

IN THE SUPREME COURT OF THE STATE OF NEVADA

RALPH EDMOND GOAD,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

**Appeal from a Judgment of Conviction in Case CR19-0999
The Second Judicial District Court of the State of Nevada
Honorable David Hardy, District Judge**

JOINT APPENDIX VOLUME TWO

JOHN L. ARRASCADA
Washoe County Public Defender

KATHRYN REYNOLDS
Deputy Public Defender
350 South Center Street,
5th Floor
Reno, Nevada 89501

Attorneys for Appellant

CHRISTOPHER J. HICKS
Washoe County District Attorney

JENNIFER P. NOBLE
Chief Appellate Deputy
One South Sierra Street,
7th Floor
Reno, Nevada 89501

Attorneys for Respondent

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JUDITH ANN SCHONLAU
CCR #18
75 COURT STREET
RENO, NEVADA

COPY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE
BEFORE THE HONORABLE CONNIE J. STEINHEIMER, DISTRICT JUDGE

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THE STATE OF NEVADA,)	
)	
Plaintiff,)	
)	
vs.)	CASE NO. CR19-0999
)	DEPARTMENT NO. 4
RALPH EDMOND GOAD,)	
)	
Defendant.)	
_____)	

TRANSCRIPT OF PROCEEDINGS
PRETRIAL MOTIONS

TUESDAY, JULY 23, 2019, 2:00 P.M.
Reno, Nevada

Reported By: JUDITH ANN SCHONLAU, CCR #18
NEVADA-CALIFORNIA CERTIFIED; REGISTERED PROFESSIONAL REPORTER
Computer-aided Transcription

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A P P E A R A N C E S

FOR THE PLAINTIFF: OFFICE OF THE DISTRICT ATTORNEY

 BY: AMOS STEGE, ESQ.

 DEPUTY DISTRICT ATTORNEY

 1 S. SIERRA STREET

 RENO, NEVADA

FOR THE DEFENDANT: OFFICE OF THE PUBLIC DEFENDER

 BY: JAY SLOCUM, ESQ.

 JENNIFER MAYHEW, ESQ.

 DEPUTY PUBLIC DEFENDER

 350 S. CENTER STREET

 RENO, NEVADA

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I N D E X

<u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
REBECCA KORN	41	48		
VICTORIA JUAREZ	57	60	61	62
AVE NEVILS	64	70		

<u>EXHIBITS:</u>	Admitted	
	<u>Marked for</u>	<u>into</u>
	<u>Identification</u>	<u>Evidence</u>
A - M	7	11
N	7	15
O	26	
P	45	45
Q	56	56
R	65	70
S	68	68

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RENO, NEVADA; TUESDAY, JULY 23, 2019; 2:00 P.M.

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THE COURT: Thank you. Please be seated. Is your client okay?

MR. SLOCUM: Your Honor I do have some concerns.

THE COURT: Sit down. Sit down. What's going on?

MR. SLOCUM: When he went to stand up it appeared he almost fell, but I was wondering if we might take a minute so we can consult, make sure it was a physical problem, maybe he got up too quickly or something like that.

THE COURT: Sure. All right.

MR. SLOCUM: Thank you, Your Honor. Mr. Goad is indicating to me he's okay. Maybe he just got up too quick.

THE COURT: Go ahead and make your appearances for the record.

MR. SLOCUM: Jay Slocum and Jennifer Mayhew on behalf of Mr. Goad. He's present today in custody.

MR. STEGE: Amos Stege, State of Nevada.

THE COURT: Thank you. So you all were busy

1 yesterday filing a few extra things and submitting some extra
2 stuff this morning, although I had anticipated we would be
3 hearing all those motions that were made even without the
4 request for submission. So I am ready to go forward.

5 I also want to let you know that you are double set.
6 I think we knew that when it happened. And Mr. Billings' case
7 has not resolved. It is seven days. I don't know if I told
8 you when you set this I was sure I would be able to find a
9 judge to cover for me because all are so wonderful. I sent an
10 e-mail last night. Within about five minutes I had an offer,
11 so you will be moved after today's hearing. But I have agreed
12 to hear the motions, revolve the motions and then you will be
13 moved to the new department for trial. I do believe the trial
14 is still set for the 31st.

15 THE CLERK: It is. They are going to keep it on the
16 31st. They have asked if I would set the Pretrial motion
17 marking for September, not September, July 30th at 3:00 p.m.

18 THE COURT: Does that work for everyone? You okay
19 with that, State?

20 MR. STEGE: Yes.

21 MR. SLOCUM: Yes, Your Honor.

22 THE COURT: Okay. Let's proceed with the motions
23 today. Counsel, you're welcome to be seated. We have the
24 State's motion and the Defendant's motion. The Defendant's

1 Motion in Limine to preclude prejudicial photographs. I
2 thought that we could probably resolve this pretty easily. Do
3 you have the photographs you intend to use, Mr. Stege?

4 MR. STEGE: I will call these my draft exhibits. I
5 would like to proffer those to the Court. There are 13
6 photographs in number. To be clear, I treated this really as
7 autopsy photos. Crime scene I am not quite there yet.

8 THE COURT: Are there crime scene photographs that
9 are gruesome?

10 MR. STEGE: I would say none of them are gruesome.
11 They are all explicit, right, and fair and accurate depictions
12 of the scene.

13 THE COURT: Do you have those with you?

14 MR. STEGE: I haven't finalized my crime scene
15 exhibits. I brought one with the idea of giving the Court a
16 taste or a preview of in my mind what the Court with consider
17 the worst.

18 THE COURT: The crime scene?

19 MR. STEGE: The worst of the crime scene.

20 THE COURT: These are drafts. You think you will
21 use different documents at trial or use the same documents at
22 trial?

23 MR. STEGE: I think I will use the same ones, perhaps
24 a better quality of paper to print them on.

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THE COURT: We'll do them as A, B, C.

THE CLERK: I heard you say you had 13 autopsy and one crime scene, right?

MR. STEGE: That's correct.

THE CLERK: These are going to be A through M. I will start with the 13 first. The crime scene photograph will be marked as N.

THE COURT: N as in Nancy?

THE CLERK: N as in Nancy, correct.

(Exhibits A - M marked for Identification.)

(Exhibit N marked for identification.)

THE COURT: So the record is clear, because there is going to be another judge trying the case, these documents are listed as alpha, so that the decision will be made on today's hearing, but with an understanding that at trial a better version of the same picture will be used and be marked in the court case.

MR. STEGE: I think procedurally a Motion in Limine sort of takes into account all the variations that can occur during trial. The autopsy photos were chosen by the forensic pathologist with the direction she select photographs that will aid her in her testimony. May I submit them to the Court?

THE COURT: Yes. So tell me what your offer of proof is with regard to Exhibits A through M.

1 MR. STEGE: Well, I think the case law supports the
2 idea that if a photograph depicts the truth, in this case aids
3 the pathologist in their testimony, it should be admitted so
4 long as it is relevant and not more prejudicial than
5 probative.

6 The first three photographs show extensive injury to
7 the face. They show the three, I guess three of the four
8 planes of the decedent's face, depict multiple, multiple stab
9 wounds including into the orbital cavity of the victim. You
10 have a series related to the right and left hands of the
11 decedent relevant as testified to in the Grand Jury as
12 evidence of defensive type wounds. The next photograph --

13 THE COURT: So you're talking about A, B and C in
14 your first statement.

15 MR. STEGE: D, E, F in my second statement. The next
16 two show injuries to both right and left side of the decedent,
17 that consisting of stab wounds. The next photograph shows the
18 back of the decedent ,I have redacted out the man's buttocks,
19 showing extensive stab wounds to the middle torso and back of
20 the head.

21 THE COURT: Are each of these little numbers a stab
22 wound?

23 MR. STEGE: The stab wounds were too numerous to
24 number individually, so they show groups which correspond to

1 the pathologist where she talks about sort of a cluster, for
2 example at 28.

3 THE COURT: Okay.

4 MR. STEGE: The next two photographs depict clothes
5 recovered at autopsy, that being first a T-shirt bearing --

6 THE COURT: Why does the pathologist need that?

7 MR. STEGE: Because it does correspond to the stab
8 wounds or injuries to the decedent's back. There is, in this
9 case, I expect the opinion to be at least two different
10 weapons to be used. That is her opinion, also supported
11 separately by evidence I will put forth which is evidence of
12 that found both in his T-shirt and later photographs that I
13 will get to.

14 Getting to the last two depictions, examples of the
15 two types of wounds, the first of which for example showing
16 the sticker or the marker of wound 23 being more indicative of
17 a blunt aspect and a sharp aspect of the weapon whereas the
18 last photograph showing double sharp, double pointed weapon.

19 THE COURT: Okay. All right. So is it Ms. Mayhew or
20 Mr. Slocum who is arguing this motion?

21 MS. MAYHEW: Your Honor, with regards to the motion
22 we filed, I think the concern from the defense perspective is
23 proposed Exhibit N, the photograph of the crime scene. The
24 reason for that is I am not quite sure why a pathologist would

1 be at the crime scene with regard to she's just testifying as
2 to the injuries. So her testimony, I assume, is going to be
3 limited in scope pertaining to her expertise when it comes to
4 what the injuries are.

5 THE COURT: I think his offer of proof went through
6 exhibits A through M. He hadn't made an offer of proof why he
7 needs N. I don't think he was saying the pathologist needs it.

8 MS. MAYHEW: Okay. Understood, Your Honor.

9 MR. STEGE: I am not saying that. Speaking in the
10 vernacular, you can sort of get a taste of I think that is
11 about as bad as the crime scene photos get which is N.

12 THE COURT: The first was just the forensic
13 pathologist is requesting A through M.

14 MS. MAYHEW: Understood. With regards to A through
15 M, I think the position of the defense is with regards to the
16 photograph depicting the T-shirt, I apologize I don't have the
17 proposed letter number for that particular photograph.

18 THE COURT: It is J.

19 MS. MAYHEW: With regards to J, I am just trying to
20 understand the State's position with regards to relevancy as
21 to why that T-shirt is going to aid the pathologist with
22 regard to the injuries. And so with that, that is going to be
23 the position with the T-shirt.

24 And then we'll wait for the offer of proof for the

1 crime scene photograph.

2 THE COURT: Okay. So with regard to the offer of
3 proof on J., it is my understanding, if I heard you correctly,
4 your pathologist wants J so that she can testify to the wounds
5 that were found on the body matching the holes in the T-shirt?

6 MR. STEGE: That's right.

7 THE COURT: And she thinks that will aid her
8 testimony in what way?

9 MR. STEGE: Well, besides that, it shows motive --
10 well, not motive -- it shows malice, right? I think it is
11 fair for the jury to see what the Defendant saw or the killer
12 saw which is knife into the back through the shirt. There is
13 also this piece related to the shape of the weapon

14 THE COURT: Okay. With regard to Exhibits A through
15 M, you have made a sufficient offer of proof to their
16 relevance. Their probative value being to assist the forensic
17 pathologist which is significant probative value. I reviewed
18 the documents, the pictures themselves, and I don't find that
19 they are so so prejudicial that they would outweigh the
20 probative value based solely on what is depicted. I don't
21 find them to be confusing or misleading, so for those reasons,
22 I will allow you to utilize better copies, but what is
23 depicted in A through M as in March are admitted.

24 (Exhibits A through M admitted in evidence.)

1 THE COURT: Now with regard to N, you wanted to talk
2 about that Ms. Mayhew.

3 MS. MAYHEW: That's correct, Your Honor. With regard
4 to the crime scene, I am not quite sure it would aid the
5 pathologist as to the injuries.

6 MR. STEGE: I am sorry to interrupt. It is not a
7 pathologist argument as to the crime scene.

8 MS. MAYHEW: If I understand it, based on testimony
9 from law enforcement, is that the clarification I just heard?

10 THE COURT: I think he wants-- he's going to offer
11 it, I don't know through whom, but he thinks he should be
12 entitled to show the crime scene.

13 MR. STEGE: Right. I am in a difficult position,
14 because it is a very generic out of no context motion. The
15 Court asked or directed the parties as to this pathologist
16 issue which is generally an issue in a murder case. So in
17 good faith, without any direct attack on the crime scene
18 photos, I brought that to inform the Court of what my own
19 belief is as bloody as the crime scene is. There is blood
20 obviously around the man, some as well to the wall to the left
21 of that photograph, but, again, the jury is entitled to
22 attempt to understand how this crime occurred which goes
23 directly I think to malice, premeditation, deliberation. The
24 crime scene indicates that there appears to have been a

1 struggle, and it was a bloody struggle. I mean it is a bloody
2 crime scene. But that in and of itself does not make these
3 gruesome within the meaning of the law.

4 THE COURT: Okay.

5 MS. MAYHEW: With that clarification, Your Honor, I
6 think the concern from the defense is how many of these crime
7 scene photographs, whether or not it is going to be
8 duplicative, cumulative. If this is the only crime scene
9 photograph being offered at trial, that is one thing. If it
10 is going to be multiple photographs of the crime scene, I
11 think that would be prejudicial to Mr. Goad.

12 THE COURT: Yes, it would be. I am not saying one
13 is the only number, but certainly twenty is probably too many.
14 So we really need an offer of proof as to which. I know you
15 said you are still working on it, but you are going to have to
16 provide an indication of what photographs you want to use.
17 Because of this motion, you have to provide an indication of
18 which photographs you want to use and why they are relevant.
19 Obviously, if photographs of the crime scene are relevant,
20 they are going to come in.

21 MR. STEGE: Right.

22 THE COURT: But cumulative ones do not. Confusion,
23 misleading, those issues would have to be sorted out before
24 they're shown to the jury or admitted. We also have to deal

1 with the outweighing of the probative value of them with the
2 prejudicial effect. So ten pictures basically show the exact
3 same thing, the decedent laying on his floor would be
4 prejudicial. I don't know how many, because I don't have them
5 to see.

6 MR. STEGE: Right.

7 THE COURT: So what I think the argument of the
8 defense is is that the content of Exhibit N is not in and of
9 itself objectionable because it is overly bloody or depicts
10 something it shouldn't, but they believe there could be a
11 cumulative effect which does become prejudicial. So what I
12 would like to do today is put on the record N in and of itself
13 is not overly prejudicial, but a preliminary decision has to
14 be made before these exhibits start going in as to what
15 photographs you intend to use of the scene and how many.

16 MR. STEGE: Right. My question is, procedurally,
17 this is kind of awkward because the defense always has that
18 opportunity when exhibits are marked and the witness to which
19 the exhibit pertains, I mean that is always a defense
20 opportunity.

21 THE COURT: It is. If you were trying it in my
22 department, I would want you to do it in advance so I don't
23 have to send the jury out and cool their heels in the jury
24 room while we debate. That is the point, a week before trial

1 why we would want you to bring them and you can decide right
2 now while we don't have a jury waiting.

3 Yes, it can happen in the middle of the trial, but
4 best practice would be it happens in advance. But beyond that,
5 I don't think we can do anything today. Okay. Everybody is
6 nodding they are all in agreement. N will be part of the
7 record also.

8 (N admitted in evidence.)

9 THE COURT: So in terms of the photographs, I have
10 ruled on the photographs that are going to be offered through
11 the forensic pathologist reserving the ruling with regard to
12 additional photographs for the trial judge.

13 Okay. Then we have equal access to jury
14 information. Anybody want to say anything about this?

15 MR. STEGE: I have an idea what this Court might do.
16 I just attempted to highlight this idea that the defense is
17 trying to go beyond, I mean the kind of a slippery slope
18 argument. They are alleging this procedural piece to it that
19 from the State's perspective we ought to be weary of. I will
20 submit it on my brief.

21 THE COURT: I wasn't exactly sure what you mean. I
22 know you said you weren't sure when you got the Jury
23 Commissioner list which data basis etcetera you are going to
24 be looking through.

1 MR. STEGE: Right. I suggested the Court give a
2 reasonable time frame before the trial, well, when the court
3 orders it, and if the State decides to run it. I will have to
4 see the list first.

5 THE COURT: Okay. Ms. Mayhew.

6 MS. MAYHEW: Your Honor, it is not if the State
7 decides to run it. The actual case law on point is they must
8 run it. And the idea behind that is for the defense to have
9 equal access to that type of information, i.e. NCIC criminal
10 history of potential jurors so we can conduct a proper voir
11 dire. My suggestion would be for the State to run it, because
12 that is controlling law on that particular point, but we be
13 granted that access I would say no later by Monday so that the
14 defense has a proper amount of time to be able to review the
15 criminal history, to review the juror information and be able
16 to properly prepare for trial.

17 THE COURT: It is a little bit of a nuance to me
18 that I was not aware of that the State can be ordered to run
19 the criminal histories of the potential jurors.

20 MS. MAYHEW: Your Honor, under Ojeda, the District
21 Court must order the State to disclose any venire member's
22 criminal history information it acquires from a government
23 data base that is unavailable to the defense.

24 THE COURT: Yes, if they acquire it, but you just

1 argued that I should order them to acquire it. I will tell
2 you I have long been of the opinion that the State really
3 doesn't have a right to just go running members of our
4 community who are involuntarily summoned for jury duty and
5 check their criminal histories. I have never believed that
6 was really a good thing for them to be doing. But if they did
7 do it, I always order it released. And I thought that is what
8 the Ojeda court said. If they run it they have to share it.
9 But I don't think any court has done the next step that they
10 have to run it, that they are required to run it.

11 MS. MAYHEW: Understood, Your Honor. In this case,
12 if Your Honor could order that if the State runs the criminal
13 history that shall be provided to the defense.

14 THE COURT: Absolutely. Absolutely that will be my
15 order. And if actually the case law is if you run criminal
16 histories through a data base that only the State has access
17 to other than your internal data base, then that information
18 must be provided to not just the defense but to the Court
19 also, and I order it be in camera, provided to the Court in a
20 memorandum format with the potential juror's name and
21 everything discovered regarding their criminal history so the
22 State is not the gatekeeper as to what information gets to be
23 shared. You give me everything that you get off of the
24 criminal history, because some things may be relevant to the

1 defense or to the Court when conducting voir dire that isn't
2 necessarily understood to be relevant by the prosecution. So
3 everything that is discovered in the criminal history if you
4 run it through NCIC must be provided to the Court in
5 memorandum form and the memorandum provided to the defense
6 counsel. This will be held sealed in the court record.

7 MS. MAYHEW: And, Your Honor, just for
8 clarification, if the State chooses not to run it, then they
9 have to make a record of that. So if they choose not to
10 access the data base which the defense does not have access
11 to, the defense requests the State be required to certify on
12 the record such data bases were not accessed so we have a
13 clear record what the State did or did not do.

14 MR. STEGE: This is that slippery slope I was
15 talking about. We rarely certify much if anything we do. This
16 is taking that to a whole and really trying to expand it to
17 the idea it goes to the false narrative that frankly somehow
18 they are going to catch the prosecution in a lie like they
19 certified one thing, and they are going to go out and disprove
20 the other one. It sounds like failed legislation from the
21 past. I am seeing two areas here of a slippery slope argument
22 here. If the Court orders it, we are all officers of the
23 Court, if the Court orders it, of course the State will
24 comply. I think Ojeda requires what the Court just said it

1 does, but I have to object on the additional step of
2 certification. We don't have to certify we gave discovery. I
3 mean they're asking for certification of this matter. I
4 submit it is unnecessary.

5 THE COURT: Mr. Stege, I understand you kind of take
6 it maybe perhaps a little personally that they are asking you
7 to certify that you really did what is your obligation to do
8 and you would never not do what your obligation is to do.

9 MR. STEGE: Or follow a court order or any District
10 Attorney. This is not for me. Ojeda says one thing. If they
11 ask for it, the Court should order if they run it they give it
12 over. There is no additional steps. There is no five-day
13 requirement. There is no certification.

14 THE COURT: Well a couple of things: I agree Ojeda
15 does not require certification, but what I think good practice
16 will be is if the State runs the criminal history on potential
17 jurors, the State must disclose the information that they
18 learned regarding the jury panel's criminal histories to the
19 Court and the defendant. The State must submit the
20 information in camera to the Court in a memorandum format
21 stating the potential juror's name, what was discovered of the
22 criminal history. The memorandum will be provided to the
23 Defendant's counsel and must be returned to the Court at the
24 conclusion of the jury selection. The in camera memorandum

1 will be sealed and held by the Court in permanent record.

2 Now the issue of timing of when this is run, it is
3 my understanding the jury list is available to everyone no
4 later than Thursday morning, and the trial is set, well, the
5 trial is set for Wednesday instead of Monday, but I think they
6 will still have the jury list on Thursday for the following
7 Wednesday.

8 THE CLERK: I am unsure. I can call really quick.

9 THE COURT: Since this is a case involving first
10 degree murder, we can order that jury list be available by
11 that Thursday the week before trial which is next Thursday.
12 This Thursday. We'll call right now and see when that jury
13 list is available. So once the jury list is available, then
14 you will know what you are going to do. I would like to know
15 when it is available so that I can make a reasonable request
16 with regard to the State's timing. I'm not sure it is
17 reasonable to give the Court the memorandum the morning of
18 trial. The defense should have an opportunity to look at it.
19 But by the same token, I am not going to say you have to do it
20 in 24 hours.

21 MR. STEGE: To clarify, the memorandum goes to the
22 Court. Two copies to the Court or give one to the defense?

23 THE COURT: That is the way I have always done it.
24 Now we have the Ojeda case. I guess you could send it

1 directly. When I did these orders before, the Supreme Court
2 told everyone to do it this way. I didn't because of concerns
3 on the part of the State to disclose directly to the defense.
4 But now you have the Supreme Court decision, and I think you
5 can give it directly, but the defense has to return it to the
6 Court.

7 THE CLERK: The jury list will be ready Friday
8 morning.

9 THE COURT: You will have the jury list by Friday
10 morning. Does it make sense, Mr. Stege, we order, if you do
11 run it, that you provide it to the Court and counsel no later
12 than Tuesday morning? Would that give you all enough time?
13 Ms. Mayhew, that gives you 24 hours to look at their list. I
14 know you are going to be looking at your list for other
15 things, but just for this.

16 MS. MAYHEW: Your Honor, that should be fine.

17 THE COURT: We'll make it Tuesday morning before
18 noon provide it to the Court. I think you decided you will
19 give it to defense counsel direct?

20 MR. STEGE: I think that is the better course.

21 THE COURT: So that takes care of the issue with
22 regard to juror information.

23 Now we have the only other motion I think is the
24 issue of -- Was there something else?

1 MS. MAYHEW: Yes, Your Honor. With regards to the
2 motion for equal access to juror information, I understand the
3 State's position with regards to certifying /not certifying.
4 We are not asking for an Affidavit or anything of that
5 substantial nature. Literally, all we are asking for is
6 whether or not they ran it or not and to place it on the
7 record. And I wanted to get clarification from Your Honor on
8 that point.

9 THE COURT: I would not have any objection to having
10 the State notify the Court if they are not going to provide
11 the memorandum because they haven't run it. So it is due on
12 Tuesday morning before noon, either the memorandum or a least
13 a letter or note to the Court and counsel that they have not
14 run it. I think that is what would be kept in the record of
15 the court.

16 MS. MAYHEW: I understand, Your Honor. Thank you.

17 THE COURT: Now we have the Motion in Limine
18 regarding other act evidence filed by the defense and the
19 motion to admit evidence of motive that was filed by the
20 prosecutor. This is, really, the motions relate to each other
21 and relate to the same information I believe. So, Mr. Stege, I
22 think, if I understand correctly, you intend to try to admit
23 evidence of the defendant's eviction?

24 MR. STEGE: I would think it is two pieces, eviction

1 and the corresponding financial situation as we know it as
2 proof of motive which is really the twin of identity I think
3 in this case.

4 THE COURT: And is there any other act evidence that
5 you want to put on you think would come into the same category
6 that requires a Petrocelli hearing?

7 MR. STEGE: As I sit here today, no. But my
8 Opposition I think was rather strong in tone to their motion.
9 I think you have, in the case law, a history of the realities
10 of trial which is you don't know when a thing becomes relevant
11 until something happens in trial often. Now as I often do, I
12 bring forth issues to the Court that I think are an issue but
13 I can't foreclose something else becoming relevant.

14 THE COURT: You must have a case-in-chief plan
15 though.

16 MR. STEGE: I do have my case-in-chief planned. Like
17 Big Pond, that was a case about a recanting of a victim which
18 happened on the stand, so they had to then do it. But I'm
19 not-- I have no secret bad acts that I am waiting to bring
20 forth at trial, but I don't like the idea of the way the
21 motion practice --

22 THE COURT: Some sort of a blanket Motion in Limine.

23 MR. STEGE: A blanket. If something happens and
24 they say hey, we gotcha, we filed a nonspecific motion before

1 trial and therefore it should be excluded. I am a decent trial
2 attorney, but I can't foresee everything in trial.

3 THE COURT: So a couple of questions. If the
4 defendant were to take the stand and testify, do you have any
5 other act evidence or any prior conviction you might want to
6 use?

7 MR. STEGE: No. His criminal history indicates, I
8 believe, the middle part of the '60's a conviction.

9 THE COURT: That is a tad old.

10 MR. STEGE: Yes, by statute. I have no argument on
11 that.

12 THE COURT: Okay. So the only issue that you can
13 foresee now is the one you want to put in your case-in-chief
14 regarding the financial situation.

15 MR. STEGE: Right, eviction and corresponding
16 financial situation is relevant.

17 THE COURT: Okay. So we have a lot of exhibits. Is
18 it your intention to put on a witness today?

19 MR. STEGE: Well, I have here a witness who can
20 authenticate Nevada Fiduciary Services, the paperwork
21 indicating that.

22 THE COURT: Which exhibit was that? I just want to
23 be able to keep track.

24 MR. STEGE: Exhibit 3 to my motion. I am sorry.

1 Strike that. Exhibit 4.

2 Starts out "Transaction by client." That
3 transaction's client's name is Ralph Goad?

4 THE COURT: Okay.

5 MR. STEGE: Indicating November 5, 2018 a final
6 payment issued to the defendant. The factual scenarios is both
7 victim and defendant each had as their payee Nevada Fiduciary
8 Services. I am sorry, Payee Counseling Service which is run
9 by Rebecca Korn who closed up her operation at the end of the
10 year of 2018.

11 THE COURT: So let's start there though with
12 counsel. Do you want -- Are you going to stipulate to Exhibit
13 4's authenticity, it says what it says it says, or did you
14 want Ms. Korn to testify and authenticate it?

15 MS. MAYHEW: Court's indulgence, Your Honor. Your
16 Honor, we have no issue with admitting that in the State's
17 motion.

18 THE COURT: Okay.

19 MR. STEGE: So it is four entries. So she provides
20 the document to show both gentlemen got a final payment.

21 THE COURT: Okay. Was it related to when she goes
22 out of business?

23 MR. STEGE: Right. She decides to close her
24 business.

1 THE COURT: That is Exhibit 4.

2 MR. STEGE: As well as 3, same information,
3 different client being the victim.

4 THE COURT: Okay.

5 MR. STEGE: I would submit a copy bearing the
6 Certificate of Custodian of Records, Nevada Fiduciary
7 Resolutions which is the new payee service that Mr. Gibson
8 went to when Ms. Korn closed her business.

9 THE COURT: That Affidavit is being marked.

10 MR. STEGE: Marked by Ms. Clerk.

11 THE COURT: Do you intend to use that at trial, or
12 are you going to call the witness at trial?

13 MR. STEGE: At trial I intend to call the witness.

14 THE COURT: You want to mark it alpha?

15 THE CLERK: Exhibit O marked.

16 (Exhibit O marked for identification.)

17 THE COURT: It is the Affidavit of?

18 MR. STEGE: Amanda Arrascada.

19 THE CLERK: It is.

20 MS. MAYHEW: Just for clarification with regards to
21 the prior stipulation, it just had to do with Exhibit 4. We
22 are not stipulating to Exhibit 3 at this time.

23 THE COURT: Okay.

24 MR. STEGE: Okay.

1 THE COURT: Now you have Exhibit O which is the
2 Affidavit in support. Does it also have information from
3 Nevada Fiduciary Solutions attached to the Affidavit?

4 MR. STEGE: Yes. Yes. It contains the file of
5 Mr. Gibson to show Gibson left Ms. Korn and went to
6 Ms. Arrascada's service.

7 THE COURT: Okay.

8 MS. MAYHEW: Court's indulgence, Your Honor.

9 THE CLERK: Mr. Stege, I want to confirm, is there
10 privileged information in there?

11 MR. STEGE: I will mark it privileged, yeah. Mark
12 it privileged. It relates to Social Security benefits.

13 THE COURT: Yes. It will be marked privileged.

14 THE CLERK: It will be held confidential.

15 MS. MAYHEW: Your Honor, I just want to seek some
16 clarification what we are really trying to do in this hearing.
17 My understanding was we were looking at prior bad acts with
18 regard to Mr. Goad. A lot of these documents have to do with
19 Mr. Gibson, and I am a little confused why we are introducing
20 these exhibits. For example, the Exhibit 3 has to do with
21 Mr. Gibson. This proposed Exhibit O has to do with Mr. Gibson.
22 I would like to seek some clarification for purposes of this
23 hearing. I just don't believe it is appropriate, this type of
24 evidence, when we are looking at Mr. Goad.

1 MR. STEGE: I will attempt to enlighten the Court.
2 The theory is, and this supports the factual theory which is
3 Korn closes her business. Mr. Goad does not go out and select
4 a new payee service, therefore he gets notice of eviction, is
5 ultimately evicted. Correspondingly, he stops getting checks
6 because he has no payee to get to forward the checks on to
7 him. Mr. Gibson on the other hand goes to Ms. Korn. When he
8 leaves her service, he goes to Ms. Arrascada and starts with
9 her. And we show, I flagged two pages here, the first page
10 being 1575, a check from Ms. Korn's company, Payee Counseling
11 Service to Nevada Fiduciary Solutions, Ms. Arrascada, for the
12 final payment amount as well as at page 1598 the continuation
13 of payment, those on Mr. Gibson's behalf, that being paying
14 rent and giving him money for personal needs, establishing
15 this financial motive wherein Gibson has money, continues to
16 get money. Goad loses payee, doesn't get any, therefore,
17 payee has no money.

18 THE COURT: Does Exhibit O which I haven't seen,
19 does it show Mr. Gibson had a certain amount of assets?

20 MR. STEGE: So it shows -- It shows monthly he gets,
21 for example let's take the month of December, December 12 of
22 '18, he gets a payment that is noted category SSI \$607 no
23 cents. Later that month, December 31st of '18, under category,
24 VA \$509 and no cents.

1 THE COURT: That is the money coming in from Social
2 Security into the Nevada Financial Solutions or Payee
3 Counseling Services?

4 MR. STEGE: Into the new company.

5 THE COURT: So it is Nevada Fiduciary Solutions?

6 MR. STEGE: Yes.

7 THE COURT: That money comes in for Social Security?

8 MR. STEGE: And the VA.

9 THE COURT: And the VA. What is the relevance of
10 that money coming in as it relates to Mr. Goad?

11 MR. STEGE: Because Goad now has no money, right, or
12 if he had a payee, he would be getting checks and be paying
13 his rent for him. Because he did not go get a new company, a
14 new payee, he's getting no checks and has no money whereas
15 Gibson is. It shows Gibson gets that amount of money less his
16 rent which is \$490 a month, and they give him money, the
17 balance. It is a small piece of this financial motive, but
18 that movement from one payee to another one is important
19 because, as an offer of proof, the apartment manager who is
20 present today will say she was aware of this payee issue and
21 urged the defendant to go get a new payee so he could pay his
22 rent and wouldn't get evicted to which the defendant said, "I
23 am just going to Sacramento," or something to that effect.

24 THE COURT: Okay. I'm not sure though what the

1 relevance of Mr. Gibson getting a payee and getting his rent
2 paid is as it relates to a motive for Mr. Goad to murder him
3 unless you want to show that Mr. Gibson had cash that was not
4 recovered when he died.

5 MR. STEGE: It is often, as in this case, a
6 difficult task to show how much money was in a person's pocket
7 at the time they die.

8 THE COURT: Are you doing it for that purpose to
9 show he did have some money coming in?

10 MR. STEGE: Well, he did have some money coming in
11 because he had the remainder of his rent, the balance after
12 paying the rent, available to him and there are no notations
13 of them giving him money for example for personal needs, \$250,
14 on December 6th. Same thing on December 17th. Same thing on
15 January 3rd, same amounts and same thing on January 17th of
16 '19.

17 THE COURT: Okay. So with regard to the exhibit, it
18 is my understanding that the defense does not need a witness
19 today to testify that this Exhibit O is in fact Nevada
20 Fiduciary Solutions records with regard to Mr. Gibson, but you
21 still are contesting whether or not it is relevant to put it
22 in?

23 MS. MAYHEW: That's correct, Your Honor. At this
24 point, I don't think the State provided a connection with

1 regards to Mr. Gibson's finances and Mr. Goad having a motive
2 to kill him over Mr. Gibson having money when Mr. Goad has
3 money. We have provided documents with regards to that.

4 In addition, I think Your Honor brings a really good
5 point with regards to, well, did Mr. Gibson have any money
6 that was available for Mr. Goad to even have or even have
7 access to. And I think with this proposed Exhibit O, that
8 still doesn't show that, for example there was no evidence
9 that Mr. Gibson had money in the apartment before the alleged
10 murder. There was even some testimony in the Grand Jury with
11 regards to that very point. Yes, there was wallet. Yes it was
12 open. Yes, there was no money in the wallet. But the lead
13 detective in the case wasn't able to testify if there was
14 money in the wallet to begin with. I understand what the State
15 is trying to do with regard to his payee and him getting
16 checks. Mr. Goad was also getting checks. Just because he
17 didn't have a payee set up doesn't mean he didn't have the
18 money. He did have the money. And so there is no evidence as
19 I have heard thus far clear and convincing or otherwise with
20 regards to Mr. Gibson having money accessible to Mr. Goad to
21 then be able to get the money to allegedly kill him. And so
22 that is the disconnect. I don't really see at this point the
23 relevance of what the State is trying to introduce.

24 MR. STEGE: Well, I have proof here Gibson had

1 money, right? He's getting \$250 every couple of weeks.

2 THE COURT: Okay. I think that is clear. So
3 Exhibit O, you should have a witness to testify about Exhibit
4 O if they don't stipulate to it being a record of Nevada
5 Fiduciary Solutions. If they want to cross-examine on the
6 document, they can do so.

7 MR. STEGE: Okay. Well, a certified copy of a
8 business record is admissible per se.

9 THE COURT: Not without someone to say it is their
10 business record.

11 MR. STEGE: Okay.

12 THE COURT: Right? Don't you have to have a witness
13 testify this is a certified copy of what I have in my business
14 record I kept in the regular course of business?

15 MR. STEGE: But an Affidavit or Certificate of
16 Custodian of Records takes that place.

17 THE COURT: I haven't seen it. Does it say that?

18 MR. STEGE: It says-- yes.

19 THE COURT: Okay. Okay. For purpose of today's
20 hearing, the Certificate of the Custodian of Records should be
21 sufficient. However, at trial, I do not believe it is,
22 because the defendant has a right to cross-examine the
23 witness. And the content for today's purpose, yes the
24 Certificate is sufficient, however at trial you must bring a

1 witness.

2 MR. STEGE: Right.

3 THE COURT: With knowledge of the content you're
4 trying to put on. Yes, we need to get to the issue of the
5 content.

6 MS. MAYHEW: Thank you. Your Honor would have to
7 make a ruling with regard to the relevancy which the defense
8 has maintained is irrelevant. Second, I would also object to
9 authenticating based on an Affidavit. This is a Petrocelli
10 hearing. It has to be clear and convincing which defined the
11 thing to be proved is highly probable or reasonably certain.
12 So if you are able to get past the relevancy argument, which I
13 don't think the State has met, the second prong is whether or
14 not it met that standard based on an Affidavit. I don't
15 believe it has met that.

16 MR. STEGE: May I submit we are doing this wrong
17 arguing individually about each piece of evidence whether it
18 is relevant, right? The question here is is this theory which
19 is a package of pieces of evidence relevant and admissible
20 evidence as to motive. We kind of got hung up on this one
21 little piece of evidence, and let's get to the theory behind
22 this evidence.

23 THE COURT: So the theory you want to put on is the
24 financial wealth or lack thereof of Mr. Goad?

1 MR. STEGE: Right.

2 THE COURT: And how it relates to the financial
3 wealth of the victim, Mr. Gibson?

4 MR. STEGE: Right. Only in so much as Gibson opts to
5 continue to get money. Goad has no money by his statement.

6 THE COURT: I understand that.

7 MR. STEGE: He gets evicted, as part of the motive or
8 opportunity to commit robbery on the victim which is objective
9 evidence to support that theory.

10 THE COURT: So to bring in the evidence pursuant to
11 the statute, I must have clear and convincing evidence
12 regarding the fact that I guess you want to put on other act
13 evidence that he didn't have money.

14 MR. STEGE: Right. His statement is he didn't have
15 money. His statement is he didn't have money. The theory
16 being he went to a close friend of his and something happened
17 in between there. He killed him. His pockets are empty. His
18 wallet is empty, except he has money in the pocket he's laying
19 dead on for three weeks. The man goes to the casino after the
20 murder. The wallet has been gone through.

21 THE COURT: I am sorry, what?

22 MS. MAYHEW: This is the first I heard of the casino.
23 I think we are veering off course here I think with regards to
24 Mr. Goad, and I think Your Honor eloquently pointed out has to

1 do with his financial situation. Now we are talking about
2 money and casinos. I just wanted to make sure that we stay
3 clear to the issue at hand.

4 THE COURT: The question really is has the State
5 made sufficient showing of the relevance of Mr. Goad's
6 financial circumstances to make it admissible at trial as a
7 condition or a part of motive. Normally, a Defendant's
8 financial circumstances would not be admissible, certainly
9 cannot be admitted to prove he's a bad person or there is
10 anything wrong with him. The question here is has the State
11 presented sufficient proof that the Court would allow it to be
12 presented to show motive. As we all know, motive is not a
13 required element nor is lack of motive a defense. But motive
14 can be relevant and the statute is very clear on the relevance
15 of motive. So if this is in fact motive evidence, it would
16 come in as long as there is indicia of reliability with regard
17 to the underlying evidence. You have submitted, Mr. Stege,
18 Exhibits 1 through 6 as support of the allegations that you
19 want to put in. The question is is this evidence such that
20 the Court will allow it to come in for the truth of the matter
21 asserted. You really want Ms. Arrascada's information to come
22 in?

23 MR. STEGE: Well that is a very -- yeah, I want the
24 piece showing the man had money. The man was getting checks.

1 He was being disbursed money. His rent was being paid. That
2 is the only piece I want from the Arrascada piece of.

3 THE COURT: And then the other piece is is it too
4 prejudicial to put on evidence Mr. Goad was in fact evicted,
5 and is the defense argument that is too prejudicial?

6 MS. MAYHEW: Your Honor, I think with regard to the
7 eviction, in this context, I think I would ask how is that
8 relevant? So if we are still talking about proposed Exhibit O
9 with regard to Mr. Gibson's finances, how is -- I keep coming
10 back to the connect piece, how is that connected with Mr. Goad
11 and a possible eviction? So I would ask the question what the
12 relevancy is with regards to the eviction in this context.

13 MR. STEGE: The man has no money. He's shortly
14 going to have no place to live. He has one friend that he
15 sees every day who exhibits or tends to show that he has money
16 which provides the State's theory is he murdered him.

17 MS. MAYHEW: Your Honor, we keep coming back to
18 Mr. Goad. The State's position is he has no money. We
19 provided documentation he does have money. And the State
20 keeps saying he has no money. He has no money. He does have
21 money. I don't know how Mr. Gibson's financial circumstances
22 negates my client not having money, just because somebody else
23 has money means he doesn't have money? We provided a Will
24 that his mother provided in excess of \$4,000, five percent of

1 her estate to Mr. Goad. In addition Mr. Goad's forms of
2 income. Just because he didn't have a payee that was
3 disbursing the rent and disbursing his various expenses does
4 not mean he didn't have money. He had two forms of income.
5 He got two checks from SSI, one from his wife and one for him,
6 because he worked the entirety of his life.

7 THE COURT: Did he have access to that?

8 MS. MAYHEW: He, on the 30th when he was evicted, he
9 went to Sacramento be able to collect the inheritance from his
10 mother. So at the time, he didn't necessarily have-- he had
11 access. He just needed a payee to be able to facilitate those
12 type of expenses. So the evidence he did not have a payee is
13 irrelevant. I think that -- I think that it is relevant in
14 terms of he was able -- he had money coming in. It just was a
15 matter of being able to have a service to facilitate that.
16 What we are trying to say is, yeah, he had money. He received
17 money. And apparently why he went to Sacramento was not only
18 to collect on his inheritance but to set up a payee so she
19 would be facilitating the income he had coming in. So it is
20 not he didn't have money. He had money, and he had money
21 during the relevant time period.

22 THE COURT: Okay. For purposes of today's hearing,
23 we need to make a decision with regard to whether or not
24 evidence of motive can be brought in based on the Defendant's

1 financial circumstances. The argument that you're presenting
2 to me really goes to the strength of the State's case and
3 whether or not a certain amount of weight will be given to
4 whatever they put on. But they are entitled to put on what
5 they believe to be a motive if there is sufficient reliable
6 information that supports it. That is why we have Exhibits 1
7 through 6. The question, why I was asking the question about
8 whether or not there is a dispute about whether or not these
9 are the records would be they need a witness to tell me
10 pursuant to Petrocelli that these are the person's records.
11 But argument about what weight to give the evidence, that is
12 another disagreement and something that will come in during
13 the trial. But the question is is it relevant to show motive.
14 Generally, it is. Is this evidence sufficient to argue motive.
15 And so it is sufficient in that the documents, you are not
16 refuting the documents are what they are, and it is also
17 important to show for the purpose of the State's theory the
18 relative circumstances of Mr. Goad and Mr. Gibson. What the
19 jury does with that, especially coupled with the information
20 it sounds like you have is going to be for the jury to
21 determine.

22 MS. MAYHEW: Understood. What I am saying, there is
23 no clear and convincing evidence to even present that motive
24 or theory of motive to the jury.

1 THE COURT: Well, is it your position you think they
2 have to prove by clear and convincing evidence that there was
3 a motive? Because they have -- The evidence has to be
4 supported by clear and convincing evidence. The conclusion is
5 for the trier of fact.

6 MS. MAYHEW: Understood, Your Honor. I just want to
7 make sure we are on the same page when it comes to prior bad
8 acts. That is what we are asking. This is why we are here.
9 There is certain elements that the State must meet. First
10 prior act has independent relevance. That is what we have been
11 discussing. And the act is proven by clear and convincing
12 evidence and the probative value of the proffered evidence is
13 not substantially outweighed by the danger of unfair
14 prejudice.

15 THE COURT: You're talking about the clear and
16 convincing evidence goes to the evidence not the ultimate
17 conclusion. The prejudicial effect may go to the ultimate
18 conclusion.

19 MS. MAYHEW: Understood. We are talking about a
20 certain piece of evidence the State is asking to be admitted
21 in support of their position that there is clear and
22 convincing evidence to introduce Mr. Goad's prior bad act of
23 his financial situation, eviction, etcetera.

24 THE COURT: I don't think that you are really

1 debating whether or not he was evicted. Are you really
2 contesting that?

3 MS. MAYHEW: No, Your Honor. The State is saying, I
4 wrote it down, that they want to include the eviction and
5 financial situation so that is the prior bad act the State is
6 seeking, to my knowledge, to introduce.

7 THE COURT: And you are not debating whether or not
8 he had this evidence that is being presented, Exhibit O and I
9 guess Exhibit 4, you are not saying that that is not adequate,
10 that is not what it purports to be, are you?

11 MS. MAYHEW: So with O, I think we placed an
12 objection with regards to relevancy. It has to do with
13 Mr. Gibson's finances. We are here for Mr. Goad.

14 THE COURT: I overruled that objection.

15 MS. MAYHEW: What was the other exhibit, Your Honor?

16 THE COURT: Four.

17 MS. MAYHEW: We stipulated to number 4, Your Honor.
18 We did not stipulate to number 3. Again that goes to the
19 relevance.

20 THE COURT: And it is overruled. So in terms of do
21 these documents say what they purport to say, that is what I
22 need to find in a Petrocelli. In other words, are they
23 fabricated? Are they made up? Is there clear and convincing
24 evidence they really say what they say.

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MS. MAYHEW: Understood, Your Honor.

THE COURT: And I think we have that in O with the Certificate of the Custodian of Record. We have it with your stipulation as to 4, and we have a witness that can testify to 3 today if you would like.

MS. MAYHEW: Yes, Your Honor.

THE COURT: Okay. Call your witness to support 3.

MR. STEGE: Ms. Korn, please. May I see O while we wait?

THE COURT: Yes. The Court will make it clear on the record Exhibits 3 and 4 relate to exhibits that are attached to the motion to admit motive evidence.

REBECCA KORN

called as a witness, having been first duly sworn,
took the witness stand and testified as follows:

DIRECT EXAMINATION

BY MR. STEGE:

Q Hello?

A Hi.

Q Will you please state your name then spell it for us?

A Rebecca Korn. R-E-B-E-C-C-A. K-O-R-N.

1 Q Up until recently, did you own the business called
2 Payee Counseling Services?

3 A Yes.

4 Q When did you close your business?

5 A November 1st of last year.

6 Q Of 2018?

7 A Correct.

8 Q Did you have a client at Nevada Fiduciary, I am
9 sorry, Payee Counseling Service by the name of Theodore
10 Gibson?

11 A Yes.

12 Q Have you ever looked in Theodore Gibson's file that
13 you have at your office?

14 A Yes.

15 Q As part of your file, did you keep something that
16 indicates what all the transactions are on the client account?

17 A Correct. It is on my system. It is on my data
18 base.

19 Q Okay. And before we get to some records, I want to
20 ask you, when you closed your business down, what happened to
21 Mr. Gibson's business? What did he do with the money he had
22 in his account?

23 A Whatever is the conserved fund, whatever is left
24 over on the account was transferred to Nevada Fiduciary as a

1 conserved funds.

2 Q So you wrote a check for that amount to?

3 A Nevada Fiduciary as a closing account, correct.

4 Q How did you know to do that?

5 A Because I transferred all my accounts, all my 300
6 client accounts to Nevada Fiduciary, and that was accepted and
7 approved by Social Security.

8 Q Do you know if Ralph Goad's account did not
9 transfer?

10 A It did not transfer, because he applied through
11 Social Security to be a payee for himself.

12 Q Do you know if he ever, from the time you closed
13 your business to now, do you know if Mr. Goad actually got
14 checks from Social Security?

15 A I believe he did. Whatever is left on his account on
16 my business, it was issued to him, that he requested to be
17 issued to him. He did not request to have a new payee.

18 Q He did not request a new payee?

19 A No.

20 Q You wrote him a check?

21 A Correct. And then he wants Social Security to be
22 his own payee.

23 Q How do you know that?

24 A I don't know that.

1 Q You don't know that?

2 A I don't know that, because it was not record on
3 Nevada Fiduciary he had any payee.

4 Q Okay. As far as you know, after you closed your
5 business, do you know what happened to Goad's money he was
6 getting?

7 A I don't know. As far as I know, he requested his
8 own to Social Security.

9 Q Did you hear that from Goad, himself?

10 A No. No.

11 Q Where did you get that information?

12 A I have no idea.

13 THE COURT: I'm sorry, you have no idea who told
14 you?

15 THE WITNESS: No, I don't know. Well, the only
16 thing I could probably find out is if I can go back to my file
17 that I had a letter from the Social Security that Ralph has
18 requested his own payee. That would follow mostly the Social
19 Security letter.

20 BY MR. STEGE:

21 Q Do you know if such letter exists?

22 A I am pretty sure. Sometimes I get it, sometimes I
23 don't.

24 Q In this case did you get it or did you not get it

1 or do you not know?

2 A I do not know. Yeah, I do not know.

3 THE COURT: You issued a check directly to Mr. Goad?

4 THE WITNESS: Yes, his final check.

5 THE COURT: You did that because you thought you had
6 permission from Social Security to do that?

7 THE WITNESS: No, he requested to be -- his own final
8 check to be, yes, had to be issued to him.

9 THE COURT: Okay. Thank you. Mr. Stege, we are
10 talking about Exhibit 3 to your motion. We are going to mark
11 this next in order.

12 THE CLERK: That is Exhibit 3 that you are marking?

13 THE COURT: Yes.

14 THE CLERK: That will be P.

15 THE COURT: So we have it in the record.

16 (Exhibit P marked for identification.)

17 BY MR. STEGE:

18 Q Do you recognize the redaction proposed in Exhibit P
19 here?

20 A Yes.

21 Q How do you recognize it?

22 A Which one are we looking at?

23 Q This entire sheet of paper. Do you recognize it?

24 A Yeah. This is my report. This is from my system.

1 This is my data base.

2 Q Your report on who?

3 A The report on Theodore Gibson. This is my client's
4 transaction.

5 Q Is that a true and accurate copy of what is in your
6 system?

7 A Yes. Yes, it is. And the final check that went to
8 Nevada Fiduciary will be the last transaction which is on
9 November 2nd.

10 THE PLAINTIFF: Move to admit P.

11 MR. SLOCUM: No objection.

12 THE COURT: Exhibit P is admitted.

13 (Exhibit P admitted in evidence.)

14 BY MR. STEGE:

15 Q Now I want to direct your attention to Exhibit O. It
16 is actually the first page bate stamp 1575. Do you recognize
17 this check?

18 A Yes. This my payee counseling check as a Trust
19 account.

20 Q Did you sign that check?

21 A Yes. It has two signatures, Rebecca and one of my
22 one of my -- hold on.

23 Q Someone who works for you?

24 A No, he doesn't work for me. He's one of the --

1 Let's see. Hold on.

2 Q Does he work for Social Security?

3 A No, he doesn't work for Social Security. He's one
4 of -- let me think. It was one of the five-- it was required
5 by the State that I have to have five. I can't think right
6 now.

7 Q Did these five people, did they keep a eye on your
8 accounts, conduct audits? What did these five people do?

9 A These are the -- they are not -- they are not --
10 they are required by the State or by the bank and Social
11 Security to have. Just give me a second here.

12 THE COURT: Do you want to take a short recess?

13 MR. STEGE: Yes.

14 THE COURT: We'll take a short recess. Court's in
15 recess.

16 (Short recess taken.)

17 BY MR. STEGE:

18 Q Do you know?

19 A Yes. It is part of my Board members. He's the
20 vice-president of the Board member.

21 Q You two signed the check sending Mr. Gibson's--

22 A Correct.

23 Q --service over to Nevada Fiduciary?

24 A Exactly.

1 Q Did you ever do a similar thing for Mr. Goad, send a
2 check to any other payee service?

3 A No.

4 Q Did you ever pay either Mr. Goad's rent or
5 Mr. Gibson's rent after November?

6 A November 1st is the last one I sent a rent check.

7 Q Okay.

8 A December and January, that was his responsibility.

9 Q Okay.

10 MR. STEGE: Nothing further. Thank you.

11

12 CROSS-EXAMINATION

13 BY MR. SLOCUM:

14 Q Good afternoon.

15 A Hi. Good afternoon.

16 Q So if I understood you correctly, you were working
17 up until November first?

18 A Correct.

19 Q And at that point. Business closed?

20 A I was legally -- I was approved by Social Security
21 through November 1st, and there was an extension for another
22 30 days, but my letter to the Social Security was, closing
23 date was November 1st, but I was working through November 15th
24 to be exact just to clean up all the, all the pending files.

1 Q All the pending files?

2 A Right. All the pending whatever Social Security had
3 questions and closing all the conserved funds.

4 Q You mentioned you had approval from Social Security;
5 is that right?

6 A Correct.

7 Q Is that who authorized you to be a payee?

8 A Correct.

9 Q So you said you had already made arrangements for
10 some 300 of the people that you were the payee for; is that
11 right?

12 A Correct.

13 Q And if I understood you correctly, it was just
14 Mr. Goad whose file was not transferred to a different payee?

15 A It was all my clients was transferred, all the names
16 and Social Security number was transferred to the new payee.
17 Now it all depend to the new payee if they want to accept all
18 those clients which has applied through the Social Security.
19 Most of those clients was approved by the Social Security. Now
20 it all depends on the client if they want to transfer to the
21 new payee or no. So most of my clients was suppose to go to
22 the Social Security and apply to the new payee or apply with
23 their own to be their own payee.

24 Now on the case of Mr. Goad, he supposedly go to the

1 Social Security and apply to the new payee or to be his own
2 payee. And if that ever happened, I don't know if that ever
3 happened, he went to the Social Security or not.

4 Q I want to make sure I understand this. You said all
5 of the 300 people you were the payee for, all their
6 information, their name as well as Social Security number were
7 forwarded to a specific I believe new payee; is that correct?
8 Right?

9 A That's correct.

10 Q And you said that then each of those 300 people
11 would have to do what in order for the new payee to accept
12 those?

13 A They have to go -- the new payee has to acquire the
14 clients that I give to them to go to the Social Security and
15 open their new clients to the Nevada Fiduciary.

16 Q You said they already had the information at Nevada
17 Fiduciary Solutions; is that correct?

18 A Right.

19 Q They just have to show up, basically say I want you
20 to be the payee; is that fair to say?

21 A Correct. Correct.

22 Q So your understanding was if somebody has a balance
23 at the end of the time you are losing your business, you would
24 be sending the money to Nevada Fiduciary Solutions if somebody

1 had elected to have Nevada Fiduciary Solutions act as the
2 payee; is that correct?

3 A Correct. If they get accepted to Nevada Fiduciary,
4 yes, I will send that money to them.

5 Q What do you mean by accepted?

6 A If they get accepted by the Social Security or
7 Nevada Fiduciary. Some of them will get rejected because they
8 don't want to accept this particular client by Nevada
9 Fiduciary for some reason. And if they don't, what happened
10 to their conserved funds, I send it back to Social Security.
11 They have to find their own payee.

12 Q There was also a process in place, if I understood
13 your testimony if somebody doesn't have a payee, it would go
14 back to Social Security, correct?

15 A Exactly.

16 Q There must be a specific sort of circumstance then
17 when you would give the money directly to an individual; is
18 that correct?

19 A Correct. If they requested, it's very small amount
20 and they would request it, I will send it to them.

21 Q When you say a very small amount, what is the cut
22 off?

23 A The cut off under \$500.

24 Q So for folks that requested it, you would be able to

1 give the money back to them and not send it back to Social
2 Security; is that right?

3 A That's correct.

4 Q Now do you know if there is a process by which
5 someone can request that you pay them but not that Social
6 Security pay the person directly, or those together? Do you
7 understand the question I am asking?

8 THE COURT: I don't.

9 BY MR SLOCUM:

10 Q Let me phrase it a little bit differently. You said
11 there is a specific request they may have that somebody wants
12 the money to come to them directly not go to Social Security
13 or the new payee; is that right?

14 A Right.

15 Q Now the question is: Is it a different process from
16 some application that someone would make to be their own
17 payee?

18 A No. It depends on the individual, okay? If an
19 individual is capable enough to handle their own financial
20 affair, if they will go to Social Security, Social Security
21 will make that decision like, well, you're capable of doing
22 your own financial affair, we'll make you your own payee.
23 Like I said, if they are not capable of doing their own
24 financial affair, they will find a new payee if they don't

1 want to go to Nevada Fiduciary. If possible, they will go to
2 Nevada Mental Health or other payee who is available in town.

3 Q Let me ask the question slightly differently: Who
4 authorizes you to give money directly to the individual as
5 opposed to another payee or to Social Security? Who makes
6 that authorization?

7 A It is just pretty much I made my decision. Like I
8 said, it all depends on the individual. If I know my
9 individual, I have known him for, you know, like I have known
10 a client for nine years, that I know they are capable of doing
11 their own financial affair, I will issue the amount to them,
12 that they are not going to be on drugs and alcohol and
13 gambling, and if I know that individual can be trusted.

14 Q So in this case, you didn't have any concerns in
15 giving the money to Mr. Goad; is that right?

16 A Correct.

17 Q Because you had known him for nine years?

18 A I had known him for nine years, that's correct.

19 Q You felt like there wasn't going to be any type of
20 issue?

21 A Right. And I believe it was like 200 something
22 dollars, and that is being pretty much like every month that
23 is what he getting, and we never had any problem, never had
24 any issue, you know, when he get his personal needs after

1 paying his rent. Every single month we pay his rent and there
2 is no problem at all.

3 Q Did I understand you earlier your understanding was
4 actually Mr. Goad was requesting to be his own payee after you
5 closed your business?

6 A I'm not sure whether he requested it to be his own
7 payee. The only thing that I can think of that he requested
8 to be his own payee is because he requested the amount to be
9 payable to him, and I told him that he needs to go to the
10 Social Security to be his own payee, otherwise his funds will
11 be suspended. That's probably why his money was suspended.
12 Chances are his money was suspended in December and January
13 because he was evicted.

14 Q Because he was what? I am sorry?

15 A He was evicted in his apartment complex, so he
16 probably did not go to the Social Security to continue his
17 money to be given to him.

18 Q Okay. I want to talk to you a little bit about
19 that. You said that the money was suspended. What does that
20 mean?

21 A Suspended, that means the Social Security was
22 holding his Social Security funds.

23 Q That money is there?

24 A That money is there. Oh, yeah.

1 Q It is not as if you can't access that money. It
2 exists and it is in Mr. Goad's name?

3 A Correct. He's the only one who can have access to
4 that account.

5 Q Somebody else can't come in and say oh, well, you
6 couldn't pay him so that money goes to me?

7 A No, no, no, no. He's the only one who can have
8 access to his funds is Social Security.

9 Q It is his?

10 A It is his.

11 Q The only thing that is suspended is giving money to
12 a payee if one hadn't been set up or to him directly?

13 A Even if he has payee that comes to Social Security,
14 the payee wouldn't have access into that account. He has to be
15 present in the Social Security and the payee at the same time
16 in order to have access into his funds, otherwise no one can
17 have access into his funds at all.

18 Q There is just a running total for example for the
19 month of December and then January, then let's say he sets it
20 up in February, all the money is still there once he gets
21 there in effect either with his own payee or if he has a new
22 payee?

23 A Correct. Correct. It is accumulated.

24 MR. SLOCUM: I don't have any further questions

1 based on that.

2 THE COURT: I am going to have the clerk mark
3 Exhibit 4 attached to the motion as the next in order because
4 that is what you have been referring to with regard to
5 Mr. Goad's check.

6 THE CLERK: That will be Exhibit Q. That was four
7 not three?

8 (Exhibit Q marked for identification and admitted in
9 evidence.))

10 THE COURT: This one is 4. Mr. Goad is 4.
11 Mr. Gibson is 3. Did you want me to mark 3.

12 THE COURT: You did I thought.

13 THE CLERK: I must have. I did.

14 THE COURT: Any further questions?

15 MR. STEGE: No.

16 THE COURT: Thank you very much. You may step down.

17 THE WITNESS: Your Welcome.

18 (Witness excused.)

19 MR. STEGE: I call Ms. Juarez, please.

20 THE COURT: Okay.

21 THE CLERK: Mr. Stege, did you say Ms. Korn's first
22 name?

23 MR. STEGE: Rebecca.

24 THE CLERK: Rebecca. Thank you.

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MR. STEGE: Victoria Juarez.

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VICTORIA JUAREZ

called as a witness, having been first duly sworn,
took the witness stand and testified as follows:

DIRECT EXAMINATION

BY MR. STEGE:

Q Ma'am, will you please state and spell your name?

A Victoria Juarez. V-I-C-T-O-R-I-A. J-U-A-R-E-Z.

Q You are employed how?

A I am with Northern Nevada Community Housing
Business, a nonprofit for apartments at Park Manor Apartments.

Q At Park Manor, were you familiar with a tenant by
the name of Ralph Goad?

A Yes.

Q Do you see Ralph Goad in the courtroom?

A Today.

Q Would you tell the Judge what he's wearing today and
where he's sitting?

A He's sitting over here. He's wearing green and
orange.

1 THE COURT: He's acknowledging the witness. The
2 record will so reflect.

3 BY MR. STEGE:

4 Q It is fair to say you have know Mr. Goad for a
5 number of years?

6 A Yes.

7 Q Around the end of 2018, did you become aware of
8 Mr. Goad's -- whether Goad was paying his rent or not?

9 A I actually asked him when he was going to pay his
10 rent, because there was a new payee. I guess the payee
11 company closed their doors, so he told me that he didn't have
12 the money, that he was going to go back to Sacramento because
13 he was on the verge of being evicted.

14 Q In fact he was evicted?

15 A He was.

16 Q For?

17 A Nonpayment.

18 Q And you were familiar with Mr. Gibson?

19 A Yes, sir.

20 Q Are you aware of whether he paid his rent after the
21 old payee went out of business?

22 A He went and got another payee.

23 Q How did you know he got a new payee?

24 A He told me.

1 Q And did you know if Mr. Goad got an new payee or if
2 he didn't?

3 A I asked him why he hadn't gotten a payee, because
4 Ted got it, because they were friends. He said why didn't Ted
5 tell me. I said well, you are grown. You should be able to
6 get your own payee.

7 Q And you were aware that they were good friends, Goad
8 and Mr. Gibson?

9 A Yes.

10 Q To your observation, was it such that one or the
11 other would borrow or use the money of the other?

12 A I don't know.

13 Q You testified I think at the Grand Jury that you
14 would see Mr. Goad go in the morning to the store and come
15 back with beer?

16 A Yes, sir.

17 Q Do you have first-hand knowledge who was paying for
18 those beers.

19 A I don't know. I assumed it was Ted, because he
20 always did the runs for Ted.

21 Q I think the eviction occurred at the end of January?

22 A Yes.

23 Q In the days before the eviction, did you ever speak
24 with Mr. Goad?

1 A I did. That's when I had asked him about, you know,
2 getting his rent paid, because he's on the verge of being
3 evicted. That is when he stated he was going back to
4 Sacramento.

5 MR. STEGE: Nothing further. Thank you.

6 THE COURT: Cross-examination.

7

8 CROSS-EXAMINATION

9 BY MR. SLOCUM:

10 Q Good afternoon?

11 A Hi.

12 Q I just want to make sure I understood your testimony
13 with regard to going back to Sacramento. You had said that he
14 said I don't have the money. I am going to go back to
15 Sacramento. Do you remember saying that just a moment ago?

16 A He said that he didn't have a new payee.

17 Q Okay. So your understanding was he said I don't
18 have a new payee, I am going back to Sacramento?

19 A Yes.

20 Q Correct? It was not he didn't have any money. He
21 didn't have a payee, so there wasn't somebody paying the rent?

22 A Right, because he always had the payee.

23 Q Your understanding was it was a payee that pays the
24 rent on his behalf?

1 A Yes.

2 Q It is his money?

3 A Yes.

4 Q But a payee is the one --

5 A That pays the rent and bills. If anybody has any
6 bills, not just him.

7 Q So in this case, your understanding was Mr. Goad
8 tells you I don't have a new payee, but I am going back to
9 Sacramento, so it doesn't matter; is that right?

10 A Basically yeah.

11 MR. SLOCUM: I don't have you any other questions.

12

13 REDIRECT EXAMINATION

14 BY MR. STEGE:

15 Q Those sound like two different things. The words
16 the defense attorney just said to you, it sounds like he had
17 money and just decided independently to go back to Sacramento.
18 Your first, during the direct examination, it sounded like
19 something else?

20 A I don't think he had -- I don't think he had money
21 because he made it clear that he wasn't -- I told him he
22 needed to go and see a new payee to pay his rent because he's
23 on the verge of being evicted. So that is when he told me he
24 was going back to Sacramento. I can't say if he went to get a

1 payee, but I did suggest it because Ted had got one and they
2 had the same payee.

3 Q But did he say anything at the time whether he had
4 money, or how did you connect the money to going to get a new
5 payee?

6 A Because we haven't received the rent.

7 Q Okay.

8 A I pulled him in. He was intoxicated. I asked him
9 what is going on with rent, because you're getting ready to
10 get a five-day notice to pay rent or get out.

11 Q He responded how?

12 A He said he didn't care, he was going back to
13 Sacramento. I said okay, we look forward to your lockout.

14 MR. STEGE: Nothing further.

15 THE COURT: Anything further, counsel?

16 MR. SLOCUM: If I could have the Court's indulgence
17 for one moment.

18 MR. SLOCUM: Just briefly, Your Honor.

19

20 RECROSS-EXAMINATION

21 BY MR. SLOCUM:

22 Q Mr. Goad was not concerned about the fact that he
23 was going to be --

24 A Evicted?

1 Q No longer in an apartment; is that right?
2 A Right.
3 Q You said your observation was he was intoxicated at
4 the time you talked to him?
5 A Uh-huh.
6 Q Is that right?
7 A Yes.
8 Q But it appeared to you that he understood what you
9 were saying to him?
10 A Yes.
11 Q What the consequences would be?
12 A Yes.
13 Q But he wasn't concerned, because he was going to go
14 back to Sacramento?
15 A That is the way I took it.
16 MR. SLOCUM: I don't have any further questions.
17 MR. STEGE: Nothing.
18 THE COURT: Okay. Thank you, ma'am. You may step
19 down.
20 (Witness excused.)
21 THE COURT: Does that conclude your witnesses?
22 MR. STEGE: Call Dave Nevils.
23 THE COURT: While we are waiting for Mr. Nevils, if
24 couple would approach please.

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(Discussion at the bench.)

THE COURT: You may proceed.

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DAVE NEVILS

called as a witness, having been first duly sworn,
took the witness stand and testified as follows:

DIRECT EXAMINATION

BY MR. STEGE:

Q Please state and spell your name?

A Dave Nevils. N-E-V-I-L-S.

Q You are the detective assigned to this case?

A Yes, sir.

Q You interviewed Mr. Goad in Sacramento upon his
arrest on a warrant?

A Yes.

Q And you recorded that interview?

A Yes, I did.

Q That interview was sent to transcription?

A Yes.

Q Did you get a chance to review the transcript?

A Yes.

Q How good of a transcript is it compared to the audio

1 recording of the interview?

2 A It is not very good at all.

3 Q I want to ask you about a few things?

4 THE COURT: Let's stop right there. Let's get, I
5 know you attached it to your, in support of your motion. It
6 was attached as an exhibit. I think it makes sense to mark it
7 for today's purposes since you are going to have the witness
8 talking about it.

9 MR. STEGE: Okay.

10 THE COURT: Do you have a copy or do you want the
11 Court's copy?

12 MR. STEGE: I want the Court's copy. I wrote on mine.

13 THE COURT: Don't ever say I didn't give you
14 something. That was electronically filed.

15 THE CLERK: Exhibit R marked.

16 (Exhibit R marked for identification.)

17 BY MR. STEGE:

18 Q In the interview, did Goad discuss the issue of his
19 financial situation before he went to Sacramento?

20 A Yes.

21 Q What did he say?

22 A He indicated that his last payment from his payee
23 service was in November in the amount of \$249.50. He had been
24 evicted, because his payee service had not paid his rent for

1 December 2018 as well as January of 2019.

2 Q Did he say what happened or did he say how he got to
3 Sacramento?

4 A Yes. On January 30th the day he was evicted, he
5 walked over to the Amtrak, actually the train station, but
6 bought a bus pass for \$40.50. He said he had \$70 and some
7 change on him at the time.

8 Q Did he say what happened when he got to Sacramento
9 in terms of his financial situation?

10 A He didn't really indicate exactly. He didn't have
11 any money other than what he had left over from the bus
12 station. He indicated he had a brother there he wanted to
13 contact, but didn't have his information. Then indicated
14 something about an inheritance. He wanted to contact a
15 lawyer.

16 Q Did he say something about a connection between
17 needing to find the brother to find the lawyer to find the
18 inheritance?

19 A Correct.

20 Q Did he say whether he was able to do that?

21 A No, he did not.

22 Q Did he mention ending up in the hospital then
23 getting hooked up with some service?

24 A Yes, he did.

1 Q As part of that, did they dip into his or go back
2 into his Social Security money?

3 A Correct.

4 Q Can you tell us what he said about that?

5 A He said he had about \$1,900 stacked up in Social
6 Security he had not been able to get access to. This Social
7 Services organization STEPS had obtained that money for him,
8 provided him -- I should say obtained a place for him to stay
9 which is 3045 Clay Street, paid his rent, issued him a check
10 for about \$200. He wasn't able to cash it, because he didn't
11 have an I.D. He had to spend seven dollars which left him
12 with around \$193.

13 Q In fact, didn't he say the way he hooked up with
14 this Social Services association was by falling down, getting
15 hurt and ending up in the hospital, then the Social Services
16 agency finding him there or making contact?

17 A Correct.

18 Q It wasn't that he went to Sacramento and then went
19 to Social Security and started setting it up. It was only
20 through chance or circumstances he ended up in the hospital
21 then got to the money?

22 A Correct.

23 THE DEFENDANT: I object.

24 BY MR. STEGE:

1 Q The interview was audio recorded, right?

2 A Yes.

3 Q Previous to court you reviewed this thumb drive
4 containing the said interview?

5 A I did.

6 Q And initialed it indicating it is authentic?

7 A Yes, I did.

8 MR. STEGE: Move to mark next in order.

9 THE CLERK: Exhibit S marked.

10 (Exhibit S marked for identification.)

11 BY MR. STEGE:

12 Q The thumb drive you marked as indicating this is an
13 authentic copy?

14 A Yes.

15 MR. STEGE: Move it in.

16 THE COURT: Any objection?

17 MR. SLOCUM: No objection for the purpose of here,
18 Your Honor.

19 THE COURT: Exhibit S is admitted.

20 (Exhibit S admitted in evidence.)

21 BY MR. STEGE:

22 Q Was there evidence at the scene indicating a
23 possible motive of robbery?

24 A Yes.

1 Q Such as what?

2 A Mr. Gibson's wallet was found underneath him.

3 Everything had been taken out of it.

4 MR. STEGE: Nothing further.

5 THE COURT: Q is the transcript; is that correct?

6 MR. STEGE: Q is the transcript.

7 THE CLERK: S is the thumb drive. R is the

8 transcript.

9 THE COURT: Thank you. R is attached to your

10 pleading?

11 MR. STEGE: Right.

12 THE COURT: So for purposes of today's hearing, it

13 was already presented to the Court.

14 MR. STEGE: Right.

15 THE COURT: But does the defense have any objection

16 to me just admitting it.

17 MR. SLOCUM: I am sorry?

18 THE COURT: R was Exhibit 2 to the Reply to the

19 Opposition.

20 MR. SLOCUM: So as I understand, this is a transcript

21 of what we just admitted as the audio, the interview, is that

22 right?

23 THE COURT: I guess.

24 MR. SLOCUM: That seems cumulative, Your Honor.

1 THE COURT: Well R was marked as an exhibit to his
2 pleading, so for purposes of the judge who has to look at this
3 record, I was hopeful we could get the exhibits marked so he
4 doesn't have to go back through pleadings to find them.

5 MR. SLOCUM: That is fine. We put them in the
6 category we have it already. If you want to mark it
7 differently I have no objection.

8 THE COURT: It is admitted for purposes of
9 identifying Exhibit 2 to the Reply. You may inquire.

10 MR. SLOCUM: Thank you.

11 (Exhibit R admitted in evidence.)

12

13 CROSS-EXAMINATION

14 BY MR. SLOCUM:

15 Q Good afternoon?

16 A Hi.

17 Q So what was the point at which you conducted the
18 interview of Mr. Goad?

19 A Homicide investigation.

20 Q What date and time?

21 A March 7th, 17:24 hours.

22 Q March 7th?

23 A Yes.

24 Q When did you initially discover the body?

1 A February 13th.

2 Q And when was Mr. Goad evicted?

3 A January 30th.

4 Q If I have the timeline correct, Mr. Goad gets
5 evicted on January 30th. The body was discovered February
6 13th. So then if I understood your testimony correctly,
7 Mr. Goad immediately left on January 30th to go to Sacramento?

8 A That's correct.

9 Q And now March 13th is when you are talking again?

10 A March 7th.

11 Q I am sorry, March 7th is when you talked to
12 Mr. Goad?

13 A Yes.

14 Q Basically, more than a month has elapsed between
15 when he left Reno and when you'd speaking to him in
16 Sacramento?

17 A Yes.

18 Q Now your understanding was that Mr. Goad arrives in
19 Sacramento and he has some issues such he ends up in the
20 hospital?

21 A Yes.

22 Q Do you know when that happened?

23 A I don't know the exact date he ended up in UC Davis.
24 He said he had been there a few days and he had become what I

1 understood to be hypothermic. He had been drinking and got
2 extremely cold and went to the hospital.

3 Q It was within a few days of your arrival?

4 A I can only estimate it based on what his statement
5 is.

6 Q Your understanding was he ends up in the hospital,
7 but while at the hospital he's able to make contact with
8 somebody who can assist him with a place to stay?

9 A Correct.

10 Q These are services that are not free; is that
11 correct?

12 A I do not know if they are free or not. I would
13 assume there could be some sort of Social Service program that
14 doesn't cost him anything as far as the contact at the
15 hospital. Once he's referred to like the STEPS program I am
16 certain they take a certain amount of money, yes.

17 Q As far as the STEPS program goes, your understanding
18 is for him to have a place to stay, they are going to take
19 some money?

20 A The person contacted at the hospital, I don't know
21 who that was, I can only assume it was a Social Services
22 person or something like that. Someone we have similar as
23 well.

24 Q Your understanding was when Mr. Goad initially

1 arrived in Sacramento, he wasn't sure exactly where to go for
2 the Social Services?

3 A Correct.

4 Q But that once he ends up in the hospital, although
5 we don't know exactly the time, we don't know the exact time
6 frame, during that stay he hooks up with somebody to be able
7 to assist him in this STEPS program, then he has a place to
8 stay, correct?

9 A Yes.

10 Q On top of having a place to stay, he gets
11 approximately a \$200 check; is that right?

12 A Yes.

13 Q Of which he then has \$193?

14 A Correct.

15 Q But regardless of how much money, he's getting his
16 place of residence. A roof over his head is already paid for;
17 is that true?

18 A That's my understanding, yes. They took that money
19 from his Social Security account and paid that rent for him.

20 Q So he wouldn't have to worry about being homeless?

21 A Right.

22 Q Wouldn't have to worry about about having a roof
23 over his head?

24 A Correct.

1 Q And then do you know, was that paid in February and
2 then in March or were you not able --

3 A I don't know.

4 Q -- to get to the bottom of that?

5 A No.

6 Q But your understanding is, when you are talking to
7 him in March, that he was homeless and you arrested him when
8 he still had a roof over his head?

9 A Correct.

10 Q Now the District Attorney asked you little bit about
11 indicia of a potential robbery that you concluded on the 13th
12 of February; is that right?

13 A Yes.

14 Q And you talked about the indicia being a wallet from
15 Mr. Gibson that had its contents strewn about; is that right?

16 A Yes.

17 Q You didn't locate any money in that contents that
18 was strewn about, correct?

19 A Correct.

20 Q Isn't it true you actually located money that was in
21 Mr. Gibson's pocket on his body?

22 A Yes. There was some cash there found on his body.

23 Q Do you recall how much money was located in his
24 pocket?

1 A I want to say around \$24, but I can't be for sure.

2 Q Could it be upwards of \$60?

3 A No, I don't believe it was that much.

4 Q How about forty-five?

5 A Again, \$24 comes to my memory. I don't recall
6 exactly what the amount was. I wasn't the assigned detective.
7 That was detective Kasmick.

8 Q Do you remember at the Grand Jury you were asked
9 whether you knew whether or not there was money in the wallet
10 before Mr. Gibson was killed; is that right?

11 A Well, I don't know if there was any money in the
12 wallet, no.

13 Q It is fair to say in the entire interview Mr. Goad
14 never acknowledges stealing anything from Mr. Gibson, correct?

15 A That's correct.

16 Q In fact, he maintains he had nothing to do with
17 Mr. Gibson's death, correct?

18 A That's correct.

19 MR. SLOCUM: I have no further questions, Your
20 Honor.

21 THE COURT: Mr. Stege.

22 MR. STEGE: No thank you.

23 THE COURT: Thank you, sir. You may step down. You
24 are excused.

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(Witness excused.)

MR. STEGE: I have no more witnesses.

THE COURT: Argument.

MR. STEGE: We have been arguing this case between the lines the majority of the afternoon. Unless the Court has any pointed questions for me I will sit down.

THE COURT: Okay.

THE COURT: Mr. Slocum.

MR. SLOCUM: Your Honor we'll submit. As Mr. Stege indicated, I think the issues have been covered. The Court will make its ruling and we'll go from there.

THE COURT: Okay. Well I think since we introduced a zippy with an audio recording on it, I have to listen to that before I can rule on it. Thank you very much, Mr. Stege. But I will go ahead and do that, then I will enter my order.

MR. STEGE: Okay.

THE COURT: I have entered my order on the other motions that have been submitted. It is really just if there is going to be evidence of the motive based on the financial condition of both the victim and the defendant, I think that is what you are asking for, Mr. Stege?

MR. STEGE: Right. It is difficult because his own statement acknowledges it, so I don't know that portion could be excluded. If the Court were to deny my motion, I don't

1 know you could exclude his own statements about the history
2 leading up to the time of the murder, but, yeah.

3 THE COURT: It is just, I agree, but I think what
4 needs to be decided is about all this other information that
5 comes in through the exhibits that you offered.

6 MR. STEGE: Right.

7 THE COURT: So if you agree with that, Mr. Slocum, I
8 wouldn't have to listen to the audio.

9 MR. SLOCUM: If I agree that his statement is going
10 to come in regardless?

11 THE COURT: His statement would not be precluded as
12 not being relevant, because he made the statement about his
13 financial situation.

14 MR. SLOCUM: Right. So, Your Honor, Mr. Stege and I
15 have briefly discussed potential issues of redaction of the
16 statement. I think we will have that issue separately if we
17 decide to redact anything and what gets redacted. I think
18 that is a separate issue if for no other reason we may be able
19 to have alternative explanations to what he was talking about
20 than what is happening here. So my view of this has always
21 been, okay, these are other acts that Mr. Stege wants to
22 admit. Mr. Goad's statements were about what was going on in
23 his life and how things ended up being the way they were.
24 And, again, I don't know that is particularly relevant for

1 today's hearing, but the defense theory has to do with things
2 that are not necessarily to do with these other acts. So if
3 the simple question is am I okay if you don't listen to that
4 audio, yes, but if you want more, I can give you more, because
5 I think that is a separate issue. When we crafted this motion,
6 we didn't have in mind Mr. Goad's statements.

7 THE COURT: Okay.

8 MR. SLOCUM: My understanding what Mr. Stege was
9 trying to do was to use his statement to try to give more
10 credence to the whole motive argument which I have problems
11 with just at the level of whether or not it is frankly
12 relevant or whether it is not simply going to confuse the jury
13 about what the issues really are in the case.

14 But so the record is clear, I was not contemplating
15 Mr. Goad's interview at the time that we crafted this motion.

16 THE COURT: Okay. So assuming that the interview
17 comes in, Mr. Stege I think was offering the evidence of the
18 interview to show even more so why some of the evidence he's
19 suggested was relevant to substantiate the interview, the
20 comment made by your client to the interview.

21 MR. SLOCUM: So the idea is -- I guess it is always
22 a question of the cart and the horse as far as do we get to
23 say okay, the statement is coming in, since the statement is
24 coming in, now I get to have this other statement that

1 substantiates the statement he made, which I have a problem
2 with. I think the statement may come in. There may be some
3 alternative explanations that are frankly better than what the
4 State is proposing. But regardless, before we can even get to
5 that issue about the weight, I know the Court was thinking in
6 terms, okay, the jury can decide what weight to give these
7 various bits of evidence, but if we already know we are going
8 to confuse the jury by giving them information, I think it
9 poses problems such that now we are basically shoehorning
10 other evidence in because Mr. Goad makes a statement about I
11 didn't have any money. What does that mean, I didn't have any
12 money? I didn't have any money in my pocket? We know from
13 the detective's testimony that he had money. Anybody could,
14 any payee could tap into that, and Mr. Goad himself could tap
15 into that. So I have to say he doesn't have any money is
16 really not entirely accurate as you and I might use the
17 expression I don't have any money. But that statement of
18 course comes in, and the jury can make its own determination
19 about the value of that. But I don't think it can go for the
20 truth of the matter asserted he didn't have any money, because
21 that is frankly belied by the other evidence in the case. He
22 did have money. Maybe he couldn't go to an ATM and pull it
23 out. He had money. He had money to his name. He had an
24 inheritance. He had checks that were stockpiling that were

1 certainly a part of his estate so to speak. If he had died,
2 his estate would have had that money in it. That money was
3 not going to be going away just because he didn't have a payee
4 or payee set up. There is some question he didn't have a
5 payee or just one that wasn't set up. Because I was
6 understanding the testimony there was this seeming opt out of
7 a new payee because the Social Security numbers and the name
8 were already given to the new payee. The question was you
9 need to go in. Yeah, this is what I want to do. It was
10 already set up. All that information was already forwarded.
11 So we can argue semantics whether or not he had a payee,
12 technically, but it is accurate that the new payee that
13 Mr. Gibson had was not the payee Mr. Goad had. Okay. Then we
14 can argue about whether or not the eviction was frankly just a
15 matter of Mr. Goad saying, hey, I don't want to live here
16 anymore anyway, I am going to Sacramento which essentially is
17 what the testimony is.

18 Regardless, the question then becomes is it not just
19 going to be more confusing to the jury to tell them, oh, he
20 got evicted and tell the jury, oh by the way, Mr. Gibson had
21 money he was to get from Social Security in the bank. What we
22 do know, Mr. Gibson had cash on him when his body was found.
23 There seems to be some debate today about how much money it
24 was. But regardless, the evidence is going to be he had money

1 on him which would seem to, again, belie this idea, oh, this
2 was done because Mr. Goad did not have money. So that's where
3 we are.

4 MR. STEGE: I think the argument we just heard is
5 more confusing than the confusion argument that is made, which
6 is beating a dead horse here a little bit. He did get evicted.
7 He stopped paying his rent. He no new payee. He took a bus to
8 Sacramento and ended up getting his money that was stockpiling
9 when he got too drunk. The semantics issue we are playing with
10 is he had money. It is aspirational to say piled up checks
11 you don't have doesn't mean you have money in the sense it is
12 relevant here which means he's hard up for a place to stay and
13 cash to get places. I think the real question is how much is
14 this a bad act to talk about and will it lead up to this
15 murder and how much of a prejudicial effect or how much --
16 like where is the propensity argument even coming from?
17 Propensity he doesn't pay his rent means he's a murderer?
18 That's awfully attenuated thinking. We usually talk about bad
19 acts are moral and criminal things. The prejudice I submit is
20 slight. This is made in I think a cautious, you know caution
21 being the better part of judgment, but I don't think a
22 reviewing court, I don't know if this Court even thinks of it
23 as a really prejudicial bad act type crime or act.

24 Final point on the aspirational element, the guy had

1 money as illustrated, but I mean the man says in fact in the
2 interview he wanted to get his money then go back to Reno. We
3 are arguing sort of weight, right? My theory is better than
4 their theory. My theory is more accurate than their's is. I
5 think the jury ought to be able to hear this evidence. It is
6 not so prejudicial that it is going to make them decide, you
7 know, the man was evicted, he must be a murderer. I don't
8 think that risk would exist.

9 THE COURT: Okay. What I would like to do is, I am
10 going to take this matter under consideration. I am going to
11 look at the transcript, listen to the audio that you admitted,
12 and then I will give you my ruling. I think in the interim
13 you all are going to talk about whether or not you want a
14 settlement judge in this case to assist you in resolving this
15 case before next week. But I will let you know when I am
16 ready to make my decision. You let us know if there is
17 anything we can do to assist you.

18 The bad act motion, there really was no evidence of
19 a bad act, so I don't think the State intends to put on any
20 evidence of bad act in terms of traditional bad act evidence.
21 So there is at this time no bad act evidence, so that motion
22 is moot.

23 With regard to the motion to put on the motive
24 evidence, that is what I am taking under consideration and the

1 motive evidence being requested is the exhibits, the
2 transactions that have been marked both for Mr. Gibson and
3 Mr. Goad as well as the identifying information from the
4 Housing Authority saying he's been evicted, and then the
5 statement.

6 So I will say the statement about being evicted goes
7 both ways. It certainly would be a defense to the claim of
8 flight which I know the State is alleging, so if you're
9 evicted and your family lives in Sacramento, that goes to
10 negate flight. And I certainly wouldn't preclude the defense
11 from talking about that, because it does go to negate flight
12 and also goes to what Mr. Stege thinks it does in terms of
13 because of the murder he committed flight. The evidence goes
14 both ways. I am having a little difficulty understanding that
15 it is true Travares and Petrocelli. I am not sure it is, but
16 I want to look at the transcript again and give my decision.

17 Anything further for today?

18 MR. SLOCUM: Your Honor, the only other problem, we
19 had provided the Court additional information is our motion.
20 I don't know if we need to specifically ask that be admitted,
21 that being the Will and the fact he did receive money that was
22 put on his books.

23 THE COURT: That was in the Opposition.

24 MR. SLOCUM: It was in a supplement, correct, Your

1 Honor.

2 THE COURT: Are you talking about the supplement
3 that you filed today? Yesterday?

4 MR. SLOCUM: So there was a supplement to the
5 exhibit that was filed on July 12th at 3:00 p.m.

6 THE COURT: Yes.

7 MR. SLOCUM: There was a second supplemental exhibit
8 filed on July 22nd.

9 THE COURT: So it is the July 22nd one you are
10 talking about?

11 MR. SLOCUM: It is both. It is the Will that shows
12 that he was to inherit money, and then it is the jail records
13 that show that he did receive money from that Will.

14 THE COURT: Okay. I don't have-- I show an index of
15 exhibits, a supplement of 16 pages, but in my electronic
16 record I am not seeing these 16 pages, so I don't know what
17 they are.

18 MR. SLOCUM: If I may approach, Your Honor, I do
19 have hard copies.

20 THE COURT: Yes. I am just talking about what was
21 in the courtroom here electronically. So we have the Superior
22 Court of California in Sacramento, the Estate, and we have the
23 self-proving Affidavits attached to a Will, is that correct,
24 and the Will?

1 MR. SLOCUM: That is my understanding, Your Honor.

2 THE COURT: So you are asking if you need to admit

3 those for me to consider for today's hearing?

4 MR. SLOCUM: That's correct.

5 THE COURT: Do you intend to use these in trial if

6 the evidence comes in?

7 MR. SLOCUM: Well, if the evidence comes in, yes, we

8 would be seeking to do that to negate this idea he didn't have

9 any money.

10 THE COURT: Okay. So Exhibit 1 begins on July 19,

11 2019; is that correct?

12 MR. SLOCUM: No, Your Honor. That is the last date.

13 It goes in reverse chronological order. You see at an early

14 point where the money came in which says Estate of Ms. Goad.

15 THE COURT: On March 20, 2018 and later April 2nd?

16 MR. SLOCUM: Yes, Your Honor.

17 THE COURT: Okay. So if you decide to try to put

18 that evidence on, you are going to have to have witnesses.

19 MR. SLOCUM: Yes, Your Honor.

20 THE COURT: But for purposes of somehow arguing the

21 motion, it is attached and I will consider it.

22 MR. SLOCUM: Thank you, Your Honor.

23 THE COURT: Anything further?

24 MR. SLOCUM: No, thank you.

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THE COURT: All right. Then we are going to take a very short recess. Mr. Stege, make sure you don't take off with any of those exhibits that we marked.

MR. STEGE: No, Your Honor, I won't.

THE COURT: I know they were kind of over there. We'll take a short recess before we start our 4:00 o'clock.

(Whereupon, the proceedings were concluded.)

--o0o--

1 STATE OF NEVADA,)
2 COUNTY OF WASHOE.) ss.

3 I, Judith Ann Schonlau, Official Reporter of the
4 Second Judicial District Court of the State of Nevada, in and
5 for the County of Washoe, DO HEREBY CERTIFY:

6 That as such reporter I was present in Department
7 No. 4 of the above-entitled court on TUESDAY, JULY 23, 2019,
8 at the hour of 2:00 p.m. of said day and that I then and there
9 took verbatim stenotype notes of the proceedings had in the
10 matter of THE STATE OF NEVADA vs. RALPH EDMOND GOAD, Case
11 Number CR19-0999.

12 That the foregoing transcript, consisting of pages
13 numbered 1-87 inclusive, is a full, true and correct
14 transcription of my said stenotypy notes, so taken as
15 aforesaid, and is a full, true and correct statement of the
16 proceedings had and testimony given upon the trial of the
17 above-entitled action to the best of my knowledge, skill and
18 ability.

19 DATED: At Reno, Nevada this 19th day of November, 2019.

20
21
22 /s/ Judith Ann Schonlau
23 JUDITH ANN SCHONLAU CSR #18
24

CASE NO. CR19-0999

**TITLE: THE STATE OF NEVADA VS. RALPH
EDMOND GOAD**

DATE, JUDGE

OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONT'D TO

7/30/19

HONORABLE

CONNIE

STEINHEIMER

DEPT. NO.4

M. Stone

(Clerk)

J. Schonlau

(Reporter)

**CONFERENCE CALL – DECISION ON MOTION TO ADMIT EVIDENCE
OF MOTIVE**

Deputy District Attorney Amos Stege represented the State. Deputy Public Defender Jay Slocum and Deputy Public Defender Jennifer Mayhew represented the Defendant.

Upon review of all the pleadings in this case, having heard the evidence and arguments presented at the motions hearing and having reviewed the case law, **COURT ENTERED ORDER** denying in part/granting in part the Motion to Admit Evidence of Motive as follows: The Motion is denied under the theory of NRS 48.045(2) as the evidence of eviction is not bad act evidence; and the Motion is granted under the theory of NRS 48.035(3) and res gestae as the evidence of the events leading up to and the subsequent eviction of the Defendant presents a full and accurate picture of the offense to the Jury. Further, the chain of events of the payee going out of business, followed by the Defendant living on \$249.50 for a period of 2 months and the ultimate eviction suggests that the defendant is, in fact, destitute and supports the State's theory there was a financial motive for the crime. Additionally, the probative value of the evidence is not substantially outweighed by the danger of unfair prejudice.

Respective counsel had nothing further to address with this Court.

COURT advised counsel that the Order transferring matter to Department 15 would be entered later this afternoon.

Court recessed.

IN THE SECOND JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

THE STATE OF NEVADA,

Plaintiff,

v.

RALPH EDMOND GOAD,

Defendant.

Case No. CR19-0999

Department No.: 4

ORDER

Pursuant to District Court policy, this case is hereby transferred to Department Fifteen for all further proceedings.

Trial will commence on Monday, July 31, 2019 at 12:00 p.m. in Department Fifteen.

DATED this 30 day of July, 2019.

Connie J. Steinheimer
DISTRICT JUDGE

1 Code #4185
2 SUNSHINE LITIGATION SERVICES
3 151 County Estates Circle
4 Reno, Nevada 89511

COPY

5 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
6 IN AND FOR THE COUNTY OF WASHOE
7 HONORABLE DAVID A. HARDY, DISTRICT JUDGE

8 -o0o-

9 THE STATE OF NEVADA, Case No. CR19-0999
10 Plaintiff, Dept No. 15
11 vs.
12 RALPH EDMOND GOAD,
13 Defendant.

14 _____/

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17 TRANSCRIPT OF PROCEEDINGS

18 JURY TRIAL

19 JULY 31, 2019

20 RENO, NEVADA

21

22

23

24 REPORTED BY: CORRIE L. WOLDEN, NV CSR #194, RPR, CP

25 JOB NO. 564890

A P P E A R A N C E S

3

WASHOE COUNTY DISTRICT ATTORNEY'S
OFFICE

BY: AMOS R. STEGE, ESQ.

P.O. Box 11130

Reno, Nevada 89520

775-328-3284

astege@da.washoecounty.us

9

WASHOE COUNTY PUBLIC DEFENDER'S
OFFICE

BY: JAY G. SLOCUM, ESQ.

AND: JENNIFER MAYHEW, ESQ.

P.O. Box 11130

Reno, Nevada 89520

775-337-4840

jslocum@washoecounty.us

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1 RENO, NEVADA, WEDNESDAY, JULY 31, 2019, 1:37 P.M.

2 -o0o-

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4 THE COURT: Let's go on the record in State vs.
5 Goad, CR19-0999. Counsel, we have 46. In the event we call
6 off trial, we can't get any here tomorrow morning. Mr. Goad
7 has invoked.

8 MR. STEGE: Can we get a panel on Monday?

9 THE COURT: My computer is not on. It takes a
10 long time. I'm just going to look over the clerk's
11 shoulder. Remain seated.

12 We have 52 citizens summoned to appear Monday for
13 a Department 10 trial. It has gone off. If 100 percent
14 show up, we have 52. Our experience is that 100 percent
15 never show up.

16 I can go downstairs and thank and excuse, and I
17 would invite counsel to go with me just so there is never a
18 conversation between the Court and public, I would thank and
19 excuse them from service. I understand some of them are
20 very hot, and I could also ask if any are willing to
21 voluntarily put their names on Monday's list.

22 I don't know if that distorts your random panel
23 that we prefer. We can call the 46 up and see how many we
24 get. We would have to excuse a whole bunch before we got
25 down to the 32.

1 MR. SLOCUM: If we can just have a moment.

2

3 (A discussion was held off the record.)

4

5 MR. SLOCUM: Your Honor, thank you for the
6 indulgence. I spoke with Mr. Stege. I believe the joint
7 recommendation that we are going to have is to call up the
8 folks for Monday.

9 I think we are going to accompany the Court down
10 to address the members of the public and find out if they
11 would be willing to come back on Monday. If they are not,
12 there is not a problem with that, but we would like to try
13 to increase the number of potential jurors.

14 THE COURT: All right. Mr. Goad will not
15 participate in our conversation. Counsel, if you will wait
16 with me in the hallway, I will take off the robe and we will
17 all go down there together.

18

19 (Whereupon a break was taken from 1:44 p.m. to 2:02 p.m.)

20

21 THE COURT: I have returned to the courtroom with
22 counsel who accompanied me to the jury selection room. I
23 spoke to the jury panel for 8 or 10 minutes. Counsel, do
24 you have any objections to anything I have said?

25 MR. STEGE: No.

1 MR. SLOCUM: No.

2 MS. MAYHEW: No.

3 THE COURT: We will go off the record.

4

5 (A discussion was held off the record.)

6

7 THE COURT: We have reconvened in the courtroom
8 and just heard word from the Jury Commissioner's Office that
9 10 potential jurors today have agreed to return on Monday
10 for jury service. With the existing pool that has been
11 summoned, the maximum number that would appear is 62. It
12 will probably be closer to 50-ish if the past indicates the
13 future.

14 Counsel, may we schedule jury trial for Monday and
15 see what happens or do you have thoughts to the contrary?

16 MR. STEGE: Set it.

17 MR. SLOCUM: We will set it and go from there.

18 THE COURT: All right. See you Monday morning at
19 8:45 in the courtroom for the jury arrival at 9:00. Thanks.
20 We will go off the record.

21 (Whereupon the proceedings concluded at 2:38 p.m.)

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STATE OF NEVADA)
) ss.
WASHOE COUNTY)

I, CORRIE L. WOLDEN, an Official Reporter of the
Second Judicial District Court of the State of Nevada, in
and for Washoe County, DO HEREBY CERTIFY;

That I am not a relative, employee or independent
contractor of counsel to any of the parties; or a relative,
employee or independent contractor of the parties involved
in the proceeding, or a person financially interested in the
proceeding;

That I was present in Department No. 15 of the
above-entitled Court on July 31, 2019, and took verbatim
stenotype notes of the proceedings had upon the matter
captioned within, and thereafter transcribed them into
typewriting as herein appears;

That the foregoing transcript, consisting of pages 1
through 6, is a full, true and correct transcription of my
stenotype notes of said proceedings.

DATED: At Reno, Nevada, this 5th day of January,
2020.

/s/Corrie L. Wolden

CORRIE L. WOLDEN
CSR #194, RPR, CP