

IN THE SUPREME COURT OF THE STATE OF NEVADA

LARRY BROWN

Appellant,

vs.

THE STATE OF NEVADA

Respondent.

Docket No. 81962

Direct Appeal From A Judgment of Conviction
Eighth Judicial District Court
The Honorable Valerie Adair, District Judge
District Court No. C-17-326247-1

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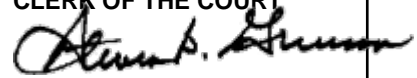
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DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

LARRY DECORLEON BROWN,
#8376788
ANTHONY CARTER, #1976097

Defendant.

CASE NO: C-17-326247-1

DEPT NO: XXI

STATE'S SUPPLEMENTAL NOTICE OF WITNESSES
AND/OR EXPERT WITNESSES
[NRS 174.234]

TO: LARRY DECORLEON BROWN, Defendant; and
TO: ROBERT ARROYO, Special Public Defender, Counsel of Record:

TO: ANTHONY CARTER, Defendant; and
TO: CONOR SLIFE, Deputy Public Defender, Counsel of Record:

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF
NEVADA intends to call the following witnesses and/or expert witnesses in its case in chief:

*DENOTES ADDITIONAL NAMES:

ABBOTT, J. - LVMPD #8872

BANKS, LAQUANDA - 3607 FREESTONE LN, NLV NV

BASILOTTA, EUGENIO - LVMPD P#8447 (or designee): Expert in the analysis of
cellular site information data, including being an expert in the operations of the various cellular
phone companies, including familiarity with the types of records and data kept by the cellular

1 phone companies, interpreting the records provided by cellular phone companies, including
2 the interpretation of the times provided in the records including the time zone of the reported
3 times contained within the records; he is also an expert in the operation of cell towers and
4 location of cell towers for each phone company, including knowledge of cell tower generation
5 of calls and the ability to determine the location where generated based on that knowledge,
6 including the generation of maps documenting the location of cell towers as well as the
7 location of a cellular phone making calls generated through a particular cell tower. He will
8 testify as to cell tower information, cellular phone company records in this case, and any
9 mapping done in the instant case.

10 BENJAMIN, J. - LVMPD #6964

11 BROWN, L. - LVMPD #885 (or designee): is an expert in the field of Fire
12 Investigation; methods of arson, profiling of arsonists; cause and origin of fires and will give
13 related opinions thereto. They will testify as to the findings in this case.

14 BROWNING, CLAIRE - LVMPD P#15291 (or designee): CRIME SCENE
15 ANALYST: Expert in the identification, documentation, collection and preservation of
16 evidence and is expected to testify as an expert to the identification, documentation, collection
17 and preservation of the evidence in this case.

18 BURNETT, A. - LVMPD #4907

19 CALHOUN, G. - LVMPD #6062

20 CARTER, TIFFANY - MT VIEW HOSPITAL

21 CAVE, CARNELL RICK-JAMES - 5850 SKY POINTE DR, #21/2003, LV NV

22 CODY, LARA - LVMPD #7294

23 COOK, DARIN - LVMPD #5730

24 COOK, M. - LVMPD #8088

25 CUSTODIAN OF RECORDS - 76 GAS STATION - 6050 SKY POINTE DR., LV NV

26 CUSTODIAN OF RECORDS – CCDC

27 *CUSTODIAN OF RECORDS – DELLEBRITE ADVANCED SERVICES
28 FORENSIC LAB, CELLEBRITE INC., NJ

1 CUSTODIAN OF RECORDS - FINDLEY HONDA - 7494 WEST AZURE DR., LV
2 NV

3 CUSTODIAN OF RECORDS - FINDLEY VOLKSWAGEN - 7500 WEST AZURE
4 DR., LV NV

5 CUSTODIAN OF RECORDS - LVMPD COMMUNICATIONS

6 CUSTODIAN OF RECORDS - LVMPD RECORDS

7 CUSTODIAN OF RECORDS - Metro PCS: Expert in the area of cellular phones, and
8 cellular system technology including cell tower generation of calls and ability to determine the
9 location where generated based upon historical records of cellular phone records as well as the
10 creation, functioning, data collection and information received and collected by cellular
11 provider cell sites, its analysis and conclusions which can be drawn and is expected to testify
12 thereto.

13 CUSTODIAN OF RECORDS - ONE STOP AUTO - 7400 WEST AZURE DR., LV
14 NV

15 CUSTODIAN OF RECORDS - SKY POINTE LANDING APARTMENTS, 5850
16 SKY POINTE, LV NV

17 CUSTODIAN OF RECORDS - Sprint: Expert in the area of cellular phones, and
18 cellular system technology including cell tower generation of calls and ability to determine the
19 location where generated based upon historical records of cellular phone records as well as the
20 creation, functioning, data collection and information received and collected by cellular
21 provider cell sites, its analysis and conclusions which can be drawn and is expected to testify
22 thereto.

23 CUSTODIAN OF RECORDS - SUMMERLIN HOSPITAL

24 CUSTODIAN OF RECORDS - T-Mobile: Expert in the area of cellular phones, and
25 cellular system technology including cell tower generation of calls and ability to determine the
26 location where generated based upon historical records of cellular phone records as well as the
27 creation, functioning, data collection and information received and collected by cellular
28

1 provider cell sites, its analysis and conclusions which can be drawn and is expected to testify
2 thereto.

3 CUSTODIAN OF RECORDS - TOWN CENTER LODGE - 6050 SKY POINTE
4 DRIVE, LV NV

5 CUSTODIAN OF RECORDS - Verizon: Expert in the area of cellular phones, and
6 cellular system technology including cell tower generation of calls and ability to determine the
7 location where generated based upon historical records of cellular phone records as well as the
8 creation, functioning, data collection and information received and collected by cellular
9 provider cell sites, its analysis and conclusions which can be drawn and is expected to testify
10 thereto.

11 DAVENPORT, LANDEN - 5850 SKY POINTE, #20-2011A, LV NV

12 DAVIDOVIC, MARJORIE - LVMPD P#14726 (or designee): Expert in the field of
13 DNA extractions, comparisons, analysis, and the identification of bodily fluids and is expected
14 to testify thereto.

15 DOSCH, MITCHELL - LVMPD #7907

16 ENGLISH, TIMOTHY - LVMPD #13404

17 FLETCHER, R. - LVMPD #4511

18 FLETCHER, SHAWN - LVMPD P#5221 (or designee): CRIME SCENE ANALYST:
19 Expert in the identification, documentation, collection and preservation of evidence and is
20 expected to testify as an expert to the identification, documentation, collection and
21 preservation of the evidence in this case.

22 GUERRERO, GABRIELLE - LVMPD P#15290 (or designee): CRIME SCENE
23 ANALYST: Expert in the identification, documentation, collection and preservation of
24 evidence and is expected to testify as an expert to the identification, documentation, collection
25 and preservation of the evidence in this case.

26 HALL, R. - LVMPD #6756

27 HOSKINS, K. - LVMPD #9303

28 JAEGER, RYAN - LVMPD #5587

1 JARRAD, H. - LVMPD #954 (or designee): is an expert in the field of Fire
2 Investigation; methods of arson, profiling of arsonists; cause and origin of fires and will give
3 related opinions thereto. They will testify as to the findings in this case.

4 KIM, K - LVMPD #14855

5 KOHLER, BRANDON - 5850 SKY POINTE #19-1018A, LV NV

6 KOHLER, KELLY - 5850 SKY POINTE, #18-1018A, LV NV

7 LIF, A. - LVMPD #15392

8 LNU, FNU - GEORGIA CAT TEAM

9 LONG, DANIEL - LVMPD #3969

10 LOUSIGNONT, CRAIG - LVMPD #4125

11 MADLAND, M. - LVMPD #9978

12 MANGIONE, MIKE - P#13727 (or designee): Expert in the area of cellular phones,
13 and cellular system technology including cell tower generation of calls and ability to determine
14 the location where generated based upon historical records of cellular phone records as well
15 as the creation, functioning, data collection and information received and collected by cellular
16 provider cell sites, its analysis and conclusions which can be drawn and is expected to testify
17 thereto.

18 MANIGAULT, LINDA - LVMPD P#15987 (or designee): LATENT PRINT
19 EXAMINER - Expert in the science and techniques of fingerprint comparison, and
20 comparisons done in this case and any reports prepared therefrom.

21 MCGRATH, DAN - LVMPD #4349

22 MCINTYRE, MORETTA - LVMPD P#13207 (or designee): CRIME SCENE
23 ANALYST: Expert in the identification, documentation, collection and preservation of
24 evidence and is expected to testify as an expert to the identification, documentation, collection
25 and preservation of the evidence in this case.

26 MERRICK, FRED - LVMPD #7549

27 MOGG, T. - LVMPD #4191

28 MOON, RICHARD – DA INVESTIGATOR

1 MORENO, R. - LVMPD #4922
2 MORGAN, B. - LVMPD #4216
3 MOTL, JASON - LVMPD #7464
4 NELSON, DEREKA - 650 E. AZURE AVE #3022, NLV NV
5 NORDSTROM, VICTORIA - 4916 ROYAL LAKE AVE., LV NV
6 OCHENHIRT, R. - LVMPD #5438
7 O'CONNELL, C. - LVMPD #4420
8 OLSON, DR. ALANE (or designee): A medical doctor, employed by the Clark County
9 Coroner's Office as a Deputy Medical Examiner/Forensic Pathologist. She is an expert in the
10 area of forensic pathology and will give scientific opinions related thereto. She is expected to
11 testify regarding the cause and manner of death of Kwame Banks.
12 O'NEAL, T - LVMPD #6067
13 QUILES, A. - LVMPD #7433
14 RALYEA, C. - LVMPD #13357
15 *RASPANTE, JOE – CELLEBRITE ADVANCED SERVICES LAB, NJ
16 RAVELO, E. - LVMPD #6538
17 REED, AIREONTE - 7316 MARBLE LAKE ST., #101, LV NV
18 ROBINSON, M. - LVMPD #7904
19 RUIZ, MATTHEW - LVMPD #6794
20 RYDER, ANGELISA - SUMMERLIN HOSPITAL
21 SAUCEDO, S. - LVMPD #1154 (or designee): is an expert in the field of Fire
22 Investigation; methods of arson, profiling of arsonists; cause and origin of fires and will give
23 related opinions thereto. They will testify as to the findings in this case.
24 SCHELLBERG, PETER - LVMPD P#5413 (or designee): CRIME SCENE
25 ANALYST: Expert in the identification, documentation, collection and preservation of
26 evidence and is expected to testify as an expert to the identification, documentation, collection
27 and preservation of the evidence in this case.
28 SCHOENBECK, CHAZ - 5850 SKY POINTE, #19-2007A, LV NV

1 *SEYMOUR, TIFFANY – 9328 FREEDOM HEIGHTS, LV NV

2 SMITH, ERIC - 5850 SKY POINTE, #20-2010A, LV NV

3 SMITH, JAKHAI - 5850 SKY POINTE, #19-2008A, LV NV

4 SOLANO, E. - LVMPD #7588

5 SPEAS, WILLIAM - LVMPD P#5228 (or designee): CRIME SCENE ANALYST:
6 Expert in the identification, documentation, collection and preservation of evidence and is
7 expected to testify as an expert to the identification, documentation, collection and
8 preservation of the evidence in this case.

9 SYLVA, W. - LVMPD #4080

10 SYPNIEWICZ, J. - LVMPD #1049 (or designee): is an expert in the field of Fire
11 Investigation; methods of arson, profiling of arsonists; cause and origin of fires and will give
12 related opinions thereto. They will testify as to the findings in this case.

13 THOMAS, KRISTINA - LVMPD P#13574 (or designee): CRIME SCENE
14 ANALYST: Expert in the identification, documentation, collection and preservation of
15 evidence and is expected to testify as an expert to the identification, documentation, collection
16 and preservation of the evidence in this case.

17 TIGHES, R. - LVMPD #15840

18 TRAWICKI, JOSEPH - c/o CCDA, 200 Lewis Avenue, LV, NV 89101

19 TUFTELAND, ERIK - LVMPD P#8971 (or designee): CRIME SCENE ANALYST:
20 Expert in the identification, documentation, collection and preservation of evidence and is
21 expected to testify as an expert to the identification, documentation, collection and
22 preservation of the evidence in this case.

23 VANCE, J. - LVMPD #9004

24 WALLACE, STEVE - 328 ORCHID OASIS AVE., NLV NV

25 WARREN, R. - LVMPD #15873

26 WEGHORST, J. - LVPD #15391

27 WITHAM, S. - LVMPD #4594

28 WRIGHT, NICOLE - c/o CCDA, 200 Lewis Avenue, LV, NV 89101

1 ZINGLEMAN, MEGHAN - LVMPD P#14791 (or designee): CRIME SCENE
2 ANALYST: Expert in the identification, documentation, collection and preservation of
3 evidence and is expected to testify as an expert to the identification, documentation, collection
4 and preservation of the evidence in this case.

5 These witnesses are in addition to those witnesses endorsed on the Information or
6 Indictment and any other witness for which a separate Notice of Witnesses and/or Expert
7 Witnesses has been filed.

8 The substance of each expert witness' testimony and copy of all reports made by or at
9 the direction of the expert witness has been provided in discovery.

10 A copy of each expert witness' curriculum vitae, if available, is attached hereto.

11
12 STEVEN B. WOLFSON
13 Clark County District Attorney
14 Nevada Bar #001565

15 BY /s// JOHN GIORDANI
16 JOHN GIORDANI
17 Chief Deputy District Attorney
18 Nevada Bar #012381

19 CERTIFICATE OF ELECTRONIC TRANSMISSION

20 I hereby certify that service of the above and foregoing was made this 7th day of June,
21 2019, by electronic transmission to:

22 ROBERT ARROYO
23 rarroyo@clarkcountynv.gov

24 CONOR SLIFE
25 slifecm@ckarkcountynv.gov

26 BY /s// E. DEL PADRE
27 E. DEL PADRE
28 Secretary for the District Attorney's Office

ed/GCU



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

vs.

LARRY DECORLEON BROWN,
ANTHONY CARTER,
Defendants.

CASE NO: C-17-326247-1
CASE NO: C-17-326247-2

DEPT. XXI

BEFORE THE HONORABLE VALERIE ADAIR, DISTRICT COURT JUDGE
THURSDAY, JUNE 27, 2019

**RECORDER'S TRANSCRIPT OF HEARING RE:
STATUS CHECK**

APPEARANCES:

For the State:

KENNETH N. PORTZ, ESQ.
Chief Deputy District Attorney

For Defendant Brown:

MONICA R. TRUJILLO, ESQ.
Chief Deputy Special Public Defender

For Defendant Carter:

P. DAVID WESTBROOK, ESQ.
Deputy Public Defender

RECORDED BY: ROBIN PAGE, COURT RECORDER

1 **Las Vegas, Nevada; Thursday, June 27, 2019**

2 * * * * *

3 [Proceeding commenced at 10:03 a.m.]

4 THE COURT: State versus Larry Brown, who is present in
5 custody with Ms. Trujillo. And Anthony Carter, who is present in
6 custody with Mr. Westbrook.

7 MR. WESTBROOK: Yes. I'm just standing in for Conner
8 today.

9 THE COURT: You're filling in for Mr. Slife.

10 MR. WESTBROOK: Yes.

11 THE COURT: All right.

12 MS. TRUJILLO: Judge --

13 THE COURT: This is on -- yes?

14 MS. TRUJILLO: -- I'd like to approach.

15 THE COURT: Sure.

16 [Bench conference - not recorded]

17 THE COURT: All right. So based on our conversation,
18 Ms. Trujillo, you're on track. Is that a fair synopsis?

19 MS. TRUJILLO: We are on track.

20 THE COURT: And as far as you know, Mr. Westbrook,
21 Mr. Slife is on track. You don't have any --

22 MR. WESTBROOK: I don't have any --

23 THE COURT: -- information to the contrary.

24 MR. WESTBROOK: Yeah, he was -- I think he was just on
25 board with a 30 day status check that we discussed.

1 THE COURT: All right.

2 Mr. Portz.

3 MR. PORTZ: And I'm standing in for Mr. Giordani, but
4 that's all correct to my understanding.

5 THE COURT: All right. We'll just set it over for another 30
6 day status check.

7 And then, Ms. Trujillo, the only motions you anticipate
8 filing would be *motions in limine*, is that right?

9 MS. TRUJILLO: A discovery motion only after the file
10 review.

11 THE COURT: Right.

12 MS. TRUJILLO: And then the rest *motions in limine*.

13 THE COURT: Okay. And we don't know whether or not
14 Mr. Slife has also done a file review, correct?

15 MS. TRUJILLO: I'm not sure.

16 MR. WESTBROOK: I don't have that information.

17 THE COURT: Okay.

18 MR. WESTBROOK: Sorry, Judge.

19 THE COURT: All right. So hopefully both of you -- if he
20 hasn't already done it, both of you can get another file review done.
21 We have a trial date coming up end of August as you know, so let's
22 go out for our next status check 30 days. And everything should be
23 done. If there's a need for the Court intervention on something and
24 the motions aren't calendared before that, put it on prior the status
25 check.

1 MS. TRUJILLO: Just as a heads up, Judge, I don't plan on
2 filing the *motions in limine* until a little bit closer to trial --

3 THE COURT: That's fine.

4 MS. TRUJILLO: -- for strategic reasons.

5 THE COURT: Right. Okay.

6 MS. TRUJILLO: Okay.

7 THE CLERK: July 25th at 9:30.

8 MS. TRUJILLO: Thank you.

9 THE COURT: All right.

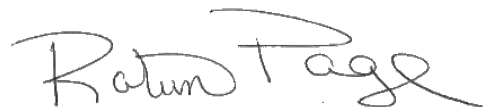
10 MR. WESTBROOK: Thanks, Your Honor.

11 THE COURT: Thank you.

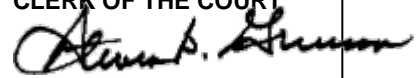
12 [Proceeding concluded at 10:06 a.m.]

13 * * * * *

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

23 

24 Robin Page
25 Court Recorder/Transcriber



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8 DISTRICT COURT

9 CLARK COUNTY, NEVADA

10
11 STATE OF NEVADA,) CASE NO. C-17-326247-1
12) DEPT. NO. 21
13 Plaintiff,)
14 vs.)
15 LARRY DECORLEON BROWN,)
16 ID 8376788,)
17 Defendant.)

18 **DEFENDANT LARRY BROWN'S MOTION FOR**
19 **DISCLOSURE OF FAVORABLE EVIDENCE**

20 DATE: August 13, 2019
21 TIME: 9:30 a.m.

22 COMES NOW, Defendant Larry Brown, by and through his attorneys, JoNell Thomas,
23 Special Public Defender, and Monica R. Trujillo, Chief Deputy Special Public Defender, and
24 hereby requests pursuant to Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194 (1963), the Due
25 Process Clause to the Fourteenth Amendment to the United States Constitution and the Nevada
26 Constitution Article 1 § 8, that this Court order the State to produce any and all relevant evidence
27 in its actual or constructive possession.
28

1 This Motion is made and based upon all the papers and pleadings on file herein, the
2 attached Declaration of Counsel and Exhibit A, and oral argument at the time set for hearing this
3 Motion.

4 **NOTICE OF MOTION**

5 TO: STATE OF NEVADA, Plaintiff; and

6 TO: District Attorney, Attorney for Plaintiff
7

8 YOU WILL PLEASE TAKE NOTICE that the undersigned will bring on the above and
9 foregoing MOTION on the 13th day of August, 2019 at the hour of 9:30 a.m., or as soon
10 thereafter as counsel may be heard.

11 **PROCEDURAL HISTORY**

12
13 On September 14, 2017, Mr. Brown was arraigned on an Indictment in District Court,
14 Department 3. Mr. Brown entered a plea of Not Guilty and waived his state right to a speedy
15 trial. Thereafter, the State filed a Second Superseding Indictment, adding one count as to Mr.
16 Brown. On October 19, 2017, Mr. Brown again entered a plea of Not Guilty and waived his
17 state right to a speedy trial. On December 19, 2017, this Honorable Court received a Third
18 Superseding Indictment. At that hearing, this Court noted that it did not need to arraign Mr.
19 Brown because there were no charges added, only additional evidence and testimony regarding
20 the charges. At a status check on October 31, 2017, this Court scheduled trial for June 18, 2018.
21 On April 11, 2018, Nicholas Wooldridge filed a Motion to Withdraw as Attorney of Record.
22 This Court granted Mr. Wooldridge's motion on April 24, 2018 and appointed the Special Public
23 Defender's Office. Thereafter on April 26, 2018, the Special Public Defender's Office
24 confirmed as counsel.
25
26

27 Mr. Brown is charged by way of Third Superseding Indictment with one count of
28 Conspiracy to Commit Robbery, one count of Robbery with Use of a Deadly Weapon, one count

1 of Murder with Use of a Deadly Weapon and one count of Ownership or Possession of Firearm
2 by Prohibited Person.

3 **PERTINENT FACTS**

4 The State alleges that on February 21, 2017, Mr. Brown and Mr. Carter killed Kwame
5 Banks in the parking lot of the Sky Pointe Landing Apartments located at 5850 Sky Pointe Drive.
6 Defense counsel has reviewed the Las Vegas Metropolitan Police Department detective files on
7 this case. Counsel has also been in communication with Chief Deputy District Attorney John
8 Giordani who has facilitated obtaining readable and accessible formats of cell phone records and
9 DNA records. Our respective experts have also communicated regarding discovery in the instant
10 case. In addition to specific requests, this motion also identifies items defense counsel has
11 already obtained as well as items that are believed to be non-existent.
12
13

14 **ARGUMENT**

15 **I. FAILURE BY THE STATE TO PROVIDE DISCOVERY IS A VIOLATION OF** 16 **THE DUE PROCESS CLAUSE UNDER THE U.S. CONSTITUTION AND THE** **NEVADA CONSTITUTION**

17 The State must provide to the defense all exculpatory evidence in its actual or
18 constructive possession prior to trial. Failure to do so results in a violation of the Due Process
19 Clauses of the Fifth and Fourteenth Amendments of the United States Constitution. Brady v.
20 Maryland, 373 U.S. 83 (1963); Kyles v. Whitley, 514 U.S. 419, (1995). The rule applies
21 regardless of how the State has chosen to structure its overall discovery process . Strickler v.
22 Greene, 527 U.S. 263, (1999).
23

24 Hereinafter this type of exculpatory evidence will be referred to as “Brady material.”
25 Brady material is evidence which is (1) material, (2) favorable to the accused, (3) relevant to
26 guilt or punishment, and (4) within the actual or constructive possession of anyone acting on
27 behalf of the state. Brady, *supra*.
28

1 Article 1, Section 8 of the Nevada Constitution also guarantees every defendant a right
2 to due process. “It is a violation of due process for the prosecutor to withhold exculpatory
3 evidence, and his motive for doing so is immaterial....The prosecutor represents the state and
4 has a duty to see that justice is done in criminal prosecution.” Jimenez v. State, 112 Nev. 610,
5 618 (1996).

6 **II. THE STATE MUST TURN OVER ALL EVIDENCE FAVORABLE TO THE**
7 **DEFENDANT AND MATERIAL TO THE CASE.**

8 The purpose of Brady is to ensure that criminal trials are fair. Brady, 373 U.S. at 87. To
9 ensure “that a miscarriage of justice does not occur,” United States v. Bagley, 473 U.S. 667,
10 675 (1985). That the burden is on the prosecutors to disclose favorable and material information,
11 “illustrate[s] the special role played by the American prosecutor in the search for truth in criminal
12 trials.” Strickler v. Greene, 527 U.S. 263, 281 (1999). The prosecution is entrusted with the
13 responsibility to turn over favorable and material evidence because its motive “is not that it shall
14 win a case, but that justice shall be done.” Id. (quoting Berger v. United States, 295 U.S. 78, 88
15 (1935)).

16
17 The prosecution’s duty to divulge relevant information is a “broad duty of disclosure.”
18 Strickler, 527 U.S. at 281; cf. United States v. Agurs, 427 U.S. 97, 108 (1976) (finding that “the
19 prudent prosecutor will resolve doubtful questions in favor of disclosure”). Although the
20 prosecution is not required to “deliver his entire file to defense counsel,” it is required to turn
21 over evidence that is both favorable to the defendant and material to the case. Bagley, 473 U.S.
22 at 675. Prosecutors are required to divulge this information even “when the defendant does not
23 make a Brady request.” Id. at 680-82.

24
25
26 Favorable evidence, under Federal precedent, clearly includes both exculpatory
27 information and impeachment information. In Giglio, the government’s case rested entirely on
28 the testimony of one witness, yet the defense was not informed that the witness testified in

1 exchange for a promise not to be prosecuted. The Supreme Court held that the prosecution was
2 required to divulge this information because “evidence of any understanding or agreement as to
3 a future prosecution would be relevant to [the witness’s] credibility and the jury was entitled to
4 know of it,” accordingly, the conviction was reversed. Giglio v. United States, 405 U.S. 150,
5 154 (1972). Even the existence of a non-binding promise of leniency by the prosecution must
6 be disclosed as it shows that the witness attempted to obtain a deal before testifying and the jury
7 “might well have concluded that [the witness] had fabricated testimony in order to curry the
8 prosecutor’s favor.” Wearry v. Cain, 577 U.S. ____ (2016) (quoting Napue v. Illinois, 360 U.S.
9 264, 270 (1959)). The Supreme Court has further made clear that the prosecution must disclose
10 all impeachment evidence, not just evidence relating to cooperation agreements. Youngblood v.
11 West Virginia, 547 U.S. 867 (U.S. 2006); United States v. Bagley, 473 U.S. 667, 676 (1985).

14 The Nevada Supreme Court has spoken directly to what is considered “favorable to the
15 accused” and therefore proper Brady material. In Mazzan v. Warden, 116 Nev. 48, 67 (2000)
16 the court stated:

17 Due process does not require simply the disclosure of “exculpatory” evidence.
18 Evidence also must be disclosed if it provides grounds for the defense to attack
19 the reliability, thoroughness, and good faith of the police investigation, to
20 impeach the credibility of the state’s witnesses, or to bolster the defense case
21 against prosecutorial attacks. Furthermore, “discovery in a criminal case is not
22 limited to investigative leads or reports that are admissible in evidence.”
23 Evidence “need not have been independently admissible to have been material.”
(citations omitted)

24 Therefore, Brady material is defined broadly. It includes, but not be limited to, the
25 following examples: forensic testing which was ordered, but not done, or which was completed
26 but did not inculcate the defendant; any medical or psychological treatment of any victim or
27 witness; criminal records or other evidence concerning State’s witnesses which might show their
28 bias, motive to lie, or otherwise impeach their credibility; evidence that the alleged victim has
been the alleged victim of other crimes; investigative leads or investigation which was not

1 followed-up on or completed by law enforcement; any information relating to the credibility of
2 any witness including law enforcement officers or other agents of the state and, of course,
3 anything which is inconsistent with any prior or present statements of a State's witness, including
4 the failure to previously make a statement which is later made or testified to. Of course,
5 traditionally exculpatory evidence such as that which would show that someone else committed
6 the charged crime or that no crime occurred would also be included as Brady material. This is
7 not meant to be an exclusive list; it is merely a few examples.

9 Brady material applies not only to evidence that might affect the defendant's guilt, but
10 also includes evidence which could serve to mitigate a defendant's sentence upon conviction.
11 Jimenez v. State, 112 Nev. 610 (1996). An example of this kind of evidence might be where the
12 victim of a robbery who identified the defendant as one of two people who robbed him, also
13 indicated that he tried to keep the co-defendant from injuring him. Although the identification
14 would actually go to establishing the defendant's guilt, it would also be Brady material because
15 it might serve to mitigate the defendant's sentence because of his effort to aid the victim.

17 Other examples of this kind of evidence could be the evidence of a diminished mental
18 state, even if not rising to a legal defense, evidence that the defendant has mental health issues,
19 evidence that the defendant was using drugs or alcohol at the time of the offense, evidence that
20 the defendant was under some kind of duress or mistaken belief, evidence that the defendant
21 tried to turn himself in, evidence that the defendant tried to seek help, evidence that the defendant
22 was remorseful, evidence that the defendant was cooperative with law enforcement, and any
23 similar type of evidence. Essentially, anything which could convince the court to impose
24 something less than a maximum sentence, or rebut alleged aggravating circumstances would be
25 relevant to punishment, and must be provided to the defense pursuant to Brady.

1 When the defense makes a specific request for Brady material and the State does not
2 provide such material, the Nevada Supreme Court has held that there are grounds for reversal of
3 a conviction “if there exists a reasonable possibility that the claimed evidence would have
4 affected the judgment of the trier of fact.” Roberts v. State, 110 Nev. 1121 (1994). *See, also*,
5 Jimenez v. State, *supra*; State v. Bennett, 119 Nev. 589 (2003). The Nevada Supreme Court has
6 defined “material evidence” as evidence that is logically connected with the facts of
7 consequences or the issues in the case. Wyman v. State, 217 P.3d 572, 583 (Nev. 2009).

9 It should be noted that the only significant difference between a “general” and a specific”
10 request for Brady material is the proper standard of appellate review for failure to disclose the
11 information. Even if a specific request has not been made, reversal is warranted, “if there exists
12 a reasonable probability that, had the evidence been disclosed, the result of the proceeding would
13 have been different.” United States v. Bagley, 473 U.S. at 667, 682, 685 (1985); Pennsylvania
14 v. Ritchie, 480 U.S. 39, 57 (1986). A ‘reasonable probability’ is a probability sufficient to
15 undermine confidence in the outcome. Bagley, 473 U.S. at 678, 685; Ritchie, 480 U.S. at 57.”
16 Roberts, *supra*, at 1129.

18 The fact that a general request, rather than a specific request, was made does not relieve
19 the State of its absolute obligation to turn over favorable evidence to the defense prior to trial.
20 Absent a specific request for Brady material, anything that might have created a *probability* that
21 the confidence of the verdict was undermined is considered material and can serve as a basis for
22 reversing the case. *See Bagley*. Where a specific request is made, however, anything that creates
23 a reasonable *possibility* that the evidence might have affected the fact-finder’s judgment is
24 material and could lead to a reversal upon appeal *See Roberts*.

27 Simply stated, there is no legal authority to support the position that the State’s obligation
28 to turn over favorable evidence to an accused is in any way dependent on the specificity of the

1 pretrial request. Indeed, the State remains obligated to provide favorable evidence even in the
2 case where a defendant makes no pretrial request at all. However, where, as here, a specific
3 request for certain evidence is made, in Nevada the evidence is considered “material” at the
4 appellate level if there is a reasonable possibility that it could affect the fact finder’s judgment.

5 **III. THE STATE IS RESPONSIBLE FOR ALL MATERIAL EITHER IN ITS**
6 **POSSESSION OR CONSTRUCTIVE POSSESSION AND HAS AN**
7 **AFFIRMATIVE DUTY TO OBTAIN SUCH REQUIRED MATERIAL**

8 “It is a violation of due process for the prosecutor to withhold exculpatory evidence, and
9 his motive for doing so is immaterial.” Jimenez, supra at 618. A prosecutor is not only
10 responsible for turning over Brady materials in his possession, but it equally responsible for
11 Brady material in the possession of any other government agents. Id. at 620. See also State v.
12 Bennett, 119 Nev. 589, 603 (2003) (Finding a Brady violation when exculpatory information
13 was in the constructive possession of the Clark County District Attorney’s office and LVMPD
14 obtained said information Utah police). This constructive knowledge that is imputed to the
15 prosecutor applies even if the evidence is being withheld by other agencies. “Even if the
16 detectives withheld their reports without the prosecutor’s knowledge, ‘the state attorney is
17 *charged with constructive knowledge and possession of evidence withheld by other state agents,*
18 *such as law enforcement officers.’” Jimenez. (citation omitted) (emphasis added). “Exculpatory
19 evidence cannot be kept out of the hands of the defense just because the prosecutor does not have
20 it, where an investigative agency does.” United States v. Zuno-Arce, 44 F.3d 1420, 1427 (9th
21 Cir. 1995). Mr. Brown would submit that other state agents such as probation and parole officers,
22 Child Protective Service workers and their agents, jail personnel, and similar agents of the State
23 are also included in those from whom the prosecution must seek out Brady material.*

24 In Kyles, supra, the United States Supreme Court made it clear that the prosecutor has
25 an *affirmative obligation* to obtain Brady material and provide it to the defense, *even if the*
26

1 *prosecutor is initially unaware of its existence.* In so finding, the Supreme Court noted that
2 “[t]he prosecution’s affirmative duty to disclose evidence favorable to a defendant can trace its
3 origins to early 20th century strictures against misrepresentation and is of course most
4 prominently associated with this Court’s decision in Brady v. Maryland. . .” Id. 514 U.S. at 432.
5 The Kyles Court also made it clear that this obligation exists even where the defense does not
6 make a request for such evidence. Id. The Kyles Court additionally made the following
7 observations when finding the State had breached its duty to the defendant and discussing the
8 prosecutor’s obligations:
9

10 This in turn means that the *individual prosecutor has a duty to learn of any*
11 *favorable evidence known to the others acting on the government’s behalf in the*
12 *case, including the police.* But whether the prosecutor succeeds or fails in meeting
13 this obligation (whether, that is, a failure to disclose is in good faith or bad faith),
14 the prosecution’s responsibility for failing to disclose known, favorable evidence
15 rising to a material level of importance is inescapable... Since then, the prosecutor
16 has the means to discharge the government’s Brady responsibility if he will, any
17 argument for excusing a prosecutor from disclosing what he does not happen to
18 know about boils down to a plea to substitute the police for the prosecutor, and
19 even for the courts themselves, as the final arbiter’s of the government’s
20 obligation to ensure fair trials.

21 Kyles, supra, 514 U.S. at 437,438 (emphasis added)(citations and footnotes omitted).

22 When presented with Brady requests, on occasion, prosecutors respond saying they are
23 not obligated to go on “fishing expeditions” for the defense, or, alternatively, they do not have
24 to obtain information which the defense with due diligence could find on their own. Often Steese
25 is quoted to support the notion that, “Brady does not require the State to disclose evidence which
26 is available from other sources, including diligent investigation by the defense.” Steese v. State,
27 114 Nev. 479 (1998) (Citing Stockton v. Murray, 41 F.3d 920, 927 (4th Cir. 1994); and United
28 States v. Davis, 787 F.2d 1501 (11th Cir. 1986); see also State v. Huebler, 275 P.3d 91, 100
(2012) (footnote 11).

 It should be noted, if the prosecution invokes the “diligent investigation” language from
Steese that the United States Supreme Court has never limited the Brady obligation imposed on

1 the State by requiring a showing of due diligence by defense. See Amado v. Gonzalez, 758 F.3d
2 1119, 1137 (9th Cir. 2014). The language in Steese adopted by our Supreme Court has been
3 specifically disavowed in the 9th Circuit and never invoked by the United States Supreme Court,
4 the ultimate arbiter of limitations on Brady. See Amado. Given the serious nature of the charges
5 in this case, the requirements of Brady as announced by the Supreme Court of the United States
6 should be followed by the prosecution.
7

8 **IV. THE CLARK COUNTY DISTRICT ATTORNEY’S “DISCOVERY PRACTICE”**
9 **SET FORTH IN THE MEMORANDUM DATED APRIL 13, 2016, DOES NOT**
10 **SATISFY THE STATE’S DUTY TO THE DEFENDANT TO OBTAIN AND**
11 **PROVIDE EXCULPATORY MATERIAL.**

12 In 2016, the Clark County District Attorney’s office issued a memorandum setting forth
13 the office’s discovery practice. See Memorandum from Steven B. Wolfson, Clark County
14 District Attorney, to the Eighth judicial District Court, et al., Regarding Clark County District
15 Attorney Discovery Practice (April 13, 2016) (attached as Exhibit A) (herein referred to as,
16 “memorandum”). Although the memorandum requires district attorneys to know and comply
17 with Brady, Giglio and their progeny, the District Attorney’s discovery practice now explicitly
18 disavows an “open-file” policy. Mr. Wolfson reasons that there should be no “open-file” policy
19 “as that phrase has been interpreted by courts to relieve defense counsel of its obligation to
20 exercise due diligence in discovering impeachment and exculpatory evidence.” Id. at 3. Despite
21 requiring deputy district attorneys to be familiar with Brady and Giglio, the memorandum goes
22 on to emphasize that what, if any, “case file review” now permitted upon the defendant’s request
23 “shall not be construed as a representation that the deputy district attorney is in possession of all
24 material in possession of law enforcement.” Id. This position, of course, runs contrary to Brady
25 and its progeny. Bagley requires the state to produce Brady material without a request from the
26 defendant, despite the district attorney’s stated “discovery practice” which appears conditioned
27 on the defense attorney’s request to review the file. United States v. Bagley, 473 U.S. 667, 682,
28

1 105 S. Ct. 3375, 3383 (1985). Although Kyles v. Whitley, requires the state to produce Brady
2 in the possession of all state agencies connected with the prosecution, the memorandum
3 disavows that the prosecutor will have such material at the time of the requested Brady file
4 review. Kyles v. Whitley, 115 S.Ct. 1555, 1568 (1995). Inasmuch as the District Attorney's
5 policy continues to be that it complies with Brady and its progeny, it is unclear when exactly the
6 State expects that the defendant's "due diligence" is supposed to trump the prosecutor's Brady
7 obligations. As the United States Supreme Court has observed when prosecutors took a similar
8 position in a case it reversed for Brady violations:

10 Our decisions lend no support to the notion that defendants must scavenge for
11 hints of undisclosed Brady material when the prosecution represents that all such
12 material has been disclosed. As we observed in Strickler, defense counsel has no
13 "procedural obligation to assert constitutional error on the basis of mere suspicion
14 that some prosecutorial misstep may have occurred." Strickler v. Greene, 527
15 U.S. 263 at 286-287, 144 L. Ed. 2d 286, 119 S. Ct. 1936. The "cause" inquiry,
16 we have also observed, turns on events or circumstances "external to the defense."
17 Amadeo v. Zant, 486 U.S. 214, 222, 100 L. Ed. 2d 249, 108 S. Ct. 1771 (1988)
18 (quoting Murray v. Carrier, 477 U.S. 478, 488, 91 L. Ed. 2d 397, 106 S. Ct. 2639
19 (1986)).

20 Banks v. Dretke, 540 U.S. 668, 695-96, 124 S. Ct. 1256, 1275 (2004)

21 In other words, if the defense has a good reason to believe that prosecutors are required
22 to turn over a particular piece of information, the defense is not required to hunt down that
23 information on its own. See Amando v. Gonzalez, No. 11-56420 at 27 (9th Cir. 2013).

24 The Nevada Supreme Court agrees: "[i]t is a violation of due process for the prosecutor
25 to withhold exculpatory evidence, and his motive for doing so is immaterial." Jimenez, supra, at
26 618. Furthermore, even if the evidence is being held by an out-of-jurisdiction agent that is
27 cooperating with local law enforcement, the prosecutor is deemed to have constructive
28 knowledge. The Court noted in State v. Bennett, 119 Nev. 589 (2003), where a Utah police
detective was aware of the evidence, "We conclude that it is appropriate to charge the State with
constructive knowledge of the evidence because the Utah police assisted in the investigation of
this crime..." Id. at 603.

1 There can be little question, therefore, that despite its no “open-file” policy the
2 prosecution has an affirmative duty to seek out Brady material, regardless of whether such
3 material is in the hands of the prosecutor or in the hands of some other entity acting on behalf of
4 the State. According to this standard, the prosecution *must seek out* Brady material from
5 other state agents such as probation and parole officers, Child Protective Service workers and
6 their agents, jail personnel, out-of-state police agencies and similar agents of the State. This is
7 an affirmative responsibility; the prosecutor cannot rely on law enforcement or other government
8 agents to come forward with the information.
9

10 **V. THE STATE MUST RUN CRIMINAL BACKGROUND CHECKS ON**
11 **WITNESSES AND THE DECEASED, DISCLOSING *BRADY* MATERIAL,**
12 **INCLUDING IMPEACHMENT INFORMATION.**

13 The State should provide the defense with any Brady information that is accessible to it
14 by performing a search of the NCIC database. The State has an affirmative obligation to obtain
15 Brady material and provide it to the defense, even if the prosecutor is initially unaware of its
16 existence. Kyles, 514 U.S. at 432.

17 The Supreme Court has made clear that the prosecution must disclose all impeachment
18 evidence, not just evidence relating to cooperation agreements. Youngblood v. West Virginia,
19 547 U.S. 867 (U.S. 2006); United States v. Bagley, 473 U.S. 667, 676 (1985). The Ninth Circuit
20 Court of Appeals has also specifically addressed the prosecutor’s duties regarding impeachment
21 evidence in Carriger v. Stewart, 132 F.3d 463, 479-82 (9th Cir. 1997). There, the Court held that
22 the prosecution had a duty to obtain and review the file of the Department of Corrections for its
23 principle witness and to disclose any impeaching evidence. The Court explained:
24

25 The prosecution is obligated by the requirements of due process to disclose
26 material exculpatory evidence on its own motion, without request. See Kyles v.
27 Whitley, 514 U.S. 419, 115 S. Ct. 1555, 1565 (1995); United States v. Bagley,
28 473 U.S. 667, 682, 105 S. Ct. 3375, 3383 (1985). . . .

1 Material evidence required to be disclosed includes evidence bearing on the
2 credibility of government witnesses. See Bagley, 473 U.S. at 676, 105 S. Ct. at
3 3380; Giglio v. United States, 405 U.S. 150, 154-55, 92 S. Ct. 763, 766(1972)]

4

5 The prosecutor's actual awareness (or lack thereof) of exculpatory evidence in
6 the government's hands, however, is not determinative of the prosecution's
7 disclosure obligations. See Kyles, 115 S. Ct. at 1567-68. Rather, the prosecution
8 has a duty to learn of any exculpatory evidence known to others acting on the
9 government's behalf. See id., at 1567. *Because the prosecution is in a unique*
10 *position to obtain information known to other agents of the government, it may*
11 *not be excused from disclosing what it does not know but could have learned.*
12 See id. at 1568. The disclosure obligation exists, after all, not to police the good
13 faith of prosecutors, but to ensure the accuracy and fairness of trials by requiring
14 the adversarial testing of all available evidence bearing on guilt or innocence. *See*
15 *id.*, at 1568-69, Brady, 373 U.S. at 87, 83 S. Ct. at 1196-97.

16 Carriger v. Stewart, 132 F.3d at 479-80 (emphasis added).

17 The Court in Odle v. United States, 65 F. Supp. 2d 1065 (N.D. Cal. 1999), rev'd on other
18 grounds by Odle v. Woodford, 238 F.3d 1084 (9th Cir. 2001), similarly recognized that "[t]he
19 cases variously describe the prosecutor's duty in terms of a duty to search for favorable evidence
20 or in terms of constructive or imputed knowledge." Id. at 1071 (citing Carriger, 132 F.3d at 479-
21 80; Kyles, 514 U.S. at 437). Further, the Court stated that "*knowledge may be imputed to the*
22 *prosecutor, or a duty to search may be imposed, in cases where a search for readily available*
23 *background information is routinely performed, such as routine criminal background checks of*
24 *witnesses."* Id. at 1072 (citing United States v. Perdomo, 929 F.2d 967 (3rd Cir. 1991) (emphasis
25 added); Carriger, 132 F.3d 463; United States v. Auten, 632 F.2d 478 (5th Cir. 1980); United
26 States v. Strifler, 851 F.2d 1197, 1202-02 (9th Cir. 1988); United States v. Cadet, 727 F.2d 1453,
27 1467 (9th Cir. 1984); United States v. Jennings, 960 F.2d 1488, 1490-91 (9th Cir. 1992)
28 (emphasis added).

The disclosure of criminal history information to defense counsel appears to be routinely
done in criminal cases in order to comply with Brady. For example, in United States v. Perdomo,

1 929 F.2d 967 (3rd Cir. 1991), the Court addressed the issue of the government's duty to run
2 criminal history checks, including NCICs on its witnesses. In Perdomo, the prosecutor had
3 checked NCIC on the witness, but had failed to check the witness's prior criminal history as to
4 local Virgin Islands arrests and convictions which are not recorded in the NCIC database. The
5 then Court adopted the Fifth Circuit's approach in United States v. Auten, 632 F.2d 478, 481 (5th
6 Cir. 1980). The Court stated:

8 The Fifth Circuit has spoken the most often on this issue and has *declined to*
9 *excuse non-disclosure in instances where the prosecution has not sought out*
10 *information readily available to it.* In Auten, the appellant argued that his motion
11 for a new trial should have been granted because the prosecution failed to disclose
12 that one of its key witnesses had been convicted more than once. The prosecution
13 argued that it did not withhold or suppress evidence because the information was
14 unknown to it. The prosecutor had chosen not to run an NCIC check on the
15 witness because of the shortness of time. The court held that the prosecutor's
16 lack of knowledge was not an excuse for a Brady violation. "In the interests of
17 inherent fairness," the prosecution is obligated to produce certain evidence
18 actively or constructively in its possession or accessible to it. To do otherwise
19 would be "inviting and placing a premium on conduct unworthy of
20 representatives of the . . . government." . . .

21 We agree with and adopt the reasoning of the Fifth Circuit. In the instant case . .
22 . . . [t]he prosecutor was obliged to produce information regarding [a government
23 witness's criminal] background because such information was available to him.

24 Perdomo, 929 F.2d at 970 (citations omitted) (emphasis added).

25 Ultimately, the Court concluded that the witness's criminal record contained in the Virgin
26 Islands was readily available to the federal government, and that the district court erred in finding
27 that the prosecution's failure to learn and disclose his record was not suppression of exculpatory
28 evidence. Id. at 971. See also United States v. Bracy, 67 F.3d 1421, 1428 (9th Cir. 1995)
(addressing Brady claim where the government provided the defense with NCIC printout of
government witness, and this disclosure provided the defense with all the information necessary
to discover Brady material related to witnesses criminal background); Martinez v. Wainwright,
621 F.2d 184, 187-89 (5th Cir. 1980) (recognizing that the criminal defense is entitled to criminal

1 records of the State's witnesses to the extent the information is in the State's actual or
2 constructive possession, including data obtainable from the FBI, and that the prosecutor's lack
3 of awareness of an alleged victim's criminal history does not excuse him from his duty to obtain
4 and produce the victim's rap sheet requested by the defense). See generally United States v.
5 Thornton, 1 F.3d 149 (3rd Cir. 1993) (recognizing that the prosecutor is charged with producing
6 impeachment evidence actually or constructively in his possession and that "prosecutors have
7 an obligation to make a thorough inquiry of all enforcement agencies that had a potential
8 connection with the witnesses). But cf. United States v. Blood, 435 F.3d 612, 627 (6th Cir. 2006)
9 (concluding that no Brady violation occurred where prosecutor did not produce to the defense
10 the printout of the NCIC check but disclosed that the witness in question had no criminal history;
11 "the Government is only required to disclose its informant's criminal history if he has one").
12

13
14 Here, due to the seriousness of the charges and the gravity of the penalty that Mr. Brown
15 faces, the prosecutor must be ordered to comply with his Brady obligations and provide the
16 NCIC information as requested. Such Brady material must include impeachment material. See
17 United States v. Bagley, 473 U.S. 667, 676 (1985). Accordingly, in addition to any other
18 requirements imposed by Brady as to other witnesses, the defense is requesting that the District
19 Attorney be required to run the witnesses specifically requested below through an NCIC check
20 and allow defense counsel to review the NCIC reports of any lay witnesses whom the State
21 intends to call or upon whose testimony or statements the State will rely during either the guilt
22 or penalty phases of trial.
23

24
25 The defense requests that the NCIC information be provided to defense counsel as soon
26 as possible. If there is no NCIC record for a particular witness, the State can make that
27 representation. If there is a record, the defense will stipulate to accept the ability to review the
28 record and make notes as being sufficient to satisfy its request. The defense is not insisting that

1 NCICs be run on the State's experts or law enforcement witnesses; however, the defense expects
2 the State will comply with any Brady obligations with respect to these witnesses. The instant
3 request for NCIC information is, therefore, narrowed to the lay witnesses and the deceased.

4 If the State is unwilling to provide NCIC information directly to defense counsel, it is
5 requested that the Court order the State to provide the information to the Court for an in-camera
6 review. In previous cases, the State has argued it cannot legally disclose the information to
7 defense counsel pursuant to federal law. However, federal law permits disclosure to courts. 28
8 C.F.R. Chapter 1 addresses the United States Department of Justice and Criminal Justice
9 Information Systems. 28 C.F.R. sec. 20.33 provides the instances in which NCIC criminal
10 history record information may be disclosed. It states, *inter alia*, that such information may be
11 disclosed "(1) To criminal justice agencies for criminal justice purposes" The definition of
12 "criminal justice agencies" is set forth at 28 C.F.R. sec. 20.3(g), which states, "Criminal justice
13 agencies means: (1) Courts; and [other entities set forth in that section]." Additionally, 28
14 C.F.R. section 20.3 defines "[a]dministration of criminal justice" to include the "performance of
15 any of the following activities . . . adjudication" Therefore, the C.F.R. which authorizes the
16 District Attorney's access to NCICs also authorizes the dissemination of NCICs to courts.

20 **VI. MR. BROWN'S SPECIFIC REQUESTS FOR *BRADY* MATERIAL**

21 The following specific requests are meant to assist the State in their duty to find and turn
22 over the required Material. This request is not in any way intended to be a substitute for the
23 generalized duties described above.

- 24 1. All statements, whether written or recorded, confessions, or admissions made by the
25 defendant to any person, including any comments made at the time of his arrest, or
26 during his transportation to the detention center. This includes the substance of any
27 statements made by Mr. Brown which the prosecution intends to use as evidence at
28 trial, including but not limited to any conversations or correspondence overheard or

intercepted by any jail personnel or other inmates which have not been recorded or memorialized.¹

2. All statements of identification, or, alternatively, witnesses interviewed who did not identify Mr. Brown as the perpetrator of the alleged crime to include:
 - a. Any statements identifying another person as the perpetrator of this offense.
 - b. Any prior statement by eyewitnesses who now identify Mr. Brown as involved in this offense that they previously could not identify anyone.
 - c. A copy of all photographic lineups shown to any witnesses for the purposes of identifying suspects in this case, including lineups created without Mr. Brown in them.
3. The names of any other suspect(s) arrested and/or investigated as a perpetrator, co-conspirator, aider and abettor, accessory after-the-fact or uncharged facilitator of the offense for which Mr. Brown is now charged other than co-defendant Anthony Carter.
4. Any and all information obtained by the use of confidential informants, for any aspect of the investigation of this case, to include, confidential informants who's information lead directly to arrest or those who's information was otherwise verified by other investigative measures regardless of the State's intent to present testimony from said confidential informants in the court presentation of their case.
5. Any and all information obtained by the use of inside informant(s), for any aspect of the investigation of this case, to include, inside informant(s) who provide information allegedly learned while incarcerated with the accused or through any other means such as information learned from co-conspirator, aider and abettor, accessory after-the-fact or uncharged facilitator's alleged information about the accused regardless of the State's intent to present testimony from said inside informant(s) in the State's court presentation of their case.
6. Facebook information related to the following people, if obtained by LVMPD:
 - a. Larry Brown
 - b. Anthony Carter
 - c. Kwame Banks
 - d. Carnell Cave
7. Radio run logs, unit incident logs, communication reports and any audio recordings of any descriptions and/or event information broadcast to LVMPD officers via dispatch or any other method of communication. Counsel has obtained the following:
 - a. Communication Event Search - Sky Pointe Dr. (2/21/17)
 - b. Communication Event Search - 7099 Hualapai Way
 - c. Communication Event Search - Egan Crest Dr. & Elkhorn Rd.
 - d. Communication Event Search - 1704 Pinto Ln
 - e. Communication Event Search - 5850 Sky Pointe Dr. (2/22/17)
 - f. Communication Event Search - Elkhorn Rd. & N. Hualapai Way
 - g. Communication Event Search - 2520 Sierra Bello Ave. (Search of Ryder residence) two separate reports

¹ NRS 174.235. Additionally, it is the District Attorney's stated position as of April 13, 2016 that "all inculpatory evidence that the deputy district attorney intends to use at trial during his/her case-in chief will be provided." See Exhibit A, page 2.

- h. Communication Event Search- "Clark County" indicates Summerlin Hospital
- i. CAD Incident w/ Audit Trail - Caller Chaz Schoenbeck
- j. CAD Incident w/ Audit Trail - Address 7500 Azure Dr.
- k. Unit Log by Incident- Number LLV170320000912
- l. Unit Log by Incident- Number LLV170320000816
- m. Unit Log by Incident- Number LLV170320000774
- n. Unit Log by Incident- Number LLV170222002406
- o. Unit Log by Incident- Number LLV170222001694
- p. Unit Log by Incident- Number LLV170221004563
- q. Unit Log by Incident- Number LLV170221004594

***Counsel does not have any communication logs from the DeKalb County Police Department. The State has provided associated reports in connection with Mr. Brown's arrest.

8. Access to and preservation of any and all material collected in the investigation of this case to include but not limited to forensic material, raw data, video surveillance, photographic negatives, digital negatives, biological samples and toxicological samples.

***The State has provided counsel with LVMPD's DNA file, including raw data in connection with the items impounded at the scene and tested.

9. Any and all information in the custody or control of the State pertaining to the firearm involved in this case, a handgun that fires a .40 caliber bullet, including registration records, pawn search records (if any), police reports and/or any information about all persons known to be in possession of the gun.

***The State has provided counsel with one Report of Examination relative to Firearms and Toolmarks. That report only lists two cartridge cases impounded, but has no comparisons.

10. Request, results and/or reports of any and all crime scene analysis, evidence collection and/or forensic testing performed in this case, including, but not limited to, any and all photographs, the results of any fingerprint collection and comparison, AFIS (Automated Fingerprint Identification System) searches and/or results, DNA testing, CODIS (Combined DNA Index System) searches and/or results, toxicological analyses, footwear impressions, trace evidence analyses, any forensic analysis of cellular telephones, any requests for forensic analysis regardless of the outcome of such request. Neuropathological, toxicological, or other medical evaluations of the deceased, performed through this investigation. The State should also include the complete case file for any testing done, which should include but is not limited to: raw data, photographs, rough notes, draft reports, recorded or otherwise memorialized notes relied upon by experts in rendering an opinion in this case. This request includes, but is not limited to,

- a. DNA comparisons, if any, on the following items²:
 - i. Swab of possible DNA from the Snapple bottle on front floorboard
 - ii. Swab of possible DNA from Arrowhead bottle under right front seat
 - iii. Swab of possible DNA from Dasani bottle under right front seat
 - iv. Swab of possible DNA from Great Value bottle under right front seat
 - v. Swab of possible DNA from Gatorade bottle under right front seat
 - vi. Swab of possible DNA from Deluge bottle rear left floorboard

² Chief Deputy District Attorney Giordani has informed counsel that no forensic testing was completed on any of the items located in the 2015 Nissan Altima.

- vii. Swab of possible DNA from unmarked water bottle on left rear floorboard
- b. GSR results on any items impounded by LVMPD
- c. Latent print analyses on any item impounded by LVMPD
 - i. Counsel has one Report of Examination relative to Latent Prints lifted from the 2015 Nissan Altima and a 2008 Suzuki Forenza

11. Any and all intercepted electronic and/or oral communications and/or any and all communications sent to and from handset and/or telephone and/or computers pursuant to the investigation in this case, including but not limited to: Audio, Push to Talk, Data, Packet Data, electronic messaging encompassing Global System for Mobile Communications (GMS), Short Message Service (SMS), Multimedia Messaging Service (MMS), and Internet Relay Chat, File Transfer Protocol (FTP), Internet Protocol (IP), Voice Over Internet Protocol (VOIP), Transmission Control Protocol (TCP) and electronic mail or other internet based communications,³ obtained by the State in its investigation of this case via subpoena, interception³ or other means. This request includes calls obtained from the Clark County Detention Center by any witness or named defendant.

***Counsel does not possess any jail calls from the Clark County Detention Center.

12. Any and all records reflecting government surveillance of Brown or of other individuals as part of or connected to this investigation. "Government Surveillance" as used in this request means any method by which law enforcement, national security or other government agents obtain information regarding my client. Specifically, it includes all forms of location tracking (including cell site location tracking, use of a GPS device, monitoring the location of a cellular phone or other electronic device, etc.), hidden video, drones or other location monitoring tools), any use of a cell-site simulator or similar device (such as a stingray, triggerfish, WIT technology, etc.), access to telephone or email transactional records or meta data, and any access to, or storage, acquisition, collection, monitoring, targeting or use in connection with this investigation of oral, wire, electronic communications or of other information related to or concerning my client. It also includes access to the contents of communications either directly by the government or via third parties (including wiretaps, FISA intercepts, any other means of obtaining communications content, installation of pen registers/trap-and-trace devices, access to signaling, dialing, routing or other telephone billing, account or transactional information or metadata, any monitoring of internet activity of any type, and any installation of software on a machine not owned by the government). Government surveillance also includes any instance where the government obtains records from a third party, such as a phone company, internet service provider, financial institution, or other party, and obtains any records of my client's location, communications, or records related to her or this investigation.⁴

This request for "all records" includes both the raw and refined data obtained from the electronic surveillance. It also includes any authorizing documentation (including subpoenas, court orders, warrants, etc.) and any requests for authorization or records (including certifications, directives, motions, affidavits, declarations, national security or exigency letters, etc.) seeking judicial governmental, or other third-party authorization or disclosure of records, whether or not such authorization or disclosure was granted.

³ Pursuant to the provisions of NRS 179.410 to NRS 179.515.

⁴ Counsel is aware that officers in this case began surveillance on a black male associated with Ms. Ryder's address on March 7, 2017 as indicated in the Officer's Report (OR) and has obtained some surveillance photos, however there are no associated reports or surveillance logs as the OR references.

1 This request specifically includes any activity falling entirely or partially under any
2 of the following statutes: the Wiretap Act, Electronic Communications Privacy Act,
3 Stored Communications Act (18 USC 2701 et seq.), Pen Register/Trap and Trace
4 Statute (18 USC 3121), USA Patriot Act including section 215 orders (50 USC 1861)
5 and National Security Letters (18 USC 2709), Foreign Intelligence Surveillance Act
6 (50 USC 1801 et seq.), including as amended by the Protect America (now expired)
7 or the FISA Amendments Act (50 USC 1881a et seq.), and the Communications
8 Assistance for Law Enforcement Act (47 USC 1001 et seq.)

- 9 13. Any and all interviews of Mr. Brown, any witnesses, and any potential witnesses in
10 the case, to include any and all audio and video recording of any form collected by
11 the investigating officers or any other agent of the State during the course of the
12 investigation. This includes any notes of interviews that were not later recorded, such
13 as notes of patrol officers, or notes of phone calls made to potential witnesses, or
14 attempts to contact such witnesses. This also includes any police reports, notes, or
15 other documents that contain information pertaining to this case or any witnesses in
16 this case, no matter what the form or title of the report. Including, any 911 recordings
17 to include the relevant dispatch log, any report of information related to the case,
18 given by anyone to any police department or crime tip organization such as Crime
19 Stoppers, and any reward or benefit received for such tip.⁵ Counsel has obtained the
20 following statements:

21 ***Co-Defendant Anthony Carter has entered a plea of guilty and will testify against
22 Mr. Brown. Counsel requests any notes or otherwise memorialized
23 discussions/statements made during or after the proffer to Chief Deputy District
24 Attorney John Giordani or law enforcement.

- 25 a. Victoria Nordstrom (handwritten)
26 b. Alex Turner (handwritten)
27 c. Brandon Kohler (handwritten and transcribed)
28 d. Chaz Schoenbeck (handwritten and transcribed)
e. Dereka Nelson (handwritten and transcribed)
f. Ira Carter
g. Jakhai Smith (handwritten and transcribed)
h. Aireonte Reed (handwritten and transcribed)
i. Carnell Cave
j. Kelly Kohler (handwritten and transcribed)
k. Steve Wallace (handwritten and transcribed)
l. LaQuanda Banks
m. Tiffany Seymour (2 transcribed statements)
n. Tiffany Carter
o. Angelisa Ryder
p. Anthony Carter (2 transcribed statements)

14. Disclosures of any and all compensation, express or implied promises of favorable
treatment or leniency, or any other benefit that any of the State's witnesses received,⁶
or requested,⁷ in exchange for their cooperation with this prosecution without regard
to whether the state uses the information provided in the prosecution of this case.

⁵ NRS 174.235 1(a) mandates disclosure of all written or recorded statements for any witnesses the prosecution intends to call. NRS 171.1965 1(a) mandates disclosure of all written or recorded statements made by a witness or witnesses. This request calls for all memorialized statements by all witnesses, whether or not the State intends to call them, as it is obviously the witnesses that the State will not call which often provide the most relevant and discoverable information, under the law.

⁶ State violated Brady when it refused to disclose evidence that that State paid witness as an informant on several occasions. State v. Bennett, 119 Nev. 589, 603 (2003).

⁷ Weary v. Cain, 577 U.S. ____ (2016); Napue v. Illinois, 360 U.S. 264, 270 (1959).

1 Including, but not limited to, any and all records and notes from the victim witness
2 office of the District Attorney to include any and all records of any expectation⁸ of
3 any benefit⁹ or assistance to be received, or already received by any witness presented
4 by the State.¹⁰ This also includes, but is not limited to, any monetary benefits received
5 as well as any express or implied promises made to any witness to provide counseling
6 and/or treatment as a result of their participation in the prosecution of the case. This
7 is to include the names of any and all agencies and workers or other referrals that
8 were given to any family member, relative or guardian in connection with this case,
9 or relevant to this case. This also includes travel either in state or out-of-state travel
10 expenses covered by the State to any witness and an estimate of future benefits to be
11 received during or after the trial.¹¹

12 15. Disclosures of any and all statements tangible or intangible, recorded or unrecorded,
13 made by any material witness in the case that are in any manner consistent or
14 inconsistent with the written and/or recorded statements previously provided to the
15 defense. Including but not limited to any oral statements made to any employee or
16 representative of the District Attorney's office or any other State employee during
17 pre-trial conferences or other investigative meetings.¹²

18 16. Any and all impeachment information located in the personnel files of any police
19 witness called to testify at trial or any pretrial hearing in this matter, including, but
20 not limited to, any Statement of Complaint regarding the witness or this investigation,
21 any Employee Notice of Internal Investigation, any Internal Affairs Investigative
22 Report of Complaint, any witness statement, any Bureau Investigation Supervisory
23 Intervention, and any other document maintained or generated by the Office of
24 Internal Affairs, Critical Incident Review Panel, or other investigative agency.¹³ To
25 include impeachment information for civilian employees involved in the case, such
26 as lab technicians. Including but not limited to:

- 27 a. Detective Darin Cook P# 5730
- 28 b. Detective Mitch Dosch P# 7907
- c. Officer Kim P# 14855
- d. Officer Weghorst P# 15391
- e. Detective Jaeger P3 5587
- f. Detective Merrick P# 7549
- g. Detective Twomey P# 6501

⁸ The law is clear that it is the witness' own anticipation of reward, not the intent of the prosecutor, which gives rise to the necessity of disclosure. Moore v. Kemp, 809 F.2d 702, 726, 729-30 (11th Cir. 1987), cert. denied, 481 U.S. 1054 (1987); Duggan v. State, 778 S.W.2d 465, 468 (Tex. Crim. App. 1989). Check cites.

⁹ Evidence of benefits to State witness is not limited to agreement made in relation to the specific case at issue. Jimenez v. State, 112 Nev. 610, 622-23 (1996); Information about benefits to an important State witness constitutes Brady material, even though no explicit deal was outlined. Browning v. State, 120 Nev. 347, 369 (2004).

¹⁰ Agreements need not be express or formal arrangements, and understanding merely implied, suggested, insinuated, or inferred to be of possible benefit to witness constitutes proper material for impeachment. Duggan v. State, 778 S.W.2d 465, 468) Tex. Crim. App. 1989).

¹¹ This is relevant to issues regarding possible bias, credibility, motive to lie, impeachment. See Davis v. Alaska, 415 U.S. 308 (1974) and FN 15.

¹² State violated Brady when it failed to inform the defense of prior inconsistent statements by a key prosecution witness. Lay v. State, 116 Nev. 1185, 1199 (2000); State acted improperly by failing to disclose statements in its possession of evidence contradictory to another State witness. Rudin v. State, 120 Nev. 121, 139 (2004).

¹³ See United States v. Henthorn, 931 F.2d 29 (9th Cir. 1991), reversing a conviction when prosecutor refused to inspect the personnel files of the involved officers claiming the defense must show the file contained information material to the defense—the court held that the prosecution had a duty to review the personnel files upon the defense's request as, absent such an examination, the State could not determine whether it was obligated to turn the files over.

1 17. Any and all information which shows that the defendant did not commit the crimes
2 alleged or which show the possibility of another perpetrator,¹⁴ including but not
3 limited to, any information concerning an arrest of any other individual for the
4 charged crime¹⁵ and any information suggesting a possible suspect other than the
5 defendant,¹⁶ including investigating leads to other suspects.¹⁷

6 18. Any information on any criminal history or any material or information which relates
7 to specific instances of misconduct of any material witness in the case from which it
8 could be inferred that the person is untruthful and which may be or may lead to
9 admissible evidence.¹⁸ This is to include, but is not limited to any juvenile
10 record¹⁹, misdemeanors, out-of-state arrests and conviction, outstanding arrest
11 warrants or bench warrants, and cases which were dismissed or not pursued by the
12 prosecuting agency or any other information that would go to the issue of credibility
13 and bias, whether or not the information is admissible by the rules of evidence.²⁰

14 19. Any and all Brady material, including impeachment material, found in the NCIC
15 background checks of the following witnesses and/or any other witness the State
16 intends to call at trial:

- 17 a. Victoria Nordstrom
- 18 b. Alex Turner
- 19 c. Brandon Kohler
- 20 d. Chaz Schoenbeck
- 21 e. Dereka Nelson
- 22 f. Ira Carter
- 23 g. Jakhai Smith
- 24 h. Aireonte Reed
- 25 i. Carnell Cave
- 26 j. Kelly Kohler
- 27 k. Steve Wallace
- 28 l. LaQuanda Banks
- m. Tiffany Seymour

¹⁴ See Holmes v. South Carolina, 547 U.S. 319 (2006), which holds that preventing a defendant from presenting evidence of third party guilt deprives him of a meaningful right to present a complete defense under the 14th and 6th Amendment of the US Constitution.

¹⁵ Banks v. Reynolds, 54 F.3d 1508, 1518 n.21 (10th Cir. 1995).

¹⁶ State's failure to disclose evidence of another perpetrator violated Brady. Lay v. State, 116 Nev. 1185, 1195-96 (2000); Summary of prosecutor's perspective on written reports relating to potential suspects were constitutionally inadequate and reports should have been disclosed pursuant to Brady. Mazzan v. Warden, 116 Nev. 48, 69 (2000); Bloodworth v. State, 512 A.2d 1056, 1059-60 (1986).

¹⁷ Jimenez v. State, 112 Nev. 610, 622-23 (1996) (withholding evidence of investigative leads to other suspects, regardless of admissibility, constitutes Brady violations.

¹⁸ A defendant is entitled to material in the government witness' confidential probation file that bears on the credibility of that witness. United States v. Strifler, 851 F.2d 1197, 1201 (9th Cir. 1988), cert. denied, 489 U.S. 1032 (1989).

¹⁹ Failure to disclose co-conspirator's juvenile records in penalty hearing was Brady violation. State v. Bennett, 119 Nev. 589, 603 (2003).

²⁰ The State usually is under the mistaken impression that they only must disclose felony conviction s from the last 10 years that can be used as impeachment under NRS 50.095. However, in Davis v. Alaska, *supra*, the US Supreme Court found that a witness can be attacked by "revealing possible biases, prejudices, or ulterior motives of the witnesses as they may relate directly to the issues or personalities on the case at hand. The partiality of a witness is...always relevant as discrediting the witness and affecting the weight of his testimony." *Id.* at 354. The court found that the State's policy interest in protecting the confidentiality of a juvenile offender's record must yield to the defendant's right to cross-examine as to bias. *Id.* at 356. See also Lobato v. State, 120 Nev. 512 (2004), discussing the "nine basic modes of impeachment." Therefore, juvenile records, misdemeanors and older criminal records may yield information relevant to many forms of impeachment other than that outlined in NRS 50.095

- n. Tiffany Carter
- o. Angelisa Ryder
- p. Anthony Carter

20. All relevant reports of chain of custody. All reports of any destruction of any evidence in the case.²¹

***Counsel has received the Corrective Action Report associated with the processing of evidence from the 2015 Nissan Altima at the CSI Garage.

21. Any documents used to prepare State's witnesses for trial, including any and all notes and reports of any expert in the case, to include mental health workers. This includes any preliminary reports or notes, not included in a final report.²²

22. All updated witness contact Information, to include last known address and phone number.²³

23. Any and all records of the Las Vegas Metropolitan Police Department concerning this case including photocopies or other reproduction of any and all handwritten or otherwise memorialized notes kept by the investigating police officers in each of the allegations in this case, including, but not limited to, any notes documenting alternate suspects, investigative leads that were not followed up on, or any other matter bearing on the credibility of any State witness. This request includes reports or notes taken during interviews with the following witnesses:

- a. Victoria Nordstrom
- b. Alex Turner
- c. Brandon Kohler
- d. Chaz Schoenbeck
- e. Dereka Nelson
- f. Ira Carter
- g. Jakhai Smith
- h. Aireonte Reed
- i. Carnell Cave
- j. Kelly Kohler
- k. Steve Wallace
- l. LaQuanda Banks
- m. Tiffany Seymour
- n. Tiffany Carter
- o. Angelisa Ryder
- p. Anthony Carter

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²¹ Destruction of evidence can result in dismissal of the case or a jury instruction stating such evidence is presumed favorable to the accused. Crockett v. State, 95 Nev. 859, 865 (1979); Sparks v. State, 104 Nev. 316, 319 (1988); Sanborn v. State, 107 Nev. 399, 409 (1991).

²² NRS 174.234 (2)(a)(b)(c); Las Vegas Sands Corp v. Eight Judicial Court, 130 Nev., Adv. Op. 13 (2014).

²³ NRS 174.234 (4).

1 **VII. EVIDENCE TO BE DISCLOSED TO THE DEFENSE PURSUANT TO THE**
2 **CLARK COUNTY DISTRICT ATTORNEY DISCOVERY PRACTICE**
3 **MEMORANDUM.**

4 The Defense further requests that “[a]ll inculpatory evidence that the deputy district
5 attorney intends to use at trial during his/her case-in-chief will be provided” pursuant to the
6 District Attorney’s discovery policy memorandum. See Exhibit A, page 2.

7 **VIII. EVIDENCE TO BE DISCLOSED TO THE DEFENSE PURSUANT TO N.R.S.**
8 **174.235**

9 The Defense further requests that the following evidence be disclosed pursuant to N.R.S.
10 174.235:

- 11 1. Written or recorded statements or confessions made by the defendant, or any
12 written or recorded statements made by a witness the prosecuting attorney intends
13 to call during the case in chief of the state, or copies thereof, within the
14 possession, custody or control of the state, the existence of which is known, or by
15 the exercise of due diligence by become known, the prosecuting attorney.
- 16 2. Results or reports of physical or mental examinations, scientific tests or scientific
17 experiments made in connection with the particular case, or copies thereof, within
18 the possession, custody or control of the state, the existence of which is known,
19 or by the exercise of due diligence may become known, to the prosecuting
20 attorney.
- 21 3. Books, papers, documents, tangible objects, or copies thereof, which the
22 prosecuting attorney intends to introduce during the case in chief of the state and
23 which are within the possession, custody or control of the state, the existence of
24 which is known, or by the exercise of due diligence may become known, to the
25 prosecuting attorney.

26 **CONCLUSION**

27 Based on the foregoing, Mr. Brown requests that the Court grant the instant motion and
28 order the requested evidence disclosed pursuant to NRS 174.235; Brady v. Maryland, 373 U.S.
83, 83 S.Ct. 1194 (1963); U.S.C.A. V, VI, XIV and the Nevada Constitution Article 1 § 8.

Dated: July 31, 2019

SUBMITTED BY

/s/ MONICA R. TRUJILLO

MONICA R. TRUJILLO
Attorney for Brown

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CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of the above mentioned matter was made pursuant to EDCR 7.26 on the attorney for the named parties by means of electronic mail to the email address provided to the court's electronic filing system for this case. Proof of Service is the date service is made by the court's electronic filing system by email to the parties and contains a link to the file stamped document.

PARTY
STATE OF NEVADA

EMAIL
DISTRICT ATTORNEY'S OFFICE email:
motions@clarkcountyda.com

Dated: 7/31/2019

/s/ ELIZABETH (LISA) ARAIZA

An employee of the Special Public Defender

EXHIBIT A



**CLARK COUNTY
OFFICE OF THE DISTRICT ATTORNEY**

Criminal Division

STEVEN B. WOLFSON
District Attorney

200 Lewis Avenue • Las Vegas, NV 89101 • 702-671-2500 • Fax: 702-455-2294 • TDD: 702-385-7486

MARY-ANNE MILLER
County Counsel

CHRISTOPHER LALLI
Assistant District Attorney

ROBERT DASKAS
Assistant District Attorney

JEFFREY WITTHUN
Director D.A. Family Support

M E M O R A N D U M

TO: EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY PUBLIC DEFENDER'S OFFICE
SPECIAL PUBLIC DEFENDER'S OFFICE
CLARK COUNTY OFFICE OF APPOINTED COUNSEL
NEVADA ATTORNEYS FOR CRIMINAL JUSTICE

FROM: STEVEN B. WOLFSON
CLARK COUNTY DISTRICT ATTORNEY

DATE: APRIL 13, 2016

SUBJECT: CLARK COUNTY DISTRICT ATTORNEY DISCOVERY PRACTICE

In an effort to clarify the Clark County District Attorney's Office discovery practice, the following information is provided to interested parties:

I. CONSTITUTIONAL REQUIREMENTS

The Clark County District Attorney's Office will comply with constitutional requirements as follows:

All deputy district attorneys are expected to be familiar – and comply – with the controlling opinions of the Nevada Supreme Court, the Ninth Circuit Court of Appeals, and the United States Supreme Court with regard to *Brady v. Maryland*, 373 U.S. 83 (1963), *Giglio v. United States*, 405 U.S. 10 (1972), and their progenies.

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II. STATUTORY REQUIREMENTS

The Clark County District Attorney's Office will comply with statutory requirements as follows:

All deputy district attorneys are expected to be familiar – and comply – with the statutory discovery obligations contained within the Nevada Revised Statutes, as well as those legal opinions interpreting the State's discovery obligations.

All inculpatory evidence that the deputy district attorney intends to use at trial during his/her case-in-chief will be provided. Inculpatory evidence that the deputy district attorney does not intend to use during his/her case-in-chief, but may use in cross-examination or in rebuttal, is not discoverable pursuant to this policy. Irrelevant material will not be provided.

Pursuant to NRS 174.235(1), at the request of the defense, the prosecuting attorney shall permit the defense to inspect and to copy or photograph any:

- (a) Written or recorded statements or confessions made by the defendant, or any written or recorded statements made by a witness the prosecuting attorney intends to call during the case in chief of the State, or copies thereof, within the possession, custody or control of the State, the existence of which is known, or by the exercise of due diligence may become known, to the prosecuting attorney;
- (b) Results or reports of physical or mental examinations, scientific tests or scientific experiments made in connection with the particular case, or copies thereof, within the possession, custody or control of the State, the existence of which is known, or by the exercise of due diligence may become known, to the prosecuting attorney; and
- (c) Books, papers, documents, tangible objects, or copies thereof, which the prosecuting attorney intends to introduce during the case in chief of the State and which are within the possession, custody or control of the State, the existence of which is known, or by the exercise of due diligence may become known, to the prosecuting attorney.

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III. CASE FILE REVIEW

On February 18, 2016, the Nevada Court of Appeals, in *Quisano v. State*, considered “whether, under the facts of the present case, the State maintained an open-file policy” (emphasis added). In a 2-1 opinion, the Court held that “the State’s discovery policy constituted an open-file policy.”

The Clark County District Attorney’s Office does not have an “open-file” policy, as that phrase has been interpreted by courts to relieve defense counsel of its obligation to exercise due diligence in discovering impeachment and exculpatory evidence.¹ Upon request, however, a defense attorney may be permitted to review the case file of the deputy district attorney assigned the prosecution.

The invitation for a “case file review” is not a promise to disclose the entirety of the State’s case file and does not extend to anything more than discovery required by statute and *Brady*. Expressly excluded from the case file is any attorney work product or other privileged material not otherwise discoverable under *Brady*. The invitation for a “case file review” shall not be construed as a representation that the deputy district attorney is in possession of all material in possession of law enforcement. Finally, the invitation for a “case file review” does not relieve defense counsel of its obligation to discover material which is available to the defense from other sources, including diligent investigation by the defense.

IV. LAS VEGAS METROPOLITAN POLICE DEPARTMENT REQUESTS

The Clark County District Attorney’s Office does not represent any police agency, including the Las Vegas Metropolitan Police Department (“LVMPD”). However, in an effort to facilitate the acquisition of material from LVMPD, the Clark County District Attorney’s Office provides the following procedure for informational purposes only and, where applicable, will comply with the procedure outlined below:

As a general rule, upon receipt of a defense subpoena, LVMPD will contact the deputy district attorney assigned the case to determine if the requested material already has been provided to the State. If so, the State will be asked to provide the material to the defense.

A valid defense subpoena to LVMPD must include the trial date or an evidentiary hearing date (this is true even though the subpoena may request documents or records “in lieu of appearance”), unless the defense has a court order authorizing the subpoena for pre-trial production of records. LVMPD will not comply with a subpoena which includes a

¹ The Clark County District Attorney’s Office discovery practice remains virtually unchanged. Although the phrase “open-file” policy may have been used in the past, such terminology was not uniformly defined -- and not reflective of our practice as interpreted -- by some courts. This memorandum does not represent a change in our discovery practice; it is simply an attempt to clarify and communicate the Clark County District Attorney’s Office discovery practice to judges and the defense bar.

date other than the trial date or an evidentiary hearing date as provided by NRS 174.315. Calendar Call is not an evidentiary hearing.

LVMPD will not comply with a subpoena which requests investigative records related to someone other than the client of the defense attorney issuing the subpoena.

Subject to the conditions outlined above, if LVMPD receives a subpoena for any of the following items, LVMPD will voluntarily provide the information to the defense:

- 1) LVMPD 911 and Radio Traffic Recordings and CAD printouts.
- 2) LVMPD photographs from the event number assigned the case.
- 3) CCDC records if the attorney issuing the subpoena represents the person whose records are being requested.

In the case of 911 calls, CADs and photographs, the deputy district attorney assigned to the case will not be notified of the request and will not receive a copy of items being provided. In the case of CCDC records, the deputy district attorney assigned to the case will get a copy of the records being provided.

ALL OTHER SUBPOENAS DUCES TECUM for discovery-type materials will be objected to by LVMPD. The following process will be instituted to protect LVMPD should litigation ensue from that objection:

If LVMPD does not have their own objection to releasing the records:

- 1) If the subpoena is not for a pending court date and merely orders records to be provided directly to the defense, LVMPD will send a letter indicating that the Nevada Revised Statutes in criminal cases do not provide a lawful mechanism for records to be provided directly to the defense without a court order. Should the defense seek these records, they should request the records from the deputy district attorney assigned to the case.
- 2) If the subpoena is for a pending court date, but indicates that the records may be provided directly to the defense IN LIEU of appearance, LVMPD will send a similar letter indicating that the Nevada Revised Statutes in criminal cases do not provide a lawful mechanism for records to be provided directly to the defense. Notwithstanding, LVMPD will inform the defense that the request for records has been forwarded to the deputy district attorney assigned to the case and the deputy should be prepared to address the issue regarding the records at the identified court date. AT THAT NEXT COURT DATE, the deputy should raise the issue regarding the records with the court and either provide them to the defense as discovery or, if there is an issue with disclosure, litigate the issue before the court.

In the case of records to which LVMPD has an independent objection:

LVMPD will send a similar letter indicating not only that the Nevada Revised Statutes in criminal cases do not provide a lawful mechanism for records to be provided directly to the defense, but that they also object to certain records on substantive grounds. Notwithstanding, the procedure above will be followed with the exception that LVMPD will decide whether it wants to intervene by way of motion to quash for the records to which LVMPD has an independent objection.



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

vs.

LARRY DECORLEON BROWN,
Defendant.

CASE NO: C-17-326247-1

DEPT. XXI

BEFORE THE HONORABLE VALERIE ADAIR, DISTRICT COURT JUDGE
THURSDAY, AUGUST 1, 2019

***RECORDER'S TRANSCRIPT OF HEARING RE:
STATUS CHECK***

APPEARANCES:

For the State:

JOHN L. GIORDANI, III, ESQ.
Chief Deputy District Attorney

For the Defendant:

MONICA R. TRUJILLO, ESQ.
Chief Deputy Special Public Defender

RECORDED BY: ROBIN PAGE, COURT RECORDER

1 **Las Vegas, Nevada; Thursday, August 1, 2019**

2 * * * * *

3 [Proceeding commenced at 9:35 a.m.]

4 THE COURT: State versus Larry Brown. Mr. Brown is
5 present in custody. This is on -- was this also -- just Mr. Brown?

6 MS. TRUJILLO: Yes.

7 THE COURT: This is just on for status check.

8 Where are we?

9 MS. TRUJILLO: We're --

10 THE COURT: Last time we were here, you were going to
11 do a file review.

12 MR. GIORDANI: We've --

13 MS. TRUJILLO: We've completed multiple file reviews.

14 THE COURT: Okay.

15 MS. TRUJILLO: Can we approach?

16 THE COURT: Sure.

17 [Bench conference - not recorded]

18 THE COURT: All right. My understanding, based on our
19 conversation at the bench, is Ms. Trujillo you filed some motions,
20 but they don't appear on calendar yet.

21 MS. TRUJILLO: I will file them next week, *motions in*
22 *limine*. I filed one discovery motion; it's set for the 13th. And the
23 rest I will set for the 20th, which is the day prior to calendar call.

24 THE COURT: Okay. And so those motions should be
25 heard on the 20th then.

1 MS. TRUJILLO: Correct.

2 THE COURT: And other issues.

3 MR. GIORDANI: I was going to file a *motion in limine* to
4 address the cell phone data that was extracted.

5 THE COURT: Okay.

6 MR. GIORDANI: I will try to get that calendared for the
7 20th and have the potential witness available to Skype in on that
8 date.

9 THE COURT: Okay. Okay. And those -- that's really the
10 only remaining thing then in terms of trial preparation, is that fair?

11 MS. TRUJILLO: Yes.

12 MR. GIORDANI: Yes.

13 THE COURT: Okay. So both sides anticipate then
14 announcing ready on the 22nd.

15 MS. TRUJILLO: Yes.

16 THE COURT: Okay. You handed me this tip and it's for
17 in-camera review and then if I decide it's discoverable, Ms. Trujillo
18 will be notified and we'll -- you can have somebody pick it up or
19 we'll fax it to you.

20 MS. TRUJILLO: Yes.

21 MR. GIORDANI: Correct. For the record, it's Crime
22 Stoppers tape, yes.

23 THE COURT: All right. Very good. Thank you. That was
24 handed to the Court just now at the bench. All right.

25 Anything else we need to discuss?

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MR. GIORDANI: No, ma'am.

MS. TRUJILLO: No on behalf of Mr. Brown.

THE COURT: So are we moving the motion you
calendared for the 13th you said to the 20th?

MS. TRUJILLO: No, I --

THE COURT: Or do you just want to keep it on for the
13th?

MS. TRUJILLO: I'd rather keep it on just in case.

THE COURT: Okay, that's fine. All right. We'll see
everyone back on the 13th then.

MS. TRUJILLO: Okay. Thank you.

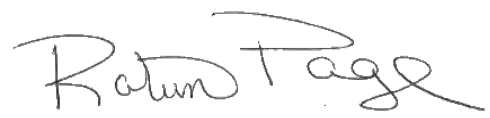
MS. TRUJILLO: All right. Thank you.

THE COURT: All right. Thank you.

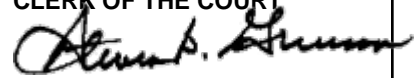
[Proceeding concluded at 9:43 a.m.]

* * * * *

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



Robin Page
Court Recorder/Transcriber



NWEW
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Monica.trujillo@clarkcountynv.gov
Attorneys for Brown

DISTRICT COURT

CLARK COUNTY, NEVADA

STATE OF NEVADA,	)	CASE NO. C -17-326247-1
	)	DEPT. NO. 21
Plaintiff,)	
)	
vs.)	
)	
LARRY DECORLEON BROWN,)	
ID #8376788)	
)	
Defendant.)	
_____)	

NOTICE OF DEFENDANT'S EXPERT WITNESSES

TO: THE STATE OF NEVADA, Plaintiff, and

TO: STEVEN B. WOLFSON, District Attorney, Attorney for Plaintiff

PLEASE TAKE NOTICE that Defendant, Larry Decorleon Brown, by and through his attorneys, JONELL THOMAS, Special Public Defender, and MONICA R. TRUJILLO, Chief Deputy Special Public Defender, intends to call the following expert witness(es):

1. George Schiro, MS, F-ABC, Scales Biological Laboratory, Inc., 220 Woodgate Dr. S., Brandon, MS 39042. Should this witness testify, he will testify in the area of crime scene analysis, crime scene investigation, processing of crime scenes, collection and preservation, latent print comparison, blood spatter evidence, ballistics, DNA evaluations and will give opinions related thereto based on the discovery provided by the State.

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2. Larry Smith, 6895 E. Lake Mead Blvd. Ste. A6-131, Las Vegas, NV 89156. Should this witness testify, he will testify as an expert in the area of cellular phones and cellular system technology. He will testify regarding the various cell phone records provided by the State in discovery including, but not limited to: 1) call detail records; 2) Computer Forensic Lab and extraction reports and; 3) cell site information.

A copy of the expert's curriculum vitae is attached hereto.

DATED this 2nd day of August, 2019.

RESPECTFULLY SUBMITTED:

/s/ MONICA R. TRUJILLO

MONICA R. TRUJILLO
Attorneys for Brown

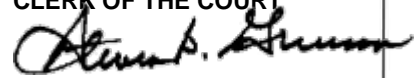
CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of the above Notice of Defendant's Expert Witnesses, was made on August 2, 2019, by Electronic Filing to:

DISTRICT ATTORNEY'S OFFICE
email: motions@clarkcountynvda.com

/s/ Elizabeth (Lisa) Araiza

Legal Secretary
Special Public Defender



MOT

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JOHN GIORDANI
Chief Deputy District Attorney
Nevada Bar #012381
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

LARRY DECORLEON BROWN,
#8376788

Defendant.

CASE NO: C-17-326247-1

DEPT NO: XXI

**STATE'S NOTICE OF MOTION
AND MOTION IN LIMINE TO ADDRESS CELLEBRITE TESTIMONY
PERTAINING TO ADVANCED PROPRIETARY SOFTWARE**

DATE OF HEARING: 08/20/2019

TIME OF HEARING: 9:30 AM

HEARING REQUESTED

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through JOHN GIORDANI, Chief Deputy District Attorney, and files this Notice Of Motion And Motion In Limine To Address Cellebrite Testimony Pertaining To Advanced Proprietary Software.

This Motion is made and based upon all the papers and pleadings on file herein, the attached points and authorities in support hereof, and oral argument at the time of hearing, if deemed necessary by this Honorable Court.

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DATED this 2nd day of August, 2019.

BY /s/ John Giordani
JOHN GIORDANI
Chief Deputy District Attorney
Nevada Bar #012381

On February 21, 2017, at approximately 10:47 PM, victim Kwame Banks was robbed and murdered in the parking lot of the Sky Pointe Landing Apartment Homes apartment complex located at 5850 Sky Pointe Drive, Las Vegas, Clark County, Nevada. Banks's lifeless body was found in the parking lot with his pants pockets turned inside out and his vehicle having been stolen. Banks's cause of death was a single gunshot wound to his chest that exited his back. (Reporter's Transcript Volume 1 ("RT1"), August 29, 2017, at 14-26). LVMPD Homicide Detectives investigated the robbery/murder and developed Defendants Larry Brown and Anthony Carter as suspects.

Evidence presented to the Grand Jury shows there were three cellphones found at the murder scene. (RT1 21-22). The first cellphone was found under Banks's body and identified as belonging to Kwame Banks. (RT1 21; RT2 10). The second cellphone was found about 15 feet away from Banks's body in a disturbed landscape area and was identified as belonging to Larry Brown. (RT1 21-22, 27; RT2 10). The third cellphone was found about 100 feet from Banks's body, near the exit of the apartment complex. (RT1 22-23). That third cellphone was identified as also belonging to Kwame Banks. (RT2 10).

1 Cellphone data and pen register evidence indicate Defendant Carter was in constant and
2 increasing telephone communication with both Kwame Banks and Larry Brown in the hours
3 leading up to Banks's murder. (RT2 13-16). However, Kwame Banks and Larry Brown were
4 never in telephone contact and no evidence exists to indicate they knew each other. Id.
5 Specifically, beginning at about 7:30 PM, Defendant Carter had several telephone contacts
6 with Kwame Banks and followed up each contact with a telephone contact to Larry Brown.
7 (RT2 15-16). Shortly after Defendant Carter began telephone contact with Kwame Banks,
8 cellphone-tower location data shows the phones belonging to Defendant Carter and Larry
9 Brown both converge upon the area of the Sky Pointe Landing apartment complex where
10 Kwame Banks was ultimately murdered. (RT2 17-19). At 10:06 PM, there is a phone call
11 between Defendant Carter and Kwame Banks. (RT2 15). Immediately following that phone
12 call, Defendant Carter made several phone calls to Larry Brown. (RT2 15-16). Ultimately,
13 the telephone communication between Defendant Carter and Larry Brown totally stops after
14 10:47 PM, which is the time independent witnesses first called 9-1-1 to report Kwame Banks's
15 shooting death. (RT2 12, 16).

16 Although the above-referenced information could be gathered directly from the service
17 providers for the phones, the service providers do not retain *text message content*. So, although
18 the records indicated that there was text communication between the co-conspirators, the
19 content of those texts was unavailable, unless it could be retrieved directly from the cellphones
20 themselves. It was later learned that Defendant Carter destroyed his cellphone after the
21 robbery/murder. (RT1 38-39, RT3 11). Defendant Brown's cellphone, and the text message
22 content within it, was obviously preserved, because the phone was dropped during the robbery
23 and left behind at the scene.

24 The LVMPD Computer Forensics Lab ("CFL") was unable to access Brown's phone
25 because it was password protected. LVMPD CFL Sgt. Mangione sent Brown's cellphone to
26 engineers at Cellebrite in order to determine whether they could break into the phone using
27 advanced proprietary software. After several months, the State learned that Cellebrite was able
28 to access Brown's cellphone using advanced proprietary software. The contents were copied

1 onto a drive and sent back to LVMPD for examination. LVMPD CFL Examiners examined
2 the phone and authored a report.

3 ISSUE

4 The State files the instant Motion in Limine in order to address whether Cellebrite should be
5 required to testify publicly regarding the advanced proprietary software and trade secrets they
6 used to access Brown's cellphone. After accessing the cellphone, Cellebrite made an exact
7 copy of the contents of the phone and placed the data on an encrypted Drive. The cellphone
8 and the Drive were then placed into a sealed Cellebrite evidence bag, and sent back to
9 LVMPD, along with a "Certification and Business Record of Cellebrite Inc." See Exhibit 1
10 *attached hereto*.

11 Importantly, *Cellebrite did not examine the phone in any way, nor did the Cellebrite*
12 *engineer alter any information or data on the phone in order to copy the contents onto the*
13 *Drive*. See Exhibit 1, paragraph 8. The cellphone was simply accessed and copied onto a Drive
14 by Cellebrite, and the cellphone and Drive were then sent back to the LVMPD CFL Lab for
15 examination. Moreover, the Certification indicates that from April 30, 2018, through
16 December 10, 2018, the cellphone at no time left the custody and control of Cellebrite. See
17 Exhibit 1, paragraph 9.

18 The Certification clearly states that it, along with the information contained therein, is
19 a "record of regularly conducted activity by Cellebrite" that is kept in the "ordinary course of
20 business." See Exhibit 1, paragraph 11. The State brings this Motion due to Cellebrite's
21 concern that they will be asked to divulge trade secrets and/or discuss confidential proprietary
22 software. It is the State's position that the issue presented is essentially a chain of custody
23 issue. If the Court agrees, then the Certification itself is sufficient to establish proper chain of
24 custody. Alternatively, if the Court or defense has concerns regarding laying the proper
25 foundation for the content of cellphone, it is the State's position that Cellebrite can lay
26 sufficient foundation by stating that 1) they received the cellphone, 2) they accessed the
27 cellphone using advanced proprietary software, 3) once the phone was accessed, they made an
28 exact copy of what was on the cellphone, and 4) they then sent that information to LVMPD

1 for examination. Cellebrite should not be required to discuss or divulge trade secrets in order
2 to establish that they accessed the phone and copied its contents to a Drive. At trial, the State
3 will be calling LVMPD CFL Examiners in order to discuss the results of the phone
4 examination itself. The State seeks to address Cellebrite's role in the process prior to trial in a
5 sealed proceeding.

6 DATED this 2nd day of August, 2019.

7 STEVEN B. WOLFSON
8 Clark County District Attorney
9 Nevada Bar #001565

10 BY /s/ Johns Giordani
11 JOHN GIORDANI
12 Chief Deputy District Attorney
13 Nevada Bar #012381

14
15
16 CERTIFICATE OF ELECTRONIC TRANSMISSION

17 I hereby certify that service of the above and foregoing was made this 2nd day of
18 August, 2019, by electronic transmission to:

19 NICHOLAS WOOLDRIDGE
20 nicholas@wooldridgelawlv.com

21 BY /s/ Stephanie Johnson
22 Secretary for the District Attorney's Office

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28 17F07976A/JG/saj/MVU-GCU

EXHIBIT 1

CONFIDENTIAL

Certification and Business Record of Cellebrite Inc.

CBFL Case Number: 00186567

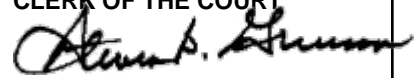
I, Joe Raspante, certify the following:

1. I am the CBFL Administrator for Cellebrite Inc. ('Cellebrite') in the Americas.
2. I am familiar with, and oversee Cellebrite's processes and procedures concerning the intake, processing, and return of mobile devices provided by Cellebrite customers to Cellebrite for work.
3. On or about 4/17/18 Cellebrite was engaged by Las Vegas Metropolitan Police Department (the 'Requesting Entity') to determine the passcode for a Samsung SM-G920P Galaxy S6 with (IMEI: 256691573506447512 ;) (the 'Device'), and perform a forensic extraction of the data contained on the Device.
4. On or about 4/30/18, Cellebrite received a package via UPS, with tracking number 1ZT7T7698795196331, from the Requesting Entity. I then performed a normal intake process by opening and inspecting the package, confirming that the package contained the Device, and delivering the Device to the Forensic Specialist assigned to the matter.
5. On or about 05/01/2018, using Cellebrite's trade secrets, proprietary and confidential software, techniques, and equipment, the Forensic Specialist was able to determine the passcode of the Device, and make a forensic copy of the data contained on the Device. The Forensic Specialist copied the data of the Device onto an encrypted Drive (the 'Drive'). A .ufd file was also loaded to help open the image of the Device's data on the Drive.
6. On or about 12/10/18, the Forensic Specialist placed the Device in a sealed Cellebrite evidence bag. The forensic copy of the data contained on the Device was placed on the Drive. I then packaged everything into a transport kit which was then shipped to the Requesting Entity via UPS with tracking number 1ZAA18070119762707.
7. Prior to securing the Device and the Drive in the sealed Cellebrite evidence bag, the Forensic Specialist compared the hash values associated with the data of the Device with the hash values associated with the data on the Drive and determined that the hash values matched.
8. Cellebrite did not examine the applications on, or the data of the Device. Nor did Cellebrite alter any of the applications on, or the data of the Device.
9. From on or about 4/30/18 through the return of the Device on or about 12/10/18, at no time did the Device leave the custody or control of Cellebrite.
10. After receipt of the Device, the Customer can log into Cellebrite's secure Portal to access and acknowledge receipt of the Device, at which time the passcode for the Device is provided to the Customer.
11. This Certification and the information referenced herein constitutes a record of regularly conducted activity by Cellebrite, because making this record is a regular practice of the regularly conducted activity, and this record is also made at or near the time of the regularly conducted activity in the ordinary course of business by Cellebrite personnel with knowledge of these matters. In addition, this business record is kept in the course of a regularly conducted activity of Cellebrite.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed on 12/10/2018.

Joseph Raspante

Joe Raspante



OPPS

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JOHN GIORDANI
Chief Deputy District Attorney
Nevada Bar #012381
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

LARRY DECORLEON BROWN,
#8376788

Defendant.

CASE NO: C-17-326247-1

DEPT NO: XXI

**STATE'S OPPOSITION TO DEFENDANT'S MOTION TO COMPEL
PRODUCTION OF DISCOVERY AND BRADY MATERIAL**

DATE OF HEARING: 08/13/2019
TIME OF HEARING: 9:30 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through JOHN GIORDANI, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in Opposition to Defendant's Motion To Compel Production Of Discovery And Brady Material.

This Opposition is made and based upon all the papers and pleadings on file herein, the attached points and authorities in support hereof, and oral argument at the time of hearing, if deemed necessary by this Honorable Court.

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POINTS AND AUTHORITIES

I. GENERAL LAW RELATED TO DISCOVERY

A. THE COURT CAN ONLY COMPEL “DISCOVERY” UNDER THE NEVADA REVISED STATUTES

Under Common Law, a defendant has no right of discovery. State v. Wallace, 399 P.2d 909, 97 Ariz. 296 (1965). This, of course, can be superseded by statutory enactment and that is the case in Nevada. Regarding the law of discovery in the State of Nevada, NRS 174.235, *et. seq.* controls. The Nevada Supreme Court has held that even an accused’s statement is not constitutionally compelled through pre-trial discovery. Mears v. State, 83 Nev. 3, 7, 422 P.2d 230, 232 (1967), Thompson v. State, 93 Nev. 342, 565 P.2d 1011 (1977).

In Franklin v. Eighth Judicial District Court, 85 Nev. 401, 455 P.2d 919 (1969), the Nevada Supreme Court held that the lower court erred in granting defendant’s Motion to Discovery, inspect and copy statements of all persons to be called by the prosecution as witnesses at trial, since NRS 174.245 does not authorize discovery of inspection of statements made by State witnesses or` perspective State witnesses to agents of the State. Nor does the defendant enjoy a constitutional right to discover them. With regard to the discovery statutes previously alluded to, the Court stated:

“Those provisions (NRS 174.235-174.295) represent the legislative intent with respect to the scope of allowable pre-trial discovery and are not lightly to be disregarded.”

From the aforementioned, it is clear that Nevada’s discovery statutes are to be strictly construed and adhered to since no Common Law right of discovery existed. It should, therefore, also be clear that the defendant’s motion, so far as it exceeds the requirements of NRS 174.235, *et. seq.*, must be denied.

1. The State Must Allow the Defense to “Inspect” Inculpatory Evidence.

Initially, Defendant Stamps attempts to mislead the Court with respect to applicable discovery statutes by blending the requirements of a statute and constitutional obligations into a generalized discovery request. In his motion, Defendant Stamps states NRS 174.235 requires

1 prosecutors to disclose various items within the possession or which the State can discover
2 through due diligence.

3 To be clear, NRS 174.235 requires the State to disclose inculpatory evidence. The
4 method of disclosure prescribed by the statute is to allow the defense to “*inspect and to copy,*
5 *or photograph*” the following items:

6
7 1. Written or recorded statements or confessions made by the
8 defendant or any witness the State intends to call during the case in chief of
the State, within the custody of the State or which the State can obtain by an
exercise of due diligence. (1)(a).

9 2. Results or reports of physical or mental examinations,
10 scientific tests or scientific experiments made in connection to the case,
within the control of the State, or which the State may learn of by an exercise
11 of due diligence. (1)(b).

12 3. Books, papers, documents, tangible objects which the State
intends to introduce during its case in chief, within the possession of the
13 State, or which the State may find by an exercise of due diligence. (1)(c).

14 Defendant filed a motion to compel discovery prior to ever inspecting and copying the
15 information in the possession of the State. Thus, a motion to compel discovery is not properly
16 before the court. NRS 174.235 requires the State to allow the defense to inspect and copy
17 various pieces of information. NRS 174.295, allows for the defense to seek an order to compel
18 only upon the State’s failure to allow such an inspection.

19 Specifically, NRS 174.295(2) states:

20
21 If at any time during the course of the proceedings it is brought to the attention
22 of the court that a party **has failed to comply** with the provisions of NRS
23 174.234 to 174.295, inclusive, the court may order the party to permit the
24 discovery or inspection of materials not previously disclosed, grant a
25 continuance, or prohibit the party from introducing in evidence the material not
26 disclosed, or it may enter such other order as it deems just under the
27 circumstances.
28

(Emphasis added). It is clear from the language of the statutes that a motion to compel is only appropriate where the State refuses a defendant's request to review the discoverable material in its possession. As the State has complied with NRS 174.235, the Court must deny the motion in its entirety.

2. The Statute Limits Disclosure.

Section 1(a) specifically states that the State must allow the defense to inspect written or recorded statements of the defendant or witnesses “the prosecuting attorney intends to call during the case in chief of the State.” NRS 174.235. Similarly, Section 1(c) requires the State to allow inspection of tangible items of evidence

Moreover, Defendant seeks to compel items which are not discovery. Defendant predicates the Court's authority on a line of cases beginning with Brady v. Maryland. However, Brady and its progeny are not cases granting the Court the authority to compel discovery, but cases defining remedies upon the failure of the State to fulfill its constitutional obligations. Thus, the Court should not be in the business of usurping the constitutional authority of the State in making Brady determinations. As such, the Court should deny the motion in its entirety.

As of the filing of the defense motion, Defendant Stamps has not made a request to inspect anything.

II. BRADY MATERIAL AND ITS PROGENY

A. BRADY AND ITS PROGENY DOES NOT AUTHORIZE THE COURT TO ORDER DISCOVERY. THEY ARE REMEDIES IF THE STATE FAILS TO DISCLOSE AN ITEM WHICH IS FOUND TO HAVE BEEN REQUIRED TO BE DISCLOSED POST TRIAL.

The State has an obligation to disclose exculpatory evidence pursuant to Brady v. Maryland, 373 U.S. 83, 83 S. Ct. 1194 (1963). Giglio v. United States, 405 U.S. 150, 92 S. Ct. 763 (1972), requires that certain impeaching material be disclosed as well. The rule of Brady v. Maryland, 373 U.S. 83 (1963), which requires the State to disclose to the defendant exculpatory evidence, is founded on the constitutional requirement of a fair trial. Brady is not a rule of discovery, however. As the Supreme Court held in Weatherford v. Bursy, 429

1 U.S. 545, 559, 97 S. Ct. 837, 846 (1977):

2
3 There is no general constitutional right to discovery in a criminal case, and
4 Brady did not create one... ‘the Due Process Clause has little to say
5 regarding the amount of discovery which the parties must be afforded....’
6 Wardius v. Oregon, 412 U.S. 470, 474, 93 S. Ct. 2208, 2212, 37 L.Ed.2d 82
(1973).

6 In addition, Brady does not require the State to conduct trial preparation and
7 investigation on behalf of the defense. The obligation is to produce exculpatory information
8 which the defense would not be able to obtain itself through an ordinary exercise of diligence.

9 While defense attorneys routinely claim they need to be provided the information in
10 order to conduct the investigation to determine if there is any exculpatory information, that is
11 simply not the law. In the Ninth Circuit, the obligation for the prosecution to examine
12 information is triggered by a defense request with no requirement that the defense make a
13 showing that the information is likely to contain helpful information. United States v.
14 Henthorn, 931 F.2d 29, 31 (9th Cir. 1990) (holding that the “government is incorrect in its
15 assertion it is the defendant’s burden to make an initial showing of materiality,” rather the
16 “obligation to examine the files arises by virtue of making a demand for their production”);
17 United States v. Santiago, 46 F.3d 885, 895 (9th Cir. 1995) (“[u]nder Henthorn, the government
18 has a duty, upon defendant’s request for production, to inspect for material information the
19 personnel records of federal law enforcement officers who will testify at trial, regardless of
20 whether the defense has made a showing of materiality”) *accord* Sonner v. State, 112 Nev.
21 1328, 930 P.2d 707 (1996)(requiring materiality before a review of a police officer’s personnel
22 file.).

23 **B. THE STATE MAKES THE DETERMINATION AT ITS OWN PERIL IF IT WILL**
24 **DISCLOSE THE INFORMATION, NOT THE DEFENSE OR THE COURT**

25 This, of course, does not mean that files are produced for the defense. Henthorn
26 explains that following that examination, “the files need not be furnished to the defendant or
27 the court unless they contain information that is or may be material to the defendant’s case.”
28 Id. Thus, the only time disclosure is required is if the State finds information that qualifies as

1 Brady material. If the prosecutor is unsure, the information should be provided to the court
2 for review. As the court explained:

3
4 We stated that the government must ‘disclose information favorable to the
5 defense that meets the appropriate standard of materiality If the
6 prosecution is uncertain about the materiality of information within its
7 possession, it may submit the information to the trial court for an in camera
inspection and evaluation. . . .’ As we noted in Cadet, the government has a
duty to examine personnel files upon a defendant’s request for their
production.

8 Id. at 30-31 (internal citation omitted). Despite this procedure, Defendant’s routinely request
9 the Court to order production of information to them, or to the Court. It is not the Court’s
10 responsibility under the Constitution. It is the prosecution’s responsibility.

11 Moreover, Brady and its progeny are remedies **post trial** for the prosecution’s failure
12 to perform its responsibility. Brady does not support the defense’s request to conduct an
13 investigation independent of the prosecution, or to ensure the prosecution completes its duty.

14 **III. TIMING OF DISCLOSURES**

15 **A. TRUE BRADY MATERIAL**

16 Traditionally, Brady material is information which indicates that Defendant did not
17 commit the crime, or his sentence should be less based upon culpability. The State’s duty
18 under Brady is ongoing. When reviewing cases on appeal, however, courts decide allegations
19 of tardy Brady disclosures according to the facts surrounding the disclosure and if the alleged
20 Brady information was used in the trial. The Ninth Circuit has recognized that “Brady does
21 not necessarily require that the prosecution turn over exculpatory material before trial. To
22 escape the Brady sanction, disclosure ‘must be made at a time when [the] disclosure would be
23 of value to the accused.’” United States v. Gordon, 844 F.2d 1397, 1403 (9th Cir. 1988). With
24 this precedent, the Ninth Circuit has typically found no prejudice when alleged Brady
25 information was disclosed at some point before trial. Notwithstanding, whenever the State is
26 in possession of true Brady material, it is the practice of the undersigned to immediately turn
27 over such information.

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B. IMPEACHMENT MATERIAL

From Brady, a line of cases related to the credibility of testifying witnesses, the Court established rules and requirements for impeachment material, or Giglio material. The right to impeach witnesses is based on the Confrontation Clause of the constitution. The United States Supreme Court has held that the Confrontation Clause is not “a constitutionally compelled right of pretrial discovery.” Pennsylvania v. Ritchie, 480 U.S. 39, 52, 107 S. Ct. 989, 999 (1987). Instead, the right to confrontation is a trial right, “designed to prevent improper restrictions on the types of questions that defense counsel may ask during cross-examination.” It “does not include the power to require the pretrial disclosure of any and all information that might be useful in contradicting unfavorable testimony.” It guarantees the opportunity for effective cross-examination, “not cross-examination that is effective in whatever way, and to whatever extent the defense might wish.” Id. at 53, 107 S. Ct. 999, *citing* Delaware v. Fensterer, 474 U.S. 15, 20, 106 S. Ct. 292, 294 (1985).

Almost universally, courts have held that there is no Giglio obligation if the witness does not testify.¹ *See* United States v. Green, 178 F.3d 1099, 1109 (10th Cir. 1999) (holding that Giglio did not apply when the government “did not ever call” its confidential informant as a witness); United States v. Mullins, 22 F.3d 1365, 1372 (6th Cir. 1994) (finding “no authority that the government must disclose promises of immunity made to individuals the government does not have testify at trial,” and holding that a grant of immunity could not be “‘favorable to the accused’ as impeachment evidence because the government did not call [the witness] and, thus, there was no one to impeach”); *see also* United States v. Pena, 949 F.2d 751, 758-59 (5th Cir. 1991) (impeachment evidence regarding a non-testifying witness is an insufficient basis upon which to grant a new trial); United States v. Storey, 956 F. Supp. 934, 942 (D. Kan. 1997) (holding that while impeachment evidence falls within the Brady rule, “[s]uch evidence as it pertains to an informant, however is only discoverable if the informant testifies”); Kowalczyk v. United States, 936 F. Supp. 1127, 1149 (E.D.N.Y. 1996) (holding that “[t]he Government was not obligated to produce the Janis arrest record, assuming the

¹ The exception to this rule is where the witness will not testify, but the witness’ hearsay statement will be admitted, then the witness’ credibility may be in issue. *See* United States v. Jackson, 345 F.3d 59, 70-71 (2nd Cir. 2003).

1 prosecution was in possession of such information, as Janis was not a witness at trial”); United
2 States v. Hill, 799 F. Supp. 86, 90 (D. Kan. 1992), (denying defense request for any
3 information which could be used to impeach non-witnesses); United States v. Villareal, 752
4 F. Supp. 851, 853 (N.D. Ill. 1991) (holding that “[a]s for statements by government witnesses
5 that qualify as impeachment materials, the government is under no obligation to disclose this
6 information before trial,” and that “the government is under no obligation at any time to
7 provide impeachment evidence for non-witnesses”); United States v. Coggs, 752 F. Supp. 848,
8 849, (N.D. Ill. 1990) (holding that the government is not required to produce impeachment
9 evidence impacting non-witnesses, reasoning that “[r]equiring that the government provide
10 impeachment evidence for non-witnesses will not further the interest sought to be served by
11 Giglio-allowing for a meaningful determination of witness credibility”). Finally, evidence of
12 impeachment of a witness need not be disclosed until the witness testifies. United States v.
13 Rinn, 586 F.2d 113 (9th Cir. 1978) (“[S]ince information concerning “favors or deals” merely
14 goes to the credibility of the witness, it need not be disclosed prior to the witness
15 testifying.”). Thus, unless the witness is going to testify, there is no basis to disclose any
16 impeachment material.

17 **IV. DEFENDANT’S SPECIFIC REQUESTS**

18 **Defendant and Witness Statements**

19 **(Requests 1, 2, 13, 15)**

20 The State objects to these requests as being vague, overbroad, and compound.
21 Additionally, portions of the requests fall outside the scope of the State’s obligations under
22 NRS 174.235, as well as Brady v. Maryland, 373 U.S. 83 (1963) and Giglio v. United States,
23 405 U.S. 150 (1972). To the extent that the requests and any subparts fall within the State’s
24 obligations under 174.235, Brady and Giglio, they are not specific requests.

25 NRS 174.235 provides:

- 26 1. Except as otherwise provided in NRS 174.233 to 174.295, inclusive, at the
27 request of a defendant, the prosecuting attorney shall permit the defendant to
28 inspect and to copy or photograph any:

1 (a) Written or recorded statements or confessions made by the
2 defendant, or any written or recorded statements made by a witness the
3 prosecuting attorney intends to call during the case in chief of the State, or
4 copies thereof, within the possession, custody or control of the State, the
5 existence of which is known, or by the exercise of due diligence may become
6 known, to the prosecuting attorney;

7 (b) Results or reports of physical or mental examinations, scientific tests or
8 scientific experiments made in connection with the particular case, or copies
9 thereof, within the possession, custody or control of the State, the existence of
10 which is known, or by the exercise of due diligence may become known, to the
11 prosecuting attorney; and

12 (c) Books, papers, documents, tangible objects, or copies thereof, which the
13 prosecuting attorney intends to introduce during the case in chief of the State
14 and which are within the possession, custody or control of the State, the
15 existence of which is known, or by the exercise of due diligence may become
16 known, to the prosecuting attorney.

17 2. The defendant is not entitled, pursuant to the provisions of this section, to
18 the discovery or inspection of:

19 (a) An internal report, document or memorandum that is prepared by or on
20 behalf of the prosecuting attorney in connection with the investigation or
21 prosecution of the case.

22 (b) A statement, report, book, paper, document, tangible object or any other
23 type of item or information that is privileged or protected from disclosure or
24 inspection pursuant to the Constitution or laws of this state or the Constitution
25 of the United States.

26 3. The provisions of this section are not intended to affect any obligation
27 placed upon the prosecuting attorney by the Constitution of this state or the
28 Constitution of the United States to disclose exculpatory evidence to the
defendant.

(Emphasis added).

Brady places upon the State an obligation to produce exculpatory evidence. Giglio requires that the State disclose certain impeaching material as well.

In other words, even in the absence of a motion, the State is obligated to turn over the information requested that falls within the State's obligations under 174.235, Brady and Giglio. For example, non-exculpatory oral statements are not covered by the statutes nor Brady and its progeny. Defendant has made many sub-requests within the instant requests without providing any indication that the defense has performed any investigation or discovered that the material actually exists and the State has failed to turn it over. The State asks that these

1 requests be clarified by the defense to address what specific discovery Defendant believes he
2 is missing. In the absence of such a clarification the State asks that the requests be denied as
3 they fail to state a specific request.

4 **Crime Scene Analysis Evidence Collection and Forensic Testing**

5 **(Requests 8, 9, 10, 20)**

6 All reports by crime scene analysts involved in the processing of scenes and all reports
7 related to forensic analysis are part of the standard discovery provided in all cases, which
8 actually exceeds the requirements of NRS 174.235. If the defense wants the underlying case
9 files related to forensic testing, the State will request the forensic lab to provide the underlying
10 data and will produce that information to Defendant. If the defense wants raw notes of the
11 crime scene analyst, the State will request production of those notes, if still in existence, from
12 the crime lab. However, the State is not the holder of those documents. The LVMPD may
13 want to object to such a request as it is not covered by discovery statutes. To the extent that
14 Defendant is seeking information broader than that which is contained *supra*, the State objects
15 to this request as being vague, overbroad, compound, and duplicative. Additionally, portions
16 of the request fall outside the scope of the State's obligations under NRS 174.235, as well as
17 Brady v. Maryland, 373 U.S. 83 (1963) and Giglio v. United States, 405 U.S. 150 (1972). To
18 the extent that the request and its multiple subparts fall within the State's obligations under
19 174.235, Brady and Giglio, they are not specific requests.

20 Once again, NRS 174.235 provides:

21 1. Except as otherwise provided in NRS 174.233 to 174.295, inclusive, at the
22 request of a defendant, the prosecuting attorney shall permit the defendant to
inspect and to copy or photograph any:

23 (a) Written or recorded statements or confessions made by the defendant, or
24 any written or recorded statements made by a witness the prosecuting attorney
25 intends to call during the case in chief of the State, or copies thereof, within the
possession, custody or control of the State, the existence of which is known, or
by the exercise of due diligence may become known, to the prosecuting attorney;

26 (b) Results or reports of physical or mental examinations, scientific tests or
27 scientific experiments made in connection with the particular case, or copies
28 thereof, within the possession, custody or control of the State, the existence of
which is known, or by the exercise of due diligence may become known, to the
prosecuting attorney; and

1 (c) Books, papers, documents, tangible objects, or copies thereof, which the
2 prosecuting attorney intends to introduce during the case in chief of the State
3 and which are within the possession, custody or control of the State, the
4 existence of which is known, or by the exercise of due diligence may become
5 known, to the prosecuting attorney.

6 2. The defendant is not entitled, pursuant to the provisions of this section,
7 to the discovery or inspection of:

8 (a) An internal report, document or memorandum that is prepared by or on
9 behalf of the prosecuting attorney in connection with the investigation or
10 prosecution of the case.

11 (b) A statement, report, book, paper, document, tangible object or any other
12 type of item or information that is privileged or protected from disclosure or
13 inspection pursuant to the Constitution or laws of this state or the Constitution
14 of the United States.

15 3. The provisions of this section are not intended to affect any obligation
16 placed upon the prosecuting attorney by the Constitution of this state or the
17 Constitution of the United States to disclose exculpatory evidence to the
18 defendant.

19 (Emphasis added).

20 Brady places upon the State an obligation to produce exculpatory evidence. Giglio
21 requires that the State disclose certain impeaching material as well.

22 Again, even in the absence of a motion (and even if this Court denied this request) the
23 State is obligated to turn over the information requested that falls within the State's obligations
24 under NRS 174.235, Brady and Giglio. Defendant has made many sub-requests within the
25 instant request without providing any indication that the defense has performed any
26 investigation or discovered that the material actually exists and the State has failed to turn it
27 over. The State asks that this request be clarified by the defense to address what specific
28 discovery Defendant believes he is missing. In the absence of such a clarification the State
asks that the requests be denied as they fail to state a specific request.

Witness Statements, Officer Notes, Law Enforcement Communications

(Requests 13, 21, 23)

While the State usually voluntarily provides all written or recorded statements of
witnesses, except those protected as confidential, the State's decision to over-include
discovery does not expand the nature of those items subject to mandatory disclosure by court

1 order based upon statutory or constitutional authority. The State objects to these requests as
2 being vague, overbroad, and compound. Additionally, portions of the requests fall outside the
3 scope of the State's obligations under NRS 174.235, as well as Brady v. Maryland, 373 U.S.
4 83 (1963) and Giglio v. United States, 405 U.S. 150 (1972). To the extent that the requests
5 and their multiple subparts fall within the State's obligations under 174.235, Brady and Giglio,
6 they are not specific requests.

7 NRS 174.235 provides:

8 1. Except as otherwise provided in NRS 174.233 to 174.295, inclusive, at the
9 request of a defendant, the prosecuting attorney shall permit the defendant to
inspect and to copy or photograph any:

10 (a) Written or recorded statements or confessions made by the defendant, or
11 **any written or recorded statements made by a witness the prosecuting**
12 **attorney intends to call during the case in chief of the State**, or copies thereof,
13 within the possession, custody or control of the State, the existence of which is
known, or by the exercise of due diligence may become known, to the
prosecuting attorney;

14 (b) Results or reports of physical or mental examinations, scientific tests or
15 scientific experiments made in connection with the particular case, or copies
16 thereof, within the possession, custody or control of the State, the existence of
which is known, or by the exercise of due diligence may become known, to the
prosecuting attorney; and

17 (c) Books, papers, documents, tangible objects, or copies thereof, which the
18 prosecuting attorney intends to introduce during the case in chief of the State
19 and which are within the possession, custody or control of the State, the
existence of which is known, or by the exercise of due diligence may become
known, to the prosecuting attorney.

20 2. The defendant is not entitled, pursuant to the provisions of this section,
21 to the discovery or inspection of:

22 (a) An internal report, document or memorandum that is prepared by or on
23 behalf of the prosecuting attorney in connection with the investigation or
prosecution of the case.

24 (b) A statement, report, book, paper, document, tangible object or any other
25 type of item or information that is privileged or protected from disclosure or
inspection pursuant to the Constitution or laws of this state or the Constitution
of the United States.

26 3. The provisions of this section are not intended to affect any obligation
27 placed upon the prosecuting attorney by the Constitution of this state or the
28 Constitution of the United States to disclose exculpatory evidence to the
defendant.

1 (Emphasis added).

2 Brady places upon the State an obligation to produce exculpatory evidence. Giglio
3 requires that the State disclose certain impeaching material as well.

4 In other words, even in the absence of a motion the State is obligated to turn over the
5 information requested that falls within the State's obligations under 174.235, Brady and
6 Giglio. Defendant has made many sub-requests within the instant request without providing
7 any indication that the defense has performed any investigation or discovered that the material
8 actually exists and the State has failed to turn it over. The State asks that this request be
9 clarified by the defense to address what specific discovery Defendant believes he is missing.
10 In the absence of such a clarification the State asks that the request be denied as it fails to state
11 a specific request.

12 There is no statute nor Nevada case law that compels production of notes from law
13 enforcement, so there is no basis for production. This request is not covered by a single line
14 of any discovery statute. If there is exculpatory information, the State obviously must produce
15 it. However, there is no requirement that the notes of all officers be produced and the State
16 requests that this Court not expand the statutory text to include imply such a requirement
17 exists.

18 Courts have held that officer notes are not subject to discovery statutes. In State v.
19 Bray, 569 P.2d 688 (Ore. App. 1977), an officer arrested a suspect on a DUI charge. He
20 recorded observations in a booklet. He later prepared a report from his penciled notes and
21 erased the notes. The final report was furnished to the defense. At trial, the court ruled that
22 because the officer had taken notes while speaking to a witness and those notes had been
23 destroyed, the State would be precluded from calling the witness at trial. The issue on appeal
24 was whether the fragmentary notes of the officer constituted a statement within the meaning
25 of the state discovery statutes. The Appellate Court reversed the trial court:

26 ///

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28 ///

1 We construe the statute to require production of any "statement" which is
2 intended by its maker as an account of an event or a declaration of a fact. The
3 statutory purposes of providing witness statements are to minimize surprise,
4 avoid unnecessary trial, provide adequate information for informed pleas and to
5 promote truthful testimony by allowing examination based on prior inconsistent
6 statements. . . Requiring preservation and availability of fragmentary notes
7 intended only as a touchstone for memory would be more likely to discourage
8 police officers from taking notes, with a consequent reduction in accuracy, than
9 to promote the statutory goals. Furthermore, it would be unfair and misleading
10 to allow cross-examination of a witness based upon fragmentary or cryptic notes
11 which were never intended to express a complete statement. For these reasons,
12 we hold that fragmentary notes are not subject to production under discovery
13 statutes.

14
15 Id. at 690; State v. Wrisley, 909 P.2d 877 (Ore. App. 1995) (noting that police notes are not
16 discoverable when their substance is incorporated into a report disclosed to the defendant); see
17 also State v. Jackson, 571 P.2d 523 (Ore. App. 1978) (holding that a rough draft of a report an
18 officer dictated to a stenographer was not discoverable).

19 The Ninth Circuit has explained a narrow exception to a general premise that notes are
20 not discoverable in United States v. Griffin, 659 F.2d 932 (9th Cir. 1981). First, the court
21 addressed what type of interview notes are potentially discoverable:

22
23 In general, the Jencks Act, 18 U.S.C. § 3500 prohibits the pre-trial discovery of
24 statements made by prospective government witnesses. 1 However, after such
25 a witness testifies at trial, the Act requires that the government produce upon
26 demand any available statement made by the witness which relates to the subject
27 matter of such witness's testimony at trial. The Act narrowly defines
28 "statements" as: (1) writings made by the witness and "signed or otherwise

1 approved or adopted" by him, or (2) accounts which are "a substantially
2 verbatim recital" of the witness's oral statements "recorded contemporaneously
3 with the making of such oral statement." 18 U.S.C. § 3500(e)

4 Id. at 936. Thus, even if the notes concern an interview of a witness, they are not necessarily
5 discoverable.

6 Whether original notes can be considered "statements" under the Jencks Act
7 depends, first, on whose statement allegedly is contained therein; that is, against
8 whose testimony at trial they could be used as impeachment material. Thus, on
9 the one hand, the district court must determine whether the investigator's rough
10 notes should be considered a Jencks Act "statement" of an interviewee, who at
11 trial may testify as a government witness. If Compliance Officer Logan's pretrial
12 testimony, that her rough notes of the interviews were neither read to each
13 interviewee nor adopted or approved by any of them, is not disputed, then her
14 rough notes cannot be "statements" of the interviewees under § 3500(e)(1),
15 which requires that a written statement be "signed or otherwise approved."
16 Likewise, if Officer Logan's testimony is unrefuted, the rough notes could not
17 be Jencks Act statements of the interviewees under § 3500(e)(2) since they are
18 not verbatim recitals of the interviewees' oral statements. See United States v.
19 Bernard, 623 F.2d 551, 558 n.21 (9th Cir. 1980) (as revised). *In other words,*
20 *unless one or more of the interviewee-witnesses offered by the government at*
21 *trial testifies that [**10] his interview was transcribed verbatim into the*
22 *compliance officers' rough notes or that the notes were read back and approved,*
23 *the rough notes, some of which were destroyed, would not be Jencks Act*
24 *"statements."*

25
26 Id. at 937 (emphasis added).

27 Nor are notes necessarily considered to be a "statement" of the law enforcement officer
28 who drafted them. According to the Ninth Circuit, the circuit upon which Stamps relies, such

rough notes rarely even constitute a statement of the law enforcement officer.

On the other hand, the district court also must determine whether the rough notes should be considered as the agent's "statement" for Jencks Act purposes should any of the officers become a government witness at trial. It is highly unlikely that the agents' rough notes could be considered Jencks Act statements. In the first place, with regard to that portion of an agent's notes which records his thoughts and observations independent of the interviewee's remarks, an agent's rough notes usually are considered too cryptic and incomplete to constitute the full statement envisioned by the Jencks Act. As we stated in United States v. Spencer, 618 F.2d 605 (9th Cir. 1980), an agent's rough notes will not be Jencks Act statements when they "are not complete, are truncated in nature, or have become an unsiftable mix of witness testimony, investigator's selections, interpretations, and interpolations. The Congressional policy behind the Jencks Act was to protect witnesses from being impeached with words that are not their own, or are an incomplete version of their testimony." Id. at 606 (emphasis added), citing Palermo v. United States, 360 U.S. 343, 79 S. Ct. 1217, 3 L. Ed. 2d 1287 (1957); United States v. Augenblick, 393 U.S. 348, 354-56, 89 S. Ct. 528, 532-34, 21 L. Ed. 2d 537 (1969); and Wilke v. United States, 422 F.2d 1298, 1299 (9th Cir. 1970). Furthermore, if the agent later adopts or approves that portion of his notes which does not simply record the remarks of the interviewee, his act of approval is likely to attach more to his completed formal report than to the "jottings" from which the agent drafts the report. In that event, it is the final report which becomes the Jencks Act statement and not the rough notes.

Furthermore, that portion of the agent's rough interview notes which does simply record, be it in either verbatim or paraphrased form, the interviewee's remarks cannot be a "statement" for Jencks Act purposes when the agent testifies as a

1 government witness because it does not represent the agent's own words. As the
2 Supreme Court recognized when it reviewed the legislative history of the Jencks
3 Act in Palermo v. United States, 360 U.S. 343, 79 S. Ct. 1217, 3 L. Ed. 2d 1287
4 (1957), "It is clear that Congress was concerned that only those statements which
5 could properly be called the witness' own words should be available to the
6 defense for purposes of impeachment." Id. at 353 (emphasis added, footnote
7 omitted). Therefore, except in the unlikely event that the civil compliance
8 officers recorded their own observations during the interviews in complete and
9 full form in their handwritten notes, the rough notes would not be Jencks Act
10 statements producible for the purpose of impeaching the testimony of any one
11 of the officers as a government witness at trial.

12 Finally, should the trial court determine, applying the foregoing analysis, that
13 the rough notes constituted Jencks Act statements for some purposes, before it
14 imposes sanctions for their destruction, it must determine further that the notes
15 "relate to the subject matter" of the testimony which would be offered by the
16 particular government witness, 18 U.S.C. § 3500(b), whether that witness be the
17 agent herself or an interviewee.

18
19 Id. at 937-38.

20 Third, this Court should be aware that even though the requirement is quite limited, the
21 Ninth Circuit is in minority with regard to the issue of preservation of notes. In United States
22 v. Hinton, 719 F.2d 711 (4th Cir. 1983), the Fourth Circuit explained that in:

23
24 Killian v. United States, 368 U.S. 231, 242, 7 L. Ed. 2d 256, 82 S. Ct. 302 (1961),
25 where the Court dealt with the specific question whether notes made by a
26 government agent "only for the purpose of transferring the data thereon" to a
27 more formal record later qualified for production as Jencks Act material. It
28 indicated that such interim notes need not be preserved for production in the

event the agent testified at the later trial. Thus, it said:

"If the agents' notes of [the witness's] oral reports of expenses were made only for the purpose of transferring the data thereon to the receipts to be signed by [the witness], and if, after having served that purpose, they were destroyed by the agents in good faith and in accord with normal practice, it would be clear that their destruction did not constitute an impermissible destruction of evidence nor deprive [the defendant] of any right."

Later, in United States v. Augenblick, 393 U.S. 348, 354-55, 21 L. Ed. 2d 537, 89 S. Ct. 528 (1969), the Court considered the producibility under § 3500 of the " 'rough pencil notes ' " jotted down by a Government agent in an interview of one of the Government's witnesses in the case. These notes were not sought for production as the statement of the Government agent himself as in the case here, but for use in impeachment of the witness whose statement was allegedly set forth in the " 'rough pencil notes. " The Court, however, characterized the notes as a statement not of the "entire interview " but only of "a truncated version." As incomplete statements of "the entire interview," the Court sustained the refusal of the district judge to order production of the rough notes, saying:

"Moreover, we said in Palermo v. United States, supra, [360 U.S.] at 353, that the administration of the Jencks Act must be entrusted to the 'good sense and experience ' of the trial judges subject to 'appropriately limited review of appellate courts. '"

While not conclusive, these statements of the Supreme Court as set forth in the case discussed, appear to intimate somewhat definitely that rough interim notes of a government agent, when later incorporated in the agent's formal interview report, are not "written statements" within the Act and need not be preserved.

1 Id. at 716-17. The Fourth Circuit went on to conclude that notes need not be preserved, noting
2 that in so holding, it joined in the conclusion of the Second, Fifth, Sixth, Seventh, Eighth and
3 Tenth Circuits (holding that "rough notes" or "jottings" "not intended as a final report" made
4 during an investigation by a government agent to "serve only a limited and temporary purpose"
5 of providing a "guide" for the agent's subsequent formal interview report in "transferring the
6 information [on the notes]" to other data and "not intended as a final report," lack that element
7 of finality and completeness required to meet the test of an "approved" statement of the agent
8 under the precise and circumscribed definition stated in the Act" and therefore "it is not
9 impermissible to destroy the notes when they have been transferred to the formal interview
10 report since it is the formal report which becomes in such circumstances the "approved"
11 statement required under the Act to be preserved and to be producible on demand") Id. at 717-
12 18.

13 **Witness Benefits**

14 **(Request 14)**

15 The State is aware that it must disclose any benefit given to a witness in exchange for
16 an agreement to testify. Defendant also requests any benefit from any other state agency. The
17 Office of the District Attorney is the only agency that can premise compensation on an
18 agreement to testify in the instant case. A police agency could compensate an individual for
19 information. If that witness testifies, the compensation would be potentially discoverable. The
20 State has no opposition to the request to the extent mentioned. However, if the family of the
21 victim received other donations or assistance because their family member was murdered by
22 Defendant, the donation would not fall under Giglio.

23 NRS 50.225 provides, in pertinent part:

24
25 1. For attending the courts of this State in any criminal case, or civil suit
26 or proceeding before a court of record, master, commissioner, justice of the
27 peace, or before the grand jury, in obedience to a subpoena, each witness is
28 entitled:

(a) To be paid a fee of \$25 for each day's attendance, including Sundays
and holidays.

1 (b) Except as otherwise provided in this paragraph, to be paid for attending
2 a court of the county in which the witness resides at the standard mileage
3 reimbursement rate for which a deduction is allowed for the purposes of federal
4 income tax for each mile necessarily and actually traveled from and returning to
5 the place of residence by the shortest and most practical route. A board of county
6 commissioners may provide that, for each mile so traveled to attend a court of
7 the county in which the witness resides, each witness is entitled to be paid an
8 amount equal to the allowance for travel by private conveyance established by
9 the State Board of Examiners for state officers and employees generally. If the
10 board of county commissioners so provides, each witness at any other hearing
11 or proceeding held in that county who is entitled to receive the payment for
12 mileage specified in this paragraph must be paid mileage in an amount equal to
13 the allowance for travel by private conveyance established by the State Board of
14 Examiners for state officers and employees generally.

15 2. In addition to the fee and payment for mileage specified in subsection
16 1, a board of county commissioners may provide that, for each day of attendance
17 in a court of the county in which the witness resides, each witness is entitled to
18 be paid the per diem allowance provided for state officers and employees
19 generally. If the board of county commissioners so provides, each witness at any
20 other hearing or proceeding held in that county who is a resident of that county
21 and who is entitled to receive the fee specified in paragraph (a) of subsection 1
22 must be paid, in addition to that fee, the per diem allowance provided for state
23 officers and employees generally.

24 3. If a witness is from without the county or, being a resident of another
25 state, voluntarily appears as a witness at the request of the Attorney General or
26 the district attorney and the board of county commissioners of the county in
27 which the court is held, the witness is entitled to reimbursement for the actual
28 and necessary expenses for going to and returning from the place where the court
is held. The witness is also entitled to receive the same per diem allowance
provided for state officers and employees generally.

4. Any person in attendance at a trial who is sworn as a witness is entitled
to the fees, the per diem allowance, if any, travel expenses and any other
reimbursement set forth in this section, irrespective of the service of a subpoena.

... [Sections 5 and 6 are specific to witnesses in civil cases].

The State may have provided a witness fee of \$25.00, mileage and/or transportation
expenses to witnesses who testified at the preliminary hearing, assuming said witness followed
the proper procedures to obtain the fees/reimbursements. Other than the possible witness fee
and transportation expenses described above, the State has not provided any compensation or
entered into any cooperation agreement with any State witness at the present time. The State
is aware of this request by the defense and will supplement this response if necessary as the
case progresses.

///

1 **Criminal History**

2 **(Requests 18, 19)**

3 Although a witness's criminal record may be material under some circumstances, it is
4 not always relevant. Hill v. Superior Court, 112 Cal Rptr. 257, 518 P.2d 1353 (1974). In Hill
5 the defense sought production of a witness's felony conviction record. Because the witness
6 was the only eyewitness other than the defendants, and the corroboration of his report was not
7 strong, the court found the requisite materiality and granted the defense motion. However, the
8 court concluded, "[w]e do not hold that good cause exists in every case in which a defendant
9 charged with a felony seeks discovery of any felony convictions any "rap sheet" of prosecution
10 witnesses." Id. at 1358.

11 In the present case, Defendant has requested that the State perform a National Crime
12 Information Center (NCIC) inquiry on all possible State witnesses and to provide that inquiry
13 to the Defendant. The State has not run an NCIC inquiry on all witnesses, nor does it plan to
14 do so in this matter. The State has no legitimate reason to make such an inquiry and
15 strenuously objects to defense requests that the State provide this information.

16 Although Defendant liberally touts Brady v. Maryland, 373 U.S. 83 (1963) as the basis
17 for his NCIC request, the defense has failed to establish that the requested NCIC information
18 falls within the scope of Brady, that is, that it might in some way be exculpatory or that it
19 might somehow constitute impeachment evidence. Moreover, Defendant has not shown how
20 such information might be "material." In other words, the defense has failed to show that the
21 lack of any State witnesses' NCIC information will somehow result in an unfair trial or will
22 produce a verdict that is not worthy of confidence. *See* Kyles v. Whitley, 514 U.S. 419, 434
23 (1995).

24 The Supreme Court has stated that information is considered material if there is a
25 "reasonable probability that, had the evidence been disclosed to the defense, the result of the
26 proceeding would have been different." U.S. v. Bagley, 473 U.S. 667, 682 (1985). The
27 Supreme Court defined reasonable probability as probability sufficient to "undermine
28 confidence in the outcome" of the trial. Id. In addition, the Court in Bagley, stated that

"[i]mpeachment evidence . . . as well as exculpatory evidence, falls within the Brady rule." *Id.* at 675. The Court defined impeachment evidence as "evidence favorable to an accused . . . so that, if disclosed and used effectively, it may make the difference between conviction and acquittal." *Id.* (internal quotes omitted).

In the present case, Defendant has failed to articulate even an arguable use of the witnesses' NCIC information that would comport with the requirements as outlined by the Supreme Court in *Brady*, *Kyles* and *Bagley*. Defendant is simply looking for any information that he can use to cloud the facts of the case at bar and to cast aspersions on those witnesses.

A. The State Is Prohibited From Providing Information Contained In NCIC Reports To Anyone Other Than Legitimate Law Enforcement Personnel

In addition, pursuant to 28 C.F.R. §20.33(b) as codified under 28 U.S.C.A. § 534 (2002), criminal history information may only be disseminated to law enforcement agencies, those hired by law enforcement agencies and to those who have entered into signed agreements for the specific and authorized use of criminal background information. Pursuant to 28 C.F.R. §20.25,

Any agency or individual violating subpart B of these regulations shall be subject to a civil penalty not to exceed \$10,000 for a violation occurring before September 29, 1999, and not to exceed \$11,000 for a violation occurring on after September 29, 1999.

In addition, pursuant to 28 C.F.R. §20.38,

Access to systems managed or maintained by the FBI is subject to cancellation in regard to any agency or entity that fails to comply with the provisions of subpart C of this part.

If the State is forced to disseminate such information to the defense in this matter, the State and/or the individual who actually provides the NCIC information runs the risk of civil penalties and loss of future access to the NCIC system. In addition, the Multi-System Guide 4 (MSG4) published by the Las Vegas Metropolitan Police Department (LVMPD) states that

1 “[d]ata stored in each of our criminal justice systems . . . must be protected to ensure correct,
2 legal and efficient dissemination and use.” P. 21. The MSG4 further states that
3 “[d]issemination of CHI [Criminal History Information] that does not belong to the LVMPD
4 or is obtained through NCIC, NCJIS or NLETS is prohibited.” Id.

5 As a user of the National Crime Information Center (NCIC) database, the State is
6 prohibited from disseminating criminal history information to non-criminal justice agencies
7 as defined by Title 28 Code of Federal Regulations (CFR)§ 20.33, which describes a criminal
8 justice agency as: (1) Courts; and (2) a government agency or any subunit thereof which
9 performs the administration of criminal justice pursuant to a statute or executive order, and
10 which allocates a substantial part of its annual budget to the administration of criminal justice.
11 Unless specifically authorized by federal law, access to the NCIC/III for non-criminal justice
12 purposes is prohibited.

13 A 1989 United States Supreme Court case looked at this issue from the standpoint of
14 an invasion of privacy and ruled accordingly:

15
16 Accordingly, we hold as a categorical matter that a third party's request for law
17 enforcement records or information about a private citizen can reasonably be
18 expected to invade that citizen's privacy, and that when the request seeks no
19 "official information" about a Government agency, but merely records that the
20 Government happens to be storing, the invasion of privacy is "unwarranted."

21 United States Department of Justice v. the Reporters Committee for Freedom of the Press, 109
22 S.Ct. 1468, 1485 (1989).

23 Criminal defense attorneys, public or private, are not within the definition of “criminal
24 justice agency,” nor is the criminal defense function considered a “criminal justice purpose.”
25 Therefore, Defendant is not entitled to the criminal history information he seeks.

26 **B. NCIC Policy of the District Attorney’s Office as of 6/11/08**

27 If the District Attorney runs an NCIC inquiry on a witness and that NCIC inquiry is in
28 our file, the FBI has NO policy prohibiting us from disclosing that NCIC inquiry. If, on the

1 other hand, we have not run the NCIC report already, it is a violation of FBI regulations to run
2 it on request of defense counsel, or court order.

3 In short, if the State already has it, the State will decide--pursuant to our obligations
4 under Brady and Giglio--whether or not to divulge any information contained in the NCIC
5 report. If the State doesn't have the NCIC report in our file, the defense has to follow FBI-
6 outlined procedures to get it.

7 The defense must obtain an order from the judge directed to the FBI requested
8 describing specifically what they need. The FBI then reviews the judge's order and almost
9 always complies with it, but the FBI sends the NCIC report to the judge, who then reviews the
10 information and decides on its admissibility before turning anything over to the defense.

11 **General Exculpatory Requests and/or Alternate Suspects**

12 **(Requests 3, 17)**

13 These are general discovery requests for exculpatory information. Again, the State
14 has an obligation to provide exculpatory information regardless of a request.

15 **Witness Contact Information**

16 **(Request 22)**

17 NRS 174.234 provides the law regarding the notice of witnesses. It provides that both
18 sides must disclose witness names and addresses it intends to call in its case-in-chief not less
19 than 5 judicial days before trial. See NRS 174.234 (1) (a) (2). The State will do so.

20 **Informants**

21 **(Requests 4, 5)**

22 The defendant's request for the identities of confidential informants and/or "inside"
23 informants, regardless of the State's intent to present testimony from the informants, is not
24 permitted by law and must be denied for two reasons.

- 25 1. Nevada's discovery statutes do not permit the Court to order the disclosure of an
26 informant's identity unless the State intends to call the informant as a witness in its case
27 in chief.
28

1 NRS 174.234 and NRS 174.235, the applicable discovery statutes regarding the
2 defendant's request, do not require the State to disclose the identities of informants, and do
3 not require the State to specifically identify the information or evidence provided by any
4 informants. In particular, NRS 174.234(1)(a)(2) states that a prosecutor must only disclose
5 "the names and last known addresses of all witnesses *the prosecuting attorney intends to call*
6 *during the case in chief of the State.*" (Emphasis added). Likewise, NRS 174.235(1)(a) only
7 obliges the State to disclose the "written or recorded statements made by a witness *the*
8 *prosecuting attorney intends to call during the case in chief of the State.*" (Emphasis added).
9 Consequently, pursuant to those statutes, if the State does not intend to call the informant as a
10 witness in its case in chief, this Court cannot compel the State to disclose the identity of any
11 informant and information obtained from such an informant.

12 2. The identities of informers are privileged under Nevada law, and no exception to the
13 privilege applies.

14 NRS 49.335 affords the State an exclusive statutory privilege to protect the identity of
15 informers. Under that statute, "[t]he State or a political subdivision thereof has a privilege *to*
16 *refuse to disclose the identity of a person who has furnished to a law enforcement officer*
17 *information purporting to reveal the commission of a crime.*" (Emphasis added). This privilege
18 precludes this Court from ordering the disclosure of the identities of any informants. NRS
19 49.335, 49.345.

20 The privilege, moreover, is resilient in the face of the defendant's numerous statutory
21 and constitutional rights. See NRS 49.365; NRS 174.234(7). First, the defendant's statutory
22 discovery rights must yield to the State's exclusive privilege. NRS 174.234(7). Although the
23 State must disclose the identities of witnesses it intends to call in its case in chief pursuant to
24 the defendant's statutory rights in NRS 174.234, the State cannot be ordered to disclose the
25 identity of an informer under that statute because

26 [a] party is not entitled, pursuant to the provisions of [NRS 174.234], to the disclosure
27 of the name or address of a witness or any other type of item or information *that is privileged*
28

1 *or protected from disclosure or inspection pursuant to the Constitution or laws of this state or*
2 *the Constitution of the United States.*

3 NRS 174.234(7) (emphasis added).

4 Second, the State's privilege does not dissipate in light of a defendant's constitutional
5 rights to a fair trial, to present witnesses on his behalf, and to confront and cross-examine
6 witnesses. By statute, if the Court finds that an informant is a percipient witness who "can...
7 supply information constituting a defense [or] rebut a necessary element of an offense," State
8 v. Stiglitz, 94 Nev. 158, 161, 576 P.2d 746, 747-48 (1978), the court may *dismiss* proceedings
9 against a defendant if the State thereafter declines to disclose the identity of the informer. NRS
10 49.365; Sheriff v. Vasile, 96 Nev. 5, 8, 604 P.2d 809, 810 (1980) (district court's dismissal of
11 charges affirmed when the State refused to disclose the identity of a confidential informant
12 who was the only independent percipient witness to a drug transaction); Routhier v. Sheriff,
13 93 Nev. 149, 560 P.2d 1371 (1977) (district court should have dismissed charges against
14 defendant when the State refused to reveal the identity of a percipient confidential informant
15 who set up and witnessed the drug transaction leading to the criminal charge); cf. Stiglitz, 94
16 Nev. at 161, 576 P.2d at 747-48 (the identity of an informant need not be revealed where he
17 merely introduces a government agent to the defendant); Twigg v. Sheriff, 95 Nev. 112, 590
18 P.2d 630 (1979) (same). The decision to disclose the informant's identity, however, ultimately
19 remains in the hands of the State regardless of the Court's determination that a confidential
20 informant is a percipient witness.

21 The Nevada Supreme Court has recognized that a defendant is entitled to discovery of
22 an informer's identity when the informer both set up the meeting between the officer and
23 defendant and witnessed the actual transaction. *See* Sheriff v. Vasile, 96 Nev. 5 (1980). In
24 Vasile the police officer testified that he was introduced to Vasile through the confidential
25 informant and the informant was present for the actual drug transaction. Vasile requested the
26 name of the informant from the officer. The State objected under the applicable statutes and
27 the objection was upheld by the Justice Court. Ultimately, Vasile sought relief in District
28

1 Court where the case was dismissed. Thereafter the State appealed. The Supreme Court
2 affirmed, holding:

3 In Routhier v. Sheriff, the informant set up and witnessed the transaction which led to
4 the criminal charges. That was precisely the situation involved in the present case. The
5 informant here was seated in the undercover police car with Officer Douglas and Vasile. He
6 was apparently the only independent witness who could hear and see the transaction in
7 question. He was a material witness whose identity should have been disclosed. The
8 magistrate's refusal to require disclosure or dismiss the charges was error. Id. at 8 (emphasis
9 added).

10 The Vasile Court, however, acknowledged that a request for the identity of an
11 informer need not result in the automatic disclosure of the informer's identity.

12 The identity of an informant need not be disclosed where he is not a material
13 witness, because he can neither supply information constituting a defense nor rebut a necessary
14 element of an offense. Id. at 8 (citing Twigg v. Sheriff, 95 Nev. 112 (1979) and State v.
15 Stiglitz, 94 Nev. 158 (1979)). Hence, this Court must determine whether the confidential
16 informant involved in the present case could provide information that requires disclosure.

17 Finally, although NRS 49.375(1) creates a lone exception to the privilege by requiring
18 the State to disclose an informer's identity "[i]f information from an informer is relied upon
19 to establish the legality of the means by which evidence was obtained and the [court] is not
20 satisfied that the information was received from an informer reasonably believed to be
21 reliable....," the defendant's boilerplate motion does not claim that the exception applies in
22 this case. See EDCR 3.20(b) ("a party filing a motion must also serve and file with it a
23 memorandum of points and authorities in support of *each ground thereof*" and the failure to
24 do so "may be construed as an admission that the motion is not meritorious, as cause for its
25 denial or as a waiver of all grounds not so supported" (emphasis added)). Even then, the
26 disclosure may be made *in camera*, and the records of the *in camera* disclosure sealed. NRS
27 49.375(2)-(3).
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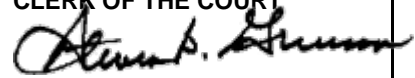
CERTIFICATE OF ELECTRONIC TRANSMISSION

I hereby certify that service of the above and foregoing was made this 2nd day of August, 2019, by electronic transmission to:

NICHOLAS WOOLDRIDGE
nicholas@wooldridgelawlv.com

BY /s/ Stephanie Johnson
Secretary for the District Attorney's Office

17F07976A/JG/saj/MVU-GCU



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Attorney for Brown

DISTRICT COURT

CLARK COUNTY, NEVADA

STATE OF NEVADA,)	CASE NO. C -17-326247-1
	)	DEPT. NO. 21
Plaintiff,)	
)	
vs.)	
)	
LARRY DECORLEON BROWN,)	
ID #8376788)	
)	
Defendant.)	
_____)	

SUPPLEMENT TO NOTICE OF DEFENDANT'S EXPERT WITNESSES

TO: THE STATE OF NEVADA, Plaintiff, and

TO: STEVEN B. WOLFSON, District Attorney, Attorney for Plaintiff

PLEASE TAKE NOTICE of the attached CV of experts George Schiro and Larry Smith to supplement the Notice of Defendant's Expert Witnesses that was filed on August 2, 2019.

DATED this 7th day of August, 2019.

RESPECTFULLY SUBMITTED:

/s/ MONICA R. TRUJILLO

MONICA R. TRUJILLO
Attorney for Brown

000553

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of the above Supplement to Notice of Defendant's Expert
Witnesses, was made on August 7, 2019, by Electronic Filing to:

DISTRICT ATTORNEY'S OFFICE
email: motions@clarkcountyda.com

/s/ Elizabeth (Lisa) Araiza

Legal Secretary
Special Public Defender

GEORGE SCHIRO, MS, F-ABC
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Web: www.forensicscienceresources.com

EDUCATION

Master of Science, Industrial Chemistry - Forensic Science

Including five hours of credit in Forensic DNA Analysis of Biological Materials and accompanying lab course, three hours of credit in Quality Assurance and Bioinformatics, three hours of credit in Biochemistry, two hours of credit in Forensic Analysis of DNA Data, and three hours of credit in Experimental Statistics
University of Central Florida, Orlando, FL.

Bachelor of Science, Microbiology

Including three hours of credit in Genetics
Louisiana State University, Baton Rouge, La.

PROFESSIONAL CERTIFICATION

Certificate of Professional Competency in Criminalistics, Fellow of the American Board of Criminalistics, Specialty Area: Molecular Biology

PROFESSIONAL TRAINING ATTENDED

March 2017	“Cognitive Bias in Forensic DNA Analysis” Instructor: Dr. Itiel Dror, Association of Forensic DNA Analysts and Administrators Winter Meeting, Austin, TX
October 2016	“Y-STR Analysis and Typing and Interpreting Y-STR Evidence” Instructors: Ann Marie Gross and Dr. Taryn Hall, Midwestern Association of Forensic Scientists Meeting, Branson, MO
June 2013	“Basic TrueAllele® Casework Science and Software” Instructor: Cybergenetics, Web based course, New Iberia, LA

March 2011	“2011 Forensic Symposium – Forensic Examination & Crime Scene Processing” – Instructors: George Schiro, Jeff Branyon, Natasha Neel, Joseph Morgan, and Mathew Simon, North Georgia College & State University, Dahlonega, GA
October 2010	“21 st International Symposium on Human Identification” – Instructors: various, San Antonio, TX
October 2010	“Current Views & Applications of Low Copy Number Analysis Workshop” – Instructors: various, San Antonio, TX
March 2010	“2010 Forensic Symposium – Advanced Death Investigation” – Instructors: Dr. Karen Sullivan, Dennis McGowan, George Schiro, Rae Wooten, Dr. Richard Weems, and Dr. Mark Guilbeau, North Georgia College & State University, Dahlonega, GA
February 2010	“ISO 17025 and Audit Preparation” – Instructor: David Epstein, Forensic Quality Services, New Iberia, LA
August 2009	“Actual Innocence: Establishing Innocence or Guilt, Forensic Science Friend or Foe to the Criminal Justice System” – Instructors: various, The Center for American and International Law, Plano, TX
June 2009	“Digital Photography for Law Enforcement” – Instructors: Donnie Barker and Joe Russo, Institute of Police Technology and Management, Lafayette, LA
March 2008	“Forensic Symposium 2008 – The Investigation of Sex Crimes and Deviant Behavior” – Instructors: Roy Hazelwood, George Schiro, Dr. Brent Paterline, Jeff D. Branyon, Tim Relph, and Dr. Daniel J. Sheridan, North Georgia College & State University, Dahlonega, GA
February 2008	“Conference on Crimes Against Women” – Instructors: various, Dallas, TX
October 2007	“Integrity, Character, and Ethics in Forensic Science” – Instructor: Dan B. Gunnell, Louisiana Association of Forensic Scientists (LAFS) Fall 2007 Meeting, Baton Rouge, LA
February 2007	“Anatomy of a Wrongful Conviction: A Multidisciplinary Examination of the Ray Krone Case” – Co-chairmen: George Schiro and Thomas Streed, American Academy of Forensic Sciences Meeting, San Antonio, TX

February 2006	“Solving the South Louisiana Serial Killer Case – New Approaches Blended With Older Trusted Techniques” Co-chairmen: George Schiro and Ray Wickenheiser, American Academy of Forensic Sciences (AAFS) Meeting, Seattle, WA
December 2004	“National Forensic Science Technology Center (NFSTC) Auditor Workshop” – Instructors: Mark Nelson, John Wegel, Richard A. Guerreri, and Heather Subert
June 2003	“CODIS v5.6 Software Training” – Instructor: Carla Heron, Baton Rouge, LA
May 2003	"DNA Auditor Training" - Instructors: Richard A. Guerreri and Anja Einseln, Austin, TX
April 2003	“Statistical Analysis of Forensic DNA Evidence” - Instructor: Dr. George Carmody, Harvey, LA
January 2002	“Association of Forensic DNA Analysts and Administrators (AFDAA) Workshops” - Instructors: S. Cribari, Dr. T. Wang, and R. Wickenheiser, Austin, TX
March 2001	“Basic Forensic DNA Analysis” - Instructor: Dr. Pat Wojtkiewicz, Baton Rouge, LA
February 2000	DNA Workshop AAFS Meeting, Reno, NV
November 1999	“Advanced AmpF _l STR™ & ABI Prism™ 310 Genetic Analyzer Training” - Instructor: Catherine Caballero, PE Biosystems, Baton Rouge, LA
March 1998	“DNA Typing with STRs - Silver Stain Detection Workshop” - Instructors: Dr. Brent Spoth and Kimberly Huston, Promega Corp., Madison, WI
November 1997	“Laboratory Auditing” - Instructors: Dr. William Tilstone, Richard Lester, and Tony Longhetti, NFSTC Workshop, Baton Rouge, LA
October 1997	“Forensic Microscopy” - Instructor: Gary Laughlin, McCrone Research Institute, La. State Police Training Academy, Baton Rouge, LA
September 1997	“Presenting DNA Statistics in Court” - Instructors: Dr. Bruce Weir and Dr. George Carmody, Promega Symposium, Scottsdale, AZ

August 1997	“Forensic DNA Analysis” - Instructors: Pat Wojtkiewicz and Michelle Gaines, North La. Crime Lab, Shreveport, LA
February 1997	DNA Workshop AAFS Meeting, New York, NY
November 1996	“Forensic DNA Testing” - Instructors: Dr. Jim Karam and Dr. Sudhir Sinha, Tulane University Medical Center, New Orleans, LA
August 1996	“Bloodstain Pattern Analysis and Crime Scene Documentation” Instructors: Paulette Sutton, Steven Symes, and Lisa Elrod North La. Crime Lab, Shreveport, LA
June 1996	“Introduction to Forensic Fiber Microscopy” - Instructor: Skip Palenik Acadiana Crime Lab, New Iberia, LA
February 1996	DNA Workshop AAFS Meeting, Nashville, TN
July 1995	“Personality Profiling and Crime Scene Assessment” - Instructors: Roy Hazelwood and Robert Ressler, Loyola University, New Orleans, LA
June 1993	“Basic Forensic Serology” FBI Academy, Quantico, VA
May 1993	DNA Workshop - Instructor: Anne Montgomery, GenTest Laboratories Southern Association of Forensic Scientists (SAFS) Spring Meeting, Savannah, GA
March 1993	Attended the Second International Symposium on the Forensic Aspects of DNA Analysis, FBI Academy, Quantico, VA
September 1990	“Introduction to Human Immunoglobulin Allotyping” - Instructor: Dr. Moses Schanfield, AGTC, La. State Police Crime Lab, Baton Rouge, LA
July 1989	Bone Grouping Techniques Workshop - Instructor: Dr. Robert Gaensslen and Dr. Henry Lee, University of New Haven, New Haven, CT
June 1989	Attended the International Symposium on the Forensic Aspects of DNA Analysis, FBI Academy, Quantico, VA
September 1988	DNA Workshop SAFS Fall Meeting, Clearwater, FL
June 1988	“Non-Isotopic Detection of DNA Polymorphisms” - Instructor: Dale Dykes, AGTC, North La. Crime Lab, Shreveport, LA

June 1988	“Microscopy of Hairs” - Instructor: Skip Palenik North La. Crime Lab, Shreveport, LA
April 1988	“Analysis of Footwear and Tire Evidence” - Instructors: Max Courtney and Ed Hueske, North La. Crime Lab, Shreveport, LA
September 1987	Introduction to Forensic Genetics Workshop - Instructor: Dr. Moses Schanfield, SAFS Fall Meeting, Atlanta, GA
March 1987	Isoelectric Focusing Workshop SAFS/SWAFS/SAT Combined Spring Meeting, Baton Rouge, LA
June 1986	Attended the International Symposium on Forensic Immunology FBI Academy, Quantico, VA
February 1986	“Collection and Preservation of Physical Evidence” - Instructor: Dale Moreau, FBI School, Metairie, LA
August 1985	“Atomic Absorption in Determining Gunshot Residues” FBI Academy, Quantico, VA
April 1985	“Arson Accelerant Detection Course” - Instructors: Rick Tontarski, Mary Lou Fultz, and Rick Stroebe, Bureau of Alcohol, Tobacco, and Firearms (BATF) Lab, Rockville, MD
July 1984	“Questioned Documents for the Investigator” - Instructor: Dale Moreau FBI School, Baton Rouge, LA

PROFESSIONAL EXPERIENCE

2013-present Scales Biological Laboratory, Inc. – Brandon, MS
An ANAB ISO 17025 accredited laboratory

Currently employed as Lab Director. Employed as DNA Technical Leader - Forensic Scientist from 2013-2016. Duties include managing the lab, incorporating the FBI Quality Assurance Standards for Forensic DNA Testing Laboratories, conducting DNA analysis using the 13 STR core loci and Y STR in casework, DNA research, footwear examination, and latent print development. Qualified as an expert over 200 times in 31 Louisiana parish courts, ten Mississippi county courts, Pope County Arkansas, San Bernardino County California, Escambia and Lee Counties Florida, St. Louis County Missouri, Clark County Nevada, Bernalillo County New Mexico, Bronx and Queens Counties New York, Shelby County Tennessee, Bexar and Harris Counties Texas, Cabell County West Virginia, Campbell County Wyoming, federal court (La. Middle, Nebraska, and Tennessee Middle districts), U.S. court-martial (Luke Air Force Base), and two Louisiana city courts. Has qualified as an expert in the following areas: latent fingerprint

development; serology; crime scene investigation; forensic science; trajectory reconstruction; shoeprint identification; crime scene reconstruction; bloodstain pattern analysis; DNA analysis; fracture match analysis; and hair comparison. Has also consulted on cases in 31 states, for the United States Army and Air Force, and in New Zealand, Panama, and the United Kingdom. Worked over 4000 cases. From 2004-2015, independently contracted DNA technical auditor with NFSTC and Forensic Quality Services. Volunteer "on call" scientist for the American Association for the Advancement of Science.

2002 - 2013 Acadiana Criminalistics Laboratory – New Iberia, LA
An ANSI-ASQ NAB/FQS ISO 17025 accredited laboratory

Employed as a Forensic Chemist - DNA Technical Leader. Duties included incorporating the FBI Quality Assurance Standards for Forensic DNA Testing Laboratories, accountability for the technical operations of the lab's biology section, conducting DNA analysis using the 13 STR core loci and Y STR in casework, DNA research, forensic science training, and crime scene investigation. Independently contracted DNA technical auditor with NFSTC and Forensic Quality Services. Contracted DNA Technical Leader to the Southwest La. Crime Lab in Lake Charles, LA from 2005-2008. Was a charter member of the Lafayette Parish Sexual Assault Response Team (SART). Was also a member of the La. Foundation Against Sexual Assault (LAFASA) Training Team. Volunteer "on call" scientist for the American Association for the Advancement of Science.

1988 - 2001 Louisiana State Police Crime Lab - Baton Rouge, LA
An ASCLD-LAB accredited laboratory

Employed as a Forensic Scientist 2. Developed, designed, equipped, validated, and trained personnel for the first forensic DNA lab at the State Police Crime Lab. Duties included incorporating the DNA Advisory Board (DAB) standards and conducting DNA analysis using the 13 STR core loci in casework. Duties have also included setting up and developing methods for the analysis of blood and body fluids using biological, chemical, microscopic, immunological, biochemical, electrophoretic, and isoelectric focusing techniques; applying these methods to criminal investigations; and testifying to the results in court. Additional duties included crime scene investigation/reconstruction; latent print development; fracture match comparison; projectile trajectory determination; shoeprint comparison; hair examination; blood spatter interpretation; and training personnel in various aspects of forensic science.

1984 – 1988 Jefferson Parish Sheriff's Office Crime Lab – Metairie, LA

Employed as Criminalist (I). From 11/85 to 4/88 duties included collection and analysis of blood, body fluids, hairs, and fibers using microscopic, immunological, biochemical, and chemical techniques. Also testified to the results of these analyses in court. Trained under Senior Forensic Biologist Joseph Warren. From 6/84 to 10/85 duties included

marijuana analysis, arson analysis, gunshot residue detection, hit and run paint analysis, and development of latent fingerprints. Trained under Lab Director Ron Singer.

PROFESSIONAL PAPERS AND PRESENTATIONS

“A Cold Hit...Relatively Speaking” presented at the International Association of Forensic Sciences 18th Triennial Meeting in New Orleans, LA, July 25, 2008. Also presented as “We Are Family...the Key to Solving a Series of Rapes” at the 2008 Southern Association of Forensic Scientists Meeting in Shreveport, LA.

“Criminalistics Errors, Omissions, Problems, and Ethical Issues” presented as part of the “Anatomy of a Wrongful Conviction: A Multidisciplinary Examination of the Ray Krone Case” workshop at the 2007 AAFS Meeting in San Antonio, TX; as part of the LAFS Fall 2007 Meeting in Baton Rouge, LA; and as part of “Actual Innocence: Establishing Innocence or Guilt, Forensic Science Friend or Foe to the Criminal Justice System” at The Center for American and International Law in Plano, TX.

“Using the Quality Assurance Standards for Forensic DNA Testing Laboratories to Distinguish the Unqualified Forensic DNA Experts From the Qualified Forensic DNA Experts” presented at the 2007 AAFS Meeting in San Antonio, TX and at the AFDAA 2007 Winter Meeting in Austin, TX.

“Investigative Uses of DNA Databases” presented as part of the “Solving the South Louisiana Serial Killer Case – New Approaches Blended With Older Trusted Techniques” workshop at the 2006 AAFS Meeting in Seattle, WA.

“Trace DNA Analysis: Casework Experience” presented as a poster at the 2004 AAFS Meeting in Dallas, TX and as a talk at the July 2003 AFDAA Meeting in Austin, TX. Also presented as “Interesting Casework Using AmpFISTR® Profiler Plus® and COfiler® Kits” at Applied Biosystems’ “Future Trends in Forensic DNA Technology,” September, 2003 in New Orleans, LA.

“Extraction and Quantification of Human Deoxyribonucleic Acid, and the Amplification of Human Short Tandem Repeats and a Sex Identification Marker from Fly Larvae Found on Decomposing Tissue” a thesis to fulfill one of the Master of Science requirements. Successfully defended on July 13, 2001 at the University of Central Florida, Orlando, Florida. Presented at the 2004 AAFS Meeting in Dallas, TX, the Spring 2002 La. Association of Forensic Scientists (LAFS) Meeting, and the January 2003 AFDAA Meeting in Austin, TX.

“Administrative Policies Dealing with Crime Scene Operations” published in the Spring 1999 issue of *Southern Lawman Magazine*.

“Shooting Reconstruction - When the Bullet Hits the Bone” presented at the 10th Anniversary Convention of the La. Private Investigators Association (LPIA)/National Association of Legal Investigators (NALI) Region IV Seminar, September 13, 1997, New Orleans, LA. Licensed as

continuing education for Texas Private Investigators by the Texas Board of Private Investigators and Private Security Agencies. Published in the Fall 1998 issue of *Southern Lawman Magazine*.

“Using Videotape to Document Physical Evidence” presented at the Seventh Annual Convention of the LPIA/NALI Region IV Seminar, August 16, 1996, New Orleans, LA. Licensed as continuing education for Texas Private Investigators by the Texas Board of Private Investigators and Private Security Agencies. Published in April 1997 issue of *The LPIA Journal*. An edited version was published in the Winter 1998 issue of *Southern Lawman Magazine*.

“Collection and Preservation of Blood Evidence from Crime Scenes” distributed as part of a blood collection workshop held at the Jefferson Parish Coroner’s Eighth Annual Death Investigation Conference, November 17, 1995, Harahan, LA. Presented as continuing legal education by the La. Bar Association. Electronically published on various websites. Published in the September/October 1997 issue of the *Journal of Forensic Identification*. Referenced in the 7th edition of *Techniques of Crime Scene Investigation* by Barry A.J. Fisher.

“Collection and Preservation of Evidence” presented at La. Foundation Against Sexual Assault/La. District Attorneys Association sponsored conference, “Meeting the Challenge: Investigation and Prosecution of Sex Crimes,” March 3, 1994, Lafayette, LA. Presented as continuing legal education by the La. Bar Association. Published in the *Forensic Medicine Sourcebook*. Electronically published on various websites. Also published in *Nanogram*, the official publication of LAFS. A modified version of the paper was presented at the Sixth Annual Convention of the LPIA, August 19, 1995, New Orleans, LA; the NALI Region IV Continuing Education Seminar, March 9, 1996, Biloxi, MS; and the Texas Association of Licensed Investigators (TALI) Winter Seminar, February 15, 1997, Addison, TX. Published in the July/August 1996 issue and the September/October 1996 issue of *The Texas Investigator*. Electronically published on the World Wide Web at TALI’s Web Page (<http://pimall.com/tali/evidence.html>). Published in the May 2001 issue of *The Informant*, the official publication of the Professional Private Investigators Association of Colorado. An updated version was presented at La. Foundation Against Sexual Assault/La. District Attorneys Association sponsored conference, “Collaborating to STOP Violence Against Women Conference,” March 12, 2003, Lafayette, LA.

“The Effects of Fecal Contamination on Phosphoglucomutase Subtyping” presented at the 1989 AAFS Meeting held in Las Vegas, Nevada and at the Fall, 1987 SAFS Meeting held in Atlanta, Georgia.

“A Report on Gamma Marker (Gm) Antigen Typing” presented at the Fall, 1986 SAFS Meeting held in Auburn, Alabama and at the Summer, 1986 LAFS Meeting.

“An Improved Method of Glyoxylase I Analysis” co-presented with Joseph Warren at the Summer, 1986 LAFS Meeting.

ARTICLES PUBLISHED

“Forensic Science and Crime Scene Investigation: Past, Present, and Future” published in the Winter 2000 issue of *American Lawman Magazine*.

“New Crime Scenes – Same Old Problems” published in the Winter 1999 issue of *Southern Lawman Magazine*.

“Shoeprint Evidence: Trampled Underfoot” published in the Fall 1999 issue of *Southern Lawman Magazine*.

“LASCI: A Model Organization” published in the Summer 1999 issue of *Southern Lawman Magazine*.

“Applications of Forensic Science Analysis to Private Investigation” published in the July 1999 issue of *The LPIA Journal*.

TRAINING CONDUCTED

Has conducted training at the following seminars and has trained the following organizations and agencies in crime scene investigation, forensic science, and/or the collection and preservation of evidence: Fourth and Seventh International Conferences of Legal Medicine held in Panama City, Panama; U.S. State Department’s Anti-Terrorism Assistance Program Police Executive Seminar; Intellenet 27th Annual Conference; AAFS; National Association of Criminal Defense Lawyers; National Defender Investigator Association; American Chemical Society; AFDAA; Forensic Science Education Conference; SAFS; Southern Institute of Forensic Science; University of Nevada Las Vegas Biotechnology Center; Professional Private Investigators Association of Colorado; Kansas Association of Licensed Investigators; Private Investigator Mid-America Regional Conference; Indiana Coroner’s Training Board; Public Defender's Association of Iowa; DNA Security, Inc. Open House; South Carolina Coroners Association; Forensic Symposia 2008, 2010 and 2011, North Georgia College & State University, Dahlonega, GA; Palm Bay Police Dept., Palm Bay, Florida; CGEN 5200, Expert Testimony in Forensic Science, University of North Texas Health Science Center, Ft. Worth, TX; ENHS 6250, Emergency Response to Disasters and Terrorism, LSU Health Science Center, New Orleans, LA; University of Southern Mississippi Forensic Science Society; Forensic Investigation Research & Education; Tennessee Association of Investigators; Mississippi Society for Medical Technology; Mississippi Death Investigation Course for Coroners and Deputy Coroners; La. Homicide Investigators Association (LHIA); La. State Coroners’ Association; Louisiana Collaborative, Balancing Forensics and Donation; Jefferson Parish Coroner’s Office Eighth Annual Death Investigation Conference; Southern University Law Center; La. State University Chemistry Department Seminar; Chemistry 105, Southeastern Louisiana University; University of Louisiana at Lafayette Biology Club; Louisiana Division of the International Association for Identification; U.S. Department of Justice La. Middle District Law Enforcement Coordinating Committee Crime Scene Investigation Workshop; La. State University’s Law Enforcement Training Program Scientific Crime Investigator’s Institute; La. State University’s Continuing Law Enforcement Education School; La. State Police Training Academy’s Advanced Forensic Investigation School; La.

District Attorneys Association; La. Southeast Chiefs of Police Association; Acadiana Law Enforcement Training Academy; Caddo Parish Sheriff's Office; Mystery Writers of America - Florida Chapter; NALI Continuing Education Seminars; TALI; Lafayette Parish Sheriff's Office; Iberia Parish Sheriff's Office; Jefferson Parish Sheriff's Office Training Academy; Kenner Police Dept.; St. Charles Parish Sheriff's Office; Terrebonne Parish Sheriff's Office; East Feliciana Parish Sheriff's Office; East Baton Rouge Parish Sheriff's Office; Vermilion Parish Sheriff's Office; West Baton Rouge Parish Sheriff's Office; Washington Parish Rape Crisis Center Volunteers; Mississippi Professional Investigators Association; East Baton Rouge Stop Rape Crisis Center Volunteer Physicians; Stuller Place Sexual Assault Response Center Volunteers; Evangeline and St. Landry Parish Rape Crisis Volunteers; Tri-Parish Rape Crisis Volunteer Escorts; LPIA; La. Foundation Against Sexual Assault; Louisiana Society for Medical Technology; Baton Rouge Society for Medical Technology; Baton Rouge Police Dept. Sex Crimes Unit, Crime Scene Unit, and Traffic Homicide Unit; Violence Against Women Conference; Family Focus Regional Conference; Our Lady of the Lake Hospital Emergency Room Personnel; Sexual Assault: Effective Law Enforcement Response Seminar; La. State Police Training Academy; La. Association of Scientific Crime Investigators (LASCI); LAFS; and the Basic Police Academy (La. Probation and Parole, La. Dept. of Public Safety, La. Motor Vehicle Police, and La. Dept of Wildlife and Fisheries).

PROFESSIONAL ORGANIZATIONS

International Society for Forensic Genetics
International Association of Bloodstain Pattern Analysts (Full Member)
American Board of Criminalistics (Molecular Biology Fellow)
AAFS (Fellow)
AFDAA (Fellow, Chairperson 2004-2005)
Association for Crime Scene Reconstruction
American Investigative Society of Cold Cases Consulting Committee
LAFS (Editor of *Nanogram*, the official publication of LAFS - July 1994 to May 1998, President - 1990, Vice President - 1989)

OTHER ACCOMPLISHMENTS

Analyzed evidence and issued a report in the 1991 La. State Police investigation of the September 8, 1935 assassination of U. S. Senator Huey P. Long.

Contributing author to the *Forensic Medicine Sourcebook*, edited by Annemarie S. Muth.

One of several technical advisors to the non-fiction books *Blood and DNA Evidence*, *Crime-Solving Science Experiments* by Kenneth G. Rainis, *O.J. Unmasked*, *The Trial*, *The Truth*, and *the Media* by M.L.Rantala, and *Pocket Partner* by Dennis Evers, Mary Miller, and Thomas Glover.

One of several technical advisors to the fictional books *Crusader's Cross* by James Lee Burke, *Company Man* by Joseph Finder, *Savage Art* by Danielle Girard, *The King of Plagues: A Joe*

Ledger Novel by Jonathan Maberry, and *Bones in the Backyard* by Florence Clowes and Lois J. Blackburn.

Featured on the “Without a Trace” and “Through the Camera's Eye” episodes of *The New Detectives* television show that first aired on the Discovery Channel, May 27, 1997 and June 11, 2002.

Featured on the “No Safe Place” episode of *Forensic Files* that first aired on Court TV, January 3, 2007.

Featured on the “Hung Up” episode of *Extreme Forensics* that first aired on the Investigation Discovery Channel, October 13, 2008.

Featured on the “Knock, Knock, You’re Dead” episode of *Forensic Factor* that first aired on the Discovery Channel Canada, April 16, 2009.

Featured on the “Robyn Davis” episode of *Snapped* that first aired on Oxygen, September 21, 2014.

Recipient of the second Young Forensic Scientist Award given by *Scientific Sleuthing Review*.

Formerly a columnist for *Southern Lawman Magazine*.

Authored and managed two federal grants that awarded the La. State Police Crime Lab \$147,000 and \$237,000 to set up and develop a DNA laboratory.

A member of the La. State Police Crime Lab’s ASCLD-LAB accreditation preparation committee.

Featured in the books *The Bone Lady: Life as a Forensic Anthropologist* by Mary Manhein, *Rope Burns* by Robert Scott, *Smilin Acres: The Angry Victim* by Chester Pritchett, *An Invisible Man* by Stephanie A. Stanley, *Soft Targets, A Woman’s Guide to Survival* by Detective Michael L. Varnado, *Kirstin Blaise Lobato’s Unreasonable Conviction* by Hans Sherrer, *Zombie CSU, The Forensics of the Living Dead* by Jonathan Maberry, *Science Fair Winners: Crime Scene Science* by Karen Romano Young and David Goldin, *The Holy Ghost: He is the Blood of Jesus* by Derick Mack Virgil, *Kirstin Blaise Lobato vs. State of Nevada* compiled by Hans Sherrer and Michelle Ravell, *The Most Dangerous Animal of All* by Gary L. Stewart and Susan Mustafa, and *Unsolved No More* by Kenneth L. Mains.

Featured on an episode of *Split Screen* that first aired on the Independent Film Channel, May 31, 1999.

Featured as a character on the “Kirstin Lobato Case” episode of *Guilty or Innocent?* that first aired on the Discovery Channel, April 1, 2005.

On March 14, 2011, delivered the Fallen Warrior Memorial Lecture in memory of North Georgia College & State University (NGC&SU) alumni LT Earle John Bemis and CPT Jeremy Alan

Chandler. This was the first Fallen Warrior Memorial Lecture and it was presented at the 2011 Forensics Symposium, NGC&SU, Dahlonega, GA.

Nevada Digital Forensics ***(<http://nvdigitalforensics.com/>)***

Las Vegas Computer and Cell phone Forensics - PI#1883A

Nevada Digital Forensics

Larry Smith

6895 E.Lake Mead Blvd. suite A6-131

Las Vegas, Nevada 89156

Phone: 702-600-2138

NDF Blog

Larry Smith is a 24 year veteran of the Las Vegas Police Department retiring in 2012. He has worked in various details of the LVMPD including Patrol, Gang Unit, Community Policing, Domestic Violence detail, Physical Abuse Detail, and the Sexual Abuse Detail. In early 1999 he started the Cyber Crimes Detail of the Las Vegas Metro Police department and assisted in the creation of the Internet Crimes Against Children Detail (ICAC) as well as the FBI / LVMPD Innocent Image task force.

In January 2003 the LVMPD Cyber Crimes Detail, and myself, joined forces with the United States Secret Service's Electronic Crimes Task Force. I assisted in the creation of the Electronic Crimes Detail as a Data Recovery Specialist.

A Data Recovery Specialist uses special tools, techniques, and software programs to make forensically sound copies of suspect hard drives and related media and analyze those copies for evidence of a crime or that no proof that a crime had occurred.

I have received the following training:

I was promoted to Detective and assigned to the Physical Abuse Detail from 11-1996 to 6-1997. The Physical Abuse Detail investigates physically abused children and the elderly.

I then was reassigned to the Sexual Abuse Detail in June 1997 until August of 2000. While assigned to the Sexual Abuse Detail I assisted in the creation of the Internet Crimes Against Children Detail. The main mission if the ICAC detail was the apprehension of sex offenders when their target was children and their tool was the Internet and/or a computer. This included all child pornography cases.

My last assignment was in the USSS Electronic Crimes Task Force and the LVMPD Computer Forensics Unit, (2003 - 2012) which consisted of investigating any crime where a computer, PDA, or cell phone was used to facilitate that crime. These crimes include Homeland Defense issues, Homicides, Internet Stalking, Robberies, Network Intrusions, Kidnappings, Email and Online Fraud, Child Pornography, Luring Children using Computers, etc.

Upon retiring in Sept. 2012 Larry obtained his Private Investigators license (#1751A, #1883A) and started Nevada Digital Forensics.

Larry has received the following training and certifications.

SEXUAL ABUSE:

12-02-89	Child Sexual Exploitation	6 hrs
09-09-92	Investigator Development	14 hrs
09-27-93	"Reid" Interview Techniques	24 hrs
08-17-94	Advanced Investigators School	22 hrs
05-09-95	Sexual Assault Seminar	4 hrs
01-29-96	Communication Skills	7 hrs
01-27-97	Responding to Child Maltreatment	31 hrs
03-06-97	Serious Incident Investigations	16 hrs
05-20-97	Shaken Baby Syndrome Investigations	15 hrs
06-20-97	Child Abuse-Train the Trainers	40 hrs
09-03-97	6 th Annual Western States Sexual Assault Seminar	20 hrs
12-10-97	Child Interview Specialist Training	12 hrs

01-12-98	Child Sexual Exploitation Investigations	40 hrs
05-19-98	Investigative Profiles of Sexually Deviant Crimes	7 hrs
06-18-98	Female Sex Offender Training	6 hrs
09-09-98	7 th Annual Western States Sexual Assault Seminar	20 hrs
For a total of 284 hours		

COMPUTER/INTERNET:

09/95-11/96	Choice Computers as an apprentice technician	200+hrs
11-03-97	Computer Seizure Workshop	40 hrs
01-14-99	FBI Innocent Images (Internet Child Porn)	12 hrs
08-09-99	Protecting Children Online	36 hrs
12-13-99	Innocent Images Training	40 hrs
01-25-00	Encase Training	24 hrs
04-17-00	Data Recovery and Analysis	36 hrs
05-01-00	International Assoc. of Comp. Invest. Specialists	80 hrs
12-05-00	Internet Crimes Against Children conference	24 hrs
01-09-00	Computer forensics exams using Encase	32 hrs
09-06-00	9 th Annual Western States Sexual Assault Seminar	24 hrs
09-05-01	10 th Annual Western States Sexual Assault Seminar	24 hrs
02-26-01	AccessData Forensic Exams and Password Retrieval	32 hrs
09-14-01	Encase Users Conference	8 hrs
10-22-01	NTI Computer Forensics Training	36 hrs
12-09-01	2001 ICAC Training Conference	20 hrs
03-19-02	Encase Advanced training	32 hrs
04-12-02	National White Collar Crime Data Recovery	36 hrs
09-23-02	NIPC Networks/System Security for Agents	80 hrs
10-15-02	Investigating Cyber Attacks	32 hrs
10-28-02	Beginning Unix for Investigators	40 hrs
10-28-02	Advanced Unix for Investigators	40 hrs
11-01-02	Basic Solaris 8 system administration	32 hrs
11-22-02	Advanced Solaris Administration	32 hrs
12-13-02	Unix for Investigators Part 3	40 hrs
02-18-03	Encase 4 Intermediate	32 hrs
03-03-03	Basic Linux/Basic SMART Training	40 hrs
04-28-03	LPI Linux 101	40 hrs
05-12-03	LPI Linux 102	40 hrs
05-26-03	Red Hat Linux Essentials 1-4	32 hrs
06-09-03	Red Hat RH133 Linux System Administration	32 hrs
06-17-03	Red Hat RH253 Linux Networking-Security	32 hrs
06-23-03	ADRA Advanced Data Recovery	32 hrs
08-18-03	Linux Professional Institute Boot Camp	77 hrs
09-25-03	Hard Drive Analysis, FAT, NT, Linux	21 hrs
09-23-03	FAT/Linux/NTFS File System Review	21 hrs
11-14-03	A+ Certification Operating Systems	40 hrs

01-12-04	SMART for Linux Intermediate/Advanced	32 hrs
04-19-04	Macintosh Forensics Course	40 hrs
05-03-04	Ethical Hacking Course	40 hrs
07-13-04	Encase Internet and Email Examinations	32 hrs
08-31-04	Apple Macintosh Server Essentials	32 hrs
03-09-04	Mac OS Server Essentials 10.3	32 hrs
01-26-05	Hidden Data Communications	8 hrs
02-08-05	Encase Network Intrusion Examinations	32 hrs
06-06-05	TCP/IP and Network Intrusions	32 hrs
09-19-05	Cell Phone Forensics, MFI	32 hrs
11-12-05	Advanced BitPim Cell Phone Forensics	10 hrs
11-28-05	Stingray/Kingfish training, Harris Corp	32 hrs
12-16-05	Network Hacking (Synerity Systems)	35 hrs
1-10-06	DOD Cyber Crimes Conference	32 hrs
02-02-06	Mac OSX Server Training v10.4	32 hrs
05-25-06	Wireless Communications	40 hrs
6-27-06	Encase V5 Advanced Forensics	32 hrs
8-31-06	Network Forensics-DefCon edition	32 hrs
01-23-07	E-fence live incident response course (Helix)	24 hrs
03-02-07	Encase Computer Forensics II	32 hrs
04-15-07	Handheld Forensics	32 hrs
08-02-07	Advanced Hacking Techniques - Synerity	32 hrs
10-11-07	Access Data Windows Forensic	21 hrs
10-12-07	Access Data Vista Forensics	07 hrs
11-07	Paraben Advanced Cell Phone Seizure	32 hrs
11-16-07	ICAC Investigation of Cellular Telephones (SEARCH)	32 hrs
04-11-08	Wireless LAN (Synerity)	32 hrs
04-24-08	DC Live Audio Forensics	32 hrs
08-07-08	Workstation Examination (DefCon Edition(Synerity))	32 hrs
03-26-09	Windows Forensic Registry (Access Data)	21 hrs
05-15-09	Advanced Cellular Forensic (US Secret Service)	40 hrs
12-13-09	Internet Forensics (Access Data)	21hrs
03-05-10	Mobile Phone Examiner Analysis (Access Data)	7hrs
03-12-10	Bitpim & Cellular Phone Artifacts (access Data)	7hrs
06-04-10	AccessData Oxygen Forensics Suite II	7hrs
06-17-10	AccessData Bootcamp	21hrs
07-27-10	Defcon Preconference Training (Network threats)	15hrs
08-20-10	Accessdata Mobile Forensics Workshop 202	35 hrs
12-08-10	Live Data Acquisition and Analysis Course	16hrs
12-09-10	Windows 7 Forensic Course	8 hrs
01-20-11	Cellular Forensics, Data Recovery, Mobile Spyware	24 hrs
01-24-11	Call Detail Records & GPS Devices	7 hrs
04-08-11	Phone Repair and Chip Off Analysis	40 hrs
05-12-11	SANS Adv. Computer Analysis and Incident Response	36hrs
06-01-11	iOS Forensic Analysis and Lantern Training	16hrs
09-23-11	SANS Mobile Device Forensics	30hrs

10-13-11	Cellebrite UFED Physical Certification	8hrs
10-13-11	Cellebrite UFED Certification	16hrs
04/17-19/12	2012 National Law Enforcement Training on Child Exploitation	22hrs
6/6/12	Techno security Conference, Myrtle Beach	32hrs
3/8/13	Mobile Device Repair + JTAG	32hrs

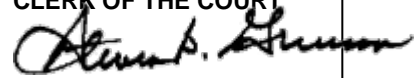
For a Total of 3145 hrs

Community College of Southern Nevada

Summer 1999	CIT106b PC Maintenance and Configuration	3cr
Fall 1999	CIT107b A+ Software	3cr
Spring 2000	Unix Operating System	3cr
Fall 2000	CIT149b Networking Essentials	3cr
Summer 2001	CIT185b Windows 2000 Pro/Server	3cr
Fall 2001	ET249b Cisco Networking Academy	4cr
Spring 2004	Advanced Computer Forensics	3cr
Fall 2006	CIJ198b Encase Forensics	3cr
Fall 2004-2006	Adjunct Professor at CCSN teaching Computer forensics and Advanced Computer Forensics	
Fall 2004	Adjunct Professor at CCSN teaching Investigating Digital Crimes	
11/07- 3/08	Part Time Instructor for Paraben Corp.	
4/2013 - 2014	Part Time Cell Phone Forensics Instructor for High Tech Crime Institute (HTCI)	
9/2013 - Present	Part Time Cell phone Forensics Instructor for Katana Forensics (Lantern Software)	

CERTIFICATIONS:

11/08	Certified Advanced Cell Phone Seizure (Paraben Software)
09/99- 2012	Member of the High Tech Crime Consortium
05/12/00	Certified Electronic Evidence Collection Specialist (IACIS)
07/31/01	Microsoft Certified Professional ID# 2392098
03/08/02	CompTIA Network+ Certification ID # 10275221
04/02/07	ENCE Certification
06-22-10	ACE Certified (AccessData Certified Examiner)
10/13/2011	Cellebrite Certification



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FAX: (702) 455-6273
EMAIL: trujilmr@clarkcountynv.gov
Attorney for Larry Decorleon Brown

DISTRICT COURT

CLARK COUNTY, NEVADA

STATE OF NEVADA,	)	CASE NO. C-17-326247-1
	)	DEPT. NO. 21
Plaintiff,)	
)	
vs.)	
)	
LARRY DECORLEON BROWN,)	
ID 8376788,)	
)	
Defendant.)	
)	

**DEFENDANT LARRY BROWN'S MOTION IN LIMINE TO PRECLUDE
THE STATE FROM PRESENTING DETAILS OF THE CONDITION
OF DECEDENT'S NISSAN ALTIMA LOCATED IN A BUSINESS
COMPLEX AT 7495 AZURE DRIVE AND MOTION TO STRIKE
EXPERTS L. BROWN, H. JARRAD, S. SAUCEDO, AND J. SYPNIEWICZ**

COMES NOW, Defendant Larry Brown, by and through his attorneys, JoNell Thomas, Special Public Defender, and Monica R. Trujillo, Chief Deputy Special Public Defender, and hereby moves this Honorable Court, pursuant to the Sixth and Fourteenth Amendments to the United States Constitution, Article 1, Section 8, of the Nevada Constitution, and applicable state law, to preclude the State from presenting as evidence details about the condition of the Nissan Altima located at 7495 Azure Drive.

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TO: District Attorney, Attorney for Plaintiff

YOU WILL PLEASE TAKE NOTICE that the undersigned will bring on the above and foregoing MOTION on the 20th day of August, 2019 at the hour of 9:30 a.m., or as soon thereafter as counsel may be heard.

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On September 14, 2017, Mr. Brown was arraigned on an Indictment in District Court, Department 3. Mr. Brown entered a plea of Not Guilty and waived his state right to a speedy trial. Thereafter, the State filed a Second Superseding Indictment, adding one count as to Mr. Brown. On October 19, 2017, Mr. Brown again entered a plea of Not Guilty and waived his state right to a speedy trial. On December 19, 2017, this Honorable Court received a Third Superseding Indictment. At that hearing, this Court noted that it did not need to arraign Mr. Brown because there were no charges added, only additional evidence and testimony regarding the charges. At a status check on October 31, 2017, this Court scheduled trial for June 18, 2018. On April 11, 2018, Nicholas Wooldridge filed a Motion to Withdraw as Attorney of Record. This Court granted Mr. Wooldridge's motion on April 24, 2018 and appointed the Special Public Defender's Office. Thereafter on April 26, 2018, the Special Public Defender's Office confirmed as counsel. At a status check on May 8, 2018, counsel informed this Court that while Mr. Wooldridge provided the discovery in his possession, several items were missing. The State agreed to provide counsel with complete discovery as well as agreed that counsel could file an opposition to the instant motion on May 18, 2018.

Mr. Brown is charged by way of Third Superseding Indictment with one count of Conspiracy to Commit Robbery, one count of Robbery with Use of a Deadly Weapon, one count

of Murder with Use of a Deadly Weapon and one count of Ownership or Possession of Firearm by Prohibited Person. Trial is currently scheduled for August 26, 2019.

PERTINENT FACTS

The State alleges that on February 21, 2017, Mr. Brown and Mr. Carter killed Kwame Banks in the parking lot of the Sky Pointe Landing Apartments located at 5850 Sky Pointe Drive. On February 23, 2017, detectives recovered Banks' Nissan Altima in a business complex at 7495 Azure Drive. See Officer's Report, p. 16 (Exhibit A). Because the car appeared to have been set on fire, detectives requested that a crime scene analyst report to the scene. Exhibit A, p. 16. Ewing Tow Stock towed the car to the Las Vegas Metropolitan Police Department CSI Lab. Exhibit A, p. 16. Thereafter, Las Vegas Fire & Rescue (LVFR) Fire Investigators responded to the garage to aid in processing the car. Exhibit A, p. 17. Investigators L. Brown, S. Saucedo, J. Sypniewicz and H. Jarrad examined the interior and exterior of the car. Exhibit A, p. 17. Both Crime Scene Analyst Browning and LVFR J. Sypniewicz photographed and processed evidence from the car. Exhibit A, p. 17. LVFR H. Jarrad authored an Investigative Report associated with this incident. The following items were collected and processed as evidence:

- 1) One sample of charred seat cushion and fabric towel from the right side of the right front seat
- 2) One sample of charred seat cushion and fabric towel from the front side of the left front seat back
- 3) One sample of charred seat cushion and fabric towel from the left rear seat bottom cushion and the left rear seat belt strap of car
- 4) One black beanie soaked with an unknown liquid from the spare wheel well in the trunk
- 5) One grey vehicle floor mat from the left front floorboard
- 6) One red/white Mitchell & Ness Wings flat bill baseball cap from left rear seat
- 7) Four disposable lighters from the center console near the gearshift
- 8) One Swisher Sweets cigarillo wrapper containing a green leafy substance from the inside door to the gas cap
- 9) One possible blood swab with soot from the acceleration pedal
- 10) One possible blood swab with soot from the brake pedal

- 11) One swab of possible DNA from the lip of the Snapple bottle on the right front floorboard
- 12) One swab of possible DNA from the lip of the Arrowhead water bottle under the right front seat
- 13) One swab of possible DNA form the lip of the Dasani water bottle under the right front seat
- 14) One swab of possible DNA from the lip of the Great Value water bottle under the right front seat
- 15) One swab of possible DNA from the mouth of the Gatorade bottle under the right front seat
- 16) One swab of possible DNA from the lip of the Deluge water bottle on the left rear floorboard
- 17) One swab of possible DNA from the lip of the unmarked water bottle on the left rear floorboard

Evidence Impound Report (Exhibit B) pp. 1-2.

From the Reports of Examination received in discovery, it appears that only Items 9 and 10 were examined. Both items were possible blood swabs. According to the report, both yielded negative presumptive blood test results. The Biology/DNA Report of Examination¹ dated September 21, 2017 indicates that the swab obtained from the acceleration pedal (Item 9 above) is consistent with a single female individual. Larry Brown was excluded as a possible contributor. With regard to the swab from the brake pedal (Item 10 above), a DNA profile was not obtained from the swab.

The only Latent Prints Report of Examination² received in this case includes comparisons of two lifts processed from the exterior of the Nissan Altima. One of those lifts had no suitable latent prints. The second lift was identified to the right middle finger of Kwame Banks.

¹ Counsel will provide this Court with a copy of the Report of Examination at the time of the hearing on this motion.

² Counsel will provide this Court with a copy of the Report of Examination at the time of the hearing on this motion.

ARGUMENT

This Court should preclude the State from presenting any information about the condition of the Nissan Altima. Specifically, this Court should preclude any details about the fire in the passenger compartment. To begin, the details of the condition of the car are irrelevant to the instant charges as the State has not charged Mr. Brown with Arson. Only relevant evidence is admissible, and irrelevant evidence is inadmissible. N.R.S. 48.025 (2). Relevant evidence is defined as “evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more or less probable than it would be without the evidence.” N.R.S. 48.015. The specific details do not make it more or less probable that he committed any of the crimes for which he is currently charged.

Furthermore, any suggestion to the jury that Mr. Brown is connected with the burning of the decedent’s car is simply that, an improper suggestion. The forensic evidence outlined above fails to tie Mr. Brown to the car and therefore allowing the State to present testimony that prompts the jurors to make an inference without any proper foundational basis is unfairly prejudicial and will violate Mr. Brown’s right to a fair trial.

Finally, the act of burning another person’s property constitutes a bad act. Bad acts include not only references to prior criminal history, but any acts or irrelevant information that can portray Mr. Brown in a negative light and therefore influence the jury to believe he is a bad person. Evidence of alleged bad acts is irrelevant to the charges against Mr. Brown. Allowing a jury to hear any such evidence is highly prejudicial and that prejudice substantially outweighs any probative value the evidence may have. As such, the evidence is inadmissible.

N.R.S. 48.045 (2) states that evidence of other crimes, wrongs, or acts is inadmissible to prove the character of a person in order to show that he acted in conformity on the day he is alleged to have committed the crime he is on trial for. Mr. Brown should not be required to

1 defend against speculative accusations or suggestions, only the grave charges he is currently
2 facing.

3 If the State desires to introduce evidence of the condition of the car or any other bad act,
4 it is necessary for the Court to hold a Petrocelli hearing wherein the State has the burden of
5 establishing that: (1) the incident is relevant to the crime charged; (2) the act is proven by clear
6 and convincing evidence; and (3) the probative value of the evidence is not substantially
7 outweighed by the danger of unfair prejudice. Tinch v. State, 113 Nev. 1170, 946 P.2d 1061
8 (1997). If the State intends to introduce any such evidence, Mr. Brown requests that this Court
9 hold a hearing outside the presence of the jury to determine if the evidence is properly
10 admissible.
11

12 This Court should preclude the State from presenting any details about the condition of
13 the Nissan Altima to the jury as those details are irrelevant to the instant charges and constitute
14 a bad act. Even if this Court concludes that the details are relevant, reference to them is more
15 prejudicial than probative and should be precluded under N.R.S. 48.035. Because the condition
16 of the car is irrelevant, it follows that this Court should also preclude L. Brown, H. Jarrad, S.
17 Saucedo and J. Sypniewicz from testifying about photographing and processing the Nissan
18 Altima. Precluding the evidence of the condition of the Nissan Altima will ensure that Mr.
19 Brown receives a fair trial.
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Dated: August 9, 2019

/s/ MONICA R. TRUJILLO

CERTIFICATE OF ELECTRONIC FILING

PARTY
STATE OF NEVADA

Dated: 8/9/2019

An employee of the Special Public Defender

EXHIBIT A

-LAS VEGAS METROPOLITAN POLICE DEPARTMENT
OFFICER'S REPORT: HOMICIDEEvent #: 170221-4563Murder WDW - Firearm, Robbery WDW - Firearm

SUBJECT

DIVISION REPORTING: ISD DIVISION OF OCCURRENCE: Patrol NWACDATE & TIME OCCURRED: 02/21/17 @ 2247 hours LOCATION OF OCCURRENCE: 5850 Sky Point Drive Las Vegas, NV 89130NARRATIVE:**Case Detectives:**

Detective Darin Cook PN 5730

Detective Mitch Dosch PN 7907

VICTIM:

Kwame Banks (Decedent)

DOB [REDACTED] ID# [REDACTED]

BMA, 5'8," 180LBS, Black Hair, Brown eyes

LKA: [REDACTED]

PH# [REDACTED]

**SUSPECTS:**

Larry Decorleon Brown

DOB [REDACTED]

BMA, 6'3"," 240LBS, Brown Hair, Brown eyes



Anthony Jerome Carter Aka "POE ATL"

DOB [REDACTED] ID# [REDACTED]

BMA, 6'1," 217LBS, Black Hair, Brown eyes

**VEHICLE:**

Black, 4 Door, Nissan Altima

CA [REDACTED]

VIN# [REDACTED]

RO Kwame Banks

CHARGES:

Murder with Use of a Deadly Weapon-Firearm, and Robbery with Use of a Deadly Weapon-Firearm

Date and Time of Report: 08/16/17 @ 1500 hoursOfficer: Darin Cook P#: 5730Approved By: [Signature] 9125Officer: Mitch Dosch P#: 7907SIGNATURE: [Signature] PN 5730

000580

SYNOPSIS:

On February 21, 2017, at approximately 2247 hours, the LVMPD Communications Center received several 9-1-1 callers who reported a shooting in the parking lot of an apartment complex located at 5850 Sky Pointe Drive in Las Vegas. Patrol officers and emergency medical personnel were dispatched to the scene under LVMPD event 170221-4563. Patrol officers and emergency medical personnel arrived and discovered the body of an adult black male, later identified as Kwame Banks, deceased from an apparent gunshot wound. Patrol officers contacted witnesses, secured the crime scene with yellow crime scene tape and awaited the arrival of homicide personnel. Homicide Detectives and Crime Scene Analyst processed the scene and recovered evidence. Detectives located and interviewed witnesses. Detectives later determined that Larry Brown and Anthony Carter were involved in purchasing marijuana from Kwame Banks. When Banks arrived at the Sky Pointe apartments to sell Carter the marijuana, Brown got into a physical altercation with Banks. During the altercation Banks was shot and killed. Brown and Carter fled the scene and Brown later returned to Georgia. Larry Brown was arrested in Decatur Georgia connection with the murder of Kwame Banks. Anthony Carter was later arrested for Possession of Narcotics with intent to sell and Prohibited Person Possession of a Firearm.

PERSONS AT SCENE**PATROL OFFICERS:**

K. Kim Unit	PN 14855	Unit 1X5 (First Arriving Officer)
J. Weghorst	PN 15391	Unit 1X1 (First Arriving Officer)
SGT J. Benjamin	PN 6964	UNIT 718
R. Tighes	PN 15840	Unit 3X55
R. Warren	PN 15873	Unit 3X11
M. Madland	PN 9978	Unit 3V5
J. Abbott	PN 8872	Unit 1X4
A. Lif	PN 15392	Unit 1X34
M. Cook	PN 8088	Unit 1V44
T. O'Neal	PN 6067	Unit 1V33
A. Quiles	PN 7433	Unit 1V22
S. Witham	PN 4594	Unit 1V11
C. Ralyea	PN 13357	Unit 1DP63
G. Calhoun	PN 6062	Unit 1DP60
Capt. R. Fletcher	PN 4511	Unit 207
K. Hoskins	PN 9303	Unit 3X66

PATROL DETECTIVES:

SGT. Matthew Ruiz	PN 6794	607PD
Detective R. Hall	PN 6756	PD42
Detective J. Motl	PN 7464	PD59
Detective W. Sylva	PN 4080	PD4

INTELLIGENCE DETECTIVES:

SGT A. Burnett	P# 4907	579OC
Detective E. Solano	P# 7588	OC10
Detective R. Moreno	PN 4922	OC7
Detective J. Vance	PN 9004	OC20

CONTINUATION

Event #: 170221-4563

HOMICIDE DETECTIVES:

LT. Dan McGrath	PN 4349	303H
SGT Craig Lousignont	PN 4125	583H
Detective Daniel Long	PN 3969	H1
Detective Fred Merrick	PN 7549	H11
Detective Mitch Dosch	PN 7907	H15
Detective Ryan Jaeger	PN 5587	H24
Detective Darin Cook	PN 5730	H22

CRIME SCENE ANALYST:

P. Schellberg CSA Supervisor	PN 5413	Unit CS5
K. Thomas SCSA	PN 13574	Unit C25
G. Guerrero CSA	PN 15290	Unit C10
W. Speas SCSA	PN 5228	Unit C10

MEDICAL PERSONNEL:

Clark County FD Engine 9
CCFD S Powell
AMR Unit 141
Paramedic Z. Ford
Paramedic S. Montez

CORONER INVESTIGATOR:

Clark County Coroner Investigator
R. Flores PN 368
Case # 17-2101, Tag # 543240
TOD 02/22/17 @ 0455 hours

MORTUARY PERSONNEL:

A. Duncan (Davis Mortuary)
D. Morgan (Davis Mortuary)

PERSONS INTERVIEWED:

Tiffany Seymour (Girlfriend / mother of Banks' children)
DOB [REDACTED]
[REDACTED]

Laquanda Banks (Estrange wife / mother of Banks' children)
DOB [REDACTED]
[REDACTED]

Brandon Kohler
DOB [REDACTED]
[REDACTED]

Aireonte Reed
DOB [REDACTED]
[REDACTED]

Steve Wallace

DOB [REDACTED]
[REDACTED]
[REDACTED]

Dereka Nelson

DOB [REDACTED]
[REDACTED]

Victoria Nordstrom

DOB [REDACTED]
[REDACTED]

Tiffany Necole Carter (Anthony Carter's Ex-Wife)

DOB [REDACTED]
BFA, 5'4", 180LBS, Brown Hair, Brown Eyes
[REDACTED]

Angelisa Katrina Ryder (Larry Brown's Girlfriend)

DOB [REDACTED]
BFA, 5'7", 180LBS, Brown Hair, Brown Eyes
[REDACTED]

Carnell Rick-James Cave (Parking Space [REDACTED])

DOB [REDACTED]
[REDACTED]**HOMICIDE NOTIFICATION AND RESPONSE:**

Homicide personnel and Crime Scene Analyst responded to the scene to assume investigatory responsibility. Detective Cook and Detective Dosch examined the crime scene for evidence and noted the victim's body was located in a parking space under a carport, in front of building [REDACTED]. Evidence at the crime scene consisted of apparent blood, foot impressions in apparent blood, a .40 caliber cartridge case, a black exam glove and a black cloth glove. The victim's pants pockets were pulled out, which suggested a possible robbery. There were three cell phones located in the crime scene. A black LG Samsung cell phone with a cracked screen and apparent blood was located under victim's body. A black Samsung cell phone in a black case was found approximately 10 to 15 feet away from the victim's body in a landscaped area, the landscape area appeared to have been disturbed and suggested a fight took place. The third cell phone, a black cell phone with a cracked screen and apparent blood was found approximately 100' north of victim's body in the parking lot near the main entrance. The phone was in three pieces (phone, battery and battery cover). Just west of the dismantled or broken cell phone was another black exam glove with apparent blood and a \$10.00 bill. All three cell phones were documented and processed for forensic evidence before Detective Cook took possession of them.

DESCRIPTION OF THE CRIME SCENE AT 5850 SKY POINT DRIVE LAS VEGAS, NV 89130**DESCRIPTION OF CRIME SCENE AND VISBLE EVIDENCE:**

Detective Cook and Detective Dosch examined the crime scene for evidence and noted the body was located under the carport in parking space number [REDACTED]. The body was lying in a prone position face down. The victim's head was facing north. The victim's legs were straight and pointed south/southeast the victim's arms were out to the side and bent at the elbow. Evidence at the crime scene consisted of apparent blood, foot impressions in apparent blood, a .40 caliber cartridge case, a black latex glove and a black cloth glove. The victim's pants pockets were pulled out, which suggested the victim was also the victim of a robbery.

SCENE:

The Sky Point apartment complex was located on the east side of Sky Point Drive. Building [REDACTED] was located on the west side of the complex near the main office. Building [REDACTED] is situated north to south in the southwest portion of the complex. Directly north of building [REDACTED] is the main driveway, which allowed vehicles to enter or exit the complex onto Sky Point Drive. The entrance/exit was situated east to west with the exit lane to the north and the entrance lane on the south. A median separated the two lanes. Along the north side of the landscape of the center median in the exit lane, was a torn black-colored exam glove. Northeast of the glove near center of the exit lane was a \$10 bill. A Verizon cell phone broken in pieces with apparent blood was located at the east end of the exit lane, west of the leasing office.

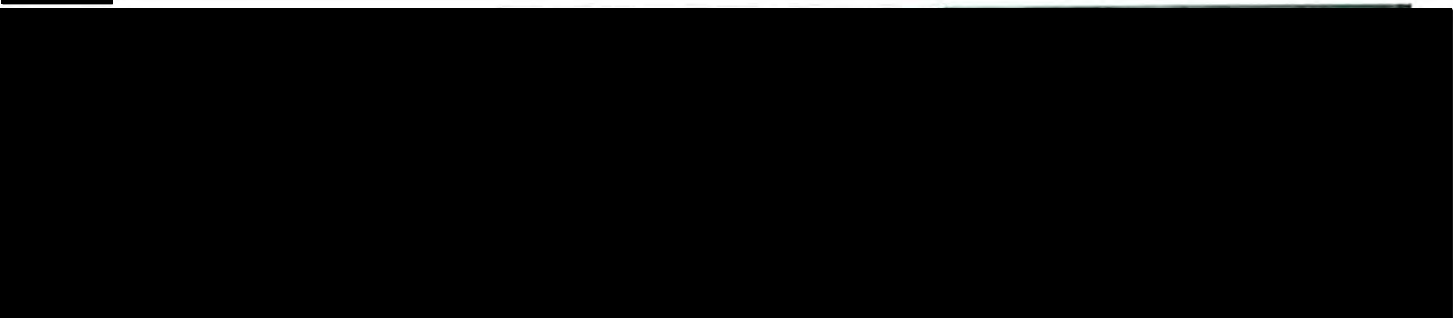
A secondary driveway was located on the south side of building [REDACTED] which allowed vehicles to enter or exit the complex onto Sky Pointe Drive. On the east side of building [REDACTED] was covered parking which ran north and south. Uncovered parking was located on the east side of the driveway near the basketball court and leasing office. A walkway extended north and south on the west side of the cover parking.

Building [REDACTED] is a two story multi-unit building. There are two breezeways located on the north and south ends of the building. There are stairways located in the breezeways to allow access to the second floor apartments. Two walkways extend from the east side of the north breezeway of building [REDACTED]. These two walkways, when combined with the north/south walkway located on the west side of the covered parking spaces create a triangle. The center of the walkways had stone landscaping and a centrally located tree. A Samsung cell phone was located in the rock landscape area, south east of the tree.

The covered parking spaces along the east side of building [REDACTED] were numbered. The northernmost covered parking space was [REDACTED]. The spaces were numbered in decreasing order from north to south. Space [REDACTED] was the southernmost parking space, which was followed by two uncovered parking spaces. South of the uncovered parking spaces was parking space [REDACTED]. South of parking space [REDACTED] the parking spaces decreased in order.

Parking space [REDACTED] was located southeast of the north breezeway of building [REDACTED]. A white 2006 Toyota Solara was parked facing west in covered space [REDACTED]. A Blue, 2008 Suzuki Forenza was parked west in covered parking space [REDACTED]. A red "Nike" sneaker was on the pavement north of the front tire of the Toyota Solara. A black, fabric glove was on the pavement west of the front right passenger tire of the Toyota Solara.

The victim was located on the pavement near the southwest corner of space 308. A cartridge case, bearing the head stamp "Winchester 40 S&W", was on the pavement east of the victim's right hip. A plastic lip balm dispenser was on the pavement east of the victim's right thigh. A black lighter was on the pavement adjacent to his right hip. Along the left side (west) of the victim's torso was a torn piece of black colored exam glove. An apparent bullet hole was observed along the north side of the awning. Areas of drops of apparent blood were observed on the pavement west of the victim's leg and near the pillar located in the southwest corner of space [REDACTED].





An apparent blood trail consisting of a partial footwear impression in blood, led east then south away from the victim. An area of apparent blood was located on the pavement along the north edge of the covered parking space : [REDACTED] A silver, 2005 Ford Focus was parked facing west in the covered parking space [REDACTED] the passenger mirror of the vehicle was damaged and hanging loosely. The space directly north of space [REDACTED] marked 3 [REDACTED] and was vacant.

(See Crime Scene Investigation Report for further)

DESCRIPTION AND LOCATION OF THE DECEDENT:

The victim was described as a black male adult. The victim was located on the pavement under carport parking space : [REDACTED] the victim was lying in a prone position, with his head towards the north and his feet to the south/southeast. His face was partly turned to the right side. His right arm was at his side and bent at the elbow. The upper arm was to the east with the forearm to the north. His right hand was to the north, palm down. The victim's left arm was bent at the elbow with his upper arm to the west and his forearm to the north. His hand was to the north, resting on the pavement just above his left shoulder. The index finger on his left hand was extended. His legs were straight, with his right leg east of his left leg.

The victim was dressed in a pair of green sweat pants and a green zip-up hooded sweatshirt with a white shirt underneath. On his feet were white socks and a red "Nike" sneaker on his left foot. His pants pockets were partly turned out. His shirt was partly pulled up in the back, leaving the small of his back visible. Drops of apparent blood were observed on the back portion of his left pant leg and on his buttocks. Areas of apparent blood transfer were observed near his right pants pocket, on his left sneaker and left sock. Dirt and debris was observed on the left side of the victim's sweatshirt and the back of the victim's left arm. Areas of apparent blood were observed on the victim's right hand, under the victim's head, and flowing east, away from the victim's body.

A red folding box cutter was visible in the waistband of the victim's sweatpants. A black Verizon cell phone was under the left side of the victim's arm/torso. A cursory examination of the victim's body by Clark County

Coroner Investigator Flores, found a corresponding gunshot wound to the chest and back. An injury was observed to the back of the victim's right hand. The victim's hands were placed in bags, by Crime Scene Analyst Guerrero to preserve any possible trace evidence. The victim's pants and left sneaker were removed by Senior Crime Scene Analyst Speas in order to preserve blood evidence. Several items to include US currency, jewelry, and a Nevada commercial driver's license bearing the name Kwame Banks were located in the victim's right pants pocket. Upon moving the victim, a cartridge case was located on the pavement under the victim's chest/shirt. The victim's body was placed in a sterile sheet and placed in a body bag Case # 17-2101, Tag #543240, by Davis Mortuary Attendants Duncan and Morgan, who transported the victim to the Clark County Coroner's Office pending Autopsy.

(See Crime Scene Investigation Report for further)

EVIDENCE RECOVERED AT THE SCENE:

The below listed items of evidence was documented and recovered at the 5850 Sky Point Drive LV, NV 89130 by LVMPD Crime Scene Analyst K. Thomas.

PACKAGE #1

Item # 1- One (1) cartridge case with head stamp Winchester 40 S&W

Item #19- One (1) cartridge case with head stamp Federal 40 S&W

PACKAGE #2

Item #2- One (1) plastic lip balm dispenser (no label)

PACKAGE #3

Item #3- One (1) black plastic "BIC" lighter

PACKAGE #4

Item #4- One torn piece of black colored exam glove.

Item #18- One (1) torn black colored exam glove

PACKAGE #5

Item #6- One (1) red and white Nike Air Force "1" sneaker (right shoe)

Item #25- One (1) red and white Nike Air Force "1" sneaker (left shoe)

PACKAGE #6

Item- One (1) black "Hardy Mechanics" left hand glove (size X-Large)

PACKAGE #7

Item #9- One swab of apparent blood

Item #10- One swab of apparent blood

Item #11- One swab of apparent blood

PACKAGE #8

Item #12- One swab of apparent blood

Item #13- One swab of apparent blood

Item #14- One swab of apparent blood

Item #15- One swab of apparent blood

PACKAGE #9

Item #17- One (1) U.S. ten dollar bill (\$10.00)

(Item #17 was chemically processed for latent prints using Indaneino-Zinc with negative results.)

PACKAGE #10

Item #20- One (1) pair of green "Nike" sweatpants (size XXL with apparent blood on them)

PACKAGE #11

Item #21- Two hundred and fifty-six dollars and eighty-five cents. (\$256.85) in U.S Currency.

(\$100 X 1, \$20 X 4, \$10 X 1, \$5 X 13, \$1 X 1, .25 X 2, .10 X 3, .5 x 1.)

PACKAGE #12

Item #22- One (1) yellow metal chain necklace with a lion's head pendant

Item #23- One (1) yellow metal ring

PACKAGE #13

Item #24- One (1) Nevada Commercial Driver's License and two (2) Visa Debit Cards in the name of Kwame Banks and three (3) miscellaneous business cards

PACKAGE #14

Item #26- One (1) swab of possible DNA evidence

Item #27- One (1) swab of possible DNA evidence

PACKAGE #15

Item #28- One (1) swab of apparent blood

Item #29- One (1) swab of apparent blood

PACKAGE #16

Item #30- One (1) pair of footwear elimination prints on vinyl lifts.

PACKAGE #17

Item #31- One (1) red Sheffield" folding box cutter.

VIDEO SURVEILLANCE:

5850 Sky Point Drive (Sky Pointe Landing Apartments)

6050 Sky Pointe Drive (Town Center Lodge)

6050 Sky Pointe Drive (76 Gas Station)

7400 West Azure Drive (One Stop Auto)

7494 West Azure Drive (Findley Honda)

7500 West Azure Drive (Findley Volkswagen)

AUTOPSY PREPARATION

Forensic Technicians

Suzanne Miele – Prep and Photos

Brieanna Kinard – Prep and Photos

On February 22, 2017, at 0725 hours, the body bag of Kwame Banks Tag # 543240 Case # 17-2101 was unseal and opened. Detectives Dosch and Cook attended the photographing and preparation for the autopsy, Forensic Technicians Suzanne Miele and Brianna Kinard photographed and prepared the victim's body for the autopsy. LVMPD Crime Scene Analyst M. Zingleman photographed, documented and collected the evidence to be impounded. The Coroner's Office identified the victim to be the body of Kwame Banks DOB [REDACTED]. The victim's body measured approximately 5'11" and weighted approximately 205 LBS. There was an apparent gunshot wound to the chest area, with an exit wound to the back. There were small abrasion on the victim's right hand. The below listed items were impounded by Crime Scene Analyst Zingleman. LVMPD Crime Scene Analyst Zingleman photographed and recovered evidence.

Package #1

Item #1 — One (1) Evidence Collection Handbag
Item #2 — One (1) Evidence Collection Handbag
Item #3 — Fingernail clippings Item #4 — Fingernail clippings

Package #2

Item #5 — One (1) buccal swab kit

Package #3

Item #6 — Three (3) one hundred dollar bills and eighty (80) twenty dollar bills, US currency, totaling \$1900.00 with apparent blood.

Package #4

Item #7 — One (1) green "Nike" zip up hooded sweatshirt, size XLI with apparent blood and defect.
Item #8 — One (1) white "Hanes" t-shirt, size LI with defects and apparent blood.
Item #9 — One (1) pair of green/blue plaid "Hanes" boxer shorts
Item #10 — One (1) pair of white/gray "Hanes" socks with apparent blood
Item #11 — One (1) sheet with apparent blood

Autopsy

Clark County Medical Examiner Doctor Alane Olson
Forensic Technician Assistance Don Wall

Doctor Alane Olson performed the autopsy with the assistance of forensic technicians Don Wall and Brianna Kinard. Doctor Olson noted a single gunshot wound that traveled from front to back of the decedent. The bullet entered left of center of the chest and traveled to the right and slightly upward and then exited the victim's back. Doctor Olson ruled the manner of death a homicide and the cause of death was a gunshot wound to the chest. During the autopsy no projectiles were found in the victim.

(Refer to Clark County Coroner's Office report for further)

INTERVIEWS

Homicide Detectives contacted and interviewed witnesses. In summary, the witnesses reported hearing a male's voice screaming for help. Witnesses saw the decedent and at least one other person involved in an altercation and then heard gunshots. Some of the witnesses then reported seeing the shooter go through the decedent's pockets. After the murder, some of the witnesses reported the shooter left on foot and went out the main entrance, while other witnesses reported the shooter possibly left in a vehicle, which was parked to the south of the victim's body. The below listed statements are synopsis's of audio interviews conducted by detectives.

Tiffany Seymour (Girlfriend / mother of Banks' children)
DOB [REDACTED]
[REDACTED]

On February 22, 2017 at approximately 1141 hours, Detective D. Long took a recorded statement from Tiffany Seymour in her home at [REDACTED]. For complete details of the interview, please refer to the audio recording transcription. Seymour advised she was the long-time girlfriend of Kwame Banks and has a son with him and was also currently pregnant by him. Seymour said Banks usually stayed in her house and he had spent the previous day with her at the house. They went to two doctor's appointments and after the appointments he drove her back home. Banks owned a black Nissan Altima, 4-door, bearing California license plates [REDACTED].

Seymour said Banks usually carried two cell phones, but recently he started carrying a third. One was a white iPhone with the number [REDACTED] which was used exclusively for family contacts. The second was a black cell phone [REDACTED] which he used for business (Marijuana Sales). Tiffany said the last black cell phone she knew nothing about, she had only seen it two or three days prior.

Seymour said the night before Banks left her house at approximately 2215 hours and he was wearing an olive green sweat suit, red and white Nike athletic shoes, white t-shirt and was carrying a red pocket knife. Banks did not have a gun and never carried a gun with him. He was probably carrying some marijuana for sale. Seymour said Banks had received a text from a male known as "Poe ATL" (the ATL was because he was from Atlanta). Normally, Banks would have used his black cell phone for the contacts when he was going to meet with someone for marijuana dealings. Banks carried cash with him and occasionally carried a large amount of cash.

Banks was going through a divorce and had filed paperwork several days ago to divorce his wife, Laquanda Selmon-Banks. The divorce was contentious and they were fighting and getting arrested recently. Two weeks before, Kwame and Laquanda both went to jail for fighting. The Sunday before, Kwame damaged Laquanda's

000590 [REDACTED]

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car and her grandmother's house. Laquanda told Kwame that she had a new man and threats were made toward Kwame. [REDACTED] as Laquanda's grandmother's house and where the vehicles were damaged. Seymour said Laquanda's phone number was [REDACTED] she called during the day and she threatened him.

Last night Banks felt Seymour was nagging him and felt they should spend the night apart. He was going to stay at his house and he would see her the following day. They separated on good terms when he left in his car. Seymour said she didn't know where his car was and said no one lived in the house with him. Seymour said the key fob and key to her house was lost inside Banks' car somewhere, so the door was always unlocked and all you had to do to start the car was push the ignition button. It had been that way for several days. Seymour has the same car and the same problem.

Seymour told Detective Long after the end of the recording that Poe ATL had ordered a delivery and around 2200 hours, Seymour asked Banks if he had to be somewhere and he told her that he did, but didn't leave until 2215 hours. Seymour seen the name Poe ATL on the screen of the black phone and heard him talk before and said he was "Country" and she thought that confirmed that he was from Atlanta. Seymour felt Poe would have had something to do with Banks being murdered.

Banks' Aunt Kenyetta Banks called from [REDACTED] and wanted to take Seymour to the Clark County Coroner's Office and start the process for the body. Kenyetta said her sister and the mother of Banks was Dynetta Banks and Banks father, George Barnes" were coming to Las Vegas from Northern California for their son. Detective Long advised Kenyetta Banks that the CCCO Case # 17-2101 and the office was at 1704 Pinto Lane, Las Vegas, NV 89106, phone 702-455-3210. Kenyetta responded to the house and picked up Seymour to go to the Coroner office.

(Refer to Tiffany Seymour transcribed statement for additional information).

Dereka Nelson

DOB: [REDACTED]
[REDACTED]
[REDACTED]

On February 22, 2017 at approximately 0150 hours, Detective Dosch conducted an audio-recorded interview with Dereka Nelson, who related the following: Around 2240 hours Nelson heard what sounded like a male yelling for help, which was followed by a gunshot. Nelson went to her bedroom, called 9-1-1 and looked outside her bedroom window. Underneath the carport and next to her white Toyota Solara were two men involved in a physical altercation. The fight moved onto the top of her hood and the victim was under the [REDACTED] Nelson

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heard a second gunshot, but did not see a weapon. The suspect was wearing a dark colored cap, a dark colored hooded sweatshirt, dark colored pants, and "shiny" gloves. Nelson retreated to her closet for cover and spoke to the dispatcher. About one minute later Nelson returned to the window as saw the victim lying motionless on the ground next to her car.

A male then approached the victim's body from the east and began searching the victim's pants pockets. Nelson believed the person going through the victim's pockets was most likely the same suspect the victim had fought with. The suspect walked away and within approximately 10 seconds Nelson saw a navy blue or black four-door sedan southbound through the parking lot toward the south entrance. The vehicle had tinted windows and appeared to be an older model. Nelson did not see the suspect's face and cannot make an identification. Nelson said the vehicles parked to the south of her car and to the north of the victim's body belonged to other tenants in the complex.

(Refer to Dereka Nelson's written statement and transcribed interview for additional details.)

Victoria Nordstrom

DOB: [REDACTED]
[REDACTED]
[REDACTED]

On February 22, 2017 at approximately 1540 hours, Detective Dosch conducted a recorded statement from Victoria Nordstrom at 5850 Sky Pointe Drive, for complete details of the interview, please refer to the audio recording and/or transcription provided: Around 2300 hours Nordstrom was hanging out in the balcony of her friend Kelly Kohler's apartment. Nordstrom heard what sounded like a male yelling for help. Nordstrom looked toward the west parking lot and could not see who was yelling. Nordstrom then heard a gunshot and ran inside the apartment to check on the children. Branden and Steven Kohler exited the apartment and relayed information about what they saw to Kelly, who had called 9-1-1. Nordstrom looked outside the master bedroom window and saw the victim lying on the ground, under the carport. One of the Kohler brothers said he saw the suspect walking toward the main entrance on a cell phone, and the other Kohler brother said he saw a vehicle headed to the south entrance. Nordstrom saw neither of those two things. Refer to Victoria Nordstrom's written statement and transcribed interview for additional details.

Branden Kohler

DOB: [REDACTED]

SSN: [REDACTED]

ADD: [REDACTED]

PHN: [REDACTED]

On February 22, 2017 at approximately 0141 hours, Detective Merrick conducted a recorded statement from Branden Kohler at 5850 Sky Pointe Drive [REDACTED] for complete details of the interview [REDACTED] e refer

to the audio recording and/or transcription provided. Branden Kohler, stated the following information in summary: Kohler was inside his apartment when his wife, Kelly Kohler, yelled at him to go back outside. Once on the patio, Kohler heard two men arguing in the direction where the victim was located. One of the men was yelling "no, no, no", then Kohler heard one gunshot. Kohler then went back into his apartment and retrieved his firearm, then went back outside to his patio. Kohler heard the two men arguing again, then heard a second gunshot. Kohler then saw a male stand up and start to walk north bound towards the leasing office. The male was wearing a dark hoody with white lettering. Kohler lost sight of the male and then saw a vehicle back out of a covered parking spot which is south of the victim's location. The vehicle then exited south through the parking lot. Kohler believed the vehicle was a dark colored Nissan Maxima or Altima.

(Refer to Branden Kohler's transcribed statement for additional information).

Kelly Kohler

DOB: [REDACTED]

SSN: [REDACTED]

ADD: [REDACTED]

PHN: [REDACTED]

On February 22, 2017 at approximately 0157 hours, Detective Merrick obtained a recorded statement from Kelly Kohler at 5850 Sky Pointe Drive [REDACTED] for complete details of the interview, please refer to the audio recording and/or transcription provided. Kohler was sitting on her patio when she heard screaming and a male voice saying "help, help, help". Kohler told her husband to come outside and then she heard a female screaming. Kohler then heard a gunshot and Kohler went inside her apartment. Kohler called 911 and while she was talking to the operator she heard a second gunshot.

(Refer to Kelly Kohler's transcribed statement for additional information.)

Jakhai Smith

DOB: [REDACTED]

SSN: Unknown

ADD: [REDACTED]

PHN: [REDACTED]

On February 22, 2017 at approximately 0214 hours, Detective Merrick obtained a recorded statement from Jakhai Smith at 5850 Sky Pointe Drive [REDACTED] for complete details of the interview, please refer to the audio recording and/or transcription provided: Jakhai lives in a second floor apartment and his bedroom window looks out to the parking lot where the victim was lying. Smith was in his bedroom and heard people arguing outside his window, so he got up and peered out through the blinds. Smith saw two males engaged in a fight. Smith described the victim as a black male adult wearing gray sweat pants and red "air force" shoes. Smith described the suspect as a black male adult wearing all black clothing and had a chrome semi-auto handgun in his right hand. The suspect and the victim was fighting over the gun when the suspect shot the victim one time in the stomach. The suspect told the victim not to move prior to shooting him. The suspect then

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went through the victim's front pant pockets and took some money. The suspect then walked out of sight and proceeded south bound through the parking lot. Also present during the recorded statement was Smith's mother, Lonnetta Smith, DOB: [REDACTED]

(Refer to Smith's transcribed statement for additional information.)

Chaz Schoenbeck

DOB: [REDACTED]

SNN: [REDACTED]

ADD: [REDACTED]

PHN: [REDACTED]

On February 22, 2017 at approximately 0251 hours, Detective Merrick obtained a recorded statement from Chaz Schoenbeck at 5850 Sky Pointe Drive [REDACTED] for complete details of the interview, please refer to the audio recording and/or transcription provided: During the statement and/or contact with Schoenbeck, he relayed the following information: Schoenbeck was inside his apartment when he heard a gunshot followed by a person screaming for help for approximately 15 to 20 seconds. Schoenbeck then heard a second gunshot. Schoenbeck then called 911. (Refer to Schoenbeck's transcribed statement.)

WITNESS CANVASS

Eric Smith

DOB: [REDACTED]

- Smith heard what sounded like two males involved in an argument. After the argument ended Smith heard someone say, "I'm going this way."

Landen Davenport

DOB: [REDACTED]

- Davenport heard a male's voice yell for help multiple times under what he thought was a minute. Davenport heard a gunshot, which was followed by the male yelling for help. There was a second gunshot and everything got quiet. Davenport then heard a third gunshot. Davenport looked outside his apartment window and did not see anything suspicious. Davenport and his girlfriend, Whitney Tatum, parked their vehicles in the west parking lot, near the southwest corner of the basketball courts.

Nelson Gonzalez

DOB: [REDACTED] / SSN: Unknown
[REDACTED]

- Gonzalez did not see or hear anything suspicious.

Stephanie Morton

DOB: [REDACTED] / SSN: Unknown
[REDACTED]

- Morton did not see or hear anything suspicious.

INVESTIGATION FOLLOW UP:

On February 23, 2017 Detectives Cook and Dosch located Banks', Black, 4 Door, Nissan Altima, CA [REDACTED] parked on the west end of a business complex located at 7495 Azure Drive, which was less than a mile from the crime scene. The vehicle's license plates were missing and the interior of the vehicle had been set on fire in an attempt to destroy evidence. Detective Cook requested LVMPD Crime Scene Analyst C. Browning PN 15291 to respond to the vehicle location for photographing and sealing of the vehicle pending forensic analysis. The vehicle was then transported by Ewing Towing Stock # 12538 to the LVMPD CSI Lab and stored in the secure garage. Crime Scene Analyst C. Browning followed the Ewing towing to the CSI Lab.



On February 23, 2017 at 1740 hours, Detective Cook and Detective Dosch responded to the LVMPD CSI Lab garage and met Crime Scene Analyst Browning and Crime Scene Analyst S. Fletcher PN 5221. The Nissan Altima was parked in the secure CSI garage. The vehicle was photographed prior to entry. The interior of the vehicle was burned by an unknown accelerant. The front passenger area, including the steering wheel, dash board and seats were burned. The head liner and rear passenger area sustained fire damage. The windows were smoked due to the extensive heat transfer inside the vehicle as it burned. The below was listed items that were photographed and impounded by Crime Scene Analyst Browning.

(Refer to Crime Scene report for further)

Package 1:

- Item 1: One (1) sample of charred seat cushion and fabric towel
- Item 2: One (1) sample of charred seat cushion and fabric towel
- Item 3: One (1) sample of charred seat cushion and fabric towel
- Item 4: One (1) black beanie soaked with an unknown

Package 2:

- Item 5: One (1) grey vehicle floor mat

Package 3:

- Item 6: One (1) red/white Mitchell & Ness Red Wings flat bill baseball cap

Package 4:

- Item 7: Four (4) disposable lighters including one (1) black Cherry Pimps lighter, one (1) clear Wing lighter, one (1) black Bic lighter, and one (1) orange 7-Eleven lighter

Package 5:

- Item 8: One (1) Swisher Sweets cigarillo wrapper containing a green leafy substance, total weight approx. 4.1g (FP)

Package 6:

- Item 9: One (1) possible blood swab with soot
- Item 10: One (1) possible blood swab with soot

On February 23, 2017 Detective Dosch requested Las Vegas Fire & Rescue (LVFR) Fire Investigators to respond to the LVMPD CSI Lab located at 5555 West Budura, Las Vegas, NV 89118. LVFR were requested due to the interior of the victim's vehicle had been set on fire. LVFR Fire Investigators L. Brown PN 885, S. Saucedo PN 1154, J. Sypniewicz PN 1049 and H. Jarrard PN 954 responded. Investigators completed an examination of the interior and exterior of the vehicle. Crime Scene Analyst Browning, Crime Scene Analyst Fletcher, and LVFR J. Sypniewicz photographed and collected evidence from the vehicle. LVFR completed a report detailing their arson investigation. (Refer to LVFR arson report for further details)

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On February 23, 2017 Detective Dosch and Detective Cook contacted the Volkswagen and Honda dealerships located at 7500 W. Azure Drive, which had video surveillance of the business complex across the street from where Banks' vehicle had been dumped and burned. The video surveillance showed Banks' vehicle pulling into the business complex at approximately 2332 hours, which was approximately 45 minutes after the murder was reported to law enforcement. At approximately 2356 hours a newer model, mid-size white sport utility vehicle (SUV) arrived and parked next to Nissan Altima. Six minutes later, at approximately 0002 hours, a marked LVMPD vehicle pulled into the same parking lot just as the white SUV exited the business complex. The marked LVMPD unit pulled up behind the Nissan Altima and appeared to shine a spotlight on the vehicle.

The video surveillance showed Banks' vehicle still parked in the business parking lot on the early morning hours of February 23rd. At approximately 0243 the vehicle appeared to be set on fire. A suspect or vehicle could not be seen entering the business complex before the fire. The business complex had multiple entry points, which were not depicted in the video surveillance. However, a white SUV, similar to the one depicted on video surveillance on February 21st, was seen driving both east and westbound on Azure Drive.

On February 24, 2017 the forensic examination of the cell phones was completed for two of the three cell phones. The third cell phone, which was found in the rocks approximately five to six feet away from Banks' body, was locked. Detectives were able to obtain the cell phone's integrated circuit card identifier (ICCID) from the subscriber identity module (SIM card). The ICCID was the serial number for the SIM card. The ICCID was sent to Sprint who identified the subscriber as Larry Brown, date of birth [REDACTED] and social security number [REDACTED]. Brown was a black male and his address was in Atlanta, Georgia. Brown's phone number was identified as [REDACTED].

A record check on Brown showed he had served prison time in Georgia for bank robbery and narcotics-related offenses. It also showed Brown attempted to get a Nevada identification card on June 24th, 2016 through Nevada DMV, which was denied for incomplete documents. The address listed by Brown was [REDACTED] in Las Vegas. Brown also listed his cell phone number of [REDACTED]. Brown's possible girlfriend was then identified as Angelisa Ryder ID #8376789. Ryder lives at the same address, [REDACTED] and had been there since 2014. Ryder listed a 2015 Jeep SUV bearing Nevada registration [REDACTED] registered at the same address.

The other two cell phones had phone numbers [REDACTED]. From the [REDACTED] cell phone contacts Detectives located a name "Poe ATL". The corresponding cell phone number was [REDACTED]. Banks' cell phone showed a lot of activity between his phone number and [REDACTED]. Detective Cook obtained a pen register for [REDACTED] and a court order for [REDACTED]. Both legal documents were signed by District Court Judge Jerry Wiese. The pen register was sent to T-Mobile for service and the court order was sent to Sprint for service.

On February 25, 2107 Detective Dosch conducted an on-line record check of the VIN number of Ryder's vehicle. The records check revealed the vehicle was listed for sale by Enterprise Car Rental in 2016. The on-line flyer included several images of the vehicle, which was a white 2015 Jeep Compass. The vehicle bared a strong resemblance to the white SUV depicted in video surveillance recovered from across the street of the business complex where Banks' vehicle was dumped and burned.

Detective Cook later obtained the phone records from T-Mobile, which identified the subscriber of [REDACTED] as Anthony Carter with an address of [REDACTED]. A SCOPE records check on Carter revealed he was a black male born in Atlanta, Georgia. Detective Dosch checked Facebook and located Carter's account under his name. The account showed five recent "selfie" photographs of Carter, which were dated in January of 2017. The photographs appeared to be taken inside an apartment. A more extensive record check revealed Carter's wife was Tiffany Carter and she lived at [REDACTED] in Las Vegas.

A record check through NV Energy confirmed Tiffany Carter had an account under her name at [REDACTED]. A record check through the Clark County School District (CCSD) revealed Anthony and Tiffany Carter have children attending school in the district. CCSD records further revealed Anthony and Tiffany Carter updated their information in December of 2016 and listed the Rosinwood Street address as their home.

Detective Cook and Detective Dosch reviewed Carter's cell phone records at the time of the murder, it appeared his calls hit off a cell tower located less than a ½ mile northwest of the crime scene. A further review of the call records revealed significant text message activity between Carter's cell phone and Brown's cell phone between 2207 hours and 2222 hours, which was right before the murder. Then at 2240 hours there was another text message sent from Carter's phone to Brown's phone. After that there was no more contact between the two cell phones and Carter turned off his phone by 1230 hours on February 22nd. Carter's phone at the time of the incident was an HTC Desire 530 cell phone.

Detective Cook and Detective Dosch reviewed Brown's phone records. The last voice call Brown made was at 2017 hours. The call phone hit off a cell phone tower located less than a ¼ of a mile south of the crime scene. That was then followed by exclusive text message activity between Brown's cell phone and Carter's cell phone, which was between 2206 hours and 2240 hours. Then on February 22nd between 0427 hours and 0523 hours Brown's cell phone received several text messages from phone number [REDACTED] which belonged to Angelisa Ryder. A LVMPD records check revealed Brown never made a report for a lost or stolen cell phone.

On March 1, 2017 Detective Cook and Detective Dosch met with Human Resources managers Marci J. Stanley from Mountain View Hospital, Detectives learned that Tiffany Carter was employed as a Patient Case Management coordinator at Mountain View Hospital. The address on file was [REDACTED] 89131.

On March 1, 2017 Detective Cook met with Valley Hospital Human Resources manager Dana Thorne. Detectives were attempting to locate information reference cellular number [REDACTED] the phone number was purported to be a landline to the Nurses station in the Intermediate Care Unit (IMC). Thorne stated that the phone number [REDACTED] was in fact a landline to the Valley Hospital Nurses station in the Intermediate Care Unit (IMC). While Detective Cook was speaking to Thorne, she reported that Valley health system employee roster showed Angelisa Ryder was employed at Summerlin Hospital.

On March 1, 2017 Detective Cook and Detective Dosch met with Human Resources manager Michelle Pinder from Summerlin Hospital. Detective Cook issued an administrative subpoena for employment information on Angelisa Ryder. Mrs. Pinder stated that Ryder is employed as a Monitor Technician at the hospital. Mrs. Pinder gave Ryder's employment work hours during the date of February 21st, which showed she worked 7pm on the 21st to 7am on the 22nd, she took a 45-minute break from 0115 hours to 0200 hours.

On March 7, 2017 Detective Dosch received information from LVMPD that the officer who arrived in the business complex just as the white SUV was leaving is Officer English. Officer English ran Banks' California license plate at approximately 0003 hours. The vehicle existence was not known to Homicide Detectives at that time and thus was not entered into NCIC until later that day. Detective Dosch contacted Officer English and asked him about the incident. Officer English said he was westbound on Azure Drive when he looked into the parking lot and saw a black male standing next to a black Nissan Altima later identified as Banks' vehicle. Officer English described the black male as having a large frame, 230+ pounds, over 6'0" and wearing all dark clothing. It appeared suspicious to Officer English who then pulled into the parking lot. At the same time a newer model white SUV drove next to him, which was driven by an apparent black female. Officer English did not see the black male in the white SUV and could not get the SUV's license plate before it drove away on Azure Drive. Officer English pulled in behind Banks' vehicle and found it was unoccupied and the black male was gone.

On March 7, 2017 Detective Cook and Detective Dosch enlisted the help of a surveillance team to help tie Brown to Ryder's residence and the white Jeep Compass. On March 8th, the surveillance team established surveillance at 2520 Sierra Bello Avenue and observed a black male exit the residence. The black male got into Ryder's Jeep Compass and drove it to a nearby gas station to get gas. The surveillance team took photos of the driver, which were sent to Detective Dosch and Detective Cook for review. When the driver [REDACTED] photos

were compared to a photo of Larry Brown, Detective Dosch and Detective Cook noted there was some resemblance; however, the image of Larry Brown was from 2013. (Refer to LVMPD surveillance logs)

On March 8, 2017 Detective Dosch and Detective Cook re-interviewed Seymour. In a recorded summary, Seymour reiterated Banks was a marijuana dealer and left her residence around 2215 hours. Earlier in the evening he received a call from Poe ATL. Seymour overheard some of the conversation between the men and said Poe ATL spoke with a southern accent. Banks said something about "19" and she heard Poe ATL say the other person was on the way, suggesting there was a third person involved in the transaction. Detective Dosch asked Seymour if Poe ATL was a possible business associate of Banks and she said yes. Banks has known Poe ATL for approximately one year. Seymour thought Banks had been to Poe ATL's residence. Seymour recalled a time when she called Banks and Banks said he was at Poe ATL's residence and that Poe ATL had "gone downstairs" to conduct a drug deal. Seymour told Banks to come home and within a very short amount of time Banks returned home. That led Seymour to believe Poe ATL lived in an upstairs apartment which was located close to her home in the northwest part of Las Vegas. Seymour denied Banks carried a handgun despite the fact he engaged in narcotics sales.

After the interview, Detective Dosch returned to the Sky Pointe Landing Apartment Homes and met with management and maintenance personnel. Detective Dosch showed the employees the photographs from Anthony Carter's Facebook account and asked if they recognized the person in the photos. None of the employees recognized Carter but in the background, were room interior features consistent with the apartments in their complex. The maintenance workers recognized the door knob, deadbolt and alarm system which were depicted in the one of the photos. Furthermore, maintenance personnel recognized the upward slope of the ceiling and the room layout to be a one-bedroom apartment located on the second floor.

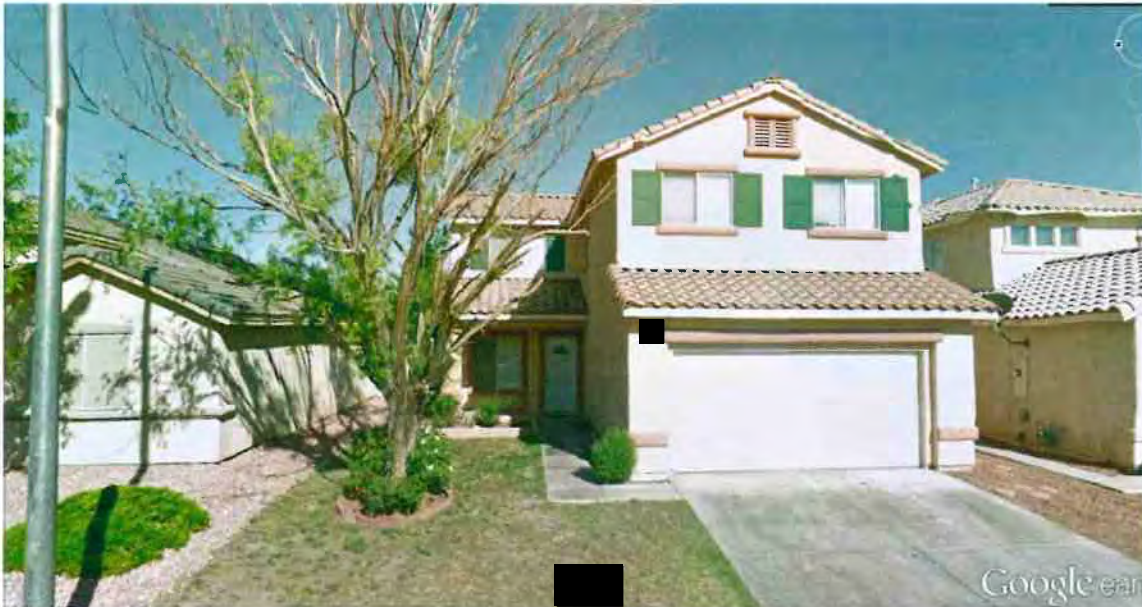
Most of the occupants in building [REDACTED] were contacted during the canvass but nobody answered the door to [REDACTED] was rented by a black male identified as Carnell Cave ID [REDACTED]. Cave's cell phone number was [REDACTED] and he lived in a one-bedroom apartment on the second floor. Cave's assigned carport space is [REDACTED]. Detective Dosch checked Cave's cell phone number against Carter's phone records and discovered Cave's cell phone number was the third most contacted number between January 20, 2017 and February 22, 2017. In addition, Cave's designated parking spot was just south of where Banks' body was found.

On March 9, 2017 the surveillance team established surveillance on [REDACTED]. Detectives observed a black male exiting the residence, who looked like Carter. The black male left the residence and the surveillance team followed him to 5850 Sky Pointe Drive. The last place they saw the black male going was up the southern stairway in building [REDACTED]. The surveillance squad documented and photographed the male from the Rosinwood address to the Sky Pointe Apartment Homes. The [REDACTED] graphs

were reviewed by Detective Cook and Detective Dosch. The photographs depicted a black male above 6' feet tall and heavy set. The photograph bared a strong resemblance to Anthony Carter.



On March 18, 2017 Detective Dosch drafted a search warrant for three residences connected to Anthony Carter, Larry Brown and Carnell Cave. The search warrants were signed by the honorable Judge Jerry Wises.



Searchers and Scribe:

Detective F. Merrick	PN 7549	(searcher)
Detective T. Mogg	PN 4191	(searcher)
Detective B. Morgan	PN 4216	(searcher)
Detective C. O'Connell	PN 4420	(searcher)
Detective K. Jordan	PN 3715	(scribe)
LVMPD Crime Scene Analyst E. Tuftland	PN 8971	(Photographs, Impounded Evidence)

On March 20, 2017, search warrant of [REDACTED] EVT 170320-0757. The following items were seized pursuant to the search warrant. The below items were located and impounded by LVMPD Crime Scene Analyst E. Tuftland PN 8971

Package #1:

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Item #1: One black/black Springfield XDM-9 9MM semiautomatic pistol; USA; 3.75" barrel; SIN # MG975091 (swabbed for DNA, chemically processed for fingerprints with negative results)

Item #1A: One pistol magazine (swabbed for DNA/chemically processed for fingerprints with negative results)

Item #2: One pistol magazine (swabbed for DNA/chemically processed for fingerprints with negative results)

Item #3: One pistol magazine (swabbed for DNA/chemically processed for fingerprints with negative results)

Package #2:

Item #4: One HTC Desire white cellphone box bearing a serial # of "FA6AF8R07094"

Package #3:

Item #6: One closed clear plastic bag with handwriting of "JACK H * 1 13" containing a dried green leafy substance (combined total weight of 121.2 grams)

Item #7: One closed clear plastic bag with handwriting of "LIBERTY BELL 113 *" containing a dried green leafy substance (combined total weight of 122.4 grams)

Item #8: One closed clear plastic bag with handwriting of "LIBERTY BELL 1 13 *" containing a dried green leafy substance (combined total weight of 121.1 grams)

Item #9: One closed clear plastic bag with handwriting of "JAGER" and "JAGER 2 LBS 926 +" containing a dried green leafy substance (combined total weight of 350.7 grams)

Item #10: One closed clear plastic bag containing a dried green leafy substance (combined total weight of 22.6 grams)

Package #4:

Item #5: One swab for possible DNA Item #11: One swab for possible DNA

Item #12: One swab for possible DNA

Item #13: One swab for possible DNA

INTERVIEW

Anthony Carter and Tiffany Carter were taken into custody at [REDACTED] after leaving the residence at [REDACTED] Anthony Carter and Tiffany Carter were transported to LVMPD Headquarters for interview.

Tiffany Carter

DOB: [REDACTED]

SSN: [REDACTED]

ADD: [REDACTED]

PHN: [REDACTED]

On March 20, 2017 at approximately 0804 hours, Detectives Merrick and Mike Twomey PN 6501 obtained a recorded statement from Tiffany Carter. During the statement and/or contact with Carter, she relayed the following information: Tiffany Carter was being detained at the Short Line Express Convenience store, located

000602 [REDACTED]

CONTINUATION

Event #: 170221-4563

at 6698 Sky Pointe Drive, and agreed to talk with detectives. Carter was currently employed at Mountain View Hospital in case management department. Carter woke up at 0500 hours and got her three children, Kayles (17), Anthony (15), Torynn (8) ready for school. Carter let Anthony sleep in and miss school because he was out late playing basketball. Carter then woke up Anthony Carter so he could drive them to school and work. Also present in the house was Tiffany's parents, Gloria and Darryl Thompson, and Anthony's brother Ira Carter. The previous night, Anthony's cousin, Antonio Grubbs and his girlfriend "Nicole" were also present.

Anthony and Tiffany were married in 1997 and divorced in 2001. Anthony and Tiffany have been living together since 2015, but are not currently married. Tiffany Carter noticed Detectives shirt and figured out the stop and interview was reference a Homicide, but had no idea which Homicide. When asked what Anthony did for money, Tiffany replied, "He sells marijuana". Tiffany told detectives that she rents a lot of vehicles because the family vehicle was broken down. Tiffany rents the vehicles from Budget Rentals, located by Walmart on Centennial Hills Drive. Tiffany admitted that she has gone on trips to the Sacramento, California area to pick up marijuana. Tiffany identified the following associate of Anthony's from photographs. Carnell Cave who lives in an apartment in Sky Point apartments. Tiffany Carter agreed to be transported to LVMPD Headquarters and meet with Detective Cook and Detective Dosch.

(Refer to Tiffany Carter's transcribed statement for additional information.)

On March 20, 2017 at 1030 hours Detective Cook and Detective Dosch conducted an interview in the family room with Tiffany Carter. The door was unlocked and Tiffany was told she is able to leave at any time. Tiffany said in summary, she works as a patient coordinator at Mountain View Hospital. She was at home with her parents and children all night on February 21st, 2017. Her ex-husband, Anthony Carter, also lives at the residence and shares her bed. On the night of February 21st Anthony left the house and did not return all night. She woke up in the morning of February 22nd, and Anthony was still gone. She saw on the morning news that a shooting had taken place at the apartment complex located on Sky Pointe Drive. She knew that Anthony had a friend by the moniker of "Biggs," who she identified from a photograph as Carnell Cave. She knew Biggs lived at the apartments on Sky Pointe Drive. She said Anthony had recently taken her to Cave's apartment located at 5850 Sky Pointe Drive.

On the morning of February 22, 2017 she went to work at Mountain View Hospital and returned home at approximately 1730 hours, Anthony had returned home and told her how there was a shooting near Biggs' (Carnell Cave) apartment and Kwame Banks was killed. She claimed she didn't ask any further question but she admitted Banks was an acquaintance of Anthony's. She admitted she has known Anthony to go out all night to sell drugs however she keeps that part of his life at a distance. She has known for several years that Anthony sells narcotics and she has rented vehicles for Anthony to make narcotic runs to northern California to purchase marijuana. She claimed on occasions to have gone to northern California, while Anthony was picking up quantities of marijuana, but claimed she does not have any part in the sales.

000603

She recalled, Anthony having another friend that had recently been to her house. Tiffany said the friend drove a white SUV. She was shown a photographs of Larry Brown and the white Jeep Compass owned by Angelisa Ryder. She replied, "Yes," this is the friend that she has seen over at the house and he drove a white SUV. She gave two cell phone number for Anthony, she said Anthony changes phone frequently because of the drug sales. She gave a phone number of [REDACTED] as the phone number he previously used prior to the shooting. Tiffany said Anthony normally keeps his marijuana in the garage in a blue suite case.

Anthony Jerome Carter Aka "POE ATL"

DOB [REDACTED]
[REDACTED]
[REDACTED]

On March 20, 2017 Detective Cook and Detective Dosch conducted an audio and video interview with Anthony Carter. Anthony was read his Miranda rights at 1139 hours, which he stated he understood his rights and agreed to speak to Detectives. Anthony Carter said in summary: He lives with his wife, Tiffany Carter, and his three children at [REDACTED]. He has lived in Las Vegas for approximately 17 years. Anthony is not employed and sells small amounts of marijuana. He recently purchased a small amount of marijuana from a person in Redding California. He recently drove to Redding and brought back two large plastic baggies of marijuana. Detectives explained a search warrant was issued for his residence at [REDACTED] and Detectives located a large amount of marijuana and a Firearm described as a (Springfield 9mm handgun serial number MG975091 with (3) three magazines). Anthony said that he had just purchased the firearm and said he only sells small bags of marijuana.

Anthony said on February 21, 2017 at approximately 2130 hours, he was at his friend's apartment who he named as Carnell Cave, who lives at 5850 Sky Pointe Drive [REDACTED]. Anthony received a ride to the apartment from a friend he referred to as Dakota. Anthony described Dakota as a white male adult. Anthony stayed at Cave's apartment waiting for a male known to him as "B" (Kwame Banks) who was going to deliver (3) three separate quarter pound bags of marijuana. Anthony said Banks had texted him earlier in the day but later text that he didn't have any marijuana and he would have to wait until the next day. Anthony then changed his statement to say Banks arrived outside Cave's apartment in a dark, 4 door, Nissan Altima. Banks had parked his vehicle under the covered parking facing west towards the stairway and Cave's apartment building. Banks' then brought (3) three separate quarter pound plastic baggies of marijuana into Cave's apartment and delivered it to Anthony. Anthony said the (3) three baggies were intended for Larry Brown, Dakota and himself. Banks' delivered the marijuana and left.

Anthony said a few minutes later he heard (4) four to (5) five gunshots and looked outside. Anthony saw Police officers at the bottom of the stairs and he saw Banks' vehicle still parked under the covered parking.

Anthony stayed inside Cave's apartment all night playing video games until the next morning. Anthony changed his story again and said Banks' did not actually come inside Cave's apartment, he met him at the basketball court, which is located east of Caves' apartment. Banks' had backed up his vehicle into the parking stall next to the basketball court and his vehicle was facing west. Anthony walked up to Banks' driver's window and purchased (3) three separate quarter pound bags of marijuana from Banks. Anthony watched as Banks drove out of the complex. Anthony said he returned to Caves' apartment where he and Cave played video games. Anthony then heard (4) four to (5) five gunshots and looked out the door to see police and Banks' vehicle parked under the cover parking just below Caves stairway entrance. Anthony could not explain how he saw Banks drive away, then saw his vehicle parked in front of Cave's apartment after hearing the gunshots and saw police outside.

Anthony statement changed several times and had many inconsistencies. Anthony gave two different cell numbers he used [REDACTED] and [REDACTED]. Anthony said the day after Banks' was killed he discarded his HTC Desire 530 cell phone with a cellular number [REDACTED] because he knew Detectives would come and investigate Banks murder and learn about the drug sales between him and Banks. Anthony was asked about sending and receiving text and phone messages to Larry Brown at phone [REDACTED]. Anthony said he has known Larry Brown for many years and they are both from Decatur, Georgia. Anthony recently heard that Brown was in town and only recently began hanging out with Brown.

Anthony was shown a photograph of Larry Brown DOB [REDACTED]. Anthony identified Brown and said he recently came by his house at [REDACTED]. Anthony identified the white Jeep Compass, which Brown is known to drive. Anthony admitted to being in Brown's vehicle recently. Anthony denied having any knowledge of being present when Banks' was murdered or being outside when the shooting took place. Anthony said he was in Cave's apartment all night and never heard Detectives knocking on the door. Anthony left Cave's apartment early the next morning on February 22nd and walked to the nearby Sinclair gas station and got coffee, then walked home. Anthony could not explain how he knew Kwame Banks was the victim of the shooting prior to the coroner releasing the information to the media.

At the conclusion of the interview Detective Cook and Detective Dosch served a DNA search warrant on Anthony Carter by way of Buccal Swab kit, specifically, Nucleated Epithelial Cells from Carter's inner mouth/cheek. Crime Scene Analyst M. McIntyre PN 13207 conducted the Buccal Swab and impounded the Swab into the LVMPD Evidence vault.

Ira Carter

DOB: [REDACTED]

SSN: [REDACTED]

ADD: [REDACTED]

PHN: [REDACTED]

On March 20, 2017 at approximately 0804 hours, Detective Merrick obtained a recorded statement from Ira Carter. During the statement and/or contact with Carter, he relayed the following information: Ira Carter is Anthony Carter's brother from Decatur, Georgia. Ira has been staying with Anthony since September 2016. Ira stated that the following people also live at [REDACTED] Anthony Carter, Tiffany Carter, Anthony Carter Jr., Kayles Carter, Torynn Carter, Gloria Thompson, Darryl Thompson. During the service Ira was asleep on the living room couch, where he has been sleeping since he has been in Las Vegas. Ira Carter said he was leaving Las Vegas at 2154 hours and flying back home to Atlanta, Georgia. Ira Carter knew where Tiffany Carter worked but couldn't say what Anthony Carter did for money. Ira Carter said he did not get involved in Anthony's business.

(Refer to Ira Carter's transcribed statement for additional information.)

On March 20, LVMPD SWAT unit conducted service of the search warrants EVT 170320-0757 located 5850 Sky Pointe Drive [REDACTED] Las Vegas, NV 89130. The person associated to this apartment was identified as Carnell Cave. The search warrant signed by the honorable Judge Jerry Wisnes.



During the service of the search warrant at 5850 Sky Pointe Drive Building [REDACTED] EVT 170320-0757. The following items were seized pursuant to the search warrant: The below items were located and impounded by LVMPD Crime Scene Analyst M. McIntyre PN 13207

Scribe and Searchers

Detectives Lora Cody	PN 7294 (Scribe)
Detective Erik Ravelo	PN 6538 (Searcher)
Detective Fred Merrick	PN 7549 (Searcher)
Detective Robert Ochsenhirt	PN 5438 (Searcher)
Sergeant Craig Lousignont	PN 4125 (Security)

LVMPD Crime Scene Analyst M. McIntyre PN 13207 (Photographs, Impounded Evidence)

Package #8

Item #10 — One (1) buccal swab kit.

CONTINUATIONEvent #: 170221-4563**Package #9**

Item #11 — One (1) clear glass Mason jar, containing a green leafy substance weighing approximately 2.7 grams.

Item #12 — One (1) piece of clear, knotted plastic, containing a green leafy substance, approximately 4.2 grams total weight.

Item #13 — One (1) clear re-closable plastic bag, containing a green leafy substance, approximately 102.3 grams total weight.

Item #14 — One (1) black digital scale, bearing a green leafy residue.

Package #10

Item #15 — One (1) black "Alcatel" cell phone.

Package #11

Item #16 — One (1) damaged black "Samsung Galaxy Note II" cell phone and one (1) black "Kyocera" cellular phone.

Package #12:

Item #17 — One (1) black "LG" cell phone

INTERVIEW

Carnell Cave

D.O.B:

Add:

PHN:

On March 20, 2017 at approximately 1045 hours, Detective Cody obtained a statement from Carnell Cave. During the statement Cave, he relayed the following information: On the evening of February 21, 2017, Cave was inside his apartment playing Nintendo with his friend Anthony Carter. Cave referred to Carter as "ATL" and Cave often goes by "Nell" or "Big". Cave described Carter as continuously being on the phone. Cave went to the bathroom and heard what he described as two gunshots. Cave exited the bathroom and saw Carter was sitting on his couch, he was on the phone and appeared in distress. Cave began to hear sirens as Carter turned off the lights in the apartment. Officers and Detectives began to knock on the door and neither man would answer the door.

Cave and Carter soon went to sleep and Carter left the apartment around 6:00 am in the morning. Later that day, Carter texted Cave telling him to delete Carter's phone number from his phone. Cave later saw Carter no longer had a smart phone and that he was carrying an old flip cell phone with a new number. Cave later explained that he often purchases marijuana from Carter. Cave often goes out with Carter to sell marijuana and allowing Carter to use his apartment for drug transactions. Cave admitted Carter would purchase marijuana from someone Carter knows as "Banks." When shown a picture of Larry Brown, Cave denied knowing him. Cave confirmed that he has seen "Banks" a few times with his friend Carter.

(See Carter's transcribed statement for further.)

000607

On March 9, 2017 the surveillance team established surveillance at [REDACTED] Las Vegas, NV 89106. Detectives observed a black male exiting the residence, who looked like Larry Brown. The black male left the residence driving a white Jeep compass and the surveillance team followed him.



On March 20, 2017 Detectives served a search warrant on [REDACTED] Las Vegas, NV, 89106 EVT 170320-0816. The 2015 Jeep Compass bearing Nevada License plate [REDACTED] parked in the driveway to the residence. The below items were retained and impounded by LVMPD Crime Scene Analyst M. McIntyre PN 13207

Scribe and Searchers

Sergeant J. Scott PN 4532 (Searcher)

Detective D. Boucher PN 4636 (Searcher)

Detective J. Grimmatt PN 7056 (Searcher)

Detective R. Jaeger PN 5587 (Scribe)

Detective R. Ochsenhirt PN 5488 (Searchers)

LVMPD Crime Scene Analyst M. McIntyre PN 13207

(Photographs, Impounded Evidence)

Package #1

Item #1 — One (1) pair of red and black "Ralph Lauren Polo Sport" shoes, size 13D, with reddish-brown stains on the bottom of the right shoe (presumptive tested for blood with Phenolphthalein, with negative results).

Item #2 — One (1) pair of brown "Ralph Lauren Polo Sport" shoes, size 13D.

Package #2

Item #3 — One (1) black "HP" laptop computer, serial #2CE8296J9D.

Package #3

Item #4 — One (1) gray "Dell Inspiron" laptop computer, unknown serial number.

Package #4

Item #5 — One (1) black and red "Sandisk Cruzer 4GB" USB flash drive.

Package #5

Item #6 — One (1) pair of yellow metal knuckles.

Package #6

Item #7 — One (1) black "Atlanta Falcons" lanyard.

Item #8 — One (1) connecting piece of a black "Atlanta Falcons" lanyard.

Package #7

Item #9 — One (1) buccal swab kit,

The below listed cellular phone were collected by Detective R. Jaeger and given to Detective Cook which were later impounded into the LVMPD evidence vault.

Recovered by Detective Jaeger

(3ea) Cellular phones (1) collected from the guest bedroom (1) collected from the bed in the master bedroom (1) collected from the garage

INTERVIEW

Angelisa Katrina Ryder

DOB [REDACTED]
[REDACTED]

On March 20, 2017 at approximately 0917 hours, Detective Jaeger conducted a taped interview with Angelisa Ryder in front of her apartment. Ryder said in summary, Larry Brown and Angelisa Ryder lived in Atlanta, Georgia before moving to Las Vegas. Ryder has known Brown for the last four years, and lived with him for the last 18 months. Ryder and Brown share the master bedroom, and Brown has a "man cave" in the spare bedroom. Brown works as a mobile car detailer and drove a white Chevrolet Express van. The van was recently towed due to mechanical issues and was being repaired. Brown normally drives Ryder to work at Summerlin Hospital in her 2015 Jeep Compass, with NV License [REDACTED] and picks her up after work so

000609 [REDACTED]

CONTINUATION

Event #: 170221-4563

Brown can use her vehicle while she is at work. Ryder works nights at the hospital as a monitor technician from 1900 hours to 0700 hours in the Telemetry Room.

Ryder stated on February 22, 2017 at approximately 0500 hours, while she was working at the hospital, she received a message that Brown was at the hospital and wanted to see her. Ryder left the Telemetry Room and met Brown. Ryder described Brown as visibly shaken, walking with a limp, he had a swollen knee and scratches on both arms, and complained of a headache. Brown claimed he was with his friend "Poke" (Anthony Carter), when two unknown men tried to rob and kill him. One of the men pointed a gun at Brown, so Brown tossed his phone in the rocks as a distraction and fought with the man. Ryder told Brown to call police and Brown replied, "Don't ask too many questions." Ryder gave Brown some aspirin for his headache and returned to work. A few days later Brown went to the Sprint store located on Lake Mead Boulevard and obtained a replacement cell phone. Ryder said Brown recently left to Georgia on Allegiant Airlines.

Detective Cook conducted a review of Angelisa Ryder's phone [REDACTED] The messages and web browsers history had been manually deleted from the phone, however On February 22, 2017 Ryder was looking to stay in a hotel. Ryder booked a hotel room at the Harrah's Hotel & Casino Confirmation Code 2007465320. It appears, Ryder was browsing airline tickets to Georgia. Ryder researched information on the Homicide investigation at 5850 Sky Pointe which she continuously browsed different news channels to gain information about the homicide case. On March 9th, Ryder booked a flight on Southwest Airlines Flight number 1339 which departed at 0945 hours and arrived in Atlanta Georgia at 1635 Hours.

On March 28, 2017, Attorney at Law Nicholas Woolridge contacted Detective Dosch and Detective Cook. Woolridge stated he was representing Larry Brown. Detective Cook explained that Detectives were seeking to speak with Larry Brown in regards to the Homicide that occurred at 5850 Sky Point. Woolridge stated he would need to speak to his client. On March 29th, Attorney Woolridge contacted Detective Cook and stated his client would not be giving a statement and Detectives needed to get an arrest warrant.

On May 2, 2017 Detective Cook drafted an arrest warrant for Larry Brown, The arrest warrant was submitted to the Clark County District Attorney's Office. The arrest warrant became active on May 9th, 2017 for Murder WDW and Robbery WDW. Detectives received information that Larry Brown had fled to Decatur Georgia.

On May 18, 2017 Detective Cook drafted an arrest warrant for Anthony Carter EVT 170320-0757. The arrest warrant was submitted to the Clark County District Attorney's Office. The arrest warrant was issued on June 5th, 2017, for Prohibited Person possession of a Firearm and Possession of Narcotics- Marijuana with Intent to Sell.

On June 29, 2017 members of the Criminal Apprehension Team in Decatur Georgia, received information that Larry Brown was in Decatur Georgia. Detectives conducted surveillance to apprehend Larry Brown. Brown was seen and detectives attempted to apprehend Brown who fled in a vehicle. A vehicle pursuit was initiated and Brown's vehicle was later stopped which led to a foot chase where brown was taken into custody. Larry Brown was arrested and book for his arrest warrants for Murder with Use of a Deadly Weapon- Firearm and Robbery with Use of a Deadly Weapon- Firearm

CONCLUSION

On February 21, 2017, at approximately 2247 hours, the LVMPD Communications Center received several 9-1-1 callers who reported a shooting in the parking lot of an apartment complex located at 5850 Sky Pointe Drive in Las Vegas. Patrol officers and emergency medical personnel were dispatched to the scene under LVMPD event 170221-4563. Patrol officers and emergency medical personnel arrived and discovered the body of an adult black male, later identified as Kwame Banks, deceased from an apparent gunshot wound.

Homicide Detectives and Crime Scene Analyst processed the scene, recovered evidence, located and interviewed witnesses. Detectives later located evidence that revealed Larry Brown and Anthony Carter were involved in purchasing marijuana from Kwame Banks. When Banks arrived at the Sky Pointe apartments to sell Carter marijuana, Brown got into a physical altercation with Banks. During the altercation Banks was shot and killed. Brown and Carter fled the scene in Banks' Nissan Altima. Brown later fled to Georgia where he was located and taken into custody. Larry Brown was arrested in Decatur Georgia after fleeing from police. Brown was arrested in connection with the murder of Kwame Banks. Anthony Carter was later arrested for Possession of Narcotics with intent to sell and Prohibited Person Possession of a Firearm.

EXHIBIT B

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
EVIDENCE IMPOUND REPORT

☒ **EVIDENCE** ☐ **FOUND PROPERTY** ☐ **SAFEKEEPING** Event Number: **170221-4563**

Incident: Homicide Follow Up	Requesting Officer: D. Cook #5730	Division: ISD	Date: 02/23/2017
Victim(s): Kwame Banks (DOB: [REDACTED])			
Location: CSI Garage			
Vehicle(s): V1: 2015 Nissan Altima, dark grey, 4-dr, no plates, VIN: [REDACTED]			
Additional Information:			

Description of EvidenceLocation of Recovered Evidence

Package 1:

Item 1: One (1) sample of charred seat cushion and fabric towel	From the right side of the right front seat of V1
Item 2: One (1) sample of charred seat cushion and fabric towel	From the front side of the left front seat back of V1
Item 3: One (1) sample of charred seat cushion and fabric towel	From the left rear seat bottom cushion and the left rear seat belt strap of V1
Item 4: One (1) black beanie soaked with an unknown liquid	From the spare wheel well in the trunk of V1

Package 2:

Item 5: One (1) grey vehicle floor mat	From the left front floorboard of V1
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Package 3:

Item 6: One (1) red/white Mitchell & Ness Red Wings flat bill baseball cap	From the left rear seat of V1
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Package 4:

Item 7: Four (4) disposable lighters including one (1) black Cherry Pimps lighter, one (1) clear Wing lighter, one (1) black Bic lighter, and one (1) orange 7-Eleven lighter	From the center console of V1 near the gearshift
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Package 5:

Item 8: One (1) Swisher Sweets cigarillo wrapper containing a green leafy substance, total weight approx. 4.1g (FP)	From inside the door to the gas cap of V1
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Package 6:

Item 9: One (1) possible blood swab with soot	From the acceleration pedal of V1
Item 10: One (1) possible blood swab with soot	From the brake pedal of V1

CSA Supervisor: <i>ms Perkins</i>	P#: 4242	Date Approved 3-01-17	Crime Scene Analyst: C. Browning <i>C. Browning</i>	P#: 15291
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**EVIDENCE IMPOUND REPORT
CONTINUATION**Incident: Homicide Follow UpEvent Number: 170221-4563Location: CSI GarageDate: 02/23/2017

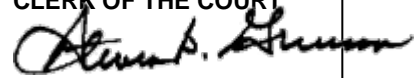
<u>Description of Evidence</u>	<u>Location of Recovered Evidence</u>
Item 11: One (1) swab of possible DNA	From the lip of the Snapple bottle on the right front floorboard of V1
Item 12: One (1) swab of possible DNA	From the lip of the Arrowhead water bottle under the right front seat
Item 13: One (1) swab of possible DNA	From the lip of the Dasani water bottle under the right front seat
Item 14: One (1) swab of possible DNA	From the lip of the Great Value water bottle under the right front seat
Item 15: One (1) swab of possible DNA	From the mouth of the Gatorade bottle under the right front seat
Item 16: One (1) swab of possible DNA	From the lip of the Deluge water bottle on the left rear floorboard
Item 17: One (1) swab of possible DNA	From the lip of the unmarked water bottle on the left rear floorboard

Crime Scene Analyst:

C. Browning

P#:

15291



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Attorney for Larry Decorleon Brown

DISTRICT COURT

CLARK COUNTY, NEVADA

STATE OF NEVADA,)	CASE NO. C-17-326247-1
	)	DEPT. NO. 21
Plaintiff,)	
)	
vs.)	
)	
LARRY DECORLEON BROWN,)	
ID 8376788,)	
)	
Defendant.)	
)	

**DEFENDANT LARRY BROWN'S MOTION IN LIMINE TO PRECLUDE
THE STATE FROM PRESENTING TO THE JURY ANY EVIDENCE
THAT SUGGESTS FLIGHT PRIOR TO THIS COURT RULING ON
WHETHER TO ALLOW A FLIGHT INSTRUCTION**

COMES NOW, Defendant Larry Brown, by and through his attorneys, JoNell Thomas, Special Public Defender, and Monica R. Trujillo, Chief Deputy Special Public Defender, and hereby moves this Honorable Court, pursuant to the Sixth and Fourteenth Amendments to the United States Constitution, Article 1, Section 8, of the Nevada Constitution, and applicable state law, to preclude the State from suggesting the jury that Mr. Brown attempted to flee from authorities.

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TO: District Attorney, Attorney for Plaintiff

PROCEDURAL HISTORY

Mr. Brown is charged by way of Third Superseding Indictment with one count of Conspiracy to Commit Robbery, one count of Robbery with Use of a Deadly Weapon, one count

1 of Murder with Use of a Deadly Weapon and one count of Ownership or Possession of Firearm
2 by Prohibited Person. Trial is currently scheduled for August 26, 2019.

3 **PERTINENT FACTS**

4 The State alleges that on February 21, 2017, Mr. Brown and Mr. Carter killed Kwame
5 Banks in the parking lot of the Sky Pointe Landing Apartments located at 5850 Sky Pointe Drive.
6 On March 8, 2017, a Las Vegas Metropolitan Police Department Surveillance team began
7 surveillance of the Angelisa Ryder's residence. See Officer's Report p. 20 (Exhibit A). While
8 the Officer's Report states, "[w]hen the driver's photos were compared to a photo of Larry
9 Brown, Detective Dosch and Detective Cook noted there was some resemblance; however, the
10 image of Larry Brown was from 2013", the surveillance log identified the subject as Larry
11 Brown. Exhibit A, pp. 20-21. Sometime thereafter, both Ms. Ryder and Mr. Brown visited
12 Georgia at separate times as both lived there previously and regularly visit the state.
13
14

15 After detectives executed the search warrant on Ms. Ryder's residence, she informed Mr.
16 Brown that detectives wished to speak with him. Thereafter, he retained attorney Nicholas
17 Woolridge to facilitate communication with detectives. According to the Officer's Report, Mr.
18 Woolridge told detectives that he represented Mr. Brown. Exhibit A, p. 31. He also informed
19 them that Mr. Brown would give a statement and that they needed to get an arrest warrant.
20 Exhibit A, p. 31.
21

22 On May 9, 2017, there was an active arrest warrant for Mr. Brown and detectives allege
23 that they received information that Mr. Brown fled to Georgia. Exhibit A, p. 31. Upon
24 information and belief, on June 29, 2017, Mr. Brown was being followed by an unmarked vehicle
25 as he was driving. Based on a Federal Bureau of Investigation report¹, Special Agents Fitzgerald
26 and Winn were conducting surveillance on Mr. Brown when he began to speed and make illegal
27
28

¹ Counsel will provide this Court with the report at the time of the hearing on this motion.

1 U-turns. The agents then requested assistance from the Dekalb County Police Department.
2 Agents saw him walking down the street and gave him verbal commands to get on the ground.
3 According to the report, Mr. Brown complied and was taken into custody.

4 ARGUMENT

5 This Court should preclude the State from suggesting to the jury that Mr. Brown
6 attempted to flee. The above-listed facts simply do not indicate flight. Allowing testimony that
7 suggests flight would unfairly prejudice Mr. Brown.
8

9 Not only do the facts fail to indicate flight, but their use as a means to suggest flight is
10 improper. The facts also fail to meet the criteria set forth by the Nevada Supreme Court as
11 evidence of flight. See Rosky v. State, 121 Nev. 184, 198-99; 111 P.3d 690, 699-700 (2005)
12 (concluding that evidence showing that prior to trial the defendant was released on bail, failed
13 to appear and a bench warrant was issued coupled with statements by him that he assumed a
14 different identity was sufficient for a jury to infer consciousness of guilt and thus enough for a
15 flight instruction.); Miles v. State, 97 Nev. 82, 85, 624 P.2d 494, 496 (1981) (determining that
16 evidence showing defendant received a key to a locked cabinet with \$1,000, then shortly after
17 left work without reason, and left the area was sufficient to allow a jury to infer flight.); Carter
18 v. State, 121 Nev. 759, 770; 121 P.3d 592, 599 (2005) (holding that evidence that defendant's
19 wife mislead detectives and he hid himself while police searched his house was indicative of
20 flight.)
21
22

23 The Nevada Supreme Court has made it clear that a flight instruction, "may give undue
24 influence to one phase of evidence." Miles v. State, 97 Nev. 82, 85; 624 P.2d 494, 496 (1981).
25 Accordingly, the high Court, "will carefully scrutinize it to be certain that the record supports
26 the conclusion that appellant's going away was not just a mere leaving but was with a
27 consciousness of guilty and for the purpose of avoiding arrest." Id. Here, these facts simply do
28

1 not rise to the level of consciousness of guilt. Rather, Mr. Brown was visiting his home state as
2 he regularly does to visit his family.

3 Even if this Court believes this evidence is somehow relevant, it is not admissible if its
4 probative value is substantially outweighed by the danger of unfair prejudice, of confusion of
5 the issues or of misleading the jury. NRS 48.035(1). Upon information and belief, there was no
6 arrest warrant at the time that Mr. Brown visited Georgia. Additionally, it would be improper
7 for the State to suggest flight if the vehicle following Mr. Brown was in fact an unmarked car.
8 Because the facts do not indicate flight or consciousness of guilt, this Court should preclude the
9 State from suggesting to the jury that Mr. Brown attempted to flee in any manner. Additionally,
10 this Court should not allow a flight instruction in the instant matter. Allowing the State to suggest
11 that Mr. Brown attempted to flee under these facts is improper and would violate his right to a
12 fair trial.
13
14

15 **CONCLUSION**

16 Based on the foregoing, this Court should preclude the State from suggesting to the jury
17 that Mr. Brown attempted to flee.
18

19 Dated: August 9, 2019

20 SUBMITTED BY

21 /s/ MONICA R. TRUJILLO

22 _____
23 MONICA R. TRUJILLO
24 Attorney for Brown
25
26
27
28

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of the above mentioned matter was made pursuant to EDCR 7.26 on the attorney for the named parties by means of electronic mail to the email address provided to the court's electronic filing system for this case. Proof of Service is the date service is made by the court's electronic filing system by email to the parties and contains a link to the file stamped document.

PARTY
STATE OF NEVADA

EMAIL
DISTRICT ATTORNEY'S OFFICE email:
motions@clarkcountyda.com

Dated: 8/9/2019

/s/ ELIZABETH (LISA) ARAIZA

An employee of the Special Public Defender

EXHIBIT A

-LAS VEGAS METROPOLITAN POLICE DEPARTMENT
OFFICER'S REPORT: HOMICIDEEvent #: **170221-4563**

Murder WDW - Firearm, Robbery WDW - Firearm

SUBJECT

DIVISION
REPORTING: ISDDIVISION OF
OCCURRENCE: Patrol NWACDATE & TIME
OCCURRED: 02/21/17 @ 2247 hoursLOCATION OF
OCCURRENCE: 5850 Sky Point Drive Las Vegas, NV
89130NARRATIVE:**Case Detectives:**

Detective Darin Cook PN 5730

Detective Mitch Dosch PN 7907

VICTIM:

Kwame Banks (Decedent)

DOB [REDACTED] ID# [REDACTED]

BMA, 5'8," 180LBS, Black Hair, Brown eyes

LKA: [REDACTED]

PH# [REDACTED]

**SUSPECTS:**

Larry Decorleon Brown

DOB [REDACTED]

BMA, 6'3"," 240LBS, Brown Hair, Brown eyes



Anthony Jerome Carter Aka "POE ATL"

DOB [REDACTED] ID# [REDACTED]

BMA, 6'1," 217LBS, Black Hair, Brown eyes

**VEHICLE:**

Black, 4 Door, Nissan Altima

CA [REDACTED]

VIN# [REDACTED]

RO Kwame Banks

CHARGES:

Murder with Use of a Deadly Weapon-Firearm, and Robbery with Use of a Deadly Weapon-Firearm

Date and Time of Report: 08/16/17 @ 1500 hoursOfficer: Darin Cook P#: 5730Approved By: [Signature] 9125Officer: Mitch Dosch P#: 7907SIGNATURE: [Signature] PN 5730

000622 [REDACTED]

SYNOPSIS:

On February 21, 2017, at approximately 2247 hours, the LVMPD Communications Center received several 9-1-1 callers who reported a shooting in the parking lot of an apartment complex located at 5850 Sky Pointe Drive in Las Vegas. Patrol officers and emergency medical personnel were dispatched to the scene under LVMPD event 170221-4563. Patrol officers and emergency medical personnel arrived and discovered the body of an adult black male, later identified as Kwame Banks, deceased from an apparent gunshot wound. Patrol officers contacted witnesses, secured the crime scene with yellow crime scene tape and awaited the arrival of homicide personnel. Homicide Detectives and Crime Scene Analyst processed the scene and recovered evidence. Detectives located and interviewed witnesses. Detectives later determined that Larry Brown and Anthony Carter were involved in purchasing marijuana from Kwame Banks. When Banks arrived at the Sky Pointe apartments to sell Carter the marijuana, Brown got into a physical altercation with Banks. During the altercation Banks was shot and killed. Brown and Carter fled the scene and Brown later returned to Georgia. Larry Brown was arrested in Decatur Georgia connection with the murder of Kwame Banks. Anthony Carter was later arrested for Possession of Narcotics with intent to sell and Prohibited Person Possession of a Firearm.

PERSONS AT SCENE**PATROL OFFICERS:**

K. Kim Unit	PN 14855	Unit 1X5 (First Arriving Officer)
J. Weghorst	PN 15391	Unit 1X1 (First Arriving Officer)
SGT J. Benjamin	PN 6964	UNIT 718
R. Tighes	PN 15840	Unit 3X55
R. Warren	PN 15873	Unit 3X11
M. Madland	PN 9978	Unit 3V5
J. Abbott	PN 8872	Unit 1X4
A. Lif	PN 15392	Unit 1X34
M. Cook	PN 8088	Unit 1V44
T. O'Neal	PN 6067	Unit 1V33
A. Quiles	PN 7433	Unit 1V22
S. Witham	PN 4594	Unit 1V11
C. Ralyea	PN 13357	Unit 1DP63
G. Calhoun	PN 6062	Unit 1DP60
Capt. R. Fletcher	PN 4511	Unit 207
K. Hoskins	PN 9303	Unit 3X66

PATROL DETECTIVES:

SGT. Matthew Ruiz	PN 6794	607PD
Detective R. Hall	PN 6756	PD42
Detective J. Motl	PN 7464	PD59
Detective W. Sylva	PN 4080	PD4

INTELLIGENCE DETECTIVES:

SGT A. Burnett	P# 4907	579OC
Detective E. Solano	P# 7588	OC10
Detective R. Moreno	PN 4922	OC7
Detective J. Vance	PN 9004	OC20

CONTINUATION

Event #: 170221-4563

HOMICIDE DETECTIVES:

LT. Dan McGrath	PN 4349	303H
SGT Craig Lousignont	PN 4125	583H
Detective Daniel Long	PN 3969	H1
Detective Fred Merrick	PN 7549	H11
Detective Mitch Dosch	PN 7907	H15
Detective Ryan Jaeger	PN 5587	H24
Detective Darin Cook	PN 5730	H22

CRIME SCENE ANALYST:

P. Schellberg CSA Supervisor	PN 5413	Unit CS5
K. Thomas SCSA	PN 13574	Unit C25
G. Guerrero CSA	PN 15290	Unit C10
W. Speas SCSA	PN 5228	Unit C10

MEDICAL PERSONNEL:

Clark County FD Engine 9
CCFD S Powell
AMR Unit 141
Paramedic Z. Ford
Paramedic S. Montez

CORONER INVESTIGATOR:

Clark County Coroner Investigator
R. Flores PN 368
Case # 17-2101, Tag # 543240
TOD 02/22/17 @ 0455 hours

MORTUARY PERSONNEL:

A. Duncan (Davis Mortuary)
D. Morgan (Davis Mortuary)

PERSONS INTERVIEWED:

Tiffany Seymour (Girlfriend / mother of Banks' children)
DOB [REDACTED]
[REDACTED]

Laquanda Banks (Estrange wife / mother of Banks' children)
DOB [REDACTED]
[REDACTED]

Brandon Kohler
DOB [REDACTED]
[REDACTED]

Aireonte Reed
DOB [REDACTED]
[REDACTED]

Steve Wallace

DOB [REDACTED]

[REDACTED]

Dereka Neslon

DOB [REDACTED]

[REDACTED]

Victoria Nordstrom

DOB [REDACTED]

[REDACTED]

Tiffany Necole Carter (Anthony Carter's Ex-Wife)

DOB [REDACTED]

BFA 5'4" 180LBS Brown Hair, Brown Eyes

[REDACTED]

Angelina Karina Rader (Larry Brown's Girlfriend)

DOB [REDACTED]

BFA 5'7" 180LBS Brown Hair, Brown Eyes

[REDACTED]

Carnell Rick-James Cave (Parking Space [REDACTED])

DOB [REDACTED]

[REDACTED]

OMIC DE NOTI, FACT AND RESPONSE.

Homicide personnel and Crime Scene Analyst responded to the scene to assume investigatory responsibility. Detective Cook and Detective Dosch examined the crime scene for evidence and noted the victim's body was located in a parking space under a carport, in front of building [REDACTED]. Evidence at the crime scene consisted of apparent blood foot impressions in apparent blood, a 40 caliber cartridge case, a black exam glove and a black cloth glove. The victim's pants pockets were pulled out which suggested a possible robbery. There were three cell phones located in the crime scene. A black LG Samsung cell phone with a cracked screen and a parent blood was located under victim's body. A black Samsung cell phone in a black case was found approximately 10 to 15 feet away from the victim's body in a landscaped area. The landscape area appeared to have been disturbed and suggested a fight took place. The third cell phone, a black cell phone with a cracked screen and apparent blood was found approximately 100' north of victim's body in the parking lot near the main entrance. The phone was in three pieces (phone, battery and battery cover). Just west of the dismantled or broken cell phone was another black exam glove with apparent blood and a \$10.00 bill. All three cell phones were documented and processed for forensic evidence before Detective Cook took possession of them.

DESCRIPTION OF THE CRIME SCENE AT 5850 SKY POINT DRIVE LAS VEGAS, NV 89130**DESCRIPTION OF CRIME SCENE AND VISBLE EVIDENCE:**

Detective Cook and Detective Dosch examined the crime scene for evidence and noted the body was located under the carport in parking space number [REDACTED]. The body was lying in a prone position face down. The victim's head was facing north. The victim's legs were straight and pointed south/southeast the victim's arms were out to the side and bent at the elbow. Evidence at the crime scene consisted of apparent blood, foot impressions in apparent blood, a .40 caliber cartridge case, a black latex glove and a black cloth glove. The victim's pants pockets were pulled out, which suggested the victim was also the victim of a robbery.

SCENE:

The Sky Point apartment complex was located on the east side of Sky Point Drive. Building [REDACTED] was located on the west side of the complex near the main office. Building [REDACTED] is situated north to south in the southwest portion of the complex. Directly north of building [REDACTED] is the main driveway, which allowed vehicles to enter or exit the complex onto Sky Point Drive. The entrance/exit was situated east to west with the exit lane to the north and the entrance lane on the south. A median separated the two lanes. Along the north side of the landscape of the center median in the exit lane, was a torn black-colored exam glove. Northeast of the glove near center of the exit lane was a \$10 bill. A Verizon cell phone broken in pieces with apparent blood was located at the east end of the exit lane, west of the leasing office.


A secondary driveway was located on the south side of building [REDACTED] which allowed vehicles to enter or exit the complex onto Sky Pointe Drive. On the east side of building [REDACTED] was covered parking which ran north and south. Uncovered parking was located on the east side of the driveway near the basketball court and leasing office. A walkway extended north and south on the west side of the cover parking.

Building [REDACTED] is a two story multi-unit building. There are two breezeways located on the north and south ends of the building. There are stairways located in the breezeways to allow access to the second floor apartments. Two walkways extend from the east side of the north breezeway of building [REDACTED]. These two walkways, when combined with the north/south walkway located on the west side of the covered parking spaces create a triangle. The center of the walkways had stone landscaping and a centrally located tree. A Samsung cell phone was located in the rock landscape area, south east of the tree.

The covered parking spaces along the east side of building [REDACTED] were numbered. The northernmost covered parking space was [REDACTED]. The spaces were numbered in decreasing order from north to south. Space [REDACTED] was the southernmost parking space, which was followed by two uncovered parking spaces. South of the uncovered parking spaces was parking space [REDACTED]. South of parking space [REDACTED] the parking spaces decreased in order.

Parking space [REDACTED] was located southeast of the north breezeway of building [REDACTED]. A white 2006 Toyota Solara was parked facing west in covered space [REDACTED]. A Blue, 2008 Suzuki Forenza was parked west in covered parking space [REDACTED]. A red "Nike" sneaker was on the pavement north of the front tire of the Toyota Solara. A black, fabric glove was on the pavement west of the front right passenger tire of the Toyota Solara.

The victim was located on the pavement near the southwest corner of space 308. A cartridge case, bearing the head stamp "Winchester 40 S&W", was on the pavement east of the victim's right hip. A plastic lip balm dispenser was on the pavement east of the victim's right thigh. A black lighter was on the pavement adjacent to his right hip. Along the left side (west) of the victim's torso was a torn piece of black colored exam glove. An apparent bullet hole was observed along the north side of the awning. Areas of drops of apparent blood were observed on the pavement west of the victim's leg and near the pillar located in the southwest corner of space [REDACTED].





An apparent blood trail consisting of a partial footwear impression in blood, led east then south away from the victim. An area of apparent blood was located on the pavement along the north edge of the covered parking space [REDACTED]. A silver, 2005 Ford Focus was parked facing west in the covered parking space [REDACTED]. The passenger mirror of the vehicle was damaged and hanging loosely. The space directly north of space [REDACTED] is marked [REDACTED] and was vacant.

(See Crime Scene Investigation Report for further)

DESCRIPTION AND LOCATION OF THE DECEDENT:

The victim was described as a black male adult. The victim was located on the pavement under carport parking space [REDACTED]. The victim was lying in a prone position, with his head towards the north and his feet to the south/southeast. His face was partly turned to the right side. His right arm was at his side and bent at the elbow. The upper arm was to the east with the forearm to the north. His right hand was to the north, palm down. The victim's left arm was bent at the elbow with his upper arm to the west and his forearm to the north. His hand was to the north, resting on the pavement just above his left shoulder. The index finger on his left hand was extended. His legs were straight, with his right leg east of his left leg.

The victim was dressed in a pair of green sweat pants and a green zip-up hooded sweatshirt with a white shirt underneath. On his feet were white socks and a red "Nike" sneaker on his left foot. His pants pockets were partly turned out. His shirt was partly pulled up in the back, leaving the small of his back visible. Drops of apparent blood were observed on the back portion of his left pant leg and on his buttocks. Areas of apparent blood transfer were observed near his right pants pocket, on his left sneaker and left sock. Dirt and debris was observed on the left side of the victim's sweatshirt and the back of the victim's left arm. Areas of apparent blood were observed on the victim's right hand, under the victim's head, and flowing east, away from the victim's body.

A red folding box cutter was visible in the waistband of the victim's sweatpants. A black Verizon cell phone was under the left side of the victim's arm/torso. A cursory examination of the victim's body by Clark County

Coroner Investigator Flores, found a corresponding gunshot wound to the chest and back. An injury was observed to the back of the victim's right hand. The victim's hands were placed in bags, by Crime Scene Analyst Guerrero to preserve any possible trace evidence. The victim's pants and left sneaker were removed by Senior Crime Scene Analyst Speas in order to preserve blood evidence. Several items to include US currency, jewelry, and a Nevada commercial driver's license bearing the name Kwame Banks were located in the victim's right pants pocket. Upon moving the victim, a cartridge case was located on the pavement under the victim's chest/shirt. The victim's body was placed in a sterile sheet and placed in a body bag Case # 17-2101, Tag #543240, by Davis Mortuary Attendants Duncan and Morgan, who transported the victim to the Clark County Coroner's Office pending Autopsy.

(See Crime Scene Investigation Report for further)

EVIDENCE RECOVERED AT THE SCENE:

The below listed items of evidence was documented and recovered at the 5850 Sky Point Drive LV, NV 89130 by LVMPD Crime Scene Analyst K. Thomas.

PACKAGE #1

Item # 1- One (1) cartridge case with head stamp Winchester 40 S&W

Item #19- One (1) cartridge case with head stamp Federal 40 S&W

PACKAGE #2

Item #2- One (1) plastic lip balm dispenser (no label)

PACKAGE #3

Item #3- One (1) black plastic "BIC" lighter

PACKAGE #4

Item #4- One torn piece of black colored exam glove.

Item #18- One (1) torn black colored exam glove

PACKAGE #5

Item #6- One (1) red and white Nike Air Force "1" sneaker (right shoe)

Item #25- One (1) red and white Nike Air Force "1" sneaker (left shoe)

PACKAGE #6

Item- One (1) black "Hardy Mechanics" left hand glove (size X-Large)

PACKAGE #7

Item #9- One swab of apparent blood

Item #10- One swab of apparent blood

Item #11- One swab of apparent blood

PACKAGE #8

Item #12- One swab of apparent blood

Item #13- One swab of apparent blood

Item #14- One swab of apparent blood

Item #15- One swab of apparent blood

PACKAGE #9

Item #17- One (1) U.S. ten dollar bill (\$10.00)

(Item #17 was chemically processed for latent prints using Indaneino-Zinc with negative results.)

PACKAGE #10

Item #20- One (1) pair of green "Nike" sweatpants (size XXL with apparent blood on them)

PACKAGE #11

Item #21- Two hundred and fifty-six dollars and eighty-five cents. (\$256.85) in U.S Currency.

(\$100 X 1, \$20 X 4, \$10 X 1, \$5 X 13, \$1 X 1, .25 X 2, .10 X 3, .5 x 1.)

PACKAGE #12

Item #22- One (1) yellow metal chain necklace with a lion's head pendant

Item #23- One (1) yellow metal ring

PACKAGE #13

Item #24- One (1) Nevada Commercial Driver's License and two (2) Visa Debit Cards in the name of Kwame Banks and three (3) miscellaneous business cards

PACKAGE #14

Item #26- One (1) swab of possible DNA evidence

Item #27- One (1) swab of possible DNA evidence

PACKAGE #15

Item #28- One (1) swab of apparent blood

Item #29- One (1) swab of apparent blood

PACKAGE #16

Item #30- One (1) pair of footwear elimination prints on vinyl lifts.

PACKAGE #17

Item #31- One (1) red Sheffield" folding box cutter.

VIDEO SURVEILLANCE:

5850 Sky Point Drive (Sky Pointe Landing Apartments)

6050 Sky Pointe Drive (Town Center Lodge)

6050 Sky Pointe Drive (76 Gas Station)

7400 West Azure Drive (One Stop Auto)

7494 West Azure Drive (Findley Honda)

7500 West Azure Drive (Findley Volkswagen)

AUTOPSY PREPARATION

Forensic Technicians

Suzanne Miele – Prep and Photos

Brieanna Kinard – Prep and Photos

On February 22, 2017, at 0725 hours, the body bag of Kwame Banks Tag # 543240 Case # 17-2101 was unseal and opened. Detectives Dosch and Cook attended the photographing and preparation for the autopsy, Forensic Technicians Suzanne Miele and Brianna Kinard photographed and prepared the victim's body for the autopsy. LVMPD Crime Scene Analyst M. Zingleman photographed, documented and collected the evidence to be impounded. The Coroner's Office identified the victim to be the body of Kwame Banks DOB [REDACTED]. The victim's body measured approximately 5'11" and weighted approximately 205 LBS. There was an apparent gunshot wound to the chest area, with an exit wound to the back. There were small abrasion on the victim's right hand. The below listed items were impounded by Crime Scene Analyst Zingleman. LVMPD Crime Scene Analyst Zingleman photographed and recovered evidence.

Package #1

Item #1 — One (1) Evidence Collection Handbag
Item #2 — One (1) Evidence Collection Handbag
Item #3 — Fingernail clippings Item #4 — Fingernail clippings

Package #2

Item #5 — One (1) buccal swab kit

Package #3

Item #6 — Three (3) one hundred dollar bills and eighty (80) twenty dollar bills, US currency, totaling \$1900.00 with apparent blood.

Package #4

Item #7 — One (1) green "Nike" zip up hooded sweatshirt, size XLI with apparent blood and defect.
Item #8 — One (1) white "Hanes" t-shirt, size LI with defects and apparent blood.
Item #9 — One (1) pair of green/blue plaid "Hanes" boxer shorts
Item #10 — One (1) pair of white/gray "Hanes" socks with apparent blood
Item #11 — One (1) sheet with apparent blood

Autopsy

Clark County Medical Examiner Doctor Alane Olson
Forensic Technician Assistance Don Wall

Doctor Alane Olson performed the autopsy with the assistance of forensic technicians Don Wall and Brianna Kinard. Doctor Olson noted a single gunshot wound that traveled from front to back of the decedent. The bullet entered left of center of the chest and traveled to the right and slightly upward and then exited the victim's back. Doctor Olson ruled the manner of death a homicide and the cause of death was a gunshot wound to the chest. During the autopsy no projectiles were found in the victim.

(Refer to Clark County Coroner's Office report for further)

INTERVIEWS

Homicide Detectives contacted and interviewed witnesses. In summary, the witnesses reported hearing a male's voice screaming for help. Witnesses saw the decedent and at least one other person involved in an altercation and then heard gunshots. Some of the witnesses then reported seeing the shooter go through the decedent's pockets. After the murder, some of the witnesses reported the shooter left on foot and went out the main entrance, while other witnesses reported the shooter possibly left in a vehicle, which was parked to the south of the victim's body. The below listed statements are synopsis's of audio interviews conducted by detectives.

Tiffany Seymour (Girlfriend / mother of Banks' children)
DOB [REDACTED]
[REDACTED]

On February 22, 2017 at approximately 1141 hours, Detective D. Long took a recorded statement from Tiffany Seymour in her home at [REDACTED]. For complete details of the interview, please refer to the audio recording transcription. Seymour advised she was the long-time girlfriend of Kwame Banks and has a son with him and was also currently pregnant by him. Seymour said Banks usually stayed in her house and he had spent the previous day with her at the house. They went to two doctor's appointments and after the appointments he drove her back home. Banks owned a black Nissan Altima, 4-door, bearing California license plates [REDACTED].

Seymour said Banks usually carried two cell phones, but recently he started carrying a third. One was a white iPhone with the number [REDACTED] which was used exclusively for family contacts. The second was a black cell phone [REDACTED] which he used for business (Marijuana Sales). Tiffany said the last black cell phone she knew nothing about, she had only seen it two or three days prior.

Seymour said the night before Banks left her house at approximately 2215 hours and he was wearing an olive green sweat suit, red and white Nike athletic shoes, white t-shirt and was carrying a red pocket knife. Banks did not have a gun and never carried a gun with him. He was probably carrying some marijuana for sale. Seymour said Banks had received a text from a male known as "Poe ATL" (the ATL was because he was from Atlanta). Normally, Banks would have used his black cell phone for the contacts when he was going to meet with someone for marijuana dealings. Banks carried cash with him and occasionally carried a large amount of cash.

Banks was going through a divorce and had filed paperwork several days ago to divorce his wife, Laquanda Selmon-Banks. The divorce was contentious and they were fighting and getting arrested recently. Two weeks before, Kwame and Laquanda both went to jail for fighting. The Sunday before, Kwame damaged Laquanda's [REDACTED]

CONTINUATION

Event #: 170221-4563

car and her grandmother's house. Laquanda told Kwame that she had a new man and threats were made toward Kwame. [REDACTED] as Laquanda's grandmother's house and where the vehicles were damaged. Seymour said Laquanda's phone number was [REDACTED] she called during the day and she threatened him.

Last night Banks felt Seymour was nagging him and felt they should spend the night apart. He was going to stay at his house and he would see her the following day. They separated on good terms when he left in his car. Seymour said she didn't know where his car was and said no one lived in the house with him. Seymour said the key fob and key to her house was lost inside Banks' car somewhere, so the door was always unlocked and all you had to do to start the car was push the ignition button. It had been that way for several days. Seymour has the same car and the same problem.

Seymour told Detective Long after the end of the recording that Poe ATL had ordered a delivery and around 2200 hours, Seymour asked Banks if he had to be somewhere and he told her that he did, but didn't leave until 2215 hours. Seymour seen the name Poe ATL on the screen of the black phone and heard him talk before and said he was "Country" and she thought that confirmed that he was from Atlanta. Seymour felt Poe would have had something to do with Banks being murdered.

Banks' Aunt Kenyetta Banks called from [REDACTED] and wanted to take Seymour to the Clark County Coroner's Office and start the process for the body. Kenyetta said her sister and the mother of Banks was Dynetta Banks and Banks father, George Barnes" were coming to Las Vegas from Northern California for their son. Detective Long advised Kenyetta Banks that the CCCO Case # 17-2101 and the office was at 1704 Pinto Lane, Las Vegas, NV 89106, phone 702-455-3210. Kenyetta responded to the house and picked up Seymour to go to the Coroner office.

(Refer to Tiffany Seymour transcribed statement for additional information).

Dereka Nelson

DOB: [REDACTED]
[REDACTED]
[REDACTED]

On February 22, 2017 at approximately 0150 hours, Detective Dosch conducted an audio-recorded interview with Dereka Nelson, who related the following: Around 2240 hours Nelson heard what sounded like a male yelling for help, which was followed by a gunshot. Nelson went to her bedroom, called 9-1-1 and looked outside her bedroom window. Underneath the carport and next to her white Toyota Solara were two men involved in a physical altercation. The fight moved onto the top of her hood and the victim was under the [REDACTED] Nelson

000633

heard a second gunshot, but did not see a weapon. The suspect was wearing a dark colored cap, a dark colored hooded sweatshirt, dark colored pants, and "shiny" gloves. Nelson retreated to her closet for cover and spoke to the dispatcher. About one minute later Nelson returned to the window as saw the victim lying motionless on the ground next to her car.

A male then approached the victim's body from the east and began searching the victim's pants pockets. Nelson believed the person going through the victim's pockets was most likely the same suspect the victim had fought with. The suspect walked away and within approximately 10 seconds Nelson saw a navy blue or black four-door sedan southbound through the parking lot toward the south entrance. The vehicle had tinted windows and appeared to be an older model. Nelson did not see the suspect's face and cannot make an identification. Nelson said the vehicles parked to the south of her car and to the north of the victim's body belonged to other tenants in the complex.

(Refer to Dereka Nelson's written statement and transcribed interview for additional details.)

Victoria Nordstrom

DOB: [REDACTED]
[REDACTED]
[REDACTED]

On February 22, 2017 at approximately 1540 hours, Detective Dosch conducted a recorded statement from Victoria Nordstrom at 5850 Sky Pointe Drive, for complete details of the interview, please refer to the audio recording and/or transcription provided: Around 2300 hours Nordstrom was hanging out in the balcony of her friend Kelly Kohler's apartment. Nordstrom heard what sounded like a male yelling for help. Nordstrom looked toward the west parking lot and could not see who was yelling. Nordstrom then heard a gunshot and ran inside the apartment to check on the children. Branden and Steven Kohler exited the apartment and relayed information about what they saw to Kelly, who had called 9-1-1. Nordstrom looked outside the master bedroom window and saw the victim lying on the ground, under the carport. One of the Kohler brothers said he saw the suspect walking toward the main entrance on a cell phone, and the other Kohler brother said he saw a vehicle headed to the south entrance. Nordstrom saw neither of those two things. Refer to Victoria Nordstrom's written statement and transcribed interview for additional details.

Branden Kohler

DOB: [REDACTED]

SSN: [REDACTED]

ADD: [REDACTED]

PHN: [REDACTED]

On February 22, 2017 at approximately 0141 hours, Detective Merrick conducted a recorded statement from Branden Kohler at 5850 Sky Pointe Drive [REDACTED] for complete details of the interview [REDACTED] e refer

to the audio recording and/or transcription provided. Branden Kohler, stated the following information in summary: Kohler was inside his apartment when his wife, Kelly Kohler, yelled at him to go back outside. Once on the patio, Kohler heard two men arguing in the direction where the victim was located. One of the men was yelling "no, no, no", then Kohler heard one gunshot. Kohler then went back into his apartment and retrieved his firearm, then went back outside to his patio. Kohler heard the two men arguing again, then heard a second gunshot. Kohler then saw a male stand up and start to walk north bound towards the leasing office. The male was wearing a dark hoody with white lettering. Kohler lost sight of the male and then saw a vehicle back out of a covered parking spot which is south of the victim's location. The vehicle then exited south through the parking lot. Kohler believed the vehicle was a dark colored Nissan Maxima or Altima.

(Refer to Branden Kohler's transcribed statement for additional information).

Kelly Kohler

DOB: [REDACTED]

SSN: [REDACTED]

ADD: [REDACTED]

PHN: [REDACTED]

On February 22, 2017 at approximately 0157 hours, Detective Merrick obtained a recorded statement from Kelly Kohler at 5850 Sky Pointe Drive [REDACTED] for complete details of the interview, please refer to the audio recording and/or transcription provided. Kohler was sitting on her patio when she heard screaming and a male voice saying "help, help, help". Kohler told her husband to come outside and then she heard a female screaming. Kohler then heard a gunshot and Kohler went inside her apartment. Kohler called 911 and while she was talking to the operator she heard a second gunshot.

(Refer to Kelly Kohler's transcribed statement for additional information.)

Jakhai Smith

DOB: [REDACTED]

SSN: Unknown

ADD: [REDACTED]

PHN: [REDACTED]

On February 22, 2017 at approximately 0214 hours, Detective Merrick obtained a recorded statement from Jakhai Smith at 5850 Sky Pointe Drive [REDACTED] for complete details of the interview, please refer to the audio recording and/or transcription provided: Jakhai lives in a second floor apartment and his bedroom window looks out to the parking lot where the victim was lying. Smith was in his bedroom and heard people arguing outside his window, so he got up and peered out through the blinds. Smith saw two males engaged in a fight. Smith described the victim as a black male adult wearing gray sweat pants and red "air force" shoes. Smith described the suspect as a black male adult wearing all black clothing and had a chrome semi-auto handgun in his right hand. The suspect and the victim was fighting over the gun when the suspect shot the victim one time in the stomach. The suspect told the victim not to move prior to shooting him. The suspect then

000635 [REDACTED]

CONTINUATION

Event #: 170221-4563

went through the victim's front pant pockets and took some money. The suspect then walked out of sight and proceeded south bound through the parking lot. Also present during the recorded statement was Smith's mother, Lonnetta Smith, DOB: [REDACTED]

(Refer to Smith's transcribed statement for additional information.)

Chaz Schoenbeck

DOB: [REDACTED]

SNN: [REDACTED]

ADD: [REDACTED]

PHN: [REDACTED]

On February 22, 2017 at approximately 0251 hours, Detective Merrick obtained a recorded statement from Chaz Schoenbeck at 5850 Sky Pointe Drive [REDACTED] for complete details of the interview, please refer to the audio recording and/or transcription provided: During the statement and/or contact with Schoenbeck, he relayed the following information: Schoenbeck was inside his apartment when he heard a gunshot followed by a person screaming for help for approximately 15 to 20 seconds. Schoenbeck then heard a second gunshot. Schoenbeck then called 911. (Refer to Schoenbeck's transcribed statement.)

WITNESS CANVASS

Eric Smith

DOB: [REDACTED]

- Smith heard what sounded like two males involved in an argument. After the argument ended Smith heard someone say, "I'm going this way."

Landen Davenport

DOB: [REDACTED]

- Davenport heard a male's voice yell for help multiple times under what he thought was a minute. Davenport heard a gunshot, which was followed by the male yelling for help. There was a second gunshot and everything got quiet. Davenport then heard a third gunshot. Davenport looked outside his apartment window and did not see anything suspicious. Davenport and his girlfriend, Whitney Tatum, parked their vehicles in the west parking lot, near the southwest corner of the basketball courts.

Nelson Gonzalez

DOB: [REDACTED] / SSN: Unknown
[REDACTED]

- Gonzalez did not see or hear anything suspicious.

Stephanie Morton

DOB: [REDACTED] / SSN: Unknown
[REDACTED]

- Morton did not see or hear anything suspicious.

INVESTIGATION FOLLOW UP:

On February 23, 2017 Detectives Cook and Dosch located Banks', Black, 4 Door, Nissan Altima, CA [REDACTED] parked on the west end of a business complex located at 7495 Azure Drive, which was less than a mile from the crime scene. The vehicle's license plates were missing and the interior of the vehicle had been set on fire in an attempt to destroy evidence. Detective Cook requested LVMPD Crime Scene Analyst C. Browning PN 15291 to respond to the vehicle location for photographing and sealing of the vehicle pending forensic analysis. The vehicle was then transported by Ewing Towing Stock # 12538 to the LVMPD CSI Lab and stored in the secure garage. Crime Scene Analyst C. Browning followed the Ewing towing to the CSI Lab.



On February 23, 2017 at 1740 hours, Detective Cook and Detective Dosch responded to the LVMPD CSI Lab garage and met Crime Scene Analyst Browning and Crime Scene Analyst S. Fletcher PN 5221. The Nissan Altima was parked in the secure CSI garage. The vehicle was photographed prior to entry. The interior of the vehicle was burned by an unknown accelerant. The front passenger area, including the steering wheel, dash board and seats were burned. The head liner and rear passenger area sustained fire damage. The windows were smoked due to the extensive heat transfer inside the vehicle as it burned. The below was listed items that were photographed and impounded by Crime Scene Analyst Browning.

(Refer to Crime Scene report for further)

Package 1:

- Item 1: One (1) sample of charred seat cushion and fabric towel
- Item 2: One (1) sample of charred seat cushion and fabric towel
- Item 3: One (1) sample of charred seat cushion and fabric towel
- Item 4: One (1) black beanie soaked with an unknown

Package 2:

- Item 5: One (1) grey vehicle floor mat

Package 3:

- Item 6: One (1) red/white Mitchell & Ness Red Wings flat bill baseball cap

Package 4:

- Item 7: Four (4) disposable lighters including one (1) black Cherry Pimps lighter, one (1) clear Wing lighter, one (1) black Bic lighter, and one (1) orange 7-Eleven lighter

Package 5:

- Item 8: One (1) Swisher Sweets cigarillo wrapper containing a green leafy substance, total weight approx. 4.1g (FP)

Package 6:

- Item 9: One (1) possible blood swab with soot
- Item 10: One (1) possible blood swab with soot

On February 23, 2017 Detective Dosch requested Las Vegas Fire & Rescue (LVFR) Fire Investigators to respond to the LVMPD CSI Lab located at 5555 West Budura, Las Vegas, NV 89118. LVFR were requested due to the interior of the victim's vehicle had been set on fire. LVFR Fire Investigators L. Brown PN 885, S. Saucedo PN 1154, J. Sypniewicz PN 1049 and H. Jarrard PN 954 responded. Investigators completed an examination of the interior and exterior of the vehicle. Crime Scene Analyst Browning, Crime Scene Analyst Fletcher, and LVFR J. Sypniewicz photographed and collected evidence from the vehicle. LVFR completed a report detailing their arson investigation. (Refer to LVFR arson report for further details)

On February 23, 2017 Detective Dosch and Detective Cook contacted the Volkswagen and Honda dealerships located at 7500 W. Azure Drive, which had video surveillance of the business complex across the street from where Banks' vehicle had been dumped and burned. The video surveillance showed Banks' vehicle pulling into the business complex at approximately 2332 hours, which was approximately 45 minutes after the murder was reported to law enforcement. At approximately 2356 hours a newer model, mid-size white sport utility vehicle (SUV) arrived and parked next to Nissan Altima. Six minutes later, at approximately 0002 hours, a marked LVMPD vehicle pulled into the same parking lot just as the white SUV exited the business complex. The marked LVMPD unit pulled up behind the Nissan Altima and appeared to shine a spotlight on the vehicle.

The video surveillance showed Banks' vehicle still parked in the business parking lot on the early morning hours of February 23rd. At approximately 0243 the vehicle appeared to be set on fire. A suspect or vehicle could not be seen entering the business complex before the fire. The business complex had multiple entry points, which were not depicted in the video surveillance. However, a white SUV, similar to the one depicted on video surveillance on February 21st, was seen driving both east and westbound on Azure Drive.

On February 24, 2017 the forensic examination of the cell phones was completed for two of the three cell phones. The third cell phone, which was found in the rocks approximately five to six feet away from Banks' body, was locked. Detectives were able to obtain the cell phone's integrated circuit card identifier (ICCID) from the subscriber identity module (SIM card). The ICCID was the serial number for the SIM card. The ICCID was sent to Sprint who identified the subscriber as Larry Brown, date of birth [REDACTED] and social security number [REDACTED]. Brown was a black male and his address was in Atlanta, Georgia. Brown's phone number was identified as [REDACTED].

A record check on Brown showed he had served prison time in Georgia for bank robbery and narcotics-related offenses. It also showed Brown attempted to get a Nevada identification card on June 24th, 2016 through Nevada DMV, which was denied for incomplete documents. The address listed by Brown was [REDACTED] in Las Vegas. Brown also listed his cell phone number of [REDACTED]. Brown's possible girlfriend was then identified as Angelisa Ryder ID #8376789. Ryder lives at the same address, [REDACTED] and had been there since 2014. Ryder listed a 2015 Jeep SUV bearing Nevada registration [REDACTED] registered at the same address.

The other two cell phones had phone numbers [REDACTED]. From the [REDACTED] cell phone contacts Detectives located a name "Poe ATL". The corresponding cell phone number was [REDACTED]. Banks' cell phone showed a lot of activity between his phone number and [REDACTED]. Detective Cook obtained a pen register for [REDACTED] and a court order for [REDACTED]. Both legal documents were signed by District Court Judge Jerry Wiese. The pen register was sent to T-Mobile for service and the court order was sent to Sprint for service.

On February 25, 2107 Detective Dosch conducted an on-line record check of the VIN number of Ryder's vehicle. The records check revealed the vehicle was listed for sale by Enterprise Car Rental in 2016. The on-line flyer included several images of the vehicle, which was a white 2015 Jeep Compass. The vehicle bared a strong resemblance to the white SUV depicted in video surveillance recovered from across the street of the business complex where Banks' vehicle was dumped and burned.

Detective Cook later obtained the phone records from T-Mobile, which identified the subscriber of [REDACTED] as Anthony Carter with an address of [REDACTED]. A SCOPE records check on Carter revealed he was a black male born in Atlanta, Georgia. Detective Dosch checked Facebook and located Carter's account under his name. The account showed five recent "selfie" photographs of Carter, which were dated in January of 2017. The photographs appeared to be taken inside an apartment. A more extensive record check revealed Carter's wife was Tiffany Carter and she lived at [REDACTED] in Las Vegas.

A record check through NV Energy confirmed Tiffany Carter had an account under her name at [REDACTED]. A record check through the Clark County School District (CCSD) revealed Anthony and Tiffany Carter have children attending school in the district. CCSD records further revealed Anthony and Tiffany Carter updated their information in December of 2016 and listed the Rosinwood Street address as their home.

Detective Cook and Detective Dosch reviewed Carter's cell phone records at the time of the murder, it appeared his calls hit off a cell tower located less than a ½ mile northwest of the crime scene. A further review of the call records revealed significant text message activity between Carter's cell phone and Brown's cell phone between 2207 hours and 2222 hours, which was right before the murder. Then at 2240 hours there was another text message sent from Carter's phone to Brown's phone. After that there was no more contact between the two cell phones and Carter turned off his phone by 1230 hours on February 22nd. Carter's phone at the time of the incident was an HTC Desire 530 cell phone.

Detective Cook and Detective Dosch reviewed Brown's phone records. The last voice call Brown made was at 2017 hours. The call phone hit off a cell phone tower located less than a ¼ of a mile south of the crime scene. That was then followed by exclusive text message activity between Brown's cell phone and Carter's cell phone, which was between 2206 hours and 2240 hours. Then on February 22nd between 0427 hours and 0523 hours Brown's cell phone received several text messages from phone number [REDACTED] which belonged to Angelisa Ryder. A LVMPD records check revealed Brown never made a report for a lost or stolen cell phone.

On March 1, 2017 Detective Cook and Detective Dosch met with Human Resources managers Marci J. Stanley from Mountain View Hospital, Detectives learned that Tiffany Carter was employed as a Patient Case Management coordinator at Mountain View Hospital. The address on file was [REDACTED] 89131.

On March 1, 2017 Detective Cook met with Valley Hospital Human Resources manager Dana Thorne. Detectives were attempting to locate information reference cellular number [REDACTED] the phone number was purported to be a landline to the Nurses station in the Intermediate Care Unit (IMC). Thorne stated that the phone number [REDACTED] was in fact a landline to the Valley Hospital Nurses station in the Intermediate Care Unit (IMC). While Detective Cook was speaking to Thorne, she reported that Valley health system employee roster showed Angelisa Ryder was employed at Summerlin Hospital.

On March 1, 2017 Detective Cook and Detective Dosch met with Human Resources manager Michelle Pinder from Summerlin Hospital. Detective Cook issued an administrative subpoena for employment information on Angelisa Ryder. Mrs. Pinder stated that Ryder is employed as a Monitor Technician at the hospital. Mrs. Pinder gave Ryder's employment work hours during the date of February 21st, which showed she worked 7pm on the 21st to 7am on the 22nd, she took a 45-minute break from 0115 hours to 0200 hours.

On March 7, 2017 Detective Dosch received information from LVMPD that the officer who arrived in the business complex just as the white SUV was leaving is Officer English. Officer English ran Banks' California license plate at approximately 0003 hours. The vehicle existence was not known to Homicide Detectives at that time and thus was not entered into NCIC until later that day. Detective Dosch contacted Officer English and asked him about the incident. Officer English said he was westbound on Azure Drive when he looked into the parking lot and saw a black male standing next to a black Nissan Altima later identified as Banks' vehicle. Officer English described the black male as having a large frame, 230+ pounds, over 6'0" and wearing all dark clothing. It appeared suspicious to Officer English who then pulled into the parking lot. At the same time a newer model white SUV drove next to him, which was driven by an apparent black female. Officer English did not see the black male in the white SUV and could not get the SUV's license plate before it drove away on Azure Drive. Officer English pulled in behind Banks' vehicle and found it was unoccupied and the black male was gone.

On March 7, 2017 Detective Cook and Detective Dosch enlisted the help of a surveillance team to help tie Brown to Ryder's residence and the white Jeep Compass. On March 8th, the surveillance team established surveillance at 2520 Sierra Bello Avenue and observed a black male exit the residence. The black male got into Ryder's Jeep Compass and drove it to a nearby gas station to get gas. The surveillance team took photos of the driver, which were sent to Detective Dosch and Detective Cook for review. When the driver [REDACTED] los

were compared to a photo of Larry Brown, Detective Dosch and Detective Cook noted there was some resemblance; however, the image of Larry Brown was from 2013. (Refer to LVMPD surveillance logs)

On March 8, 2017 Detective Dosch and Detective Cook re-interviewed Seymour. In a recorded summary, Seymour reiterated Banks was a marijuana dealer and left her residence around 2215 hours. Earlier in the evening he received a call from Poe ATL. Seymour overheard some of the conversation between the men and said Poe ATL spoke with a southern accent. Banks said something about "19" and she heard Poe ATL say the other person was on the way, suggesting there was a third person involved in the transaction. Detective Dosch asked Seymour if Poe ATL was a possible business associate of Banks and she said yes. Banks has known Poe ATL for approximately one year. Seymour thought Banks had been to Poe ATL's residence. Seymour recalled a time when she called Banks and Banks said he was at Poe ATL's residence and that Poe ATL had "gone downstairs" to conduct a drug deal. Seymour told Banks to come home and within a very short amount of time Banks returned home. That led Seymour to believe Poe ATL lived in an upstairs apartment which was located close to her home in the northwest part of Las Vegas. Seymour denied Banks carried a handgun despite the fact he engaged in narcotics sales.

After the interview, Detective Dosch returned to the Sky Pointe Landing Apartment Homes and met with management and maintenance personnel. Detective Dosch showed the employees the photographs from Anthony Carter's Facebook account and asked if they recognized the person in the photos. None of the employees recognized Carter but in the background, were room interior features consistent with the apartments in their complex. The maintenance workers recognized the door knob, deadbolt and alarm system which were depicted in the one of the photos. Furthermore, maintenance personnel recognized the upward slope of the ceiling and the room layout to be a one-bedroom apartment located on the second floor.

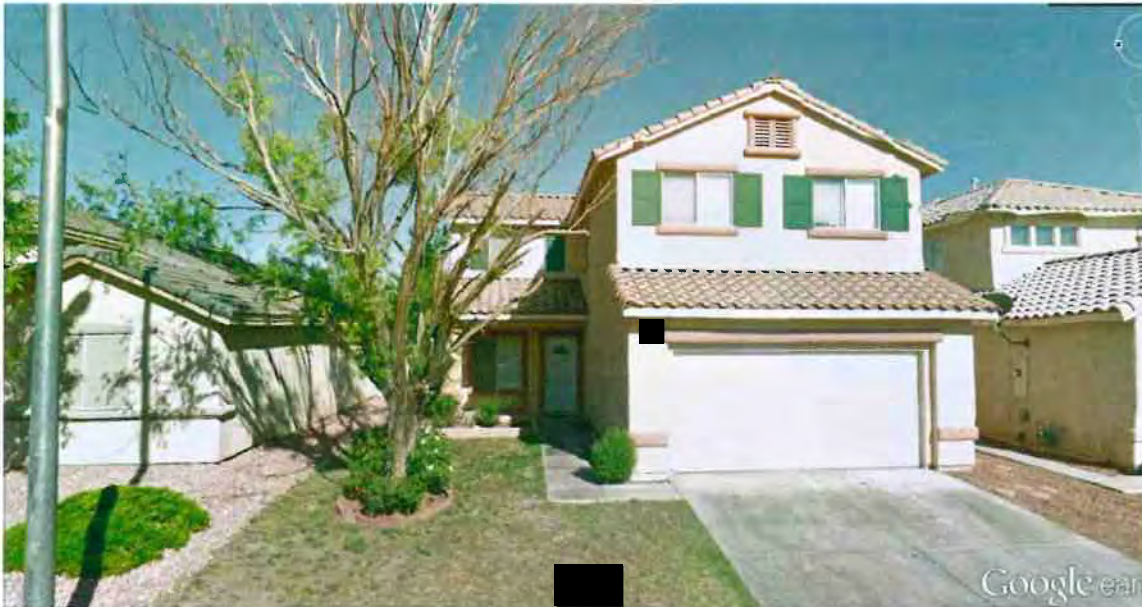
Most of the occupants in building [REDACTED] were contacted during the canvass but nobody answered the door to [REDACTED] was rented by a black male identified as Carnell Cave ID [REDACTED]. Cave's cell phone number was [REDACTED] and he lived in a one-bedroom apartment on the second floor. Cave's assigned carport space is [REDACTED]. Detective Dosch checked Cave's cell phone number against Carter's phone records and discovered Cave's cell phone number was the third most contacted number between January 20, 2017 and February 22, 2017. In addition, Cave's designated parking spot was just south of where Banks' body was found.

On March 9, 2017 the surveillance team established surveillance on [REDACTED]. Detectives observed a black male exiting the residence, who looked like Carter. The black male left the residence and the surveillance team followed him to 5850 Sky Pointe Drive. The last place they saw the black male going was up the southern stairway in building [REDACTED]. The surveillance squad documented and photographed the male from the Rosinwood address to the Sky Pointe Apartment Homes. The [REDACTED] graphs

were reviewed by Detective Cook and Detective Dosch. The photographs depicted a black male above 6' feet tall and heavy set. The photograph bared a strong resemblance to Anthony Carter.



On March 18, 2017 Detective Dosch drafted a search warrant for three residences connected to Anthony Carter, Larry Brown and Carnell Cave. The search warrants were signed by the honorable Judge Jerry Wises.



Searchers and Scribe:

Detective F. Merrick	PN 7549	(searcher)
Detective T. Mogg	PN 4191	(searcher)
Detective B. Morgan	PN 4216	(searcher)
Detective C. O'Connell	PN 4420	(searcher)
Detective K. Jordan	PN 3715	(scribe)
LVMPD Crime Scene Analyst E. Tuftland	PN 8971	(Photographs, Impounded Evidence)

On March 20, 2017, search warrant of [REDACTED] EVT 170320-0757. The following items were seized pursuant to the search warrant. The below items were located and impounded by LVMPD Crime Scene Analyst E. Tuftland PN 8971

Package #1:

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Item #1: One black/black Springfield XDM-9 9MM semiautomatic pistol; USA; 3.75" barrel; SIN # MG975091 (swabbed for DNA, chemically processed for fingerprints with negative results)

Item #1A: One pistol magazine (swabbed for DNA/chemically processed for fingerprints with negative results)

Item #2: One pistol magazine (swabbed for DNA/chemically processed for fingerprints with negative results)

Item #3: One pistol magazine (swabbed for DNA/chemically processed for fingerprints with negative results)

Package #2:

Item #4: One HTC Desire white cellphone box bearing a serial # of "FA6AF8R07094"

Package #3:

Item #6: One closed clear plastic bag with handwriting of "JACK H * 1 13" containing a dried green leafy substance (combined total weight of 121.2 grams)

Item #7: One closed clear plastic bag with handwriting of "LIBERTY BELL 113 *" containing a dried green leafy substance (combined total weight of 122.4 grams)

Item #8: One closed clear plastic bag with handwriting of "LIBERTY BELL 1 13 *" containing a dried green leafy substance (combined total weight of 121.1 grams)

Item #9: One closed clear plastic bag with handwriting of "JAGER" and "JAGER 2 LBS 926 +" containing a dried green leafy substance (combined total weight of 350.7 grams)

Item #10: One closed clear plastic bag containing a dried green leafy substance (combined total weight of 22.6 grams)

Package #4:

Item #5: One swab for possible DNA Item #11: One swab for possible DNA

Item #12: One swab for possible DNA

Item #13: One swab for possible DNA

INTERVIEW

Anthony Carter and Tiffany Carter were taken into custody at [REDACTED] after leaving the residence at [REDACTED] Anthony Carter and Tiffany Carter were transported to LVMPD Headquarters for interview.

Tiffany Carter

DOB: [REDACTED]

SSN: [REDACTED]

ADD: [REDACTED]

PHN: [REDACTED]

On March 20, 2017 at approximately 0804 hours, Detectives Merrick and Mike Twomey PN 6501 obtained a recorded statement from Tiffany Carter. During the statement and/or contact with Carter, she relayed the following information: Tiffany Carter was being detained at the Short Line Express Convenience store, located

000644 [REDACTED]

CONTINUATION

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at 6698 Sky Pointe Drive, and agreed to talk with detectives. Carter was currently employed at Mountain View Hospital in case management department. Carter woke up at 0500 hours and got her three children, Kayles (17), Anthony (15), Torynn (8) ready for school. Carter let Anthony sleep in and miss school because he was out late playing basketball. Carter then woke up Anthony Carter so he could drive them to school and work. Also present in the house was Tiffany's parents, Gloria and Darryl Thompson, and Anthony's brother Ira Carter. The previous night, Anthony's cousin, Antonio Grubbs and his girlfriend "Nicole" were also present.

Anthony and Tiffany were married in 1997 and divorced in 2001. Anthony and Tiffany have been living together since 2015, but are not currently married. Tiffany Carter noticed Detectives shirt and figured out the stop and interview was reference a Homicide, but had no idea which Homicide. When asked what Anthony did for money, Tiffany replied, "He sells marijuana". Tiffany told detectives that she rents a lot of vehicles because the family vehicle was broken down. Tiffany rents the vehicles from Budget Rentals, located by Walmart on Centennial Hills Drive. Tiffany admitted that she has gone on trips to the Sacramento, California area to pick up marijuana. Tiffany identified the following associate of Anthony's from photographs. Carnell Cave who lives in an apartment in Sky Point apartments. Tiffany Carter agreed to be transported to LVMPD Headquarters and meet with Detective Cook and Detective Dosch.

(Refer to Tiffany Carter's transcribed statement for additional information.)

On March 20, 2017 at 1030 hours Detective Cook and Detective Dosch conducted an interview in the family room with Tiffany Carter. The door was unlocked and Tiffany was told she is able to leave at any time. Tiffany said in summary, she works as a patient coordinator at Mountain View Hospital. She was at home with her parents and children all night on February 21st, 2017. Her ex-husband, Anthony Carter, also lives at the residence and shares her bed. On the night of February 21st Anthony left the house and did not return all night. She woke up in the morning of February 22nd, and Anthony was still gone. She saw on the morning news that a shooting had taken place at the apartment complex located on Sky Pointe Drive. She knew that Anthony had a friend by the moniker of "Biggs," who she identified from a photograph as Carnell Cave. She knew Biggs lived at the apartments on Sky Pointe Drive. She said Anthony had recently taken her to Cave's apartment located at 5850 Sky Pointe Drive.

On the morning of February 22, 2017 she went to work at Mountain View Hospital and returned home at approximately 1730 hours, Anthony had returned home and told her how there was a shooting near Biggs' (Carnell Cave) apartment and Kwame Banks was killed. She claimed she didn't ask any further question but she admitted Banks was an acquaintance of Anthony's. She admitted she has known Anthony to go out all night to sell drugs however she keeps that part of his life at a distance. She has known for several years that Anthony sells narcotics and she has rented vehicles for Anthony to make narcotic runs to northern California to purchase marijuana. She claimed on occasions to have gone to northern California, while Anthony was picking up quantities of marijuana, but claimed she does not have any part in the sales.

000645 [REDACTED]

She recalled, Anthony having another friend that had recently been to her house. Tiffany said the friend drove a white SUV. She was shown a photographs of Larry Brown and the white Jeep Compass owned by Angelisa Ryder. She replied, "Yes," this is the friend that she has seen over at the house and he drove a white SUV. She gave two cell phone number for Anthony, she said Anthony changes phone frequently because of the drug sales. She gave a phone number of [REDACTED] as the phone number he previously used prior to the shooting. Tiffany said Anthony normally keeps his marijuana in the garage in a blue suite case.

Anthony Jerome Carter Aka "POE ATL"

DOB [REDACTED]
[REDACTED]
[REDACTED]

On March 20, 2017 Detective Cook and Detective Dosch conducted an audio and video interview with Anthony Carter. Anthony was read his Miranda rights at 1139 hours, which he stated he understood his rights and agreed to speak to Detectives. Anthony Carter said in summary: He lives with his wife, Tiffany Carter, and his three children at [REDACTED]. He has lived in Las Vegas for approximately 17 years. Anthony is not employed and sells small amounts of marijuana. He recently purchased a small amount of marijuana from a person in Redding California. He recently drove to Redding and brought back two large plastic baggies of marijuana. Detectives explained a search warrant was issued for his residence at [REDACTED] and Detectives located a large amount of marijuana and a Firearm described as a (Springfield 9mm handgun serial number MG975091 with (3) three magazines). Anthony said that he had just purchased the firearm and said he only sells small bags of marijuana.

Anthony said on February 21, 2017 at approximately 2130 hours, he was at his friend's apartment who he named as Carnell Cave, who lives at 5850 Sky Pointe Drive [REDACTED]. Anthony received a ride to the apartment from a friend he referred to as Dakota. Anthony described Dakota as a white male adult. Anthony stayed at Cave's apartment waiting for a male known to him as "B" (Kwame Banks) who was going to deliver (3) three separate quarter pound bags of marijuana. Anthony said Banks had texted him earlier in the day but later text that he didn't have any marijuana and he would have to wait until the next day. Anthony then changed his statement to say Banks arrived outside Cave's apartment in a dark, 4 door, Nissan Altima. Banks had parked his vehicle under the covered parking facing west towards the stairway and Cave's apartment building. Banks' then brought (3) three separate quarter pound plastic baggies of marijuana into Cave's apartment and delivered it to Anthony. Anthony said the (3) three baggies were intended for Larry Brown, Dakota and himself. Banks' delivered the marijuana and left.

Anthony said a few minutes later he heard (4) four to (5) five gunshots and looked outside. Anthony saw Police officers at the bottom of the stairs and he saw Banks' vehicle still parked under the covered parking. [REDACTED]

Anthony stayed inside Cave's apartment all night playing video games until the next morning. Anthony changed his story again and said Banks' did not actually come inside Cave's apartment, he met him at the basketball court, which is located east of Caves' apartment. Banks' had backed up his vehicle into the parking stall next to the basketball court and his vehicle was facing west. Anthony walked up to Banks' driver's window and purchased (3) three separate quarter pound bags of marijuana from Banks. Anthony watched as Banks drove out of the complex. Anthony said he returned to Caves' apartment where he and Cave played video games. Anthony then heard (4) four to (5) five gunshots and looked out the door to see police and Banks' vehicle parked under the cover parking just below Caves stairway entrance. Anthony could not explain how he saw Banks drive away, then saw his vehicle parked in front of Cave's apartment after hearing the gunshots and saw police outside.

Anthony statement changed several times and had many inconsistencies. Anthony gave two different cell numbers he used [REDACTED] and [REDACTED]. Anthony said the day after Banks' was killed he discarded his HTC Desire 530 cell phone with a cellular number [REDACTED] because he knew Detectives would come and investigate Banks murder and learn about the drug sales between him and Banks. Anthony was asked about sending and receiving text and phone messages to Larry Brown at phone [REDACTED]. Anthony said he has known Larry Brown for many years and they are both from Decatur, Georgia. Anthony recently heard that Brown was in town and only recently began hanging out with Brown.

Anthony was shown a photograph of Larry Brown DOB [REDACTED]. Anthony identified Brown and said he recently came by his house at [REDACTED]. Anthony identified the white Jeep Compass, which Brown is known to drive. Anthony admitted to being in Brown's vehicle recently. Anthony denied having any knowledge of being present when Banks' was murdered or being outside when the shooting took place. Anthony said he was in Cave's apartment all night and never heard Detectives knocking on the door. Anthony left Cave's apartment early the next morning on February 22nd and walked to the nearby Sinclair gas station and got coffee, then walked home. Anthony could not explain how he knew Kwame Banks was the victim of the shooting prior to the coroner releasing the information to the media.

At the conclusion of the interview Detective Cook and Detective Dosch served a DNA search warrant on Anthony Carter by way of Buccal Swab kit, specifically, Nucleated Epithelial Cells from Carter's inner mouth/cheek. Crime Scene Analyst M. McIntyre PN 13207 conducted the Buccal Swab and impounded the Swab into the LVMPD Evidence vault.

Ira Carter

DOB: [REDACTED]

SSN: [REDACTED]

ADD: [REDACTED]

PHN: [REDACTED]

On March 20, 2017 at approximately 0804 hours, Detective Merrick obtained a recorded statement from Ira Carter. During the statement and/or contact with Carter, he relayed the following information: Ira Carter is Anthony Carter's brother from Decatur, Georgia. Ira has been staying with Anthony since September 2016. Ira stated that the following people also live at [REDACTED] Anthony Carter, Tiffany Carter, Anthony Carter Jr., Kayles Carter, Torynn Carter, Gloria Thompson, Darryl Thompson. During the service Ira was asleep on the living room couch, where he has been sleeping since he has been in Las Vegas. Ira Carter said he was leaving Las Vegas at 2154 hours and flying back home to Atlanta, Georgia. Ira Carter knew where Tiffany Carter worked but couldn't say what Anthony Carter did for money. Ira Carter said he did not get involved in Anthony's business.

(Refer to Ira Carter's transcribed statement for additional information.)

On March 20, LVMPD SWAT unit conducted service of the search warrants EVT 170320-0757 located 5850 Sky Pointe Drive [REDACTED] Las Vegas, NV 89130. The person associated to this apartment was identified as Carnell Cave. The search warrant signed by the honorable Judge Jerry Wisnes.



During the service of the search warrant at 5850 Sky Pointe Drive Building [REDACTED] EVT 170320-0757. The following items were seized pursuant to the search warrant: The below items were located and impounded by LVMPD Crime Scene Analyst M. McIntyre PN 13207

Scribe and Searchers

Detectives Lora Cody	PN 7294 (Scribe)
Detective Erik Ravelo	PN 6538 (Searcher)
Detective Fred Merrick	PN 7549 (Searcher)
Detective Robert Ochsenhirt	PN 5438 (Searcher)
Sergeant Craig Lousignont	PN 4125 (Security)

LVMPD Crime Scene Analyst M. McIntyre PN 13207 (Photographs, Impounded Evidence)

Package #8

Item #10 — One (1) buccal swab kit.

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Item #11 — One (1) clear glass Mason jar, containing a green leafy substance weighing approximately 2.7 grams.

Item #12 — One (1) piece of clear, knotted plastic, containing a green leafy substance, approximately 4.2 grams total weight.

Item #13 — One (1) clear re-closable plastic bag, containing a green leafy substance, approximately 102.3 grams total weight.

Item #14 — One (1) black digital scale, bearing a green leafy residue.

Package #10

Item #15 — One (1) black "Alcatel" cell phone.

Package #11

Item #16 — One (1) damaged black "Samsung Galaxy Note II" cell phone and one (1) black "Kyocera" cellular phone.

Package #12:

Item #17 — One (1) black "LG" cell phone

INTERVIEW

Carnell Cave

D.O.B:

Add:

PHN:

On March 20, 2017 at approximately 1045 hours, Detective Cody obtained a statement from Carnell Cave. During the statement Cave, he relayed the following information: On the evening of February 21, 2017, Cave was inside his apartment playing Nintendo with his friend Anthony Carter. Cave referred to Carter as "ATL" and Cave often goes by "Nell" or "Big". Cave described Carter as continuously being on the phone. Cave went to the bathroom and heard what he described as two gunshots. Cave exited the bathroom and saw Carter was sitting on his couch, he was on the phone and appeared in distress. Cave began to hear sirens as Carter turned off the lights in the apartment. Officers and Detectives began to knock on the door and neither man would answer the door.

Cave and Carter soon went to sleep and Carter left the apartment around 6:00 am in the morning. Later that day, Carter texted Cave telling him to delete Carter's phone number from his phone. Cave later saw Carter no longer had a smart phone and that he was carrying an old flip cell phone with a new number. Cave later explained that he often purchases marijuana from Carter. Cave often goes out with Carter to sell marijuana and allowing Carter to use his apartment for drug transactions. Cave admitted Carter would purchase marijuana from someone Carter knows as "Banks." When shown a picture of Larry Brown, Cave denied knowing him. Cave confirmed that he has seen "Banks" a few times with his friend Carter.

(See Carter's transcribed statement for further.)

000649

On March 9, 2017 the surveillance team established surveillance at [REDACTED] Las Vegas, NV 89106. Detectives observed a black male exiting the residence, who looked like Larry Brown. The black male left the residence driving a white Jeep compass and the surveillance team followed him.



On March 20, 2017 Detectives served a search warrant on [REDACTED] Las Vegas, NV, 89106 EVT 170320-0816. The 2015 Jeep Compass bearing Nevada License plate [REDACTED] parked in the driveway to the residence. The below items were retained and impounded by LVMPD Crime Scene Analyst M. McIntyre PN 13207

Scribe and Searchers

Sergeant	J. Scott	PN 4532 (Searcher)
Detective	D. Boucher	PN 4636 (Searcher)
Detective	J. Grimmatt	PN 7056 (Searcher)
Detective	R. Jaeger	PN 5587 (Scribe)
Detective	R. Ochsenhirt	PN 5488 (Searchers)

LVMPD Crime Scene Analyst M. McIntyre PN 13207

(Photographs, Impounded Evidence)

Package #1

Item #1 — One (1) pair of red and black "Ralph Lauren Polo Sport" shoes, size 13D, with reddish-brown stains on the bottom of the right shoe (presumptive tested for blood with Phenolphthalein, with negative results).

Item #2 — One (1) pair of brown "Ralph Lauren Polo Sport" shoes, size 13D.

Package #2

Item #3 — One (1) black "HP" laptop computer, serial #2CE8296J9D.

Package #3

Item #4 — One (1) gray "Dell Inspiron" laptop computer, unknown serial number.

Package #4

Item #5 — One (1) black and red "Sandisk Cruzer 4GB" USB flash drive.

Package #5

Item #6 — One (1) pair of yellow metal knuckles.

Package #6

Item #7 — One (1) black "Atlanta Falcons" lanyard.

Item #8 — One (1) connecting piece of a black "Atlanta Falcons" lanyard.

Package #7

Item #9 — One (1) buccal swab kit,

The below listed cellular phone were collected by Detective R. Jaeger and given to Detective Cook which were later impounded into the LVMPD evidence vault.

Recovered by Detective Jaeger

(3ea) Cellular phones (1) collected from the guest bedroom (1) collected from the bed in the master bedroom (1) collected from the garage

INTERVIEW

Angelisa Katrina Ryder

DOB [REDACTED]
[REDACTED]

On March 20, 2017 at approximately 0917 hours, Detective Jaeger conducted a taped interview with Angelisa Ryder in front of her apartment. Ryder said in summary, Larry Brown and Angelisa Ryder lived in Atlanta, Georgia before moving to Las Vegas. Ryder has known Brown for the last four years, and lived with him for the last 18 months. Ryder and Brown share the master bedroom, and Brown has a "man cave" in the spare bedroom. Brown works as a mobile car detailer and drove a white Chevrolet Express van. The van was recently towed due to mechanical issues and was being repaired. Brown normally drives Ryder to work at Summerlin Hospital in her 2015 Jeep Compass, with NV License [REDACTED] and picks her up after work so

Brown can use her vehicle while she is at work. Ryder works nights at the hospital as a monitor technician from 1900 hours to 0700 hours in the Telemetry Room.

Ryder stated on February 22, 2017 at approximately 0500 hours, while she was working at the hospital, she received a message that Brown was at the hospital and wanted to see her. Ryder left the Telemetry Room and met Brown. Ryder described Brown as visibly shaken, walking with a limp, he had a swollen knee and scratches on both arms, and complained of a headache. Brown claimed he was with his friend "Poke" (Anthony Carter), when two unknown men tried to rob and kill him. One of the men pointed a gun at Brown, so Brown tossed his phone in the rocks as a distraction and fought with the man. Ryder told Brown to call police and Brown replied, "Don't ask too many questions." Ryder gave Brown some aspirin for his headache and returned to work. A few days later Brown went to the Sprint store located on Lake Mead Boulevard and obtained a replacement cell phone. Ryder said Brown recently left to Georgia on Allegiant Airlines.

Detective Cook conducted a review of Angelisa Ryder's phone [REDACTED] The messages and web browsers history had been manually deleted from the phone, however On February 22, 2017 Ryder was looking to stay in a hotel. Ryder booked a hotel room at the Harrah's Hotel & Casino Confirmation Code 2007465320. It appears, Ryder was browsing airline tickets to Georgia. Ryder researched information on the Homicide investigation at 5850 Sky Pointe which she continuously browsed different news channels to gain information about the homicide case. On March 9th, Ryder booked a flight on Southwest Airlines Flight number 1339 which departed at 0945 hours and arrived in Atlanta Georgia at 1635 Hours.

On March 28, 2017, Attorney at Law Nicholas Woolridge contacted Detective Dosch and Detective Cook. Woolridge stated he was representing Larry Brown. Detective Cook explained that Detectives were seeking to speak with Larry Brown in regards to the Homicide that occurred at 5850 Sky Point. Woolridge stated he would need to speak to his client. On March 29th, Attorney Woolridge contacted Detective Cook and stated his client would not be giving a statement and Detectives needed to get an arrest warrant.

On May 2, 2017 Detective Cook drafted an arrest warrant for Larry Brown, The arrest warrant was submitted to the Clark County District Attorney's Office. The arrest warrant became active on May 9th, 2017 for Murder WDW and Robbery WDW. Detectives received information that Larry Brown had fled to Decatur Georgia.

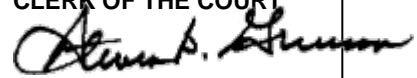
On May 18, 2017 Detective Cook drafted an arrest warrant for Anthony Carter EVT 170320-0757. The arrest warrant was submitted to the Clark County District Attorney's Office. The arrest warrant was issued on June 5th, 2017, for Prohibited Person possession of a Firearm and Possession of Narcotics- Marijuana with Intent to Sell.

On June 29, 2017 members of the Criminal Apprehension Team in Decatur Georgia, received information that Larry Brown was in Decatur Georgia. Detectives conducted surveillance to apprehend Larry Brown. Brown was seen and detectives attempted to apprehend Brown who fled in a vehicle. A vehicle pursuit was initiated and Brown's vehicle was later stopped which led to a foot chase where brown was taken into custody. Larry Brown was arrested and book for his arrest warrants for Murder with Use of a Deadly Weapon- Firearm and Robbery with Use of a Deadly Weapon- Firearm

CONCLUSION

On February 21, 2017, at approximately 2247 hours, the LVMPD Communications Center received several 9-1-1 callers who reported a shooting in the parking lot of an apartment complex located at 5850 Sky Pointe Drive in Las Vegas. Patrol officers and emergency medical personnel were dispatched to the scene under LVMPD event 170221-4563. Patrol officers and emergency medical personnel arrived and discovered the body of an adult black male, later identified as Kwame Banks, deceased from an apparent gunshot wound.

Homicide Detectives and Crime Scene Analyst processed the scene, recovered evidence, located and interviewed witnesses. Detectives later located evidence that revealed Larry Brown and Anthony Carter were involved in purchasing marijuana from Kwame Banks. When Banks arrived at the Sky Pointe apartments to sell Carter marijuana, Brown got into a physical altercation with Banks. During the altercation Banks was shot and killed. Brown and Carter fled the scene in Banks' Nissan Altima. Brown later fled to Georgia where he was located and taken into custody. Larry Brown was arrested in Decatur Georgia after fleeing from police. Brown was arrested in connection with the murder of Kwame Banks. Anthony Carter was later arrested for Possession of Narcotics with intent to sell and Prohibited Person Possession of a Firearm.



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Attorney for Larry Decorleon Brown

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,)	CASE NO. C-17-326247-1
	)	DEPT. NO. 21
Plaintiff,)	
)	
vs.)	
)	
LARRY DECORLEON BROWN,)	
ID 8376788,)	
)	
Defendant.)	

**DEFENDANT LARRY BROWN'S MOTION IN LIMINE TO PRECLUDE THE
STATE FROM PRESENTING AS EVIDENCE SPECIFIC ITEMS
RECOVERED FROM THE SEARCH OF ANGELISA RYDER'S
RESIDENCE ON MARCH 20, 2017**

COMES NOW, Defendant Larry Brown, by and through his attorneys, JoNell Thomas, Special Public Defender, and Monica R. Trujillo, Chief Deputy Special Public Defender, and hereby moves this Honorable Court, pursuant to the Sixth and Fourteenth Amendments to the United States Constitution, Article 1, Section 8, of the Nevada Constitution, and applicable state law, to preclude the State from presenting as evidence a pair of metal knuckles and a pair of Ralph Lauren Polo Sport shoes with reddish-brown stains on the bottom impounded from the search of Angelisa Ryder's residence.

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TO: District Attorney, Attorney for Plaintiff

PROCEDURAL HISTORY

Mr. Brown is charged by way of Third Superseding Indictment with one count of Conspiracy to Commit Robbery, one count of Robbery with Use of a Deadly Weapon, one count

1 of Murder with Use of a Deadly Weapon and one count of Ownership or Possession of Firearm
2 by Prohibited Person. Trial is currently scheduled for August 26, 2019.

3 **PERTINENT FACTS**

4 On March 20, 2017, employees of the Las Vegas Metropolitan Police Department
5 executed a search warrant at the residence of Mr. Brown's girlfriend, Angelisa Ryder. During
6 that search, Crime Scene Analyst M. McIntyre impounded a pair of yellow metal knuckles from
7 the top drawer of the nightstand located in the master bedroom. See Evidence Impound Report,
8 dated 3/20/17 (Exhibit A). Crime Scene Analyst M. McIntyre also impounded a pair of red and
9 black "Ralph Lauren Polo Sport" shoes, size 13 D, with reddish brown stains on the bottom of
10 the right shoe. Id. The presumptive blood test with Phenolphthalein yielded negative results.
11
12 Id.

14 **ARGUMENT**

15 This Court should preclude the State from presenting as evidence the metal knuckles and
16 Ralph Lauren Polo Sport shoes impounded as a result of the search of Angelisa Ryder's
17 residence. Presentation of both of these items is unfairly prejudicial to Mr. Brown.

18 The above-listed items are irrelevant to the instant case. Only relevant evidence is
19 admissible, and irrelevant evidence is inadmissible. N.R.S. 48.025 (2). Relevant evidence is
20 defined as "evidence having any tendency to make the existence of any fact that is of
21 consequence to the determination of the action more or less probable than it would be without
22 the evidence." N.R.S. 48.015. Here, the recovery of each item is of no consequence to the
23 charges before this Court. There is no allegation that metal knuckles were used in this case.
24 With regard to the shoes, the impound report itself indicates a negative presumptive blood test.
25 There is absolutely no reason to present either item to the jury. Rather, any attempt to present
26
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1 each item would only serve as a means for the State to suggest to the jury that Mr. Brown should
2 be viewed in a negative light.

3 Even assuming arguendo that these items are somehow relevant, their presentation to the
4 jury is highly prejudicial and any probative value the items may have is substantially outweighed
5 by that prejudice. Therefore, each item should be precluded pursuant to N.R.S. 48.035(1).
6

7 **CONCLUSION**

8 Based on the foregoing reasons, Mr. Brown respectfully requests that this Honorable
9 Court preclude the State from presenting as evidence the pair of metal knuckles and the pair of
10 Ralph Lauren Polo Sport shoes with reddish-brown stains on the bottom impounded from the
11 search of Angelisa Ryder's residence.
12

13 Dated: August 9, 2019

14 SUBMITTED BY

15 /s/ MONICA R. TRUJILLO

16 _____
17 MONICA R. TRUJILLO
Attorney for Brown

18 **CERTIFICATE OF ELECTRONIC FILING**

19 I hereby certify that service of the above mentioned matter was made pursuant to EDCR
20 7.26 on the attorney for the named parties by means of electronic mail to the email address
21 provided to the court's electronic filing system for this case. Proof of Service is the date service
22 is made by the court's electronic filing system by email to the parties and contains a link to the
23 file stamped document.
24

25 PARTY
26 STATE OF NEVADA

27 Dated: 8/9/2019

EMAIL
DISTRICT ATTORNEY'S OFFICE email:
motions@clarkcountynvda.com

28 /s/ ELIZABETH (LISA) ARAIZA

An employee of the Special Public Defender

EXHIBIT A

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
EVIDENCE IMPOUND REPORT

**EVIDENCE****FOUND PROPERTY****SAFEKEEPING**Event Number: **170221-4563**

Incident: HOMICIDE FOLLOW-UP (SEARCH WARRANT)	Requesting Officer: M. DOSCH #7907	Division: ISD	Date: 03/20/2017
Victim(s): KWAME BANKS [REDACTED]			
Location: [REDACTED]			
Vehicle(s): 2015 WHITE JEEP COMPASS, NV [REDACTED]			
Additional Information:			

Description of EvidenceLocation of Recovered Evidence**Package #1**

Item #1 – One (1) pair of red and black "Ralph Lauren Polo Sport" shoes, size 13D, with reddish-browns stains on the bottom of the right shoe (presumptive tested for blood with Phenolphthalein, with negative results).

On the floor in the northeast area of the garage.

Item #2 – One (1) pair of brown "Ralph Lauren Polo Sport" shoes, size 13D.

On a shoe rack along the south wall of the master bedroom closet.

Package #2

Item #3 – One (1) black "HP" laptop computer, serial #2CE8296J9D.

In a black fabric bag on the northeast floor of the garage.

Package #3

Item #4 – One (1) gray "Dell Inspiron" laptop computer, unknown serial number.

On the west upper shelf in the master bedroom closet.

Package #4

Item #5 – One (1) black and red "Sandisk Cruzer 4GB" USB flash drive.

In the left bottom drawer of the dresser in the master bedroom.

Package #5

Item #6 – One (1) pair of yellow metal knuckles.

In the top drawer of the nightstand in the master bedroom.

Package #6

Item #7 – One (1) black "Atlanta Falcons" lanyard.

On the rearview mirror in the above listed vehicle.


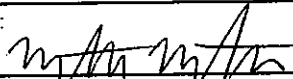
Item #8 – One (1) connecting piece of a black "Atlanta Falcons" lanyard.

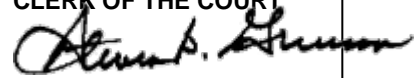
From the hands of Detective R. Ochsenhirt #5438.

Package #7

Item #9 – One (1) buccal swab kit.

From the mouth of the subject Angelisa Ryder (DOB [REDACTED])

CSA Supervisor: 	P#: 5141	Date Approved 3-27-17	Crime Scene Analyst: M. MCINTYRE 	P#: 13207
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FAX: (702) 455-6273
EMAIL: trujilmr@clarkcountynv.gov
Attorney for Larry Decorleon Brown

DISTRICT COURT

CLARK COUNTY, NEVADA

STATE OF NEVADA,	)	CASE NO. C-17-326247-1
	)	DEPT. NO. 21
Plaintiff,)	
)	
vs.)	
)	
LARRY DECORLEON BROWN,)	
ID 8376788,)	
)	
Defendant.)	
)	

**DEFENDANT LARRY BROWN'S MOTION IN LIMINE TO PRECLUDE
THE STATE FROM PRESENTING UNDULY PREJUDICIAL AND/OR
CUMULATIVE PHOTOGRAPHS TO THE JURY**

COMES NOW, Defendant Larry Brown, by and through his attorneys, JoNell Thomas, Special Public Defender, and Monica R. Trujillo, Chief Deputy Special Public Defender, and hereby moves this Honorable Court, pursuant to the Sixth and Fourteenth Amendments to the United States Constitution, Article 1, Section 8, of the Nevada Constitution, and applicable state law, to preclude the State from admitting into evidence any gruesome or highly prejudicial photographs of the decedent taken at the crime scene and/or autopsy.

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TO: District Attorney, Attorney for Plaintiff

YOU WILL PLEASE TAKE NOTICE that the undersigned will bring on the above and foregoing MOTION on the 20th day of August, 2019 at the hour of 9:30 a.m., or as soon thereafter as counsel may be heard.

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On September 14, 2017, Mr. Brown was arraigned on an Indictment in District Court, Department 3. Mr. Brown entered a plea of Not Guilty and waived his state right to a speedy trial. Thereafter, the State filed a Second Superseding Indictment, adding one count as to Mr. Brown. On October 19, 2017, Mr. Brown again entered a plea of Not Guilty and waived his state right to a speedy trial. On December 19, 2017, this Honorable Court received a Third Superseding Indictment. At that hearing, this Court noted that it did not need to arraign Mr. Brown because there were no charges added, only additional evidence and testimony regarding the charges. At a status check on October 31, 2017, this Court scheduled trial for June 18, 2018. On April 11, 2018, Nicholas Wooldridge filed a Motion to Withdraw as Attorney of Record. This Court granted Mr. Wooldridge's motion on April 24, 2018 and appointed the Special Public Defender's Office. Thereafter on April 26, 2018, the Special Public Defender's Office confirmed as counsel. At a status check on May 8, 2018, counsel informed this Court that while Mr. Wooldridge provided the discovery in his possession, several items were missing. The State agreed to provide counsel with complete discovery as well as agreed that counsel could file an opposition to the instant motion on May 18, 2018.

Mr. Brown is charged by way of Third Superseding Indictment with one count of Conspiracy to Commit Robbery, one count of Robbery with Use of a Deadly Weapon, one count

1 of Murder with Use of a Deadly Weapon and one count of Ownership or Possession of Firearm
2 by Prohibited Person. Trial is currently scheduled for August 26, 2019.

3 **PERTINENT FACTS**

4 The State alleges that on February 21, 2017, Mr. Brown and Mr. Carter killed Kwame
5 Banks in the parking lot of the Sky Pointe Landing Apartments located at 5850 Sky Pointe Drive.
6

7 **ARGUMENT**

8 Mr. Brown acknowledges that some photographs of the decedent may be properly
9 admitted at trial, however, such photographs should be limited to those necessary to describe the
10 cause and manner of death. Photographs that advance no evidentiary purpose and serve only to
11 inflame the passions of the jury violate Mr. Brown's right to a fair trial.
12

13 A number of the photographs in this case merely show different angles of the same body
14 part or a close up of the subject of the picture, therefore they are cumulative. Admission of
15 photographic evidence is within this Court's discretion. Aguilar v. State, 98 Nev. 18, 22, 639
16 p.2d 533 (1982). Pursuant to N.R.S. 48.035, this Court may preclude the proffered photographs
17 if they are gruesome or cumulative or in any other way prove to be more prejudicial than
18 probative.
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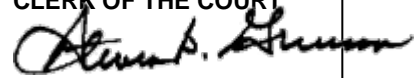
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Attorney for Larry Decorleon Brown

DISTRICT COURT

CLARK COUNTY, NEVADA

STATE OF NEVADA,)	CASE NO. C-17-326247-1
	)	DEPT. NO. 21
Plaintiff,)	
)	
vs.)	
)	
LARRY DECORLEON BROWN,)	
ID 8376788,)	
)	
Defendant.)	
)	

**DEFENDANT LARRY BROWN'S MOTION IN LIMINE TO PRECLUDE THE
STATE FROM REFERRING TO THE TRIAL PHASE AS THE "GUILT PHASE"**

COMES NOW, Defendant Larry Brown, by and through his attorneys, JoNell Thomas, Special Public Defender, and Monica R. Trujillo, Chief Deputy Special Public Defender, and hereby moves this Honorable Court, pursuant to the Sixth and Fourteenth Amendments to the United States Constitution, Article 1, Section 8, of the Nevada Constitution, and applicable state law, to preclude the State from referring to the trial phase as the "guilt phase".

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TO: District Attorney, Attorney for Plaintiff

PROCEDURAL HISTORY

Mr. Brown is charged by way of Third Superseding Indictment with one count of Conspiracy to Commit Robbery, one count of Robbery with Use of a Deadly Weapon, one count

1 of Murder with Use of a Deadly Weapon and one count of Ownership or Possession of Firearm
2 by Prohibited Person. Trial is currently scheduled for August 26, 2019.

3 **PERTINENT FACTS**

4 The State alleges that on February 21, 2017, Mr. Brown and Mr. Carter killed Kwame
5 Banks in the parking lot of the Sky Pointe Landing Apartments located at 5850 Sky Pointe Drive.
6

7 **ARGUMENT**

8 Article I, Section 8, of the Nevada Constitution, as well as the Sixth and Fourteenth
9 Amendments to the United States Constitution, guarantee every criminal defendant the right to
10 a fair trial. This right requires the Court to conduct trial in a manner which does not appear to
11 indicate that a particular outcome of the trial is expected or likely.
12

13 Although participants, including some defense counsel, have lapsed into referring to the
14 verdict-determination process as the “guilt phase” of a first degree murder proceeding
15 (apparently to distinguish it from the “punishment” phase), the “guilt” label creates an unfair
16 inference that the very purpose of the trial phase is to find a defendant guilty. The terms
17 “evidentiary phase,” “trial phase,” or “fact-finding phase” would more appropriately describe
18 this process without unfairly predisposing the jury toward assuming Mr. Brown’s guilt. To
19 prevent any unfair prejudice, the parties should refrain from identifying any part of this trial as
20 the “guilt phase”.
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Dated: August 9, 2019

SUBMITTED BY
/s/ MONICA R. TRUJILLO

MONICA R. TRUJILLO
Attorney for Brown

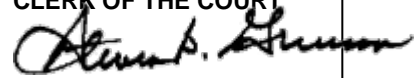
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PARTY
STATE OF NEVADA

Dated: 8/9/2019

/s/ ELIZABETH (LISA) ARAIZA

An employee of the Special Public Defender



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DISTRICT COURT

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Plaintiff,)	
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vs.)	
)	
LARRY DECORLEON BROWN,)	
ID 8376788,)	
)	
Defendant.)	
)	

**DEFENDANT LARRY BROWN'S MOTION IN LIMINE REQUESTING
THIS COURT PRECLUDE THE STATE AND ITS WITNESSES FROM
REFERRING TO THE DECEDENT AS "THE VICTIM"**

COMES NOW, Defendant Larry Brown, by and through his attorneys, JoNell Thomas, Special Public Defender, and Monica R. Trujillo, Chief Deputy Special Public Defender, and hereby moves this Honorable Court, pursuant to the Sixth and Fourteenth Amendments to the United States Constitution, Article 1, Section 8, of the Nevada Constitution, and applicable state law, to preclude the State or its witnesses from referring to the decedent as the "victim".

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TO: District Attorney, Attorney for Plaintiff

PROCEDURAL HISTORY

Mr. Brown is charged by way of Third Superseding Indictment with one count of Conspiracy to Commit Robbery, one count of Robbery with Use of a Deadly Weapon, one count

1 of Murder with Use of a Deadly Weapon and one count of Ownership or Possession of Firearm
2 by Prohibited Person. Trial is currently scheduled for August 26, 2019.

3 **PERTINENT FACTS**

4 The State alleges that on February 21, 2017, Mr. Brown and Mr. Carter killed Kwame
5 Banks in the parking lot of the Sky Pointe Landing Apartments located at 5850 Sky Pointe
6 Drive.
7

8 **ARGUMENT**

9 Mr. Brown has a constitutional right to receive a fair trial. To ensure that fair trial, Mr.
10 Brown is presumed innocent. It is the undisputed legal truth under Federal and Nevada law.
11 N.R.S. 175.191. The United States Supreme Court has concluded, “the presumption of
12 innocence, although not articulated in the Constitution, is a basic component of a fair trial under
13 our system of criminal justice.” Delo v. Lashley, 507 U.S. 272, 278 (1993)(citing Estelle v.
14 Williams, 425 U.S. 501, 503 (1976)). The presumption of innocence attaches at the inception of
15 trial and continues until the jury returns a verdict, at which point that presumption disappears.
16 Id. “The principle that there is a presumption of innocence in favor of the accused is the
17 undoubted law, axiomatic and elementary, and its enforcement lies at the foundation of the fact-
18 finding process.” Estelle v. Williams, 425 U.S. 501, 503 (1976). The Nevada Supreme Court
19 has stressed, “[t]he rule that one is innocent until proven guilty means that a defendant is entitled
20 to not only the presumption of innocence, but also to indicia of innocence.” Haywood v. State,
21 107 Nev. 285, 288; 809 P.2d 1272, 1273 (1991) (citing Illinois v. Allen, 397 U.S. 337 (1970)).
22 While the Haywood Court discussed physical restraints in the courtroom or the reference to being
23 in jail, other terms used by the Court or State may be perceived as indicia of guilt. Informing
24 the jury that a decedent is a “victim” raises an inference of guilt, and could have the same
25 prejudicial effect as bringing a shackled defendant into the courtroom.
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1 In the case before this Court, Mr. Brown entered a plea of not guilty; therefore he is
2 entitled to the full presumption of innocence. N.R.S. 217.070(1) defines “victim,” in pertinent
3 part, as “[a] person who is physically injured or killed as the result of a criminal act.” Therefore,
4 it would imply that the decedent was killed as a result of a criminal act performed by Mr. Brown
5 even before the factfinder makes any such determination.

6
7 Any reference to a decedent as a “victim” necessarily conveys the speaker’s opinion that
8 a crime in fact occurred. This evinces a bias against Mr. Brown and violates the presumption of
9 innocence. Whether or not Kwame Banks is a “victim” in the sense alleged by the State of any
10 act allegedly committed by Mr. Brown is a matter for the jury to decide. The Nevada Supreme
11 Court has long held that a prosecutor may not offer his personal opinion of the guilt or character
12 of the accused. Barron v. State, 105 Nev. 767, 780; 783 P.2d 444, 452 (1989). By referring to
13 the decedent as a “victim” the State would be asserting that Mr. Brown is guilty before the jury
14 makes its own determination.
15

16 CONCLUSION

17 Based on the foregoing, Mr. Brown respectfully requests that this Honorable Court
18 preclude the State or any of its witnesses from referring to the decedent as the victim.
19

20 Dated: August 9, 2019

21 SUBMITTED BY

22 /s/ MONICA R. TRUJILLO

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24 MONICA R. TRUJILLO
25 Attorney for Brown
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CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of the above mentioned matter was made pursuant to EDCR 7.26 on the attorney for the named parties by means of electronic mail to the email address provided to the court's electronic filing system for this case. Proof of Service is the date service is made by the court's electronic filing system by email to the parties and contains a link to the file stamped document.

PARTY
STATE OF NEVADA

EMAIL
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motions@clarkcountyda.com

Dated: 8/9/2019

/s/ ELIZABETH (LISA) ARAIZA

An employee of the Special Public Defender