally, Mr. Sgro advised he received a Supplemental Notice of Aggravating Circumstances yesterday that includes some of this outstanding discovery. Further, there is an issue that the Notice of Expert Witnesses was filed one day late.

Colloquy as to Jury questionnaires. Court advised there are 49 prospective Jurors that all parties agree to be excused. Further, this Court will not be granting all of the Jurors that any side wants to excuse. Mr. Sgro objects to the panel of 150 as there are not enough African Americans in the panel.

Mr. Sgro would like the whole panel brought in prior to their being excused to see exactly how many African Americans there were on the panel. Statements by Mr. DiGiacomo. Court noted that if they are excused, they will not have to appear. Continued arguments by Mr. Sgro as to systematic under representation. MATTER TRAILED.

3:48 PM MATTER RECALLED: Items of discovery still needed by Mr. Sgro:

- 1) Mr. Sgro would like the medical records of Jerome Thomas from Utah. Ms. Weckerly advised they never received any records, that at the time of the search warrant, it was discovered that Mr. Thomas used an alias in Utah and that the only thing they have is the face sheet that shows the alias name and possibly an x-ray. Following colloquy, Mr. Sgro to prepare an Order for those records. Further, Mr. Sgro advised Mr. Thomas is incarcerated in San Bernardino and they are trying to get him here for trial. Court so noted.
- 2) Mr. Sgro advised they have an envelope from Jerome Thomas to Detective Bunting with no letter and would like a copy of the letter. Following colloquy, Ms. Weckerly will contact Detective Bunting today and inquire about the letter.
- 3) Mr. Sgro requested updated contact information as to the State's witnesses as they are still listed on Michael Lane, which is 4 years old and incorrect. Conference at the Bench. Pursuant to that conference, Ms. Weckerly will provide the best information she has by the end of the week.
- 4) Mr. Sgro advised he does have some jail phone call records, however, he does not have the "gaps of time" listed on page 4 of his Motion. Following colloquy, Ms. Weckerly advised they will tell counsel what phone calls they intend to use one week prior to trial and will check with Mr. DiGiacomo as to the "missing" content.
- 5) Mr. Sgro advised there were photographs shown to witnesses during their interviews and would like those. Ms. Weckerly advised this is not an identity case as there is a testifying co-defendant, however, she will speak with Detectives to find out what photos they used during the interviews.
- 6) Mr. Sgro advised Cornelius Mayo has picked up 2 felony cases since this case and would like to know what benefit he received. Ms. Weckerly advised they have discussed with Mr. Mayo as well as his counsel and the benefit is that they are not proceeding on those two cases until he testifies. Mr. Sgro advised he is concerned that there is nothing in writing. Ms. Weckerly concurred, there is no written agreement.

Colloquy as to counsel meeting in chambers on Friday at 8:30 AM.

As to Jury Questionnaires: Court noted each counsel submitted a list of the Prospective Jurors they would like excused, however, it will not grant all of them. Court advised the Jury Commissioner will be notified to EXCUSE the following Prospective Jurors (in numerical order): 029, 096, 098, 102, 115, 122, 126, 130, 147, 167, 172, 184, 185, 194, 196, 215, 292, 312, 324, 327, 332, 335, 346, 350, 356, 370, 372, 378, 397, 402, 408, 423, 426, 432, 438, 454, 458, 461, 468, 473, 479, 481, 500, 508, 516, 517, 518, 526, 534,

543, 546, 551, 555, 571, 580, 610, 615, 632, 638, 639, 654, 677, 682, 695, 701, 703, 709, 714, 726, 742, 759, 769, 772 and 776.

Mr. Sgro requested an additional 4 peremptory challenges for both sides, 2 for each Defendant and 4 for the State. Following colloquy, Court DENIED request. Court advised there will be 3 Alternates and that they need to pass 35 Jurors for cause. Mr. Oram advised he has a Federal sentencing the morning of 1/26 and requested to start trial at 1:00 PM. Following colloquy, COURT SO ORDERED.

CUSTODY

1/9/15 8:30 AM STATUS CHECK: DISCOVERY (in chambers)

1/20/15 1:00 PM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 09, 2015**

C-10-267882-2 State of Nevada
vs
David Burns

January 09, 2015**8:30 AM****At Request of Court****At Request of the
Court: Discovery****HEARD BY:** Thompson, Charles**COURTROOM:** RJC Courtroom 10D**COURT CLERK:** Sharon Chun**RECORDER:** Cheryl Carpenter**REPORTER:****PARTIES**

PRESENT:	Di Giacomo, Marc P.	Attorney
	Oram, Christopher R	Attorney
	Sgro, Anthony Patrick	Attorney
	State of Nevada	Plaintiff
	Weaver, Melinda	Attorney
	Weckerly, Pamela C	Attorney

JOURNAL ENTRIES

- Defendants Mason and Burns were not present. Initially the Court met with the following counsel in Chambers:

Marc DiGiacomo and Pam Weckerly for the State of Nevada;

Robert Langford for Deft Mason;

Christopher Oram, Anthony P. Sgro, and Melinda Weaver for Deft Burns.

The following issues were discussed:

1) Prospective Jurors Excused: Court advised that two additional Prospective Jurors (Badge No. 335 and 772) are being excused by the Court. Court cited the reasons and counsel so stipulated. COURT NOTED there remains seventy-five prospective jurors for voir dire and a listing was provided to all counsel.

2) Outstanding Discovery Issues:

A. Envelope contents - Mr. Sgro advised he had still not received the contents of the envelope that was previously discussed. Mr. DiGiacomo represented there was no recollection of the actual letters/correspondence included in the envelope, but there's the conclusion that it consisted of correspondence between Martinez to Jobloc(sp?), nothing from Jerome Thomas. Mr. Sgro accepted Mr. DiGiacomo's representation that the envelope contents were probably filed away without incident and there was no recollection of it.

Mr. DiGiacomo reiterated that Mr. Sgro has been given all discovery.

B. Availability of a CD disc of the Interview with "Monica" - Mr. Oram requested this and Mr. DiGiacomo stated that a special program will be required in order to transfer it to a disc. Mr. Oram stated he will arrange a contact with Mr. DiGiacomo's office to get this accomplished.

C. Telephone Records - Mr. Sgro requested the State make a representation on record about the telephone call records. Mr. DiGiacomo confirmed that the State received the subpoena but all telephone records prior to 4/5/11 are not available. He noted that "Stephanie's conversation" was given to Mr. Sgro. Mr. Langford confirmed he did not represent Deft Mason at that time; there was another lawyer of record and those records are privileged.

3) Mr. Sgro's "Ex-Parte Order to Receive MRI (FILED UNDER SEAL)", previously signed by Judge Tao - Mr. Sgro advised that Deft Burns needs to be transported for an MRI as recommended by his doctor. COURT ADVISED it will place on the record that the Court Clerk is to file the signed order in Open Court.

4) Mr. Sgro's "Order for Production of Medical Records" for Albert Davis aka Jerome Thomas - Court signed the order and returned it to Mr. Sgro for filing.

4) Trial Scheduling Issues:

Both Mr. Sgro and Mr. Langford presented requests for trial scheduling changes. Mr. Sgro requested dark days of Feb. 2nd and 3rd and Mr. Langford requested a dark day of Feb. 27th. COURT SO NOTED. All counsel agreed that the trial can still remain on schedule for completion since the Jury Questionnaires have helped alleviate time for voir dire.

COURT ADVISED of the trial schedule for the first four days during which voir dire will be conducted. The dates are noted below and have been entered into Odyssey.

(Mr. Langford left the meeting at this time.)

5) Discussion held regarding cell phone expert Larry Smith. Both sides agreed that Smith was an expert in cell phones and "phone dumps" and will be called at trial for testimony.

COURT ORDERED a short recess, after which the case was called in the Dept 20 courtroom and was placed on the JAVS recording system.

COURT ORDERED, the "EX-PARTE ORDER TO RECEIVE MRI (FILED UNDER SEAL)", to be

FILED IN OPEN COURT at this time. HEARING CONCLUDED.

CUSTODY (MASON and BURNS)

1/13/15 8:30 AM Calendar Call

1/20/15 1:00 PM Jury Trial Start

1/21/15 9:30 AM Jury Trial Continuance

1/22/15 10:00 AM Jury Trial Continuance

1/23/15 9:00 AM Jury Trial Continuance

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 13, 2015

C-10-267882-2 State of Nevada
 vs
 David Burns

January 13, 2015 7:00 AM Minute Order

HEARD BY: Thompson, Charles

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Court has received a request from Dr. Phillip Larsen to excuse Juror Sharon Kurgin. Pursuant to that request, Court advised Juror #599 is excused.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 13, 2015**

C-10-267882-2 State of Nevada
vs
David Burns

January 13, 2015 8:30 AM All Pending Motions

HEARD BY: Gates, Lee A.**COURTROOM:** RJC Courtroom 10D**COURT CLERK:** Linda Skinner**RECORDER:** Susan Dolorfino**REPORTER:****PARTIES**

PRESENT:	Burns, David	Defendant
	Di Giacomo, Marc P.	Attorney
	Oram, Christopher R	Attorney
	Sgro, Anthony Patrick	Attorney
	State of Nevada	Plaintiff
	Weckerly, Pamela C	Attorney

JOURNAL ENTRIES

- CALENDAR CALL (#1)...DEFENDANT'S MOTION FOR THE DISCLOSURE OF MATERIALS AND FACTS RELATIVE FUTURE PROSECUTIONS OF STATE'S WITNESSES PURSUANT TO GIGLIO ON AN ORDER SHORTENING TIME

Court Service Officer advised Deft Mason refused to come to Court today. Upon Court's inquiry, Mr. Sgro advised the State had until today to let them know if they were going to use any jail calls as to either Defendant; that the understanding is they are not as to Deft. Burns and that there are 10 calls pertaining to Deft Mason out of San Bernardino. Mr. DiGiacomo concurred that they will not use any of the phone calls unless Defense opens the door. Counsel advised they were ready for trial. Court noted Jury selection is set to begin at 1:00 PM on Tuesday, January 20, 2015. Further, Deft's Motion not addressed.

CUSTODY

PRINT DATE: 03/17/2020

Page 56 of 101

Minutes Date: October 13, 2010

1/20/15 1:00 PM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 20, 2015

C-10-267882-2 State of Nevada
 vs
 David Burns

January 20, 2015 1:00 PM Jury Trial

HEARD BY: Thompson, Charles

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Susan Dolorfino

REPORTER:

PARTIES

PRESENT:	Burns, David	Defendant
	Di Giacomo, Marc P.	Attorney
	Oram, Christopher R	Attorney
	Sgro, Anthony Patrick	Attorney
	State of Nevada	Plaintiff
	Weckerly, Pamela C	Attorney

JOURNAL ENTRIES

- OUTSIDE PRESENCE OF PROSPECTIVE JURORS: Mr. Oram provided 2 folders of California Youth records, one of which is 512 pages and the other is 616 pages to the State. 1:20 PM
PROSPECTIVE JURORS PRESENT: Introductions by Court and counsel. Jury selection begins.

2:56 PM OUTSIDE PRESENCE OF PROSPECTIVE JURORS: Mr. Langford advised he knows Prospective Juror #101 as they worked together at the Sport Chalet. Statements by Mr. Sgro and requested this Juror be excused. Court DENIED request at this time. Mr. Sgro requested Prospective Juror #93 be excused based on her husband's upcoming surgery. Objections by Mr. DiGiacomo. Court advised based on her answers to the questions, it does not rise to the level for excusal for cause. Further, Mr. Sgro advised there are 3 African Americans on this panel, and that he still is requesting a hearing as to the issue of not enough African Americans on the panel. Court so noted. Mr. Oram advised they have received 4,000 phone calls from the State.

3:28 PM PROSPECTIVE JURORS PRESENT: Jury selection continues. 6:15 PM Prospective Jurors that were passed are excused and directed to return on Friday at 3:30 PM. COURT ORDERED, EVENING RECESS.

... CONTINUED 1/21/15 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 21, 2015

C-10-267882-2 State of Nevada
vs
David Burns

January 21, 2015 9:30 AM Jury Trial

HEARD BY: Thompson, Charles

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Susan Dolorfino

REPORTER:

PARTIES

PRESENT:	Burns, David	Defendant
	Di Giacomo, Marc P.	Attorney
	Oram, Christopher R	Attorney
	Sgro, Anthony Patrick	Attorney
	State of Nevada	Plaintiff
	Weckerly, Pamela C	Attorney

JOURNAL ENTRIES

- 9:30 AM OUTSIDE PRESENCE OF PROSPECTIVE JURORS: Colloquy as to the jail calls of Monica Martinez and Stephanie Cousins from October 2011 to present, from August 2010 to 2011, the Jail had a different carrier and those records could not be produced. Mr. Sgro requested the State provide these if they have them. Mr. DiGiacomo advised he has provided the calls from April 2011 to present pursuant to the dates listed on Mr. Sgro's Motion. Colloquy as to Prospective Jurors #289, #315 and #280 being excused.

9:50 AM PROSPECTIVE JURORS PRESENT: Introductions by Court and counsel. Voir Dire administered to panel. Jury selection begins. 11:46 AM OUTSIDE PRESENCE OF PROSPECTIVE JURORS: Mr. DiGiacomo advised there were 2 African Americans on this panel. Ms. Weckerly advised of the other minorities also on the panel. LUNCH BREAK.

12:59 PM OUTSIDE PRESENCE OF PROSPECTIVE JURORS: Parties stipulate to excuse Prospective

Juror #201. COURT SO ORDERED. 1:02 PM PROSPECTIVE JURORS PRESENT: Jury selection continues. OUTSIDE PRESENCE OF PROSPECTIVE JURORS: COURT ORDERED, by stipulation, Prospective Jurors #280, #315, #289 and #295 are EXCUSED.

1:59 PM PROSPECTIVE JURORS PRESENT: Jury selection continues. 3:41 PM Court directed the Prospective Jurors that were passed for cause, to return on Friday, January 23rd at 3:30 PM.

OUTSIDE PRESENCE OF PROSPECTIVE JURORS: Mr. Langford advised the Prospective Jurors excused today because of their answers/beliefs as to the death penalty, would have been good jurors for Deft Mason. Court so noted. EVENING RECESS.

... CONTINUED 1/22/15 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 22, 2015

C-10-267882-2 State of Nevada
vs
David Burns

January 22, 2015 9:30 AM Jury Trial

HEARD BY: Thompson, Charles

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Susan Dolorfino

REPORTER:

PARTIES

PRESENT:	Burns, David	Defendant
	Di Giacomo, Marc P.	Attorney
	Oram, Christopher R	Attorney
	Sgro, Anthony Patrick	Attorney
	State of Nevada	Plaintiff
	Weckerly, Pamela C	Attorney

JOURNAL ENTRIES

- 9:26 AM OUTSIDE PRSENCE OF PROSPECTIVE JURORS: Counsel stipulated to the dismissal of Prospective Jurors #496 and #367. Court advised it is also excusing Prospective Juror #469. Arguments by Mr. Langford as to #496. Following COURT ORDERED, Prospective Jurors #367 and #469 are EXCUSED. Mr. Sgro argued for more Peremptory Challenges and if the Court is not going to grant that, then would request a severance so that Mr. Langford can get the Jury that he wants. Arguments by Mr. DiGiacomo including there is no basis to change the statute and no basis for the severance. COURT ORDERED, request DENIED.

Mr. Sgro advised he had provided some additional records to the State; that there is an Order for an MRI, however, the Jail will not tell them when or where it will be. Statements by Mr. DiGiacomo.

9:54 AM PROSPECTIVE JURORS PRESENT: Introductions by Court and counsel. Voir dire administered to panel. Jury selection begins. 11:50 AM LUNCH BREAK. OUTSIDE PRESENCE OF

PROSPECTIVE JURORS: Court noted that after the panel was given the voir dire, the JEA advised that Prospective Juror #494 showed up and was advised to return with the panel tomorrow. Colloquy as to the Jury selection schedule.

1:07 PM PROSPECTIVE JURORS PRESENT: Jury selection continues. 2:29 PM OUTSIDE PRESENCE OF PROSPECTIVE JURORS: Mr. Sgro challenged #521 based on the answers given to questions by Mr. Langford. Statements by Mr. Oram and Mr. DiGiacomo. Following, challenge DENIED. 2:49 PM PROSPECTIVE JURORS PRESENT: Jury selection continues. Jurors passed for cause were directed to return tomorrow, 1/23 at 3:30 PM.

OUTSIDE PRESENCE OF PROSPECTIVE JURORS: Court noted that it would pass 28 Jurors by Friday and pick the 12 members of the Jury from them and then on Monday, another panel will be brought in to pass 7 to pick the 3 Alternates. Objections stated by Mr. Sgro. EVENING RECESS.

... CONTINUED 1/23/15 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 23, 2015

C-10-267882-2 State of Nevada
vs
David Burns

January 23, 2015 9:00 AM Jury Trial

HEARD BY: Thompson, Charles

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Susan Dolorfino

REPORTER:

PARTIES

PRESENT:	Burns, David	Defendant
	Di Giacomo, Marc P.	Attorney
	Oram, Christopher R	Attorney
	Sgro, Anthony Patrick	Attorney
	State of Nevada	Plaintiff
	Weckerly, Pamela C	Attorney

JOURNAL ENTRIES

- 9:13 AM OUTSIDE PRESENCE OR PROSPECTIVE JURORS: Court advised counsel of the Jurors that are not present today. 9:25 AM PROSPECTIVE JURORS PRESENT: Introductions by Court and counsel. Voir dire administered to panel. Jury selection begins. 10:58 AM OUTSIDE PRESENCE OF PROSPECTIVE JURORS: Mr. Sgro requested to challenge for cause Prospective Jurors #509 and #521. Arguments by Mr. Sgro and Mr. DiGiacomo. Court DENIED challenge.

11:17 AM PROSPECTIVE JURORS PRESENT: Jury selection continues. 12:23 PM LUNCH BREAK. 1:26 PM PROSPECTIVE JURORS PRESENT: Jury selection continues. 3:07 PM OUTSIDE PRESENCE OF PROSPECTIVE JURORS: Mr. DiGiacomo advised the panel today consisted of at least 2 African Americans. 3:19 PM PROSPECTIVE JURORS PRESENT: Jury selection continues.

4:11 PM OUTSIDE PRESENCE OF PROSPECTIVE JURORS: Court noted 28 Prospective Jurors have been passed for cause, each side has 8 Peremptory Challenges. Batson challenge as to Prospective

Juror #91. Following arguments by Mr. Sgro and Mr. DiGiacomo, Court DENIED challenge.

4:28 PM PROSPECTIVE JURORS PRESENT: 12 Jurors selected and sworn. Court thanked and excused the remaining panel. Jurors were directed to report on Tuesday, 1/27 at 10:00 AM.

...CONTINUED 1/26/15 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 26, 2015

C-10-267882-2 State of Nevada
 vs
 David Burns

January 26, 2015 9:00 AM Jury Trial

HEARD BY: Thompson, Charles

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Susan Dolorfino

REPORTER:

PARTIES

PRESENT:	Burns, David	Defendant
	Di Giacomo, Marc P.	Attorney
	Oram, Christopher R	Attorney
	Sgro, Anthony Patrick	Attorney
	State of Nevada	Plaintiff
	Weckerly, Pamela C	Attorney

JOURNAL ENTRIES

- 8:53 AM OUTSIDE PRESENCE OF PROSPECTIVE ALTERNATE JURORS: Court advised it has completed the selection of 12 Jurors; that it has gone through the list of 50 Prospective Juror Questionnaires and advised the Prospective Jurors that are being excused based on their answers as to the death penalty, etc. After the excusals, Court advised there are 23 remaining Prospective Jurors and this Court feels that they will be able to pass 7 to obtain the 3 Alternate Jurors. 9:45 AM PROSPECTIVE ALTERNATE JURORS PRESENT: Introductions by Court and counsel. Voir dire administered to the panel. Jury selection begins. 10:54 AM BREAK

11:22 AM OUTSIDE PRESENCE OF PROSPECTIVE ALTERNATE JURORS: Juror #666 was brought in and questioned and as he is a Felon, he was EXCUSED. Arguments by Mr. Sgro as to Juror #645 being passed for cause and would again challenge. Statements by Mr. DiGiacomo. Court DENIED challenge. 11:27 AM PROSPECTIVE ALTERNATE JURORS PRESENT: Jury selection continues. 12:05 PM LUNCH. OUTSIDE PRESENCE OF PROSPECTIVE ALTERNATE JURORS: Mr.

DiGiacomo advised there are 5 African Americans on the panel today, bringing the total to 14 African Americans and advised there is no basis for a hearing.

1:18 PM PROSPECTIVE ALTERNATE JURORS PRESENT: Jury selection continues. 2:54 PM 3 Alternate Jurors were selected and sworn. Court excused remaining prospective Jurors. The Alternates were directed to come back tomorrow at 10:00 AM. EVENING RECESS.

... CONTINUED 1/27/15 10:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 27, 2015**

C-10-267882-2 State of Nevada
vs
David Burns

January 27, 2015 10:00 AM Jury Trial

HEARD BY: Thompson, Charles**COURTROOM:** RJC Courtroom 10D**COURT CLERK:** Linda Skinner**RECORDER:** Susan Dolorfino**REPORTER:****PARTIES**

PRESENT:	Burns, David	Defendant
	Di Giacomo, Marc P.	Attorney
	Oram, Christopher R	Attorney
	Sgro, Anthony Patrick	Attorney
	State of Nevada	Plaintiff
	Weckerly, Pamela C	Attorney

JOURNAL ENTRIES

- 10:08 AM JURY PRESENT: Court noted all counsel, Defendants and the Jury panel are present. Introductions by Court. Superseding Indictment read by the Clerk. Opening statements by Ms. Weckerly and Mr. Sgro. OUTSIDE PRESENCE OF THE JURY: Ms. Weckerly advised Mr. Sgro used the word "guilty" in his opening statement and noted that when the State used this word in their opening statement, in another case, the case was reversed. LUNCH BREAK.

1:08 PM JURY PRESENT: Court noted all present as before. Opening statement by Mr. Langford. Testimony and exhibits presented (see worksheets). 2:40 PM OUTSIDE PRESENCE OF JURY: Mr. Oram advised there is a part of Monica's recorded statement where she refers to the name of the gang and would like that part redacted. Statements by Mr. DiGiacomo. Following, COURT ORDERED, the reference to the gang name will be redacted.

2:48 PM JURY PRESENT: Court noted all present as before. Testimony and exhibits continued (see

worksheets). 4:25 PM Jury excused. OUTSIDE PRESENCE OF JURY: Colloquy as to page 213 of Monica's statement. COURT ORDERED, that page does not need to be redacted, only what was discussed earlier. EVENING RECESS.

... CONTIINUED 1/28/15 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 28, 2015**

C-10-267882-2 State of Nevada
vs
David Burns

January 28, 2015 9:30 AM Jury Trial

HEARD BY: Thompson, Charles**COURTROOM:** RJC Courtroom 10D**COURT CLERK:** Linda Skinner**RECORDER:** Susan Dolorfino**REPORTER:****PARTIES**

PRESENT:	Burns, David	Defendant
	Di Giacomo, Marc P.	Attorney
	Oram, Christopher R	Attorney
	Sgro, Anthony Patrick	Attorney
	State of Nevada	Plaintiff
	Weckerly, Pamela C	Attorney

JOURNAL ENTRIES

- 9:26 AM OUTSIDE PRESENCE OF JURY: Mr. Sgro advised that co-offender Monica Martinez's attorneys have been present during the proceedings and is concerned they will speak to their client about what has been happening. Statements by Mr. DiGiacomo and Mr. Oram. 9:36 AM JURY PRESENT: Court noted the presence of counsel, the Defendants and the Jury. Testimony and exhibits continued (see worksheets). 10:56 AM OUTSIDE PRESENCE OF JURY: Statements by Mr. Oram as to a continuing objection without having to explain objection each time during the testimony of Ms. Cousins. Court so noted.

11:11 AM JURY PRESENT: Court noted all present as before. Testimony and exhibits continued (see worksheets). LUNCH BREAK. OUTSIDE PRESENCE OF JURY: Mr. DiGiacomo is offering exhibit #274, Monica Martinez's interview, that they have redacted it down to 5 1/2 hours. No objections by Mr. Langford. Objections by Mr. Oram as he does not feel it is admissible. Following colloquy, Court OVERRULED objection. Mr. Langford advised he is joining in the objection as to the

confrontation clause. Mr. Sgro stated he has sent out several subpoenas to Ms. Martinez's family member, does not know what they look like and requested to know the identity of the male in the back row. Upon inquiry, male advised he was the Uncle of Ms. Martinez.

1:09 PM JURY PRESENT: Court noted all present as before. Testimony and exhibits continued (see worksheets). 2:43 PM OUTSIDE PRESENCE OF JURY: Mr. Sgro requested Ms. Martinez be unshackled for the cross examination. Court DENIED request. 3:02 PM JURY PRESENT: Court noted all present as before. Testimony and exhibits continued (see worksheets). 4:29 PM Jury excused. OUTSIDE PRESENCE OF JURY: Mr. Langford requested Ms. Martinez be unshackled. Following colloquy, Court DENIED request. EVENING RECESS.

... CONTINUED 1/29/15 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 29, 2015

C-10-267882-2 State of Nevada
 vs
 David Burns

January 29, 2015 9:30 AM Jury Trial

HEARD BY: Thompson, Charles

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Susan Dolorfino

REPORTER:

PARTIES

PRESENT:	Burns, David	Defendant
	Di Giacomo, Marc P.	Attorney
	Oram, Christopher R	Attorney
	Sgro, Anthony Patrick	Attorney
	State of Nevada	Plaintiff
	Weckerly, Pamela C	Attorney

JOURNAL ENTRIES

- 9:43 AM JURY PRESENT: Court advised the Defendants, Jurors and all counsel were present. Testimony continues (see worksheets). 11:57 AM LUNCH BREAK. OUTSIDE PRESENCE OF JURY: Court advised upon review, the ruling as to Monica Martinez being unchained is REVERSED and ORDERED, that she will be unchained upon her return to the stand.

1:06 PM JURY PRESENT: Court noted all present as before. Testimony and exhibits continued (see worksheets). 4:37 PM Jury released for the evening. OUTSIDE PRESENCE OF JURY: Mr. DiGiacomo advised it appears that Mr. Oram is going to elicit the hearsay statements of Job-loc. Arguments by Mr. Oram in support of his position. Colloquy as to co-conspirator statements. Following, Court advised the statements will be allowed. EVENING RECESS.

... CONTINUED 1/30/15 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 30, 2015**

C-10-267882-2 State of Nevada
vs
David Burns

January 30, 2015 9:30 AM Jury Trial

HEARD BY: Thompson, Charles**COURTROOM:** RJC Courtroom 10D**COURT CLERK:** Linda Skinner**RECORDER:** Susan Dolorfino**REPORTER:****PARTIES**

PRESENT:	Burns, David	Defendant
	Di Giacomo, Marc P.	Attorney
	Oram, Christopher R	Attorney
	Sgro, Anthony Patrick	Attorney
	State of Nevada	Plaintiff
	Weckerly, Pamela C	Attorney

JOURNAL ENTRIES

- 9:38 AM JURY PRESENT: Court noted the Defendants, the Jury and all counsel are present. Testimony and exhibits continued (see worksheets). 11:00 AM OUTSIDE PRESENCE OF JURORS: Mr. Sgro objected to Courtroom decorum of Mr. DiGiacomo. Court noted that all counsel are to act properly in Court. Mr. Sgro requested a hearing as to the jail letters, as they were told the District Attorney tells the jail when and when not to copy the letters. Mr. DiGiacomo argued that the Homicide Detectives direct the jail as to the copying of letters, that his homicide book is opened on the table and that Mr. Sgro has every piece of paper that he has.

11:21 AM JURY PRESENT: Court noted all present as before. 12:04 PM LUNCH BREAK.

1:24 PM OUTSIDE PRESENCE OF JURORS: Statements by Mr. Oram and Mr. DiGiacomo as to the testimony of D. Rowland. Following, Court OVER RULED objection. Mr. Langford moved again for severance based on the fact that he just learned that the next witness D. Rowland is now going to

finger Deft Mason as the shooter and not Deft Burns. Arguments by Mr. Sgro and Mr. DiGiacomo. Following, COURT ORDERED, Motion to Sever is DENIED.

1:44 PM JURY PRESENT: Court noted all present as before. Testimony and exhibits continued (see worksheets). 2:58 PM OUTSIDE PRESENCE OF JURORS: Court noted it appeared that witness D. Rowland was less than truthful. Arguments by Mr. DiGiacomo and Mr. Sgro in support of their positions as to the Crowley case and statutes 51.035 and 51.325 and the admission of D. Rowland's Grand Jury testimony. Following, Court advised it is admissible. 3:14 PM JURY PRESENT: Court noted all present as before. Testimony and exhibits continued (see worksheets). 3:30 PM EVENING RECESS.

... CONTINUED 2/5/15 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 05, 2015

C-10-267882-2 State of Nevada
 vs
 David Burns

February 05, 2015 8:30 AM Motion

HEARD BY: Thompson, Charles

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Susan Dolorfino

REPORTER:

PARTIES

PRESENT:	Burns, David	Defendant
	Di Giacomo, Marc P.	Attorney
	Oram, Christopher R	Attorney
	Sgro, Anthony Patrick	Attorney
	State of Nevada	Plaintiff
	Weckerly, Pamela C	Attorney

JOURNAL ENTRIES

- Arguments by Mr. Oram and Mr. DiGiacomo in support of their respective positions. Mr. Langford advised that he has joined in this Motion. Following additional arguments, COURT ORDERED, Motion DENIED.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 05, 2015**

C-10-267882-2 State of Nevada
vs
David Burns

February 05, 2015 9:30 AM Jury Trial

HEARD BY: Thompson, Charles**COURTROOM:** RJC Courtroom 10D**COURT CLERK:** Linda Skinner**RECORDER:** Susan Dolorfino**REPORTER:****PARTIES**

PRESENT:	Burns, David	Defendant
	Di Giacomo, Marc P.	Attorney
	Oram, Christopher R	Attorney
	Sgro, Anthony Patrick	Attorney
	State of Nevada	Plaintiff
	Weckerly, Pamela C	Attorney

JOURNAL ENTRIES

- 9:45 AM OUTSIDE PRESENCE OF JURY: Mr. Sgro advised that two children will be testifying and is concerned of hearsay statements. Mr. DiGiacomo and Ms. Weckerly promised they would not elicit any hearsay statements. Statements by Mr. Sgro as to the Tool Mark Expert. COURT ORDERED, ruling reserved. Court advised it received a call from Juror #1, Kelly Rowan and due to medical issues with her husband, Court has excused her and Alternate #1 will be placed in her seat. 10:03 AM JURY PRESENT: Court advised Juror #1, Kelly Rowan has been excused and Alternate #1 was placed in seat #1 and sworn as part of the Jury. Court advised the Jury, the Defendants and all counsel are present. Testimony and exhibits continued (see worksheets). 12:02 PM LUNCH BREAK.

1:04 PM JURY PRESENT: Court advised all present as before. 1:25 PM BREAK. 1:35 PM OUTSIDE PRESENCE OF JURY: Court advised Juror #7, Mary Paradis has taken ill and is excused. Alternate #1 Cindy Arnold will move into seat 7. 1:37 PM JURY PRESENT: Court advised as Ms. Paradis is ill, she is excused and Alternate Cindy Arnold will be sworn and sit in seat #7. Testimony and exhibits

continued (see worksheets).

3:18 PM OUTSIDE PRESENCE OF JURY: Mr. Sgro moved for mistrial as he feels Mr. DiGiacomo suggested burden shifting. Following statements by Mr. Sgro and Mr. DiGiacomo, Court DENIED request for mistrial. Mr. Sgro requested a curative instruction be given to the Jury upon their return. Mr. DiGiacomo had no objection. 3:34 PM JURY PRESENT: Court noted all present as before. Testimony and exhibits continued (see worksheets). 5:26 PM EVENING RECESS.

... CONTINUED 2/6/15 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 06, 2015**

C-10-267882-2 State of Nevada
vs
David Burns

February 06, 2015 9:30 AM Jury Trial

HEARD BY: Thompson, Charles**COURTROOM:** RJC Courtroom 10D**COURT CLERK:** Linda Skinner**RECORDER:** Susan Dolorfino**REPORTER:****PARTIES**

PRESENT:	Burns, David	Defendant
	Di Giacomo, Marc P.	Attorney
	Oram, Christopher R	Attorney
	Sgro, Anthony Patrick	Attorney
	State of Nevada	Plaintiff
	Weckerly, Pamela C	Attorney

JOURNAL ENTRIES

- 9:27 AM OUTSIDE PRESENCE OF JURY: Mr. Sgro advised the State stipulates to the admission of Defense U which is a report for gunshot residue on Cornelius Mayo. Ms. Weckerly concurred. 9:40 AM JURY PRESENT: Court noted the Jury, the Defendants and all counsel are present. Testimony and exhibits continued (see worksheets). 12:38 PM LUNCH BREAK.

1:55 PM OUTSIDE PRESENCE OF JURORS: Court advised counsel that one of the Jurors needs to leave by 5:00 PM today to fly out for a funeral. Mr. Oram advised they just received a 911 call about Stephanie Cousins and would object as they will not have a chance to cross examine Ms. Cousins. Arguments by Mr. DiGiacomo including that the daughter of Stephanie Cousins, who made the call, will be in Court. Following continued arguments by Mr. Sgro, Mr. Oram and Mr. DiGiacomo, COURT ORDERED, it will be received. 2:07 PM JURY PRESENT: Court noted all present as before. Testimony and exhibits continued (see worksheets). 3:37 PM JURY EXCUSED. OUTSIDE PRESENCE OF JURY: Mr. DiGiacomo expects Det. Bunting to testify Monday or Tuesday and

advised the Defense needs to let him know the portions they want redacted from the statement. Mr. Sgro advised he objects to colloquy by Police but has no objection to a question followed by an answer. Following, Court directed Mr. Sgro to provide by Sunday morning. EVENING RECESS.

... CONTINUED 2/9/15 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 09, 2015**

C-10-267882-2 State of Nevada
vs
David Burns

February 09, 2015 9:30 AM Jury Trial

HEARD BY: Thompson, Charles**COURTROOM:** RJC Courtroom 10D**COURT CLERK:** Linda Skinner**RECORDER:** Susan Dolorfino**REPORTER:****PARTIES**

PRESENT:	Burns, David	Defendant
	Di Giacomo, Marc P.	Attorney
	Oram, Christopher R	Attorney
	Sgro, Anthony Patrick	Attorney
	State of Nevada	Plaintiff
	Weckerly, Pamela C	Attorney

JOURNAL ENTRIES

- 9:32 AM OUTSIDE PRESENCE OF JURY: Court advised counsel have entered into a stipulation as to the penalty phase of this trial. Mr. Sgro advised that they and the State have agreed that if the verdict comes back as 1st Degree Murder, they will waive the penalty phase, stipulate to Life without Parole, Defendant waives his appellate rights and the State will remove the death penalty. Mr. Sgro advised they are not waiving any misconduct during the remainder of the trial or of the closing arguments. Mr. DiGiacomo concurred that the death penalty will be removed, Defendant stipulates to Life without Parole and waives any appeal as to the trial if the verdict is 1st Degree Murder. Mr. Langford advised Deft Mason will also waive the penalty phase. Upon inquiry by the Court, Deft Mason stated he waives his right to a penalty phase and Deft Burns stated he waives his right to a penalty phase and to his right to appeal. Court so noted.

9:47 AM JURY PRESENT: Court noted the Jury, the Defendants and all counsel are present. Testimony and exhibits continued (see worksheets). 11:11 AM OUTSIDE PRESENCE OF JURY: Mr.

DiGiacomo advised there is a stipulation between the State and Defense for the admission of State's Proposed #250- #261. COURT SO ORDERED.

11:13 AM JURY PRESENT: Court noted all present as before. Testimony and exhibits continued (see worksheets). 11:43 PM LUNCH BREAK. OUTSIDE PRESENCE OF JURY: Jury instructions discussed. Statements by Mr. DiGiacomo, Ms. Weckerly and Mr. Oram.

1:35 PM JURY PRESENT: Court noted all present as before. Testimony and exhibits continued (see worksheets). 2:27 PM OUTSIDE PRESENCE OF JURY: Arguments by Mr. Sgro as to the identification of Deft Mason by Witness Vasek. Court advised Deft Burns' appearance has changed. Statements by Mr. DiGiacomo.

2:48 PM OUTSIDE PRESENCE OF JURY: Stipulation and Order Waiving Separate Penalty Hearing SIGNED AND FILED IN OPEN COURT as to Deft. Burns. Stipulation and Order Waiving Separate Penalty Hearing SIGNED AND FILED IN OPEN COURT as to Deft Mason. 2:50 PM JURY PRESENT: Court noted all present as before. Testimony and exhibits continued (see worksheets). 4:00 PM EVENING RECESS.

... CONTINUED 2/10/15 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 10, 2015

C-10-267882-2 State of Nevada
 vs
 David Burns

February 10, 2015 9:30 AM Jury Trial

HEARD BY: Thompson, Charles

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Susan Dolorfino

REPORTER:

PARTIES

PRESENT:	Burns, David	Defendant
	Di Giacomo, Marc P.	Attorney
	Oram, Christopher R	Attorney
	Sgro, Anthony Patrick	Attorney
	State of Nevada	Plaintiff
	Weckerly, Pamela C	Attorney

JOURNAL ENTRIES

- 9:38 AM OUTSIDE PRESENCE OF JURY: Statements by Mr. Sgro as to exhibit #309 and feels it needs to be redacted. Arguments by Mr. DiGiacomo. Following, COURT ORDERED, State's exhibit #309 to be redacted (the first two pages need to be removed). 9:59 AM JURY PRESENT: Court noted the Jury, the Defendants and all counsel are present. Testimony and exhibits continued (see worksheets). 12:40 AM LUNCH BREAK.

1:57 PM OUTSIDE PRESENCE OF JURY: Discussion by counsel as to letters the State wants to introduce. Arguments by Mr. DiGiacomo and Mr. Sgro. Following, Court advised State's Proposed #337, #338, #340, #336 and #344 will not be admitted. 2:09 PM JURY PRESENT: Court noted all present as before. Testimony and exhibits continued (see worksheets). 4:09 PM EVENING RECESS.

... CONTINUED 2/11/15 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 11, 2015**

C-10-267882-2 State of Nevada
vs
David Burns

February 11, 2015 9:30 AM Jury Trial

HEARD BY: Thompson, Charles**COURTROOM:** RJC Courtroom 10D**COURT CLERK:** Linda Skinner**RECORDER:** Susan Dolorfino**REPORTER:****PARTIES**

PRESENT:	Burns, David	Defendant
	Di Giacomo, Marc P.	Attorney
	Oram, Christopher R	Attorney
	Sgro, Anthony Patrick	Attorney
	State of Nevada	Plaintiff
	Weckerly, Pamela C	Attorney

JOURNAL ENTRIES

- 9:30 AM OUTSIDE PRESENCE OF JURY: Mr. Sgro advised Detective Shoemaker is now retired, that through the course of an interview, found out that Detective Shoemaker was part of the team working on the Burns case; he did not interview any witnesses but compiled information that was supplied to CPS. Mr. Sgro stated Detective Shoemaker advised CPS that Devonia was used as a mule during the drug buys. However, Mr. Sgro stated that when he asked Mr. Mayo and Ms. Newman, they denied this. Mr. Sgro advised if the Court feels this is hearsay, will offer it for a prior inconsistent statement. Arguments by Mr. DiGiacomo. Continued arguments by Mr. Sgro including that Detective Shoemaker will testify that Mr. Mayo phoned friends to pick up the product before he called 911. Following arguments by Mr. DiGiacomo and Mr. Sgro, COURT ORDERED, it is hearsay and Detective Shoemaker will not be allowed to testify. Statements by Mr. Sgro as to admitting medical records, that there is a one page entry with a notation by the Security Guard that he would like to admit. There being no objection, COURT SO ORDERED.

9:45 AM JURY PRESENT: Court advised the Jury, the Defendants and all counsel are present. Testimony and exhibits continued (see worksheets). 10:39 AM STATE RESTS. OUTSIDE PRESENCE OF JURY: Both Defendants were advised of their rights to testify. Mr. Sgro advised there is a stipulation for the admission of Defts CC. COURT SO ORDERED. BREAK. 11:00 AM OUTSIDE PRESENCE OF JURY: Mr. DiGiacomo advised there was a Reciprocal Discovery Order in this case and they asked Defense if there were any exhibits; Mr. DiGiacomo advised Mr. Sgro just handed him two pieces of discovery that he intends to use and would request they not be allowed. Arguments by Mr. Sgro including that until the State had rested, they did not know what they were going to use. Following additional arguments, COURT ORDERED, they will be allowed.

11:07 AM JURY PRESENT: Court noted all present as before. Testimony and exhibits continued (see worksheets). 11:48 AM DEFT BURNS RESTED. DEFT MASON RESTED. LUNCH BREAK. OUTSIDE THE PRESENCE OF THE JURY: Jury instructions settled on the record.

1:04 PM JURY PRESENT: Court noted all present as before. Jury Instructions read by the Court. BREAK. 2:16 PM JURY PRESENT: Court noted all present as before. Closing arguments by Ms. Weckerly, Mr. Langford and Mr. Oram. 4:48 PM EVENING RECESS.

... CONTINUED 2/12/15 9:45 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 12, 2015

C-10-267882-2 State of Nevada
 vs
 David Burns

February 12, 2015 9:30 AM Jury Trial

HEARD BY: Thompson, Charles

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Susan Dolorfino

REPORTER:

PARTIES

PRESENT:	Burns, David	Defendant
	Di Giacomo, Marc P.	Attorney
	Oram, Christopher R	Attorney
	Sgro, Anthony Patrick	Attorney
	State of Nevada	Plaintiff
	Weckerly, Pamela C	Attorney

JOURNAL ENTRIES

- 9:46 AM JURY PRESENT: Court noted the Jury, the Defendants and all counsel were present. Closing arguments by Mr. Sgro. 10:33 AM BREAK.

10:47 AM JURY PRESENT: Court noted all present as before. Closing arguments continued by Mr. Sgro. 11:30 AM BREAK.

11:42 AM JURY PRESENT: Court noted all present as before. Closing arguments by Mr. DiGiacomo.
12:46 PM Jury retired to deliberate. Court excused the Alternate but advised her she would be on call. 4:30 PM EVENING RECESS.

... CONTINUED 2/13/15 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 13, 2015

C-10-267882-2 State of Nevada
 vs
 David Burns

February 13, 2015 9:00 AM Jury Trial

HEARD BY: Thompson, Charles

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Susan Dolorfino

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- 9:00 AM Jury arrives to continue deliberations.

4:15 PM There being no verdict, the Jury was EXCUSED for the weekend and directed to report Tuesday at 9:00 am. EVENING RECESS.

... CONTINUED 2/17/15 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 17, 2015

C-10-267882-2 State of Nevada
vs
David Burns

February 17, 2015 9:00 AM Jury Trial

HEARD BY: Thompson, Charles

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Susan Dolorfino

REPORTER:

PARTIES

PRESENT:	Burns, David	Defendant
	Di Giacomo, Marc P.	Attorney
	Oram, Christopher R	Attorney
	State of Nevada	Plaintiff
	Weaver, Melinda	Attorney
	Weckerly, Pamela C	Attorney

JOURNAL ENTRIES

- 9:00 AM Jury arrives to continue deliberations.

4:27 PM OUTSIDE PRESENCE OF THE JURY: Court advised while the Jury was deliberating on Friday, they had a question and wanted a read back of Monica Martinez' testimony. Upon clarification from the Jury and after a conference call with counsel, 2 discs were made of the testimony of Monica Martinez, 1/28/15 (marked Court's 18) and 1/29/15 (marked Court's 19). Today, during deliberations, the Jury wanted clarification as to Count 5, counsel were summoned to chambers and an answer was sent in by the Court.

4:33 PM JURY PRESENT: Court noted the Jury, the Defendants and counsel, except for Mr. Sgro, were present. Jury Foreperson advised they had reached a verdict. Clerk read the following:
AS TO DEFT MASON:

COUNT 1 - Conspiracy to Commit Robbery - GUILTY;

COUNT 2 - Conspiracy to Commit Murder - GUILTY;
COUNT 3 - Burglary While in Possession of a Firearm - GUILTY;
COUNT 4 - Robbery With Use of a Deadly Weapon - GUILTY;
COUNT 5 - Murder With Use of a Deadly Weapon - GUILTY of FIRST DEGREE MURDER WITH USE OF A DEADLY WEAPON. SPECIAL VERDICT: The Jury unanimously finds the murder was committed during the perpetration of a robbery and/or burglary;
COUNT 6 - Robbery With Use of a Deadly Weapon (DeVonia Newman) - GUILTY;
COUNT 7 - Attempt Murder With Use of a Deadly Weapon - GUILTY, and;
COUNT 8 - Battery With a Deadly Weapon Resulting in Substantial Bodily Harm - GUILTY.

AS TO DEFT BURNS:

COUNT 1 - Conspiracy to Commit Robbery - GUILTY;
COUNT 2 - Conspiracy to Commit Murder - GUILTY;
COUNT 3 - Burglary While in Possession of a Firearm - GUILTY;
COUNT 4 - Robbery With Use of a Deadly Weapon - GUILTY;
COUNT 5 - Murder With Use of a Deadly Weapon - GUILTY of FIRST DEGREE MURDER WITH USE OF A DEADLY WEAPON. SPECIAL VERDICT: 1) The Jury unanimously finds the murder was committed during the perpetration of a robbery and/or burglary and 2) The Jury does not unanimously find the Defendant guilty under a single theory of Murder of the First Degree;
COUNT 6 - Robbery with Use of a Deadly Weapon (DeVonia Newman) - GUILTY;
COUNT 7 - Attempt Murder With Use of a Deadly Weapon - GUILTY and;
COUNT 8 - Battery With a Deadly Weapon Resulting in Substantial Bodily Harm - GUILTY.

At request of Mr. Oram, the Jury was polled. Court advised the Jury they do not need to hear a Penalty Phase due to the Stipulation that was filed 2/9. Court thanked and excused the Jury. Court referred the matter to the Division of Parole and Probation for Pre-sentence Investigation Reports and ORDERED, set for sentencing.

CUSTODY (BOTH)

4/9/15 8:30 AM SENTENCING (BOTH)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 09, 2015

C-10-267882-2 State of Nevada
 vs
 David Burns

April 09, 2015

8:30 AM

Sentencing

HEARD BY: Thompson, Charles

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Susan Dolorfino

REPORTER:

PARTIES

PRESENT:	Burns, David	Defendant
	Oram, Christopher R	Attorney
	State of Nevada	Plaintiff
	Weaver, Melinda	Attorney
	Weckerly, Pamela C	Attorney

JOURNAL ENTRIES

- Court noted that counsel want a continuance. Mr. Oram concurred and requested two weeks. Ms. Weckerly had no objection. COURT ORDERED, matter CONTINUED TWO (2) WEEKS.

CUSTODY

... CONTINUED 4/23/15 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****April 23, 2015**

C-10-267882-2 State of Nevada
vs
David Burns

April 23, 2015**8:30 AM****Sentencing****HEARD BY:** Thompson, Charles**COURTROOM:** RJC Courtroom 10D**COURT CLERK:** Alice Jacobson**RECORDER:** Patti Slattery**REPORTER:****PARTIES**

PRESENT:	Burns, David	Defendant
	Di Giacomo, Marc P.	Attorney
	Oram, Christopher R	Attorney
	State of Nevada	Plaintiff
	Weaver, Melinda	Attorney
	Weckerly, Pamela C	Attorney

JOURNAL ENTRIES

- Sentencing Memorandum FILED IN OPEN COURT (under seal). Following statements by counsel and Defendant. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, and \$35.00 Domestic Violence fee, Deft. SENTENCED as follows to counts:

1. CONSPIRACY TO COMMIT ROBBERY (F), a MAXIMUM of SEVENTY TWO (72) MONTHS and MINIMUM of TWELVE (12) MONTHS in the Nevada Department of Corrections (NDC).
2. CONSPIRACY TO COMMIT MURDER (F), a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS and MINIMUM TWENTY FOUR (24) MONTHS in the Nevada Department of Corrections (NDC).
3. BURGLARY WHILE IN POSSESSION OF A FIREARM, a MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS and MINIMUM TWENTY FOUR (24) MONTHS in the Nevada Department

of Corrections (NDC).

4. ROBBERY WITH USE OF DEADLY WEAPON (F), a MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS and MINIMUM TWENTY FOUR (24) MONTHS in the Nevada Department of Corrections (NDC) plus enhancement of a CONSECUTIVE term of a MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS and MINIMUM TWENTY FOUR (24) MONTHS in the Nevada Department of Corrections (NDC) for use of a deadly weapon.

5. FIRST DEGREE MURDER WITH USE OF A DEADLY WEAPON (F), LIFE WITHOUT PAROLE plus enhancement of MAXIMUM of TWO HUNDRED FORTY(240) MONTHS and MINIMUM FORTY (40) MONTHS in the Nevada Department of Corrections (NDC) for use of a deadly weapon.

6. ROBBERY WITH USE OF A DEADLY WEAPON (F), a MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS and MINIMUM TWENTY FOUR (24) MONTHS in the Nevada Department of Corrections (NDC) plus enhancement of a CONSECUTIVE term of a MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS and MINIMUM TWENTY FOUR (24) MONTHS in the Nevada Department of Corrections (NDC) for use of a deadly weapon.

7. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (F), a MAXIMUM of TWO HUNDRED FORTY (240) MONTHS and MINIMUM FORTY EIGHT (48) MONTHS in the Nevada Department of Corrections (NDC) plus enhancement of a CONSECUTIVE term of a MAXIMUM of TWO HUNDRED FORTY (240) MONTHS and MINIMUM FORTY (40) MONTHS in the Nevada Department of Corrections (NDC) for use of a deadly weapon.

8. BATTERY WITH A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (F), a MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS and MINIMUM TWENTY FOUR (24) MONTHS in the Nevada Department of Corrections (NDC).

with 1,671 days CREDIT FOR TIME SERVED. COUNTS 1,2,3,4 to run CONCURRENT with Count 5. Counts 6 & 8 to run CONCURRENT with Count 7. Count 7 to run CONSECUTIVE to Count 5.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 16, 2016

C-10-267882-2 State of Nevada
 vs
 David Burns

February 16, 2016 8:30 AM All Pending Motions

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER:

REPORTER: Amber McClane

PARTIES

PRESENT: Merback, William J. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Court noted Defendant is in prison and not present today and proffered several Motions.

AS TO DEFENDANT'S PRO PER MOTION:

...TO WITHDRAW COUNSEL: COURT ORDERED, GRANTED.

...TO APPOINT COUNSEL: Court noted it received the State's response; that there are no difficult issues, Defendant is able to comprehend the proceedings and does not need counsel as there is no additional discovery. Therefore, COURT ORDERED, DENIED.

...PETITION FOR WRIT OF HABEAS CORPUS: Court noted grounds 1,2,3,10,12,14 & 15 pertain to instances of prosecutorial misconduct, however, these should have been raised in direct appeal and not in a post-conviction writ.

As to ground 4: Counsel was Ineffective for Failing to Object or Raise on Direct Appeal an Alleged Instance of "Witness Coaching": Defendant contends counsel was ineffective for not objecting to this. However, the Court advised it had been watching the lawyers in the back and had not seen them do

anything that could be interpreted as witness coaching.

As to ground 5: Counsel was Ineffective for Failing to Raise Prosecutorial and Police Misconduct on Direct Appeal: Counsel cannot be deemed ineffective for failing to raise this issue on direct appeal, as Defendant waived his appellate rights. Additionally, Defendant failed to show how the outcome of the trial would have been different and does not cite to where in the record these alleged statements by the witness were made and did not attach the interview to the exhibit.

As to ground 6: Counsel was Ineffective for Failing to Raise Prosecutorial Misconduct on Direct Appeal: Defendant waived his appellate rights, thus it would have been futile to file an appeal.

As to ground 7: Counsel was Ineffective for Failing to Raise Mental Disabilities for Removal of the Death Penalty as Defendant Stipulated to a Sentence of Life Without Parole: Defendant's claims are belied by the record, the death penalty was removed as a possible option. Further, Defendant failed to present any evidence that he qualifies as intellectually disabled as described by *Atkins v Virginia*.

As to ground 8: Counsel was Ineffective for Discussing Stephanie Cousin's Statements to the Police: Court noted it is a strategic decision by defense counsel as to what to ask the Detectives and witnesses. Further, Bruton does not apply to non-testimonial statements like a statement of a co-conspirator, so her testimony would not violate his confrontation rights.

As to ground 9: Counsel was Ineffective as Defendant Waived his Right to a Direct Appeal and Defendant had no right to Counsel for a Post-Conviction Habeas Petition: Defendant waived his right to a direct appeal, thus counsel cannot be deemed ineffective for failing to file one.

As to ground 11: Counsel was Ineffective for Failing to Object as the Prosecutor Made Fair Comments on the Evidence Presented During Closing Argument: Defendant claims his counsel was ineffective for not objecting to the Prosecutor "injecting his own opinion of facts not in evidence". However, Defendant's claims are belied by the record and are without merit. Further, Defendant cannot show any prejudice suffered as a result of these arguments.

As to ground 13: Counsel was Ineffective for Failing to Object at Trial or for Failing to Cross Examine Witnesses about an Alleged Lie about Defendant's Mental Issues: Defendant's claim is essentially about the alleged failures to cross-examine a particular witness about an issue. However, these claims relate to trial strategy, which is "virtually unchallengeable". Further, Defendant cannot show prejudice and fails to prove how the outcome of his trial would have been different.

For all the above reasons, COURT ORDERED, Pro Per Petition DENIED.

... FOR PRODUCTION OF DOCUMENTS, PAPERS, PLEADINGS AND TANGIBLE PROPERTY OF DEFENDANT: COURT ORDERED, DENIED.

DEFENDANT'S REQUESTING THE COURT GIVE A EVIDENTIARY HEARING ON ISSUES

LISTED IN WRIT OF HABEAS CORPUS: COURT ORDERED, DENIED.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 30, 2017

C-10-267882-2 State of Nevada
 vs
 David Burns

March 30, 2017 9:00 AM Confirmation of Counsel

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Linda Skinner

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT: Resch, Jamie J. Attorney

JOURNAL ENTRIES

- Court noted Defendant is in prison and not present today. Upon Court's inquiry, Mr. Resch advised he can confirm as counsel of record. COURT SO ORDERED. Mr. Resch requested a status check in sixty days to set a briefing schedule after he reviews the file. Ms. Rose had no objection. COURT ORDERED, matter SET for status check in SIXTY (60) DAYS.

NDC

6/1/17 9:00 AM STATUS CHECK: SET BRIEFING SCHEDULE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 01, 2017**

C-10-267882-2 State of Nevada
 vs
 David Burns

June 01, 2017 9:00 AM Status Check

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Linda Skinner

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT:	Resch, Jamie J.	Attorney
	Rose, Laura Jean	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Defendant is in prison and not present today. Upon Court's inquiry, Mr. Resch advised he has reviewed all the pleadings, however, he needs to have the sentencing transcript prepared. Mr. Resch requested at least 6 months for his brief. Following colloquy, COURT ORDERED the following briefing schedule:

Mr. Resch to file by 11/30;

The State to respond by 1/16;

Mr. Resch to reply by 2/16 and matter SET for argument.

NDC

3/8/18 9:00 AM ARGUMENT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 17, 2018

C-10-267882-2 State of Nevada
vs
David Burns

April 17, 2018 8:30 AM Argument

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Linda Skinner

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT: Di Giacomo, Marc P. Attorney
Resch, Jamie J. Attorney
State of Nevada Plaintiff

JOURNAL ENTRIES

- Defendant is in prison and not present today. Arguments in support of the Petition including requesting an Evidentiary Hearing by Mr. Resch. Objections by Mr. DiGiacomo. Following, Court noted it does not see a lot in terms of an Evidentiary Hearing, however, due to the conviction and significant sentence, Court will grant an Evidentiary Hearing to explore whether or not there were certain understandings or misleading's by trial counsel to the Defendant as to the issue of direct appeal and you can question trial counsel as to other decisions that were made during the course of trial, but it will not be opened up as to ineffectiveness of counsel. Upon inquiry, counsel feel the hearing will take 2-3 hours. COURT ORDERED, matter SET for hearing.

NDC

6/29/18 8:30 AM EVIDENTIARY HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 18, 2018

C-10-267882-2 State of Nevada
 vs
 David Burns

July 18, 2018 8:30 AM Status Check

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Madalyn Kearney

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT: Pesci, Giancarlo Attorney
 Resch, Jamie J. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Deft. not present. Upon Court's inquiry, Mr. Resch requested to set an Evidentiary Hearing the week of September 18, 2018. Mr. Pesci had no objection. COURT ORDERED, matter SET for Evidentiary Hearing.

NDC

9/20/18 10:30 AM EVIDENTIARY HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****September 20, 2018**

C-10-267882-2 State of Nevada
vs
David Burns

September 20, 2018 10:30 AM Evidentiary Hearing

HEARD BY: Leavitt, Michelle**COURTROOM:** RJC Courtroom 14D**COURT CLERK:** Susan Botzenhart**RECORDER:** Trisha Garcia**REPORTER:****PARTIES**

PRESENT:	Bluth, Jacqueline	Attorney
	Burns, David	Defendant
	Resch, Jamie J.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Deft. present in custody. Court noted this evidentiary hearing is a limited hearing as to one claim on whether or not Deft. was denied a direct appeal. Anthony Sgro, Esq., and Christopher Oram, Esq., provided sworn testimony. Deft. David Burns, sworn and testified. Mr. Resch made arguments regarding testimony provided by Mr. Sgro, Mr. Oram and Deft; and further argued regarding Deft. having tried to explain to his attorneys as to issues for appeal. Ms. Bluth opposed the Petition; and argued as to written stipulation at trial. Court noted neither attorneys were asked whether there was misconduct during closing arguments, discussions were made about habeas relief, and there were no discussions that the Court heard, as to direct appeal or appellate rights that survived the stipulation. Further arguments by Mr. Resch as to possible misunderstanding. COURT ORDERED, Deft's Petition DENIED. Discussions as to no final order having been done yet addressing everything. State to prepare the order from today's proceedings. Court advised Deft. he has the right to appeal the decision made today. Upon Court's inquiry, Deft. confirmed he understands this. Mr. Resch to continue to represent Deft. on appeal. Mr. Resch noted he will submit an order regarding him remaining on the case.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****March 10, 2020**

C-10-267882-2 State of Nevada
 vs
 David Burns

March 10, 2020**8:30 AM****Status Check****Regarding Supreme
Court Order****HEARD BY:** Leavitt, Michelle**COURTROOM:** RJC Courtroom 14D**COURT CLERK:** Haly Pannullo**RECORDER:** Deloris Scott**REPORTER:****PARTIES**

PRESENT:	Di Giacomo, Marc P.	Attorney
	Resch, Jamie J.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Defendant not present. Upon Court's inquiry, Mr. Resch confirmed he is happy to do the appeal and has prepared the proposed Findings, which includes an Order of Appointment. COURT ORDERED, Mr. Resch APPOINTED to handle the direct appeal.

(Continued...)

CASE NO. C-10-267882- 2 & -3

DEPT. NO. IV

CDDA PAMELA WECKERLY (MVU)

MARC DIGIACOMO

Def. Counsel(s): BURNS - ANTHONY SGRO, ESQ.
COUSINS - THOMAS ERICSSON, ESQ.

WARRANTS:
SET FELONY ARRAIGNMENT (ONE WEEK)

DEFTS ARE IN CUSTODY @ CCDC
(PH SET FOR 10/19/10 in JC1 & 10/27/10 in JC 10)

Exhibits:

1. Proposed Indictment
- 1a. Superceding Indictment
2. T-Mobile Cell Phone Records
3. Metro PCS - Subscriber record
4. Metro PCS - cell phone records
5. Metro PCS - cell phone records
6. Metro PCS - cell site records
7. Metro PCS - cell site records
8. Map
9. Map
10. Map Packet
11. Photo
12. Photo
13. Photo
14. Photo
15. Photo
16. Photo
17. Photo
18. Photo
19. Photo
20. Photo
21. Photo line-up
22. CD
23. CD
24. CD
25. Photo
26. Transcript from 09/28/10

Exhibits 1-25 previously lodged with the Clerk of the Court on 09/29/10.
Exhibits 1a and 26 are currently being lodged with the Clerk of the Court.

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VAULT EXHIBIT FORM

CASE NO: C267882	HEARING DATE: 9-12-13
DEPT. NO 20	JUDGE: JEROME TAO
	CLERK LINDA SKINNER
	REPORTER: SARA RICHARDSON
STATE: STATE OF NEVADA	JURY FEES: B
	P. WECKERLY / M. DiGiacomo
	COUNSEL FOR STATE:
DEFENDANT: DAVID BURNS	A. Sgro / C. O RAM
	COUNSEL FOR DEFENDANT:

COURT

[illegible]

CASE NO. C-10-267882

DEPT NO. 20

PLAINTIFF, STATE OF NEVADA,

VS

DEFENDANT, WILLIE MASON & DAVID
BURNS.

TRIAL DATE: 1/20/2015

JUDGE: Hon. Charles Thompson

CLERK:

RECORDER:

COUNSEL FOR PLAINTIFF, Chief Deputy

District Attorneys Marc DiGiacomo and Pamela

Weckerly

COUNSEL FOR DEFENDANT MASON, Robert
Langford

COUNSEL FOR DEFENDANT BURNS, Anthony
Sgro & Christopher Oram

No		Date Offered	Obj	Date Admitted
1	Aerial 5662 Meikle - Close	1/28	N/D	1/28/15
2	Aerial 5662 Meikle - Far	1/28	N/D	1/29/15
3	Photo Burns Front	2/9	N/D	2/9/15
4	Photo Burns Side	2/9	N/D	2/9/15
5	Photo Mason Front	2/9	N/D	2/9/15
6	Photo Mason Side	2/9	N/D	2/9/15
7	Photo Cousins	2/11	N/D	2/11/15
8	Photo Monica	2/11	N/D	2/11/15
9	Photo JobLoc Front	2/9	N/D	2/9/15
10	Photo JobLoc Side	2/9	N/D	2/9/15
11	Photo Array			
12	Photo Rowland	2/11	N/D	2/11/15
13	Crime Scene Diagram	1/27/15	N/D	1/27/15
14	Photo Crime Scene Day 1 <i>APT BUILDING</i>	1/27	N/D	1/27/15
15	Photo Crime Scene Day 1 <i>APT BUILDING</i>	1/27	N/D	1/27/15
16	Photo Crime Scene Day 1 <i>APT BUILDING</i>	1/27	N/D	1/27/15
17	Photo Crime Scene Day 1 <i>STREET / APT BUILDING</i>	1/27	N/D	1/27/15

FEB 11 2015

FEB 09 2015

JAN 27 2015

JAN 28 2015

18	Photo Crime Scene Day 1	Apt Building	1/27	N/A	1/27/15
19	Photo Crime Scene Day 1	Apt Building	1/27	N/A	1/27/15
20	Photo Crime Scene Day 1	STREET	1/27	N/A	1/27/15
21	Photo Crime Scene Day 1	Behind Apt	1/27	N/A	1/27/15
22	Photo Crime Scene Day 1	Fence	1/27	N/A	1/27/15
23	Photo Crime Scene Day 1	5642	1/27	N/A	1/27/15
24	Photo Crime Scene Day 1	TRUCK	1/27	N/A	1/27/15
25	Photo Crime Scene Day 1	STAIRS	1/27	N/A	1/27/15
26	Photo Crime Scene Day 1	DOOR	1/27	N/A	1/27/15
27	Photo Crime Scene Day 1	LIVING Room	1/27	N/A	1/27/15
28	Photo Crime Scene Day 1	DOOR - FROM INSIDE	1/27	N/A	1/27/15
29	Photo Crime Scene Day 1	COUCH / TV	1/27	N/A	1/27/15
30	Photo Crime Scene Day 1	COUCH / WINDOW	1/27	N/A	1/27/15
31	Photo Crime Scene Day 1	VICTIM on COUCH	1/27	N/A	1/27/15
32	Photo Crime Scene Day 1	2nd COUCH	1/27	N/A	1/27/15
33	Photo Crime Scene Day 1	COUCH / STEREO	1/27	N/A	1/27/15
34	Photo Crime Scene Day 1	VICTIM	1/27	N/A	1/27/15
35	Photo Crime Scene Day 1	VICTIM'S HAND	1/27	N/A	1/27/15
36	Photo Crime Scene Day 1	CLOSE UP HAND	1/27	N/A	1/27/15
37	Photo Crime Scene Day 1	VICTIM	1/27	N/A	1/27/15
38	Photo Crime Scene Day 1	VICTIM	1/27	N/A	1/27/15
39	Photo Crime Scene Day 1	VICTIM'S FEET	1/27	N/A	1/27/15
40	Photo Crime Scene Day 1	METAL FRAGMENTS	1/27	N/A	1/27/15
41	Photo Crime Scene Day 1	VICTIM	1/27	OBS	
42	Photo Crime Scene Day 1	VICTIM	1/27	N/A	1/27/15
43	Photo Crime Scene Day 1	VICTIM'S LEGS	1/27	N/A	1/27/15
44	Photo Crime Scene Day 1	COUCH	1/27	N/A	1/27/15
45	Photo Crime Scene Day 1	COUCH	1/27	N/A	1/27/15
46	Photo Crime Scene Day 1	KITCHEN	1/27	N/A	1/27/15

JAN 27 2015

47	Photo Crime Scene Day 1	COUCH / KITCHEN	1/27	N/A	1/27/15
48	Photo Crime Scene Day 1	KITCHEN	1/27	N/A	1/27/15
49	Photo Crime Scene Day 1	HALLWAY	1/27	N/A	1/27/15
50	Photo Crime Scene Day 1	BULLET / FRIDGE	1/27	N/A	1/27/15
51	Photo Crime Scene Day 1	BULLET STRIKE WALL	1/27	N/A	1/27/15
52	Photo Crime Scene Day 1	WALL	1/27	N/A	1/27/15
53	Photo Crime Scene Day 1	CLOSE UP WALL	1/27	N/A	1/27/15
54	Photo Crime Scene Day 1	CLOSE UP WALL	1/27	N/A	1/27/15
55	Photo Crime Scene Day 1	CLOSET	1/27	N/A	1/27/15
56	Photo Crime Scene Day 1	LAUNDRY ROOM	1/27	N/A	1/27/15
57	Photo Crime Scene Day 1	HALLWAY	1/27	N/A	1/27/15
58	Photo Crime Scene Day 1	VACUUM	1/27	N/A	1/27/15
59	Photo Crime Scene Day 1	FLOOR / VACUUM	1/27	N/A	1/27/15
60	Photo Crime Scene Day 1	HALLWAY	1/27	N/A	1/27/15
61	Photo Crime Scene Day 1	BATHROOM	1/27	N/A	1/27/15
62	Photo Crime Scene Day 1	BATHROOM	1/27	N/A	1/27/15
63	Photo Crime Scene Day 1	BATHROOM	1/27	N/A	1/27/15
64	Photo Crime Scene Day 1	HALLWAY	1/27	N/A	1/27/15
65	Photo Crime Scene Day 1	HALLWAY / CLOTHES	1/27	N/A	1/27/15
66	Photo Crime Scene Day 1	BED ROOM	1/27	N/A	1/27/15
67	Photo Crime Scene Day 1	BUNK BEDS	1/27	N/A	1/27/15
68	Photo Crime Scene Day 1	BUNK BEDS	1/27	N/A	1/27/15
69	Photo Crime Scene Day 1	BUNK BED / WINDOW	1/27	N/A	1/27/15
70	Photo Crime Scene Day 1	DRESSER	1/27	N/A	1/27/15
71	Photo Crime Scene Day 1	BEDROOM FLOOR	1/27	N/A	1/27/15
72	Photo Crime Scene Day 1	TV	1/27	N/A	1/27/15
73	Photo Crime Scene Day 1	BOX	1/27	N/A	1/27/15
74	Photo Crime Scene Day 1	FLOOR - WHITE PAPER	1/27	N/A	1/27/15
75	Photo Crime Scene Day 1	BEDROOM	1/27	N/A	1/27/15

JAN 27 2015

76	Photo Crime Scene Day 1	DRESSER / FAN	1/27	N/O	1/27/15
77	Photo Crime Scene Day 1	DRESSER / FAN	1/27	N/O	1/27/15
78	Photo Crime Scene Day 1	STACK - DVD'S	1/27	N/O	1/27/15
79	Photo Crime Scene Day 1	BED / BLUE CRATES	1/27	N/O	1/27/15
80	Photo Crime Scene Day 1	STUFF / BED	1/27	N/O	1/27/15
81	Photo Crime Scene Day 1	STUFF / BED	1/27	N/O	1/27/15
82	Photo Crime Scene Day 1	STUFF / BED	1/27	N/O	1/27/15
83	Photo Crime Scene Day 1	DRESSER	1/27	N/O	1/27/15
84	Photo Crime Scene Day 1	HEAD BOARD	1/27	N/O	1/27/15
85	Photo Crime Scene Day 1	DOOR - BATHROOM	1/27	N/O	1/27/15
86	Photo Crime Scene Day 1	FLOOR - PLATE	1/27	N/O	1/27/15
87	Photo Crime Scene Day 1	CLOSE UP - PLATE	1/27	N/O	1/27/15
88	Photo Crime Scene Day 1	CLOSER - PLATE	1/27	N/O	1/27/15
89	Photo Crime Scene Day 1	WHITE STUFF / FLOOR	1/27	N/O	1/27/15
90	Photo Crime Scene Day 1	OPEN DRAWER	1/27	N/O	1/27/15
91	Photo Crime Scene Day 1	OPEN DRAWER / ^{WATER} COOLER	1/27	N/O	1/27/15
92	Photo Crime Scene Day 1	WATER COOLER	1/27	N/O	1/27/15
93	Photo Crime Scene Day 1	FLOOR - BED ROOM	1/27	N/O	1/27/15
94	Photo Crime Scene Day 1	DOOR / TOWEL	1/27	N/O	1/27/15
95	Photo Crime Scene Day 1	BATH ROOM	1/27	N/O	1/27/15
96	Photo Crime Scene Day 1	SHAMPOO / CONDITIONER	1/27	N/O	1/27/15
97	Photo Crime Scene Day 1	BATHROOM	1/27	N/O	1/27/15
98	Photo Crime Scene Day 1	BULLET HOLE - WALL	1/27	N/O	1/27/15
99	Photo Crime Scene Day 1	BULLET HOLE - RULER	1/27	N/O	1/27/15
100	Photo Crime Scene Day 1	BULLET HOLE - RULER	1/27	N/O	1/27/15
101	Photo Crime Scene Day 1	ID - DEROCIA	1/27	N/O	1/27/15
102	Photo Crime Scene Day 1	BULLET STRIKES	1/27	N/O	1/27/15
103	Photo Crime Scene Day 1	A1 - CLOSE UP	1/27	N/O	1/27/15

104	Photo Crime Scene Day 1	A2 / A3	1/27	N/O	1/27/15
105	Photo Crime Scene Day 1	A2 / A3	1/27	N/O	1/27/15
106	Photo Crime Scene Day 1	A3 close up	1/27	N/O	1/27/15
107	Photo Crime Scene Day 1	A3 - WALL	1/27	N/O	1/27/15
108	Photo Crime Scene Day 1	A4	1/27	N/O	1/27/15
109	Photo Crime Scene Day 1	HANDIE - B1	1/27	N/O	1/27/15
110	Photo Crime Scene Day 1	HANDIE - B1	1/27	N/O	1/27/15
111	Photo Crime Scene Day 1	BED	1/27	N/O	1/27/15
112	Photo Crime Scene Day 1	Sheet - B2	1/27	N/O	1/27/15
113	Photo Crime Scene Day 1	BED ROOM / RED	1/27	N/O	1/27/15
114	Photo Crime Scene Day 1	BULLET - B4	1/27	N/O	1/27/15
115	Photo Crime Scene Day 1	close up B4	1/27	N/O	1/27/15
116	Photo Crime Scene Day 1	C1	1/27	N/O	1/27/15
117	Photo Crime Scene Day 1	C1 - close up	1/27	N/O	1/27/15
118	Photo Crime Scene Day 1	C2	1/27	N/O	1/27/15
119	Photo Crime Scene Day 1	C3	1/27	N/O	1/27/15
120	Photo Crime Scene Day 1	C3 - WALL	1/27	N/O	1/27/15
121	Photo Crime Scene Day 1	VICTIM'S HAND	1/27	N/O	1/27/15
122	Photo Crime Scene Day 1	MONEY FROM HAND	1/27	N/O	1/27/15
123	Photo Crime Scene Day 1	VICTIM / ORANGE CORNERS	1/27	N/O	1/27/15
124	Photo Crime Scene Day 1	VICTIM'S LEGS / CORNERS	1/27	N/O	1/27/15
125	Photo Crime Scene Day 1	cone	1/27	N/O	1/27/15
126	Photo Crime Scene Evidence Day 1	item #4	1/27	N/O	1/27/15
127	Photo Crime Scene Evidence Day 1	item #5	1/27	N/O	1/27/15
128	Photo Crime Scene Evidence Day 1	item #6	1/27	N/O	1/27/15
129	Photo Crime Scene Evidence Day 1	item #7	1/27	N/O	1/27/15
130	Photo Crime Scene Evidence Day 1	item #14	1/27	N/O	1/27/15
131	Photo Crime Scene Evidence Day 1	item #15	1/27	N/O	1/27/15
132	Photo Crime Scene Evidence Day 1	item #16	1/27	N/O	1/27/15

133	Photo Crime Scene Evidence Day 1 #20	1/27	N/A	1/27/15
134	Photo Crime Scene Evidence Day 1 item #8	1/27	N/A	1/27/15
135	Photo Crime Scene Day 2 APT BUILDING	2/5	N/A	2/5/15
136	Photo Crime Scene Day 2 Hallway	2/5	N/A	2/5/15
137	Photo Crime Scene Day 2 Hallway 1 Box	2/5	N/A	2/5/15
138	Photo Crime Scene Day 2 Holes in wall	2/5	N/A	2/5/15
139	Photo Crime Scene Day 2 empty RACK	2/5	N/A	2/5/15
140	Photo Crime Scene Day 2 Holes in wall	2/5	N/A	2/5/15
141	Photo Crime Scene Day 2 #A & #B	2/5	N/A	2/5/15
142	Photo of Television - FRONT	2/5	N/A	2/5/15
143	Photo of Television - SIDE	2/5	N/A	2/5/15
144	Photo of Television - Bullet hole	2/5	N/A	2/5/15
145	Photo of Television close up #144	2/5	N/A	2/5/15
146	Photo of Television closer ↑	2/5	N/A	2/5/15
147	Photo Bullet Fragment Television	2/5	N/A	2/5/15
148	Photo Bullet From Cornelius	2/5	STIP	2/5/15
149	Photo Bullet From Cornelius	2/5	STIP	2/5/15
150	Photo Erica	1/27	N/A	1/27/15
151	Photo Cornelius Mayo Sr.	1/27	N/A	1/27/15
152	Photo Child CASHMERE	1/27	N/A	1/27/15
153	Photo Child	1/27	N/A	1/27/15
154	Photo Cornelius Mayo Jr.	1/27	N/A	1/27/15
155	Photo Evidence @ Autopsy - Bullet Fragments			
156	Photo Evidence @ Autopsy			
157	Photo X-Ray	1/28	N/A	1/28/15
158	Autopsy Photo - TAG	1/28	N/A	1/28/15
159	Autopsy Photo Full Figure	1/28	N/A	1/28/15
160	Autopsy Photo - CLOSE UP FACE	1/28	N/A	1/28/15
161	Autopsy Photo - RIGHT HAND	1/28	N/A	1/28/15

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162	Autopsy Photo - LEFT HAND	1/28	N/O	1/28/15
163	Photo House with gun DEBK/ DOOR	2/10	N/O	2/10/15
164	Photo House with gun BEDROOM	2/10	N/O	2/10/15
165	Photo House with gun BOX	2/10	N/O	2/10/15
166	Photo House with gun	2/10	N/O	2/10/15
167	Photo of Gun IN HOLSTER	2/10	N/O	2/10/15
168	Photo of Gun OUT OF HOLSTER	2/10	N/O	2/10/15
169	Photo of Gun CLOSE UP	2/10	N/O	2/10/15
170	Photo Monica Car - LEFT SIDE	2/5	N/O	2/5/15
171	Photo Monica Car RIGHT SIDE	2/5	N/O	2/5/15
172	Photo Monica Car FRONT	2/5	N/O	2/5/15
173	Photo Monica Car LEFT SIDE	2/5	N/O	2/5/15
174	Photo Monica Car LEFT FRONT	2/5	N/O	2/5/15
175	Photo Monica Car DRIVER'S SEAT	2/5	N/O	2/5/15
176	Photo Monica Car DASHBOARD	2/5	N/O	2/5/15
177	Photo Monica Car GLOVE COMPARTMENT	2/5	N/O	2/5/15
178	Photo Monica Car PASSENGER REAR	2/5	N/O	2/5/15
179	Photo Monica Car TRUNK	2/5	N/O	2/5/15
180	Photo Monica Car DMV REGISTRATION	2/5	N/O	2/5/15
181	Photo Monica Car MONICA'S ID (WORK)	2/5	N/O	2/5/15
182	Photo Monica Car " " (RECRUITER)	2/5	N/O	2/5/15
183	Photo Monica's House	2/5	N/O	2/5/15
184	Photo Monica's House 5824	2/5	N/O	2/5/15
185	Photo Monica's House CAR IN GARAGE	2/5	N/O	2/5/15
186	Photo Monica's House GARAGE	2/5	N/O	2/5/15
187	Photo Monica's House DRIVER'S SIDE - GARAGE	2/5	N/O	2/5/15
188	Photo Monica's House 891. ULY	2/5	N/O	2/5/15
189	Photo Monica's House SPIDERMAN BOOK	2/5	N/O	2/5/15
190	Photo Monica's House GAS BILL	2/5	N/O	2/5/15

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191	Photo JobLoc's Apartment	2057	2/9	N/O	2/9/15
192	Photo JobLoc's Apartment	CHAIR / L.R.	2/9	N/O	2/9/15
193	Photo JobLoc's Apartment	LIVING ROOM	2/9	N/O	2/9/15
194	Photo JobLoc's Apartment	- BLUE SHOES	2/9	N/O	2/9/15
195	Photo JobLoc's Apartment	Sheet - 2 cones	2/9	N/O	2/9/15
196	Photo JobLoc's Apartment	Close up of cones	2/9	N/O	2/9/15
197	Photo JobLoc's Apartment	PANTS / pillow	2/9	N/O	2/9/15
198	Photo JobLoc's Apartment	PANTS	2/9	N/O	2/9/15
199	Photo JobLoc's Apartment	ASH TRAY	2/9	N/O	2/9/15
200	Photo JobLoc's Apartment	STUFF FLOOR / cones	2/9	N/O	2/9/15
201	Photo JobLoc's Apartment	PANTS	2/9	N/O	2/9/15
202	Photo JobLoc's Apartment	BLUE / BLACK	2/9	N/O	2/9/15
203	Photo JobLoc's Apartment	Cones - Cig - Pills	2/9	N/O	2/9/15
204	Photo JobLoc's Apartment	door / windows	2/9	N/O	2/9/15
205	Photo JobLoc's Apartment	BAG / FLOOR	2/9	N/O	2/9/15
206	Photo JobLoc's Apartment	CIGARETTES	2/9	N/O	2/9/15
207	Photo JobLoc's Apartment	T-SHIRT / CHAIR	2/9	N/O	2/9/15
208	Photo JobLoc's Apartment	" " DOOR	2/9	N/O	2/9/15
209	Photo JobLoc's Apartment	Cig Butt - FLOOR	2/9	N/O	2/9/15
210	Photo JobLoc's Apartment	CONES / CHAIR	2/9	N/O	2/9/15
211	Photo JobLoc's Apartment	close up Cig Butt	2/9	N/O	2/9/15
212	Photo JobLoc's Apartment	CHAIR	2/9	N/O	2/9/15
213	Photo JobLoc's Apartment	KITCHEN	2/9	N/O	2/9/15
214	Photo JobLoc's Apartment	KITCHEN	2/9	N/O	2/9/15
215	Photo JobLoc's Apartment	COUNTER	2/9	N/O	2/9/15
216	Photo JobLoc's Apartment	SPRITE can / cone	2/9	N/O	2/9/15
217	Photo JobLoc's Apartment	TICKET / cone	2/9	N/O	2/9/15
218	Photo JobLoc's Apartment	4 RAYS	2/9	N/O	2/9/15
219	Photo JobLoc's Apartment	PAPER WORK (DAVIS)	2/9	N/O	2/9/15

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220	Photo JobLoc's Apartment	CHAIR - Living Rm	2/9	N/O	2/9/15
221	Photo JobLoc's Apartment	BATHROOM / TOILET	2/9	N/O	2/9/15
222	Photo JobLoc's Apartment	BATH TUB	2/9	N/O	2/9/15
223	Photo JobLoc's Apartment	SHOWER CURTAIN	2/9	N/O	2/9/15
224	Photo JobLoc's Apartment	BATHROOM CABINET	2/9	N/O	2/9/15
225	Photo JobLoc's Apartment	BATHROOM FLOOR	2/9	N/O	2/9/15
226	Photo JobLoc's Apartment	BED ROOM	2/9	N/O	2/9/15
227	Photo JobLoc's Apartment	TV	2/9	N/O	2/9/15
228	Photo JobLoc's Apartment	CLOSET / BATHROOM	2/9	N/O	2/9/15
229	Photo JobLoc's Apartment	CLOSET / CRUTCH	2/9	N/O	2/9/15
230	Photo JobLoc's Apartment	SLEEPING BAG	2/9	N/O	2/9/15
231	Photo JobLoc's Apartment	GRIPS / CONE	2/9	N/O	2/9/15
232	Photo JobLoc's Apartment	DR RECEIPTS	2/9	N/O	2/9/15
233	Photo JobLoc's Apartment	PILL BOTTLES (ALBERT DAVIS)	2/9	N/O	2/9/15
234	Photo JobLoc's Apartment	DR INSTRUCTIONS	2/9	N/O	2/9/15
235	Photo JobLoc's Apartment	DR RECEIPT	2/9	N/O	2/9/15
236	Photo JobLoc's Apartment	DR RECEIPT - CASH	2/9	N/O	2/9/15
237	Photo JobLoc's Apartment	BEDROOM - STUFF ON FLOOR	2/9	N/O	2/9/15
238	Photo JobLoc's Apartment	STUFF / FLOOR	2/9	N/O	2/9/15
239	Photo JobLoc's Apartment	GLOVES / FLOOR	2/9	N/O	2/9/15
240	Photo Evidence Apartment	CIG BUTTS	2/9	N/O	2/9/15
241	Photo Evidence Apartment	CIG PACKAGES	2/9	N/O	2/9/15
242	Photo Evidence Apartment	BLUE / BLACK BRACE	2/9	N/O	2/9/15
243	Photo Evidence Apartment	" "	2/9	N/O	2/9/15
244	Photo Evidence Apartment	BRACE - opened	2/9	N/O	2/9/15
245	Photo Evidence Apartment	ITEM # 14	2/9	N/O	2/9/15
246	Photo Evidence Apartment	ITEMS # 23	2/9	N/O	2/9/15
247	Photo Evidence Apartment	ITEM # 24	2/9	N/O	2/9/15

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248	Photo Evidence Apartment	PICTURES / CARDS	2/9	N/D	2/9/15
249	Photo Evidence Apartment	" "	2/9	N/D	2/9/15
250	Photo De'Vonja Hospital	FACE	2/9	STIP	2/9/15
251	Photo De'Vonja Hospital	STOMACH w/ TUBE	2/9	STIP	2/9/15
252	Photo De'Vonja Hospital	CLOSEUP ?	2/9	STIP	2/9/15
253	Photo De'Vonja Clothes	BRA	2/9	STIP	2/9/15
254	Photo De'Vonja Clothes	PANTIES	2/9	STIP	2/9/15
255	Photo De'Vonja Clothes	BLUE PANTS - FRONT	2/9	STIP	2/9/15
256	Photo De'Vonja Clothes	BLUE PANTS - REAR	2/9	STIP	2/9/15
257	Photo De'Vonja Clothes	SHIRTS PURPLE/WHITE	2/9	STIP	2/9/15
258	Photo De'Vonja Clothes	PURPLE SHIRT	2/9	STIP	2/9/15
259	Photo De'Vonja Clothes	WHITE SHIRT	2/9	STIP	2/9/15
260	Photo Dr. Goshi Vial		2/9	STIP	2/9/15
261	Photo De'Vonja Bullet		2/9	STIP	2/9/15
262	VOLUNTARY STATEMENT: ERICA NEUMANN		1/27	OBT	1/27/15
A	DVD		2/5	N/D	2/5/15
263	Small EVIDENCE ENVELOPE		1/27	N/D	1/27/15
A	COPPER JACKET		1/27	STIP	1/27/15
B	BULLET FRAGMENT		1/27	STIP	1/27/15
C	4 BULLET FRAGMENTS		1/27	STIP	1/27/15
264	Small EVIDENCE ENVELOPE		1/27	N/D	1/27/15
A	THREE BULLET FRAGMENTS		1/27	STIP	1/27/15
265	Small EVIDENCE ENVELOPE		1/27	N/D	1/27/15
A	FABRIC		NOT	OPENED	
266	Large EVIDENCE ENVELOPE		1/27	N/D	1/27/15
A	PIECE OF WHITE PAPER		NOT	OPENED	
B	PIECE OF WHITE PAPER		NOT	OPENED	

264 B - Bullet 1/27 STIP 1/27/15

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STATE'S EXHIBITS

CASE NO. C267882

	Date Offered	Objection	Date Admitted
267. DVD - Binions complete	1/29/15	N/O	1/29/15
268. DVD - Golden Nugget #330	1/29/15	N/O	1/29/15
269. DVD - Golden Nugget #334	1/29/15	N/O	1/29/15
270. DVD - Golden Nugget ATM	1/29/15	N/O	1/29/15
271. DVD - Monica Texas composite	1/29/15	N/O	1/29/15
272. DVD - Opera House composite	1/29/15	N/O	1/29/15
273. DVD - Downtown composite	1/29/15	N/O	1/29/15
274. DVD - Monica Martinez statement	1/28	OBS	1/28/15
275. DVD - Opera House complete	1/29	N/O	1/29/15
276. DVD - Texas Station complete	1/29	N/O	1/29/15
277. Paper with drawing	2/10	N/O	2/10/15
278. Letter - Cornelius Mayo	2/5	OBS	
279. Photo Lineup - Tyler Mitchell	2/5	N/O	2/5/15
280. Photo Lineup - Devonia Newman	2/10	N/O	2/10/15
281. Phone number	1/30	N/O	1/30/15
282. Walmart - (9 pg) job-loc injury	2/11	N/O	2/11/15
283. Photo Lineup - Monica Martinez	1/29	N/O	1/29/15
284. Letter - to Monica (4 pg)	1/29	OBS	1/29/15
285. Letter to Monica (9 pg)	1/29	OBS	1/29/15
286. GPA - Monica Martinez	1/30	N/O	1/30/15
287. DVD - D. Rowland	1/30	OBS	1/30/15
288. Photo - my space	1/30	OBS	1/30/15
289. Donovan Rowland's 45 - Grand Jury	1/30	OBS	1/30/15

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STATE'S EXHIBITS

CASE NO. C247882

	Date Offered	Objection	Date Admitted
290. LETTER - D.R. → JOB. LOC			
291. DVD - NEWMAN STATEMENT	2/4	N/D	2/6/15
292. DVD - MAYO INTERVIEW			
293. DVD - CHRISTINE 911	2/6	STIP	2/6/15
294. DVD - CORNELIUS PHONE	2/5	STIP	2/5/15
295. METRO PCS RECORD ^{702 5424661}	2/5	N/D	2/5/15
296. METRO PCS CELL SITES 10-23-09	2/5	N/D	2/5/15
297. METRO PCS ^{909 2330860} 8-1-10 to 8-23-10	2/5	N/D	2/5/15
298. METRO ^{Phone Logs} RECORDS ^{702 5424661} 8-1-10 to 8-23-10	2/5	N/D	2/5/15
299. Single PAPER - WINSTON HILL	2/6	N/D	2/6/15
300. Single PAPER - DEQUITA	2/6	N/D	2/6/15
301. METRO RECORDS - ^{8-1-10 to} 702-542-4661 ⁸⁻²³⁻¹⁰	2/9	N/D	2/9/15
302. METRO RECORDS ^{8-1-10 to} 909 2330860 ⁸⁻²³⁻¹⁰	2/9	N/D	2/9/15
303. PHONE LOGS	2/6	N/D	2/6/15
304. PHONE LOGS	2/6	N/D	2/6/15
305. PHONE RECORDS - T-MOBILE - TOWERS	2/6	N/D	2/6/15
306. AERIAL SCENES	2/9	N/D	2/9/15
307. AERIAL SCENES			
308. PHONE CONTACTS - TYLER MITCHELL	2/5	N/D	2/5/15
309. PHONE RECORDS	2/5	OBS	2/5/15
310. TEXT MESSAGES	2/5	OBS	
311. Small EVIDENCE ENVELOPE	2/5	STIP/D	2/5/15
A. BULLET FRAGMENT	2/5	STIP/D	2/5/15

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STATE'S EXHIBITS

CASE NO. C247882

	Date Offered	Objection	Date Admitted
312. Small Evidence Envelope	2/5	STP/0	2/5/15
A. Bullet	2/5	STP/0	2/5/15
313. Medium Evidence Bag			
A. 2 Empty Newport Cigarette Packs	NOT	OPENED/NOT MARKED	
314. Small Evidence Envelope			
A. 1 Orange Colored Cigarette + 1 White Butt			
315. Small Evidence Envelope	2/5	STP/0	2/5/15
A. Two Bullet Fragments	2/5	STP/0	2/5/15
316. Medium Evidence Envelope			
A. Latex glove	NOT OPENED NOT MARKED		
B. Latex glove			
C. Blue glove			
D. Black Knit glove			
317. Medium Evidence Envelope			
A. Black wallet + contents	NOT	OPENED/NOT MARKED	
318. Medium Evidence Bag			
A. Black glove	NOT OPENED NOT MARKED		
B. Latex glove			
C. Latex glove			
D. Latex glove			
E. Latex glove			
319. Large Evidence Envelope			
A. Copies of X-Rays	NOT	OPENED/NOT MARKED	

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STATE'S EXHIBITS

CASE NO. C267882

	Date Offered	Objection	Date Admitted
319 B. 2 BLOCKBUSTER RECEIPTS	NOT OPENED / NOT MARKED		
320. EVIDENCE BOX	2/5	N/O	2/5/15
A. BLACK HOLSTER	2/5	N/O	2/5/15
B. REVOLVER	2/5	N/O	2/5/15
321. EXTRA LARGE EVIDENCE BAG	2/9	N/O	2/9/15
A. HANES BOXER BRIEFS	2/9	N/O	2/9/15
B. RED MONKEY PANTS	2/9	N/O	2/9/15
C. BRACE	2/9	N/O	2/9/15
D. DENIM SHORTS	2/9	N/O	2/9/15
322. SMALL EVIDENCE ENVELOPE	2/5	STIP	2/5/15
A. BULLET	2/5	STIP	2/5/15
323. DVD - 911 CORNELIUS MAYO	2/5	STIP	2/5/15
324. T-MOBILE RECORDS	2/6	N/O	2/6/15
325. PHOTO - JEROME THOMAS	2/9	N/O	2/9/15
326. GREYHOUND - DISK 1	2/9	STIP	2/9/15
327. GREYHOUND - DISK 2	2/9	STIP	2/9/15
328. GREYHOUND - DISK 3	2/9	STIP	2/9/15
329. GREYHOUND - LA COMPOSITE	2/9	STIP	2/9/15
330. GREYHOUND LV. COMPOSITE	2/9	STIP	2/9/15
331. JOB - SB CALL	2/9	OBS	2/9/15
332. D. SHOT	2/10	N/O	2/10/15
333. graph - DNA - GUN	2/9	N/O	2/9/15
334. graph DNA	2/9	N/O	2/9/15

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DEFT'S EXHIBITS

CASE NO. C267882

	Date Offered	Objection	Date Admitted
A. PHOTO	1/27	N/O	1/27/15
B. "	1/27	N/O	1/27/15
C. "	1/27	N/O	1/27/15
D. "	1/27	N/O	1/27/15
E. "	1/27	N/O	1/27/15
F. "	1/27	N/O	1/27/15
G. "	1/27	N/O	1/27/15
H. UMC RECORDS - DEVONIA	1/29	N/O	1/29/15
I. UMC Follow up 8/7	1/29	N/O	1/29/15
J. UMC 8/7	1/29	N/O	1/29/15
K. UMC PEDIATRIC - NEWMAN	1/29	N/O	1/29/15
L. UMC CC Flow - NEWMAN	1/29	N/O	1/29/15
M. LETTER FROM Jerome Thomas to Monica	1/30	N/O	1/30/15
N. PHOTOS -	1/30	N/O	1/30/15
O. GPA - MONICA MARTINEZ			
P. AGREEMENT TO TESTIFY - M. MARTINEZ			
Q. INFORMATION - M. MARTINEZ	1/30	N/O	1/30/15
R. LETTER D.R. to J.T.			
S. PHOTOS - (12)	2/5	N/O	2/5/15
T. PHOTO - GIFFEL (INVESTIGATOR)			
U. CSI REPORT - MAYO	2/6	STIP	2/6/15
V. DRAWING by DEVONIA NEWMAN	2/6	N/O	2/6/15
W. PHOTO - BLACK MALE - FACE	2/11	N/O	2/11/15

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EXHIBITS

CASE NO. C267882

[illegible]

FEB 11 2015

FEB 09 2015

COURT'S EXHIBITS

CASE NO. C267882

	Date Offered	Objection	Date Admitted
1. JUROR #6- QUESTION - ASKED/ANSWERED	2/5		2/5/15
2. QUESTION FROM JUROR #4- ASKED/ANSWERED	2/5		2/5/15
3. QUESTION FROM JUROR #4- ASKED/ANS	2/5		2/5/15
4. QUESTION FROM JUROR #12- ASKED/ANS	2/4		2/6/15
5. QUESTION FROM JUROR #5- ASKED/ANS	2/9		2/9/15
6. QUESTION FROM JUROR #8- NOT ASKED	2/9		2/9/15
7. QUESTION FROM JUROR #8- ASK/ANS	2/10		2/10/15
8. QUESTION FROM JUROR #12- NOT ASKED	2/10		2/10/15
9. QUESTION FROM JUROR #6- NOT ASKED	2/10		2/10/15
10. QUESTION FROM JUROR #6- NOT ASKED	2/10		2/10/15
11. QUESTION FROM JUROR #4- ASKED/ANS	2/11		2/11/15
12. QUESTION FROM JUROR #8- ASKED/ANS	2/11		2/11/15
13. QUESTION FROM JUROR #4- ASKED/ANS	2/11		2/11/15
14. QUESTION FROM JURY - ASKED/RESP	2/12		2/12/15
15. QUESTION FROM JURY - ASKED/RESP	2/13		2/13/15
16. LETTER FROM JUDGE	2/13		2/13/15
17. CLARIFICATION FROM JURY	2/13		2/13/15
18. DVD - MONICA MARTINEZ ^{Day 1} 1/28/15	2/17		2/17/15
19. DVD - MONICA MARTINEZ - Day 2 1/29/15	2/17		2/17/15
20. QUESTION FROM JURY	2/17		2/17/15
21. ANSWER FROM COURT TO QUESTION (20)	2/17		2/17/15

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FEB 12 2015 FEB 10 2015 FEB 11 2015 FEB 06 2015 FEB 05 2015

Evidentiary Hearing

Date: 9-20-18

Judge: Michelle Clavitt

Court Clerk: Susan Botzenhart

Recorder: Kristine Santi

Counsel for Plaintiff: Jacqueline

Counsel for Defendant: Jamie Resch

Def't's EXHIBITS

AB

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; DISTRICT COURT
DOCKET ENTRIES; JUDGMENT OF CONVICTION (JURY TRIAL); FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER GRANTING PETITION FOR WRIT OF HABEAS CORPUS
(POST-CONVICTION); NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW
AND ORDER; DISTRICT COURT MINUTES; EXHIBITS LIST

STATE OF NEVADA,

Plaintiff(s),

vs.

DAVID JAMES BURNS aka D-SHOT,

Defendant(s).

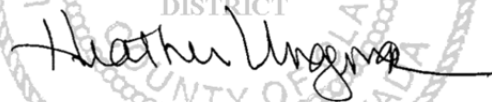
Case No: C-10-267882-2

Dept No: XII

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 17 day of March 2020.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk