

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

2                                   \_\_\_\_\_

3   DEQUINCY BRASS,                                   )       No. 81142

4   Appellant,                                   )

5   v.   )

6   )

7   THE STATE OF NEVADA,                                   )

8   Respondent.                                   )

Electronically Filed  
Jan 26 2021 09:43 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

9   \_\_\_\_\_)

10                                   **APPELLANT'S APPENDIX VOLUME II PAGES 251-462**

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**Case No. 81142**

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Felony/Gross Misdemeanor

COURT MINUTES

January 14, 2020

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C-18-329765-1      State of Nevada  
                                 vs  
                                 Dequincy Brass

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January 14, 2020      08:30 AM      Status Check: Trial Readiness

HEARD BY:      Hardy, Joe      COURTROOM: RJC Courtroom 11D

COURT CLERK: Duncan, Kristin

RECORDER:      Yarbrough, Matt

REPORTER:

PARTIES PRESENT:

Dequincy Brass	Defendant
Kristina A. Rhoades	Attorney for Plaintiff
Mitchell L Posin	Attorney for Defendant
State of Nevada	Plaintiff

**JOURNAL ENTRIES**

Upon Court's inquiry, Mr. Posin indicated that Defendant would not be hiring an expert; however, the investigators continued to work diligently, and Defendant would be ready to proceed to trial on February 24, 2020. The State indicated it did not have any issues to address related to Mr. Posin's representations.

Upon Court's inquiry, the State advised that approximately six days would be needed for trial. Mr. Posin affirmed the State's estimation. The Court noted that it would estimate the trial time at six to seven days.

The State represented that Receipts of Copy had been filed related to the discovery provided to the defense; however, two phone exams had been provided to the defense, which did not have Receipts of Copy. The State requested that Mr. Posin acknowledge receipt of the phone exams. Mr. Posin indicated that he was unsure whether he received the phone exams, but noted that the parties were working to ensure that all discovery was disclosed. After further review of the file, the State noted that a Receipt of Copy was filed for the phone exams. Upon Court's inquiry, Mr. Posin and the State advised that an additional status check regarding trial readiness, would not be necessary. COURT ORDERED the trial dates shall STAND.

CUSTODY

Felony/Gross Misdemeanor

COURT MINUTES

February 25, 2020

C-18-329765-1      State of Nevada  
                                  vs  
                                  Dequincy Brass

February 25, 2020      10:30 AM      Jury Trial

HEARD BY:      Hardy, Joe      COURTROOM: RJC Courtroom 11D

COURT CLERK: Duncan, Kristin

RECORDER:      Yarbrough, Matt

REPORTER:

PARTIES PRESENT:

Dequincy Brass	Defendant
Kelsey R. Einhorn	Attorney for Plaintiff
Kristina A. Rhoades	Attorney for Plaintiff
Mitchell L Posin	Attorney for Defendant
State of Nevada	Plaintiff

#### JOURNAL ENTRIES

Spanish Interpreter Elsa Marsico present, assisting prospective juror #364.

OUTSIDE THE PRESENCE OF THE JURY PANEL: Third Amended Information FILED IN OPEN COURT. The parties STIPULATED to the ADMITTANCE of State's exhibits 5-9, 11-21, and 26. COURT ORDERED said exhibits were ADMITTED.

JURY PANEL PRESENT: Voir dire conducted.

OUTSIDE THE PRESENCE OF THE JURY PANEL: The State noted that Defendant's brother was present in the courtroom, and asked that he be admonished not to speak with any of the prospective jurors. The Court's Marshal indicated that she advised the Defendant's brother that he was not to speak with any of the prospective jurors.

JURY PANEL PRESENT: Voir dire conducted. Peremptory challenges conducted. Upon Court's inquiry during a conference at the bench, neither the State, nor the defense, wished to assert a Batson Challenge, or a JEB Challenge. The jury panel was pre-instructed by the Court. Third Amended Information read to the jury panel by the Clerk. A Jury of twelve, and two alternates, SELECTED and SWORN IN. COURT RECESSED for the evening; TRIAL CONTINUED.

CUSTODY

CONTINUED TO: 2/26/20 10:30 AM

Felony/Gross Misdemeanor

COURT MINUTES

February 26, 2020

C-18-329765-1      State of Nevada  
vs  
Dequincy Brass

February 26, 2020      10:30 AM      Jury Trial

HEARD BY: Hardy, Joe      COURTROOM: RJC Courtroom 11D

COURT CLERK: Duncan, Kristin

RECORDER: Yarbrough, Matt

REPORTER:

PARTIES PRESENT:

Dequincy Brass	Defendant
Kelsey R. Einhorn	Attorney for Plaintiff
Kristina A. Rhoades	Attorney for Plaintiff
Mitchell L Posin	Attorney for Defendant
State of Nevada	Plaintiff

### JOURNAL ENTRIES

OUTSIDE THE PRESENCE OF THE JURY: The State moved to exclude all non-parties from the courtroom while the minor witnesses were testifying, with the exception of the victim advocate; NRS 171.204 cited. Additionally, the State noted that the Defendant's family was present in the courthouse, and in the courtroom, and were exhibiting the same intimidating behavior toward the minor victims, as was exhibited during the Preliminary Hearing (taking photos of the minor witnesses). Mr. Posin stated that he did not have any objection to the State's request, but did not that the instant hearing was the first time he was hearing about any intimidating behavior from the Defendant's family. COURT ORDERED that all non-parties shall be EXCUSED from the courtroom while the minor witnesses were testifying, with the exception of the victim advocate. The Court acknowledged that Mr. Posin was not opposing the State's request, but was not acquiescing to the facts the State presented regarding the Defendant's family intimidating the minor victims. The State noted that the victim advocate just informed it that the Defendant's family was taking pictures of the sixteen year old minor witness outside the courtroom, and the witness was now feeling intimidated. The COURT ADMONISHED the Defendant's two family members, who were present in the courtroom, that they were not to speak with, or interact with, any of the alleged victims, at any time.

The State noted that the parties would be stipulating to the admittance of State's proposed exhibits 27-35A. Additionally, the State advised that State's proposed exhibits 31, 32, 33, 34, and 35, were transcripts, and sought leave to admit them as exhibits. COURT ORDERED that the stipulated exhibits, including the transcripts, were hereby ADMITTED (see worksheets).

The STATE INVOKED the EXCLUSIONARY RULE.

JURY PRESENT: Opening statements by the State. Opening statements by Mr. Posin. Testimony and exhibits presented (see worksheets). COURT ORDERED, TRIAL RECESSED for the evening; TRIAL CONTINUED.

CUSTODY

CONTINUED TO: 2/27/20 10:30 AM

Felony/Gross Misdemeanor

COURT MINUTES

February 27, 2020

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C-18-329765-1      State of Nevada  
                                 vs  
                                 Dequincy Brass

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February 27, 2020      10:30 AM      Jury Trial

HEARD BY:      Hardy, Joe      COURTROOM: RJC Courtroom 11D

COURT CLERK: Duncan, Kristin

RECORDER:      Yarbrough, Matt

REPORTER:

PARTIES PRESENT:

Dequincy Brass	Defendant
Kelsey R. Einhorn	Attorney for Plaintiff
Kristina A. Rhoades	Attorney for Plaintiff
Mitchell L Posin	Attorney for Defendant
State of Nevada	Plaintiff

#### JOURNAL ENTRIES

JURY PRESENT: Testimony and exhibits present (see worksheets). COURT RECESSED for the evening; TRIAL CONTINUED.

CUSTODY

CONTINUED TO: 2/28/20 10:30 AM

Felony/Gross Misdemeanor

COURT MINUTES

February 28, 2020

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C-18-329765-1      State of Nevada  
                                 vs  
                                 Dequincy Brass

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February 28, 2020      10:30 AM      Jury Trial

HEARD BY:      Hardy, Joe      COURTROOM: RJC Courtroom 11D

COURT CLERK: Duncan, Kristin

RECORDER:      Yarbrough, Matt

REPORTER:

PARTIES PRESENT:

Dequincy Brass	Defendant
Kelsey R. Einhorn	Attorney for Plaintiff
Kristina A. Rhoades	Attorney for Plaintiff
Mitchell L Posin	Attorney for Defendant
State of Nevada	Plaintiff

**JOURNAL ENTRIES**

OUTSIDE THE PRESENCE OF THE JURY: The State noted that it received information from the forensic interviewer approximately fifteen minutes prior to the instant hearing, indicating that alleged victim Rodriguez Madden reported in November 2017 that a hospital employee touched him. Additionally, the State represented that said allegation was investigated; however, that was the only information that had been provided regarding the allegation. Mr. Posin requested leave to investigate the November 2017 allegations, and requested that Rodriguez Madden, and his mother, not testify on this date (February 28, 2020). The Court noted its frustration with the parties' lack of appreciation for the jury's time, and stated that it was puzzling that the November 2017 allegations had never been brought to the parties' attention prior to the instant hearing. Regarding whether extrinsic evidence related to the November 2017 allegations could be brought in, the State argued that, just because no charges were ever brought, that did not mean the allegations were false. Additionally, the State advised that a Miller hearing needed to be held, and suggested Rodriguez Madden, the minor alleged victim, and Kimberly Madden (R. Madden's mother), be questioned outside the presence of the jury.

The November 2017 allegations having been brought to the parties' attention just prior to the instant hearing, COURT ORDERED the Notice of Intent related to Rodriguez Madden, which was required pursuant to Miller, was hereby WAIVED. The State noted that it now had an event number for the November 2017 allegations made by R. Madden: #1710293590. Upon Court's inquiry, the State gave an offer of proof on R. Madden's expected testimony, arguing that the November 2017 allegations against the hospital employee, were made weeks after the allegations related to the Defendant's alleged conduct. Additionally, the State advised that the November 2017 allegations were investigated, and the case was closed due to a lack of evidence; however, that did not mean the allegations were false. Minor alleged victim Venice Madden not having any ties to R. Madden's November 2017 allegations, COURT ORDERED that she would be permitted to testify prior to the Miller hearing being held; a Miller hearing regarding the November 2017 allegations would be heard after V. Madden testified.

JURY PRESENT: Testimony presented (see worksheet). Conference at the bench.

OUTSIDE THE PRESENCE OF THE JURY: MILLER HEARING commenced. Upon Court's inquiry, Mr. Posin indicated that he wished to call the subject of R. Madden's November 2017 allegations to the stand, as it was the defense's burden to prove that the November 2017 allegations were false. The STATE STIPULATED that the accused in the November 2017 allegations would come in and testify that he was not guilty of the allegations. The COURT ACCEPTED the State's STIPULATION. The Court noted that it would call the witnesses for the Miller hearing, and Mr. Posin could cross-examine them; all of the Defendant's family members were ORDERED to exit the courtroom. Mr. Brass's family members exited the courtroom. Kimberly Madden called by the Court as a witness and SWORN IN; TESTIMONY presented. Pursuant to Kimberly Madden's testimony, Mr. Posin argued that it now appeared that R. Madden had made allegations of touching / hitting against Kimberly Madden and Venice Madden. The State noted that said allegations related to K. Madden and V. Madden were not new information to Mr. Posin, as the Defendant was aware of those allegations. Regarding the allegations / claims / accusations R. Madden made against K. Madden and V. Madden, COURT ORDERED that, no written notice of intent to introduce those allegations having been filed, and Mr. Posin having previous knowledge of those allegations, the notice of intent as to K. Madden and V. Madden SHALL NOT be WAIVED. COURT FURTHER ORDERED that the Miller hearing currently being held, would be limited to the November 2017 allegations against the hospital employee, ONLY. Kimberly Madden called back to the stand by the Court for further testimony. Rodriguez Madden called by the Court as a witness and SWORN IN; TESTIMONY presented.

Mr. Posin requested the Court instruct the jury that R. Madden's November 2017 allegations against the hospital employee, were false. The State argued that a jury instruction was not the appropriate relief for the instant issue; the proper relief would be to allow defense counsel to cross-examine the witness regarding the collateral allegations. Having conducted a thorough Miller hearing, COURT ORDERED and FOUND the following: (1) apart from the hospital employee, written notice of intent was not provided; (2) any allegations made by R. Madden against K. Madden and V. Madden shall be EXCLUDED, including cross-examination as to either of them; (3) the November 2017 allegations made by R. Madden against the hospital employee were appropriate for cross-examination as to R. Madden, as well as the forensic interviewer; (4) the written notice of intent required by Miller, was MOOT / WAIVED as to the November 2017 allegations, due to the circumstances related to the disclosure of those allegations to the parties; (5) taking the evidence, the exhibits, and the testimony of R. Madden and K. Madden, and assuming that the accused hospital employee would testify that he was not guilty of the November 2017 allegations, the requirement under Miller to find that the allegations were false, was MOOT; (6) the evidence related to the November 2017 allegations, were more probative than prejudicial, with R. Madden's credibility being what it was; and (7) if R. Madden testified that he did not remember the November 2017 allegations, the extrinsic evidence could be raised through K. Madden's testimony, or through the testimony of the forensic interviewer.

JURY PRESENT: Testimony presented (see worksheet). COURT RECESSED for the evening; TRIAL CONTINUED.

CUSTODY

CONTINUED TO: 3/2/20 12:30 PM

Felony/Gross Misdemeanor

COURT MINUTES

March 02, 2020

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C-18-329765-1      State of Nevada  
                                 vs  
                                 Dequincy Brass

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March 02, 2020      12:30 PM      Jury Trial

HEARD BY:      Hardy, Joe      COURTROOM: RJC Courtroom 11D

COURT CLERK: Duncan, Kristin

RECORDER:      Yarbrough, Matt

REPORTER:

PARTIES PRESENT:

Dequincy Brass	Defendant
Kelsey R. Einhorn	Attorney for Plaintiff
Kristina A. Rhoades	Attorney for Plaintiff
Mitchell L Posin	Attorney for Defendant
State of Nevada	Plaintiff

**JOURNAL ENTRIES**

OUTSIDE THE PRESENCE OF THE JURY: Jury Instructions settled on the record. DEFT. CANVASSED regarding his right to not testify. Defendant indicated he understood his rights.

JURY PRESENT: Testimony presented (see worksheets). State RESTED.

OUTSIDE THE PRESENCE OF THE JURY: The Defendant advised that he would be testifying, and did not have any questions for the Court.

JURY PRESENT: Testimony presented (see worksheets). Defense RESTED. COURT RECESSED for the evening; TRIAL CONTINUED.

CUSTODY

CONTINUED TO: 3/3/20 10:30 AM

Felony/Gross Misdemeanor

COURT MINUTES

March 03, 2020

C-18-329765-1      State of Nevada  
vs  
Dequincy Brass

March 03, 2020      10:30 AM      Jury Trial

HEARD BY:      Hardy, Joe      COURTROOM: RJC Courtroom 11D

COURT CLERK: Duncan, Kristin

RECORDER:      Yarbrough, Matt

REPORTER:

PARTIES PRESENT:

Dequincy Brass	Defendant
Kelsey R. Einhorn	Attorney for Plaintiff
Kristina A. Rhoades	Attorney for Plaintiff
Mitchell L Posin	Attorney for Defendant
State of Nevada	Plaintiff

### JOURNAL ENTRIES

JURY PRESENT: Jury instructed by the Court. Closing arguments by the State. Closing arguments by Mr. Posin. Rebuttal arguments by the State. The jury retired to deliberate at the hour of 1:16 PM, and the two alternates were excused, with an admonishment that they may be called to deliberate. Amended Jury List FILED IN OPEN COURT.

OUTSIDE THE PRESENCE OF THE JURY: The Court addressed a question from the Jury regarding whether they could be provided with a copy of the State's closing PowerPoint presentation; following a colloquy between the Court, the State, and counsel, it was determined that the jury could not be provided with the State's PowerPoint presentation. The Jury continued to deliberate.

The Court addressed a question from the jury regarding the arrest reports from the Defendant's arrest; following a colloquy between the Court, the State, and counsel, it was determined that the arrest reports had not been admitted as evidence, and the Court could not supplement the evidence. The Jury continued to deliberate.

JURY PRESENT: At the hour of 4:42 PM the Jury returned with the following VERDICT: GUILTY as to COUNTS 1, 5, 9, and 16 - LEWDNESS WITH A CHILD UNDER THE AGE OF 15 (F); as to COUNTS 2, 3, 4, 6, 10, 11, 14, 18, and 22 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); as to COUNT 7 - CHILD ABUSE NEGLECT OR ENDANGERMENT (F); as to COUNTS 8, 13, and 15 - FIRST DEGREE KIDNAPPING OF A MINOR (F); as to COUNTS 12 and 19 - PREVENTING OR DISSUADING WITNESS OR VICTIM FROM REPORTING CRIME OR COMMENCING PROSECUTION (F); and as to COUNT 17 - BATTERY WITH INTENT TO COMMIT SEXUAL ASSAULT VICTIM UNDER 16 (F); NOT GUILTY as to COUNT 20 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (F); and as to COUNT 21 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F). Verdict FILED IN OPEN COURT. Jury Instructions FILED IN OPEN COURT. The Jury was thanked and excused by the Court.

OUTSIDE THE PRESENCE OF THE JURY: The State requested the Defendant be remanded into custody, without bail, pending sentencing. COURT ORDERED, matter referred to the Division of Parole and Probation (P & P) and SET for sentencing. COURT FURTHER ORDERED the DEFT. was hereby REMANDED into CUSTODY, NO BAIL.

CUSTODY

4/23/20 8:30 AM SENTENCING

Felony/Gross Misdemeanor

COURT MINUTES

April 23, 2020

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C-18-329765-1      State of Nevada  
                                 vs  
                                 Dequincy Brass

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April 23, 2020      01:45 PM      Sentencing

HEARD BY:      Hardy, Joe      COURTROOM: RJC Lower Level Arraignment

COURT CLERK: Schlitz, Kory

RECORDER:      Yarbrough, Matt

REPORTER:

PARTIES PRESENT:

Dequincy Brass	Defendant
Kelsey R. Einhorn	Attorney for Plaintiff
Kristina A. Rhoades	Attorney for Plaintiff
Mitchell L Posin	Attorney for Defendant
State of Nevada	Plaintiff

**JOURNAL ENTRIES**

Ms. Rhoades indicated there is a Victim Speaker appearing via Bluejeans. Ms. Einhorn stated she just received an e-mail from a Victim Speaker is having trouble connecting through Bluejeans. Mr. Rhoades stated the Defendant was found guilty on twenty counts by a jury, and requested some of the counts run consecutive, for a total of 80 years minimum. Mr. Posin argued this is an issue of consecutive or concurrent, and he would request all counts run concurrent. Statement by Defendant who stated his concerns regarding his attorney being prepared for trial. Victim Speakers sworn and testified. COURT FINDS no issues or concerns with Defense Attorney at the time of trial, however pointed out the Court had issues prior to trial, adding the evidence at trial was overwhelming.

DEFENDANT BRASS ADJUDGED GUILTY of COUNTS 1, 5, 9, 16 of LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (F), and COUNTS 2, 3, 4, 6, 10, 11, 14, 18, 22 of SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F), and COUNT 7 - CHILD ABUSE NEGLECT OR ENDANGERMENT (F), and COUNTS 8, 13, 15 of FIRST DEGREE KIDNAPPING (F), and COUNTS 12, 19 of PREVENTING OR DISSUADING WITNESS OR VICTIM FROM REPORTING CRIME OR COMMENCING PROSECUTION (F), and COUNT 17 of BATTERY WITH INTENT TO COMMIT SEXUAL ASSAULT VICTIM UNDER 16 (F). COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, a \$150.00 DNA Analysis fee including testing to determine genetic markers, and \$3.00 DNA Collection fee, Restitution in the amount of \$1200.00 payable to Clark County Social Services,

Defendant SENTENCED in COUNT 1 - to a MAXIMUM term of LIFE with a MINIMUM parole eligibility of TEN (10) YEARS in the Nevada Department of Corrections (NDC), and

COUNT 2 - to a MAXIMUM term of LIFE with a MINIMUM parole eligibility of THIRTY-FIVE (35) YEARS in the NDC, CONSECUTIVE TO COUNT 1, and

COUNT 3 - to a MAXIMUM term of LIFE with a MINIMUM parole eligibility of THIRTY-FIVE

(35) YEARS in the NDC, CONSECUTIVE TO COUNT 2,

COUNT 4 - to a MAXIMUM term of LIFE with a MINIMUM parole eligibility of THIRTY-FIVE (35) YEARS in the NDC, CONSECUTIVE TO COUNT 3, and

COUNT 5 - to a MAXIMUM term of LIFE with a MINIMUM parole eligibility of TEN (10) YEARS in the NDC, CONCURRENT TO COUNT 4,

COUNT 6 - to a MAXIMUM term of LIFE with a MINIMUM parole eligibility of TEN (10) YEARS in the NDC, CONCURRENT TO COUNT 5, and

COUNT 7 - to a MINIMUM of TWELVE (12) MONTHS and a MAXIMUM of THIRTY (36) MONTHS in the NDC, CONCURRENT TO COUNT 6, and

COUNT 8 - to a MAXIMUM term of LIFE with a MINIMUM parole eligibility of FIVE (5) YEARS in the NDC, CONCURRENT TO COUNT 7, and

COUNT 9 - to a MAXIMUM term of LIFE with a MINIMUM parole eligibility of TEN (10) YEARS in the NDC, CONCURRENT TO COUNT 8, and

COUNT 10 - to a MAXIMUM term of LIFE with a MINIMUM parole eligibility of THIRTY-FIVE (35) YEARS in the NDC, CONCURRENT TO COUNT 9, and

COUNT 11 - to a MAXIMUM term of LIFE with a MINIMUM parole eligibility of THIRTY-FIVE (35) YEARS in the NDC, CONCURRENT TO COUNT 10, and

COUNT 12 - to a MINIMUM of TWELVE (12) MONTHS and a MAXIMUM of THIRTY-TWO (32) MONTHS in the NDC, CONCURRENT TO COUNT 11, and

COUNT 13 - to a MAXIMUM term of LIFE with a MINIMUM parole eligibility of FIVE (5) YEARS in the NDC, CONCURRENT TO COUNT 12, and

COUNT 14 - to a MAXIMUM term of LIFE with a MINIMUM parole eligibility of THIRTY-FIVE (35) YEARS in the NDC, CONCURRENT TO COUNT 13, and

COUNT 15 - to a MAXIMUM term of LIFE with a MINIMUM parole eligibility of FIVE (5) YEARS in the NDC, CONCURRENT TO COUNT 14 and

COUNT 16 - to a MAXIMUM term of LIFE with a MINIMUM parole eligibility of TEN (10) YEARS in the NDC, CONCURRENT TO COUNT 15, and

COUNT 17 - to a MAXIMUM term of LIFE with a MINIMUM parole eligibility of TEN (10) YEARS in the NDC, CONCURRENT TO COUNT 16, and

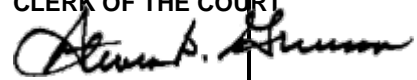
COUNT 18 - to a MAXIMUM term of LIFE with a MINIMUM parole eligibility of THIRTY-FIVE (35) YEARS in the NDC, CONCURRENT TO COUNT 17, and

COUNT 19 - to a MINIMUM of TWELVE (12) MONTHS and a MAXIMUM of THIRTY-TWO (32) MONTHS in the NDC, CONCURRENT TO COUNT 18, and

COUNT 22 - to a MAXIMUM term of LIFE with a MINIMUM parole eligibility of THIRTY-FIVE (35) YEARS in the NDC, CONCURRENT TO COUNT 19, and for an AGGREGATE TOTAL of a LIFE with a MINIMUM parole eligibility of ONE HUNDRED FIFTEEN (115) YEARS in the NDC, WITH NINE HUNDRED THIRTY-SEVEN (937) DAYS credit for time served. COURT FURTHER ORDERED, a SPECIAL SENTENCE of LIFETIME SUPERVISION is IMPOSED to

comment upon release from any term of imprisonment, probation or parole; ADDITIONALLY, the Defendant is ORDERED to REGISTER as a sex offender in accordance with NRS 179D.460 within FORTY-EIGHT (48) HOURS after any release from custody. BOND, if any, EXONERATED.

NDC



TRAN

CASE NO. C329765

IN THE JUSTICE'S COURT OF HENDERSON TOWNSHIP

COUNTY OF CLARK, STATE OF NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

DEQUINCY BRASS,

Defendant.

CASE NO. 17FH1508X

REPORTER'S TRANSCRIPT

OF

PRELIMINARY HEARING

BEFORE THE HONORABLE SAMUEL G. BATEMAN

JUSTICE OF THE PEACE

TUESDAY, FEBRUARY 6, 2018

APPEARANCES:

For the State:

KRISTINA RHOADES

Chief Deputy District Attorney

For the Defendant:

MITCHELL POSIN, ESQ.

Reported by: Lisa Brenske, CCR #186

12:00AM

1

W I T N E S S E S

2

VENICE MADDEN

3

Direct Examination by Ms. Rhoades

5

Cross-Examination by Mr. Posin

34

4

Redirect Examination by Ms. Rhoades

44

Recross-Examination by Mr. Posin

49

12:00AM

5

ARIANNA WHATLEY

6

Direct Examination by Ms. Rhoades

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Cross-Examination by Mr. Posin

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12:00AM 1 HENDERSON, NEVADA, FEBRUARY 6, 2018  
2  
3 \* \* \* \* \*  
4  
11:41AM 5 THE COURT: Let's call Dequincy Brass,  
6 17FH1508X.  
7 On for preliminary hearing, Mr. Posin.  
8 MR. POSIN: Yes, your Honor.  
9 THE COURT: Are we prepared to go forward?  
11:41AM 10 MR. POSIN: Yes, your Honor.  
11 THE COURT: You're looking at, Miss  
12 Rhoades, a couple witnesses?  
13 MS. RHOADES: Yes, your Honor. I would  
14 move the Court to clear the courtroom for good cause.  
11:41AM 15 I have two minor victims testifying. One is 14 and one  
16 is 10 years old. They will be testifying about things  
17 that happened when they were even younger than that.  
18 THE COURT: I understand. Do you have any  
19 other witnesses?  
11:41AM 20 I'm assuming you want the exclusionary  
21 rule, Mr. Posin?  
22 MR. POSIN: Yes, your Honor.  
23 THE COURT: We'll invoke that for you. I  
24 will grant the motion. So I have to have everybody at  
11:41AM 25 this point clear the courtroom. Any witnesses please

11:42AM 1 definitely remain outside.

2 As a housekeeping matter we're operating

3 off the Amended Criminal Complaint. You've got a copy

4 of that, right, Mr. Posin?

11:43AM 5 MR. POSIN: Yes, your Honor.

6 MS. RHOADES: And I do want to make a

7 record, your Honor, of the offer before we proceed.

8 THE COURT: Go ahead.

9 MS. RHOADES: The offer in this case is

11:43AM 10 two counts of attempt sexual assault with a minor under

11 14 years of age. That is mandatory prison two to 20.

12 The State offered either a full right to argue or

13 stipulate to six to 15 on both with the right to argue

14 for concurrent or consecutive time. It's my

11:43AM 15 understanding that he's rejected both of those offers

16 and those offers are now revoked.

17 THE COURT: I am assuming you relayed

18 those offers, correct, Mr. Posin?

19 MR. POSIN: Yes, your Honor.

11:43AM 20 THE COURT: All right. Any other matters

21 to be taken up?

22 MS. RHOADES: No, Your Honor.

23 THE COURT: Okay. State, call your first

24 witness. The name is?

11:43AM 25 MS. RHOADES: Venice Madden.

11:44AM 1 THE COURT: Remain standing, young lady,  
2 and raise your right hand for me.

3 THE CLERK: Do you solemnly swear that the  
4 testimony that you are about to give will be the truth,  
11:44AM 5 the whole truth and nothing but the truth, so help you  
6 God?

7 THE WITNESS: Yes.

8 THE CLERK: Please be seated.

9 Please state your first and last name and  
11:44AM 10 spell each for the record.

11 THE WITNESS: Venice Madden. V-E-N-I-C-E.  
12 M-A-D-D-E-N.

13 THE COURT: I can already tell you're a  
14 little bit of a fast talker. So let's go slow and just  
11:44AM 15 speak into the microphone so everybody can hear what  
16 you're saying.

17 Go ahead, State.

18 MS. RHOADES: Thank you, your Honor.

19  
11:44AM 20 **VENICE MADDEN,**  
21 having been first duly sworn, did testify as follows:

22 DIRECT EXAMINATION

23 BY MS. RHOADES:

24 Q. Venice, how old are you today?

11:44AM 25 A. I'm 10.

11:44AM 1 Q. Is your birthday May 4, 2007?  
2 A. Yes.  
3 Q. So did you just turn 10 on May 4th, 2017?  
4 A. Yes.  
11:45AM 5 Q. What grade are you in?  
6 A. Fifth.  
7 Q. What school do you go to?  
8 A. Row Elementary.  
9 Q. What is your mom's name?  
11:45AM 10 A. Kimberly Garza or Madden.  
11 Q. Do you have a little brother?  
12 A. Yes.  
13 Q. What is your little brother's name?  
14 A. Rodriguez Madden.  
11:45AM 15 THE COURT: Say that first name for me  
16 again.  
17 THE WITNESS: Rodriguez Madden.  
18 THE COURT: Do you think you can spell it?  
19 THE WITNESS: Yes.  
11:45AM 20 THE COURT: Spell it for me.  
21 THE WITNESS: R-O-D-R-I-G-U-E-Z.  
22 THE COURT: And his last name is Madden as  
23 well?  
24 THE WITNESS: Yes.  
11:45AM 25 THE COURT: Go ahead, State.

11:45AM 1 BY MS. RHOADES:

2 Q. Does your brother have a nickname?

3 A. Ra Ra.

4 Q. How old is your brother today?

11:45AM 5 A. Six.

6 Q. Do you know when his birthday is?

7 A. 11/25/11.

8 Q. So I just want to go through your grades

9 with you. So you're in fifth grade this year so that

11:45AM 10 means you started about August, September 2017 and

11 you'll finish fifth grade in June 2018; is that right?

12 A. Yes.

13 Q. And then fourth grade was just last year;

14 is that right?

11:46AM 15 A. Yes.

16 Q. So fourth grade would be September 2016

17 through June 2017?

18 A. Yes.

19 Q. And you were nine years old in fourth

11:46AM 20 grade?

21 A. Yes.

22 Q. And then going back one more year was that

23 third grade?

24 A. Yes.

11:46AM 25 Q. So that would have been September 2015

11:46AM 1 through June 2016; is that right?

2 A. Yes.

3 Q. And you were eight years old in third

4 grade?

11:46AM 5 A. Yes.

6 Q. Do you know the difference between a truth

7 and a lie?

8 A. Yes.

9 Q. Is it good to tell the truth or bad to

11:46AM 10 tell the truth?

11 A. Good.

12 Q. If I told you that this pen in my hand was

13 black, would that be a truth or a lie?

14 A. A lie.

11:46AM 15 Q. What's the truth about this pen?

16 A. The pen is blue.

17 Q. And for the record the pen is blue.

18 Do you promise to tell the truth in this

19 hearing today?

11:46AM 20 A. Yes.

21 Q. Do you know someone by the name of Quincy?

22 A. Yes.

23 Q. Do you see him in court today?

24 A. Yes.

11:47AM 25 Q. Can you point to him and tell me something

11:47AM 1 that he's wearing today?

2 A. A blue shirt.

3 MS. RHOADES: May the record reflect

4 identification of the defendant, your Honor?

11:47AM 5 THE COURT: It'll so reflect.

6 BY MS. RHOADES:

7 Q. How do you know Quincy?

8 A. He hurt me.

9 Q. Was he living with your mom at some point?

11:47AM 10 A. Yes.

11 Q. Was he your mom's boyfriend?

12 A. Yes.

13 Q. Did he live with your mom when you were in

14 third grade?

11:47AM 15 A. Yes.

16 Q. Did he live with your mom when you were in

17 fourth grade?

18 A. Yes.

19 Q. How about when you were in fifth grade?

11:47AM 20 A. No.

21 Q. Who was your teacher in third grade?

22 A. Ms. Horn.

23 Q. Did you have another teacher in third

24 grade?

11:47AM 25 A. I don't remember his name.

11:47AM 1 Q. Mr. Smith?

2 A. Yeah, it was Mr. Smith. He was my other

3 teacher.

4 Q. When you were in third and fourth grade

11:48AM 5 and when Quincy lived with you, do you remember the

6 address that you lived at?

7 A. 736 Arden Valley Avenue.

8 Q. Is that here in Henderson?

9 A. Yes.

11:48AM 10 Q. Clark County, Nevada?

11 A. Yes.

12 Q. Do you still live there now?

13 A. No.

14 Q. Well, did you live anywhere else when

11:48AM 15 Quincy hurt you?

16 A. No.

17 Q. Just in that Arden Valley house?

18 A. Yes.

19 Q. Can you describe the house for us? Is it

11:48AM 20 one story, two stories?

21 A. It was two stories.

22 Q. How many living rooms did you have in the

23 house?

24 A. I had two.

11:48AM 25 Q. Were they both downstairs?

11:48AM 1 A. Yes.

2 Q. Did you have your own room?

3 A. Yes.

4 Q. Did your mom and Quincy share a room?

11:48AM 5 A. Yes. Sometimes my mom would go to her

6 room and my brother's old room would be his room too.

7 Q. Would be whose room too?

8 A. Dequincy's.

9 Q. So sometimes he would share with your mom

11:49AM 10 and sometimes he would have his own room?

11 A. His own room.

12 Q. Did anybody else live in that house with

13 you?

14 A. No. Just me and my mom and my brother and

11:49AM 15 Quincy and my dog.

16 Q. And your dog?

17 A. Yes.

18 Q. What is your dog's name?

19 A. Blueberry.

11:49AM 20 Q. And your brother that you're talking

21 about, that's Ra Ra?

22 A. Yes.

23 Q. Do you remember a time when you were in

24 third grade when Quincy hurt you?

11:49AM 25 A. Yes.

11:49AM 1 Q. Did that occur in the Arden Valley house?

2 A. Yes.

3 Q. Do you remember what room that occurred

4 in?

11:49AM 5 A. Yes.

6 Q. What room?

7 A. The living room.

8 Q. How do you differentiate? How do you tell

9 the difference between those two living rooms?

11:49AM 10 A. One was like closest to the front door and

11 one is closest to the back door.

12 Q. Did one have a fireplace?

13 A. Yes, it did have a fireplace.

14 Q. The one time that you're going to tell us

11:50AM 15 about in third grade, was that in the living with the

16 fireplace or not with the fireplace?

17 A. With the fireplace.

18 Q. Was this daytime or nighttime?

19 A. It was daytime.

11:50AM 20 Q. Do you know where your mom was?

21 A. I don't think she was there. She wasn't

22 there.

23 Q. What were you doing in the living room?

24 A. I was downstairs watching TV.

11:50AM 25 Q. Do you remember what you were watching?

11:50AM 1 A. I think Sponge Bob.  
2 Q. Were you by yourself in that living room  
3 or --  
4 A. Yes.

11:50AM 5 Q. What did Quincy do?  
6 A. He came downstairs and hurt me.  
7 Q. What did he do when he hurt you?  
8 A. Like he touched my private parts.  
9 Q. Do you know where your little brother was?

11:51AM 10 A. I think he was either gone or upstairs.  
11 I'm not really sure.  
12 Q. When Quincy touched your private parts,  
13 were you on the couch, on the floor, something else?  
14 A. I was on the floor.

11:51AM 15 Q. And how were you positioned? Were you  
16 sitting up or laying down?  
17 A. It was kind of both.  
18 Q. Was Quincy laying down?  
19 A. Yes.

11:51AM 20 Q. Did Quincy have his clothes on or off?  
21 A. Off.  
22 Q. How did Quincy's clothes get off?  
23 A. He took them off.  
24 Q. All of his clothes were off?

11:51AM 25 A. Yes.

11:51AM 1 Q. And your clothes, were they on or off?  
2 A. Off.  
3 Q. How did your clothes get off?  
4 A. They came -- like I took them off.  
11:51AM 5 Q. Why did you take them off?  
6 A. Because he told me to take them off.  
7 Q. Were all your clothes off?  
8 A. Yes.  
9 Q. And describe how you and Quincy were  
11:52AM 10 laying.  
11 A. It was like on my back kind of. I don't  
12 know. I don't know how to speak.  
13 Q. Was Quincy laying on his back or on his  
14 stomach?  
11:52AM 15 A. His stomach.  
16 Q. And were you laying on top of him?  
17 A. Yeah, I was.  
18 Q. When he was laying on his stomach?  
19 A. No, no, no. I'm sorry. I was laying on  
11:52AM 20 the floor and he was like kind of -- I don't know how  
21 to -- it's like how do I explain it? Like he was kind  
22 of not -- I don't know how to explain it.  
23 Q. I am going to try to help you, okay?  
24 A. Okay.  
11:52AM 25 Q. So are you laying on your back or on your

11:52AM 1 stomach?

2 A. I was laying on my back.

3 Q. And Quincy was laying on his stomach?

4 A. No, he wasn't laying on his stomach. It

11:53AM 5 was like -- I don't know how you want to say it. He

6 wasn't laying on his stomach but he wasn't laying on

7 his back either. I don't know like. I guess on his

8 knees or something.

9 Q. Was he laying on his side?

11:53AM 10 A. No.

11 Q. But you were on your back?

12 A. Yes.

13 Q. And your clothes were off?

14 A. Yes.

11:53AM 15 Q. And you said he touched your private?

16 A. Yes.

17 Q. Is your private where pee comes out of?

18 A. Yes.

19 Q. What did he touch your private with?

11:53AM 20 A. His private and his hand.

21 Q. His private and his hand?

22 A. Yes.

23 Q. When his private touched your private, did

24 his private go inside of your private?

11:53AM 25 A. Yes.

11:53AM 1 Q. And is his private his penis?  
2 A. Yes.  
3 Q. Did it go inside your vagina?  
4 A. Yes.  
11:53AM 5 Q. How about your butt?  
6 A. Yes.  
7 Q. Did he touch your butt?  
8 A. Yes.  
9 Q. What did he touch your butt with?  
11:54AM 10 A. With his private and his hand.  
11 Q. When he touched your butt with his  
12 private, did his private go inside your butt?  
13 A. Yes.  
14 Q. How did that feel when he did that?  
11:54AM 15 A. It didn't feel good at all.  
16 Q. How about your chest, did he touch your  
17 chest?  
18 A. Yes.  
19 Q. What did he touch your chest with?  
11:54AM 20 A. With his hand.  
21 Q. Did he kiss you?  
22 A. Yes.  
23 Q. Where on your body did he kiss you?  
24 A. On my mouth.  
11:54AM 25 Q. Did he kiss your chest?

11:54AM 1 A. Yes.

2 Q. That time that you're telling us about?

3 A. Yes.

4 Q. When he touched your private where you pee

11:54AM 5 from with his hand, what was he doing with his hand?

6 A. Like he kind of -- I guess he put it in I

7 guess.

8 Q. What did he put in?

9 A. His fingers.

11:55AM 10 Q. And where did he put his fingers?

11 A. In my private part.

12 Q. And that's where you pee from?

13 A. Yes.

14 Q. Did he say anything to you while he was

11:55AM 15 doing this?

16 A. No.

17 Q. How did it stop?

18 A. I was crying. That's how it stopped. And

19 I was getting loud and that's why.

11:55AM 20 Q. What happened when it stopped?

21 A. I went upstairs and then I cried.

22 Q. Did you tell your mom about what happened?

23 A. No.

24 Q. How come?

11:55AM 25 A. Because he told me not to tell.

11:55AM 1 Q. When he told you not to tell, what did he  
2 say?

3 A. He said don't tell your mom or something  
4 is going to happen.

11:56AM 5 Q. Did he say what would happen?

6 A. No.

7 Q. What did you think that something was that  
8 he was talking about?

9 A. I don't know.

11:56AM 10 Q. Did that scare you?

11 A. Yeah.

12 Q. That time that you're telling us when you  
13 watched Sponge Bob did he tell you to do anything with  
14 his private part?

11:56AM 15 A. Yeah.

16 Q. What did he tell you to do?

17 A. He told me to -- he told me to put it in  
18 my mouth.

19 Q. And did you put it in your mouth?

11:56AM 20 A. Yes.

21 Q. And you said that he kissed you on your  
22 chest and on your lips. That time that you're telling  
23 us about did he kiss you on your private part?

24 A. Yes.

11:57AM 25 Q. With his mouth?

11:57AM 1 A. Yes.

2 Q. And that's the part that you pee from?

3 A. Yes.

4 Q. Is there another time that something

11:57AM 5 happened in the other living room?

6 A. Yes.

7 Q. Was this time daytime or nighttime?

8 A. It was daytime.

9 Q. Do you remember if your mom was home?

11:57AM 10 A. I don't think she was home.

11 Q. And were you in the living room by

12 yourself or with somebody else?

13 A. I think it was me and my brother.

14 Q. What happened this time?

11:58AM 15 A. He told my brother to go upstairs and it

16 was the same thing that happened in the second living

17 room.

18 Q. Were you laying on the floor or on the

19 couch or somewhere else?

11:58AM 20 A. On the couch.

21 Q. Did it happen on the couch this time?

22 A. Yes.

23 Q. And what happened on the couch with

24 Quincy?

11:58AM 25 A. He hurt me.

11:58AM 1 Q. He hurt you?

2 A. Yeah.

3 Q. Did he take his clothes off?

4 A. Yes.

11:58AM 5 Q. All of them?

6 A. Yes.

7 Q. And how about your clothes, what happened

8 to them?

9 A. They were off too.

11:58AM 10 Q. How did your clothes get off?

11 A. He told me to take them off.

12 Q. Did he touch you with his hands?

13 A. Yes.

14 Q. Where? Tell me all the places that he

11:58AM 15 touched you with his hands.

16 A. My butt, my private part and my chest.

17 Q. When he touched your butt with his hands,

18 did his finger go inside your butt?

19 A. Yes.

11:58AM 20 Q. When he touched your private part with his

21 hands, did his finger go inside your private?

22 A. Yes.

23 Q. And you said he touched your chest too?

24 A. Yes.

11:59AM 25 Q. And did he touch your private with

11:59AM 1 anything else besides his hand?

2 A. His private.

3 THE COURT: I'm sorry. What was the

4 question?

11:59AM 5 MS. RHOADES: Did he touch your private

6 with anything else but his hand.

7 THE COURT: Okay.

8 BY MS. RHOADES:

9 Q. And you said his private?

11:59AM 10 A. Yes.

11 Q. Did his private go inside you?

12 A. Yes.

13 Q. Did he touch your private with his mouth

14 that time?

11:59AM 15 A. Yes.

16 Q. And your butt, did he touch your butt with

17 anything besides his hand?

18 A. His private.

19 Q. Did his private go inside your butt?

11:59AM 20 A. Yes.

21 Q. That time that you're telling us about did

22 he make you do anything to his private?

23 A. Yes.

24 Q. What did he make you do?

11:59AM 25 A. He told me to put it in his mouth -- my

12:00PM 1 mouth.

2 Q. And did you put his private in your mouth?

3 A. Yes.

4 Q. Did he say anything to you while this was

12:00PM 5 going on?

6 A. No.

7 Q. Was he making any kind of noises while

8 this was going on?

9 A. Yes.

12:00PM 10 Q. What kind of noises?

11 A. It was like weird noise. I don't know.

12 Like I don't know how to explain. It was like weird

13 noises.

14 Q. How about in your mom's room, did anything

12:00PM 15 ever happen in your mom's room?

16 A. Yes.

17 Q. What happened in your mom's room?

18 A. Like he hurt my brother in my mom's room.

19 Q. How do you know that he hurt your brother

12:00PM 20 in your mom's room?

21 A. Because I saw it.

22 Q. Is your brother's last name Madden?

23 A. Yes.

24 Q. Describe for us what you saw and how you

12:01PM 25 saw it.

12:01PM 1 A. Well, I went upstairs to -- with my  
2 brother in my mom's room and then as soon as I opened  
3 the door I saw my brother on the bed with his pants off  
4 hurting my brother.

12:01PM 5 Q. Is there a reason why you went up to your  
6 mom's room? Did you hear your brother?

7 A. Because my brother was screaming.

8 Q. When you opened the door, you said you saw  
9 Quincy with his pants down; is that right?

12:01PM 10 A. Yes.

11 Q. Did you see where Quincy's private was?

12 A. Yes.

13 Q. Where was it?

14 A. It was like by my brother. It was like  
15 touching my brother.

16 Q. What part of your brother's body was it  
17 touching?

18 A. Kind of by his private part.

19 Q. How was your brother sitting?

12:01PM 20 A. He was laying on the bed on his back.

21 Q. And you said you saw Quincy's private part  
22 touching your brother's private part?

23 A. Yes.

24 Q. Did you see Quincy's private part touching  
12:02PM 25 your brother's butt?

12:02PM 1 A. Yes.

2 Q. Tell us what you saw regarding that.

3 A. Then he told my brother to turn around and

4 my brother did because he didn't know what to do and

12:02PM 5 then he started hurting my brother in his butt.

6 Q. When you say hurting my brother in his

7 butt, what part of Quincy's part was touching your

8 brother's part?

9 A. His private part.

12:02PM 10 Q. Was his private part going inside of your

11 brother's butt?

12 A. Yes.

13 Q. What was your brother doing?

14 A. My brother was on the bed screaming and

12:02PM 15 crying.

16 Q. Do you know someone by the name of Arianna

17 Whatley?

18 A. Yes.

19 Q. How do you know her?

12:02PM 20 A. She was my friend.

21 Q. Is she a little bit older than you?

22 A. Yes.

23 THE COURT: Spell that last name, please.

24 MS. RHOADES: W-H-A-T-L-E-Y.

12:02PM 25 THE COURT: Thank you.

12:03PM 1 BY MS. RHOADES:

2 Q. Do you know how old she is?

3 A. At the time or now?

4 Q. How old is she right now if you know?

12:03PM 5 A. I don't know.

6 Q. Do you know what grade she's in right now?

7 A. She's probably in seventh or eighth.

8 Q. Do you guys go to the same school?

9 A. No.

12:03PM 10 Q. Have you ever went to the same school as

11 her?

12 A. Yes.

13 Q. How did you meet her?

14 A. She was a friend of my aunt Gabby's.

12:03PM 15 Q. Did Arianna used to come over to your

16 house when you were in third and fourth grade?

17 A. Yes.

18 Q. Did she come over to your house a lot of

19 times or little times?

12:03PM 20 A. Well, a lot.

21 Q. Was there ever a time that Arianna came

22 over and Quincy was there?

23 A. A lot of times, yes.

24 Q. Do you know what Convoy of Hope is?

12:03PM 25 A. No.

12:04PM 1 Q. Was there a time that Quincy took you and  
2 Arianna somewhere?

3 A. Yes.

4 Q. How many times did Quincy take you and  
12:04PM 5 Arianna somewhere?

6 A. Three times I think.

7 Q. Were there times that Quincy would take  
8 you places when Arianna was not with you?

9 A. Yes.

12:04PM 10 Q. Did Quincy take you to places alone?

11 A. Yes.

12 Q. Can you remember a time where Quincy took  
13 you somewhere when you were by yourself?

14 A. A hotel.

12:04PM 15 Q. Do you remember what the hotel was called?

16 A. I think it was the MGM.

17 Q. Do you remember what it looked like?

18 A. It's the big green building.

19 Q. What grade were you in when Quincy took  
12:04PM 20 you to the MGM?

21 A. I think third or fourth. I don't  
22 remember.

23 Q. What happened when he took you there?

24 A. He hurt me.

12:04PM 25 Q. How did he hurt you?

12:04PM 1 A. With his private part.  
2 Q. Where did his private part go?  
3 A. In my private part in my butt.  
4 Q. Did he kiss you anywhere that time?  
12:05PM 5 A. I don't think so, no.  
6 Q. Did he tell you to do anything with his  
7 private part that time?  
8 A. Yes.  
9 Q. What did he tell you to do?  
12:05PM 10 A. Put it in my mouth.  
11 Q. Did you do that?  
12 A. Yes.  
13 Q. Did you stay the night at the hotel at the  
14 MGM?  
12:05PM 15 A. I don't remember.  
16 Q. Did you know or did you tell your mom that  
17 that's where you were going with him?  
18 A. No.  
19 Q. Do you know where your mom thought you  
12:05PM 20 were?  
21 A. I think she thought I was at Arianna's or  
22 my other friend Shay's.  
23 THE COURT: Shay?  
24 THE WITNESS: Yeah.  
25

12:06PM 1 BY MS. RHOADES:

2 Q. How do you spell that?

3 A. S-H-A-Y.

4 Q. When you were at the hotel room, do you

12:06PM 5 know if you fell asleep or Quincy fell asleep?

6 A. Yes.

7 Q. And do you remember going home that time?

8 A. Yes.

9 Q. When you went home, was it daytime or

12:06PM 10 nighttime?

11 A. Daytime.

12 Q. And when you went there, do you remember

13 if it was daytime or nighttime when you guys first

14 arrived?

12:06PM 15 A. I think it was daytime. I don't remember.

16 Q. Did all of your clothes come off that

17 time?

18 A. Yes.

19 Q. And why did they come off?

12:06PM 20 A. Because he told me to take them off.

21 Q. Where in your hotel room did this happen?

22 A. In the room.

23 Q. On the bed, on the floor?

24 A. On the bed.

12:07PM 25 Q. Do you remember how many beds were in the

12:07PM 1 hotel room?

2 A. I think one or two. I think it was

3 probably one.

4 THE COURT: One?

12:07PM 5 THE WITNESS: Yes.

6 BY MS. RHOADES:

7 Q. Do you remember if there was a couch in

8 the hotel room?

9 A. Yes.

12:07PM 10 Q. Did anything happen on the couch?

11 A. No.

12 Q. Just on the bed?

13 A. Yes.

14 Q. Did he tell you anything about whether or

12:07PM 15 not you should tell somebody that time?

16 A. Yes. He said don't tell your mom. He

17 would always remind me not to tell my mom.

18 Q. Was there a time where Quincy showed you a

19 video?

12:07PM 20 A. Yes.

21 Q. What kind of a video was that?

22 A. It was like a nasty video.

23 Q. When you say nasty, what do you mean?

24 A. Like private video I should say.

12:08PM 25 Q. Were people having sex in the video?

12:08PM 1 A. Yes.

2 Q. Where were you at when Quincy showed you  
3 that video?

4 A. In the living room.

12:08PM 5 Q. Of the Arden Valley house?

6 A. Yes.

7 Q. Was it the living room with the fireplace  
8 or not?

9 A. Yes, the fireplace.

12:08PM 10 Q. Do you remember what grade you were in?

11 A. I believe I was in fourth.

12 Q. Was there a time that Quincy took you and  
13 Arianna somewhere?

14 A. Yes.

12:08PM 15 Q. And it was just the three of you?

16 A. Yes.

17 Q. And tell me about a time that that  
18 happened.

19 A. It was -- he took us to the room and he  
12:08PM 20 hurt us in one of the hotels.

21 Q. Do you remember what hotel that was?

22 A. I think it was the MGM or the Palms. I'm  
23 not really sure.

24 THE COURT: MGM or what?

12:08PM 25 THE WITNESS: The Palms.

12:08PM 1 THE COURT: Was your question that there  
2 was three of them?  
3 MS. RHOADES: Just the three of them.  
4 Quincy, her and Arianna.

12:09PM 5 THE COURT: I'm sorry. Okay.  
6 BY MS. RHOADES:  
7 Q. Do you remember what grade you were in  
8 when this happened?  
9 A. Fourth.

12:09PM 10 Q. Did your mom know that that's where you  
11 guys were going with Quincy?  
12 A. No.  
13 Q. When you got to the hotel, can you  
14 describe the hotel room for us?

12:09PM 15 A. There was a bed, a table and a couch.  
16 Q. Do you remember how many beds?  
17 A. One.  
18 Q. Was there a bathroom?  
19 A. Yes.

12:09PM 20 Q. And you said that Quincy hurt you. Where  
21 did it start in the hotel room?  
22 A. It was on the bed.  
23 Q. Were all three of you on the bed?  
24 A. Yes.

12:09PM 25 Q. What did Quincy do to you?

12:09PM 1 A. He hurt me and Arianna.  
2 Q. Did you see him hurt Arianna?  
3 A. Yes.  
4 Q. Did your clothes come off?  
12:10PM 5 A. Yes.  
6 Q. All of them?  
7 A. Yes.  
8 Q. How did they come off?  
9 A. He took them off.  
12:10PM 10 Q. He took them off that time?  
11 A. (No oral response.)  
12 Q. Is that a yes?  
13 A. Yes.  
14 Q. Did he take his clothes off?  
12:10PM 15 A. Yes.  
16 Q. All of them?  
17 A. Yes.  
18 Q. How about Arianna's clothes?  
19 A. Yes.  
12:10PM 20 Q. How did Arianna's clothes get off?  
21 A. He took them off.  
22 Q. And you said he hurt you. Did he put his  
23 private part somewhere?  
24 A. Yes.  
12:10PM 25 Q. Where did he put his private part on you?

12:10PM 1 A. He put it in my private part and my butt.  
2 Q. And it went inside both of those places?  
3 A. Yes.  
4 Q. Was he touching you with his hands  
12:10PM 5 anywhere?  
6 A. Yes.  
7 Q. Where?  
8 A. On my chest, on my butt and my private  
9 part.  
12:10PM 10 Q. Was he kissing you anywhere?  
11 A. Yes.  
12 Q. Where?  
13 A. My mouth.  
14 Q. Did he kiss your private part that time?  
12:11PM 15 A. Yes.  
16 Q. When he was touching your butt and your  
17 private part, did his fingers go inside again?  
18 A. Yes.  
19 Q. Did his finger go inside your private  
12:11PM 20 part?  
21 A. Yes.  
22 Q. Did his finger go inside your butt?  
23 A. Yes.  
24 Q. What if anything did you see him do to  
12:11PM 25 Arianna?

12:11PM 1 A. He did the same thing to Arianna.

2 Q. Did you see his penis go in her private

3 part?

4 A. Yes.

12:11PM 5 Q. That's where she pees from?

6 A. Yes.

7 Q. Did he tell you and Arianna anything about

8 whether or not you guys should tell that time?

9 A. Yes.

12:11PM 10 Q. Do you remember what he said?

11 A. He said make sure you don't tell or

12 something bad is going to happen to both of you.

13 Q. He said that to both of you guys?

14 A. Yes.

12:12PM 15 MS. RHOADES: I believe I will pass the

16 witness.

17 THE COURT: Cross-examination.

18 MR. POSIN: Thank you, your Honor.

19

20 CROSS-EXAMINATION

21 BY MS. RHOADES:

22 Q. Venice, you spoke to some police officers

23 about this case, right?

24 A. Yes.

12:17PM 25 Q. And they asked you some questions and you

12:17PM 1 talked to them about how this came about?

2 A. Yes.

3 Q. Do you remember that?

4 A. Yes.

12:17PM 5 Q. And you told them that you made this

6 accusation because your mother thought that something

7 had happened. Do you remember telling them that?

8 A. Yes.

9 Q. And why did you say that your mother

12:17PM 10 thought that something had happened?

11 A. Because she saw like -- she saw what

12 happened in one of the living rooms.

13 Q. She saw what happened?

14 A. Not like me getting hurt, but like me

12:18PM 15 moving around and him doing something.

16 Q. She saw you moving around in the living

17 room?

18 A. Yeah. In the chair.

19 Q. Moving around. How were you moving around

12:18PM 20 in the chair?

21 A. Like with my leg.

22 Q. What exactly does that mean moving around

23 with your leg?

24 A. Well, like I was kind of like -- I was

12:18PM 25 like moving it around -- I don't know how you'd say it.

12:18PM 1 It's like I don't know like. I was just like basically  
2 moving around -- basically moving around. I guess you  
3 kind of say like probably shaking my leg or something.  
4 I don't know how you would say it.

12:18PM 5 Q. So why would your mom think that shaking  
6 your leg had anything to do with Quincy?

7 A. She saw him looking at me.

8 Q. So you were shaking your leg and she saw  
9 him looking at you?

12:19PM 10 A. Yeah.

11 Q. And she thought something had happened?

12 A. Yeah. Because she -- I don't know. She  
13 just -- she said something was happening.

14 Q. And what did you tell her at that point?

12:19PM 15 A. I told her nothing happened.

16 Q. Did you tell her that something had  
17 happened involving someone else?

18 A. Well, at that first no because it took me  
19 awhile to tell and then I told her and then yeah, I  
12:19PM 20 told her what happened with me and my friend.

21 Q. In fact you --

22 THE COURT: She just trailed off. What  
23 did you say at the very end?

24 THE WITNESS: And then I told her what  
12:19PM 25 happened with me and my friend.

12:19PM 1 THE COURT: With you and your friend?

2 THE WITNESS: Yes.

3 BY MR. POSIN:

4 Q. You told her something that happened with

12:19PM 5 Trinity?

6 A. Yes.

7 Q. What did you tell her happened with

8 Trinity?

9 A. That Trinity touched me.

12:20PM 10 Q. Where did you tell her that Trinity had

11 touched you?

12 A. My private part.

13 MS. RHOADES: I object. I don't know what

14 the relevance is.

12:20PM 15 THE COURT: Who is Trinity?

16 MR. POSIN: Her friend.

17 MS. RHOADES: I believe it's a cousin.

18 THE COURT: I just needed clarification.

19 The question was she told her mom that Trinity had

12:20PM 20 touched her?

21 MR. POSIN: Correct, your Honor. The

22 story, if you'd like an offer of proof.

23 THE COURT: Go ahead.

24 MR. POSIN: Thank you.

25

12:20PM 1 BY MR. POSIN:

2 Q. So you told --

3 THE COURT: Hang on. I am going to deny

4 the objection right now. I'll give you a little leeway

12:20PM 5 and let's see where we're going and if it is

6 irrelevant, you can re-raise your objection.

7 BY MR. POSIN:

8 Q. You initially said that it was Trinity who

9 touched you?

12:20PM 10 A. Yes.

11 Q. And where did you tell your mom that

12 Trinity had touched you?

13 A. In my private part.

14 Q. What part of Trinity did you tell your mom

12:20PM 15 that -- what part of Trinity's body did you tell your

16 mom had touched your private parts?

17 MS. RHOADES: I'm going to object as

18 relevance and possibly rape shield. I think he can ask

19 why she told mom Trinity touched her, but I don't know

12:21PM 20 that he can get into details.

21 THE COURT: Well, is it being offered

22 because you believe that it occurred or is it being --

23 why is it being offered, the contact between Trinity

24 and the witness?

12:21PM 25 MR. POSIN: Your Honor, if I can ask one

12:21PM 1 more question about whether she's denying it.  
2 BY MR. POSIN:  
3 Q. Are you currently saying that Trinity did  
4 or did not do that?  
12:21PM 5 A. She didn't.  
6 MR. POSIN: Okay. It's therefore offered,  
7 your Honor, on the basis that she has previously made  
8 false accusations of this very topic against someone  
9 else and then shifted.  
12:21PM 10 THE COURT: To her mom or to law  
11 enforcement?  
12 MR. POSIN: To her mom.  
13 MS. RHOADES: Never to law enforcement.  
14 THE COURT: Okay. So maybe lay some  
12:21PM 15 foundation on when these allegations would have been  
16 made, Mr. Posin.  
17 MR. POSIN: Thank you, Your Honor.  
18 BY MR. POSIN:  
19 Q. When did you first tell your mom that  
12:21PM 20 Trinity had touched you?  
21 A. Like where was I?  
22 Q. No. In the earlier questioning you were  
23 asked about where you were in third grade, fourth  
24 grade, fifth grade. Do you remember was it third  
12:22PM 25 grade, was it fourth grade, when did you tell your mom?

12:22PM 1 A. I don't remember.

2 Q. Was it before third grade?

3 A. I think it was in fourth grade.

4 Q. And what happened next after you told your

12:22PM 5 mom that Trinity had touched you?

6 A. Like she just -- she's like wow -- she was

7 kind of surprised. And then later on I told her

8 because I lied to her, that's why.

9 Q. So has Trinity ever hurt you?

12:22PM 10 A. No.

11 Q. Trinity has never hurt you in any other

12 way?

13 A. She would just be mean to me a lot. Like

14 maybe go do a lot of things. Like when she didn't want

12:22PM 15 to do them. But other than that, no.

16 Q. Did she ever hurt you in any physical way?

17 A. She like clipped my finger with my binder

18 one time.

19 Q. And is Trinity associated in your mind

12:23PM 20 with demons?

21 A. She liked a lot of like scary -- I guess

22 you would say that because she liked a lot of scary

23 stuff.

24 THE COURT: I am going to overrule the

12:23PM 25 objection at this time, Ms. Rhoades. It sounds like it

12:23PM 1 goes maybe to credibility as opposed to saying that  
2 she's actually engaging in other conduct, but I'll let  
3 it continue and make whatever objections you feel  
4 appropriate.

12:23PM 5 MS. RHOADES: Okay. Thank you.

6 THE COURT: Go ahead.

7 BY MR. POSIN:

8 Q. So did you associate in your report  
9 Trinity with demons?

12:23PM 10 A. I didn't --

11 MS. RHOADES: I object as to relevance.

12 THE COURT: Can you guys approach real  
13 quick.

14 (At the bench discussion.)

12:25PM 15 THE COURT: I am going to sustain the last  
16 objection. Go ahead, Mr. Posin.

17 BY MR. POSIN:

18 Q. How long was it between the time you first  
19 told your mom that Trinity had touched you and the time  
12:25PM 20 that you told her that Quincy had touched you?

21 A. I told her like for probably like a week I  
22 should say that Trinity touched me and then I told her  
23 from after that week that Quincy touched me from now.

24 Q. So you changed your story from Trinity to  
12:25PM 25 Quincy?

12:25PM 1 A. Yeah.

2 Q. Okay. When you told her that Trinity

3 touched you, that was false, right?

4 A. Yes.

12:25PM 5 Q. But you told her that anyway, right?

6 A. Yes.

7 Q. Where was Trinity living at the time that

8 you made these accusations?

9 A. What do you mean by that?

12:26PM 10 Q. Was she living at your house, some other

11 house?

12 MS. RHOADES: I want some more foundation.

13 Accusations about Trinity or accusations about Quincy?

14 BY MR. POSIN:

12:26PM 15 Q. When you told your mom that Trinity had

16 touched you, was Trinity living at your house or at

17 some other house?

18 A. She was at some other house.

19 Q. Was there a time when she was living at

12:26PM 20 your house?

21 A. Yes.

22 Q. When was that? Before or after you told

23 your mom that Trinity touched you?

24 A. Before.

12:26PM 25 Q. So Trinity was already out of your house

12:26PM 1 when you told your mom that Trinity had touched you?

2 A. Yes.

3 Q. And you said that you told your mom that

4 Trinity had touched you for a week and then you changed

12:26PM 5 that to saying Quincy had touched you?

6 A. Yes.

7 Q. And how long did Quincy stay in the house

8 after that?

9 A. Not very long. It was like -- because

12:26PM 10 after the day my mom saw me in the living room and

11 Quincy in the living room, she like -- she kicked him

12 out as soon as I fell asleep.

13 Q. Do you remember when you talked to the

14 police officers about this case?

12:27PM 15 A. Yeah.

16 Q. And did they ask you to tell them

17 everything that you remembered about it?

18 A. Yes.

19 Q. And did you tell them everything you

12:27PM 20 remembered about it then?

21 A. Yes.

22 Q. So all the incidents that happened were

23 reported by you to them at that point, right?

24 A. Yes.

12:27PM 25 MR. POSIN: I have no further questions,

12:27PM 1 your Honor.

2 THE COURT: Any redirect?

3 MS. RHOADES: Yes.

4

12:27PM 5 REDIRECT EXAMINATION

6 BY MS. RHOADES:

7 Q. You were in fourth grade when you told  
8 your mom something about Trinity?

9 A. Yes.

12:27PM 10 Q. How old is Trinity?

11 A. She's I think 14 or 15 now.

12 Q. Why did you tell your mom that Trinity had  
13 touched you?

14 A. Because at first when I told you that he  
12:28PM 15 said not to tell, I was just making --

16 THE COURT: Say that again. What was your  
17 answer?

18 THE WITNESS: I said because when he said  
19 don't tell anybody, I didn't want to tell anybody

12:28PM 20 because I thought something bad was still going to  
21 happen even if he left.

22 BY MS. RHOADES:

23 Q. So what about that made you tell your mom  
24 that Trinity had touched you?

12:28PM 25 A. Because she was with us for awhile and so

12:28PM 1 I just told my mom that it was her so he wouldn't do  
2 anything.

3 Q. So that Quincy wouldn't do anything?

4 A. Yes.

12:28PM 5 Q. Did you tell your mom that Trinity had  
6 touched you after your mom saw you in the living room  
7 with Quincy?

8 A. Well, she asked -- I don't know. She said  
9 she kind of already knew that he touched me, but I said  
12:28PM 10 no anyways. So she believed me and then afterwards,  
11 yes, I told her that Quincy touched me.

12 Q. So your mom believed you when you said  
13 that Quincy didn't touch you?

14 A. Yes. No. Yeah. My mom believed me  
12:29PM 15 when -- yeah, basically, yeah.

16 Q. How old were you when Quincy moved out of  
17 your house? What grade were you in?

18 A. I was in fourth and I was 10.

19 Q. What grade were you in when you talked to  
12:29PM 20 the police about what Quincy did to you?

21 A. I think I was like probably getting out  
22 of -- I was just getting out of fourth grade.

23 Q. Going into fifth grade?

24 A. Yeah.

12:29PM 25 Q. So you told the police after Quincy moved

12:29PM 1 out of the house?

2 A. Yes.

3 Q. Why did you finally tell the police and

4 tell your mom what Quincy did to you?

12:29PM 5 A. Because it was -- can you please redo

6 that.

7 Q. Why did you finally tell your mom what

8 Quincy did to you? What made you tell?

9 A. I told because I kind of felt bad

12:30PM 10 afterwards and then so I just told my mom and she said

11 whatever you -- my mom said whatever happened you can

12 tell me so I just felt like I could tell her.

13 Q. Why did you feel bad?

14 A. I felt bad because like having her not to

12:30PM 15 know and when she said it's okay, we can get through it

16 together, I felt much better.

17 Q. When you talked to the police, you went

18 into a room and it was with a lady that you talked to;

19 is that right?

12:30PM 20 A. Yes.

21 Q. And you told her everything that you could

22 remember at the time in answering the questions that

23 she was asking you, right?

24 A. Yes.

12:30PM 25 Q. Did Trinity get in any kind of trouble

12:30PM 1 when you told your mom that?

2 A. At the time I think she was going to call

3 the police, that's when I told her -- that's why I told

4 her because at the time she was going to call the

12:31PM 5 police and she was going to get in trouble for

6 basically no reason. So that's why I told her no, mom,

7 it was Quincy that hurt me.

8 Q. And then the police were called?

9 A. Yeah. Yeah. And then she told it was

12:31PM 10 Quincy, not Trinity.

11 Q. Did Trinity ever touch you?

12 A. No.

13 Q. Did she ever hurt you?

14 A. She didn't hurt me but she hurt me on my

12:31PM 15 hand one time.

16 Q. And is everything that you told us that

17 Quincy did to you all true?

18 A. Yes, it is.

19 Q. Did Quincy ever make you sit on his lap

12:31PM 20 while you guys were both naked?

21 A. Yes.

22 Q. Where were you guys at?

23 A. I think it was at the house. I think it

24 was at our house.

12:32PM 25 Q. Do you remember what room that happened

12:32PM 1 in?

2 A. Probably the first living room closest to

3 the front door.

4 MR. POSIN: I am going to object to any

12:32PM 5 further questions along this line as outside the scope

6 of cross.

7 MS. RHOADES: I'd ask to reopen then.

8 THE COURT: How much? Is it just this one

9 incident?

12:32PM 10 MS. RHOADES: It's just this one thing

11 that I saw in the Criminal Complaint that I missed.

12 THE COURT: I will let you recross on

13 that, Mr. Posin.

14 BY MS. RHOADES:

12:32PM 15 Q. Was that the living room with the

16 fireplace or without the fireplace?

17 A. Without the fireplace.

18 Q. When he made you sit on his lap, was that

19 during one of the times that you already told us about?

12:32PM 20 A. No.

21 Q. That was a different time?

22 A. Yes.

23 Q. Did he do anything else to you that time?

24 A. Yeah, he hurt me too.

12:32PM 25 Q. Did he put his penis somewhere on your

12:32PM 1 body?

2 A. Yes.

3 Q. Where?

4 A. My private part.

12:33PM 5 MS. RHOADES: I have nothing further, your

6 Honor.

7 THE COURT: Mr. Posin.

8

9 RECROSS EXAMINATION

12:33PM 10 BY MR. POSIN:

11 Q. All right. So this all started with your

12 mom seeing you waving your legs in the living room.

13 Which living room was that?

14 A. That was the one with the fireplace, the

12:33PM 15 second living room.

16 Q. And then she thought at that time that

17 Quincy had done something to you?

18 A. Yeah, because she said something

19 happened -- she didn't really tell me what all

12:33PM 20 happened, but she was like laying by him and she said

21 something happened with his body.

22 Q. She told you that something happened

23 between you and Dequincy?

24 A. Yeah. She told me she knew that something

12:33PM 25 happened.

12:33PM 1 Q. And then you told her that in fact it was  
2 Trinity and not Dequincy?

3 A. Yes.

4 MR. POSIN: Nothing further, your Honor.

12:33PM 5 THE COURT: Anything else from this  
6 witness?

7 MS. RHOADES: No, Your Honor.

8 THE COURT: Is she free to leave?

9 MS. RHOADES: Yes.

12:33PM 10 THE COURT: Thank you very much.

11 THE WITNESS: Thank you.

12 THE COURT: Who is your next witness?

13 MS. RHOADES: Arianna Whatley.

14 THE COURT: Come on in, ma'am, and I'll  
12:34PM 15 have you come right up here. Remain standing and raise  
16 your right hand for me.

17 THE CLERK: Do you solemnly swear that the  
18 testimony that you are about to give will be the truth,  
19 the whole truth and nothing but the truth, so help you  
12:34PM 20 God?

21 THE WITNESS: Yes.

22 THE CLERK: Please be seated.

23 Please state your first and last name and  
24 spell each for the record.

12:35PM 25 THE WITNESS: Arianna Whatley.

12:35PM 1 A-R-I-A-N-N-A, W-H-A-T-L-E-Y.

2 THE COURT: You are kind of soft spoken.

3 This lady down here is recording everything everyone

4 says so I need you to speak clearly into that

12:35PM 5 microphone and loud enough that I can hear it, okay?

6 THE WITNESS: Okay.

7 THE COURT: State, go ahead.

8 MS. RHOADES: Thank you, Your Honor.

9

12:35PM 10 **ARIANNA WHATLEY,**  
11 having been first duly sworn, did testify as follows:

12 DIRECT EXAMINATION

13 BY MS. RHOADES:

14 Q. How old are you?

12:35PM 15 A. Fourteen.

16 Q. I need you to speak up, okay?

17 A. Okay. Sorry.

18 Q. Can you sit a little bit closer to the

19 microphone and talk how I'm talking, okay?

12:35PM 20 A. Okay.

21 Q. When's your birthday?

22 A. August 20, 2003.

23 Q. What grade are you in right now?

24 A. Ninth.

12:35PM 25 Q. So your ninth grade year would be August,

12:36PM 1 September 2017 to June 2018; is that right?

2 A. Yes.

3 Q. And before that were you in eighth grade?

4 A. Yes.

12:36PM 5 Q. So that would have been about August,

6 September 2016 to June 2017?

7 A. Yes.

8 Q. Were you 13 years old in eighth grade?

9 A. Yes, I was.

12:36PM 10 Q. What school did you go to?

11 A. Thurman White.

12 Q. Thurman White?

13 A. Yes.

14 Q. Middle school?

12:36PM 15 A. Yes.

16 Q. Do you know Venice Madden?

17 A. Yes.

18 Q. How do you know her?

19 A. I know her through her cousin Gabby.

12:36PM 20 Q. Did you sometimes go over to Venice's

21 house?

22 A. Yes.

23 Q. And was that when you were in eighth

24 grade?

12:36PM 25 A. Yes. And from when I was in fifth grade.

12:36PM 1 I went to her house since fifth grade.

2 Q. So you've known her for a long time?

3 A. Yes.

4 Q. Do you know who Quincy is?

12:36PM 5 A. Yes.

6 Q. Do you see Quincy in the courtroom today?

7 A. Yes.

8 Q. Can you point to him. And tell me

9 something that he's wearing.

12:37PM 10 A. Jail uniform.

11 MS. RHOADES: May the record reflect

12 identification of the defendant?

13 THE COURT: It will so reflect.

14 BY MS. RHOADES:

12:37PM 15 Q. Did Quincy live with Venice during your

16 eighth grade year?

17 A. I don't know, but he was there sometimes

18 and sometimes he wasn't.

19 Q. Was there a time that Quincy took you and

12:37PM 20 Venice somewhere?

21 A. Yes.

22 Q. Where did he take you to?

23 A. To the Palms Hotel.

24 Q. Was this while you were in eighth grade?

12:37PM 25 A. Yes.

12:37PM 1 Q. Was it just you and Venice and Quincy?  
2 A. Yes.  
3 Q. When you arrived at the Palms Hotel, did  
4 you go into a hotel room?  
12:37PM 5 A. Yes.  
6 Q. What happened when you went into the hotel  
7 room?  
8 A. We went in the hotel room and we sat on  
9 the couch and I had to use the bathroom and Venice came  
12:38PM 10 with me, but I didn't really have to go because I was  
11 scared and I didn't know what was happening. And  
12 Venice told me just to go along with it and just do it  
13 and it will be over and we can go home.  
14 So I just went back out and -- well,  
12:38PM 15 sorry. Okay. Before we went to the bathroom he told  
16 us to take our clothes off and I didn't want to do that  
17 and I said I had to go to the bathroom. So then that's  
18 when we went into the bathroom and that's when Venice  
19 told me that we had to do it.  
12:38PM 20 Q. And when you say he told you to take your  
21 clothes off, are you talking about Quincy?  
22 A. Yes.  
23 Q. Did you and Venice come out of the  
24 bathroom?  
12:39PM 25 A. Yes.

12:39PM 1 Q. What happened when you came out?

2 A. We took off our clothes and we went in the

3 living room and he started touching Venice. And then

4 he came to me, but I didn't want that to happen. And

12:39PM 5 then he went back to Venice to touching her and then

6 back and other stuff happened.

7 Q. Did you have all your clothes off?

8 A. Yes.

9 Q. Did Quincy have all his clothes off?

12:39PM 10 A. Yes.

11 Q. And did Venice have all her clothes off

12 too?

13 A. Yes.

14 Q. When you say Quincy was touching Venice,

12:39PM 15 what parts of his body did you see touching hers?

16 A. His hands and his mouth.

17 Q. Where were his hands touching?

18 A. Her private areas and her upper part of

19 her body.

12:40PM 20 Q. So her chest?

21 A. Yes.

22 Q. And her private areas, is that where you

23 pee from?

24 A. Yes.

12:40PM 25 Q. And you said private areas. Also her

12:40PM 1 butt?

2 A. No, just the front.

3 Q. And you said he was kissing her. Where

4 did you see him kissing her?

12:40PM 5 A. Like all over her body. So like her neck

6 and down to like her -- down her body.

7 Q. Did you see him kissing her private part?

8 A. Yes.

9 Q. And did you see him do anything else

12:40PM 10 before he came over to you?

11 A. No.

12 Q. When he came over to you, what did he do

13 to you?

14 A. The same thing but he just didn't kiss me.

12:40PM 15 Q. So he was touching you?

16 A. Yes.

17 Q. With his hands?

18 A. Yes.

19 Q. Where were his hands touching?

12:41PM 20 A. My private area and my upper body.

21 Q. Your upper body. Do you mean your chest?

22 A. Yes.

23 Q. When his hand was touching your private

24 area, what was he doing with his hand?

12:41PM 25 A. He was like, I don't know how to explain,

12:41PM 1 but he was touching just like moving his fingers.

2 Q. Did his fingers go inside your private  
3 area?

4 A. No.

12:41PM 5 Q. And then what happened after that?

6 A. He went to Venice and then that's when he  
7 started to have sex with her.

8 Q. When you say he started to have sex with  
9 her, did you see him do that?

12:41PM 10 A. Yes.

11 Q. Did he put his penis somewhere in Venice's  
12 body?

13 A. Yes.

14 Q. Where did you see him put his penis in her  
15 body?

12:41PM 16 A. In her mouth and in her private area.

17 Q. The private area where pee comes out?

18 A. Yes.

19 Q. After that did he come back over to you?

12:42PM 20 A. Yes.

21 Q. And what did he do to you?

22 A. The same thing. He just didn't put his  
23 private in my mouth.

24 Q. So he put his private in your private  
12:42PM 25 where you pee from?

12:42PM 1 A. Yes.

2 Q. And what happened after that?

3 A. Then he went back to Venice. Then he

4 stopped and then we put our clothes on and we drove

12:42PM 5 back and I got out of the car and I ran home.

6 Q. Did your mom know where you were?

7 A. No.

8 Q. Is that the first time that something like

9 that happened with him and you?

12:42PM 10 A. Yes. Well, before, I don't know, like

11 when we came back I don't really know, but when we were

12 at Venice's house he put something in Kim's drink or

13 food and she was sleeping and I was spending the night

14 over there and Venice was sitting next to me and he sat

12:43PM 15 next to Venice and I just remember going to sleep and

16 when I woke up my side hurt and my zipper was unzipped.

17 Q. When you say your side, what do you mean

18 by your side?

19 A. Like right here.

12:43PM 20 Q. Your waist?

21 A. Yes.

22 Q. The side of your waist hurt?

23 A. Yes.

24 Q. And you fell asleep on the couch?

12:43PM 25 A. (No oral response.)

12:43PM 1 Q. Is that yes?

2 A. Yes.

3 Q. Who is Kim?

4 A. Venice's mom.

12:43PM 5 Q. Was there another time where Quincy took

6 you somewhere alone?

7 A. Yes.

8 Q. Tell us about that.

9 A. Well, he texted my phone and he told me to

12:43PM 10 come to the castle, the locksmith castle at the corner

11 of my house, and I didn't want to go but he said

12 remember I can do stuff. And I believed him because he

13 tried to kill Kim in Venice's house when Venice was

14 spending the night at my house and when we went back

12:44PM 15 to -- we went back to her house to go get her stuff and

16 we talked to her mom because we were going to go stay

17 the night, but we didn't go and Quincy was there and he

18 put something in her food like pills so she would go to

19 sleep and he turned on all the things on the stove, he

12:44PM 20 turned all those on and he put a pizza box on fire.

21 And while he was upstairs with Venice's mom and they

22 were both sleeping.

23 And the next day when we came back she

24 said that the house smelled like gas and that there

12:45PM 25 was -- that something had happened but she didn't know

12:45PM 1 that, she walked out and that she woke up because she  
2 smelled fire.

3 Q. That was a completely different incident  
4 than the one where you met him at the locksmith; is  
12:45PM 5 that right?

6 A. Oh, yeah, but I was -- sorry. I was just  
7 telling you what I meant by he could do things to hurt  
8 us.

9 Q. Were you scared of Quincy?

12:45PM 10 A. Yes.

11 Q. When you were in the hotel with Arianna,  
12 did he tell you anything about telling people what  
13 happened?

14 A. What happened to us?

12:45PM 15 Q. Yes. Did he make any threats to you about  
16 whether or not you should tell people?

17 A. Yes.

18 Q. In the hotel room with Arianna?

19 A. Venice.

12:45PM 20 Q. I'm sorry. What did he tell you guys?

21 A. He said that he would kill us if we told  
22 anybody, he will kill our family and I believed it  
23 because he tried to kill Kim.

24 Q. I am going to stop there. I want to go to  
12:46PM 25 the incident where you met him at the locksmith. Did

12:46PM 1 you tell your mom where you were going?

2 A. No.

3 Q. Can you describe what the locksmith place

4 looks like?

12:46PM 5 A. It is a castle on the corner of my old

6 house. There is a tow truck place right there and

7 behind it there's a bunch of dirt and trucks and a

8 storage place and the castle is -- well, at the time.

9 They changed it. The castle was orange. Like not

12:46PM 10 orange but the cones on the top were orange and it was

11 made out of bricks.

12 Q. Do you remember your address from that

13 time?

14 A. Yes.

12:46PM 15 Q. What was it?

16 A. 641 Emerald Idol Place.

17 THE COURT: Can you spell that.

18 THE WITNESS: E-M-E-R-A-L-D. I-D-O-L.

19 Place.

12:47PM 20 BY MS. RHOADES:

21 Q. And is that in Henderson?

22 A. Yes.

23 Q. Clark County, Nevada?

24 A. Yes. It's around the corner from here.

12:47PM 25 Q. And you said that you walked from your

12:47PM 1 house to that locksmith place; is that right?

2 A. Yes.

3 Q. Did Quincy pick you up?

4 A. Yes.

12:47PM 5 Q. Was he by himself when he picked you up?

6 A. Yes.

7 Q. Were you by yourself when you walked

8 there?

9 A. Yes.

12:47PM 10 Q. Do you remember what kind of car he picked

11 you up in?

12 A. No. But I remember that it was kind of

13 not -- it was a dark car but it wasn't -- it was kind

14 of a color of my mom's car like kind of charcoal but

12:47PM 15 kind of like a bluish kind of color.

16 Q. Do you remember if it had two doors or

17 four doors?

18 A. Four doors.

19 Q. When he picked you up, did he take you

12:48PM 20 somewhere?

21 A. Yes.

22 Q. Where did he take you?

23 A. To the Palms.

24 Q. Is that a hotel?

12:48PM 25 A. Yes.

12:48PM 1 Q. And did you and him go into a hotel room?

2 A. Yes. But it wasn't very -- it was like  
3 kind of like a weekly kind of. Well, I mean not a  
4 weekly, but it was like a bad hotel room. It wasn't  
12:48PM 5 very nice.

6 Q. Arianna, do you know the Palms on the  
7 strip that's like a big tower with a lot of lights?

8 A. Yes.

9 Q. Is it that Palms or a different Palms?

12:48PM 10 A. I think it was a different Palms.

11 Q. What happened when you guys went into the  
12 hotel room?

13 A. I sat on the couch and I don't really  
14 remember a lot of stuff from what happened that day,  
12:48PM 15 but I do remember sitting on the couch and he took my  
16 clothes off and I just remember him touching me on the  
17 couch.

18 Q. How did you get on the couch?

19 A. We walked in and I sat on the couch.

12:49PM 20 Q. Did he push you anywhere in that room?

21 A. No. No.

22 Q. Did he ever hit you while you were in that  
23 room?

24 A. Yes.

12:49PM 25 Q. Where did he hit you?

12:49PM 1 A. In my face.

2 Q. Did he hit you with an open hand or a

3 closed fist or something else?

4 A. Closed fist.

12:49PM 5 Q. How many times did he hit you?

6 A. One time.

7 Q. One time?

8 A. (No oral response.)

9 THE COURT: Is that yes?

12:49PM 10 THE WITNESS: Yes.

11 BY MS. RHOADES:

12 Q. Was he undressed?

13 A. No. Nobody was undressed in that moment.

14 Q. Did he touch you on your body besides

12:50PM 15 where he hit you on your face?

16 A. Yes.

17 Q. Did he touch you on your body with his

18 hands?

19 A. Yes.

12:50PM 20 Q. Where on your body did he touch you with

21 his hands?

22 A. My chest.

23 Q. Anywhere else?

24 A. No.

12:50PM 25 Q. Did any other part of his body touch

12:50PM 1 yours?

2 A. Yes.

3 Q. What part of his body touched yours?

4 A. His private area.

12:50PM 5 Q. Is that his penis?

6 A. Yes.

7 Q. Where did his penis touch you?

8 A. My private part.

9 Q. Did it go inside your private part?

12:50PM 10 A. Yes.

11 Q. Did his penis go anywhere else?

12 A. No.

13 Q. What happened after that?

14 A. He dropped me back off at the castle and I

12:51PM 15 went home.

16 Q. When he punched you in your face, was that

17 before or after he put his penis in your private part?

18 A. Before.

19 Q. Right after he punched you in your face

12:51PM 20 did he take your clothes off?

21 A. Yes.

22 Q. Did he take his clothes off after that?

23 A. Yes.

24 MS. RHOADES: I will pass the witness,

12:51PM 25 your Honor.

12:54PM 1 THE COURT: Mr. Posin, cross-examination.

2 MS. RHOADES: Can I ask one more question  
3 before I pass?

4 THE COURT: Yes.

12:54PM 5 BY MS. RHOADES:

6 Q. What grade were you in when that happened  
7 with the locksmith?

8 A. I was in eighth grade.

9 MS. RHOADES: That's all.

12:54PM 10 THE COURT: Go ahead, Mr. Posin.

11

12 CROSS-EXAMINATION

13 BY MR. POSIN:

14 Q. Arianna, this incident that you talked

12:54PM 15 about at the Palms Hotel, when did that happen, what  
16 grade were you in then?

17 A. Fifth.

18 Q. Can you tell me when that was during that  
19 school year? Was it in the fall, the spring, can you  
12:55PM 20 associate it with any other event?

21 A. It was after Christmas. In the middle  
22 of -- no. It was probably I would say February.  
23 Beginning -- end of February.

24 Q. And where was the Palms Hotel?

12:55PM 25 A. The incident with Venice the Palms Hotel

12:55PM 1 was on the strip.

2 Q. It was on the strip?

3 A. It's on the strip.

4 Q. And then there was another Palms Hotel?

12:55PM 5 A. I believe so or I don't really know. But

6 there was another one and he took me but it wasn't a

7 very nice -- I think it was the same one, just I don't

8 know. But it wasn't very nice like the other room.

9 Q. But it was the same hotel on the strip?

12:56PM 10 A. I believe so because we went through the

11 back. We didn't go in the main building on the casino.

12 And it was dark outside.

13 Q. Dark so that would have been behind the

14 strip towards the strip?

12:56PM 15 A. Yeah, I think so. Yeah. We went on the

16 back road. We didn't go through the strip. The only

17 thing that I saw of the strip was the big carousel

18 thingy, but we were close -- we went the back way.

19 Q. The High Roller?

12:56PM 20 A. Yeah.

21 Q. And you said at Venice's house you saw

22 Quincy put something in somebody's drink and somebody's

23 food. What did he put in whose drink and what did he

24 put in whose food?

12:57PM 25 A. He put a pill in a drink.

12:57PM 1 Q. And whose drink?

2 A. Kim's drink.

3 Q. Kim's drink?

4 A. Yes.

12:57PM 5 Q. What did the pill look like?

6 A. It was white and it was -- it was white

7 and it was kind of long.

8 THE COURT: I'm sorry?

9 THE WITNESS: It was white and it was kind

12:57PM 10 of long but it was skinny.

11 BY MR. POSIN:

12 Q. And he put something in somebody's food?

13 A. No. He put something in her drink, but I

14 wouldn't say he put something in the food that I didn't

12:58PM 15 see. I only saw the drink.

16 Q. And you said something about a pizza box.

17 A. Yes.

18 Q. Tell me about that. How did that happen?

19 A. Well, the day before that happened me,

12:58PM 20 Venice, Ra Ra, we were going to go skating for Ra Ra's

21 school but we didn't go so Kim ordered pizza and we got

22 a Red Box, a movie, and we went back to Venice's house,

23 we watched movies and ate pizza. The next day Quincy

24 came to Kim's house and he was just there, but me and

12:58PM 25 Venice went to my house because she was going to spend

12:58PM 1 the night and the -- and when we were there, Kim seemed  
2 very like kind of tired and we were going to my house  
3 so she seemed very tired. So we just -- Kim said she  
4 can come to my house. We got her stuff and we went to  
12:59PM 5 my house and Quincy put -- I guess Kim and Ra Ra were  
6 sleeping and he put -- he turned the stove on and he  
7 put a pizza box on fire.

8 Q. And then what happened?

9 A. And then I guess he went -- he left and  
12:59PM 10 the next day --

11 Q. What happened with the fire?

12 A. I don't know.

13 Q. Were you there at the time?

14 A. No.

12:59PM 15 Q. So you didn't see this happen?

16 A. No. I believe that he did it because he  
17 told us that he would kill us and that we didn't -- we  
18 didn't believe him.

19 Q. You never saw him turn the stove on?

12:59PM 20 A. No.

21 Q. You never saw the pizza box on fire?

22 A. But I saw the residue of it.

23 Q. So at some later point? Was that the next  
24 day you saw it?

1:00PM 25 A. Yes. In the morning.

1:00PM 1 Q. The day after you came and saw residue of  
2 a pizza box?

3 A. Yes. The windows were all open.

4 MR. POSIN: I think that's all I have,  
1:00PM 5 your Honor.

6 THE COURT: Any redirect?

7 MS. RHOADES: No, Your Honor.

8 THE COURT: Is this witness free to leave?

9 MS. RHOADES: Yes.

1:00PM 10 THE COURT: Thank you very much.

11 Any additional witnesses, State?

12 MS. RHOADES: No, Your Honor.

13 THE COURT: I am assuming you are resting.

14 Do you have any motions as it relates to the Amended  
1:01PM 15 Criminal Complaint?

16 MS. RHOADES: I do. I have a few.

17 THE COURT: Okay. You have a copy of  
18 that, Mr. Posin?

19 MR. POSIN: Yes. There were actually  
1:01PM 20 copies of two Amended Criminal Complaints. I just want  
21 to make sure that we're talking about the same one. I  
22 have one that has 19 counts and one has 21 counts.

23 MS. RHOADES: Twenty-one.

24 THE COURT: Mine has 21 counts. The one  
1:01PM 25 I'm assuming we're operating off of has a file and path

1:01PM 1 drive at the bottom right that ends in 001; is that  
2 correct?

3 MR. POSIN: That's what I have.

4 MS. RHOADES: There's only been one filed  
1:01PM 5 so he has the filed copy.

6 With regard to amendments, Counts 1 and 5,  
7 the lewdness with a minor, I would just move to add to  
8 both of those counts after and/or defendant were naked  
9 and/or --

1:01PM 10 THE COURT: What line are you referring to  
11 on Count 1?

12 MS. RHOADES: Line 24 on Page 1.

13 THE COURT: And/or defendant were naked.

14 MS. RHOADES: And/or undressing and/or  
1:02PM 15 kissing and/or touching buttocks and/or genital area.

16 THE COURT: And it continues with the  
17 intent of arousing, correct?

18 MS. RHOADES: Correct.

19 THE COURT: And then you referred to Count  
1:02PM 20 5. Are you adding that same language?

21 MS. RHOADES: That same language.

22 THE COURT: After naked on Line 15?

23 MS. RHOADES: Yes.

24 THE COURT: So just to confirm it's and/or  
1:02PM 25 undressing and/or kissing --

1:02PM 1 MS. RHOADES: And/or touching buttocks  
2 and/or genital area.  
3 And with regard to Count 9, and this is  
4 still regarding Venice, that language is a little bit  
1:02PM 5 different, but on Line 13 and Line 14 after kissing VM  
6 on Line 14 I would move to add and/or touching buttocks  
7 and/or genital area.  
8 THE COURT: And/or touching buttocks  
9 and/or genital area.  
1:03PM 10 MS. RHOADES: With regard to Count 6 on  
11 Page 2 the sexual assault on Line 20, that's digital  
12 penetration. I would move to add and/or vaginal. It  
13 currently reads anal.  
14 THE COURT: Okay. So by inserting his  
1:03PM 15 fingers into the vaginal, not anal?  
16 MS. RHOADES: Both. Into the anal and/or  
17 vaginal.  
18 THE COURT: So vaginal and/or anal.  
19 MS. RHOADES: Correct.  
1:03PM 20 I would move to add Count 22 to conform  
21 with the testimony that would be sexual assault under  
22 14.  
23 THE COURT: Say that again. Sexual  
24 assault --  
1:04PM 25 MS. RHOADES: Under 14 years of age for

1:04PM 1 anal penetration, penis in the anal opening of VM.

2 THE COURT: And that is what time frame?

3 MS. RHOADES: That is the same date. So

4 that would be May 4, 2015 and February 1<sup>st</sup>, 2017, on

1:04PM 5 or between those dates.

6 With regard to Count 20 on Line 20 after

7 penis I would move to add and/or hands.

8 THE COURT: On Line 20?

9 MS. RHOADES: Yes.

1:04PM 10 THE COURT: Okay.

11 MS. RHOADES: Count 12 on Line 28 that's a

12 typographical error. That should be VM, not VW.

13 THE COURT: Count 12, line what?

14 MS. RHOADES: Twenty-eight at the end of

1:05PM 15 the line.

16 THE COURT: What are you changing?

17 MS. RHOADES: It should be VM. That's

18 Venice Madden.

19 THE COURT: On Line 28?

1:05PM 20 MS. RHOADES: Yes.

21 With regard to Arianna I just have two

22 amendments to Count 16 on Line 26. It should read in

23 totality undressing and/or touching and/or rubbing the

24 genital area with his penis and/or hands. So I move to

1:05PM 25 strike arms and/or buttocks.

1:05PM 1 THE COURT: Rubbing the genital area  
2 and/or buttocks?  
3 MS. RHOADES: No. I would strike arms  
4 and/or buttocks.

1:06PM 5 THE COURT: You wanted to add?  
6 MS. RHOADES: Genital area with his penis  
7 and/or his hands.  
8 THE COURT: Okay.  
9 MS. RHOADES: And lastly I would move to  
1:06PM 10 strike by pushing on Line four of Count 17.  
11 THE COURT: Count 17, Line four we'll get  
12 rid of pushing and/or. So it should just read by  
13 punching.  
14 MS. RHOADES: Yes, your Honor. And that's  
1:06PM 15 it. With that I would rest.  
16 THE COURT: All right. Have you talked to  
17 your client about his right to testify, Mr. Posin?  
18 MR. POSIN: Not sure I have. Just one  
19 second.

1:06PM 20 THE COURT: Take your time.  
21 MR. POSIN: Your Honor, I have reviewed  
22 with Mr. Brass his right to testify and he will waive  
23 that right.  
24 THE COURT: Is that correct, Mr. Brass?  
1:07PM 25 THE DEFENDANT: Yes, sir.

1:07PM 1 THE COURT: Do you have any other  
2 witnesses or evidence?

3 MR. POSIN: No witnesses or evidence.

4 THE COURT: Waive and reserve, State?

1:07PM 5 MS. RHOADES: Yes, your Honor.

6 THE COURT: Mr. Posin, any argument?

7 MR. POSIN: I'll submit it, Your Honor.

8 THE COURT: Since he's submitting you  
9 don't have anything else to say, Miss Rhoades?

1:07PM 10 MS. RHOADES: Right.

11 THE COURT: I've reviewed the Amended  
12 Criminal Complaint, I heard the testimony in this  
13 particular case. I will grant the motions of the  
14 language that Ms. Rhoades has requested. I will grant  
1:08PM 15 the motion to amend to also include Count 22.

16 And you can remain seated. Based upon the  
17 testimony in this particular case I found probable  
18 cause as to Counts 1 through 22 and based upon the  
19 testimony of the two witnesses it appears to me from  
1:08PM 20 the complaint on file herein that a crime or crimes  
21 have been committed and those included in the Amended  
22 Criminal Complaint as further amended today has been  
23 committed and based upon the evidence I found he is to  
24 answer to the said charges in the Eighth Judicial  
1:09PM 25 District Court, State of Nevada, County of Clark on the

1:09PM 1 following date.

2 THE CLERK: February 15, 10:00 a.m., lower

3 level.

4 THE COURT: Does that work for you, Mr.

1:09PM 5 Posin?

6 MR. POSIN: Actually that does not work

7 for me. I have to be in Family Court at 10.

8 THE COURT: I can do the 16<sup>th</sup> or 14<sup>th</sup>.

9 MR. POSIN: I am going to be downtown at

1:09PM 10 8:30. If they can take it earlier, I can probably do

11 it.

12 THE COURT: Can you get it done, Miss

13 Rhoades?

14 THE CLERK: February 14, 10:00 a.m., lower

1:10PM 15 level.

16

17 (The proceedings concluded.)

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19 \* \* \* \* \*

1:10PM 20

21 ATTEST: Full, true and accurate

22 transcript of proceedings.

23

24 /S/Lisa Brenske

1:10PM 25 LISA BRENSKE, CSR No. 186

<b>ATTEST:</b> [1] 76/17 <b>BY MR. POSIN:</b> [11] 37/2 37/24 38/6 39/1 39/17 41/6 41/16 42/13 49/9 66/12 68/10 <b>BY MS. RHOADES:</b> [17] 5/22 6/25 9/5 21/7 24/25 27/24 29/5 31/5 34/20 44/5 44/21 48/13 51/12 53/13 61/19 64/10 66/4 <b>MR. POSIN:</b> [25] 3/7 3/9 3/21 4/4 4/18 34/17 37/15 37/20 37/23 38/24 39/5 39/11 39/16 43/24 48/3 50/3 70/3 70/18 71/2 74/17 74/20 75/2 75/6 76/5 76/8 <b>MS. RHOADES:</b> [58] <b>THE CLERK:</b> [6] 5/2 5/7 50/16 50/21 76/1 76/13 <b>THE COURT:</b> [96] <b>THE DEFENDANT:</b> [1] 74/24 <b>THE WITNESS:</b> [19] 5/6 5/10 6/16 6/18 6/20 6/23 27/23 29/4 30/24 36/23 37/1 44/17 50/10 50/20 50/24 51/5 61/17 64/9 68/8  / /S/Lisa [1] 76/24  0 001 [1] 71/1  1 1 and [1] 71/6 10 [5] 3/16 5/25 6/3 45/18 76/7 10:00 a.m [2] 76/2 76/14 11 [1] 7/7 11/25/11 [1] 7/7 12 [2] 73/11 73/13 13 [2] 52/8 72/5 14 [8] 3/15 4/11 44/11 72/5 72/6 72/22 72/25 76/14 14th [1] 76/8 15 [4] 4/13 44/11 71/22 76/2 16 [1] 73/22 16th [1] 76/8 17 [2] 74/10 74/11 17FH1508X [2] 1/9 3/6 186 [2] 1/25 76/25 19 [1] 70/22 1st [1] 73/4  2 20 [6] 4/11 51/22 72/11 73/6 73/6 73/8 2003 [1] 51/22 2007 [1] 6/1 2015 [2] 7/25 73/4 2016 [3] 7/16 8/1 52/6 2017 [6] 6/3 7/10 7/17 52/1 52/6 73/4 2018 [4] 1/18 3/1 7/11 52/1 21 [2] 70/22 70/24 22 [3] 72/20 75/15 75/18 24 [1] 71/12 26 [1] 73/22 28 [2] 73/11 73/19	4 4th [1] 6/3  6 6 on [1] 72/10 641 [1] 61/16  7 736 [1] 10/7  8 8:30 [1] 76/10  A A-R-I-A-N-N-A [1] 51/1 a.m [2] 76/2 76/14 about [45] accurate [1] 76/21 accusation [1] 35/6 accusations [4] 39/8 42/8 42/13 42/13 actually [3] 41/2 70/19 76/6 add [6] 71/7 72/6 72/12 72/20 73/7 74/5 adding [1] 71/20 additional [1] 70/11 address [2] 10/6 61/12 after [20] 40/4 41/23 42/22 43/8 43/10 45/6 45/25 57/5 57/19 58/2 65/13 65/17 65/19 65/22 66/21 70/1 71/8 71/22 72/5 73/6 afterwards [2] 45/10 46/10 again [4] 6/16 33/17 44/16 72/23 against [1] 39/8 age [2] 4/11 72/25 ahead [8] 4/8 5/17 6/25 37/23 41/6 41/16 51/7 66/10 all [25] 4/20 13/24 14/7 16/15 20/5 20/14 28/16 31/23 32/6 32/16 43/22 47/17 49/11 49/11 49/19 55/7 55/9 55/11 56/5 59/19 59/20 66/9 70/3 70/4 74/16 allegations [1] 39/15 alone [2] 26/10 59/6 along [2] 48/5 54/12 already [4] 5/13 42/25 45/9 48/19 also [2] 55/25 75/15 always [1] 29/17 am [9] 4/17 14/23 38/3 40/24 41/15 48/4 60/24 70/13 76/9 amend [1] 75/15 amended [6] 4/3 70/14 70/20 75/11 75/21 75/22 amendments [2] 71/6 73/22 anal [6] 72/13 72/15 72/16 72/18 73/1 73/1 and/or [27] another [5] 9/23 19/4 59/5 67/4 67/6 answer [2] 44/17 75/24 answering [1] 46/22 any [17] 3/18 3/25 4/20 22/7 40/11 40/16 44/2 46/25 48/4 60/15 64/25 66/20 70/6 70/11 70/14 75/1 75/6	anybody [4] 11/12 44/19 44/19 60/22 anything [21] 17/14 18/13 21/1 21/6 21/17 21/22 22/4 22/14 27/6 29/10 29/14 33/24 34/7 36/6 45/2 45/3 48/23 50/5 56/9 60/12 75/9 anyway [1] 42/5 anyways [1] 45/10 anywhere [7] 10/14 27/4 33/5 33/10 63/20 64/23 65/11 APPEARANCES [1] 1/19 appears [1] 75/19 approach [1] 41/12 appropriate [1] 41/4 Arden [4] 10/7 10/17 12/1 30/5 are [16] 3/9 4/16 5/4 5/24 6/5 14/25 39/3 50/18 51/2 51/14 51/23 54/21 70/13 71/10 71/20 73/16 area [13] 56/20 56/24 57/3 57/16 57/17 65/4 71/15 72/2 72/7 72/9 73/24 74/1 74/6 areas [3] 55/18 55/22 55/25 argue [2] 4/12 4/13 Arianna [21] 24/16 25/15 25/21 26/2 26/5 26/8 30/13 31/4 32/1 32/2 33/25 34/1 34/7 50/13 50/25 51/10 60/11 60/18 63/6 66/14 73/21 Arianna's [3] 27/21 32/18 32/20 arms [2] 73/25 74/3 around [10] 24/3 35/15 35/16 35/19 35/19 35/22 35/25 36/2 36/2 61/24 arousing [1] 71/17 arrived [2] 28/14 54/3 as [16] 4/2 5/20 6/22 23/2 23/2 25/10 38/17 41/1 41/11 43/12 43/12 48/5 51/10 70/14 75/18 75/22 ask [5] 38/18 38/25 43/16 48/7 66/2 asked [3] 34/25 39/23 45/8 asking [1] 46/23 asleep [4] 28/5 28/5 43/12 58/24 assault [4] 4/10 72/11 72/21 72/24 associate [2] 41/8 66/20 associated [1] 40/19 assuming [4] 3/20 4/17 70/13 70/25 at [49] ate [1] 68/23 attempt [1] 4/10 Attorney [1] 1/21 August [4] 7/10 51/22 51/25 52/5 August 20 [1] 51/22 aunt [1] 25/14 Avenue [1] 10/7 awhile [2] 36/19 44/25  B back [24] 7/22 12/11 14/11 14/13 14/25 15/2 15/7 15/11
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<p><b>B</b></p> <p><b>back...</b> [16] 23/20 54/14 55/5 55/6 57/19 58/3 58/5 58/11 59/14 59/15 59/23 65/14 67/11 67/16 67/18 68/22</p> <p><b>bad</b> [7] 8/9 34/12 44/20 46/9 46/13 46/14 63/4</p> <p><b>based</b> [3] 75/16 75/18 75/23</p> <p><b>basically</b> [4] 36/1 36/2 45/15 47/6</p> <p><b>basis</b> [1] 39/7</p> <p><b>BATEMAN</b> [1] 1/16</p> <p><b>bathroom</b> [6] 31/18 54/9 54/15 54/17 54/18 54/24</p> <p><b>be</b> [19] 3/16 4/21 5/4 5/8 7/16 8/13 11/6 11/7 40/13 50/18 50/22 51/25 54/13 72/21 73/4 73/12 73/17 76/7 76/9</p> <p><b>because</b> [31]</p> <p><b>bed</b> [9] 23/3 23/20 24/14 28/23 28/24 29/12 31/15 31/22 31/23</p> <p><b>beds</b> [2] 28/25 31/16</p> <p><b>been</b> [9] 5/20 7/25 39/15 51/10 52/5 67/13 71/4 75/21 75/22</p> <p><b>before</b> [13] 1/16 4/7 40/2 42/22 42/24 52/3 54/15 56/10 58/10 65/17 65/18 66/3 68/19</p> <p><b>Beginning</b> [1] 66/23</p> <p><b>behind</b> [2] 61/7 67/13</p> <p><b>being</b> [3] 38/21 38/22 38/23</p> <p><b>believe</b> [8] 30/11 34/15 37/17 38/22 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[13] 17/24 25/15 25/18 28/16 28/19 32/4 32/8 50/14</p>	<p>50/15 54/23 57/19 59/10 69/4</p> <p><b>comes</b> [2] 15/17 57/17</p> <p><b>committed</b> [2] 75/21 75/23</p> <p><b>complaint</b> [6] 4/3 48/11 70/15 75/12 75/20 75/22</p> <p><b>Complaints</b> [1] 70/20</p> <p><b>completely</b> [1] 60/3</p> <p><b>concluded</b> [1] 76/17</p> <p><b>concurrent</b> [1] 4/14</p> <p><b>conduct</b> [1] 41/2</p> <p><b>cones</b> [1] 61/10</p> <p><b>confirm</b> [1] 71/24</p> <p><b>conform</b> [1] 72/20</p> <p><b>consecutive</b> [1] 4/14</p> <p><b>contact</b> [1] 38/23</p> <p><b>continue</b> [1] 41/3</p> <p><b>continues</b> [1] 71/16</p> <p><b>Convoy</b> [1] 25/24</p> <p><b>copies</b> [1] 70/20</p> <p><b>copy</b> [3] 4/3 70/17 71/5</p> <p><b>corner</b> [3] 59/10 61/5 61/24</p> <p><b>correct</b> [7] 4/18 37/21 71/2 71/17 71/18 72/19 74/24</p> <p><b>couch</b> [15] 13/13 19/19 19/20 19/21 19/23 29/7 29/10 31/15 54/9 58/24 63/13 63/15 63/17 63/18 63/19</p> <p><b>could</b> [3] 46/12 46/21 60/7</p> <p><b>Count</b> [12] 71/11 71/19 72/3 72/10 72/20 73/6 73/11 73/13 73/22 74/10 74/11 75/15</p> <p><b>counts</b> [7] 4/10 70/22 70/22 70/24 71/6 71/8 75/18</p> <p><b>COUNTY</b> [4] 1/5 10/10 61/23 75/25</p> <p><b>couple</b> [1] 3/12</p> <p><b>court</b> [5] 1/4 3/14 8/23 75/25 76/7</p> <p><b>courtroom</b> [3] 3/14 3/25 53/6</p> <p><b>cousin</b> [2] 37/17 52/19</p> <p><b>credibility</b> [1] 41/1</p> <p><b>cried</b> [1] 17/21</p> <p><b>crime</b> [1] 75/20</p> <p><b>crimes</b> [1] 75/20</p> <p><b>Criminal</b> [6] 4/3 48/11 70/15 70/20 75/12 75/22</p> <p><b>cross</b> [5] 34/17 34/20 48/6 66/1 66/12</p> <p><b>cross-examination</b> [4] 34/17 34/20 66/1 66/12</p> <p><b>crying</b> [2] 17/18 24/15</p> <p><b>CSR</b> [1] 76/25</p> <p><b>currently</b> [2] 39/3 72/13</p> <p><b>D</b></p> <p><b>dark</b> [3] 62/13 67/12 67/13</p> <p><b>date</b> [2] 73/3 76/1</p> <p><b>dates</b> [1] 73/5</p> <p><b>day</b> [8] 43/10 59/23 63/14 68/19 68/23 69/10 69/24 70/1</p> <p><b>daytime</b> [8] 12/18 12/19 19/7 19/8 28/9 28/11 28/13 28/15</p> <p><b>defendant</b> [6] 1/11 1/23 9/4 53/12 71/8 71/13</p> <p><b>definitely</b> [1] 4/1</p> <p><b>demons</b> [2] 40/20 41/9</p> <p><b>deny</b> [1] 38/3</p> <p><b>denying</b> [1] 39/1</p> <p><b>Deputy</b> [1] 1/21</p>
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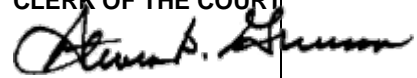
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RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,	)	CASE NO. C-18-329765-1
Plaintiff,	)	DEPT. NO. XV
vs.	)	Heard in Lower
DEQUINCY BRASS,	)	Level Arraignment
Defendant.	)	

BEFORE THE HONORABLE MELISA DE LA GARZA,

DISTRICT COURT JUDGE

WEDNESDAY, FEBRUARY 14, 2018

**RECORDER'S TRANSCRIPT OF HEARING:**  
**INITIAL ARRAIGNMENT**

APPEARANCES:

For the State: STEPHANIE GETLER, ESQ.,  
Deputized Law Clerk

For the Defendant: MITCHELL L. POSIN, ESQ.,

RECORDED BY: KIARA SCHMIDT, COURT RECORDER

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Las Vegas, Nevada; Wednesday, February 14, 2018  
[Hearing commenced at 10:01 a.m.]

THE COURT: All right. Mr. Posin, let's go to page 23. State of Nevada versus Dequincy Brass, C329765. He is present, in custody. Mr. Posin is here on his behalf.

Counsel?

MR. POSIN: Thank you, Your Honor. Mr. Brass is going to be entering a not guilty plea this morning and it's my understanding that he will be waiving his 60 day jury trial.

THE COURT: Sir, you've received a copy of the Information stating the charges against you?

THE DEFENDANT: Yes, ma'am.

THE COURT: You read through it and understood it?

THE DEFENDANT: Yes, ma'am.

THE COURT: You want to waive a formal reading of the charges?

THE DEFENDANT: Yes, ma'am.

THE COURT: How do you plead?

THE DEFENDANT: Not guilty.

THE COURT: You do have a right to a trial within 60 days. It's my understanding you want to waive that right; is that correct?

THE DEFENDANT: Yes, ma'am.

THE COURT: Ordinary course.

THE CLERK: Okay. Your calendar call will be April 26 at 9

1 o'clock, trial date will be April 30<sup>th</sup>, 8:30, Department 22.

2 THE COURT: And, Counsel, pursuant to statute you have 21  
3 days from today for the filing of any writs if the transcript has not been  
4 filed as of today you have 21 days from the filing.


5 THE DEFENDANT: Thank you, Your Honor.

6 THE COURT: Thank you.

7 [Hearing concluded at 10:02 a.m.]

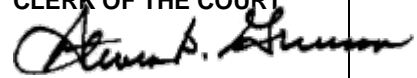
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22 ATTEST: I do hereby certify that I have truly and correctly transcribed the  
23 audio/video proceedings in the above-entitled case to the best of my ability.  
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Court Recorder/Transcriber



TRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
  
Plaintiff,  
  
vs.

DEQUINCY BRASS,  
  
Defendant.

CASE NO. C-329765-1  
  
DEPT. XXII

BEFORE THE HONORABLE SUSAN JOHNSON, DISTRICT COURT JUDGE  
**MARCH 27, 2018**

**RECORDER'S TRANSCRIPT OF HEARING RE**  
***MOTION TO WITHDRAW AS COUNSEL***

**APPEARANCES:**

For the Plaintiff:

THOMAS CARROLL, ESQ.  
Deputy District Attorney

For the Defendant:

NO APPEARANCE

RECORDED BY: NORMA RAMIREZ, COURT RECORDER

1 TUESDAY, MARCH 27, 2018 AT 10:56 A.M.

2  
3 THE COURT: State of Nevada versus Dequincy Brass and that is case  
4 number C329765-1. And would you announce your appearance for the record?

5 MR. CARROLL: Tom Carroll for the State.

6 THE COURT: Okay. And this is Mr. Posin's Motion to Withdraw as Counsel.  
7 Were you aware of that, sir?

8 THE DEFENDANT: No, ma'am.

9 THE COURT: Okay. He certainly should have gotten a copy of that to you,  
10 sir. Have you talked to him at all?

11 THE DEFENDANT: I haven't.

12 THE COURT: Okay. His motion indicates that he wants to withdraw as your  
13 counsel because you haven't paid him, at least paid him to go through trial.

14 THE DEFENDANT: That's – I believe that to be incorrect. I mean, I just  
15 talked to my family who was in charge of the payments and they just told me they  
16 completed the payments to him. So, that I was unaware of.

17 MR. CARROLL: Judge, could I recommend we pass this to the next available  
18 calendar. There's a chance that payments have been made since the motion was  
19 filed and regardless we'll need counsel to be appointed perhaps if he's unable to  
20 afford his own counsel, but either way we should have Mr. Posin present.

21 THE COURT: I have to agree, it's his motion. So, we'll pass this until  
22 Thursday.

23 THE COURT CLERK: It'd be April – I'm sorry, March 29<sup>th</sup>.

24 THE COURT: March 29<sup>th</sup> at 9:00 a.m. All right. Thank you.

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MR. CARROLL: Thank you.

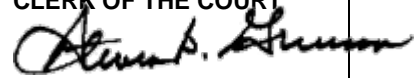
[Proceedings concluded at 10:58 a.m.]

\* \* \* \* \*

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



NORMA RAMIREZ  
Court Recorder  
District Court Dept. XXII  
702 671-0572



TRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

DEQUINCY BRASS,

Defendant.

CASE NO. C-329765-1

DEPT. XXII

BEFORE THE HONORABLE SUSAN JOHNSON, DISTRICT COURT JUDGE  
**MARCH 29, 2018**

**RECORDER'S TRANSCRIPT OF HEARING RE**  
***MOTION TO WITHDRAW AS COUNSEL***

**APPEARANCES:**

For the Plaintiff:

KRISTINA RHOADES, ESQ.  
Deputy District Attorney

For the Defendant:

MITCHELL POSIN, ESQ.

RECORDED BY: NORMA RAMIREZ, COURT RECORDER

1 THURSDAY, MARCH 29, 2018 AT 9:11 A.M.

2  
3 THE COURT: State of Nevada versus Dequincy Brass, and that is case  
4 number C329765-1. Would you announce your appearances for the record,  
5 please?

6 MS. RHOADES: Kristina Rhoades on behalf of the State, Your Honor.

7 MR. POSIN: Good morning, Your Honor. Mitchell Posin appearing for the  
8 Defendant and is in custody but not present.

9 THE COURT: Okay. Would you please approach, counsel?

10 [Bench conference - transcribed]

11 THE COURT: Mr. Posin, I got word that you told your client he didn't need to  
12 be here. No? Okay.

13 MR. POSIN: I didn't tell him -- I didn't --

14 THE COURT: Okay.

15 MR. POSIN: -- even talk to him

16 THE COURT: Okay. That's what he told CCDC. All right. I just -- I didn't  
17 want to embarrass you, I just wanted to ask you. Okay.

18 MS. RHOADES: Your Honor, there's a couple of things. I spoke with Mr.  
19 Posin on Tuesday when the motion was set for, the motion to withdraw. He's  
20 apparently not withdrawing and he also wants to continue the trial which I don't have  
21 a problem with but he does need to be here to waive because he is invoked.

22 THE COURT: Okay. All right.

23 MR. POSIN: So, I guess we need to bring him in.

24 THE COURT: Okay. All right. We'll go ahead and discuss it. All right.

25 [End of bench conference]

1 THE COURT: Okay. Counsel, this – we’re here for your motion to withdraw  
2 as counsel.

3 MR. POSIN: Thank you, Your Honor. As we discussed at the bench I am  
4 withdrawing my motion to withdraw, the family did contact me and so I’m gonna stay  
5 in the case. We have agreed – the State and the Defense have agreed to continue  
6 the trial date which is coming up in short order. Mr. Brass does need to be here, he  
7 apparently thought he did not. So, if we can pass this until sometime next week.

8 THE COURT: Are you able to hear him okay? Could you get in front of a  
9 microphone, counsel? I don’t mean to – it’s just that this is the electronic courtroom  
10 and we can’t hear if you’re not in front of the microphones.

11 So, I’ll go ahead and we’ll withdraw the motion to withdraw or vacate it.  
12 As far as continuing the trial, I think what you’re gonna need to do is probably set a  
13 motion to continue or something on this and then we need to have the Defendant  
14 here because he has invoked his right to a speedy trial.

15 MR. RHOADES: Your Honor, if we could maybe continue the matter to  
16 Tuesday and get him here, I have no objection to the motion. If Your Honor would  
17 like a motion in writing of course that’s fine, I have no objection to it, he just needs to  
18 be here to waive.

19 THE COURT: Okay. I understand. Okay. Well, all right, we could go ahead  
20 and set it for Tuesday on status of the trial. And just to tell you what my calendar is  
21 like – now, we’ve got this set right now for April 30<sup>th</sup>.

22 MS. RHOADES: Yes.

23 THE COURT: My next stack after that – I mean, that’s in the middle of my  
24 five week stack for April by the way. The – of course I do have the stack for May 7<sup>th</sup>  
25 and May 14<sup>th</sup>, I don’t know if you’d be interested in that. But after that then we’re

1 looking at June 25<sup>th</sup> is the next start of my five week stack.

2 MR. POSIN: If I [indecipherable] Your Honor.

3 THE COURT: Sure.

4 MS. RHOADES: And how – do you have anything in August, Your Honor?

5 THE COURT: I think the next one after that would start – let's see – by the  
6 way, that goes through from June 25<sup>th</sup> to July 23<sup>rd</sup> and then the next stack after that  
7 is the day after labor day which is September 4<sup>th</sup>.

8 MS. RHOADES: Okay.

9 MR. POSIN: And the May stack would start at when, Your Honor?

10 THE COURT: I've got stacks – I've got a five week stack starting April 16.  
11 So, I would have stacks after April 30<sup>th</sup>, May 7<sup>th</sup> and May 14 and then my next five  
12 week stack after that starts June 25<sup>th</sup> and that would go through till, well, the week of  
13 June – July 23<sup>rd</sup> and then the next stack after that starts September 4.

14 MS. RHOADES: Thank you, Your Honor. And the May stack will not work for  
15 the State. The – it would either be the June or the September stack.

16 THE COURT: Okay. Maybe you guys can discuss that. Do you guys know  
17 what my typical week is for trial?

18 MR. POSIN: No.

19 THE COURT: Okay. Monday, Friday we have an 8:30 start, we end  
20 everyday by 5:00. And I just point that out because you don't want to put your  
21 expert witness on at 4:45 unless you only have two questions or plan to bring them  
22 back the next day. Wednesday we have a 9:30 start and then Tuesday, Thursday  
23 because I've got such a heavy motion calendar we've got a 1:00 o'clock start. So,  
24 you're looking at three full days and two half days a week.

25 MS. RHOADES: Okay.

1 THE COURT: So, given those parameters how long do you think the case will  
2 take to try?

3 MS. RHOADES: Maybe six days.

4 THE COURT: Okay. All right, I will see you Tuesday and that will be.

5 THE COURT CLERK: April 3<sup>rd</sup> at 8:30 a.m.

6 THE COURT: April 3<sup>rd</sup>, 8:30.

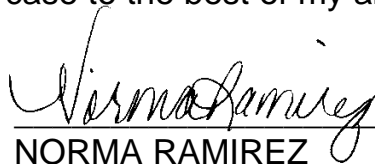
7 MS. RHOADES: Thank you, very much.

8 MR. POSIN: Thank you, Your Honor.

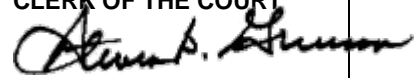
9 [Proceedings concluded at 9:15 a.m.]

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18 audio/video recording in the above-entitled case to the best of my ability.

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20 NORMA RAMIREZ  
21 Court Recorder  
22 District Court Dept. XXII  
23 702 671-0572  
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TRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

DEQUINCY BRASS,

Defendant.

CASE NO. C-329765-1

DEPT. XXII

BEFORE THE HONORABLE SUSAN JOHNSON, DISTRICT COURT JUDGE

**APRIL 3, 2018**

**RECORDER'S TRANSCRIPT OF HEARING RE**

***STATUS CHECK: TRIAL SETTING***

**APPEARANCES:**

For the Plaintiff:

KRISTINA RHOADES, ESQ.  
Deputy District Attorney

For the Defendant:

MITCHELL POSIN, ESQ.

RECORDED BY: NORMA RAMIREZ, COURT RECORDER

1 TUESDAY, APRIL 3, 2018 AT 8:48 A.M.

2  
3 THE COURT: Hold on, let me call the case. That is State of Nevada versus  
4 Dequincy Brass, case number C329765-1. Again, would you announce your  
5 appearances for the record?

6 MR. POSIN: Thank you, Your Honor. Mitchell Posin appearing for the  
7 Defendant, he is here present in custody. My bar number is 2840.

8 MS. RHOADES: Kristine Rhoades on behalf of the State, 12480.

9 THE COURT: Okay. And I see that the Defendant is present and in custody.  
10 And this is a status check about trial setting

11 MR. POSIN: Yes, Your Honor. I –

12 THE COURT: I need you by a microphone.

13 MR. POSIN: We had thought that he had invoked but the State tells me in  
14 fact he has already waived, but we do need to continue the trial date.

15 THE COURT: Okay. Yeah –

16 MS. RHOADES: It does –

17 THE COURT: -- it wasn't –

18 MS. RHOADES: -- appear that –

19 THE COURT: -- clear to –

20 MS. RHOADES: -- he –

21 THE COURT: -- me that he had waived.

22 MS. RHOADES: Yes, it does. I think he still should have been here if we  
23 were gonna vacate the trial date and re-set it.

24 THE COURT: Oh absolutely. Okay. Well, you understand that, sir?

25 THE DEFENDANT: Yes.

1 THE COURT: Okay. We need to set the trial and you say that you can't be  
2 ready for the April 30<sup>th</sup> trial –

3 MR. POSIN: Correct –

4 THE COURT: -- date.

5 MR. POSIN: -- Your Honor.

6 THE COURT: Let me get to my calendar. All right, that is toward the end of  
7 my – well, actually right in the middle of my five week stack. And is May – that may  
8 not be a good week. How many days do you think this case will take to try?

9 MR. POSIN: I think the State was saying five or six.

10 MS. RHOADES: That sounds accurate. We – I think we were looking at  
11 September, we were both looking at September if that –

12 MR. POSIN: I think so. I think – because May is gonna still be too quick for  
13 our purposes and then I think –

14 THE COURT: July is too quick?

15 MR. POSIN: We could potentially do July.

16 THE COURT: Because my – my five week criminal stack starts June 25<sup>th</sup>. I  
17 could do it July 16. I don't know if that's too soon. July 23<sup>rd</sup>.

18 MS. RHOADES: July 23<sup>rd</sup> would work for the State.

19 MR. POSIN: That's fine, Your Honor.

20 THE COURT: Okay. Why don't I set it for July 23<sup>rd</sup> then? So, we'll vacate  
21 the current trial stack of April 30, with the calendar call we'll re-set that. So, we'll  
22 have a July 23<sup>rd</sup> trial date, that would be – start at 8:30. Do you know what my  
23 typical week is for trial, counsel? Because I did ask you how long the case would  
24 take but, you know, different start times may vary.

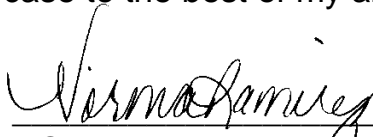
25 MR, POSIN: I –

1 MS. RHOADES: I think you did go through that with us, Your Honor.  
2 MR. POSIN: I think you did, Your Honor. Yes.  
3 THE COURT: Okay. And you still say five to six days?  
4 MS. RHOADES: That sounds – yes.  
5 THE COURT: Okay. Okay. Have I done a discovery order in this one?  
6 MS. RHOADES: Yes, you have.  
7 THE COURT: Okay. Okay. Anything else that we need to deal with? Let's  
8 see – I'm sorry, the calendar call.  
9 THE COURT CLERK: That'll be on July 18<sup>th</sup> at 9:00 a.m.  
10 THE COURT: July 19<sup>th</sup> at 9:00 a.m. for calendar call. Okay. If there's  
11 anything else I can do to assist you I will.  
12 MS. RHOADES: Thank you very much, Your Honor.  
13 MR. POSIN: Thank you, Your Honor.  
14 THE COURT: Okay. I'll see you July 19<sup>th</sup>.

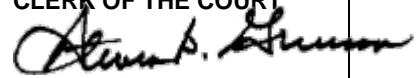
15 [Proceedings concluded at 8:51 a.m.]

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22 audio/video recording in the above-entitled case to the best of my ability.

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24 NORMA RAMIREZ  
25 Court Recorder  
District Court Dept. XXII  
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4 DISTRICT COURT  
5 CLARK COUNTY, NEVADA

6 THE STATE OF NEVADA,

7 Plaintiff,

8 vs.

9 DEQUINCY BRASS,

10 Defendant.

11 CASE NO.: C-18-329765-1

12 DEPT. NO.: XV

13  
14 BEFORE THE HONORABLE JOE HARDY, DISTRICT COURT JUDGE

15 THURSDAY, JULY 19, 2018

16  
17 RECORDER'S TRANSCRIPT RE:  
18 **CALENDAR CALL**

19 APPEARANCES:

20 For the State:

KRISTINA A. RHOADES, ESQ.

21 For the Defendant:

MITCHELL L. POSIN, ESQ.

22  
23 RECORDED BY: MATTHEW YARBROUGH, COURT RECORDER

1 LAS VEGAS, NEVADA, THURSDAY, JULY 19, 2018, 10:03 A.M.

2 \* \* \* \* \*

3 COURT CLERK: Page four, C329765, State of Nevada versus Dequincy  
4 Brass.

5 MRS. RHOADES: Good morning, Your Honor, Kristina Rhoades, on behalf of  
6 the State.

7 MR. POSIN: Good morning, Your Honor, Mitchell Posin, bar number 2840,  
8 appearing on behalf of Mr. Brass. Who is present here in custody.

9 THE COURT: Good morning, good morning, Mr. Brass.

10 MR. BRASS: Good morning.

11 MR. POSIN: Um, Your Honor, this is on - - set this morning before a calendar,  
12 the Defense is moving to continue it. And it is my understanding that the State has  
13 no objection. I heard the Court earlier indicate that the Court has trial stacks on in  
14 September and November. The State is unavailable in September, so we would as  
15 for the November stack.

16 MRS. RHOADES: That's all correct, Your Honor. He did waive at his initial  
17 arraignment. And this is the Defense's second request for a continuance. I did  
18 provide additional discovery, and we have no objection to the continuance. Um, and  
19 I would ask for a November 13 if that's available?

20 THE COURT: It should be.

21 COURT CLERK: The calendar call will be November 8<sup>th</sup>, 2018, at 8:30 a.m.  
22 And the trail stack will be November 13, 2018, at 10:30 a.m. And November 13<sup>th</sup> is a  
23 Tuesday.

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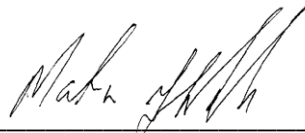
1 MR. POSIN: Thank you, Your Honor.

2 MRS. RHOADES: Thank you very much.

3 THE COURT: Thank you both.

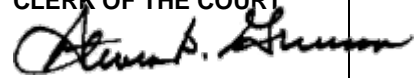
4 [Proceedings concluded, 10:04 a.m.]

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

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8 MATTHEW YARBROUGH  
9 Court Recorder/Transcriber

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1 RTRAN

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4 DISTRICT COURT  
5 CLARK COUNTY, NEVADA

6 THE STATE OF NEVADA,

7 Plaintiff,

8 vs.

9 DEQUINCY BRASS,

10 Defendant.

CASE NO.: C-18-329765-1

DEPT. NO.: XV

11  
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13  
14 BEFORE THE HONORABLE JOE HARDY, DISTRICT COURT JUDGE  
15 TUESDAY, OCTOBER 30, 2018

16  
17 RECORDER'S TRANSCRIPT RE:  
18 **STATE'S MOTION TO ALLOW DR. SANDRA CETI TO APPEAR BY  
SIMULTANEOUS AUDIOVISUAL TRANSMISSION EQUIPMENT**

19 APPEARANCES:

20 For the State:

KRISTINA A. RHOADES, ESQ.

21 For the Defendant:

MITCHELL L. POSIN, ESQ.

22  
23 RECORDED BY: MATTHEW YARBROUGH, COURT RECORDER  
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1  
2 LAS VEGAS, NEVADA, TUESDAY, OCTOBER 30, 2018, 9:53 A.M.

3 \* \* \* \* \*

4 COURT CLERK: Page three, C329765, State of Nevada versus Dequincy  
5 Brass.

6 MRS. RHOADES: Good morning, Your Honor, Kristina Rhoades, on behalf of  
7 the State.

8 MR. POSIN: Good morning, Your Honor, Mitchell Posin, bar number 240,  
9 appearing on behalf of the Defendant. Who is here present and in custody.

10 THE COURT: Good morning, good morning, sir. Is there any opposition to the  
11 Motion?

12 MR. POSIN: No, I have not filed any opposition, nor do I have any, Your  
13 Honor.

14 THE COURT: So, the State's Notice of Motion and Motion to Allow Dr.  
15 Sandra, is it Cetl?

16 MRS. RHOADES: Yes, Your Honor.

17 THE COURT: To Appear by Simultaneous Audiovisual Transmission  
18 Equipment, is granted. And when we do these, I just let the attorney know, hey,  
19 make sure everything is working when the time comes.

20 MRS. RHOADES: We will, and we'll test that, and get with IT on that, Your  
21 Honor. Thank you.

22 THE COURT: Thank you.

23 MR. POSIN: Thank you.

24 MRS. RHOADES: We have, um, just for the record we have calendar call next  
25 Thursday, on this case, for a trial that starts the following Monday.

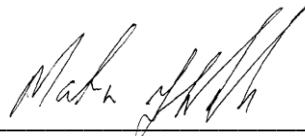
1 MR. POSIN: We discussed possibly continuing it. However, we'll let you  
2 know.

3 THE COURT: Okay. Thank you.

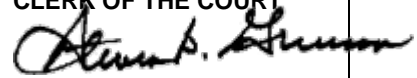
4 MRS. RHOADES: Thank you.

5 [Proceedings concluded, 9:54 a.m.]

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

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11 Court Recorder/Transcriber  
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1 RTRAN

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4 DISTRICT COURT  
5 CLARK COUNTY, NEVADA

6 THE STATE OF NEVADA,

7 Plaintiff,

8 vs.

9 DEQUINCY BRASS,

10 Defendant.

11 CASE NO.: C-18-329765-1

12 DEPT. NO.: XV

13  
14 BEFORE THE HONORABLE JOE HARDY, DISTRICT COURT JUDGE

15 THURSDAY, NOVEMBER 8, 2018

16  
17 RECORDER'S TRANSCRIPT RE:  
18 **CALENDAR CALL**

19 APPEARANCES:

20 For the State:

KRISTINA A. RHOADES, ESQ.

21 For the Defendant:

MITCHELL L. POSIN, ESQ.

22  
23 RECORDED BY: MATTHEW YARBROUGH, COURT RECORDER

1 LAS VEGAS, NEVADA, THURSDAY, NOVEMBER 8, 2018, 9:10 A.M.

2 \* \* \* \* \*

3 COURT CLERK: Page four, C329765, State of Nevada versus Dequincy  
4 Brass.

5 MRS. RHOADES: Good morning, Your Honor, Kristina Rhoades, on behalf of  
6 the State.

7 MR. POSIN: Good morning, Your Honor, Mitchell Posin, bar number 2840,  
8 appearing for Mr. Brass. Who is here present and in custody.

9 THE COURT: Okay. Good morning, good morning. And before I cut you off, I  
10 heard something, but don't remember what you said.

11 MR. POSIN: Your Honor, this is - - this is my request for a continuance, as the  
12 State was mentioning when we're previously called. Um, the State I believe can  
13 announce ready. However, it's my request - - I don't feel that I can - - I can provide,  
14 um, adequate assistance of counsel understand the circumstances. And those  
15 circumstances being, that all tho the State made some discovery ready and  
16 available some time back. I was unable for financial reason of my client's family to  
17 obtain it until recently. These are very serious charges; I do need to go over some  
18 extensive discovery with him. And we do not feel we can be ready for this trial stack.

19 MRS. RHOADES: And, Your Honor, this is the third trial setting. And I  
20 understand the Defendant's request. I will submit it to the Court. But I do want to  
21 inform the Court that the State is ready. And the State has been ready. The past two  
22 times it has been set for trial.

23 ///

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25 ///

1 THE COURT: As much as I - - you are now first in line, and we do need  
2 Defendant's counsel to be ready for trial. And so, we'll continue it solely at  
3 Defendant's request. And note in the minutes that the State is - - remains ready,  
4 willing, and able to try the case.

5 MRS. RHOADES: Thank you, Your Honor. And the State is not available - -  
6 we - - I have cases set all through April. So, we wouldn't be able to reset it until May  
7 or June. And I would ask the Court if the Court could accommodate, there are three  
8 minor victims, in this case, if we could possibly have a Tuesday Calendar Call  
9 instead of a Thursday. That would really help.

10 **[Judge talking to his JEA and Court Clerk - - Inaudible]**

11 THE COURT: So any objection by Defendant to put you on our July 8<sup>th</sup> stack?

12 MR. POSIN: Your Honor, that's an awfully long time to wait. I understand that  
13 the State isn't available in the next several months. But I wonder if we couldn't get in  
14 May or June if possible?

15 THE COURT: Well, um, so - - so I do every other month as part of it. So, one  
16 month or technically, five weeks civil, five weeks criminal. Um, and that's so we can  
17 - - when did - - you're booked through April you said, Ms. Rhoades?

18 MRS. RHOADES: Yes, Your Honor.

19 THE COURT: Um, can we put them on May 13<sup>th</sup>?

20 **[Judge talking to his JEA - - Inaudible]**

21 THE COURT: How long are we talking for trial, a week?

22 MR. POSIN: Probably a week, Your Honor.

23 THE COURT: So, how about May 13<sup>th</sup> trial stack, with May 9<sup>th</sup> calendar call?

24 ///

25 ///

1 MR. POSIN: That's a Thursday calendar call, Your Honor. I would be  
2 available on the 7<sup>th</sup> or any other date convenient to the Court, prior to that. But that  
3 trial stack is fine.

4 THE COURT: So, tell me why we would need to move the calendar call?

5 MRS. RHOADES: Thursday is very close to a Monday start date. We have  
6 three minor victims, two families. And the - - I mean the families kind of need to plan  
7 and need to know a little bit before Thursday, whether we're going to trial on  
8 Monday.

9 THE COURT: Okay. We'll do a special calendar call then on Tuesday.

10 COURT CLERK: May 7<sup>th</sup>, 2019, at 8:30 a.m., will be the calendar call.

11 MR. POSIN: Thank you, Your Honor.

12 COURT CLERK: And the trial stack will be on May 13<sup>th</sup>, 2019, at 10:30 a.m.

13 MR. POSIN: Thank you, Your Honor.

14 MRS. RHOADES: Thank you very much.

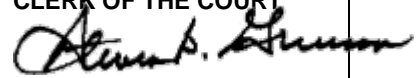
15 THE COURT: Thank you.

16 [Proceedings concluded, 9:15 a.m.]

17 \* \* \* \* \*ATTEST: I do hereby certify that I have truly and correctly transcribed the  
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20 MATTHEW YARBROUGH  
21 Court Recorder/Transcriber  
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1 RTRAN

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4 DISTRICT COURT  
5 CLARK COUNTY, NEVADA

6 THE STATE OF NEVADA,

7 Plaintiff,

8 vs.

9 DEQUINCY BRASS,

10 Defendant.

CASE NO.: C-18-329765-1

DEPT. NO.: XV

11  
12  
13  
14 BEFORE THE HONORABLE JOE HARDY, DISTRICT COURT JUDGE

15 TUESDAY, JANUARY 29, 2019

16  
17 RECORDER'S TRANSCRIPT RE:  
18 **DEFENDANT'S MOTION FOR OWN RECOGNIZANCE RELEASE, OR IN THE  
19 ALTERNATIVE FOR SETTING OF REASONABLE BAIL**

20 APPEARANCES:

21 For the State:

MARIA LAVELL, ESQ.

22 For the Defendant:

MITCHELL L. POSIN, ESQ.

23 RECORDED BY: MATTHEW YARBROUGH, COURT RECORDER  
24  
25

1  
2 LAS VEGAS, NEVADA, TUESDAY, JANUARY 29, 2019, 9:11 A.M.

3 \* \* \* \* \*

4 COURT CLERK: Page four, C329765, the State of Nevada versus Dequincy  
5 Brass.

6 MS. LAVELL: Ah, Judge, this is a Specialty Unit case.

7 THE COURT: So, what he's saying was - - is the State asked for it to be  
8 continued. And he has no objection to it. So, why don't we just continue it - -

9 MS. LAVELL: Okay.

10 THE COURT: Right? Okay.

11 MR. POSIN: One week from today.

12 MS. LAVELL: Did they say how much time they needed?

13 MR. POSIN: Yeah, they said one week.

14 MS. LAVELL: Okay.

15 COURT CLERK: February 5<sup>th</sup>, of 2019, at 8:30 a.m.

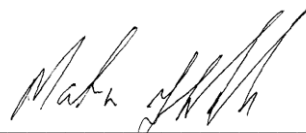
16 MR. POSIN: Thank you, Your honor.

17 MS. LAVELL: Thank you.

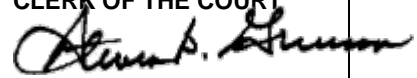
18 THE COURT: Thank you.

19 [Proceedings concluded, 9:11 a.m.]

20 \* \* \* \* \*ATTEST: I do hereby certify that I have truly and correctly transcribed the  
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23 MATTHEW YARBROUGH  
24 Court Recorder/Transcriber  
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4 DISTRICT COURT  
5 CLARK COUNTY, NEVADA

6 THE STATE OF NEVADA,

7 Plaintiff,

8 vs.

9 DEQUINCY BRASS,

10 Defendant.

11 CASE NO.: C-18-329765-1

12 DEPT. NO.: XV

13  
14 BEFORE THE HONORABLE JOE HARDY, DISTRICT COURT JUDGE

15 TUESDAY, FEBRUARY 5, 2019

16  
17 RECORDER'S TRANSCRIPT RE:  
18 **DEFENDANT'S MOTION FOR OWN RECOGNIZANCE RELEASE, OR IN THE  
19 ALTERNATIVE FOR SETTING OF REASONABLE BAIL**

20 APPEARANCES:

21 For the State:

RICHARD SCOW, ESQ.

22 For the Defendant:

MITCHELL L. POSIN, ESQ.

23 RECORDED BY: MATTHEW YARBROUGH, COURT RECORDER  
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1  
2 LAS VEGAS, NEVADA, TUESDAY, FEBRUARY 5, 2019, 8:51 A.M.

3 \* \* \* \* \*

4 MR. SCOW: Good morning, Judge. Um, present right now Richard Scow, for  
5 the State. But this is a case that I was expecting Ms. Rhoades, from our office, to be  
6 present for. Um, I don't have a file or anything close to argue at this point.

7 THE COURT: Say that again, I missed that last part.

8 MR. SCOW: I - - I don't have a file here - -

9 THE COURT: Oh, okay.

10 MR. SCOW: I don't have anything that I could argue with.

11 MR. POSIN: Um, I don't know what the Court's pleasure is, whether to pass it.  
12 I've got to be in a couple of other places this morning. I don't know how quickly I can  
13 make it back, including Family Court. Um, the State did file a written response, so.

14 THE COURT: So, I mean, on both sides almost always what I'll do is trail for  
15 the other side to have a chance to appear. But do you want to move it to Thursday,  
16 would that make more sense? Or next Tuesday?

17 MR. POSIN: Your Honor - - Yeah, I think ya - - I've spoken to the State, we  
18 both file written - - I filed a written Motion, and they filed a written response. I think  
19 that we can go ahead and submit it. And then - - so, we don't have to bring back Mr.  
20 Brass on a repeated basis.

21 THE COURT: You know, generally, I would be fully on board with that. On  
22 this one, I did want to hear some argument - -

23 MR. POSIN: All right - -

24 THE COURT: Consequently, usually, I would be fully on board with that. But  
25 this is a little unique - -

1 MR. POSIN: Then maybe if we can do it on Thursday because I'm just - -

2 THE COURT: Oh yeah, no, that's fine.

3 MR. POSIN: I've got a lot [inaudible] departments and Family Court.

4 THE COURT: Thursday

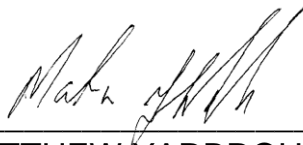
5 COURT CLERK: February 7<sup>th</sup> of 2019, at 8:30 a.m.

6 MR. POSIN: Thank you, Your Honor.

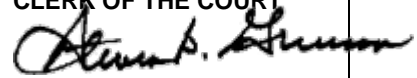
7 THE COURT: Thank you.

8 [Proceedings concluded, 8:53 a.m.]

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

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12 MATTHEW YARBROUGH  
13 Court Recorder/Transcriber



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4 DISTRICT COURT  
5 CLARK COUNTY, NEVADA

6 THE STATE OF NEVADA,

7 Plaintiff,

8 vs.

9 DEQUINCY BRASS,

10 Defendant.

CASE NO.: C-18-329765-1

DEPT. NO.: XV

11  
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13  
14 BEFORE THE HONORABLE JOE HARDY, DISTRICT COURT JUDGE

15 THURSDAY, FEBRUARY 7, 2019

16  
17 RECORDER'S TRANSCRIPT RE:  
18 **DEFENDANT'S MOTION FOR OWN RECOGNIZANCE RELEASE, OR IN THE  
19 ALTERNATIVE FOR SETTING OF REASONABLE BAIL**

20 APPEARANCES:

21 For the State:

KRISTINA A. RHOADES, ESQ.

22 For the Defendant:

MITCHELL L. POSIN, ESQ.

23 RECORDED BY: MATTHEW YARBROUGH, COURT RECORDER  
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1  
2 LAS VEGAS, NEVADA, THURSDAY, FEBRUARY 7, 2019, 8:52 A.M.

3 \* \* \* \* \*

4 COURT CLERK: Page fifteen, C329765, the State of Nevada versus  
5 Dequincy Brass.

6 MR. POSIN: Good morning, Your Honor, Mitchell Posin, bar number  
7 240, appearing on behalf of Mr. Brass. Who is here present and in custody.

8 THE COURT: Good morning, good morning  
9 MRS. RHOADES: Good morning, Your Honor, Kristina Rhoades, on behalf of the  
10 State.

11 THE COURT: Good morning. Okay. Like we said before, I did review the  
12 Motion and the Opposition. I wanted to hear from counsel, um, you know, it is fairly  
13 unusual, I guess. But, Mr. Posin, it's your Motion.

14 MR. POSIN: Thank you, Your Honor. You know, as I laid out in my Motion,  
15 bail is not supposed to be punishment, it's supposed to be to ensure that  
16 somebody's coming back to court when they are supposed to and they possible  
17 danger to the community.

18 Um, as to that first prong of, ah, flight risk. Mr. Brass does not have an  
19 extensive criminal history. And I understand that the States has in their response is  
20 focused primarily on the seriousness of the charges against him in this case. But  
21 that's just this case, and at this point, in this case, he remains innocent until proven  
22 guilty. And he certainly has not been proved guilty in this case.

23 ///

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25 ///

1 His ability to make bail - - if he and his family can not make bail. Having any  
2 bail set, whether it's a hundred thousand, million, a hundred million, billion dollars,  
3 it's all illusory. He needs to have bail set at a rate that he is even conceivably can be  
4 able to make. I can tell you, Your Honor, as an Officer of the Court, that in my own,  
5 um, being retained by his family, it's a - - it has been a family effort. Where I have  
6 gotten, ah, my fee paid probably by six or seven different family members, as they  
7 can, a little bit here and a little bit there. These are not people that have a  
8 tremendous amount of money. And a hundred thousand dollars is simply way, way,  
9 way beyond their ability even to get a bond.

10 Um, the State lays out the statutory framework correctly as to what factors are  
11 supposed to go into the Court's decision, ah, and while the seriousness of the  
12 offense is in there, there are many other factors that are in there as well, that have  
13 to do with his work. This is somebody who has maintained gainful employment for  
14 pretty much his entire life, until being arrested for this offense. It's somebody who  
15 has - - as I - - as you can tell from the family support in the room, he has  
16 tremendous family support. He has a twin brother, his mother, his uncle. And I've  
17 dealt with and spoken to many of his family members. And they are all supporting  
18 him.

19 I think one of the things that a court is often concerned with is if the court  
20 doesn't take charge of a situation, is there anybody on the outside who will give the  
21 Defendant any kind of guidance or keep them on the right track, and make sure they  
22 do what they are supposed to do. And I can tell the Court that in this case, that  
23 family support is absolutely there. Um, they call me on a very regular basis to check-  
24 up on what's going on.

25 ///

1 Um, the factors that are in the statute, I would argue militate towards his  
2 release because he does not have that kind of extensive criminal history. This is not  
3 somebody who, um, is committing crime-after-crime. Even if you look at the facts  
4 alleged in this case, the nature and circumstance of those facts is not the sort of  
5 thing that - - you know, and of course, we don't conceive in any way that he is guilty,  
6 but even if he were, these are not the sort of facts that would easily arise, again, if  
7 he were released.

8 THE COURT: I'm going to pause you there. Can you say that with a straight  
9 face?

10 MR. POSIN: I can, Your Honor. Because this is something that the court can  
11 structure, um, conditions of his release that would ensure that he was not in contact  
12 with children. That he was, um, not in a position to be in contact with children. Those  
13 are all things that the court can do that - - don't require a cash or - - or monetary bail  
14 amount. So, it's - - It's not only can I say it with a straight face, but I think it is very  
15 much the case, you know, there are certain crimes that somebody can do, say on  
16 the spur of the moment. This crime is not that sort of thing. It would take a certain  
17 set of circumstances, which the court could kraft conditions that would address that  
18 and make that very unlikely to have it happen again. You know, he certainly is not  
19 going to be in contact with the alleged victims in this case. And there is no reason  
20 for him to be and the court can certainly order. And he would follow that order that  
21 he not be in contact with them, or for that matter, with any minors, or anybody else  
22 the court would see fit to order that he stay away from.

23 So, yes, that's something the court can structure. And allow him at least the  
24 opportunity to get out and, um, go about his business. And, most importantly, for me  
25 to assist in his defense.

1 THE COURT: Thank you very much.

2 MRS. RHOADES: Your Honor, the one hundred thousand dollars bail was  
3 set, when there were five felony charges in this case. There are now twenty-two  
4 felony charges. So, if the Court is inclined to touch bail at all, that should be raised.  
5 Um, is the State position, bail he can conceivably make, that's not a factor that's  
6 listed in the Nevada Revised Statutes.

7 The three things that the Defense cites in their Motion: he doesn't have a  
8 criminal record, he maintained regular employment, and he is a long-term resident  
9 of Clark County. So, he apparently, was maintaining regular employment and a  
10 resident of Clark County when he committed the offenses in this case.

11 The fact that there are three victims that range from five-years-old to thirteen-  
12 years-old, um, shows that there is a high probability that he's going to commit more  
13 crimes if he is released, just based on the number of victims in this case. There are  
14 findings on the two female victims in this case that goes to the probability of  
15 conviction. And that's all cited in the Motion as well. And so, I mean, one hundred  
16 thousand dollars is more than reasonable, considering the number of factors,  
17 considering the number of victims, um, and we would ask that it remain or be  
18 increased.

19 THE COURT: Thank you. Any rebuttal?

20 MR. POSIN: Your Honor, the statute may not talk about his ability to reach  
21 bail. But - -

22 THE COURT: Well, I mean - -

23 MR. POSIN: The case law certainly does - -

24 THE COURT: Subsection two of 178.498 financial ability of the defendant to  
25 get bail, so.

1 MR. POSIN: Yeah, and there is plenty of case law that talks about the  
2 defendant's ability to obtain bail. The number of counts that the State has seen fit to  
3 charge may factor into potential punishment. But, you know, the idea that we just  
4 use numbers of counts and multiply a particular bail. That really makes no sense  
5 when there is really just one person who is either going to get out or not going to get  
6 out.

7 So, there's - - um, there's are more counts now. There was serious counts  
8 before, and there are serious counts now. And I would submit that it really does not  
9 affect it at all.

10 THE COURT: Thank you very much. So, the Court is going to consider the  
11 Opposition as an Opposition and a Countermotion. And grant the Countermotion  
12 and deny the Motion, as follows: the Court does consider the facts and  
13 circumstances of the allegations, the charges, the counts and applies both those  
14 and defendant's Brass history, and length of residence, employment, and  
15 relationship. So, the Court takes into account the totality of the circumstances and  
16 applies that to NRS 178.498 as well as 178.4953. And applying the circumstances  
17 to the factors set forth in the Statutes. The Court is going to leave the bail amount at  
18 a hundred thousand dollars. But in the event that I posted, the added conditions will  
19 be house arrested and no contact with any minors whatsoever.

20 If the State could prepare that Order and submit it to Mr. Posin and submit to  
21 the Court.

22 MRS. RHOADES: Yes, Your Honor.

23 THE COURT: Thank you.

24 ///

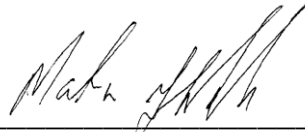
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1 MRS. RHOADES: Thank you.

2 MR. POSIN: Thank you.

3 [Proceedings concluded, 9:02 a.m.]

4 \* \* \* \* \*ATTEST: I do hereby certify that I have truly and correctly transcribed the  
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7 MATTHEW YARBROUGH  
8 Court Recorder/Transcriber

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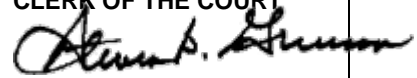
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4 DISTRICT COURT  
5 CLARK COUNTY, NEVADA

6 THE STATE OF NEVADA,

7 Plaintiff,

8 vs.

9 DEQUINCY BRASS,

10 Defendant.

11 CASE NO.: C-18-329765-1

12 DEPT. NO.: XV

13  
14 BEFORE THE HONORABLE JOE HARDY, DISTRICT COURT JUDGE

15 TUESDAY, MAY 7, 2019

16  
17 RECORDER'S TRANSCRIPT RE:  
18 **CALENDAR CALL**

19 APPEARANCES:

20 For the State:

KRISTINA A. RHOADES, ESQ.

21 For the Defendant:

MITCHELL L. POSIN, ESQ.

22  
23 RECORDED BY: MATTHEW YARBROUGH, COURT RECORDER  
24  
25

1 LAS VEGAS, NEVADA, TUESDAY, MAY 7, 2019, 8:40 A.M.

2 \* \* \* \* \*

3 COURT CLERK: Page two, C329765, the State of Nevada versus Dequincy  
4 Brass.

5 MR. POSIN: Good morning, Your Honor, Mitchell Posin, bar number  
6 240, appearing on behalf of Mr. Brass. Who is here present and in custody.

7 THE COURT: Good morning.

8 MRS. RHOADES: Good morning, Your Honor, Kristina Rhoades, on behalf of the  
9 State.

10 THE COURT: So, we have trial set for next week. The calendar calls for the  
11 other cases will be on Thursday. But I'm told that we have six invokes apparently,  
12 for next week. So, any thoughts or suggestions?

13 MR. POSIN: Well, Your Honor. We - - I've had some issues with my  
14 investigator. The person who was working on the case is apparently no longer with  
15 my investigator. He has sent out some subpoena's, and I'm working with my  
16 investigator to find out the status of those. If we could - - if we're coming in - - if  
17 you're - - if you have other calendar calls on Thursday, I would suggest that we  
18 come back on Thursday, and I could give you an updated report as to how are  
19 readiness is at that point.

20 THE COURT: And I can't remember why we have it - -

21 MRS. RHOADES: I asked for it - -

22 THE COURT: Okay.

23 MRS. RHOADES: Because we have three victims and multiple witnesses. So,  
24 it sounds like we are going to have to come back on Thursday, anyway.

25 ///

1 THE COURT: Yeah. For whatever reason, we have nine scheduled  
2 apparently, six of them are invoked. So, if you all what to come back on Thursday,  
3 that's fine. See if any or all of those are going or not, that's fine.

4 MR. POSIN: And, that's fine, Your Honor, I do have - -

5 THE COURT: Or send you to overflow, that's a possibility too.

6 MR. POSIN: Your Honor, I have a 7:30 appearance in Henderson. Hopefully,  
7 I'll be back by 8:30. But if I'm not here, I'll be running a little late possibility.

8 THE COURT: Okay.

9 MRS. RHOADES: I just don't know what subpoenas he's waiting for, we've  
10 provided all discovery. If it's anyone that we've noticed, I mean, we can try to get  
11 records for that. There's been no one noticed by the defense. So, this has been the  
12 fourth trial setting.

13 MR. POSIN: I can work with the State on that.

14 THE COURT: Let's come back on Thursday and - - like I said, we can  
15 certainly send you to overflow if that makes the most sense. But come back on  
16 Thursday, at 8:30, and if you are running behind, that's okay.

17 MRS. RHOADES: Thank you.

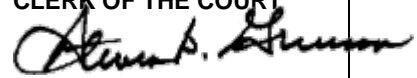
18 MR. POSIN: Thank you.

19 COURT CLERK: May 9<sup>th</sup> of 2019, at 8:30 a.m.

20 [Proceedings concluded, 8:43 a.m.]

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

23   
24 MATTHEW YARBROUGH  
25 Court Recorder/Transcriber



1 RTRAN

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3  
4 DISTRICT COURT  
5 CLARK COUNTY, NEVADA

6 THE STATE OF NEVADA,

7 Plaintiff,

8 vs.

9 DEQUINCY BRASS,

10 Defendant.

11 CASE NO.: C-18-329765-1

12 DEPT. NO.: XV

13  
14 BEFORE THE HONORABLE JOE HARDY, DISTRICT COURT JUDGE

15 THURSDAY, MAY 9, 2019

16  
17 RECORDER'S TRANSCRIPT RE:  
18 **CALENDAR CALL**

19 APPEARANCES:

20 For the State:

KRISTINA A. RHOADES, ESQ.

21 For the Defendant:

MITCHELL L. POSIN, ESQ.

22  
23 RECORDED BY: MATTHEW YARBROUGH, COURT RECORDER

1 LAS VEGAS, NEVADA, THURSDAY, MAY 9, 2019, 9:58 A.M.

2 \* \* \* \* \*

3 COURT CLERK: Page two, C329765, the State of Nevada versus Dequincy  
4 Brass.

5 MR. POSIN: Good morning, Your Honor, Mrs. Rhoades, was here earlier. I've  
6 got her cell number, um, she I believe she went back to her office. I can text her and  
7 bring her back, or unless Mrs. Villegas wants to stand in for her.

8 MS. VILLEGAS: I believe she announced ready last time - -

9 MR. POSIN: She did, but we're going to be asking for a continuance.

10 MARSHAL DURAZO: Counsel, she is outside.

11 MR. POSIN: There she is.

12 MRS. RHOADES: Good morning, Your Honor. Kristina Rhoades, on behalf of  
13 the State.

14 THE COURT: Good morning. Okay. I'm ready willing and able to give you  
15 more than a week.

16 MR. POSIN: Your Honor, we're going to be asking for a continuance this  
17 morning. Um, I meet with Ms. Rhoades and my investigator outside the Courtroom  
18 this morning. We went over some of the subpoenas that we've issued. We, ah, I've  
19 just had a few issues and my investigator - - the person who was in the  
20 investigator's office working on the case apparently quit. And was not responding to  
21 my phone calls over the last week or two. I meet with the actual main guy there,  
22 Robert Lawson, who was here earlier this morning. Um, so, we ask for a  
23 brief continuance. I know the State will be opposing that.

24 ///

25 ///

1 MRS. RHOADES: We are, Your Honor. This is the fourth trial setting. The  
2 State has issued subpoena's to these minor victims and their parents four times. We  
3 are ready to proceed; we have our witnesses. My understanding of the evidence  
4 that they are seeking from my discussion with Mr. Posin and Mr. Lawson are prison  
5 calls between the mother of one of the victims and, um, a father that has been in  
6 prison for quite some time prior to this ever happening. So, I don't see the relevance  
7 of those recorded jail - - or prison calls. I don't think that is good cause to continue,  
8 and we would object.

9 MR. POSIN: And, Your Honor, in this case, there were prior act - - during the  
10 investigation of this case, there was initially accusations against other individuals  
11 about who had actually done any kind of activities with the pre alleged victims.  
12 Eventually, the story changed and became that Mr. Brass was the allaged  
13 perpetrator, um, we believe that these calls would demonstrate that the initial story,  
14 um, may have been the correct story.

15 MRS. RHOADES: And I just want to correct that. One of the minor victims told  
16 the mother - - the victim's mother that said she - - in these prison calls that her, um,  
17 juvenile female cousin abused her because she was too terrified of this Defendant  
18 after he threatened her after he sexually abused her. Um, she initially said that it  
19 was her juvenile cousin that did it. So, there was one person, and it was in the same  
20 conversation where the victims that said no, it was not her, and then later disclosed  
21 it was the Defendant who did it. So, it's not multiple perpetrators that someone has  
22 accused or anything of that nature.

23 MR. POSIN: And if I suggested that it was multiple perpetrators, I did not  
24 mean to say that.

25 ///

1 THE COURT: No, and I - - either event to me is not an issue such to grant  
2 Defendant's request to continue. Um, so, to be clear, I'm denying the Defendant's  
3 request to continue. For the reasons, the State has stated. And - - I mean, and I  
4 think the State said this too, I mean, it's - - filed on - - the State did not say this - -  
5 But this case was filed way back on February 12<sup>th</sup>, 2018. And it's been continued  
6 numerous times at the request of the Defendant.

7 And I'm available, and we're all ready to go except for that minor issue that  
8 counsel has mentioned. Which I don't even think is a real issue. Certainly, not a  
9 reason to continue the trial. So, we have next week available?

10 JEA: Right, we are dark on Friday the 17<sup>th</sup> - -

11 THE COURT: Dark on Friday the 17<sup>th</sup> - -

12 JEA: But we can go into - -

13 THE COURT: We can go into the week after that if we need too. Um, how  
14 many days do you anticipate going?

15 MRS. RHOADES: Does Your Honor, know the schedule?

16 THE COURT: Yeah, so 10:30 generally speaking if my calendar doesn't run  
17 long. I now have hearings Monday through Friday. So, 10:30 Monday through Friday  
18 except for that one Friday, I won't - - we're dark on the 17<sup>th</sup>. Um, I generally take an  
19 hour and fifteen minutes for lunch and, generally a fifteen-minute break in the  
20 afternoon - -

21 MRS. RHOADES: I think, um, probably four or five days. We may be able to  
22 get it done before Friday. But we will likely go into that Monday.

23 THE COURT: Okay.

24 ///

25 ///

1 MR. POSIN: Your Honor, um, my only request is that if we end up going into  
2 that Monday. I request that it be that following Tuesday, my son is graduating  
3 college in Los Angeles on the Sunday, and I would really like to come back Monday  
4 morning.

5 THE COURT: So, let's - - so, we'll be dark on Friday for my schedule and dark  
6 on that following Monday, which would be what?

7 COURT CLERK: May 20<sup>th</sup>.

8 THE COURT: May 20<sup>th</sup>.

9 MR. POSIN: Thank you.

10 THE COURT: Yeah, you're welcome, thank you. Um, so Monday through  
11 Thursday and then Tuesday and maybe Wednesday if we need too. Starting at  
12 10:30, um, any other questions? Oh ah, we typically order forty-five jurors, is there -  
13 - do you think we may need more?

14 MRS. RHOADES: We'll need more, Your Honor.

15 THE COURT: Okay. Any thoughts?

16 MRS. RHOADES: I typically don't know how many they order. Double, if  
17 possible?

18 THE COURT: Any thoughts on the other side? Okay.

19 JEA: We can do ninety.

20 THE COURT: Ninety, can we accommodate that?

21 JEA: Oh yeah.

22 THE COURT: I'm still used to other courtrooms. So, we'll order ninety. Um,  
23 anything else?

24 ///

25 ///

1 MRS. RHOADES: We also have a Motion that's been granted for Dr. Sandra  
2 Cetl, to testify audiovisually. So, we'll just need to set that up and make sure  
3 everything works before. So, I'll come in early maybe on Monday; we can check it  
4 out.

5 COURT RECORDER: When were you expecting her to testify?

6 MRS. RHOADES: She will likely not testify until Thursday.

7 COURT RECORDER: Okay. So, um, you got to go on the website and fill out  
8 those forms, and then - - and once they get filled out and approved by the Judge, I'll  
9 submit them to IT. It has to be at least forty-eight hours in advance.

10 MRS. RHOADES: Okay. I'll make sure I do that done by Monday.

11 COURT RECORDER: Okay.

12 MRS. RHOADES: Thank you.

13 MR. POSIN: Thank you, Your Honor.

14 THE COURT: Thank you. Anything else, just in case?

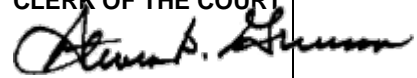
15 MR. POSIN: We're good.

16 [Proceedings concluded, 10:06 a.m.]

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

19 

20 MATTHEW YARBROUGH  
21 Court Recorder/Transcriber  
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24  
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RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,	)	CASE#: C-18-329765-1
	)	
Plaintiff,	)	DEPT. XV
	)	
v.	)	
	)	
DEQUINCY BRASS,	)	
#2707679,	)	
	)	
Defendant.	)	

BEFORE THE HONORABLE JOSEPH P. HARDY,  
DISTRICT COURT JUDGE  
MONDAY, MAY 13, 2019

***RECORDER'S TRANSCRIPT OF MOTION  
FOR CONTINUANCE HEARING***

APPEARANCES:

For the Plaintiff: KRISTINA A. RHOADES, ESQ.

For the Defendant: MITCHELL L. POSIN, ESQ.

RECORDED BY: MATTHEW YARBROUGH, COURT RECORDER

1 Las Vegas, Nevada, Monday, April 23, 2019

2  
3 [Hearing began at 10:47 a.m.]

4 THE CLERK: State of Nevada vs. Dequincy Brass.

5 MS. RHOADES: Good morning, Your Honor. Kristina  
6 Rhoades and Kelsey Einhorn on behalf of the State.

7 MR. POSIN: Good morning, Your Honor. Mitchell Posin,  
8 bar number 230 on behalf of Mr. Brass, who is not present in the  
9 courtroom, but present close enough.

10 THE COURT: Shortly. So I'm going to take a break, but I  
11 thought we'd call and see if there's anything we need -- if there's  
12 anything we need to discuss -- and now Defendant's present in the  
13 courtroom -- before I take the break?

14 MR. POSIN: Good morning, Your Honor. Mitchell Posin  
15 again.

16 I'm going to renew my motion that I had at calendar call  
17 for a continuance. I spoke to my investigator. As I explained to  
18 Your Honor the last time we were in here, he had an employee who  
19 was working on this case who just within the last week or two quit,  
20 and turns out not -- had not followed up on various things that I'd  
21 been pursuing since December.

22 Mr. Lawson is now handling the case himself.  
23 Unfortunately, he's in a murder case assisting another attorney this  
24 week because he anticipated that his employee would be available  
25 to assist me.

1                   There are issues that we've looked at, including some of  
2 the discovery that I just received from the State on Friday, some  
3 photographs of the certain motel where it was alleged certain acts  
4 took place that we're seeing for the first time.

5                   And for all those reasons, I'm going to renew my motion  
6 to continue the trial.

7                   MS. RHOADES: And, Your Honor, I still don't think there  
8 are any legitimate reasons to show good cause. The photos that he  
9 received are investigation that I did myself after reading through the  
10 statements and realizing what the victim was actually saying, that  
11 she wasn't saying it was The Palms on the strip, it was a seedy  
12 weekly Palms that I was able to find myself.

13                   And I did show those to Mr. Posin. I showed them to  
14 him because we would be using them as an exhibit. I showed them  
15 to our victim when we pre-trialed her on Friday. So I don't see any  
16 prejudice in that or how that wasn't available to him by reading the  
17 discovery, and he could have very well done his own investigation  
18 to look at that as well.

19                   MR. POSIN: And, Your Honor, I think that the State  
20 actually explains what the problem is, which is that we have a  
21 situation where there was a reference to what appeared to be The  
22 Palm Hotel that is just off the strip. Some of the questioning that  
23 took place of the minor victims said things like, you know, where  
24 was this, was this near the strip? And the answer was yes. There  
25 were references to there being jacuzzies, balconies, things that do

1 not apply in any way to a seedy motel on Boulder Highway.

2 MS. RHOADES: There are two victims, and they both  
3 remember different things. They remember things slightly  
4 differently as two people perceiving the same event might. And all  
5 that information has been available to him since the preliminary  
6 hearing -- since prior to the preliminary hearing in this case, which  
7 was almost two years ago.

8 MR. POSIN: Your Honor, nonetheless, however long it's  
9 been, the seedy motel is something that I would certainly want my  
10 investigators to go look, find if they have any records of anybody  
11 remotely like my client having rented at any of the times that might  
12 be pertinent to this case.

13 THE COURT: So I'm going to take a break for no other  
14 reason. Anything else that I need a break? I've been on the bench  
15 for almost two hours now.

16 In terms of the continuance issue, I'm inclined to deny,  
17 but I'll think more about it. In terms of the new evidence, I'll think  
18 more about that, too. I mean it can be part of the same issue, it can  
19 be separate issues in terms of, you know, whether evidence is  
20 admitted or not. That's a --

21 MS. RHOADES: And, Your Honor, if I may prior to you  
22 taking a break, I know this just seems relevant information.

23 I did file on October 9, 2018, a notice of witness, a notice  
24 of expert, on there. I noticed a custodian of records for La Palm  
25 Motel, which is the motel that is at issue in this case.

1           My investigator has reached out to them to ask if they  
2 have records. They don't have any records from that time period at  
3 all. Not just for the Defendant, they just don't have the records.

4           THE COURT: When was that filed?

5           MS. RHOADES: I'm sorry?

6           THE COURT: When was that filed?

7           MS. RHOADES: That was filed October 9th, 2018.

8           THE COURT: Okay. So we'll be on break for --

9           MR. POSIN: And my client has requested that he  
10 address the Court.

11           THE DEFENDANT: I just wanted to also add, Judge, that  
12 I haven't had a chance to speak with my lawyer regarding the details  
13 of the case, nor have we had a visit since December of last year. So  
14 I don't think he's prepared to represent me in this case as it stands  
15 right now. We haven't discussed the case at all in detail. Again, I  
16 haven't had a visit with him since December of last year. So I don't  
17 think he's -- I don't think his counsel will be efficient at this time.

18           THE COURT: Is that true?

19           MR. POSIN: Your Honor, I have spoken to him on the  
20 phone, and I saw him on Friday, I believe it was, or -- Friday or  
21 Saturday. I was also counsel at the time of the preliminary hearing,  
22 so I visited him at that time.

23           MS. RHOADES: I believe there's also been an  
24 investigator appointed who has been to visit him multiple times.

25           MR. POSIN: And that is true, Your Honor. The problem

1 we have is exactly that, that that investigator is one Tatem Weare  
2 (phonetic), who's no longer working for my investigator and is now  
3 working somewhere else and unavailable to me.

4 THE COURT: I'm going to take a break --

5 MS. RHOADES: Okay.

6 THE COURT: -- because I really need to take a break. I'll  
7 be back in like 10 minutes or so, or 15 --

8 [Recess taken from 10:54 a.m. to 11:27 a.m.]

9 THE COURT: Okay. Welcome back. Are we on?

10 THE CLERK: Yeah.

11 THE COURT: Okay. Outside the presence of prospective  
12 jurors.

13 And you all can sit or stand, too.

14 So on what might be the easier issue, the October 9,  
15 2018 disclosure notes, LaPalma or whatever other than The Palms,  
16 both sides therefore knew or should have known that we were not  
17 talking about the grand strip or had reason to believe that maybe it's  
18 the quote/unquote, as somebody I think mentions, "seedy" -- not my  
19 word, to be clear -- a place other than The Palms that most of us are  
20 familiar with.

21 And so evidence that was recently obtained, I'll -- I don't  
22 know why there would have been a delay in figuring out which hotel  
23 it was at. So that's probably not coming in, but you're welcome to  
24 make a proffer if and when appropriate in terms of photographs that  
25 were just recently taken [indiscernible].

1 In terms of assistance of counsel, does the State have  
2 any response to what's been said so far?

3 MS. RHOADES: Your Honor, this is a retained attorney,  
4 who has been retained prior to the preliminary hearing, who put the  
5 preliminary hearing on, who has had the case since then. This is the  
6 fourth trial setting. There's been nothing proffered to the Court as to  
7 what another continuance would do or what the Defendant wanted  
8 him to do that he didn't do.

9 There has been an investigator working on the case.  
10 And even though that investigator's not on the case anymore,  
11 there's another one. And I can only assume that information has  
12 been passed back and forth from the attorney to the investigator.

13 I just -- there's been nothing specific to the Court as to  
14 what he wants him to do that he did not do, that he could do if it  
15 was continued.

16 THE COURT: Okay. Any rebuttal?

17 MR. POSIN: Yes, Your Honor. And, you know, this is  
18 responsive both to the Court's question right now and to the issue  
19 raised by my client before we took our break where he talked about  
20 the fact that I -- you know, my in-person -- my most recent in-person  
21 meeting with my investigator was just within the last several days  
22 and I hadn't seen him for a while before that.

23 The reason for that was precisely to do with this issue  
24 with my investigator. You know, I had somebody working for me, I  
25 understood. We had given her several assignments of things that

1 she was to do to investigate some of these issues, including, you  
2 know, reviewing phone records. There's an allegation that there's a  
3 phone here that had been somehow -- some app had been used  
4 allegedly to delete things, interviewing the witnesses. There are a  
5 whole series of things that I had asked her to do.

6           The reason that I wasn't meeting with my client more,  
7 earlier than I was, was precisely because I was trying to  
8 communicate and the State says I can only assume that issues were  
9 going back and forth. They were only going forth, not back. I was  
10 not getting any response from her. And it was only about a week or  
11 so ago that I learned that she, at that point, had just quit or been  
12 fired from the employ of Mr. Lawson and not having communicated  
13 back to me with the results of her investigation.

14           When I spoke to Mr. Lawson, it appeared from his file  
15 that many or most of the things that I thought were being  
16 investigated, apparently essentially weren't.

17           So, you know, the reason why I was not going out to the  
18 jail is because I kept calling over to my investigator saying when are  
19 you going to be ready, leaving a message. I never seemed to get  
20 ahold of her directly. You know, please contact me, let's go see my  
21 client and review the file with him.

22           I then learned right before trial that she's not even there.  
23 I could potentially have had -- you know had she actually done more  
24 of the investigation that she was hired to do and had she -- if she  
25 had done it, taken notes of that and had those notes been available

1 to Mr. Lawson, her employer, and had he not been in I think a  
2 murder trial himself assisting some other attorney this week, I would  
3 have had the availability and the assistance of the investigatory staff  
4 that we hired, and as the State correctly points out, quite some time  
5 ago.

6 But now I'm kind of left holding the bag here, I'm afraid,  
7 and it's a difficult position to be in, not having that investigator,  
8 apparently the investigator not having looked at records, not having  
9 done the investigation that we had asked to be done.

10 THE COURT: So let me ask you.

11 MR. POSIN: I'm sorry. Yes, sir.

12 THE COURT: No, that's okay. I'm cutting you off, so no  
13 need to apologize to me.

14 MR. POSIN: You're the Judge. You can cut us all off  
15 whenever you want to.

16 THE COURT: But --

17 MR. POSIN: And if I might add one more thing, Your  
18 Honor. You know, I understand that this has been continued quite  
19 some number of times, but it's not easy for Mr. Brass, who is in  
20 custody, to be asking for a continuance as he is.

21 You know, the State, I understand that Ms. Rhoades, I'm  
22 sure, has spent the weekend preparing and there are witnesses that  
23 have been subpoenaed. And so there is some inconvenience factor  
24 to the State, and specifically to the unfortunate Prosecutor who had  
25 to spend the weekend doing that.

1 But in general the Defendant, if this is continued, will  
2 remain in custody. He's not going anywhere. And if anybody is  
3 really inconvenienced by the delay, it's actually him. And he is --  
4 you know, I recently went over the charges here and there's some 22  
5 charges. Of those 22, I think 20 or so of them have life sentences,  
6 each of which have varying parole eligibility dates, but, you know,  
7 this is a serious case. It's his life at stake. If he is convicted of these  
8 charges, even one of them, if it's one of about, you know, eight or  
9 ten of them are a charge that has a life sentence with a possibility of  
10 parole after 35 years. So while, of course, there should be, you  
11 know, effective counsel in every case, this is a particularly serious  
12 one.

13 THE COURT: So what I'm hearing in part, at least, from  
14 you, is your calls not being returned, meetings being requested and  
15 not being done. Is that fair?

16 MR. POSIN: Yes, Your Honor.

17 THE COURT: So why in the world was any of this not  
18 raised until Thursday in some general description today more in  
19 detail? Why was that not raised at some other point, other than this  
20 Thursday? If that was the case --

21 MR. POSIN: Your Honor, I --

22 THE COURT: So hold on.

23 MR. POSIN: Sorry.

24 THE COURT: If that was a continuing thing, which the  
25 impression I'm getting from you is it was, why wasn't that raised

1 either with Mr. Lawson, who's apparently the former investigator's  
2 boss, or why wasn't it raised with me or --

3 MR. POSIN: I think I have two responses to that, Your  
4 Honor. The first response is, in retrospect yes, I should certainly  
5 have raised it earlier and perhaps more forcefully and maybe in a  
6 motion, a written motion or something.

7 But the other response is that as late as I think sometime  
8 after our calendar call, after Thursday, I still had not reviewed the  
9 investigator's file with Mr. Lawson because Mr. Lawson still hadn't  
10 obtained it. And I had anticipated that at the very least there would  
11 be something in there that I could use that she would have --

12 THE COURT: So where's Mr. Lawson right now?

13 MR. POSIN: Where is he right now?

14 THE COURT: Where is -- yeah.

15 MR. POSIN: I believe he is here in the building in trial in  
16 some other matter.

17 THE COURT: Tell the jurors to come back at 1:00. Okay.

18 You all will come back at 12:30 and hopefully  
19 Mr. Lawson's here. All I have to say is, you can probably tell by my  
20 mannerisms here on the bench, this is frustrating, to say the least  
21 for me as the Judge. We may or may not be going to trial today.

22 But, Mr. Posin, what you need to do for me, when you  
23 come back at 12:30, if I were you, I'd do everything within my power  
24 to get Mr. Lawson here.

25 And to be clear, I vehemently disagree with the

1 statement made by counsel that, oh, it's only a minor inconvenience  
2 or words to that effect to the District Attorney. That is not a fair, not  
3 an accurate, not even close to a fair true statement because to be  
4 clear, we have 90 people outside in the hallway, we have, I don't  
5 know, five or six on my side of the bench.

6 Most importantly, we have witnesses and alleged  
7 victims. And to characterize it as an inconvenience to the District  
8 Attorney who had to prepare this weekend, is -- it's frustrating to  
9 hear a characterization like that.

10 Now, having said that, I am very much a firm believer in  
11 the constitutional right to trial by a jury. And it's clear that counsel  
12 needs to be effective. That's why we're going to continue this  
13 hearing to 12:30.

14 MR. POSIN: And, Your Honor, I --

15 MS. RHOADES: And, Your Honor, may I just make a  
16 couple of comments in response?

17 THE COURT: Sure. And then Mr. Posin will get to  
18 respond, too.

19 MS. RHOADES: This is the fourth trial setting. Every  
20 single request to continue the trial has been at the Defense request  
21 to do this very same exact thing. This is nothing but a delay tactic.  
22 There is nothing specific that he has told this Court that he wants to  
23 do with the more time that he's requesting now. The rules require  
24 motions to continue a jury trial be in writing. There was no motion  
25 on Thursday, there is no written motion now, there is no good

1 cause.

2 And, again, I know Your Honor recognizes this. I mean,  
3 a seven-year-old victim, now seven years old, now 11 years old, now  
4 15 years old, there's three of them that have had to rehash this  
5 multiple times in preparation for trial. And so we would obviously  
6 object to their request.

7 THE COURT: Thank you very much.

8 MS. RHOADES: Thank you.

9 MR. POSIN: And, Your Honor, I did not mean to  
10 minimize the State's preparation and certainly not the inconvenience  
11 to the Court, the jurors, or anybody else. What I was trying to say,  
12 and obviously not very eloquently, was that there's not an issue of  
13 prejudice to the State. That these -- the witnesses are, you know,  
14 will be available at a later time. This is not a situation where the  
15 State will be any less able to put on their case.

16 What I actually meant to do was to acknowledge the  
17 inconvenience to Ms. Rhoades, certainly, and I wasn't commenting  
18 even, but I would certainly acknowledge the inconvenience to the  
19 Court, the jurors, and everybody else of any continuance.

20 THE COURT: So we'll see you back at 12:30. And if you  
21 need to speak with your client in the meantime, is he able to do  
22 that?

23 MR. POSIN: Yes, Your Honor.

24 THE COURT: Okay. So there's even more time for you  
25 two to meet, confer, and talk. To the extent that somebody's

1 claiming that they haven't had an opportunity to talk to their  
2 attorney, well here's even more than you've already had.

3 MS. RHOADES: Thank you, Your Honor.

4 MR. POSIN: Thank you, Your Honor.

5 THE COURT: Thank you all.

6 [Recess taken from 11:27 a.m. to 12:36 p.m.]

7 THE CLERK: We're on the record, Judge.

8 THE COURT: Okay. Welcome back. All counsel and  
9 Defendant Brass are present here in the courtroom.

10 I did have an opportunity to do some research on my  
11 own and also to read through the email that Ms. Rhoades provided  
12 which had some of the stuff that I was reviewing, also.

13 So, Mr. Posin, what exactly does Defendant think needs  
14 to quote/unquote, be investigated or a different way, maybe? What  
15 work needs to be done by an investigator that hasn't been done?  
16 And give me details on the issues you've been talking about  
17 because it's been a little lacking in detail.

18 MR. POSIN: Thank you, Your Honor. And I should also  
19 add that I do have Mr. Lawson here and, you know, pursuant to the  
20 Court's request.

21 THE COURT: Good afternoon, sir.

22 MR. LAWSON: Good afternoon, Your Honor.

23 MR. POSIN: Some of the issues that we wanted to look  
24 at, one of the issues in this case is the discrepancy, as we discussed,  
25 between the allegations, the initial allegations that appeared to

1 indicate that some of the acts complained of here took place at what  
2 was understood to be The Palm Hotel, that being the high rise hotel  
3 just off of the strip.

4 And Mr. Lawson, being, you know, the owner or  
5 proprietor of the investigatory agency that I hired, was actually the  
6 one who did go back at the time and look at The Palm Hotel and try  
7 to find out whether there was any -- whether there were any records  
8 that would reflect Mr. Brass having been there. So that's a task that  
9 he actually did himself.

10 He was unaware until I met with him on I think it was  
11 actually Saturday that we met and went to see Mr. Brass at the  
12 detention center, that there was any other potential place that he  
13 might be looking at, that being this motel which shares at least in  
14 part a similar name.

15 It was -- you know, we were looking at The Palm Hotel  
16 on the basis that there was an indication from in some of the  
17 testimony or some of the investigation that has been provided as  
18 discovery that the place in question was one where there were  
19 balconies, elevators, a casino, none of which seemed to pertain to  
20 this establishment.

21 And the way Your Honor characterized it earlier was  
22 something along the lines of, you know, once we've established  
23 which Palm, you know which one it is, we know which one it is. And  
24 of course that's not the posture on the defense we're taking. On the  
25 defense, when we have a discrepancy like that, it's not that we're

1 saying oh, okay, as long as we know which place the crime took  
2 place, then we know which crime place the crime took place.

3 Our position, the defense, when we have discrepancies and  
4 inconsistencies like that is to suggest to the jury potentially that  
5 because of those discrepancies maybe there was no crime that ever  
6 did take place, that when the stories don't match up and the stories  
7 don't add up, that that can consist of reasonable doubt as to  
8 whether these events ever occurred at all.

9 So it's not just, Your Honor, a question of let's figure out  
10 which Palm it is and then we know and as long as we know it's that  
11 one, we know it's that one. No. It's a case where if we've got  
12 various stories that don't match, simply finding one place that  
13 appears to share a name and could match parts of one of the  
14 witness' stories, but contradict another witness' stories, you know, is  
15 not really where we're headed with that issue on the defense.

16 So that's the context in which we would be looking more  
17 at The Palm.

18 Your Honor, when you talk about what are the specifics,  
19 sometimes the specifics come up, you know, more as you're  
20 reviewing a case. If you have an investigator and you're reviewing  
21 the case and you're saying what did you find based on some of the  
22 things that we thought we were looking at, some of those things,  
23 you know, may not bear any kind of fruit and we may not be looking  
24 at them at all.

25 THE COURT: No, I understand. I'm not sure you're -- so

1 I got your first point on Palm versus Palms or whatever. But so, for  
2 example, like has the investigator, the prior investigator no longer  
3 works for, with, or whatever Mr. Lawson, been tasked with any  
4 specific task to go interview witnesses or to contact people and has  
5 that been done or not.

6 MR. POSIN: Yes.

7 THE COURT: Is kind of -- I mean that should be an initial  
8 --

9 MR. POSIN: And, yes, absolutely, Your Honor. And if I  
10 could, if I might bring Mr. Lawson up and --

11 THE COURT: Come on up, sure. Yeah, you can stand --

12 MR. POSIN: -- and he can --

13 THE COURT: -- next to Mr. Posin, that's fine.

14 MR. POSIN: If the Court wishes I can question him or I  
15 think he could just -- I think he's heard this and can explain what  
16 he's -- what his --

17 THE COURT: Mr. Lawson go ahead. Is the State okay  
18 with that?

19 MS. RHOADES: Yes, Your Honor.

20 THE COURT: Okay, go ahead.

21 MR. LAWSON: Thank you, Your Honor. And first of all, I  
22 think that Ms. Rhoades should be allowed to question me herself on  
23 some things.

24 When I spoke to Mr. Posin, and I'm just going to lay it  
25 out like it is. So when Mr. Posin hired me back around October of

1 2018, I initially met with Mr. Brass. He gave me some information,  
2 some witness interview. We were under the assumption that it was  
3 at The Palms, so I went over there myself personally. He was never  
4 registered there. The --

5 THE COURT: Now, The Palms mean the one on -- the  
6 nice one on Flamingo?

7 MR. LAWSON: The one where the girls say it's kind of  
8 by the strip, but it's not on the strip in their testimony. And maybe  
9 I'm --

10 THE COURT: So which one did you go to?

11 MR. LAWSON: The Palms.

12 MR. POSIN: I think he means the large one with the  
13 casino.

14 MR. LAWSON: The Palms Casino, hotel casino, that's --  
15 right.

16 THE COURT: Okay.

17 MR. LAWSON: So shortly after that I hired Tatem Weare  
18 to do the case. She met with Mr. Brass. I know he asked her to  
19 interview several witnesses, to contact an expert. Then a week ago I  
20 had to terminate her. She didn't do any of this work.

21 I got ahold of Mr. Posin. He was unaware that she had  
22 been terminated. And then I met with him Saturday and he shows  
23 me a picture of The Palm. I asked him where did you get the picture  
24 from. He said he received it from Mrs. Rhoades. He wasn't sure  
25 whether he had received it earlier or at that day. How did you

1 determine who found that Palm? Show me the police report so I can  
2 follow up on that, how they -- you know, who determined that place  
3 that the crime allegedly took place. I don't have any of that.

4 Then I talked -- then he presents me with a report from a  
5 phone that the expert that Ms. Rhoades had given her -- given him.  
6 And we were going to get an expert, he said, but Mr. -- we were  
7 under the impression it wasn't anything to do with the phones, it  
8 was just kind of a give and take thing, that, you know, the phones  
9 had nothing on them. But Mr. Brass did specifically ask that we do a  
10 forensic on his phone.

11 So ultimately the responsibility lies with me. She did  
12 work with me. And I didn't follow up. And I don't know why Mr.  
13 Posin in three weeks that he tried to get ahold of her never called me  
14 and asked me, you know. In my opinion, me, as an investigator,  
15 have done this Defendant a disservice. You know, his life is on the  
16 line and there's a lot of things that should have been done that I'm  
17 ultimately responsible for.

18 I know that Ms. Rhoades has given me everything I've  
19 ever asked for. It's not the State's fault. I don't know what the  
20 communication is between her and Mr. Posin. I count on Mr. Posin  
21 to give me the things that Mrs. Rhoades sends him. So if there's  
22 any fault, I would accept that responsibility.

23 MS. RHOADES: Your Honor, everything that I'm hearing  
24 is quite nebulous and nonspecific and would not amount to  
25 prejudice. And the reason why I included that *Strickland* case law in

1 the email that I sent is because that would be the review, right, if it  
2 happened to result in a conviction and went up to the Supreme  
3 Court, ineffective -- I mean Mr. Brass brought this up about his  
4 counsel being ineffective. You have to show that he's ineffective,  
5 but you also have to show prejudice.

6 This whole nonspecific, these nonspecific items that  
7 they're talking about, they will never be able to show prejudice  
8 because they can't put their finger on exactly what they want to do.  
9 This whole LaPalm versus The Palms, the girls remember different  
10 things. And I, from my understanding of what they interviewed,  
11 how they interviewed to us, how they testified at the preliminary  
12 hearing, he took them multiple places. He took them places  
13 together, he took them places apart. So it could have been both.

14 And counsel is free to ask them about those  
15 discrepancies and free to ask them well, didn't you say this before,  
16 now you're saying this, or however he wants to go about that, but  
17 investigation more time, nothing is going to change what they're  
18 going to already be able to do.

19 The phone data was provided months ago. Nothing is in  
20 his phone, so we don't even have his phone. I don't know where  
21 Mr. Lawson is getting his phone from. There is one of the victim's  
22 iPhone and the other victim's Kyocera phone. And that data was  
23 extracted and provided to Defense counsel months ago. I have a  
24 receipted copy on file for that that I can find for the Court and tell  
25 you when it was.

1                   There's just, you know, witnesses need to be  
2 interviewed, we need to contact an expert about the phone. For  
3 what, to do what, to say what? There's nothing specific. And I know  
4 that the -- no affidavit, no sworn testimony about exactly why he  
5 needs a continuance. And I know that the Court recognizes this, but  
6 Mr. Posin did argue that there's no prejudice to the State. That's not  
7 correct. These victims suffer mental health issues because of what  
8 occurred and there are issues in this case and there may be issues  
9 with availability in the future. And I submit that that is why the  
10 Defendant wants to do this.

11                   THE COURT: Thank you very much.

12                   MS. RHOADES: Thank you.

13                   MR. LAWSON: Your Honor, I misspoke. I meant she  
14 wants specifics. He asked us to -- specifically to go to his phone  
15 company and research his phone number. I misspoke. I apologize.

16                   THE COURT: That's okay.

17                   MR. LAWSON: That's what he meant. He said go -- and  
18 it's going to show all these allegations where he asked us that. He  
19 wanted us to get an expert witness. He asked us to interview the  
20 father of one of the children or both of the children who's an inmate  
21 in New Mexico. I showed Mrs. Rhoades that information. I said we  
22 tried to get it. She said what does that mean, what do you care?  
23 Well, you know, he cares. It's his life that's on the line. He cares.  
24 And, you know, we failed him on that. It's our screw-up.

25                   THE COURT: So let me ask Ms. --

1 MR. POSIN: Your Honor?

2 THE COURT: Give me one moment. I'm trying to chime  
3 in here. You're welcome to chime in after me, but let me -- because  
4 what happens is then I get distracted and I forget the question.

5 MR. POSIN: I understand, only because it's directly  
6 related to what Mr. Lawson just specifically said.

7 THE COURT: Bear with me, please. What happens, you  
8 start talking, then I forget what I wanted to ask. Now I have -- okay.

9 You're welcome to follow up after my question, but bear  
10 with me.

11 So Ms. Tatem Weare is the person who worked for you  
12 who no longer does?

13 MR. LAWSON: Correct.

14 THE COURT: And based on your knowledge, review of  
15 the file, what have you, Ms. Weare did not do a reasonable  
16 investigation as requested by the Defendant; is that a fair  
17 characterization?

18 MR. LAWSON: Yes, sir.

19 THE COURT: Did she interview any witnesses?

20 MR. LAWSON: No, sir.

21 THE COURT: Did she hire an expert?

22 MR. LAWSON: No, sir.

23 THE COURT: Do you know whether she spoke with a  
24 potential expert?

25 MR. LAWSON: No, sir.

1 THE COURT: Okay, Mr. Posin.

2 MR. POSIN: Thank you, Your Honor. I just wanted,  
3 since Your Honor is asking for specifics, to be a little more specific  
4 about precisely why this father might -- his information, testimony,  
5 might be valuable.

6 In this case initially one of the alleged victims had first  
7 told her mother that she had been molested by another individual, a  
8 cousin of hers. And then later changed that story to say oh, actually,  
9 it wasn't the cousin, in fact it was Mr. Brass.

10 And so what our concern is, is what were the  
11 communications that may have taken place prior to her changing  
12 her story that might confirm either that none of this ever happened  
13 or that if it did happen, it was the cousin, or anything along those  
14 lines. But there is a specific -- we're not just trying to contact a  
15 person randomly just because he might have some information that  
16 in some possible unknown way might relate to the case.

17 THE COURT: I understand.

18 Ms. Rhoades, anything?

19 MS. RHOADES: That was argued at the calendar call,  
20 Your Honor. They have not noticed anybody. They can ask the  
21 mother about what this victim told the mother. They have known  
22 since day one. Mr. Posin questioned --

23 THE COURT: The problem is, their investigator should  
24 have done all that, but didn't. Isn't that --

25 MR. POSIN: Your Honor?

1 THE COURT: So hold on.

2 MR. POSIN: I'm sorry.

3 THE COURT: That's okay.

4 MR. POSIN: You talk slow sometimes and I think you  
5 stopped.

6 THE COURT: I do talk very slow, yes.

7 MR. POSIN: I apologize.

8 THE COURT: No, that's okay. I talk slow to begin with  
9 and then when I'm trying to think and articulate clearly I talk even  
10 slower, so that's okay.

11 Where were we at with you?

12 MS. RHOADES: We were talking about the prison calls.

13 THE COURT: Oh, yeah.

14 MS. RHOADES: That's what was argued at calendar call,  
15 though, Your Honor, and Your Honor denied their motion to  
16 continue based on that.

17 THE COURT: Yeah.

18 MS. RHOADES: An expert for what, though? So she  
19 didn't hire or talk to an expert for what?

20 THE COURT: Has anybody got an answer to it?

21 MR. POSIN: Yes, Your Honor, I can again address that.  
22 Although it doesn't appear that it's going to be part of the State's  
23 case in chief at this point to say so, some of the initial records  
24 suggested that there was an allegation that Mr. Brass had installed  
25 an app that remotely deleted files from somebody's phone. And,

1 you know, it's our position that that's probably something that didn't  
2 or couldn't likely happen. And so that was the issue that we were  
3 looking at there.

4 THE COURT: And did you have any --

5 MR. LAWSON: Your Honor, you know, to cut to the  
6 chase, this isn't the State's fault. This is our fault. This is my team's  
7 fault. And I blame Mr. Posin. I told him I'm -- he could have let me  
8 know three weeks ago, a month ago.

9 THE COURT: That's kind of what I asked him when you  
10 were here, too.

11 MR. LAWSON: And this man is going to trial for his life  
12 and we're here arguing about should have, could have, would have.  
13 So, I mean, I find no fault over here. I find the fault on this side.

14 MS. RHOADES: Your Honor, ineffective assistance of  
15 counsel, it is not of an investigator. And, again, they have to show  
16 prejudice.

17 THE COURT: Yeah. No, I fully understand. Well, at least  
18 I think I fully understand. And, you know, hopefully I'm less  
19 frustrated. I've had a chance to take a few deep breaths back in  
20 chambers.

21 Mr. Posin, I mean Mr. Lawson's basically confirmed an  
22 issue I had this morning in terms of well, if you weren't hearing back  
23 from Ms. Weare or she wasn't returning your calls or meeting with  
24 you or Defendant, Mr. Lawson could have been in this courtroom  
25 because he's saying the exact same thing I said this morning.

1 MR. POSIN: Absolutely, Your Honor, and Mr. Lawson  
2 was saying that, you know, he takes full responsibility for Ms.  
3 Weare. Likewise --

4 THE COURT: But he's also saying you should --

5 MR. POSIN: -- I take full responsibility for Ms. Weare. I  
6 take full responsibility for anything that I did, didn't do, should have  
7 done, and, you know, I'm not saying that this is -- you know, reflects  
8 necessarily perfectly on me, but as Mr. Lawson said, it's, you know,  
9 Mr. Brass, you know, we're all going to go home tonight to our own  
10 beds. And Mr. Brass, who's really facing the --

11 THE COURT: I know he's in custody, okay? I get that.

12 MS. RHOADES: And I know that he --

13 MR. POSIN: Well, it's not so much tonight, it's that, you  
14 know, he could be facing, you know, multiple life sentences here.

15 THE COURT: I get that, too.

16 MS. RHOADES: I know that they keep repeating that,  
17 Your Honor. I recognize that. I don't think that anything has risen to  
18 good cause. It's within the sound discretion of Your Honor and it's  
19 an abuse of discretion up on appeal if there is ever an appeal. So I  
20 just -- I don't think that there's good cause.

21 THE COURT: Yeah. And you may be right in terms of if  
22 we're looking at good cause. I may be wrong, too, but what I'm  
23 focused on here is whether we can try the case today, this week,  
24 going into next week, with effective assistance of counsel versus  
25 ineffective assistance of counsel.

1                   And, yeah, has Mr. Posin shown cause? No. Clearly not,  
2 for not following up with Ms. Weare, not reaching out to Mr.  
3 Lawson. I mean I said or thought the same things Mr. Lawson said.  
4 Well, if that was the case, you apparently have the relation with Mr.  
5 Lawson. It makes no sense to me why Mr. Posin you didn't follow  
6 up with Mr. Lawson previously. We've been down all these things.

7                   I don't think I have a choice. I mean I do have a choice,  
8 but I'm going to continue the trial. And before we figure out when,  
9 Ms. Rhoades provided the email part of which includes NRS  
10 174.515(1), that the Court may require the party seeking the  
11 postponement to consent to taking forthwith or at any time to be  
12 fixed by the Court the deposition of any witness summoned by the  
13 opposite party whose deposition has not previously been taken.

14                   Are there any such depositions that need to be done?

15                   MS. RHOADES: No. Part of the impact in these cases  
16 are having these victims come in and testify in front of the jury. So,  
17 no. Thank you, though.

18                   THE COURT: Okay. And to be clear, I'll express myself  
19 more, also, here in a moment. But in terms of the investigation,  
20 how much time do you need, especially in light of the fact that Mr.  
21 Posin has had this case from the inception which began quite some  
22 time ago.

23                   MR. LAWSON: When is your next stack? I've always  
24 wanted to say that.

25                   THE COURT: There you go. Pretend you're an attorney.

1 June 24th or --

2 MR. LAWSON: No, a little longer than that.

3 MS. RHOADES: Well, I mean my trials stacked, as well,  
4 so I just --

5 THE COURT: So we have -- so I'll give you four dates to  
6 choose from, okay? June 24th, July 8th, July 15, July 22nd.

7 MS. RHOADES: I have another one in here on July 22nd  
8 that actually might go. And I have several trial sets through the end  
9 of the year, honestly. So if they want a continuance, maybe we can  
10 set it in February of next year.

11 THE COURT: Any response?

12 MR. POSIN: That's certainly longer than --

13 UNIDENTIFIED SPEAKER: Or we can go this week.

14 MR. POSIN: -- than it would take us to complete our  
15 investigation. You know, I certainly am not in a position to having  
16 been the one asking for the continuance to really complain about a  
17 lengthy continuance. Again, I only mention the fact that, you know,  
18 Mr. Brass is in custody, but other than that, we are amenable to  
19 whatever the Court sets.

20 THE COURT: Well, February's -- I mean do you have  
21 cases older than this one on those others?

22 MS. RHOADES: In July, yes.

23 THE COURT: Okay. So let's go to --

24 MS. RHOADES: I don't know if it's older, but.

25 THE COURT: No, that's fine. I mean we'll -- between not

1 going forward in July, but hopefully before February is what I would  
2 throw out there. So mine are, then I have September 3, September  
3 9, September 16, 23, 30, and so September.

4 MS. RHOADES: I can't do -- maybe the last week in  
5 September, September 30th.

6 THE COURT: September 30.

7 [Court and Clerk confer]

8 THE COURT: Any issues with the last week, September  
9 30?

10 MR. POSIN: Again, Your Honor, we will make ourselves  
11 available at the Court's pleasure.

12 THE COURT: Does September 30 work for the State?

13 MS. RHOADES: Oh, I can't. I'm sorry, Your Honor,  
14 there's a retrial that's set on that same week.

15 MS. EINHORN: Well, Judge, it's a retrial that Ms.  
16 Rhoades and I are doing probably together and calendar call is the  
17 30th, but if this is probably going to go into a second week, that's a  
18 firm setting for October 7th in front of Judge Jones that she will not  
19 move.

20 [Counsel confer]

21 THE COURT: November?

22 MS. RHOADES: I can't do November. I will be out of the  
23 country in November. That's why I said all the way through  
24 February. That should give them ample time.

25 MR. POSIN: Your Honor, I don't know how likely the

1 case is to go beyond the full week. The State, you know, is --

2 THE COURT: Yeah. If we give a full week --

3 MR. POSIN: But I'm -- you know, if we started on  
4 September 30th and finished by the 4th, then --

5 MS. RHOADES: I don't think that it's going to --

6 THE COURT: Okay. Here's your date.

7 [Court and Clerk confer]

8 THE COURT: Okay. Do you want February 10, 18, 24,  
9 March 2 or March 9?

10 MS. RHOADES: 24, please, February 24.

11 THE COURT: February 24 it is. I'm going to set status  
12 checks, so let's give you the trial date and calendar call and then  
13 we'll give you a status check.

14 THE CLERK: The calendar call will be February 20th of  
15 2020 at 8:30 a.m. The trial stack will be February 24th of 2019 at --  
16 I'm sorry -- 2020 at 10:30 a.m.

17 THE COURT: And status check, when would 90 days  
18 from now be?

19 THE CLERK: And the status check will be August 13 of  
20 2019 at 8:30 a.m.

21 MS. RHOADES: Thank you very much. And for the  
22 record I do want to file an amended information. I did show this to  
23 Mr. Posin and I don't believe he has any objection to it. Is that  
24 correct?

25 MR. POSIN: That's correct.

1 MS. RHOADES: I have also provided the Clerk evidence  
2 that the detective brought in and I will leave those with the Clerk.  
3 There are two envelopes and I will leave those with her, and we will  
4 get them -- I will remember to get them next time. May I file this  
5 amended information, Your Honor?

6 THE COURT: Is that okay?

7 Yes.

8 MS. RHOADES: Thank you.

9 THE COURT: And like I said, I want to articulate further  
10 my reasons for doing what I just did. I have reviewed the email  
11 from the State, which to be clear was also copied to Mr. Posin's  
12 email account, cited law that I basically was already looking at,  
13 including *Strickland v. Washington*, US Supreme Court 466; US 668,  
14 *Jackson v. Warden*, Nevada State Prison, 91 Nevada 430; *Kertchy v.*  
15 *State* [phonetic] *v. State*, 112 Nevada 980. Oh, yeah, *Zessman*, 94  
16 Nevada 28; *Colgain*, [phonetic] 102 Nevada 220.

17 To me I -- like I said earlier, I took great umbrage or issue  
18 with the statement that it's an inconvenience only to the D.A. That's  
19 not true. But as sympathetic as I may be to the State, to the alleged  
20 victims, witnesses, I don't think I have any other choice but to  
21 exercise my discretion to continue the trial as I have based on the  
22 facts and circumstances and the law I cited.

23 Thank you all.

24 MS. RHOADES: Thank you, Your Honor.

25 MR. POSIN: And, Your Honor --

1 THE COURT: Anybody object to the jurors being  
2 excused?

3 MS. RHOADES: No, Your Honor.

4 MR. POSIN: No, Your Honor.

5 THE COURT: Is that all a no?

6 MR. POSIN: That's a no, Your Honor.

7 THE COURT: Okay.

8 MR. POSIN: Your Honor, I know that when it comes to  
9 custody issues, the Court, I'm sure, would prefer something in  
10 writing --

11 THE COURT: File a motion, yes.

12 MR. POSIN: -- but I just wanted to say that based on the  
13 length of time until the new trial setting, I will probably be filing a  
14 motion to consider Mr. Brass' custody status. And, you know, again,  
15 this is -- none of this is through any fault of his. To the extent that  
16 Mr. Lawson and I are responsible for this delay, it's certainly not  
17 Mr. Brass' fault that any of this happened.

18 MS. RHOADES: And the Court's already ruled.

19 THE COURT: I suspect that the State will oppose any  
20 motion that may or may not be filed, if and when it is filed.

21 MS. RHOADES: Yes, Your Honor.


22 MR. POSIN: I anticipate they will oppose it.

23 THE COURT: Thank you all.

24 MR. POSIN: Thank you, Your Honor.

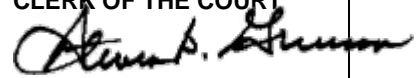
25 [Hearing concluded at 1:08 p.m.]

1  
2 ATTEST: I do hereby certify that I have truly and correctly transcribed the  
3 audio/video proceedings in the above-entitled case to the best of my ability.

4 

5 Valori Weber  
6 Transcriber

7  
8 Date: May 27, 2020



1 RTRAN

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4 DISTRICT COURT  
5 CLARK COUNTY, NEVADA

6 THE STATE OF NEVADA,

7 Plaintiff,

8 vs.

9 DEQUINCY BRASS,

10 Defendant.

11 CASE NO.: C-18-329765-1

12 DEPT. NO.: XV

13  
14 BEFORE THE HONORABLE JOE HARDY, DISTRICT COURT JUDGE  
15 TUESDAY, AUGUST 13, 2019

16  
17 RECORDER'S TRANSCRIPT RE:  
18 **STATUS CHECK: TRIAL READINESS**

19 APPEARANCES:

20 For the State:

KRISTINA A. RHOADES, ESQ.

21 For the Defendant:

MITCHELL L. POSIN, ESQ.

22  
23 RECORDED BY: MATTHEW YARBROUGH, COURT RECORDER  
24  
25

1 LAS VEGAS, NEVADA, TUESDAY, AUGUST 13, 2019, 8:50 A.M.

2 \* \* \* \* \*

3 COURT CLERK: Page two, C329765, the State of Nevada versus Dequincy  
4 Brass.

5 MR. POSIN: Good morning, Your Honor, Mitchell Posin, bar number 2840  
6 appearing on behalf of Mr. Brass, who is here present and in custody.

7 THE COURT: Good morning.

8 MRS. RHOADES: Good morning, Your Honor. Kristina Rhoades, on behalf of  
9 the State.

10 THE COURT: Good morning. So, today is our status check to make sure  
11 we're getting ready for trial on February 24<sup>th</sup>.

12 MR. POSIN: And we are getting ready, Your Honor. Um, my investigator has  
13 been involved in some murder cases, so, he hasn't, um, been able to do as much as  
14 I hoped by this point. And I thought perhaps we would be able to bring some  
15 negotiations. But, I've been communicating with him and his office.

16 MRS. RHOADES: I'm just not confident with that, given the history of the case  
17 - -

18 THE COURT: So, how soon do we want to come back, and make sure - -  
19 yeah, I mean, that's why I set these so - -

20 MR. POSIN: I'm happy to come back in say thirty days, Your Honor.

21 MRS. RHOADES: I mean, there were issues that they raised about the  
22 Defendant's cell phone, and they wanted his cell phone records and all these things  
23 they represented to the Court to get a continuance. So, I think they should show - - I  
24 have not received anything from them.

25 ///

1 THE COURT: Ninety days ago, right, I guess it's been? Um, do we need to  
2 bring in the investigator in, I mean, again, it's been ninety days - -

3 MR. POSIN: That's fine. I can bring him in, Your Honor.

4 THE COURT: Um, - -

5 MR. POSIN: We can set it for the Court's convenience, and I'll get him in.

6 THE COURT: Let's do thirty-days from now, and the investigator is required to  
7 be here. And - - so, a little more than thirty-days because I won't be here. But, um,  
8 yeah, it's been ninety-days since we've continued. And I share very much the  
9 State's concerns, if nothings happen since then. Let's bring you back in thirty, and  
10 then I'll start - - start coming in more frequently.

11 MRS. RHOADES: Okay. Thank you, Your Honor.

12 THE COURT: If that will help.

13 COURT CLERK: October 1<sup>st</sup>, 2019, at 8:30 a.m.

14 COURT CLERK: Ms. Rhoades I have these two evidence binders, do you  
15 want these back?

16 MRS. RHOADES: Those were the evidence - - that was the evidence from the  
17 detective, is that right?

18 COURT CLERK: Yes.

19 MRS. RHOADES: Can you keep those in the vault, since you have - -

20 COURT CLERK: Keep them until February?

21 MRS. RHOADES: Is that okay?

22 COURT CLERK: Yeah.

23 MRS. RHOADES: Okay. Thank you.

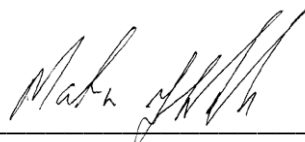
24 MR. POSIN: Thank you, Your Honor.

25 ///

1 THE COURT: Thank you.

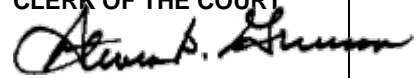
2 [Proceedings concluded, 8:52 a.m.]

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

5 

6 MATTHEW YARBROUGH  
7 Court Recorder/Transcriber

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1 RTRAN

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4 DISTRICT COURT  
5 CLARK COUNTY, NEVADA

6 THE STATE OF NEVADA,

7 Plaintiff,

8 vs.

9 DEQUINCY BRASS,

10 Defendant.

11 CASE NO.: C-18-329765-1

12 DEPT. NO.: XV

13  
14 BEFORE THE HONORABLE DAVID BARKER, DISTRICT COURT JUDGE  
15 TUESDAY, OCTOBER 1, 2019

16  
17 RECORDER'S TRANSCRIPT RE:  
18 **STATUS CHECK: TRIAL READINESS**

19 APPEARANCES:

20 For the State:

KRISTINA A. RHOADES, ESQ.

21 For the Defendant:

MITCHELL L. POSIN, ESQ.

22  
23 RECORDED BY: MATTHEW YARBROUGH, COURT RECORDER  
24  
25

1 LAS VEGAS, NEVADA, TUESDAY, OCTOBER 1, 2019, 9:32 A.M.

2 \* \* \* \* \*

3 THE COURT: C329765, the State of Nevada versus Dequincy Brass. The  
4 record shall reflect the presence of Mr. Posin for the Defendant. And Ms. Rhoades  
5 for the State. And Mr. Brass is present in custody. Time set for status check for trial  
6 readiness. My notes reflect this was continued with the jury in the hallway in May of  
7 2019. Sufficient minutes regarding ongoing investigative efforts from the Defense.  
8 Um, this was continued because Judge Hardy wanted to ensure those investigative  
9 efforts - - necessary efforts were moving forward and that we have a realistic trial  
10 date in February. That is where I am at, is that fairly stated?

11 MRS. RHOADES: Yes, Your Honor.

12 MR. POSIN: Fairly stated, Your Honor.

13 THE COURT: Mr. Posin, Mr. Lawson, you're still on the case?

14 MR. LAWSON: Yes, sir.

15 THE COURT: You have - - and if I read the minutes and I remember them  
16 correctly, you had an associate working for you that was underperforming. And now  
17 you are taking responsibility for the necessary investigative effort, is that right?

18 MR. LAWSON: Yes, sir.

19 THE COURT: Have you been able to communicate with Mr. Brass and Mr.  
20 Posin, and do you have the information to do the work that you must?

21 MR. LAWSON: Yes, I have not personally seen the Defendant, but I have  
22 spoken with Mr. Posin on several occasions.

23 THE COURT: And he has given you the direction, Mr. Posin, you are  
24 running the case from Mr. Brass - -

25 MR. POSIN: Yes, Your Honor.

1 THE COURT: And does this remain a realistic trial date?

2 MR. POSIN: I think it does, Your Honor. I shouldn't say I think it does, Yes, it  
3 does, Your Honor.

4 THE COURT: Mr. Brass, you understand that?

5 MR. BRASS: Yep.

6 THE COURT: Is there any information that you need or would like to  
7 communicate to Mr. Posin now - - privately - - um, I would let him talk to you as long  
8 as you need. Or something you would like to express to the Court and remember we  
9 are on the public record, right now? Everybody is here, but I want this to be a real  
10 trial date. I don't want a jury - - like I read in the minutes - - literally in the hallway,  
11 witnesses all lined up. And time and money spent to give you a good trial because  
12 that's what you have a constitutional right to have - -

13 MR. BRASS: Right.

14 THE COURT: But you need to have a defense really - -

15 MR. BRASS: Yes, sir.

16 THE COURT: Have you communicated everything that you need to  
17 communicate to Mr. Posin?

18 MR. Brass: Ah, not completely, but I think that he is supposed to come and  
19 visit me.

20 THE COURT: Okay. So, it sounds like he has got some more information for  
21 you. Whatever that is I don't care, I just want to make sure that it is given to you, so  
22 Mr. Lawson can do whatever needs to be done, fair?

23 MR. POSIN: Fair enough, Your Honor.

24 ///

25 ///

1 THE COURT: Do - - staff- - court staff, do you want me to set a status check.  
2 It sounds like Judge Hardy was kind of keeping hands down on this one. Sixty-  
3 days? Sixty-days status check.

4 MRS. RHOADES: Thank you, Your Honor.

5 COURT CLERK: December 3<sup>rd</sup>, 8:30 a.m.

6 THE COURT: See you all on December 3<sup>rd</sup>. I don't think we need Mr. Lawson.

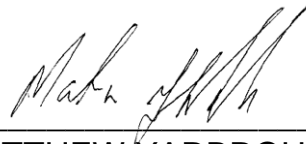
7 MR. POSIN: Thank you, Your Honor.

8 MRS. RHOADES: Thank you, Your Honor.

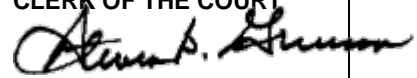
9 THE COURT: Thank you.

10 [Proceedings concluded, 9:34 a.m.]

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

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14 MATTHEW YARBROUGH  
15 Court Recorder/Transcriber  
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1 RTRAN

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4 DISTRICT COURT  
5 CLARK COUNTY, NEVADA

6 THE STATE OF NEVADA,

7 Plaintiff,

8 vs.

9 DEQUINCY BRASS,

10 Defendant.

11 CASE NO.: C-18-329765-1

12 DEPT. NO.: XV

13  
14 BEFORE THE HONORABLE JOE HARDY, DISTRICT COURT JUDGE  
15 TUESDAY, DECEMBER 3, 2019

16  
17 RECORDER'S TRANSCRIPT RE:  
18 **STATUS CHECK: TRIAL READINESS**

19 APPEARANCES:

20 For the State:

KRISTINA A. RHOADES, ESQ.

21 For the Defendant:

MITCHELL L. POSIN, ESQ.

22  
23 RECORDED BY: MATTHEW YARBROUGH, COURT RECORDER  
24  
25

1 LAS VEGAS, NEVADA, TUESDAY, DECEMBER 3, 2019, 8:49 A.M.

2 \* \* \* \* \*

3 MR. KERN: Um, Your Honor, and this is actually, a Special Teams case, and I  
4 believe that Ms. Rhoades is coming down in this one.

5 THE COURT: Okay.

6 [Trailed]

7 [Recalled at 9:23 a.m.]

8 COURT CLERK: Page four, C329765, the State of Nevada versus Dequincy  
9 Brass.

10 MR. POSIN: Good morning, Your Honor, Mitchell Posin, bar number 240  
11 appearing on behalf of Mr. Brass, who is here present and in custody.

12 MRS. RHOADES: Good morning, Your Honor. Kristina Rhoades, on behalf of  
13 the State.

14 THE COURT: Good morning. Okay, are you moving forward?

15 MR. POSIN: Yes, Your Honor.

16 THE COURT: And the trial is set, and let's see what are our upcoming dates?

17 COURT CLERK: We have the week, um, they are currently set for February  
18 24<sup>th</sup>, - -

19 THE COURT: Yeah. So, do we have a calendar call or a status check?

20 COURT CLERK: Yes, we have a calendar call on February 20<sup>th</sup>, um, as well  
21 as a state check regarding trial readiness [indiscernible].

22 THE COURT: Okay. Any issues, questions, concerns?

23 MRS. RHOADES: I have a couple, you know, I haven't received any - - I  
24 don't believe that they have any documents or anything that would be discoverable  
25 at this point in time, which is fine. I know the investigator was here at the last status

1 check. I know, the Court recalls this being continued while the Jury was in the  
2 hallway, and there was a bunch of representations made that the Defendant wanted  
3 them to do certain things like look at his phone, get a phone expert, get some sort of  
4 other expert that they - - that they told the Court, in order for the Court to grant the  
5 continuance. So, I don't know - -

6 THE COURT: Has that been - - yeah fair question.

7 MR. POSIN: We have not yet obtained an expert, Your Honor. We anticipate  
8 on doing that shortly.

9 THE COURT: So, I'm not going to continue your trial again.

10 MR. POSIN: I'm just telling you - -

11 THE COURT: So, I mean, let's see back, ah, yeah Ms. Rhoades points out in  
12 May. So, what's that seven months ago. So, you don't have an expert yet?

13 MR. POSIN: Not yet, Your Honor.

14 THE COURT: So, what exactly have you been doing?

15 MR. POSIN: I, Your Honor, I have been consulting with my investigator and  
16 reviewing the documents. We do not have an expert yet, but we anticipate on having  
17 one shortly.

18 THE COURT: Any suggestions Ms. Rhoades - -

19 MRS. RHOADES: Well - -

20 THE COURT: What should I do to make sure this happens?

21 MRS. RHOADES: I suppose that we continue to set these status checks. And  
22 I don't know what shortly means, but.

23 THE COURT: So, by the end of the year shortly?

24 MR. POSIN: Yes, Your Honor.

25 ///

1 THE COURT: So, let's bring you back in two weeks. And then - - I mean, I  
2 don't want to bring you back unnecessarily, but given the history and giving the  
3 vagueness and the lack of an expert in the last seven months. Um, probably going  
4 to have to do that, I guess. So, two weeks status check, if that works for both of you.

5 COURT CLERK: That will be December 17<sup>th</sup>, at 8:30 a.m.

6 THE COURT: Are both you available?

7 MRS. RHOADES: Yes, Your Honor.

8 MR. POSIN: Yeah, that's fine.

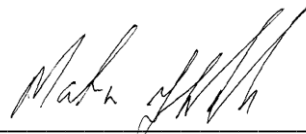
9 THE COURT: Okay.

10 MR. POSIN: Thank you, Your Honor.

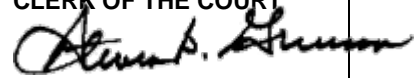
11 MRS. RHOADES: Thank you.

12 [Proceedings concluded, 9:27 a.m.]

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

15 

16 MATTHEW YARBROUGH  
17 Court Recorder/Transcriber



1 RTRAN

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4 DISTRICT COURT  
5 CLARK COUNTY, NEVADA

6 THE STATE OF NEVADA,

7 Plaintiff,

8 vs.

9 DEQUINCY BRASS,

10 Defendant.

CASE NO.: C-18-329765-1

DEPT. NO.: XV

11  
12  
13  
14 BEFORE THE HONORABLE JOE HARDY, DISTRICT COURT JUDGE  
15 TUESDAY, DECEMBER 17, 2019

16  
17 RECORDER'S TRANSCRIPT RE:  
18 **STATUS CHECK: TRIAL READINESS**

19 APPEARANCES:

20 For the State:

KRISTINA A. RHOADES, ESQ.

21 For the Defendant:

MITCHELL L. POSIN, ESQ.

22  
23 RECORDED BY: MATTHEW YARBROUGH, COURT RECORDER  
24  
25

1 LAS VEGAS, NEVADA, TUESDAY, DECEMBER 17, 2019, 9:05 A.M.

2 \* \* \* \* \*

3 COURT CLERK: Page four, C329765, the State of Nevada versus Dequincy  
4 Brass.

5 MRS. RHOADES: Good morning, Your Honor. Kristina Rhoades, on behalf of  
6 the State.

7 MR. POSIN: Good morning, Your Honor, Mitchell Posin, bar number 240  
8 appearing on behalf of Mr. Brass, who is here present and in custody.

9 THE COURT: Good morning. So, Mr. Posin, do you have an expert?

10 MR. POSIN: I- - I'm working on it, and I don't have one yet. Let me tell you  
11 what's - - what we're kind of looking for, Your Honor, somebody who can tell us what  
12 a particular program can or cannot do. Because he alleged to have remotely deleted  
13 information from these cell phones, um, or a cell phone anyway. And I'm looking for  
14 somebody who can kind of just prove that. - -

15 THE COURT: So what have you done to find somebody?

16 MR. POSIN: I've made inquiries, and I think I may have somebody. Of course,  
17 I wanted to have somebody today, because I knew I was coming back to court  
18 today. But I don't quite.

19 THE COURT: Um, what else have you done to prepare for trial?

20 MR. POSIN: Well, I met with my client yesterday, and I've been reviewing the  
21 transcripts of the preliminary hearing, and I've met several times with my  
22 investigator.

23 THE COURT: Well, we're gonna - - like I said last time we're going to go to  
24 trial on, was it February 24<sup>th</sup>.

25 MR. POSIN: And we'll be ready, Your Honor.

1 THE COURT: Anything from the State?

2 MRS. RHOADES: No. Just a brief record, I did speak with Mr. Posin's  
3 investigator yesterday, and he indicated to me that they were speaking to someone  
4 about the cell phones. I mean, I can tell the Court that the State has never been in  
5 possession of a cell phone from the Defendant. When he was booked into custody,  
6 he didn't have a cell phone on him. There was an X-Box that was taken, um, that  
7 they were not able to get into, and there was two cell phones that were associated  
8 with the two victims in this case. Um, there was some data that was extracted from  
9 the black Nokia Sairo cell phone. But the white iPhone that was encrypted, and so,  
10 that was unable to be, um, to get any data from.

11 The victims do believe that he was remotely connecting into their phones. I  
12 believe at certain points in time during the sexual assault; they lasted - - you know,  
13 they accrued over serval years. There's really no evidence that I have of that, that  
14 the State is going to be proceeding on, I mean, it might come up when they are  
15 telling their story. That's what they believe, but there's no data, no examination, no  
16 anything for another expert to go through. So, I don't know what - -

17 THE COURT: So, it might be - - I mean, it - - it other than saying that there  
18 might not be a basis for them to say that - -

19 MRS. RHOADES: Um.- -

20 THE COURT: Um, so it might be something were the two of you talk, and  
21 come up with some stipulation, maybe we could avoid that. Um, but thank you for  
22 that clarification.

23 MRS. RHOADES: Sure.

24 THE COURT: Anything else?

25 MR. POSIN: That's the only thing, Your Honor.

1 THE COURT: Okay. Well, let's have you come back and see me in like the  
2 second week of January.

3 COURT CLERK: And that would be January 14<sup>th</sup>, 2020, at 8:30 a.m.

4 MRS. RHOADES: Thank you very much.

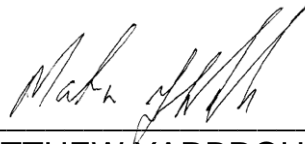
5 THE COURT: Thank you; thank you both. Is that - - are you available, Mr.  
6 Posin? Let's make sure you are fine.

7 MR. POSIN: Yes, that's fine, and I'll be in the building that morning anyway  
8 that day.

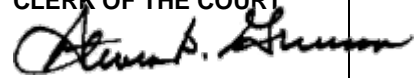
9 THE COURT: Thank you.

10 [Proceedings concluded, 9:09 a.m.]

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

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14 MATTHEW YARBROUGH  
15 Court Recorder/Transcriber  
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1 RTRAN

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4 DISTRICT COURT  
5 CLARK COUNTY, NEVADA

6 THE STATE OF NEVADA,

7 Plaintiff,

8 vs.

9 DEQUINCY BRASS,

10 Defendant.

CASE NO.: C-18-329765-1

DEPT. NO.: XV

11  
12  
13  
14 BEFORE THE HONORABLE JOE HARDY, DISTRICT COURT JUDGE  
15 TUESDAY, JANUARY 14, 2020

16  
17 RECORDER'S TRANSCRIPT RE:  
18 **STATUS CHECK: TRIAL READINESS**

19 APPEARANCES:

20 For the State:

KRISTINA A. RHOADES, ESQ.

21 For the Defendant:

MITCHELL L. POSIN, ESQ.

22  
23 RECORDED BY: MATTHEW YARBROUGH, COURT RECORDER  
24  
25

1 LAS VEGAS, NEVADA, TUESDAY, JANUARY 14, 2020, 9:14 A.M.

2 \* \* \* \* \*

3 COURT CLERK: Page four, C329765, the State of Nevada versus Dequincy  
4 Brass.

5 MRS. RHOADES: Good morning, Your Honor. Kristina Rhoades, on behalf of  
6 the State.

7 MR. POSIN: Good morning, Your Honor, Mitchell Posin, bar number 2840  
8 appearing on behalf of Mr. Brass, who is here present and in custody.

9 THE COURT: Good morning. So, have you hired an expert?

10 MR. POSIN: I have not, Your Honor, you know, we've looked at that, and I  
11 think that we are going to go in a different direction with that. But we have been  
12 working diligently, including meaning yesterday with my investigator. So, we're going  
13 to be ready.

14 THE COURT: Okay. Does the State have any questions?

15 MRS. RHOADES: The State does not have any issues, Your Honor.

16 THE COURT: All right, and how long do we expect this one to last?

17 MRS. RHOADES: This has two minor victims, and this might go over a week.  
18 I - - I don't know, maybe six days.

19 MR. POSIN: I concur, Your Honor.

20 THE COURT: Okay. Let's put you down for six to seven, just in case. And  
21 your set to come back on February 20<sup>th</sup>, for your calendar call and February 24<sup>th</sup>, for  
22 your trial. And we'll see you then unless there is anything further.

23 MRS. RHOADES: I don't think so. I just did want to make a record. There  
24 have been receipts of copy filed in this case for discovery and provided to the  
25 Defense - -

1 THE COURT: Okay - -

2 MRS. RHOADES: And in addition to those receipts of copy, there been two  
3 phone exams that have also been provided to the Defense that's not in the receipt of  
4 copy. And there are a couple of emails that have been sent to the Defense. But I  
5 think he can verify that he has received the phone exams that have been done in  
6 this case.

7 MR. POSIN: Your Honor, we've, um, - - actually I have my investigator here  
8 and we'd just been discussing that, and he's located - - as, Your Honor, may recall  
9 he had given, or we had given the file to somebody that worked for him and was  
10 working on it so - -

11 THE COURT: Right. - -

12 MR. POSIN: Um, and now we've got a new team on the investigator's side  
13 handling it. And we have located most of the documents, and I'll work with Ms.  
14 Rhoades, and I'm confident we'll be able to get any of the things that we believe,  
15 that we either have signed a ROC for and can't find, or there are certain things  
16 where it appears that we may not have been provided them. Wherefore instance,  
17 there are, um, ah, the transcripts of recordings that we would actually like the  
18 recordings. But I'm confident that I can work with Ms. Rhoades to get that resolved.

19 MRS. RHOADES: I just want to verify the following exams, because those  
20 have not been documented in a ROC, that I can find.

21 THE COURT: Yeah, do you have the following things?

22 MR. POSIN: I - - I don't know if we do, your Honor.

23 THE COURT: Your investigator is shaking his head no, right. Is that fair?

24 ///

25 ///

1 MR.LAWSON: That's was yes and no. Ms. Roades has been very helpful. I  
2 think we might have them; I'm just not really sure. She sent us - - she's being  
3 helpful. I'm going to go back and look through what I have and call her up and say,  
4 is this what you are talking about. I'm quite sure it is.

5 THE COURT: Okay.

6 MR.LAWSON: So, She - she is bending over backward for us.

7 MRS. RHOADES: And I apologize, Your Honor. This has actually been  
8 documented on receipt of copy, that was filed on November 9<sup>th</sup>, 2019, an iPhone  
9 and Nokia Sairo, call phone report. So, that has been documented.

10 THE COURT: Okay. Should I bring you back before February 20<sup>th</sup>?

11 MR. POSIN: I don't really see any need to, Your Honor. If there is any issue,  
12 we could always put something on the calendar.

13 THE COURT: Your thoughts Ms. Rhoades.

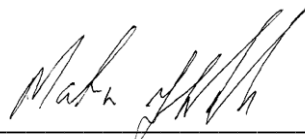
14 MRS. RHOADES: I think - - I think we'll be okay now. We 're a month before  
15 trial, and they say they are ready. So, that's what we'll count on.

16 THE COURT: Sounds good, all right. See you on February 20<sup>th</sup>.

17 MRS. RHOADES: Thank you very much.

18 [Proceedings concluded, 9:18 a.m.]

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

21 

22 MATTHEW YARBROUGH  
23 Court Recorder/Transcriber  
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THE STATE OF NEVADA,  
Plaintiff,  
vs.  
DEQUINCY BRASS,  
Defendant.

CASE: C18-329765-1  
DEPT. XV

**RECORDER'S PARTIAL TRANSCRIPT OF HEARING:  
CALENDAR CALL, UNSEALED PORTION**

For the State: KRISTINA A. RHOADES, ESQ.  
Chief Deputy District Attorney

For the Defendant: MITCHELL T. POSIN, ESQ.

RECORDED BY: MATTHEW YARBROUGH, COURT RECORDER

1 LAS VEGAS, NEVADA, THURSDAY, FEBRUARY 20, 2020, 10:03 A.M.

2 \* \* \* \* \*

3 THE CLERK: C329765, State of Nevada versus Dequincy Brass.

4 MR. POSIN: Good morning, Your Honor, Mitchell Posin, Bar Number  
5 240, on behalf of the Defendant, who is here present in custody.

6 THE COURT: Good morning, good morning.

7 MS. RHOADES: Good morning, Your Honor, Kristina Rhoades, on  
8 behalf of the State.

9 THE COURT: Alright, are we all set?

10 MR. POSIN: Well, Your Honor, I came in here ready to announce  
11 that I was all set, uh, speaking to Mr. Brass this morning, he tells me that  
12 he has mailed into the Court a Motion to have appointed counsel instead  
13 of me. So, he - - I don't know how the Court wants to proceed, I'm - - you  
14 know if the Court wishes I would be ready for trial. If the Court wishes,  
15 um - - you know he does not want to have me apparently anymore. Um,  
16 if that is the case, that would, of course, entail a continuance. Um, I'm  
17 not asking for that on behalf of myself; he deservedly would be.

18 THE COURT: Sure, I understand. Anything from the State on this?

19 MRS. RHOADES: Yes, Your Honor. You know, it's not what anyone  
20 wishes; it's the law says. There is a case, I believe it's the Young case,  
21 and I can grab that - -

22 THE COURT: I think - - I think I - - bear with me cuz I might have it  
23 deep in here. - -

24 ///

25 ///

1 MRS. RHOADES: Ah, this is news to me; this is the first time I've  
2 heard of it. The timing of this is quite suspect, um, considering the  
3 history of this case and what's gone on with it.

4 THE COURT: Just bear with me a moment - -

5 MR. POSIN: Your Honor, I've not seen the document; I just heard  
6 about it this morning.

7 THE COURT: No, I - - just bear - - I just logged into my computer,  
8 and everything is different. Is that the case that talks to withdrawal on  
9 the eve or something like that?

10 MRS. RHOADES: Yes, and substituting in the factors that we have  
11 to go through - -

12 THE COURT: I know I have read it. Apparently, I don't have it saved  
13 on my drive, hold on.

14 MRS. RHOADES: I have the cite here.

15 THE COURT: Is it, ah, 120 Nevada 963?

16 MRS. RHOADES: Yes.

17 THE COURT: Okay. Bless you. I know that I have read this case  
18 more than once. Do we - - what is the other case we have on Mauk?

19 JEA: Yeah, Mauk.

20 THE COURT: Should we call Mauk first?

21 MRS. RHOADES: Your Honor, may I trouble the Court - - can I have  
22 a copy of whatever the Defendant filed?

23 THE COURT: I don't think we have it. If we had it, I would totally give  
24 a copy to you both, but I don't think I have it, right?

25 ///

1 JEA: No. We've not received it at this point in time. If I would have  
2 had it, I would have emailed to everybody.

3 MRS. RHOADES: Well, maybe Mr. Brass could tell the Court, Um,  
4 the reasons why he does not want his hired counsel. And I'm happy to  
5 step-out for that if the Court wants to do that.

6 THE COURT: Yeah, Let's call Mauk first, and then maybe we can  
7 get into that.

8 MRS. RHOADES: Okay.

9 **[Court Trails 10:07]**

10 **[Court back in session 10:10]**

11 COURT CLERK: C329765, State of Nevada versus Dequincy Brass.

12 THE COURT: Okay. Um, so your okay, you said, I think stepping  
13 out?

14 MRS. RHOADES: Yes, Your Honor, and I think we need - - I mean  
15 just reviewing this case, and I know that Your Honor reviewed it too. The  
16 extent of the conflict between the Defendant and counsel, you know, and  
17 this is the first that we're ever hearing from Mr. Posin, and nothing has  
18 been heard from Mr. Brass yet. Um, and then the timeliness of the  
19 Motion and the extent of any inconvenience or delay. I'm happy to be  
20 heard on that now or after.

21 THE COURT: Um, probably after, I think.

22 MRS. RHOADES: Okay. It's a little hard because we generally get  
23 the motions - - the filed motions. So, I already know that the complaints  
24 are so that I can better address the inconvenience and all of that. Um,  
25 but I'm happy to step-out if you want to inquire about what the conflict is.

1 THE COURT: Sure, thank you.

2 MRS. RHOADES: Okay, thank you.

3 **[Sealed hearing outside the presence of the State 10:11 a.m. –**

4 **10:47 a.m. - - transcribed separately]**

5 **[Hearing in the presents of the State begins at 10:47]**

6 THE COURT: Welcome back.

7 MRS. RHOADES: Thank you.

8 THE COURT: Um, so I had a discussion outside the presence of the  
9 State Attorneys with Mr. Brass and Mr. Posin. So, one question - - there  
10 may be other questions for the State. Is the State ready for trial on  
11 Monday?

12 MRS. RHOADES: Yes, Your Honor.

13 THE COURT: Any subpoenaed witnesses?

14 MRS. RHOADES: Yes, Your Honor.

15 THE COURT: And tell us about those.

16 MRS. RHOADES: About the witnesses?

17 THE COURT: Yeah.

18 MRS. RHOADES: Well, these are the witnesses that have been  
19 ready every single time for this trial. And the witnesses that were all lined  
20 up at the last trial setting in May of last year, when we came in on the  
21 Monday before trial. And Mr. Posin came in here and asked for a  
22 continuance again after the Court already denied his request to continue  
23 at that prior calendar call.

24 ///

25 ///

1        These are minor victims; there are three minor victims in this case.  
2        And they were already to go; they were pretrial, and they were  
3        anticipating going to trial. I - - I strongly objected to the request to  
4        continue, and I'm sure the Court recalls at the last setting, because of  
5        the stress on the victims, because they were all ready to go forward  
6        because they are two families involved and the parents have been ready  
7        to go forward every single time, and they keep getting subpoenas and  
8        keep having to come to Court, keep having to be prepared to come in  
9        here and, you know, do this very stressful thing they have to do.

10       And so, now they all been subpoenaed again, they all are coming  
11       into partials again, and all the families are ready again to come in and  
12       so, - - those the witnesses. There are three minor victims, the mother of  
13       each victim, there are a few law enforcement members, there's a doctor  
14       who's out-of-state, who we have to do audio-visually if you recall that as  
15       well.

16       And so, we have all of our witnesses lined up and ready to go. And I  
17       think that the May of last year until the night before calendar call in  
18       February of this year speaks volumes as to why the Defendant is asking  
19       for him not to have the person that he'd hired not be his counsel as  
20       counsel going forward with this trial.

21       THE COURT: Thank you - - anything else you would like to address  
22       from the Young case. And I understand very much - - appreciate that  
23       your kind of in the dark; you weren't here during my discussion with Mr.  
24       Brass and Mr. Posin. But is there is anything else?

25       ///

1 MRS. RHOADES: No, I mean, I think that the Court went through the  
2 extent of the conflict there's obviously an adequate inquiry. I was out  
3 there for quite some time, and Mr. Brass was given quite the opportunity  
4 to go through what his complaints were. Again, the timeliness of the  
5 Motion speaks wonders, and the extent of any inconvenient it's highly  
6 inconvenient. It is highly delayed; this is a 2017 case; these victims are  
7 getting older; they want to move on with their lives.

8 As the Court knows, the longer things go on for, the more things  
9 happen in people's lives and the more things people forget or remember  
10 things differently. And so, that's often the motive for these types of  
11 cases to get prolonged by the Defendant. And so, I think that's what is  
12 going on here more than anything else. I don't - - I certainly, don't think  
13 another attorney needs to be appointed. I mean, there is again - - he's  
14 not appointed. Mr. Posin is not appointed; he's hired. And so, if Mr.  
15 Brass wants to represent himself in the upcoming trial on Monday,  
16 maybe we can Faretta him, and he can do that. But, I certainly don't  
17 think that he should be firing his attorney and then trying to get the Court  
18 to appoint him someone when he's had this hired attorney for years.

19 THE COURT: Thank you.

20 MRS. RHOADES: Thank you.

21 THE COURT: Anyone else want to make any further record before I  
22 rule?

23 MRS. RHOADES: I just would - - he did have the Public Defender at  
24 the beginning of this case, and the Public Defender was going through  
25 everything and preparing - - and this was prior to the Preliminary

1 Hearing, but he hired Mr. Posin. I put the Preliminary Hearing on with  
2 Mr. Posin, and Mr. Posin has been on since prior to the Preliminary  
3 Hearing in this case and to today's date. And the Preliminary Hearing - -  
4 just so we're here, and have that in front of us, was back on February of  
5 2018, February 6<sup>th</sup>, 2018, so, two years ago.

6 THE COURT: Okay. Thank you. Mr. Brass or Mr. Posin, do you want  
7 to make any further record?

8 MR. POSIN: About the only thing I would say, Your Honor, is that the  
9 State's suggestion that Mr. Brass is trying to delay this to somehow have  
10 a witness lose their memory or have a problem of that sort is  
11 unsupported. That's just purely speculation, and I don't think that there is  
12 an indication that is the case here.

13 THE COURT: Mr. Brass, is there anything you want to say?

14 MR. BRASS: No, Sir.

15 THE COURT: Okay. The Court is going to deny the Oral Motion to  
16 Withdrawl or Switch Counsel; however, you want to put it. And I'll make  
17 my record and Ms. Rhoades, so we have a written Order if you would  
18 please prepare it, um, and make it thorough pre the Young case.

19 And this is going to be a little jumbled because this is an oral motion,  
20 and we're, you know, we're here without a written motion or written  
21 opposition. As I stated previously had read the Young case on more  
22 than one occasion before today. I've reread the Young case in light of  
23 the request this morning. The - - my read of the Young case it's a use of  
24 discretion. So, I have the discretion of whether to grant this type of  
25 motion. And you have too - - I as the District Court need to make an

1 inquiry into the alleged irreconcilable differences and apply these factors  
2 that are set forth in the Young case, which I do. And find that non of the  
3 factors support the request.

4 So, the record is clear; I've not received this alleged written motion  
5 or whatever it is Mr. Brass's claims mailed to us. I will note for the record  
6 that we made a thorough inquiry in Chambers. Not just in Chambers, we  
7 went down to the Clarks Offices, we checked our box, we checked  
8 everywhere it could potentially be, and it's not there. So, I am highly  
9 dubious that this motion was ever sent or mailed, and it sure is not here.  
10 And if it was allegedly mailed last week, there has been plenty of time for  
11 it to arrive here.

12 Even if it were, let's assume for sake of argument that it was filed.  
13 Well, nobody has had the chance to see it. And by nobody, I mean the  
14 State, I mean Mr. Posin, I mean me, and I mean my staff. So. even if it  
15 has been sent, nobody's seen it. So, this is the first time I am hearing of  
16 the issue is; this morning at calendar call the Thursday before our  
17 Monday morning start time.

18 That weights against granting the motion, it's highly untimely, and  
19 you have been in front of me; the record will show the exact number but,  
20 several times in the last year, and this issue has not been raised until  
21 this morning. We've had numerous status checks given, as the State's  
22 points out, and the last time you were set for trial and something was  
23 raised and over the State's strenuous objection - - so let's put it that way.  
24 I extended the trial. And we've had the investigator here on more than  
25 one occasion, um, investigators, I think even. I think we've had more

1 than one come in at some point in time. Well, at least one.

2 As the State points out, significant also that Mr. Brass, you were  
3 originally apparently represented by the Public Defenders Office and  
4 chose Mr. Posin to be your counsel. And it is also significant that the  
5 choice was made prior to the Preliminary Hearing. And Mr. Posion was  
6 present at the Preliminary Hearing, and that weights against the granting  
7 of the untimely motion here.

8 You have been in front of me numerous times, and this has not been  
9 raised until this morning. And the argument that the State is - - would not  
10 be prejudice by continuance - - I'm trying to think of a kind way to put it -  
11 - I strongly disagree with that argument. And as noted by the State and I  
12 agree with the State. It - - another continuance on the very eve of trial  
13 would be highly prejudicial to not just the State but to the alleged victims,  
14 to the witnesses, and to the potential for justice and the trial.

15 Memories fade, memories change, we've already done this once  
16 before, and it was some time ago. I would note, too, that this case is  
17 extremely old for a criminal case. And we just need - - I mean, I am  
18 applying the Young factors, and the case there is no sufficient  
19 justification, no good cause has been shown by Mr. Brass that this case  
20 should be continued or that substitution counsel should be appointed.

21 For the allegations of conflict or the irreconcilable differences, I've  
22 made a thorough inquiry, and the alleged differences of conflict is about  
23 as vague as you could possibly be. It boils down to what sounds to me  
24 like Mr. Brass does not want to go to trial. And that is not a sufficient  
25 reason to have to appoint new counsel. And I would note that if we were

1 to do that, we would necessarily have to continue the trial, obviously.

2 And applying the Young factors, there's no good cause for the  
3 timeliness of the motion, and I think I've already talked about - - it's  
4 extremely untimely, it's made orally, and I have no evidence whatsoever,  
5 that we actually ever got something that Mr. Brass allegedly mailed last  
6 week. And even if we did, nobody has seen it.

7 I've made substantial inquiry into the reasons that Mr. Brass wants a  
8 different attorney. And again, the reasons have been vague and  
9 ambiguous, um, the one victim - - um, I'm sorry the one witness that has  
10 been mentioned is Mr. Brass's brother. Who Mr. Brass has confirmed  
11 would be willing to show up without being subpoenaed. And would be a  
12 friendly witness for Mr. Brass.

13 The State has pointed out has done its diligence - - it's work to  
14 prepared for trial, again. Um, subpoenaing witnesses, coordinating all  
15 those types of things that you need to do for trial. And continue again  
16 would certainly be extremely prejudicial for everyone on the State's side,  
17 third-party, non-party witnesses, and alleged victims, etc.

18 And again, I mean, we've been coming back and always following  
19 up, and the time to raise this, if at all, would have been a long time ago,  
20 and it never was. Prepare an Order and make it thorough?

21 MRS. RHOADES: We will, Your Honor. And we will base it on the  
22 minutes, as well. I would also like the Court to canvas the Defendant. I  
23 know that I have put this on the record several times, but about the offer  
24 and that he is rejecting it. I will not offer anything on Monday; um, the  
25 offer is two counts of attempt sexual assault with a minor under the age

1 of fourteen, naming all three victims, with the full right to argue. That's a  
2 potential two to twenty sentence for each count. It's mandatory prison;  
3 he is facing multiple counts of life in prison with the possibly of parole  
4 after thirty-five years.

5 So, it would be the two counts of attempt. I have extended that to  
6 Mr. Posion several times, and I have also put on the record in front of  
7 Mr. Brass several times that is the offer. I would just ask the Court to  
8 canvas him and make sure he's rejecting that, and he understands the  
9 consequences and the potential sentences for trial.

10 THE COURT: Mr. Brass, did you hear what Ms. Rhoades just said?

11 MR. BRASS: Yes, sir.

12 THE COURT: And you heard her say that before too, right?

13 MR. BRASS: Right.

14 THE COURT: And you rejected that offer before. Do you want to  
15 reject that offer today?

16 MR. BRASS: Yes, sir.

17 THE COURT: You are facing, let's see - - are we on the information -  
18 -

19 MRS. RHOADES: There are twenty-two accounts, Your Honor. Um,  
20 most of which are sexual assaults with a minor under the age of  
21 fourteen, and others lewdness with a child under the age of fourteen.

22 THE COURT: So, you're facing, you understand, you're facing  
23 twenty-two counts - -

24 MR. BRASS: - - um-hum - -

25 THE COURT: - - as set forth in the information, right?

1 MR. BRASS: Right.

2 THE COURT: And those include but are not limited to lewdness with  
3 a child under the age of fourteen, sexual assault with a minor under  
4 fourteen, both Category A; Child abuse neglect or endangerment,  
5 Category B; First-degree kidnapping, Category A; Preventing or  
6 dissuading a witness or victim from reporting a crime, Category D;  
7 Battery with intent to commit sexual assault, Category A Felony.

8 And what potential sentences do those carry, again?

9 MRS. RHOADES: The highest are the sexual assault with a minor,  
10 which is life in prison with the possibility of parole after thirty-five years.  
11 And then the multiple counts of lewdness with a child under the age of  
12 fourteen, that's also life in prison with the possibility of parole after ten  
13 years.

14 THE COURT: Do you understand that going forward, you're facing  
15 life in prison without the possibility of parole?

16 MR. BRASS: Yes.

17 THE COURT: And you still want to do that, rather than take the  
18 deal?

19 MR. BRASS: Yeah, I'm not taking a deal for something I did not do.

20 THE COURT: Okay. So, is the State satisfied with that canvas?

21 MRS. RHOADES: Yes, Your Honor. Thank you very much.

22 THE COURT: Um, we need to seat thirty-two in the box. So, how  
23 many do we want to call a hundred prospective jurors?

24 MRS. RHOADES: Yeah, sure. That should be safe.

25 THE COURT: Is that a yes?

1 MR. POSIN: Yes. That's a yes. Your Honor.

2 THE COURT: Okay. Um, alright, we'll see you - - wait, is there  
3 anything else?

4 MRS. RHOADES: I don't think so; I did have some exhibits that were  
5 marked last time; if I could just ask for them to be brought up, thank you.

6 COURT CLERK: There being held in the vault so that they will be  
7 brought in.

8 MRS. RHOADES: Okay. Thank you.

9 MR. POSIN: The only other thing, Your Honor, is I have an out-of-  
10 state deposition scheduled this - - on the Friday; obviously, this case  
11 would take precedence, but I don't know what the Court trial schedule is.

12 THE COURT: So, we'll start Monday, and we'll go through - - um,  
13 yeah, so, I know that you anticipate more than a week.

14 MRS. RHOADES: How many days, Your Honor?

15 THE COURT: Yeah.

16 MRS. RHOADES: Probably five to seven.

17 MR. POSIN: I would concur, Your Honor.

18 THE COURT: Okay. Yeah, um, bear with me a second. Yeah, we'll  
19 have to reschedule the depo. We'll set you through Tuesday - - ah,  
20 Monday the 24<sup>th</sup> through Tuesday the 3<sup>rd</sup>. Potentially even into  
21 Wednesday would be fine. Anything else?

22 MR. POSIN: What time will we be starting?

23 ///

24 ///

25 ///

1 THE COURT: 10:30. And that, for better or worst, depends on how  
2 long my calendar goes. Um, but generally, 10:30.

3 MRS. RHOADES: Everyday?

4 THE COURT: Yes.

5 MR. POSIN: Thank you, Your Honor.

6 THE COURT: Thank you both.

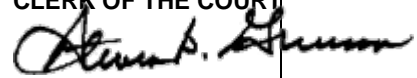
7 \* \* \* \* \*

8 [Proceedings concluded, 11:08 a.m.]

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

12 

13 \_\_\_\_\_  
14 MATTHEW YARBROUGH  
15 Court Recorder/Transcriber  
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5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

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8 THE STATE OF NEVADA,  
9 Plaintiff,  
10 vs.  
11 DEQUINCY BRASS,  
12 Defendant.

CASE#: C18-329765-1

DEPT. XV

SEALED BY ORDER OF  
THE COURT

13  
14 BEFORE THE HONORABLE JOE HARDY, DISTRICT COURT JUDGE  
15 THURSDAY, FEBRUARY 20, 2020

16 **RECORDER'S PARTIAL TRANSCRIPT OF HEARING:**  
17 **CALENDAR CALL, SEALED PORTION ONLY**

18 APPEARANCES:

19 For the State: NOT PRESENT

20 For the Defendant: MITCHELL T. POSIN, ESQ.

21  
22  
23  
24 RECORDED BY: MATTHEW YARBROUGH, COURT RECORDER  
25

1 LAS VEGAS, NEVADA, THURSDAY, FEBRUARY 20, 2020, 10:11 A.M.

2 \* \* \* \* \*

3 **[Sealed portion began at 10:11 a.m.]**

4 THE COURT: Okay, Mr. Brass, so you know we're still on the  
5 record, but for the record, the prosecution has stepped outside the  
6 courtroom. Mr. Posin has told us that you told him; I guess that you sent  
7 some type of motion to withdraw or something to us, which none of us  
8 have seen, including Mr. Posin, including me, including the staff.

9 Um, so you're set to go to trial on Monday, um, and this is after, you  
10 know, some time and coming back and seeing me several times. So, tell  
11 me what you sent over and why you are asking for what you are asking  
12 for.

13 MR. BRASS: Yes, Your Honor, I mail in a Motion, um, sometime last  
14 week. I assumed that you would have received it by now. But, um, we  
15 were scheduled for trial last May, which has been nine months. And from  
16 then until now, Mr. Posin hasn't done anything in preparation for trial.

17 Um, the many status checks we've had, he's ah, his responses are  
18 always, we are still waiting, we'll see. Up until the last one, which was  
19 January 14<sup>th</sup>, where he said we're changing direction. Ah, he's not  
20 subpoenaed any witnesses; we've discussed no strategy, we have not  
21 visited. Actually, I just had a visit from the investigators who, ah, said  
22 they have not been able to get in contact with him to discuss information  
23 regarding the case or to answer questions that they had for him.

24 ///

25 ///

1           He hasn't put any of the motions that I've requested for him to put in.  
2 He hasn't - - up and - - from May - - even before then, he's been my  
3 lawyer for two years, and he's has done nothing; he has not shown me  
4 anything.

5           THE COURT: So, when was the last time you met with him?

6           MR. POSIN: I could probably find that in my calendar here.

7           THE COURT: Sure.

8           MR. POSIN: Your Honor, I'm sorry, I'm having a little trouble. I would  
9 say it was probably about a month ago. Does that sound about right?

10          THE COURT: Is that a fair estimate?

11          MR. BRASS: Ah, probably.

12          THE COURT: Had he met with you before that?

13          MR. BRASS: That - - the previous - - the last time he met with me,  
14 he met with me for all of about five minutes. I proposed a question to  
15 him, which he thankfully had a suitable answer, and he left. I mean, we  
16 did not discuss the case; we didn't discuss anything rather than the trial.  
17 It was pretty much a waste of a visit.

18          And again, speaking to Mr. Lawson, the investigator, he just came to  
19 see me, he has interviewed people, you know, potential witnesses.  
20 There - - there's been nothing - - no one subpoenaed. There's - - he has  
21 not done anything. We haven't discussed anything regarding a plan of  
22 action. I mean - - I don't feel comfortable with him defending my life.  
23 He's just coming in and kind of trying to freestyle at trial with nothing  
24 prepared.

25          THE COURT: So, Mr. Posin, what have you done to prepare?

1 MR. POSIN: Your Honor, I have - - um, I hate to ever contradict a  
2 client, and so, I'll try to minimize that. But I have been meeting with my  
3 investigator - - there are actually two investigators. There is Mr. Lawson,  
4 and he's hired, somebody who's working under him. And I've met with  
5 them several times; I've been going extensively over all of the  
6 documents. And on the one hand, you know, I, um - - as I stated when I  
7 was here for the last status check and as I told Your Honor, I was about  
8 to state coming in today, I would otherwise say ready.

9 However, I also firmly believe that you know, there has to be  
10 communication and trust between attorney and client. And that  
11 apparently, has broken down here to the point that I would have to say,  
12 I'm not going to get into the details of - - certainly not going to get into  
13 the details of my strategy at trial, and, um, nor with my communications  
14 with Mr. Brass. I felt that I had a strategy; he does not seem to feel that  
15 was adequately explained to him or that he is comfortable with me. And  
16 when such a breakdown occurs, I think it is appropriate for counsel to be  
17 excused and alternate counsel appointed.

18 I think of note, and maybe I should reiterate once the State comes  
19 back in. Um, the only one who's in custody here is Mr. Brass, and so, to  
20 the extent that there is any inconvenience to anybody, it's to him. Um,  
21 more so than to me, the State, the Court, or anyone. Um, so I think it's  
22 appropriate if that is his feelings about his counsel, that he should have  
23 somebody he has trust in.

24 THE COURT: So, Mr. Brass, if you had this concern, why wasn't it  
25 brought to my attention before today.

1 MR. BRASS: Because he - - he - - as he does when he comes in for  
2 status checks, he leads me on to believe that he's working he's doing  
3 something or like he just said, he is in contact with the investigators.  
4 Which he isn't; again, I just had a visit from the investigators, and he's  
5 the one himself, Mr. Lawson telling me that he also unable to get in  
6 contact with him. And also, right now, when you asked him what he's  
7 done in preparation, um, I mean, there was no response, and he does  
8 not have an answer.

9 THE COURT: Mr. Posin, when was the last time you spoke with  
10 either of the two investigators?

11 MR. POSIN: Probably a week ago or so - - I called them - - I've  
12 attempted to call them both last week and several times this week. And  
13 so, um, I would say that the idea that I'm the one in any way that is hard  
14 to get in touch with is not really the case. But, um, I haven't spoken to  
15 them for the last week or so, but I have been speaking to them before  
16 that.

17 There was a holiday weekend, and it's my understanding that you  
18 know - - first of all, I was out of town for the holiday weekend. And it is  
19 my understanding that Mr. Lawson was out of town a couple of days  
20 after the holiday weekend. And so, there wasn't really any opportunity  
21 while we both weren't in town, since some time since mid-last week.

22 MR. BRASS: My last visit with Mr. Lawson was just last week. I  
23 believe Wednesday or Thursday of last week.

24 THE COURT: So, just before the holiday, right? Before this Monday,  
25 right?

1 MR. BRASS: That's correct.

2 THE COURT: Um, bear with me some more. Mr. Brass, who do you  
3 think needs to testify on your behalf?

4 MR. BRASS: You know, I'm not sure. I mean, there are some  
5 character witnesses, like my brother, or again, Mr. Lawson said he'd  
6 interviewed some people that would have needed to be subpoenaed in  
7 order to be a witness on my behalf. He actually said, ah, he would have  
8 been here to speak on my behalf; I wish he was here, but he's said he  
9 had interviewed people as well.

10 THE COURT: Like, what people?

11 MR. BRASS: People that know the alleged victims that can speak to,  
12 um, you know, their character or, um, also, he wanted to get job records  
13 to determine date time of certain people. You know, where I was at  
14 certain dates and times.

15 THE COURT: So, what witnesses, Mr. Posin, would you plan on  
16 calling?

17 MR. POSIN: Your Honor, my focus was not so much on calling  
18 witnesses, but on cross-examination of the State's witnesses. Mr. - - If  
19 that's not Mr. Brass, um, feeling of how this matter should be  
20 approached. You know, again, I think that goes to whether there has  
21 been a breakdown of the relationship between attorney and client. And It  
22 does sound like he feels like witnesses should be called that I don't  
23 necessarily feel that should be called and, um, that, you know, the trust  
24 that is necessary between an attorney and client are no longer there.

25 ///

1 THE COURT: So, I'm going to go off the record in a moment. And I'll  
2 let you two speak to each other, because quite frankly, Mr. Brass, I am  
3 not seeing - - looking at - - and I'm re-reviewing re-reading the Young  
4 versus State case, which is 120 Nevada 963. Um, it seems to me that  
5 this case is easily distinguishable from that case. And that case, there  
6 are multiple times ah, that Defendant raised the issue with the Court, on  
7 five separate occasions apparently, I don't - - that has not happen here.  
8 Twice a Motion for Substitution was filed, and that has not happened  
9 here. Timeliness, I mean, you have been in front of me multiple times in  
10 preparation for this trial. Trial being set for Monday, timeliness of your  
11 now oral motion doesn't seem like it's timely, given that today is  
12 Thursday, before your Monday trial.

13 Adequacy of inquires is the last of the three factors, I think, and I'm  
14 getting details that don't seem to be very detailed to me, Mr. Brass, on  
15 your behalf. So, I'm going to let the two of you talk; we'll go off for a few  
16 moments, come back, and maybe talk some more outside the State's  
17 presence and then we'll bring the State in and see how I rule.

18 MR. POSIN: Your Honor, wishes for us to discusses or resolve in  
19 that conversation?

20 THE COURT: So, If I were the attorney of record, I would talk to my  
21 client about trial preparation and strategy. And see if you can figure out  
22 what the disconnect if any, is. There is nothing really you can probably  
23 talk about in terms of timeliness in the motion because it's made today,  
24 Thursday before Monday's trial date. I mean, procedural history is what  
25 it is, um, but yeah, that's about as much as I can answer.

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**[Went off the record 10:26]**  
**[Back on the record 10:40]**

THE COURT: Did you have the chance to talk?

MR. POSIN: Your Honor, we did a little talking, but, you know, more importantly, I think I took a look at the Young case and some of the other cases. Which I did not, of course, know I would be looking into and, you know, just a couple of remarks about that.

First of all, the Young case seems to be focused not so much on what really constitutes the Courts - - the apparate reasons for the Court to grant such a motion. But, more - - rather the Court in denying the motion on appeal or in a motion for post-conviction relief whether the Court had committed some sort of reversible error for not making in an inadequate inquiry.

Um, it does seem to suggest that the Court doesn't just have the discretion to grant or deny such motions. And the focus as I see it reading Young is whether to the extent that it does - -

THE COURT: Let me pause you a little cuz I'm not sure - - so let me reask and maybe rephrase. Did you have an opportunity to talk with Mr. Brass about the trial strategy?

MR. POSIN: I did.

THE COURT: And did you tell him what your trial strategy was and why you thought it was appropriate?

MR. POSIN: Not - - not any more than I had, Your Honor. I had spoken in open court and previously about my trial strategy, and again, I don't want to get into attorney-client - -

1 THE COURT: No, I know. I just want to know if you had talked with  
2 him about your trial strategy and had an opportunity to do that both  
3 today and previously?

4 MR. POSIN: Yes. I had an opportunity to, today, we really did not get  
5 into that today, Your Honor.

6 THE COURT: Why not? Because that's what I thought, I gave you  
7 both the opportunity to do - -

8 MR. POSIN: And that's why I asked, Your Honor, to clarify what  
9 we're - -

10 THE COURT: No, I did. But I did!

11 MR. POSIN: Maybe I still - -

12 THE COURT: So, when words come out of my mouth, you should  
13 listen. You asked me, and I said if I were you, I would talk about what  
14 you're going to do for the trial and trial strategy or something to that  
15 effect. And know you're telling me well we had an opportunity, but we did  
16 not do it.

17 MR. POSIN: Well, Your Honor, I had previously told him what my  
18 trial strategy is, which is focused more on - - and I hate to do this in open  
19 court - - but it was more on the State's witnesses than calling our own  
20 witnesses. Um, I did - - I have previously gone over that with him, and  
21 I've mentioned that in open court previously and just now. Um, and I - -  
22 we don't have the kind of time to, you know, where I can go over what  
23 exactly my cross-examination is going to be of this witness and that  
24 witness. I did not see that as a useful exercise just now, but you know  
25 that is something I've been getting into.

1 THE COURT: Cuz you've told me that you've thoroughly reviewed  
2 the documents, right - -

3 MR. POSIN: Yes - -

4 THE COURT: For preparation already. Um, Mr. Brass, I assume that  
5 your brother would be a friendly witness, presumably would be okay  
6 coming here on his own volition, right?

7 MR. BRASS: Correct.

8 THE COURT: Um, other than your brother, that's the only name you  
9 gave me. Um, well, you didn't give me your brother's name. I interrupted  
10 you, Mr. Posin; you were talking about how something about the Young  
11 case and how you think I have discretion, but you're trying to say  
12 something else.

13 MR. POSIN: I was going to say, Your Honor, that the Young case  
14 talks specifically about whether the defendant is making his motion for, I  
15 think, what they call dilatory tactics or bad faith reasons. Um, whatever  
16 else, I don't see any indication whatsoever; that ah, Mr. Brass is making  
17 this for either of those purposes. I don't think - - if anything, it has been  
18 his intent to move this case along, just as it has been the Courts.

19 Um, I don't think he is trying to delay matters; I don't see anywhere  
20 were any delay resulting from new counsel coming in would prejudice  
21 the State or would have any specific effect on - - on anything else other  
22 than the fact that he would have some counsel that he got along with,  
23 apparently more - - more appropriate than he does with me.

24 ///

25 ///

1        So, in the Young case, that is - - that's the focus that I see on - - on  
2 looking at the Defendant and his reasons. The focus - - the other focus  
3 in the Young case about the other opportunities - - the other motions  
4 that Defendant made to that Court, I think, went to whether the District  
5 Court, in that case, had made an adequate inquire. Now, Your Honor, is  
6 definitely making an adequate inquire this morning.

7        And again, I'm not pushing this for my own reasons; I'm just saying  
8 that - - that - - you know, I've been preparing. I'll be ready if the Court  
9 tells me to be ready; I'll be ready on Monday. But, as I see it, if there are  
10 irreconcilable differences, and it seems to me that there are, having just  
11 spoken to Mr. Brass. And having spoken to him early today, I would say  
12 that the state of our communication is definitely in that area that I would -  
13 - it appears to be irreconcilable. I think that the appropriate decision is to  
14 appoint new counsel.

15        THE COURT: Thank you. Mr. Brass, do you have anything else you  
16 would like to say?

17        MR. BRASS: No, sir.

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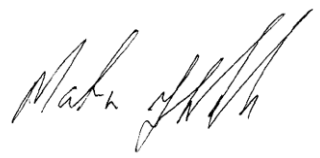
THE COURT: All right, let's bring the State back.

[10:47 a.m. --- end of sealed hearing]

\* \* \* \* \*

[Proceedings concluded, 10:47 a.m.]

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



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MATTHEW YARBROUGH  
Court Recorder/Transcriber

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DEQUINCY BRASS, ) No. 81142  
 )  
 Appellant, )  
 )  
 v. )  
 )  
 THE STATE OF NEVADA, )  
 )  
 Respondent. )  
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I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 26 day of January, 2021. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

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BY /s/ Rachel Howard  
Employee, Clark County Public Defender's Office