

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

MICHAEL PHILLIP ANSELMO,

Appellant,

vs.

STATE OF NEVADA,

Respondent.

Supreme Court No. 81382

Second Judicial District Court

Case No. 271359

Electronically Filed
Nov 09 2020 03:06 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Appeal from Second Judicial District Court, State of Nevada, Washoe County
The Honorable Lynne K. Simons, District Judge

ERRATA TO APPELLANT'S OPENING BRIEF

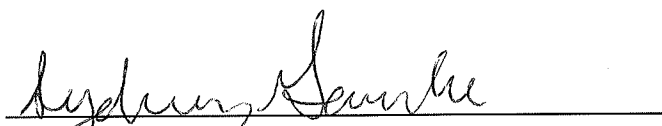
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Attorneys for Appellant Michael Phillip Anselmo

Appellant Michael Anselmo hereby submits this Errata to his Opening Brief filed herein on November 6, 2020. This Errata is necessary to include a copy of an inadvertently omitted Order listed in Appellant's Addendum: 1. *State v. LaPena*, Case No. 059791, Order Granting DNA Testing (dated October 25, 2011) (51 pages).

DATED this 9th day of November 2020.

A handwritten signature in dark ink, appearing to read "J. Robert Smith", is written over a horizontal line.

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CERTIFICATE OF SERVICE

Pursuant to NRAP 25(a)(b) and 25(1)(d), I, the undersigned, hereby certify that I electronically filed the foregoing **ERRRATA TO APPELLANT'S OPENING BRIEF** with the Clerk of Court for the Supreme Court of Nevada by using the Supreme Court of Nevada's E-filing system on the 9th day of November 2020.

I further certify that service of the foregoing has been accomplished to the following individuals by the methods indicated below:

- ☒ Electronic: by submitting electronically for filing and/or service with the Nevada Supreme Court's e-filing system and served on counsel electronically in accordance with the E-service list to the following listed below:

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- ☒ U.S. Mail: a true copy was placed in Holland & Hart LLP's outgoing mail in a sealed envelope addressed to the following:

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/s/ Valerie Larsen

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**ADDENDUM TO APPELLANT'S OPENING BRIEF PURSUANT TO
NRAP 28(f)**

1. *State v. LaPena*, Case No. 059791, Order Granting DNA Testing (dated October 25, 2011) (51 pages).

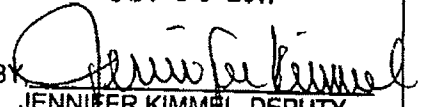
2. *Nev. v. Lapena*, Case No. C059791, Decision and Order (dated Aug. 4, 2017) (29 pages), also cited as 2017 Nev. Dist. LEXIS 949 (Nev. Dist. Aug. 4, 2017).

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ORIGINAL

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

OCT 25 2011

BY 
JENNIFER KIMMEL, DEPUTY

ORDR

DISTRICT COURT

CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff(s),

v.

FRANK LaPENA

Defendant(s)

) CASE NO. 059791

) DEPT NO. XV

82C059791
DECN
Decision
1671928



DECISION AND ORDER

THIS matter having come on for hearing on October 25, 2011, for DEFENDANT'S POSTCONVICTION PETITION REQUESTING A GENETIC MARKER ANALYSIS OF EVIDENCE WITHIN THE POSSESSION OR CUSTODY OF THE STATE OF NEVADA (NRS 176.09 18), the Defendant being represented in proper person, and the State being represented by Deputy District Attorney Jeff Rogan, and after reviewing the moving papers on file herein, this Court makes the following Decision and Order.

FACTS AND PROCEDURAL HISTORY

At approximately 5:00 a.m. on January 14, 1974, Hilda and Marvin Krause were robbed at their Las Vegas home located inside a walled country club community. During the course of the robbery, the perpetrators beat Mr. Krause and murdered Mrs. Krause. When police arrived at the Krause home, they found the deceased Mrs. Krause gagged with a scarf

ABBI SILVER
DISTRICT JUDGE

DEPARTMENT FIFTEEN
LAS VEGAS NV 89155

51

1 tied loosely around her neck, and a butcher knife imbedded in her back; her throat had been
2 slit. An autopsy revealed that Mrs. Krause had been strangled with a cord or rope prior to
3 having her throat slit and that she had sustained several stab wounds to her neck after her
4 throat had been slit.

5 Mr. Krause, a slot manager at Caesar's Palace, told police that he had been attacked
6 by two men after he opened his garage door and as he was getting into his car to go to work.
7 The men forced him into the house where they beat him and tied him up, murdered Mrs.
8 Krause, and stole a television, gold coins, and jewelry, including a diamond ring and a
9 watch. Mr. Krause reported that after the assailants left his home, he untied himself and
10 went upstairs in an attempt to aid Mrs. Krause. Physical evidence indicated that at least two
11 perpetrators had been present at the Krause home. The perpetrators left the scene in Mr.
12 Krause's car but abandoned it at the gates of the country club. Mr. Krause suffered a head
13 injury in the attack; he died the following year from unrelated causes.

14 Several days after the crime had been committed, a confidential informant (later
15 identified as Joey Costanza) contacted Las Vegas Metropolitan Police Department
16 (LVMPD) Detective Mike Whitney. Costanza told Det. Whitney that approximately six
17 weeks before the Krause robbery/murder, Gerald Weakland (a Caesar's Palace Pool
18 Attendant) had approached him about assisting in a robbery/murder to take place in the early
19 morning hours of a Monday or Friday before one of the victims went to work and would
20 involve scaling a wall of some sort. Costanza allegedly knew the exact location of the crime
21 scene (i.e., the Krauses' address). Costanza also mentioned two other individuals who might
22 have been solicited or involved in the crime-Tom Boutwell and Bobby Webb.

23 Det. Whitney gave this information to several police officers, including Lieutenant
24 Beecher Avants and Detective Chuck Lee, who subsequently questioned Boutwell, Webb,
25

1 and Weakland. In a February 1974 telephone conversation between Lt. Avants and
2 Costanza, Costanza allegedly stated that he had never heard the names of LaPena or Rosalie
3 Maxwell, LaPena's girlfriend, (a Caesar's Palace cocktail waitress) associated with
4 Weakland or the Krause crimes. Thereafter, the Police arrested Weakland for the Krause
5 murder/robbery in March 1974.
6

7 During a preliminary hearing, Weakland admitted to the crimes and struck a deal
8 with the State wherein he agreed to testify that Maxwell and LaPena had hired him to
9 murder Mrs. Krause. In exchange for this testimony, Weakland was allowed to plead guilty
10 to second degree murder, with a sentence of five years to life, and all other charges against
11 him (some of which were unrelated to the Krause crimes) were dropped. In his March 29,
12 1974 confession, Weakland told authorities that while Boutwell, his accomplice, was
13 robbing the Krause home, he slipped upstairs and murdered Mrs. Krause by slitting her
14 throat with a single cut. Weakland maintained that he had not strangled Mrs. Krause or
15 stabbed her in the neck. Weakland maintained that LaPena, an acquaintance to whom he
16 owed money, had approached him at the end of December 1973, and asked him to kill Mrs.
17 Krause. LaPena allegedly explained to Weakland that Mr. Krause was a wealthy slot
18 manager at Caesar's Palace who was dating LaPena's girlfriend, Maxwell, who also worked
19 at Caesar's. LaPena and Maxwell wanted Weakland to kill Mrs. Krause so that Maxwell
20 could marry Mr. Krause and inherit the Krause fortune for the benefit of herself and her
21 boyfriend, LaPena.
22
23

24 Weakland claimed that LaPena had offered to forgive his debts and pay him a large
25 sum of money in exchange for Mrs. Krause's murder. On January 4, 1974, Weakland went to
26 Maxwell's apartment where she and LaPena gave him \$1000 as a down payment for the
27 murder, told him that he would receive another \$10,000 after Maxwell married Mr. Krause,
28

1 and explained the "plan" for robbing the Krauses and murdering Mrs. Krause. Maxwell
2 allegedly gave Weakland a map of the Krauses' residence during this meeting. Weakland
3 stated that he asked Webb to help him commit the crime but, ultimately, Boutwell
4 accompanied him. Weakland told police that he had never spoken to or had any contact with
5 Mr. Krause prior to the January 1974 robbery/murder.
6

7 Based upon Weakland's statements to the police, on April 23, 1974, LaPena and
8 Maxwell were arrested for the Krause robbery/murder. Both were charged with first degree
9 murder and robbery with the use of a deadly weapon. The criminal complaint alleged that
10 LaPena and Maxwell had entered into a contract with Gerald Weakland "whereby ...
11 Weakland was to kill [Mrs. Krause]."
12

13 Weakland testified to LaPena's guilt at LaPena's preliminary hearing; however, at
14 both Maxwell's and LaPena's separate trials, Weakland testified that his prior testimony and
15 statements implicating LaPena and Maxwell in the murder were false. *LaPena v. State*, 98
16 Nev. 135, 136, 643 P.2d 244, 244 (1982). Maxwell was acquitted at trial, but LaPena was
17 convicted by a jury of one count of first degree murder and one count of robbery with the
18 use of a deadly weapon.
19

20 On direct appeal, the Supreme Court of Nevada reversed LaPena's conviction and
21 remanded for a new trial on the ground that admission of Weakland's statements
22 incriminating LaPena constituted reversible error. The Court concluded that the State had
23 improperly withheld "the benefits of a plea bargain or promise of leniency until after a
24 purported accomplice [(i.e., Weakland)] had testified in a particular manner." *Id.* at 136-37,
25 643 P.2d at 244-45. Weakland was eventually charged with two counts of perjury, to which
26 he entered an *Alford* plea and received probation. Gary Gowen, Esq., assumed LaPena's
27 representation.
28

1 On September 29, 1982, Weakland testified against LaPena before a grand jury,
2 reiterating his initial statements to police and testimony at LaPena's preliminary hearing
3 implicating LaPena and Maxwell. Weakland told the grand jury that he had since reached a
4 new agreement with the State wherein "the prosecution team would cease writing negative
5 letters to the State parole board" about Weakland. The grand jury returned an indictment
6 against LaPena.
7

8 In anticipation of retrial, LaPena filed a motion for disclosure of the identity of
9 confidential informant Costanza. After the district court denied his motion, LaPena filed a
10 petition for a writ of mandamus, which the Nevada Supreme Court granted. *LaPena v.*
11 *District Court*, Docket No. 14640 (Order Granting Petition for Writ of Mandamus, August
12 31, 1983).
13

14 After the Nevada Supreme Court ordered Costanza's name divulged, Det. Lee
15 traveled to New Jersey to meet with Costanza and to encourage Costanza to return to
16 Nevada. Costanza refused to travel to Nevada and called Lt. Avants after meeting with Det.
17 Lee. Costanza told Lt. Avants that he had no additional information to provide with regard
18 to the Krause robbery/murder. Upon receipt of Costanza's name and New Jersey address,
19 Gowen sent Costanza a letter; Costanza subsequently telephoned Gowen and told him that
20 he had no additional information beyond that which he had already given to Det. Whitney
21 shortly after the Krause robbery/murder.
22

23 Gowen then tried to compel Costanza's attendance through the use of the Interstate
24 Compact and eventually enlisted the help of the LVMPD in filing a material witness
25 warrant. According to Gowen, the district attorney's office refused to help. Prosecutor
26 Melvyn Harmon maintained that he advised Gowen as to how to compel Costanza's
27 attendance, but Gowen chose to take an ineffective "short cut."
28

1 Costanza contacted the police as well as the district attorney on several occasions to
2 impress upon them that he knew nothing more than the information he had previously
3 provided in his police report. Nonetheless, in 1984 LaPena was still seeking Costanza's
4 attendance in Nevada and filed a motion to depose Costanza. The Nevada Supreme Court
5 reversed the district court's denial of LaPena's motion. *LaPena v. Moran*, Docket No. 16196,
6 101 Nev. 957, 808 P.2d 578 (Order, October 22, 1985).
7

8 On January 15, 1985, Costanza was arrested in Florida. Det. Lee and an individual
9 from the Clark County district attorney's office were dispatched to Florida in an attempt to
10 secure Costanza's testimony in Nevada. Defense investigator Michael Wysocki flew to
11 Florida the following day. However, Costanza was released from custody at the conclusion
12 of a Florida hearing to compel his attendance in Nevada "because proper documents had not
13 been provided."
14

15 LaPena subsequently filed a motion with the district court for an evidentiary hearing
16 to determine if the State had complied with certain discovery requests including those
17 seeking further information with regard to Costanza. The district court denied the motion,
18 but the Nevada Supreme Court issued an order that an evidentiary hearing be conducted
19 concerning whether the State had disclosed all of its information regarding Costanza.
20 *Lapena v. District Court*, Docket No. 18963, 104 Nev. 862, 809 P.2d 609 (Order Granting
21 Petition for Writ of Mandamus, August 26, 1988).
22

23 The district court subsequently conducted an evidentiary hearing on October 26-27,
24 1988. At the beginning of this evidentiary hearing, Gowen learned that he had been relieved
25 as LaPena's counsel. George Carter, Esq., and Lamond Mills, Esq., were appointed to
26 represent LaPena through his second trial. Following the evidentiary hearing, the district
27
28

1 court concluded that the State had provided all of the information in its possession regarding
2 Costanza and denied LaPena's motion seeking further funds "for the Costanza matter."

3 Although Gowen had been removed from LaPena's case, he continued to work on the
4 matter and helped Mills file a pretrial motion to dismiss the indictment on behalf of LaPena.
5 LaPena's second jury trial commenced in May 1989, and he was again convicted of first
6 degree murder and robbery with the use of a deadly weapon. LaPena did not testify on his
7 own behalf. The trial court sentenced LaPena to life imprisonment without the possibility of
8 parole for the murder of Mrs. Krause, and a concurrent thirty-year sentence for the robbery
9 of the Krause home with the use of a deadly weapon. The Nevada Supreme Court affirmed
10 LaPena's conviction and sentence. *LaPena v. State*, Docket No. 20436, 107 Nev. 1126, 838
11 P.2d 947 (Order Dismissing Appeal, June 27, 1991). Gowen assisted LaPena's appellate
12 counsel, Carmine Colucci, and argued the case before the Nevada Supreme Court.
13
14

15 On June 3, 1992, LaPena filed the PCR petition. The district court denied LaPena's
16 PCR petition without conducting an evidentiary hearing. On appeal, the Nevada Supreme
17 Court remanded the matter for an evidentiary hearing. *Lapena v. State*, Docket No. 23839,
18 109 Nev. 1404, 875 P.2d 1066 (Order of Remand, November 24, 1993). On December 3,
19 1993, LaPena filed a motion to dismiss the indictment based upon an alleged lack of
20 evidence and "a colorable claim of factual innocence." LaPena's motion to dismiss was
21 subsequently consolidated with the PCR petition, and LaPena presented evidence in support
22 of dismissal at the evidentiary hearing.
23

24 The district court conducted the evidentiary hearing October 16-20, 1995. The
25 district court then granted LaPena's PCR petition and vacated his conviction and sentence on
26 the ground that LaPena had not received effective assistance of trial counsel. The district
27 court denied LaPena's motion to dismiss and ordered the matter reset for a new trial. The
28

1 State appealed from the granting of LaPena's PCR petition, and LaPena cross-appeals from
2 the denial of his motion to dismiss the indictment.

3 In 1998, the Supreme Court of Nevada reversed the district court's granting
4 Defendant's Petition for Post Conviction relief and granting a New Trial stating that the
5 Defendant "failed to show that counsel was deficient in pursuing the alleged Krause-
6 Weakland connection; even if counsel was deficient, LaPena failed to show prejudice under
7 Strickland." The Court went on to affirm the District Court's decision denying the
8 Defendant's motion to dismiss the charges against him. (emphasis added).
9

10 The Defendant now, over thirty-seven (37) years after the murder, files a Post-
11 Conviction petition requesting a genetic marker analysis of evidence within the possession
12 or custody of the State of Nevada.
13

14 DISCUSSION

15 This Court prefaces its discussion with the Dissenting Opinion by Justice Springer in
16 *State v. LaPena*, 114 Nev. 1159 (1998):

17 The murder was committed in January of 1974. LaPena was
18 convicted in 1977, almost twenty-two years ago. As stated in the
19 majority opinion, the murder was actually committed by a man
20 named Weakland, who "struck a deal with the State wherein he
agreed to testify that ... LaPena had hired him" to commit the
murder.

21 LaPena's conviction was reversed because the State
22 improperly concealed information about a leniency deal that it had
23 offered Weakland, who, to say the least, is a notorious perjurer and
24 murderer, well known to this court and to prosecuting officials.

25 LaPena's 1977 conviction, in addition to being grounded on
26 the testimony of a perjurer, is subject to so many questions and
27 weaknesses that it would be burdensome to recount them in this
28 dissenting opinion. If this were a relatively clear case, involving a
murderer who had killed someone twenty-five years ago, I might
look differently at what effect such a long delay has in judging
whether it would be just and proper to go ahead now with such a
prosecution. The present case is certainly not a clear or
straightforward case. A reading of the majority opinion should
convince most readers that the district court was right in dismissing

1 this case and not permitting it to go on for a number of additional,
2 agonizing years.

3 The district court conducted hearings on LaPena's post-
4 conviction proceedings and hearings. The district court took
5 evidence and made certain findings of fact that I do not think should
6 be violated by this court. I see no reason to intrude into the district
7 court's discretion or to set aside the district court's dismissing the
8 charges against LaPena. I dissent from this court's overruling of the
9 district court's proper ruling in this case.

10 This Court echoes Justice Springer's concerns over an absence of physical evidence
11 tying LaPena to the crime. The only evidence on record implicating LaPena is the testimony
12 of Weakland - "a notorious perjurer and murderer." The substance of Weakland's
13 testimonial evidence was, in essence, that LaPena masterminded the murder in this case.
14 The State's theory was that LaPena wanted to kill Mrs. Krause so that her husband would
15 inherit her money, and then LaPena's girlfriend could marry Mr. Krause, thereby benefitting
16 LaPena. LaPena's conviction, therefore, was based entirely on the jury believing
17 Weakland's testimony.

18 LaPena's defense however, was to the contrary. La Pena's defense hinged upon
19 allegations that it was Weakland and the victim's husband, Mr. Krause, who conspired to
20 commit the murder together. The State's supplemental opposition restates LaPena's
21 arguments at trial regarding this. In LaPena's closing arguments to the jury, he suggested
22 that Mrs. Krause was planning to divorce Mr. Krause as he not only had Maxwell (a co-
23 worker/cocktail waitress at Caesar's Palace) as a girlfriend, but he had other younger blonde
24 girlfriends. As a result, he argued that after she died Krause stood to inherit a quarter of a
25 million dollars. Thus, it appears LaPena claims that Mr. Krause paid Weakland to implicate
26 LaPena (Maxwell's other boyfriend) in the crime. By murdering his wife and implicating
27 LaPena, Krause would then be able to carry on in his romantic affair with Rosalie Maxwell,
28 LaPena's then-girlfriend and kill "two birds with one stone."

1 While this Court recognizes LaPena's allegations are mere conjecture and argument,
2 if the DNA testing of hair samples and fingernail scrapings implicated Krause in an
3 altercation with his wife prior to her death, a strong argument is made that failure to present
4 this evidence would have severely prejudiced the Defendant; his theory would have been
5 supported by the physical evidence contrary to Weakland's testimony which convicted him.
6 Significantly, this physical evidence would substantially undermine Weakland's testimony,
7 which, as this Court noted, was the only evidence in the record implicating the Defendant.
8 This Court emphasizes one of the reasons the Supreme Court in 1995 found that LaPena's
9 Counsel from the 1989 retrial was not deficient, was that LaPena "failed to show that
10 counsel was deficient in pursuing the alleged Krause-Weakland connection." This Court
11 notes however, that DNA had never been tested in either previous trials, despite the fact that
12 physical evidence existed from the crime scene. In fact, both of the victim's hands, as she
13 laid there dead with her throat cut, contained hairs in a significant enough amount, that the
14 hairs were impounded as evidence. Further, the pathologist testified that the victim had
15 been strangled with a cord and struggled prior to being stabbed in the neck. A reasonable
16 inference can be made that the hairs recovered from victim's hands belonged to the person
17 who strangled and stabbed her to death. Thus, the results of testing this for DNA may have
18 uncovered the identity of the perpetrator and bolstered LaPena's prior counsel's argument in
19 establishing the victim's husband's involvement and connection in the crime while at the
20 same time discrediting Weakland's testimony.

24 This Court is concerned with whether, after thirty-seven (37) years, any DNA can be
25 tested. The Court is not optimistic that DNA can be recovered from DNA testing of hairs
26 taken from the victim at the crime scene. Furthermore, it is unclear whether DNA for
27 comparison purposes from Mr. Krause would be salvageable, as Mr. Krause has been dead
28

1 since 1975. Finally, after reviewing the police and criminalist reports in the file, the Court
2 cannot locate any evidence that fingernail scrapings were *ever* recovered from the victim at
3 autopsy. (See Attached Exhibit 1). Criminalist Leaver was present at the autopsy and his
4 report reflects that he only photographed the body, and impounded the victim's blood and
5 her clothing. Criminalist Leaver's testimony also reflects that fingernail scrapings were not
6 recovered from the victim at autopsy. (See Attached Exhibit 2). When the Court inquired
7 of LaPena from what evidence did he believe there were fingernail scrapings from the
8 victim in this case, he apprised the Court that he understood that to be the practice at
9 autopsies. However, after reviewing the case file, this Court is satisfied that this practice did
10 not occur in 1975 when Mrs. Krause's autopsy was conducted as there is no documentation
11 to support the Defendant's contention that fingernail scrapings of the victim existed. As a
12 result of discussions on the record regarding this motion prior to the decision in this case,
13 LaPena orally acknowledged, despite his written motion before the Court, that the only
14 evidence that should be DNA tested and would be relevant to his defense, is the hair that
15 was found in the victim's hands at death in this case recovered by Captain Keller. (See
16 Attached Exhibits 3 and 4).

17
18
19 The Court surmises after a review of the Clark County Clerk's Exhibit lists from the
20 Defendant's first trial in 1977 (Attached as Exhibit 5), the Defendant's second trial in 1989
21 (Attached as Exhibit 6), the Defendant's Post Conviction Relief Hearing from 1995
22 (Attached as Exhibit 7), that the hair recovered from Captain Keller out of the victim's
23 hands at death at the crime scene from 1974 is most likely still in the Police Evidence Vault
24 with all the evidence under this DR or Event Number which was not admitted into evidence
25 at the prior court proceedings. Because no testing has ever been done on these items, it
26 stands to reason, this evidence remains with all the other evidence booked in this case. The
27
28

1 Court is also concerned that this evidence may have been destroyed at the conclusion of all
2 of the legal proceedings in this case, as the Defendant's conviction was finally affirmed in
3 1995, seventeen years ago.

4 While the Court believes DNA testing on what little evidence remains would prove
5 futile due to the passage of time and the degraded condition of the samples, such a belief is
6 insufficient to deny the Defendant's request based on the facts of this case. To the contrary,
7 the Court believes, pursuant to NRS 176.0918, that a reasonable probability exists that the
8 Defendant would not have been convicted if exculpatory results had been obtained through a
9 genetic marker analysis. Furthermore, in light of this case's tortured history and the shaky
10 foundation upon which LaPena was convicted, this Court finds that no harm or prejudice to
11 the State will result in granting Defendant's petition. Accordingly, the Court issues the
12 following Order:
13
14

15 DNA testing is Ordered on Item #13 Paper Bindle Containing Hairs removed from
16 Victim's Right Hand and Item #14 - Paper Bindle Containing Hairs removed from Victim's
17 Left Hand impounded under Clark County Sheriff's Department DR#74-1881 impounded
18 by Officer Jerry Keller #534 on 1/17/74. If DNA evidence is recovered, the parties are
19 Ordered to return before this Court for further instructions on how to proceed regarding
20 comparison. Finally, this Court prohibits the destruction of any other Evidence contained
21 under this DR Number until further Order by the Court.
22

23 ///

24 ///

25 ///

26 ///

27 ///


28 ///

ABBI SILVER
DISTRICT JUDGE

DEPARTMENT FIFTEEN
LAS VEGAS NV 89155

1 Accordingly, the Defendant's Post-Conviction Petition Requesting a Genetic Marker
2 Analysis of Evidence Within the Possession or Custody of the State of Nevada NRS
3 176.0918 is GRANTED.

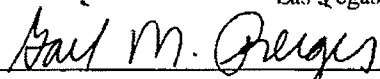
4 DATED this 25th day of October, 2011.

5
6 
7 JUDGE ABBI SILVER
8 EIGHTH JUDICIAL COURT XV
9

10
11 CERTIFICATE OF SERVICE

12 I hereby certify that on the date filed, I placed a copy of this Order in the attorney's
13 folder in the Clerk's Office, mailed or faxed a copy to:

14 Frank LaPena 1632 N. Torrey Pines Unit 103
15 Las Vegas NV 89108

16 
17 Judicial Executive Assistant
18
19
20
21
22
23
24
25
26
27
28

ABBI SILVER
DISTRICT JUDGE

DEPARTMENT FIFTEEN
LAS VEGAS NV 89155

EXHIBIT '1'

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
FIELD EVIDENCE OR CRIME SCENE REPORT

TECHNICAL SERVICES DIVISION
CRIMINALISTICS BUREAU
CRIMINAL INVESTIGATION SECTION

NO. ISSUED
DISTR. 21
INDEX
STATS
FILE

INCIDENT AUTOPSY DR # 74-1881
SUBMITTING AGENCY LVMPD OFFICER(S) SGT. ANDERSON DIV. UNIFORM
LOCATION OF INCIDENT BUNKER BROTHERS MORTUARY
VICTIM HILDA KRAUSE
SUSPECT(S) #1 _____ #2 _____ #3 _____

RESULTS OF INVESTIGATION:

1. PHOTOGRAPHY

- ☐ Black and White Negatives Exposed
☒ Color Negative Exposed
☐ Special (Infra-Red, Motion, Etc.)

2. LATENT PRINT PROCESSING

- ☐ Identifiable Latent Fingerprints Lifted
☐ Identifiable Latent Palm Prints Lifted
☐ Latent Prints Checked Through 5 Print File

3. FOOTWEAR OR TIRE IMPRESSIONS

- ☐ Footwear
☐ Tire Impression(s)
☐ Casting
☐ Photographed

4. FIREARMS EVIDENCE

- ☐ Projectile(s) Recovered
☐ Casing(s) Recovered
☐ Weapon(s) Recovered

☐ No Evidence Located

5. TOOLMARK EVIDENCE

- ☐ Casting
☐ Photographed
☐ Original Surface Recovered
☐ Tools Recovered

6. HAIR OR FIBER

- ☐ Hair(s) Recovered
☐ Fiber(s) Recovered

7. WOOD, GLASS, METAL, PAINT

- ☐ Wood Recovered
☐ Glass Recovered
☐ Metal Recovered
☐ Paint Recovered

8. OTHER (DESCRIBE BELOW)

EVIDENCE IMPOUNDED

DETAILED COMMENTS: ON 1-14-74, AT APPROXIMATELY 1500 HOURS, DET. W. BEEN AND
THE EXAMINING OFFICER RESPONDED TO THE ABOVE LISTED LOCATION TO WITNESS
AN AUTOPSY.

COLOR PHOTOGRAPHIC NEGATIVES WERE EXPOSED TO SHOW OVERALL AND CLOSE-
UP VIEWS OF THE VICTIM AND THE WOUNDS AND INJURIES OF THE VICTIM.

THE NEGATIVES ARE ON FILE UNDER THE ABOVE LISTED DR NUMBER.

SEE EVIDENCE IMPOUND REPORT FOR ADDITIONAL INFORMATION.

Date of Examination 1-14-74 Examining Officer William J. Jones Comm. # 759

Supervising Officer's Acknowledgment of Above [Signature] Rank [Signature]

8-29

(FOR FURTHER DETAIL, SEE ATTACHED EVIDENCE EXAMINED REPORT ☐)

Clark County Sheriff's Department
PROPERTY REPORT

Evidence ☒ Found Property ☐ Lost Property ☐ *Det* DR NO. 74-1881

Incident	AUTOPSY		Location	BUNKER BROTHERS	Date	1-14-74
Victim	HILDA KRAUSE		Address		Phone	
Suspect #1			Arrested	Charge	ID No.	
Suspect #2			Arrested	Charge	ID No.	
Recovered by	W. LEAVER #759		Address	LVMPD CRIME LAB	Phone	386-3471
Hold for Prosecution	XX	Proof of ownership		Registration check		
Safe Custody	Release to Owner					
Owner notified		By		Date		Via
List connecting Reports	MORGUE REPORT					

Details or circumstances - itemize, describe & give value of each item:

ON 1-14-74, AT APPROXIMATELY 1530 HOURS, DET. W. BEEN AND THE EXAMINING OFFICER RECOVERED THE BELOW LISTED ITEMS AT THE ABOVE LISTED LOCATION:

PKG. #1

ITEM #1 - ONE VIAL OF BLOOD

ITEM #2 - ONE VIAL OF BLOOD

PKG. #2

ITEM #3 - ONE PAJAMA HOUSE COAT

ITEM #4 - ONE PAJAMA TOP

ITEM #5 - ONE PAIR OF PAJAMA PANTS

NO. ISSUED	RT
DISTR.	RS
INDEX
STATS
FILE

THE ABOVE ITEMS WERE BOOKED INTO EVIDENCE UNDER DR #74-1881.

DATE AND TIME TYPED - DIVISION - CLERK

Approved By *[Signature]* Officer(s) *[Signature]* #759 Div. T.S. Date 1-14-74
S-71

EXHIBIT '2'

1 occurred subsequent to the severance of the large arteries, because
2 there would have been a complete loss of blood pressure.
3 Q Dr. Clarke, did you form any opinion
4 regarding the sequence in which the cutting and stab wounds were
5 inflicted?
6 A I can't say with certainty, although in
7 my opinion the deep stab wound or wounds probably occurred after
8 the cutting wound, because there were no separate incisions or
9 defects in the cutting wound. Apparently it had been inserted
10 through the open skin after the cutting.
11 Q In other words, Dr. Clarke, are you saying
12 that after her throat was cut, that the stab wounds were inflicted
13 inside the same wound or opening?
14 A Yes, that's my opinion.
15 MR. BARROW: That concludes direct examination.
16 THE COURT: Cross-examination?
17 CROSS-EXAMINATION
18 BY MR. ALVERSON:
19 Q Dr. Clarke, with respect to your testimony
20 that there was a superficial wound in the victim's back, could you
21 describe the dimensions of that wound, if you would?
22 A I think it was about two centimeters long,
23 and it penetrated the skin and the muscles. But not causing any
24 serious injury.
25 Q Do you know how deep it penetrated?
26 A Not over one centimeter, or about two-fifths
27 of an inch.
28 Q So it was approximately two-fifths of an
29 inch deep, and how--how wide--or long was it?
30 A About two centimeters, or say two-thirds
31 of an inch, something like that.
32 MR. ALVERSON: Two-thirds of an inch. Thank

1 approximately three p.m. on that date?
2 A Yes, I was.
3 Q Did you have occasion to go to the Dunbar
4 Brothers Mortuary at that time?
5 A Yes, sir.
6 Q For what purpose?
7 A It was to witness an autopsy.
8 Q Anyone else with you?
9 A Yes. Detective William Dean was with me
10 also.
11 Q You say it was to witness an autopsy; you
12 were a representative from the criminalistics bureau, is that
13 correct?
14 A Yes, I was.
15 Q Were you to perform other functions at
16 that autopsy?
17 A Yes. We were there to receive any
18 evidence that may be needed later, and also to photograph and
19 collect blood samples.
20 Q And did you take photographs?
21 A Detective Dean took the photographs.
22 Q To you know if any of those photographs
23 came out?
24 A No, apparently there was a malfunction in
25 the camera and none of the photographs turned out.
26 Q You also said that you collected some
27 evidence. What evidence did you collect?
28 A Collected two vials of blood, and received
29 those from Dr. Clarke, and a pair of pajama pants, pajama top, and
30 a pajama housecoat.
31 Q And where were they received from?
32 A They were also received from Dr. Clarke

1 the knife wounds, the cutting as well as the stabbing.
2 Q Did you form an opinion as to whether the
3 death occurred accidentally?
4 A Yes. In my opinion it could not have been
5 accidental.
6 Q And is that opinion for basically the
7 same reasons you have just related as ruling out it being self-
8 inflicted?
9 A Yes, sir.
10 Q Dr. Clarke, do you have an opinion as to
11 how long it would have been before this person suffered a loss of
12 consciousness after the wounds were inflicted?
13 A In my opinion she would have lost
14 consciousness immediately and died within a very short interval,
15 probably not over two or three minutes after the severance of the
16 arteries in the neck.
17 Q Where was the ligature groove mark which
18 you have described in relationship to the cutting and stabbing
19 wounds of the neck?
20 A A short distance above the cutting wound.
21 Probably about half an inch.
22 Q Did you form an opinion as to whether the
23 attempt at strangulation occurred before or after the cutting or
24 stab wounds of the neck?
25 A Yes, sir, I did.
26 Q What was your opinion?
27 A Based on my findings, my opinion was the
28 strangulation attempt had occurred prior to the throat being cut.
29 This was because there was evidence of bruising or hemorrhage
30 beneath the skin and into the neck muscles, associated with the
31 ligature pressure.
32 This would not have occurred, if this had

1 you, Dr. Clarke. No further.
2 THE COURT: Redirect?
3 MR. BARROW: No redirect, Your Honor.
4 THE COURT: Dr. Clarke, thank you very much
5 for attending Court today. You will be excused, sir.
6 THE WITNESS: Thank you, Your Honor.
7 (Witness excused.)
8 THE COURT: You may call your next witness.
9 MR. GREGORY: William Leaver.
10 (The witness was thereupon
11 duly sworn by the Clerk.)
12 Thereupon--
13 WILLIAM LEAVER,
14 was called as a witness by the State, and having been first duly
15 sworn, was examined and testified as follows:
16 DIRECT EXAMINATION
17 BY MR. GREGORY:
18 Q Would you state your name for the record,
19 spell your last name, please?
20 A It's William Leaver, L-e-a-v-e-r.
21 Q What is your occupation, Mr. Leaver?
22 A I'm a policeman with the Las Vegas
23 Metropolitan Police Department.
24 Q And how long have you been so employed?
25 A For just-over five years now.
26 Q What unit do you work with?
27 A I'm assigned to the criminalistics bureau
28 as an identification specialist.
29 Q Were you assigned to that unit on
30 January 14th, 1974?
31 A Yes, I was.
32 Q Did you have occasion to be on duty at

1 THE COURT: All right. Upon the representation
2 of counsel that they will have no objection to the chain of
3 custody and foundation on the envelope itself, are you wishing to
4 open it yourself to examine the contents?
5 MR. REID: I just want to see what's in here,
6 yes.
7 THE COURT: All right.
8 MR. REID: Judge Thompson--
9 THE COURT: Will you approach the Bench, please?
10 (Thereupon respective counsel approached the
11 Bench and conferred with the Court out of the
12 hearing of the reporter.)
13 Q (By Mr. Gregory) After taking custody of
14 these articles I believe you testified you booked them into the
15 evidence vault?
16 A Yes, sir.
17 Q All right. And you brought them into this
18 courtroom at my direction?
19 A Yes, sir.
20 MR. GREGORY: I will offer 111 and its contents,
21 Your Honor.
22 MR. REID: Your Honor, I would state an
23 objection. We have stipulated to all the blood that we feel that
24 we should in this case.
25 MR. GREGORY: I'm going to object to that
26 characterization.
27 MR. REID: And I feel there's no need to have
28 this before the Jury.
29 THE COURT: I have already indicated to counsel
30 that I would sustain the objection under 48.035, subsection 1.
31 MR. GREGORY: Yes, Your Honor. I have nothing
32 further from the witness, Your Honor.

1 and his assistant at that time was a Eugene Beck.
2 Q Did you see where Mr. Clarke obtained
3 these articles?
4 A Yes. He recovered them from the body of
5 the victim.
6 Q I show you what has been marked as State's
7 Exhibit 19. Do you recognize State's Exhibit 19?
8 A Yes, sir. That appears to be the same
9 victim.
10 Q Do you recognize the clothing?
11 A Yes, that's the same clothing she had on
12 at the autopsy.
13 Q All right. You testified Dr. Clarke
14 removed this clothing and he handed it to you, and what did you
15 do with it after it was removed?
16 A I placed it in a bag, took it back to the
17 criminalistics bureau, booked it into evidence.
18 Q And at my direction did you recover that
19 bag from the evidence vault and bring it into this courtroom?
20 A Yes, sir, I did.
21 Q May I see it, please?
22 A (Witness handing item to counsel.)
23 MR. GREGORY: May we have this marked as State's
24 next in order, Your Honor?
25 THE COURT: It may be so marked.
26 MR. GREGORY: That's 111.
27 It is my understanding counsel will stipulate
28 to the chain of custody. Do you have any objections to the
29 admission of 111 and its contents?
30 MR. REID: We have no objection to chain of
31 custody. I want to look and see what's in here. We have no
32 objection to the chain.

EXHIBIT '3'

Clark County Sheriff's Department
PROPERTY REPORT

Evidence ☒ Found Property ☐ Lost Property ☐

DR NO. 74-1881

Accident	HOMICIDE	Location	2995 PINCHURST	Date	1-14-74
Victim	HILDA KRAUSE	Address	2995 PINCHURST	Phone	
Suspect #1		Arrested	Charge	ID No.	
Suspect #2		Arrested	Charge	ID No.	
Recovered by	JERRY KELLER #534	Address	LVSPD CRIME LAB	Phone	386-3471
Held for Prosecution	XX	Proof of ownership	Registration check		
Safe Custody	Release to Owner				
Owner notified	By	Date	Via		
List connecting Reports	FIELD REPORT				

Details or circumstances - itemize, describe & give value of each item:

ON 1-14-74, BETWEEN 8:00 A.M., AND 11:30 A.M., THE FOLLOWING ITEMS WERE
RECOVERED BY THE UNDERSIGNED AT THE ABOVE DESCRIBED LOCATION.

PKG. #1, ITEM #1 - ONE YELLOW THROW RUG, RECOVERED FROM DOOR WAY OF NORTH
BEDROOM.
ITEM #2 - THREE VIALS CONTAINING NUMEROUS HAIRS, SOIL PARTICLES,
AND APPARENT PLANT PIECES, ALL RECOVERED FROM ITEM #1
PKG. #2, ITEM #3 - ONE COMPOSITE WOOD HANDLE RECOVERED FROM RIGHT SIDE OF
ITEM #4 - ONE SMALL CHIP OF COMPOSITE WOOD, RECOVERED FROM RIGHT ST
OF BODY.
ITEM #5 - ONE BROKEN KNIFE BLADE, APPROXIMATELY 7 1/2" LONG, BRAND
NAME "EXCO ETERNA", RECOVERED FROM BACK OF VICTIM HILDA KRAUSE.
ITEM #6 - TWO PIECES OF ELECTRICAL CORD, NEAR RIGHT SIDE OF BODY OF
HILDA KRAUSE.
ITEM #7 - ONE GAUZE STRIP REMOVED FROM NECK OF VICTIM HILDA KRAUSE.
PKG. #3, ITEM #8 - ONE PIECE OF GREEN CORD, WITH PLASTIC CORD, RECOVERED
FROM FLOOR OF SOUTHEAST BEDROOM.
ITEM #9 - ONE "WESTINGHOUSE" THREE WAY LIGHT BULB, REMOVED FROM
LIGHT IN SOUTHEAST BEDROOM.
PKG. #4, ITEM #10 - ONE VIAL CONTAINING SAMPLE OF BLANKET WITH STAIN FROM
SOUTHEAST BEDROOM BED.
PKG. #5, ITEM #11 - SAMPLE OF CARPET RECOVERED 14" SOUTH OF VICTIM'S WAIST
IN NORTH BEDROOM.

(CONT. NEXT PAGE)

DATE AND TIME TYPED - DIVISION - CLERK

Approved By T.P.E. [Signature] Officer(s) Jerry Keller #534 Div. T.S. Date 1-14-
S-71

SHERIFF'S DEPARTMENT, CLARK COUNTY, NEVADA

CONTINUATION REPORT

(PROPERTY REPORT DR #74-1881 CONT.)

ITEM #12 - SAMPLE OF CARPET RECOVERED 12" SOUTH OF VICTIM'S WAIST
IN NORTH BEDROOM.

ITEM #13 - PAPER BUNDLE CONTAINING HAIRS REMOVED FROM VICTIM'S
RIGHT HAND.

ITEM #14 - PAPER BUNDLE CONTAINING HAIR REMOVED FROM VICTIM'S
LEFT HAND.

ITEM #15 - PAPER BUNDLE CONTAINING SUBSTANCE RECOVERED 6" ABOVE
FLOOR ON WEST SIDE OF DOORWAY TO BATHROOM IN NORTH BEDROOM.

ITEM #16 - PAPER BUNDLE CONTAINING SUBSTANCE RECOVERED FROM LOWER
DRAWER HANDLE OF NIGHTSTAND AT EAST SIDE OF BED IN NORTH BEDROOM.

PKG. #6, ITEM #17 - ONE PAPER BUNDLE CONTAINING HAIR REMOVED FROM OUTSIDE
FRONT DOOR NEAR WINDOW.

PKG. #7, ITEM #18 - PAPER BUNDLE CONTAINING SUBSTANCE RECOVERED FROM LAMP
BASIN IN SOUTHEAST BEDROOM.

ITEM #19 - ONE PIECE OF BED SHEET FROM LOWER PORTION WEST SIDE OF
BED IN SOUTHEAST BEDROOM.

ITEM #20 - ONE PIECE OF GREEN BLANKET RECOVERED FROM FLOOR ON WEST
SIDE OF BED IN SOUTHEAST BEDROOM.

PKG. #8, ITEM #21 - ONE PAPER BUNDLE CONTAINING TIRE RUBBER RECOVERED FROM
CURB IN PARKING LOT BEHIND SUNRISE MEDICAL BUILDING.

ITEM #22 - ONE SOIL SAMPLE RECOVERED FROM PLANTER AREA ACROSS STREET
FROM 2995 PINEHURST DR.

ITEM #23 - ONE SOIL SAMPLE RECOVERED FROM PLANTER AREA ACROSS STREET
FROM 2995 PINEHURST DR.

PKG. #9, ITEM #24 - SAMPLES OF SOIL FROM THROUGHOUT RESIDENCE AT 2995
PINEHURST DR.

ITEM #25 - SAMPLE OF WEEDS FROM FENCE ACROSS STREET FROM 2995
PINEHURST DR.

OFFICER'S SIGNATURE/RADGE NO.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

FIELD EVIDENCE OR CRIME SCENE REPORT

TECHNICAL SERVICES DIVISION
CRIMINALISTICS BUREAU
CRIMINAL INVESTIGATION SECTION

INCIDENT HOMICIDE DR # 74-1881
SUBMITTING AGENCY LVMPD OFFICER(S) LEE DIV HOMICIDE
LOCATION OF INCIDENT 2995 PINEHURST
VICTIM HILDA S. KRAUSE
SUSPECT(S) #1 _____ #2 _____ #3 _____

RESULTS OF INVESTIGATION:

1. PHOTOGRAPHY

- ☐ Black and White Negatives Exposed
☒ Color Negative Exposed
☐ Special (Infra-Red, Motion, Etc.)

2. LATENT PRINT PROCESSING

- ☒ Identifiable Latent Fingerprints Lifted
☒ Identifiable Latent Palm Prints Lifted
☐ Latent Prints Checked Through S Print File

3. FOOTWEAR OR TIRE IMPRESSIONS

- ☒ Footwear
☒ Tire Impression(s)
☒ Casting
☒ Photographed

4. FIREARMS EVIDENCE

- ☐ Projectile(s) Recovered
☐ Casing(s) Recovered
☐ Weapon(s) Recovered

5. TOOLMARK EVIDENCE

- ☐ Casting
☐ Photographed
☐ Original Surface Recovered
☐ Tools Recovered

6. HAIR OR FIBER

- ☒ Hair(s) Recovered
☐ Fiber(s) Recovered

7. WOOD, GLASS, METAL, PAINT

- ☐ Wood Recovered
☐ Glass Recovered
☐ Metal Recovered
☐ Paint Recovered

8. OTHER (DESCRIBE BELOW)

SEE EVIDENCE IMPOUND
REPORT

DETAILED COMMENTS: ON 1-14-74, AT APPROXIMATELY 7:30 A.M., THE EXAMINING OFFICER RESPONDED TO THE ABOVE DESCRIBED LOCATION TO AID IN THE INVESTIGATION OF A HOMICIDE.

PERSONS PRESENT AT TIME OF ARRIVAL: LT. AVANTS, DET. CONNELL, DAVIS, LEE, SGT. ANDERSON.

SCENE AT TIME OF ARRIVAL: THE GARAGE DOOR OF THE RESIDENCE WAS OPEN, NUMEROUS DRAWERS WERE OPEN THROUGHOUT THE RESIDENCE. IN THE NORTH BEDROOM, THE BODY OF A WFA, APPROXIMATELY 60 YEARS, WAS LYING FACE DOWN IN THE ENTRANCE TO CLOSET/BATHROOM AREA WITH HER HEAD IN AN EASTERLY DIRECTION. A KNIFE BLADE WAS LOCATED IN THE UPPER MIDLINE OF HER BACK.

COLOR NEGATIVES WERE EXPOSED TO SHOW THE FOLLOWING: LOCATION FOR (CONT, NEXT PAGE)

Date of Examination 1-14-74 Examining Officer [Signature] Comm. # 534

Supervising Officer's Acknowledgment of Above [Signature] Rank [Signature]

SHERIFF'S DEPARTMENT, CLARK COUNTY, NEVADA

CONTINUATION REPORT

(FIELD REPORT, HOMICIDE, DR #74-1881 CONT.)

IDENTIFICATION, OPEN DRAWERS THROUGHOUT THE HOUSE, LOCATION OF BODY, LOCATION OF EVIDENCE ITEMS RECOVERED, LOCATION AND IDENTIFICATION OF A 1974 CADILLAC, VIN #6L4754Q413262, NEV. LIC. "MARVIN", LOCATION OF FOOTPRINT AND TIRE TRACK IMPRESSIONS, AND ALL NEGATIVES ARE ON FILE UNDER DR #74-1881.

NUMEROUS ITEMS OF EVIDENCE WERE RECOVERED FROM THROUGHOUT THE RESIDENCE (SEE EVIDENCE IMPOUND REPORT).

PLASTER CASTS WERE MADE OF FOOTPRINT AND TIRE TRACK IMPRESSIONS LOCATED APPROXIMATELY 50 YARDS SOUTH OF THE SOUTH EDGE OF THE REAR PARKING LOT OF THE PARKWAY CENTER AND APPROXIMATELY 40 YARDS NORTH OF THE NORTH EDGE OF THE PARKWAY CENTER REAR PARKING LOT.

NUMEROUS PARTIAL LATENT FINGERPRINT AND PALM PRINT IMPRESSIONS WERE DEVELOPED AND LIFTED FROM LOCATIONS THROUGHOUT THE RESIDENCE. ALL LATENT PRINTS ARE ON FILE UNDER DR #74-1881.

ONE PALM IMPRESSION AND TWO FINGERPRINT IMPRESSIONS WERE ELIMINATED AS THOSE OF THE VICTIM, HILDA KRAUSE.

AN INKED AND ROLLED SET OF FINGERPRINT AND PALM PRINT IMPRESSIONS WERE TAKEN FROM THE VICTIM AT THE SCENE AND ARE IN THE CASE FILE OF THE EXAMINING OFFICER.

James A. ...
OFFICER'S SIGNATURE/BADGE NO

OFFICER'S SIGNATURE/BADGE NO

EXHIBIT '4'

1 In addition, Defendant's counsel used the absence of hair testing to poke holes in the
2 State's case in a further attempt to create reasonable doubt.

3 **Mr. Mills:** I assume with that kind of examination that we are talking
4 about, Captain Keller, that you also examined the body

5 **Captain Keller:** That's correct.

6 **Mr. Mills:** And you examined the body for evidence that might lead to
7 the conclusion of this case; is that correct?

8 **Captain Keller:** That's correct.

9 **Mr. Mills:** During the course of that examination, isn't it true that you
10 found either clutched or stuck to both of Mrs. Krause's hands human
11 hair?

12 **Captain Keller:** I don't' know if it was human. There were hairs that I
13 recovered from her hands prior to the body being transported.

14 **Mr. Mills:** Both hands?

15 **Captain Keller:** That's correct. Now, whether they were clutched or
16 stuck or were adhering to the front or back of the hands I don't recall.

17 **Mr. Mills:** But in both hands you found hair?

18 **Captain Keller:** Yes. My reports indicate that item 13 was a paper
19 bundle containing hairs removed from the victim's right hand and 14
20 was a paper bundle containing hair removed from the victim's right
21 hand. Whether it was clutched in the hand or static electricity I don't
22 recall.

23 **Mr. Mills:** But from both hands you took hair?

24 **Captain Keller:** That's correct.

25 **Mr. Mills:** Did you also analyze beneath the fingernails?

26 **Captain Keller:** Not that I recall. That would have been done at the
27 mortuary or during the autopsy.

28 ///

1 **Mr. Mills:** You don't recall ever seeing where they attempted to match
2 any of the individuals I have named?

3 **Captain Keller:** No, sir.

4 Reporter's Transcript of Proceedings, 125-126, May 10, 1989 (Exhibit 4-E). Mr. Mills then
5 pointed out that the detectives investigating the case would have had to have requested the
6 analysis of the hair. Id. at 126-128.

7 The State countered Defendant's arguments by noting that the hair could have been
8 on Mrs. Krause's hands since she was laying on the carpeted floor with her head resting on
9 the rugs. Id. at 129. Captain Keller then indicated that the "morphological characteristics of
10 hair at that time did not lend themselves to positive identification except in extremely rare
11 situations" but were almost always related to the additives to the hair itself. Id. at 130.

12 Defendant's counsel then went through the potential benefit this hair could have had
13 in another attempt to persuade the jury that there was a different killer:

14 **Mr. Mills:** Captain Keller, an examination of hair might also have
15 revealed whether or not it was pulled out or it was broken off and shed
16 hair; would it not?

17 **Captain Keller:** It could have, yes.

18 **Mr. Mills:** And indeed it could have eliminated certain people from
19 whether it was their hair, couldn't it?

20 **Captain Keller:** If the differences were significant, yes.

21 **Mr. Mills:** And it could have indicated if a person was older, for
22 example, and had graying in their hair versus a much younger person?

23 **Captain Keller:** Well, the color composition of hair is difficult to judge
24 under the microscope. It's more easily judged visibly. Whereas, I have
25 dark hair, and lots of the light hair it's difficult to judge under the
26 microscope. The hairs are relatively transparent when they are mounted
 on slides.

27 **Mr. Mills:** There is some genetic work done with hairs as well; have
28 they not?

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Captain Keller: Recently, yes.

Mr. Mills: At that time do you know if anything was done as to determine whether that hair would match any of the individuals named?

Captain Keller: These particular hairs?

Mr. Mills: Yes.

Captain Keller: No, sir, I do not. . . .

Mr. Mills: You found some significance, in fact during the examination, the hairs located either in or on the hands?

Captain Keller: Yes, I did.

Mr. Mills: Significant enough with your experience and training to not only take those hairs, but to note which hand they came from, didn't you?

Captain Keller: yes. That's common practice in examination of any body at a crime scene to remove trace evidence that might be lost during the transport of that body in the body bag to the mortuary.

Mr. Mills: Hair is one of those things which can be probative in determining things about what happened at the time of the death, can't they? . . . Or to help determine whether or not she was involved in a struggle with someone or not, this kind of thing?

Captain Keller: Perhaps, yes.

Reporter's Transcript of Proceedings, 130-133, May 10, 1989 (Exhibit 4-E)

Counsel further pointed out that the hairs were not tested when he questioned the officers in charge of the investigation. Reporter's Transcript of Proceedings, 89-92, May 11, 1989 (Exhibit 4-F); Reporter's Transcript of Proceedings, 126, May 16, 1989 (Exhibit 4-I).

Despite counsel's repeated attempts to have the hair be "in" Mrs. Krause's hands, the Court pointed out that Captain Keller always claimed the hair was on her hand. Captain

///

EXHIBIT '5'

CASE NO. 29-92DEPT. NO. VIITRIAL DATE: 7-27-77JUDGE: Carl J. ChristensenCLERK: Marie BerlandREPORTER: J. V. Brown

COUNSEL FOR THE PLAINTIFF

COUNSEL FOR THE DEFENDANT

The State of Nevada
PLAINTIFF

VS.

Frank Le Pena
DEFENDANT

TRIAL BEFORE THE COURT

PLAINTIFF'S WITNESSES:

1. Willis Frank Spencer 7/27pm
2. Mario Macias 7/27pm
3. St. John Silbaugh 7/27pm
4. William Leamer 7/27pm
5. Sandra Wickland 7/27pm
6. Robert Webb 7/27pm
7. Gruid Wickland 7/28 pm
8. John Oatey 7/29 AM
9. Lee Wickland 7/29 am
10. Bail (Wickland) Hodge 7/29 am
11. Michael Cheng 7/29 pm
12. Mary Beth Bordeaux 7/29 pm
13. _____
14. _____
15. _____
16. _____
17. _____
18. _____
19. _____
20. _____

DEFENDANT'S WITNESSES:

1. Barbara Atkin 7/29/77 pm
2. Sandra Hodgins " "
3. Phoebe Clayton " "
4. Brian Clayton " "
5. Raymond Atkin " "
6. James McMillan " "
7. Carmille Williams " "
8. Jean Crow " "
9. Bill Butcher " "
10. Kevin Robert Stoner " "
11. _____
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19. _____
20. _____

REBUTTAL WITNESSES:

1. John Oatey 8-1-77 am
2. Charles Lee 8-1-77 am

SUR-REBUTTAL WITNESSES:

1. _____
2. _____
3. _____

PLAINTIFF'S EXHIBITS

CASE NO. 29092

	OFFERED	ADMITTED
1. <u>Photo</u>	<input checked="" type="checkbox"/> 7/27	<input checked="" type="checkbox"/> 7/27
2. <u>"</u>	<input checked="" type="checkbox"/> "	<input type="checkbox"/>
3. <u>"</u>	<input checked="" type="checkbox"/> "	<input checked="" type="checkbox"/> "
4. <u>"</u>	<input checked="" type="checkbox"/> "	<input checked="" type="checkbox"/> "
5. <u>"</u>	<input checked="" type="checkbox"/> "	<input checked="" type="checkbox"/> "
6. <u>Diagram</u>	<input checked="" type="checkbox"/> 7/27	<input checked="" type="checkbox"/> 7/27
7. <u>Copy of plea agreement</u>	<input checked="" type="checkbox"/> 7/28	<input checked="" type="checkbox"/> 7-2
8. <u>Cert. copy of Paul King testimony of Gerald Weakland</u>	<input checked="" type="checkbox"/> "	<input checked="" type="checkbox"/> 7/28
9. <u>Reproduction Reel of Jerry Weakland's testimony</u>	<input checked="" type="checkbox"/> 7-29	<input checked="" type="checkbox"/> 7-2
10. <u>Subpoena for John Weakland</u>	<input type="checkbox"/>	<input type="checkbox"/>
11. <u>Copy of Transcript of John Weakland's testimony</u>	<input checked="" type="checkbox"/> 7-29	<input checked="" type="checkbox"/> 7-2
12. <u>Cert. Copy of Judgment of Conviction in Case 27870</u>	<input checked="" type="checkbox"/> 8-1	<input checked="" type="checkbox"/> 8-1
13. _____	<input type="checkbox"/>	<input type="checkbox"/>
14. _____	<input type="checkbox"/>	<input type="checkbox"/>
15. _____	<input type="checkbox"/>	<input type="checkbox"/>
16. _____	<input type="checkbox"/>	<input type="checkbox"/>
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18. _____	<input type="checkbox"/>	<input type="checkbox"/>
19. _____	<input type="checkbox"/>	<input type="checkbox"/>
20. _____	<input type="checkbox"/>	<input type="checkbox"/>
21. _____	<input type="checkbox"/>	<input type="checkbox"/>
22. _____	<input type="checkbox"/>	<input type="checkbox"/>
23. _____	<input type="checkbox"/>	<input type="checkbox"/>
24. _____	<input type="checkbox"/>	<input type="checkbox"/>
25. _____	<input type="checkbox"/>	<input type="checkbox"/>

DEFENDANT'S EXHIBITS:

CASE NO. 29092

OFFERED ADMITTE:

A. <u>Statement by Mary Beth Berdeaux</u>	<input checked="" type="checkbox"/> 7-24	<input checked="" type="checkbox"/> 7-
B. <u>Excerpts from testimony of Girl (Winkland) Hodge</u>	<input checked="" type="checkbox"/> 8-1	<input checked="" type="checkbox"/> 8-
C. <u>Copy of Treatment Record of Girl (Winkland) Hodge from 11/26</u>	<input checked="" type="checkbox"/> 8-1	<input checked="" type="checkbox"/> 8-
D. _____	<input type="checkbox"/>	<input type="checkbox"/>
E. _____	<input type="checkbox"/>	<input type="checkbox"/>
F. _____	<input type="checkbox"/>	<input type="checkbox"/>
G. _____	<input type="checkbox"/>	<input type="checkbox"/>
H. _____	<input type="checkbox"/>	<input type="checkbox"/>
I. _____	<input type="checkbox"/>	<input type="checkbox"/>
J. _____	<input type="checkbox"/>	<input type="checkbox"/>
K. _____	<input type="checkbox"/>	<input type="checkbox"/>
L. _____	<input type="checkbox"/>	<input type="checkbox"/>
M. _____	<input type="checkbox"/>	<input type="checkbox"/>
N. _____	<input type="checkbox"/>	<input type="checkbox"/>
O. _____	<input type="checkbox"/>	<input type="checkbox"/>
P. _____	<input type="checkbox"/>	<input type="checkbox"/>
Q. _____	<input type="checkbox"/>	<input type="checkbox"/>
R. _____	<input type="checkbox"/>	<input type="checkbox"/>
S. _____	<input type="checkbox"/>	<input type="checkbox"/>
T. _____	<input type="checkbox"/>	<input type="checkbox"/>
U. _____	<input type="checkbox"/>	<input type="checkbox"/>
V. _____	<input type="checkbox"/>	<input type="checkbox"/>
W. _____	<input type="checkbox"/>	<input type="checkbox"/>
X. _____	<input type="checkbox"/>	<input type="checkbox"/>
Y. _____	<input type="checkbox"/>	<input type="checkbox"/>
Z. _____	<input type="checkbox"/>	<input type="checkbox"/>

PLAINTIFFS' EXHIBITS

CASE NO. 2109

Courts
 I. Certified Copy of ^{note} Registration for Louis Cardinals ☒ OFFERED 7-29 ☒ ADMITTED

2.	<input type="checkbox"/>	<input type="checkbox"/>
3.	<input type="checkbox"/>	<input type="checkbox"/>
4.	<input type="checkbox"/>	<input type="checkbox"/>
5.	<input type="checkbox"/>	<input type="checkbox"/>
6.	<input type="checkbox"/>	<input type="checkbox"/>
7.	<input type="checkbox"/>	<input type="checkbox"/>
8.	<input type="checkbox"/>	<input type="checkbox"/>
9.	<input type="checkbox"/>	<input type="checkbox"/>
10.	<input type="checkbox"/>	<input type="checkbox"/>
11.	<input type="checkbox"/>	<input type="checkbox"/>
12.	<input type="checkbox"/>	<input type="checkbox"/>
13.	<input type="checkbox"/>	<input type="checkbox"/>
14.	<input type="checkbox"/>	<input type="checkbox"/>
15.	<input type="checkbox"/>	<input type="checkbox"/>
16.	<input type="checkbox"/>	<input type="checkbox"/>
17.	<input type="checkbox"/>	<input type="checkbox"/>
18.	<input type="checkbox"/>	<input type="checkbox"/>
19.	<input type="checkbox"/>	<input type="checkbox"/>
20.	<input type="checkbox"/>	<input type="checkbox"/>
21.	<input type="checkbox"/>	<input type="checkbox"/>
22.	<input type="checkbox"/>	<input type="checkbox"/>
23.	<input type="checkbox"/>	<input type="checkbox"/>
24.	<input type="checkbox"/>	<input type="checkbox"/>
25.	<input type="checkbox"/>	<input type="checkbox"/>

EXHIBIT '6'

CASE NO. C59791DEPT. NO. XIIIState of Nevada

PLAINTIFF

VS.

Frank K Ralph La Pena

DEFENDANT

TRIAL DATE: May 8, 1989JUDGE: THOMAS A. FOLEYCLERK: LYNNE LERNERREPORTER: Kristine Buttell

JURY FEES: _____

David Schwartz, DDA
COUNSEL FOR THE PLAINTIFFGeorge Carter & Leonard Mills
COUNSEL FOR THE DEFENDANT

1. Fernando <u>Matthew H. HIN</u> (131)	2. <u>Michael L. Noll</u> (116)	3. <u>Larry E. Sandberg</u> <u>Lois F. Clark</u> <u>Mary Elliot Jones</u> (142)
4. Robert <u>James D. Schenck</u> <u>James A. Parker</u> <u>Patricia B. Register</u> (143)	5. Robert <u>Constance Ann Johnson</u> <u>Ether L. V. Schwartz</u> <u>Myron Roy Schwartz</u> (147)	6. <u>Patricia A. Jacobs</u> (124)
7. <u>Debra</u> <u>Sessa</u> (126)	8. <u>Gregory David Hirschler</u> <u>Boris Leon</u> <u>Barbara Isaac Shiner</u> <u>Betty Jo J. Anderson</u> (145)	9. <u>Barbara A. Alderman</u> (128)
10. <u>Timothy James Cross</u> (129)	11. <u>Martha King</u> <u>Stephen E. Hession</u> <u>Ruth Ann McElvira</u> (150)	12. <u>Bonnie Ficklin</u> <u>Hector D. Bonham</u> <u>Ronald Lance Rowles</u> (136)

*Guilty
1st Degree
Murder
10/9/89
10/9/89*

Alderman:
1. George Joseph
Levin (15)
2. Dean David
Nolan (158)

PLAINTIFF'S WITNESSES

CASE NO. P59791

1. Gerald Weakland (1:35pm 5-9) 26. _____
2. Peter Dustin (10:25am 5-10) 27. _____
3. Jeffrey Dick (11:06am 5-10) 28. _____
4. Jerry Ray Keller (11:40am 5-10) 29. _____
5. Mufid Khoury (3:10pm 5-10) 30. _____
6. Robert Keiser (3:25pm 5-10) 31. _____
7. Donald Mahar (4:15pm 5-10) 32. _____
8. Charles Lee (10:25am 5-11) 33. _____
9. Thomas Buntwell (3:22pm 5-11) 34. _____
(10:55am 5-12)
10. Robert Charles Webb (1:27pm 5-12) 35. _____
11. Erwin William Fish (3:12pm 5-12) 36. _____
12. Sandra Weakland (4:15pm 5-12) 37. _____
13. Charles Reynolds (10:00pm 5-15) 38. _____
14. Carol Fitz Gerald (10:28am 5-15) 39. _____
15. Carol Ellingson (10:45am 5-15) 40. _____
16. Testimony of Mrs. Krause read into record (10:55am 5-15) 41. _____
17. Bill Underwood (11:31am 5-15) 42. _____
18. Mr. Kirk V. Cammack (1:30pm 5-15) 43. _____
19. Stewart Small (1:45pm 5-15) 44. _____
20. Jean Crow (1:50pm 5-15) 45. _____
21. Susan Cope (2:08pm 5-15) 46. _____
22. Testimony of Dr. Jones Clark read into record (2:45pm 5-15) 47. _____
23. Gail Hodges (10:45am 5-16) 48. _____
24. Beecher Swantz (1:35pm 5-16) 49. _____
25. _____ 50. _____

SUR-REBUTTAL

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| 2. _____ | 7. _____ |
| 3. _____ | 8. _____ |
| 4. _____ | 9. _____ |
| 5. _____ | 10. _____ |

DEFENDANT'S WITNESSES

CASE NO. C59771

1. Jean Crow (5-18 10:35AM) 26.
2. Gerald Wealdand (5-18 10:37AM) 27.
3. ~~Edward~~ Eckert (5-18 11:10AM) 28.
4. Bernard ybarea (5-18 11:35AM) 29.
5. Charles Cooper (5-18 11:40AM) 30.
6. William Mace Knapp (5-18 1:45PM) 31.
7. Richard L. Grisham (5-18 2:00PM) 32.
8. Jack Ruggles (5-18 2:05PM) 33.
9. Testimony of Carole Campbell read into record (5-18 2:13PM) 34.
10. 35.
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21. 46.
22. 47.
23. 48.
24. 49.
25. 50.

SUR-REBUTTAL

- | | |
|----------|-----------|
| 1. _____ | 6. _____ |
| 2. _____ | 7. _____ |
| 3. _____ | 8. _____ |
| 4. _____ | 9. _____ |
| 5. _____ | 10. _____ |

Slates
PLAINTIFF'S EXHIBITS

CASE NO. 659791

OFFERED ADMITTED

1. Black & White Photo	(Marvin Krause)	<input checked="" type="checkbox"/>	no obj. 5-9	<input checked="" type="checkbox"/>
2. Colored Photo	(Rosalie Maxwell)	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/>
3. " "	(Frank Harper)	<input type="checkbox"/>		<input type="checkbox"/>
4. " "	(Jerry Weakland)	<input checked="" type="checkbox"/>	no obj. 5-11	<input checked="" type="checkbox"/>
5. " "	(Tom Boutwell)	<input checked="" type="checkbox"/>	5-9 no obj.	<input checked="" type="checkbox"/>
6. " "	(Bobby Webb)	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/>
7. " "	(Exterior house)	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/>
8. " "	(Exterior house)	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/>
9. " "	(Exterior house)	<input type="checkbox"/>		<input type="checkbox"/>
10. " "	(Interior house)	<input checked="" type="checkbox"/>	no obj. 5-9	<input checked="" type="checkbox"/>
11. " "	(" ")	<input type="checkbox"/>		<input type="checkbox"/>
12. " "	(Interior house - Victim)	<input checked="" type="checkbox"/>	no obj. 5-10	<input checked="" type="checkbox"/>
13. " "	(" " ")	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/>
14. " "	(" " ")	<input checked="" type="checkbox"/>	no obj. 5-9	<input checked="" type="checkbox"/>
15. " "	(Closeup - Victim)	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/>
16. (No exhibit available for marking)		<input type="checkbox"/>		<input type="checkbox"/>
17. Colored Photo	(Closeup Victim)	<input checked="" type="checkbox"/>	no obj. 5-9	<input checked="" type="checkbox"/>
18. (No exhibit marked)		<input type="checkbox"/>		<input type="checkbox"/>
19. Colored Photo	(Victim Interior house)	<input type="checkbox"/>		<input type="checkbox"/>
20. (No exhibit marked)		<input type="checkbox"/>		<input type="checkbox"/>
21. Colored Photo	(Interior house)	<input type="checkbox"/>		<input type="checkbox"/>
22. " "	(" ")	<input checked="" type="checkbox"/>	no obj. 5-10	<input checked="" type="checkbox"/>
23. " "	(" ")	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/>
24. " "	(" ")	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/>
25. " "	(" ")	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/>

PLAINTIFF'S EXHIBITS

CASE NO. 159741

OFFERED ADMITTED

26. Colored Photo	<input checked="" type="checkbox"/>	no obj. 5-10	<input checked="" type="checkbox"/>
27. Colored Photo (Parking lot)	<input checked="" type="checkbox"/>	no obj. 5-10	<input checked="" type="checkbox"/>
28. " (")	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/>
29. " (Parking lot & car)	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/>
30. " (car)	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/>
31. " (Car Interior)	<input checked="" type="checkbox"/>	no obj. 5-10	<input checked="" type="checkbox"/>
32. " (")	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/>
33. " (Headlines)	<input type="checkbox"/>		<input type="checkbox"/>
34. Color Photo (Car Exterior)	<input checked="" type="checkbox"/>	no obj. 5-10	<input checked="" type="checkbox"/>
35. " (Parking lot)	<input type="checkbox"/>		<input type="checkbox"/>
36. " (tire tracks on Pavement)	<input type="checkbox"/>		<input type="checkbox"/>
37. " (")	<input checked="" type="checkbox"/>	no obj. 5-10	<input checked="" type="checkbox"/>
38. " (tire tracks on dirt)	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/>
39. " (")	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/>
40. " (")	<input checked="" type="checkbox"/>	no obj. 5-10	<input checked="" type="checkbox"/>
41. " (")	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/>
42. " (Car)	<input checked="" type="checkbox"/>	no obj. 5-10	<input checked="" type="checkbox"/>
43. " (")	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/>
44. " (Car Interior)	<input type="checkbox"/>		<input type="checkbox"/>
45. " (")	<input checked="" type="checkbox"/>	no obj. 5-11	<input checked="" type="checkbox"/>
46. " (")	<input type="checkbox"/>		<input type="checkbox"/>
47. " (T.V. Set)	<input checked="" type="checkbox"/>	no obj. 5-10	<input checked="" type="checkbox"/>
48. " (T.V. Set knob)	<input checked="" type="checkbox"/>	no obj. 5-10	<input checked="" type="checkbox"/>
49. " (")	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/>
50. Color Photo (Pecos Viking)	<input checked="" type="checkbox"/>	no obj. 5-10	<input checked="" type="checkbox"/>

PLAINTIFF'S EXHIBITS

CASE NO. CS9791

OFFERED ADMITTED

51. Color Photo (Desert)	<input checked="" type="checkbox"/>	no obj S-10	<input checked="" type="checkbox"/>
52. " " (Rosalie Marshall's Exterior house)	<input checked="" type="checkbox"/>	no obj S-9	<input checked="" type="checkbox"/>
53. " " (" ")	<input checked="" type="checkbox"/>	no obj S-16	<input checked="" type="checkbox"/>
54. " " (Interior House)	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/>
55. " " (Interior house)	<input checked="" type="checkbox"/>	no obj S-9	<input checked="" type="checkbox"/>
56. " " (Interior house)	<input checked="" type="checkbox"/>	no obj S-16	<input checked="" type="checkbox"/>
57. " " (Rosalie Marshall's Interior house)	<input checked="" type="checkbox"/>	no obj S-9	<input checked="" type="checkbox"/>
58. " " (" ")	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/>
59. " " (" ")	<input checked="" type="checkbox"/>	no obj S-16	<input checked="" type="checkbox"/>
60. " " (" ")	<input type="checkbox"/>	obj	<input type="checkbox"/> w/drawn
61. Sketch (Small - 2 pages)	<input type="checkbox"/>		<input type="checkbox"/>
62. Sketch notes	<input checked="" type="checkbox"/>	no obj S-10	<input checked="" type="checkbox"/>
63. Evidence envelope ^{63A Diagram} ^{63B Diagram} ^{63C Diagram}	<input type="checkbox"/>		<input type="checkbox"/>
64. Large Diagram - Exterior	<input checked="" type="checkbox"/>	no obj S-10	<input checked="" type="checkbox"/>
65. " " - Interior	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/>
66. Evidence bag ^{66A Wood handle 66B. Electric cord} ^{66C Wood chip 66E. material strips} ^{66C Knife blade (all in plastic bags)} ^{67A. Plastic bag - green cord}	<input checked="" type="checkbox"/>	no obj S-10	<input checked="" type="checkbox"/>
67. " ^{67B Light Bulb}	<input checked="" type="checkbox"/>	no obj S-10	<input checked="" type="checkbox"/>
68. Evidence bag ^{68A Brown cord 68C. container w/ debris} ^{68B Cord w/ 2 metal pieces}	<input checked="" type="checkbox"/>	no obj S-10	<input checked="" type="checkbox"/>
69. Evidence bag ^{69A Small envelope containing pearls}	<input checked="" type="checkbox"/>	no obj S-10	<input checked="" type="checkbox"/>
70. Evidence ^{envelope} bag ^{70A Rights cord}	<input type="checkbox"/>		<input type="checkbox"/>
71. Evidence envelope ^{71A. Small envelope containing gold coin wrapped in cellophane} ^{72A. Underwood checks}	<input checked="" type="checkbox"/>	no obj S-10	<input checked="" type="checkbox"/>
72. Evidence Envelope ^{P72B " "} ^{P72C " "}	<input type="checkbox"/>		<input type="checkbox"/>
73. Evidence Envelope ^{73A \$400.00 Deposit slip of deposit} ^{73B 305 road receipt} ^{73C check} ^{73D book reg}	<input checked="" type="checkbox"/>	no obj S-10	<input checked="" type="checkbox"/>
74. Evidence Envelope	<input type="checkbox"/>		<input type="checkbox"/>
75. T.V Set	<input checked="" type="checkbox"/>		<input type="checkbox"/>

PLAINTIFF'S EXHIBITS

CASE NO. C59791

	OFFERED	ADMITTED
176. Colored Snapshot (Mervin Krause)	<input checked="" type="checkbox"/> No Obj. 5-16	<input checked="" type="checkbox"/>
177. Bunn & Mersier Watch Brochure	<input checked="" type="checkbox"/> No Obj. 5-15	<input checked="" type="checkbox"/>
178. Guest registration (3 sheets)	<input checked="" type="checkbox"/> No Obj. 5-11	<input checked="" type="checkbox"/>
179. Piece of paper with name & phone number	<input checked="" type="checkbox"/> No Obj. 5-12	<input checked="" type="checkbox"/>
180. Telephone records (2 sheets)	<input checked="" type="checkbox"/> No Obj. 5-15	<input checked="" type="checkbox"/>
181. (No exhibit available for production)	<input type="checkbox"/>	<input type="checkbox"/>
182. Certified copy of death certificate	<input checked="" type="checkbox"/> No Obj. 5-15	<input checked="" type="checkbox"/>
183A. Excised copy of Mervin Krause transcript substituted for below	<input type="checkbox"/>	<input type="checkbox"/>
183. Copy of Mervin Krause Transcript.	<input type="checkbox"/>	<input type="checkbox"/>
184. Copy of transcript of Jerry Weakland	<input type="checkbox"/>	<input type="checkbox"/>
185. Copy of transcript of Jerry Weakland	<input type="checkbox"/>	<input type="checkbox"/>
186. (No exhibit available for production)	<input type="checkbox"/>	<input type="checkbox"/>
187. (" " " ")	<input type="checkbox"/>	<input type="checkbox"/>
188. (" " " ")	<input type="checkbox"/>	<input type="checkbox"/>
189. (" " " ")	<input type="checkbox"/>	<input type="checkbox"/>
190. (" " " ")	<input type="checkbox"/>	<input type="checkbox"/>
191. (" " " ")	<input type="checkbox"/>	<input type="checkbox"/>
192. Krause Employment records	<input checked="" type="checkbox"/> No Obj. 5-15	<input checked="" type="checkbox"/>
193. Weakland Employment records	<input checked="" type="checkbox"/> " "	<input checked="" type="checkbox"/>
194A. Maxwell Employment records	<input checked="" type="checkbox"/> " "	<input checked="" type="checkbox"/>
194. Maxwell Employment records	<input type="checkbox"/>	<input type="checkbox"/>
195. Repair estimate (Maxwell Cadillac)	<input type="checkbox"/>	<input type="checkbox"/>
196. Repair Order (Cashman)	<input type="checkbox"/>	<input type="checkbox"/>
197. Certified copy of Registration (Cadillac Maxwell)	<input type="checkbox"/>	<input type="checkbox"/>
198. Medical Records (Emergency room)	<input type="checkbox"/>	<input type="checkbox"/>
199. Authorization to pay Cashman	<input type="checkbox"/>	<input type="checkbox"/>
100. Release signed by Rosalbe Maxwell 1-14-74	<input type="checkbox"/>	<input type="checkbox"/>

PLAINTIFF'S EXHIBITS

CASE NO. C59791

OFFERED ADMITTED

101. Hospital records	<input type="checkbox"/>	<input type="checkbox"/>
102. Whitley Inspection report	<input type="checkbox"/>	<input type="checkbox"/>
103. (no exhibit available for review)	<input type="checkbox"/>	<input type="checkbox"/>
104. Xerox copy of receipts	<input type="checkbox"/>	<input type="checkbox"/>
105. Evidence envelope	<input type="checkbox"/>	<input type="checkbox"/>
106. Small color photo	<input type="checkbox"/>	<input type="checkbox"/>
107. Copy of time cards	<input type="checkbox"/>	<input type="checkbox"/>
108. Large Photo Blow up	<input checked="" type="checkbox"/> no obj. S-12	<input checked="" type="checkbox"/>
109. " " " "	<input checked="" type="checkbox"/> "	<input checked="" type="checkbox"/>
110. Latent Finger print cards	<input type="checkbox"/>	<input type="checkbox"/>
111. Evidence bag & contents	<input type="checkbox"/>	<input type="checkbox"/>
112. Evidence bag #112A Video tape	<input type="checkbox"/>	<input type="checkbox"/>
113. Note written in pencil	<input type="checkbox"/>	<input type="checkbox"/>
114. Copy of time cards of Frank LaPena	<input checked="" type="checkbox"/> no obj. S-15	<input checked="" type="checkbox"/>
115. Copy of bankruptcy proceedings	<input checked="" type="checkbox"/> no obj. S-15	<input checked="" type="checkbox"/>
116. Instruction for operating VO 2600	<input type="checkbox"/>	<input type="checkbox"/>
117. Judgment of Conviction of O'Donnell 84707	<input type="checkbox"/>	<input type="checkbox"/>
118. " " " 3963	<input type="checkbox"/>	<input type="checkbox"/>
119. Colored photo (merkle)	<input type="checkbox"/>	<input type="checkbox"/>
120. Criminal Complaint (Weakland)	<input type="checkbox"/>	<input type="checkbox"/>
Small 121. Photo (Interior house)	<input checked="" type="checkbox"/> no obj. S-9	<input checked="" type="checkbox"/>
122. " (" ")	<input checked="" type="checkbox"/> "	<input checked="" type="checkbox"/>
123. " (Exterior - house)	<input checked="" type="checkbox"/> "	<input checked="" type="checkbox"/>
124. Telegram	<input type="checkbox"/>	<input type="checkbox"/>
Small 125. Photo (Exterior house)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

DEFENDANT'S EXHIBITS:

CASE NO. CS9791

	OFFERED	ADMITTED
A. <u>Rerald Weakland Statement</u>	<input type="checkbox"/>	<input type="checkbox"/>
B. <u>Report</u> (15 pages)	<input type="checkbox"/>	<input type="checkbox"/>
C. <u>Page 436</u> ^{from} <u>prior proceedings</u>	<input type="checkbox"/>	<input type="checkbox"/>
D. <u>Page 69</u> <u>from prior hearing</u>	<input type="checkbox"/>	<input type="checkbox"/>
E. <u>Page 422</u> <u>of transcript</u>	<input type="checkbox"/>	<input type="checkbox"/>
F. <u>Page</u> ^{from} <u>prior hearing</u> Returned to Defense	<input type="checkbox"/>	<input type="checkbox"/>
G. <u>page 1364</u> <u>3-30-77 Transcript</u>	<input type="checkbox"/>	<input type="checkbox"/>
H. <u>Weakland Statement 3-29-74</u>	<input type="checkbox"/>	<input type="checkbox"/>
I. <u>Rerald Weakland's Parole Board Action</u>	<input type="checkbox"/>	<input type="checkbox"/>
J. _____	<input type="checkbox"/>	<input type="checkbox"/>
K. _____	<input type="checkbox"/>	<input type="checkbox"/>
L. _____	<input type="checkbox"/>	<input type="checkbox"/>
M. _____	<input type="checkbox"/>	<input type="checkbox"/>
N. _____	<input type="checkbox"/>	<input type="checkbox"/>
O. _____	<input type="checkbox"/>	<input type="checkbox"/>
P. _____	<input type="checkbox"/>	<input type="checkbox"/>
Q. _____	<input type="checkbox"/>	<input type="checkbox"/>
R. _____	<input type="checkbox"/>	<input type="checkbox"/>
S. _____	<input type="checkbox"/>	<input type="checkbox"/>
T. _____	<input type="checkbox"/>	<input type="checkbox"/>
U. _____	<input type="checkbox"/>	<input type="checkbox"/>
V. _____	<input type="checkbox"/>	<input type="checkbox"/>
W. _____	<input type="checkbox"/>	<input type="checkbox"/>
X. _____	<input type="checkbox"/>	<input type="checkbox"/>
Y. _____	<input type="checkbox"/>	<input type="checkbox"/>
Z. _____	<input type="checkbox"/>	<input type="checkbox"/>

CASE NO.

OFFERED	ADMITTED
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101. Note your jury juror #2

DEFENDANT'S EXHIBITS:

CASE NO. _____

OFFERED ADMITTED

A. <u>Judgment of Conviction (Weakland) 3-7-75</u>	<input checked="" type="checkbox"/> 2-17-84	<input checked="" type="checkbox"/> 2-17-84
B. <u>Pha Agreement</u>	<input checked="" type="checkbox"/> "	<input checked="" type="checkbox"/> "
C. <u>Letter, 11-27-83, from Weakland to Judge Hollman</u>	<input checked="" type="checkbox"/> "	<input checked="" type="checkbox"/> "
D. <u>Letter, 12-9-83, signed Robert Calderone</u>	<input checked="" type="checkbox"/> "	<input checked="" type="checkbox"/> "
E. <u>Minutes 5-10-78 through 12-14-83</u>	<input checked="" type="checkbox"/> "	<input checked="" type="checkbox"/> "
F. _____	<input type="checkbox"/>	<input type="checkbox"/>
G. _____	<input type="checkbox"/>	<input type="checkbox"/>
H. _____	<input type="checkbox"/>	<input type="checkbox"/>
I. _____	<input type="checkbox"/>	<input type="checkbox"/>
J. _____	<input type="checkbox"/>	<input type="checkbox"/>
K. _____	<input type="checkbox"/>	<input type="checkbox"/>
L. _____	<input type="checkbox"/>	<input type="checkbox"/>
M. _____	<input type="checkbox"/>	<input type="checkbox"/>
N. _____	<input type="checkbox"/>	<input type="checkbox"/>
O. _____	<input type="checkbox"/>	<input type="checkbox"/>
P. _____	<input type="checkbox"/>	<input type="checkbox"/>
Q. _____	<input type="checkbox"/>	<input type="checkbox"/>
R. _____	<input type="checkbox"/>	<input type="checkbox"/>
S. _____	<input type="checkbox"/>	<input type="checkbox"/>
T. _____	<input type="checkbox"/>	<input type="checkbox"/>
U. _____	<input type="checkbox"/>	<input type="checkbox"/>
V. _____	<input type="checkbox"/>	<input type="checkbox"/>
W. _____	<input type="checkbox"/>	<input type="checkbox"/>
X. _____	<input type="checkbox"/>	<input type="checkbox"/>
Y. _____	<input type="checkbox"/>	<input type="checkbox"/>
Z. _____	<input type="checkbox"/>	<input type="checkbox"/>

EXHIBIT '7'

CASE NO. C 59791 Under Adjudication October 16, 1945
DEPT. NO. One 1020-95
The State of Nevada
PLAINTIFF
VS.
Frank Ralph La Rosa
DEFENDANT
TRIAL DATE: October 16, 1945
JUDGE: Henry J. Foster
CLERK: Paul W. Payne
RECORDS: James H. Hester
REPORTER: William H. Hester
COUNSEL FOR THE PLAINTIFF: Melroy J. Harmon
COUNSEL FOR THE DEFENDANT: David Schwartz
Linda Schuck & William
"Lue" Wilford
Exhibitory Hearing: Not Conviction Relief
TRIAL BEFORE THE COURT

PLAINTIFF'S WITNESSES:

1. Melroy J. Harmon 10:30 P.M. 11. _____
2. _____ 12. _____
3. _____ 13. _____
4. _____ 14. _____
5. _____ 15. _____
6. _____ 16. _____
7. _____ 17. _____
8. _____ 18. _____
9. _____ 19. _____
10. _____ 20. _____

DEFENDANT'S WITNESSES:

1. George Richard Carter 10:14 P.M. 11. _____
2. Leimond R. Mille 10:16 P.M. 12. _____
3. Doreen Elsie Winkland 10:17 P.M. 13. _____
4. Donald R. Winkland 10:18 P.M. 14. _____
5. Bessie Grants 10:18 P.M. 15. _____
6. Charlie Lee 10:18 P.M. 16. _____
7. Michael R. Wysocki 10:18 P.M. 17. _____
8. Frederic Martinez 10:19 P.M. 18. _____
9. Mary C. Brown 10:19 P.M. 19. _____
10. Frank Ralph La Rosa 10:20 P.M. 20. _____

COURT'S

REBUTTAL WITNESSES:

1. Rosalie T. Murrell 10:20 P.M.
2. _____
3. _____

SUR-REBUTTAL WITNESSES:

1. _____
2. _____
3. _____

CASE NO. C59791

1. QOC and Motion for Excess Fees
2. Letter to Parale Board
3. Statement - Unsubstantiated
4. Plea Agreement
5. Partial Transcript of Proceedings
6. Deposit Slip
7. Large Color Photo
8. " " "
9. " " "
10. Copy of Five Cards
11. Report of Investigation 11-17-83
12. Order 11-22-88
13. Interoffice Memo 1-15-95

[illegible]

DEFENDANT'S EXHIBITS:

CASE NO. C 59791

	OFFERED	ADMITTED
<u>A. Postmortem Examination</u>	<input checked="" type="checkbox"/> <i>no obj</i>	<input checked="" type="checkbox"/> <i>no</i>
<u>B. Report of Investigation</u>	<input checked="" type="checkbox"/> "	<input checked="" type="checkbox"/> "
<u>C. Various Letters</u>	<input checked="" type="checkbox"/> "	<input checked="" type="checkbox"/> "
<u>D. Letter 10-10-85 <i>check Bonanga Casino</i></u>	<input checked="" type="checkbox"/> "	<input checked="" type="checkbox"/> <i>no</i>
<u>E. Information Report</u>	<input checked="" type="checkbox"/> "	<input checked="" type="checkbox"/> <i>no</i>
<u>F. Inter Office Memo</u>	<input checked="" type="checkbox"/> "	<input checked="" type="checkbox"/> "
<u>G. Parole & Probation Records</u>	<input checked="" type="checkbox"/> "	<input checked="" type="checkbox"/> <i>no</i>
<u>H. Order 8-31-83</u>	<input checked="" type="checkbox"/> <i>no obj</i>	<input checked="" type="checkbox"/> <i>no</i>
<u>I. " 10-22-85</u>	<input checked="" type="checkbox"/> "	<input checked="" type="checkbox"/> "
<u>J. Writ of Mandamus & Order 8-26-88</u>	<input checked="" type="checkbox"/> "	<input checked="" type="checkbox"/> "
<u>K. Order Vacating Verdict to take Deposition of Joseph Costanzo</u>	<input checked="" type="checkbox"/> "	<input checked="" type="checkbox"/> "
<u>L. Inter Office Memorandum Confidential</u>	<input checked="" type="checkbox"/> <i>no obj</i>	<input checked="" type="checkbox"/> <i>no</i>
<u>M.</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>N.</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>O.</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>P.</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Q.</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>R.</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>S.</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>T.</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>U.</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>V.</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>W.</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>X.</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Y.</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Z.</u>	<input type="checkbox"/>	<input type="checkbox"/>