

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

APPELLANT'S APPENDIX VOLUME 4 OF 18

Navid Afshar
State Bar #14465
Deputy Special Public Defender
JoNell Thomas
State Bar #4771
Special Public Defender
330 South 3rd Street
Las Vegas, NV 89155
(702) 455-6265
Attorney for Larry Brown

<u>VOLUME</u>	<u>PLEADING</u>	<u>PGS</u>
14	Amended Fourth Superseding Indictment (1/20/19)	2728-30
18	Amended Judgment of Conviction (10/20/2020).....	3431-33
13	Amended Jury List (12/19/19)	2520
18	Amended Notice of Appeal (11/18/2020).....	3451-52
5	Amended Third Superseding Indictment (12/9/19)	960-62
18	Criminal Court Minutes (unfiled)	3460-3518
13	Defendant's Objections to State's Proposed Jury Instructions (12/19/19)	2521-32
4	Defendant Larry Brown's Motion for Disclosure of Corrective Action Reports (11/18/19).....	808-16
3	Defendant Larry Brown's Motion for Disclosure of Favorable Evidence (7/31/19)	479-509
3	Defendant Larry Brown's Motion in Limine Requesting This Court Preclude The State and its Witnesses from Referring To the Decedent as "The Victim" (8/9/19)	668-72
3	Defendant Larry Brown's Motion in Limine Requesting This Court Preclude The State from Presenting as Evidence Specific Items Recovered from the Search of Angela Ryder's Residence On March 20, 2017 (8/9/19).....	654-59
4	Defendant Larry Brown's Motion in Limine to Preclude All Cell Phone Information Obtained by Cellebrite and Response to State's Motion in Limine to Address Cellebrite Testimony Pertaining To Advanced Proprietary Software (8/12/19).....	723-39

4	Defendant Larry Brown’s Motion in Limine to Preclude the State from Presenting as Evidence Unclear Video Surveillance Of What Appears to be a White SUV (8/9/19)	673-716
3	Defendant Larry Brown’s Motion in Limine to Preclude the State from Presenting Details of the Condition of Decdent’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 (8/9/19)	572-614
3	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 (8/9/19)	615-53
3	Defendant Larry Brown’s Motion in Limine to Preclude the State from Presenting Unduly Prejudicial and/or Cumulative Photographs to the Jury (8/9/19)	660-63
3	Defendant Larry Brown’s Motion in Limine to Preclude the State from Referring to the Trial Phase as the “Guilt” Phase” (8/9/19)	664-67
4	Defendant’s Motion to Declare the Court’s Order Finding that The State May Present Footwear Impression Evidence to the Jury Through Lay Witnesses Void as it Violates Mr. Brown’s Due Process and Fair Trial Rights (11/15/19)	873-79
4	Ex Parte Motion for Clark County Detention Center Records (8/12/19)	717-22
4	Ex Parte Order for Clark County Detention Center to Produce Records Related to Defendant Anthony Carter (8/26/19).....	767-68
15	Exhibit List and Exhibits by Court (unfiled).....	2799-2912
15	Exhibit List and Exhibits by Defendant (unfiled).....	2913-15

16	Exhibit List and Exhibits by State (unfiled) [CONTINUED IN NEXT VOLUME].....	2916-3151
17	Exhibit List and Exhibits by State (unfiled) [CONTINUATION].....	3152-3359
14	Guilty Plea Agreement (12/20/19)	2731-40
1	Indictment (9/6/17).....	62-65
15	Instructions to the Jury (12/20/19)	2741-82
18	Judgment of Conviction (Plea of Guilty-Alford) (9/23/2020) ..	3425-28
7	Jury List (12/11/19).....	1443
1	Motion for Order to Show Cause (2/21/18)	199-219
1	Motion to Compel Compliance with Subpoena (1/18/18)	182-98
2	Motion to Join Co-Defendant Anthony Carter’s Motion to Sever And Defendant’s Motion to Sever Co-Defendants (4/16/18)	261-70
1	Motion to Place on Calendar and Motion to Reduce Bail (10/5/17)	101-08
18	Motion to Unseal Minutes and Portion of Sealed Part of the Testimony on December 13, 2019 (10/21/2020)	3434-42
2	Motion to Withdraw as Attorney of Record (4/11/18)	255-60
18	Notice of Appeal (10/19/2020)	3429-30
3	Notice of Defendant’s Expert Witnesses (8/2/19)	514-15
4	Notice of Defendant’s Expert Witnesses (11/08/19)	817-35

4	Notice of Defendant’s Witnesses (8/16/19)	746-47
5	Notice of Defendant’s Witnesses (11/26/19)	943-44
5	Notice of Motion and Motion to Suppress Information Obtained By a Constitutionally Deficient Warrant (12/3/19).....	956-59
2	Opposition to State’s Motion to Compel Defendant Brown’s Cellular Phone Passcode, or Alternatively, to Compel Fingerprint (5/18/18)	378-99
5	Order Denying 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 (11/27/19).....	948-50
5	Order Denying Defendant’s Motion to Declare the Court’s Order Finding that the State May Present Footwear Impression Evidence to The Jury Through Lay Witnesses Void as it Violates Mr. Brown’s Due Process and Fair Trial Rights (11/27/19).....	945-47
17	Order for JAVS via CD (1/17/2020)	3362
18	Order Granting Defendant’s Motion to Unseal Minutes and Portion of Sealed Part of the Testimony on December 13, 2019 (11/6/2020)	3447-50
4	Order Granting Defendant Larry Brown’s Motion For Disclosure Of Corrective Action Reports (11/21/19)	880-82
2	Order Granting State’s Motion to Compel Fingerprint and Denying State’s Motion to Compel Defendant’s Cellular Phone Passcode (5/31/18)	404-05

5	Order Reserving Ruling Until the Time of Trial for the State’s Motion In Limine to Address Cellebrite Testimony Pertaining to Advanced Proprietary Software, and the Defendant Larry Brown’s Motion in Limine to Preclude all Cell Phone Information Obtained by Cellebrite And Response to State’s Motion in Limine (11/27/19).....	951-53
1	Petition for Writ of Habeas Corpus and Motion to Dismiss (10/3/17)	76-86
18	Second Amended Judgment of Conviction (12/2/2020).....	3453-57
18	Second Amended Notice of Appeal (12/10/2020).....	3458-59
1	Second Superseding Indictment (10/11/17)	126-130
5	Second Supplemental Notice of Defendant’s Witnesses (12/9/19)	963-64
18	Sentencing Memorandum (9/17/2020)	3369-97
1	State’s Motion and Notice of Motion to Revoke Bail (10/5/17)	109-18
3	State’s Notice of Motion and Motion in Limine to Address Cellebrite Testimony Pertaining to Advanced Proprietary Software (8/2/19).....	516-23
2	State’s Notice of Motion and Motion to Compel Defendant Brown’s Cellular Phone Passcode, or Alternatively, to Compel Fingerprint (4/23/18)	283-95
2	State’s Notice of Witnesses and/or Expert Witnesses (5/8/18) ..	321-77
3	State’s Opposition to Defendant’s Motion to Compel Production of Discovery and Brady Material (8/2/19)	524-52

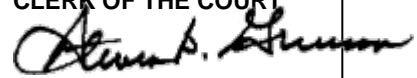
4	State’s Opposition to Defendant’s Motion to Preclude the State And Witnesses from Referring to Kwame Banks as “The Victim” (8/22/19)	758-61
4	State’s Opposition to Defendant’s Motion to Preclude the State From Presenting Evidence of Arson (9/3/19)	769-73
4	State’s Opposition to Defendant’s Motion to Preclude the State From Presenting Evidence of Flight (9/3/19).....	774-79
4	State’s Opposition to Defendant’s Motion to Preclude the State From Presenting Evidence of Shoes and Brass Knuckles (9/3/19)	780-82
4	State’s Opposition to Defendant’s Motion to Preclude the State From Presenting Unduly prejudicial and/or Cumulative Photographs to the Jury (8/22/19)	755-57
4	State’s Opposition to Defendant’s Motion to Preclude the State From Using the Term “Guilty Phase” (8/22/19)	753-54
3	State’s Supplemental Notice of Witnesses and/or Expert Witnesses (6/7/19).....	467-74
5	State’s Tenth Supplemental Notice of Witnesses and/or Expert Witnesses (11/25/19).....	933-42
6	Stipulation and Order to Waive Penalty Hearing (12/9/19).....	1248-49
3	Supplement to Notice of Defendant’s Expert Witnesses (8/7/19)	553-71
4	Supplemental Notice of Defendant’s Expert Witnesses (11/15/19)	869-72
5	Supplemental Notice of Defendant’s Witnesses (12/2/19)	954-55
1	Superseding Indictment (10/4/17).....	97-100

1	Third Superseding Indictment (12/13/17).....	167-71
1	Transcript of Hearing Grand Jury Vol 1 August 29, 2017 (9/9/17)	1-19
1	Transcript of Hearing Grand Jury Vol 2 September 5, 2017 (9/12/17)	20-61
1	Transcript of Hearing September 6, 2017 (12/1/2020)	66-70
1	Transcript of Hearing September 14, 2017 (11/19/2020)	71-75
1	Transcript of Hearing Grand Jury Superseding Proceedings October 3, 2017 (10/17/17)	87-92
1	Transcript of Hearing October 4, 2017 (12/1/2020)	93-96
1	Transcript of Hearing Grand Jury Second Superseding Proceedings October 10, 2017 (10/24/17)	119-25
1	Transcript of Hearing October 11, 2017 (12/1/2020)	131-134
1	Transcript of Hearing October 19, 2017 (11/19/2020)	135-46
1	Transcript of Hearing October 31, 2017 (11/20/2020)	147-51
1	Transcript of Hearing Grand Jury Third Superseding Proceedings December 12, 2017 (12/28/17)	152-66
1	Transcript of Hearing December 13, 2017 (12/1/2020)	172-75
1	Transcript of Hearing December 19, 2017 (11/20/2020)	176-81
1	Transcript of Hearing February 27, 2018 (11/20/2020)	220-24
1	Transcript of Hearing March 6, 2018 (11/20/2020)	225-29

1	Transcript of Hearing March 20, 2018 (10/22/2020).....	230-37
2	Transcript of Hearing April 3, 2018 (11/20/2020).....	238-54
2	Transcript of Hearing April 17, 2018 (11/20/2020).....	271-82
2	Transcript of Hearing April 24, 2018 (11/20/2020).....	296-309
2	Transcript of Hearing April 26, 2018 (11/20/2020).....	310-15
2	Transcript of Hearing May 8, 2018 (11/20/2020).....	316-20
2	Transcript of Hearing May 22, 2018 (11/20/2020).....	400-03
2	Transcript of Hearing May 31, 2018 (11/20/2020).....	406-27
2	Transcript of Hearing June 7, 2018 (11/20/2020).....	428-32
2	Transcript of Hearing August 9, 2018 (11/20/2020).....	433-38
2	Transcript of Hearing August 30, 2018 (11/20/2020).....	439-42
2	Transcript of Hearing November 27, 2018 (11/20/2020)	443-49
2	Transcript of Hearing January 17, 2019 (11/20/2020).....	450-54
2	Transcript of Hearing March 21, 2019 (11/20/2020).....	455-58
2	Transcript of Hearing April 25, 2019 (11/20/2020).....	459-62
2	Transcript of Hearing May 30, 2019 (11/20/2020).....	463-66
3	Transcript of Hearing June 27, 2019 (11/20/2020).....	475-78
3	Transcript of Hearing August 1, 2019 (11/20/2020).....	510-13
4	Transcript of Hearing August 15, 2019 (11/20/2020).....	740-45

4	Transcript of Hearing August 20, 2019 (11/20/2020).....	748-52
4	Transcript of Hearing August 22, 2020 (11/20/2020).....	762-66
4	Transcript of Hearing October 29, 2019 (11/20/2020)	783-803
4	Transcript of Hearing November 5, 2019 (11/20/2020)	804-07
4	Transcript of Hearing November 14, 2019 (11/20/2020)	836-58
5	Transcript of Hearing November 21, 2019 (11/25/2019)	883-932
5	Transcript of Jury Trial Day 1 December 9, 2019 Pages 1-55 (12/9/2020) [CONT'D IN NEXT VOLUME]	965-1019
6	Transcript of Jury Trial Day 1 December 9, 2019 Pages 56-283 (12/9/2020) [CONTINUATION]	1020-1247
7	Transcript of Jury Trial Day 2 December 10, 2019 (12/9/2020)	1250-1442
8	Transcript of Jury Trial Day 3 December 11, 2019 (12/9/2020)	1444-1625
9	Transcript of Jury Trial Day 4 December 12, 2019 (12/9/2020)	1626-1784
10	Transcript of Jury Trial Day 5 December 13, 2019 EXCERPT (12/9/2020)	1785-1995
11	Transcript of Jury Trial Day 5 December 13, 2019 EXCERPT (12/9/2020)	1996-2066
11	Transcript of Jury Trial Day 6 December 17, 2019 (12/9/2020)	2067-2231
12	Transcript of Jury Trial Day 7 December 18, 2019 Pages 1-173 (12/9/2020) [CONT'D IN NEXT VOLUME] .	2232-2404

13	Transcript of Jury Trial Day 7 December 18, 2019 Pgs 174-288 (12/9/2020) [CONTINUATION].....	2405-2519
14	Transcript of Jury Trial Day 8 December 19, 2019 (12/9/2020)	2533-2727
15	Transcript of Jury Trial Day 9 December 20, 2019 (12/9/2020)	2783-98
17	Transcript of Hearing August 6, 2020 (11/20/2020).....	3363-68
18	Transcript of Hearing September 18, 2020 (11/3/2020)	3398-3424
18	Transcript of Hearing November 5, 2020 (12/5/2020)	3443-46
17	Verdict (12/20/19)	3360-61



MLIM
JONELL THOMAS
SPECIAL PUBLIC DEFENDER
Nevada Bar #4771
MONICA R. TRUJILLO
Chief Deputy Special Public Defender
Nevada Bar #11301
330 So. Third Street, Suite #800
Las Vegas, Nevada 89155
(702) 455-6265
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 AS EVIDENCE UNCLEAR VIDEO
SURVEILLANCE OF WHAT APPEARS TO BE A WHITE SUV**

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 video surveillance obtained from the Volkswagen and Honda Dealerships located at 7500 W. Azure Drive depicting what appears to be a white SUV.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

TO: District Attorney, Attorney for Plaintiff

PROCEDURAL HISTORY

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 Detectives obtained video surveillance from several businesses including the Volkswagen and
7 Honda Dealerships located at 7500 W. Azure Drive. See Officer's Report, p. 18 (Exhibit A).
8 That surveillance includes footage from the vantage point facing towards the business complex
9 where the decedent's car was recovered. Exhibit A, p. 18. According to the Officer's Report,
10

11 "The video surveillance showed Banks' vehicle pulling into the business complex
12 at approximately 2232 hours, which was approximately 45 minutes after the
13 murder was reported to law enforcement. At approximately 2356 hours a newer
14 model, mid-size white sport utility vehicle (SUV) arrived and parked next to
15 Nissan Altima...At approximately 0243 the vehicle appeared to be set on fire. A
16 suspect or vehicle could not be seen entering the business complex before the fire.
17 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."

18 Exhibit A, p. 18. The report also indicated that Mr. Brown's girlfriend Angelisa Ryder drove a
19 white Jeep Compass. Exhibit A, p. 19.

20 **ARGUMENT**

21 Counsel has viewed the video surveillance provided by the State and has attached as
22 Exhibit B (1-5) still photographs provided by the State in discovery. Neither the video nor still
23 photographs enable the viewer to identify the make and model of the vehicle depicted. Any
24 testimony identifying the vehicle in question as Angelisa Ryder's vehicle is absolutely
25 speculative and therefore prejudicial.
26

27 Only relevant evidence is admissible, and irrelevant evidence is inadmissible. N.R.S.
28 48.025 (2). Relevant evidence is defined as "evidence having any tendency to make the

1 existence of any fact that is of consequence to the determination of the action more or less
2 probable than it would be without the evidence.” N.R.S. 48.015. Relevant evidence is
3 nonetheless inadmissible if “its probative value is substantially outweighed by the danger of
4 unfair prejudice, of confusion of the issues or of misleading the jury.” NRS 48.035(1). To allow
5 the State to present video of a white SUV is unfairly prejudicial. The mere presentation of the
6 video will force jurors to improperly speculate that this car should be associated with Larry
7 Brown simply because a person he associates with drives a white SUV. Here, the fact that one
8 cannot identify the make and model of the car in the surveillance video should be enough to
9 preclude its use as evidence against Mr. Brown. This evidence is not only speculative but also
10 misleading to the jury. Allowing the State to present the video surveillance would violate Mr.
11 Brown’s right to a fair trial.
12

13 CONCLUSION

14
15 Based on the foregoing reasons, Mr. Brown respectfully requests that this Honorable
16 Court preclude the state from presenting as evidence any video surveillance depicting a white
17 SUV obtained from Volkswagen and Honda Dealerships located at 7500 W. Azure Drive.
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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
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

000679 [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]
[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 Pointe apartment complex was located on the east side of Sky Pointe 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 Pointe 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

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

000690

CONTINUATION

Event #: 170221-4563

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

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] [REDACTED]

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.

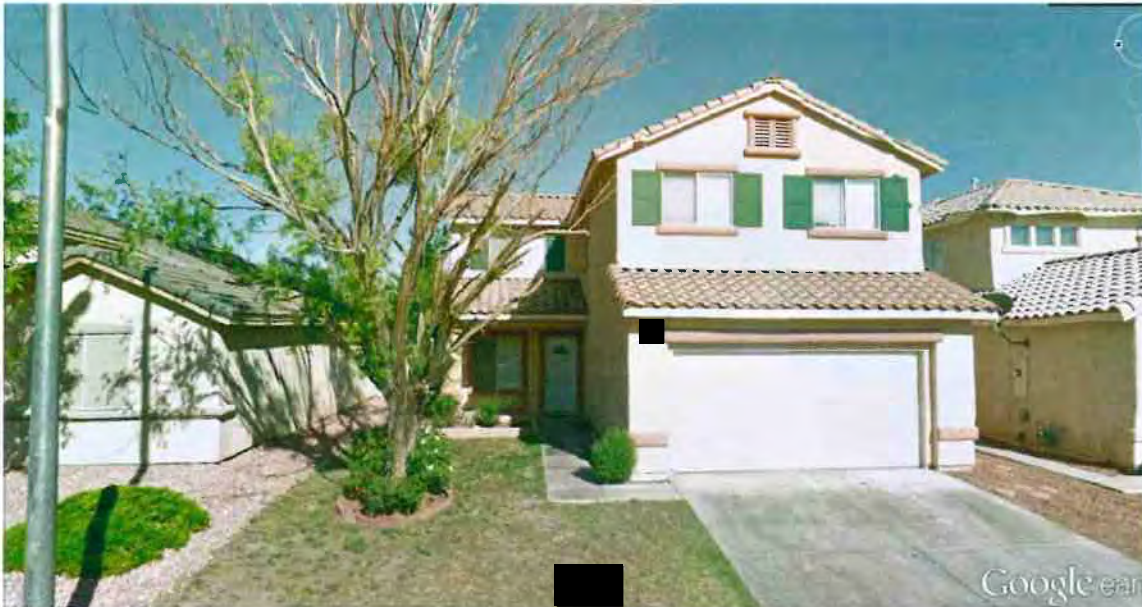
Most of the occupants in building [REDACTED] were contacted during the canvass but nobody answered the door to [REDACTED] was rented by a black male identified as Carnell Cave ID [REDACTED]. Cave's cell phone number was [REDACTED] and he lived in a one-bedroom apartment on the second floor. Cave's assigned 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:

CONTINUATION

Event #: 170221-4563

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

000701 [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.

000702

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]

000704 [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.

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.)

000706 [REDACTED]

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)

000707 [REDACTED]

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

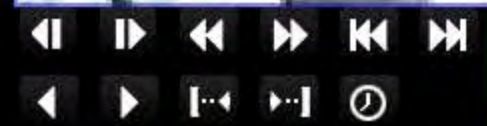
On February 21, 2017, at approximately 2247 hours, the LVMPD Communications Center received several 9-1-1 callers who reported a shooting in the parking lot of an apartment complex located at 5850 Sky Pointe Drive in Las Vegas. Patrol officers and emergency medical personnel were dispatched to the scene 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.

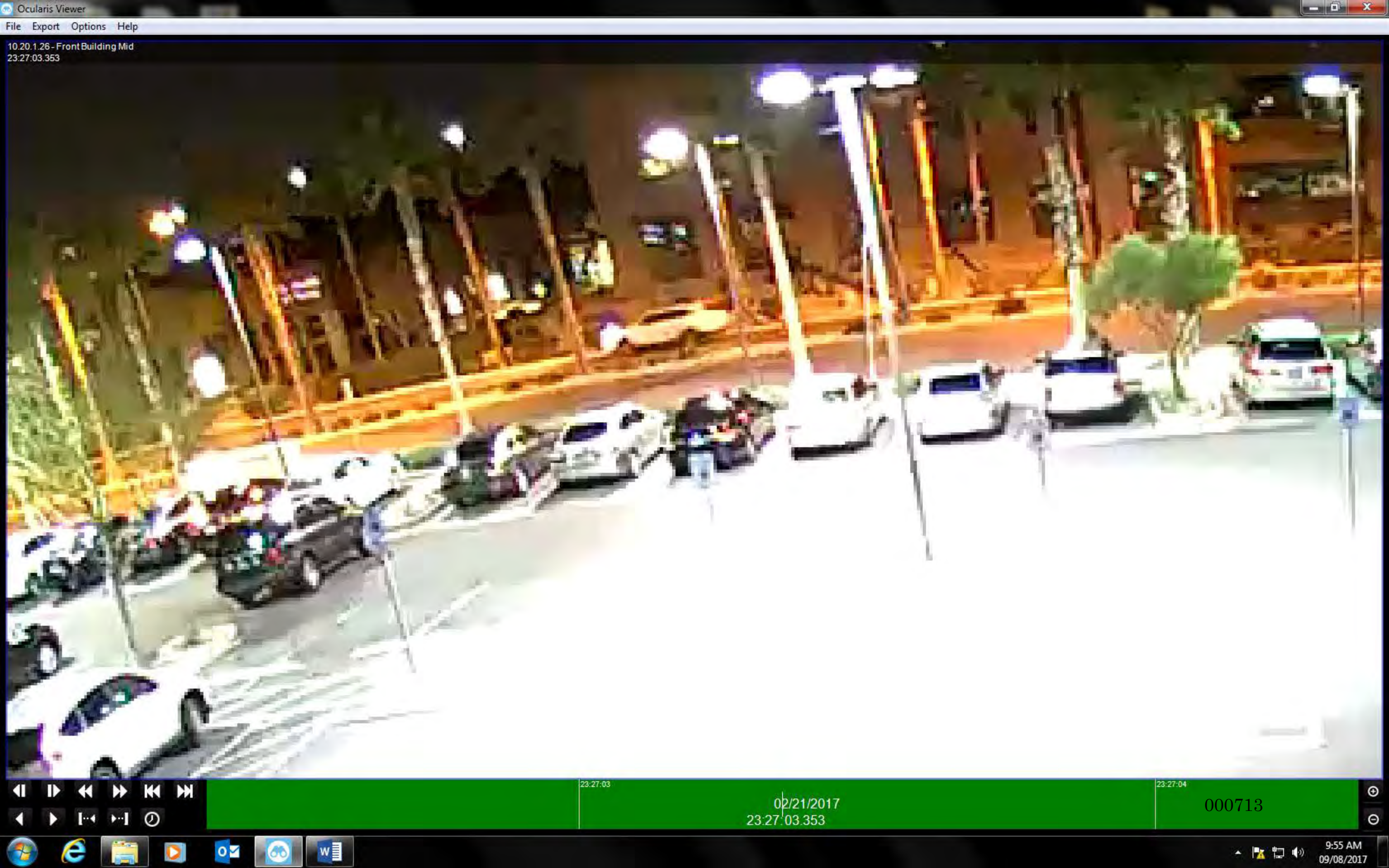
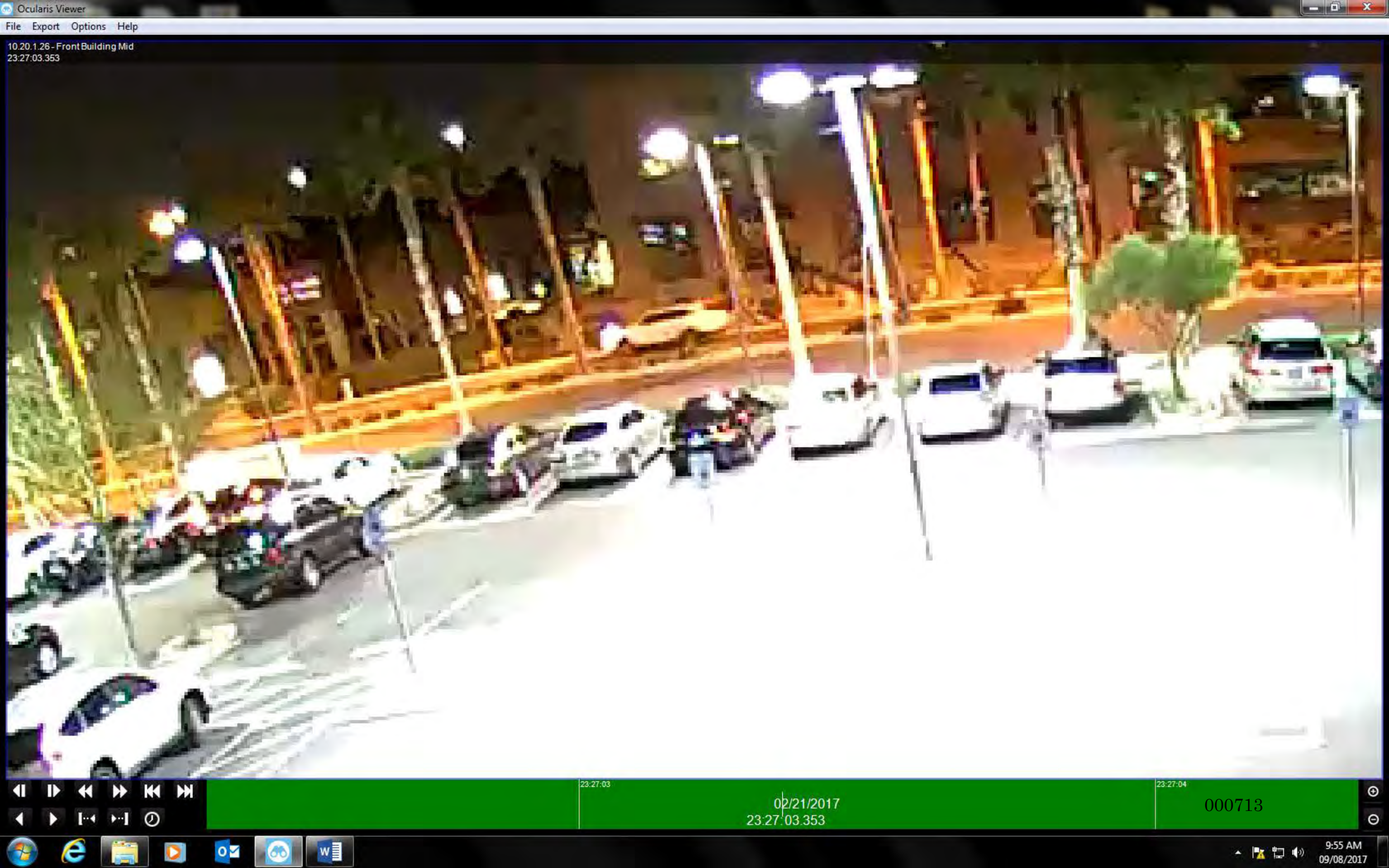
EXHIBIT B



10.20.1.26 - Front Building Mid
23:27:03.341



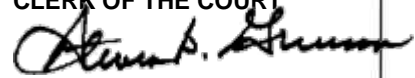
23:26:50	23:27:00	02/21/2017 23:27:03.341	23:27:10	23:27:20
		000712		











EXPT
JONELL THOMAS
SPECIAL PUBLIC DEFENDER
Nevada Bar #4771
MONICA R. TRUJILLO
Chief Deputy Special Public Defender
Nevada Bar #11301
330 S. Third Street, Suite #800
Las Vegas, Nevada 89155
(702) 455-6265
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.)	

EX-PARTE MOTION FOR CLARK COUNTY DETENTION CENTER RECORDS

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 respectfully requests this Honorable Court to enter an order directing the Clark County Detention Center to provide to counsel for defendant LARRY BROWN, any and all recorded calls, including, but not limited to, any and all audio-recordings, made and received, all CCDC records, including but not limited to disciplinary reports/write-ups and dispositions, inmate kites, inmate requests, visiting records from June 30, 2017 to present, and copies of all inmate correspondence outgoing and incoming by the following individual:

1. Anthony Carter, #1976097.

000717

1 This Motion is based on the papers and pleadings on file herein, the Declaration of Monica R.
2 Trujillo, and the Proposed Order attached hereto as Exhibit A.

3 Dated this 12th day of August, 2019.

4 SUBMITTED BY:

5 /s/ MONICA R. TRUJILLO

6
7 MONICA R. TRUJILLO
8 Attorney for Larry Brown

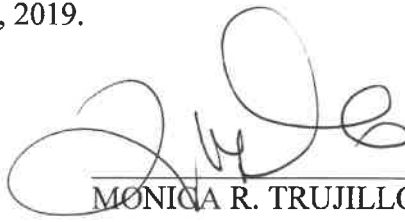
9 **DECLARATION OF MONICA R. TRUJILLO**

10 I, MONICA R. TRUJILLO, being first duly sworn, declare as follows:

- 11 1. I am over the age of 18 years and have personal knowledge of the facts stated
12 herein, except for those stated upon information and belief and, as to those facts, I
13 believe them to be true. I am competent to testify as to the facts stated herein in a
14 court of law and will so testify if called upon.
15
16 2. I am an attorney with the Office of the Special Public Defender, counsel of record
17 for Defendant Larry Brown.
18
19 3. Historically, the Clark County Detention Center (CCDC) rejects the Subpoena
20 Duces Tecum and requires that Defendant get a court order to receive the above-
21 mentioned records. Time is of the essence because the co-defendant in this case
22 will be testifying.
23
24 4. The defense requires above-mentioned records in anticipation of trial because they
25 are crucial to a full and fair development of the material facts in this murder case.
26
27
28

1 I declare under penalty of perjury under the laws of the State of Nevada (NRS 53.045)¹
2 that the foregoing is true and correct.

3 Dated this 12th day of August, 2019.

4
5
6 

7 MONICA R. TRUJILLO
8 Chief Deputy Special Public Defender
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

26 ¹ NRS 53.045 Use of unsworn declaration in lieu of affidavit or other sworn declaration. Any matter whose existence or
27 truth may be established by an affidavit or other sworn declaration may be established with the same effect by an unsworn
28 declaration of its existence or truth signed by the declarant under penalty of perjury, and dated, in substantially the
following form.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT A

1 EXPR
2 JONELL THOMAS
3 SPECIAL PUBLIC DEFENDER
4 Nevada Bar #4771
5 MONICA R. TRUJILLO
6 Chief Deputy Special Public Defender
7 Nevada Bar #11301
8 330 S. Third Street, Suite #800
9 Las Vegas, Nevada 89155
10 (702) 455-6265
11 FAX: (702) 455-6273
12 EMAIL:trujilmr@clarkcountynv.gov
13 Attorney for Larry Decorleon Brown
14
15
16

17 DISTRICT COURT

18 CLARK COUNTY, NEVADA

19 STATE OF NEVADA,) CASE NO. C-17-326247-1
20) DEPT. NO. 21
21 Plaintiff,)
22)
23 vs.)
24)
25 LARRY DECORLEON BROWN,)
26 ID 8376788,)
27)
28 Defendant.)

29 **EX-PARTE ORDER FOR CLARK COUNTY DETENTION CENTER TO PRODUCE**
30 **RECORDS RELATED TO DEFENDANT ANTHONY CARTER**

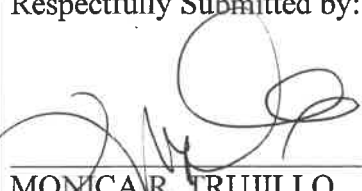
31 IT IS HERBY ORDERED, that any and all files in the custody of the Clark County
32 Detention Center related to co-defendant Anthony Carter, #1976097, any and all recorded calls,
33 including, but not limited to, any and all audio-recordings, made and received from June 30 2017
34 to present, all CCDC records, including but not limited to disciplinary reports/write-ups and
35 dispositions, inmate kites, inmate requests, visiting records from June 30, 2017 to present, and
36 copies of all inmate correspondence outgoing and incoming be produced.
37
38
39
40

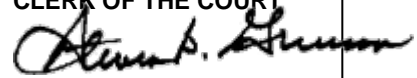
1 IT IS FURTHER ORDERED, that these records be provided to counsel for Defendant
2 Larry Brown on a weekly basis starting on the present date, so long as trial for this case proceeds.

3 DATED this _____ day of August, 2019.

4
5
6 DISTRICT COURT JUDGE

7 Respectfully Submitted by:

8
9
10 
11 MONICA R. TRUJILLO
12 Chief Deputy Special Public Defender
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



MLIM
JONELL THOMAS
SPECIAL PUBLIC DEFENDER
Nevada Bar #4771
MONICA R. TRUJILLO
Chief Deputy Special Public Defender
Nevada Bar #11301
330 S. Third Street, Suite #800
Las Vegas, Nevada 89155
(702) 455-6265
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 ALL CELL
PHONE INFORMATION OBTAINED BY CELLEBRITE AND RESPONSE TO
STATE'S MOTION IN LIMINE TO ADDRESS CELLEBRITE TESTIMONY
PERTAINING TO ADVANCED PROPRIETARY SOFTWARE**

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 Fifth, 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 any cell phone information obtained by Cellebrite in CBFL Case Number 00186567.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

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.

8
9
0
1
2
3
4
5
6
7
8
9
20
21
22

On February 21, 2017, officers responded to the parking lot of Sky Pointe Landing Apartments at 5850 Sky Pointe Drive. See, Declaration of Warrant, p. 1 (hereafter referred to as Exhibit A). Upon arrival, officers discovered the body of Kwame Banks deceased from a gunshot wound. Exh. A, p. 1. While canvassing the scene, officers found three cell phones in the area. Exh. A, p. 2. The first cell phone was located under Banks' body. Exh. A, p. 2. The second cell phone was located approximately ten to fifteen feet from Banks' body in a landscaped area. Exh. A, p. 2. The third cell phone was located approximately one hundred feet north of Banks' body. Exh. A, p. 2. According to officers, two of the cell phones were examined, but forensic analysts were unable to examine the third cell phone. Exh. A, p. 5. Detectives obtained the integrated circuit card identifier from that phone and sent the information to Sprint who subsequently identified the subscriber as Larry Brown. Exh. A, p. 5. Sprint further identified the number associated with the account. Exh. A, p. 5.

Thereafter, on April 17, 2018, the Las Vegas Metropolitan Police Department retained the services of Cellebrite 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.” See Affidavit in support of State’s Motion in Limine to Address Cellebrite Testimony Pertaining to Advanced Proprietary Software, filed August 2, 2019.

1 According to Joe Raspante, using their software, a Forensic Specialist determined the passcode
2 using Cellebrite's trade secrets and accessed the contents of the cell phone. Id. The Forensic
3 Specialist then copied the data on an encrypted device and returned it to the Las Vegas
4 Metropolitan Police Department. Id. The affidavit states, "[c]ellebrite did not examine the
5 applications on, or the data of the Device. Nor did Cellebrite alter any of the applications on, or
6 the data of the Device." Id. Cellebrite had this cell phone in its possession from April 30, 2018
7 through December 10, 2018.
8

9 ARGUMENT

10 The Sixth Amendment to the United States Constitution guarantees a criminal defendant
11 not only the right to a public trial but also the right to confront the witnesses against him. Davis
12 v. Alaska, 415 U.S. 308, 315 (1974). It is undisputed that confrontation includes the right to
13 cross-examine witnesses. To be sure, the United States Supreme Court has long held,
14

15 "[t]he right of an accused in a criminal trial to due process is, in essence, the right
16 to a fair opportunity to defend against the State's accusations. The rights to
17 confront and cross-examine witnesses and to call witnesses in one's own behalf
have long been recognized as essential to due process."

18 Chamber v. Mississippi, 410 U.S. 284, 294 (1973). Cross-examination is imperative because it
19 is, "the principal means by which the believability of a witness and the truth of his testimony are
20 tested." Davis v. Alaska, 415 U.S. at 316. The right to cross-examine witnesses is so
21 fundamental that the United States Supreme Court has stressed that,
22

23 "its denial or significant diminution calls into question the ultimate ""integrity of
24 the fact-finding process"" and requires that the competing interest be closely
examined."

25 Chambers v. Mississippi, 410 U.S. at 295 (citing Berger v. California, 393 U.S. 314, 315 (1969)).

26 Mr. Brown has a constitutional right to cross-examine the witnesses against him in a
27 public trial to effectively challenge the State's evidence against him in front of a jury of his peers.
28 As this Court is aware, Mr. Brown is facing serious charges with the most severe penalties. The

1 State asserts no legal authority that would allow for corporate trade secrets to take priority over
2 a full-fleshed, public and fair trial. Therefore, corporate monetary interests cannot take
3 precedence over his constitutional rights.

4 One aspect of cross-examination is challenging the chain of custody related to evidence
5 presented by the State. The Nevada Supreme court has held,
6

7 “to establish chain of custody and competent identification of evidence Nevada
8 law requires (1) reasonable showing that substitution, alteration or tampering of
9 the evidence did not occur; and (2) the offered evidence is the same, or
reasonably similar to the substance seized.”

10 Burns v. Sheriff, 92 Nev. 533, 534-535;554 P.2d 257, 258 (1976). Here, Cellebrite had the
11 phone in question for several months. The affidavit in support of the State’s motion states clearly
12 that Cellebrite did not examine the phone. How then can the State present testimony to the effect
13 that the contents of the phone were preserved and were maintained in its original form? The
14 State simply cannot make that assertion. Failing to present Cellebrite employees as witnesses
15 clearly creates a reliability issue with regard to this cell phone and any purported contents derived
16 from it.
17

18 In addition to the chain of custody issue, authentication is a condition precedent to the
19 admissibility of messages obtained from cellular phones. Rodriguez v. State, 273 P.3d 845, 848;
20 128 Nev. Adv. Op. 14 (2012). Presumably, the State intends to present certain text messages to
21 the jury in this case. Authentication requires the purpose for which the message is being offered
22 and sufficient evidence of authorship. Id. at 849. Because of the reliability issues stated above,
23 the State cannot properly authenticate any of the contents obtained from the cell phone.
24

25 Finally, cell phone extraction and analysis clearly falls under N.R.S. 50.275, which
26 provides in pertinent part, “scientific, technical or other specialized knowledge will assist the
27 trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an
28 expert by special knowledge, skill, experience, training or education may testify to matters

1 within the scope of such knowledge.” The State’s Third Supplemental Notice of Witnesses
2 And/Or Expert Witnesses filed on July 22, 2019 identified several experts in the area of cell
3 phone and records analysis. Counsel cannot properly challenge an expert under N.R.S. 50.275
4 and Hallmark v. Eldridge, 189 P.3d 646, 650 (2008), without understanding how Cellebrite and
5 its designees accessed the cell phone in question, handled the data and how it was stored during
6 the months Cellebrite possessed the cellphone.
7

8 **CONCLUSION**

9 Based on the foregoing, this Court should allow counsel for Brown to cross-examine
10 Cellebrite during trial regarding their access to the cell phone in question or in the alternative
11 preclude the State from presenting as evidence any of its contents to the jury to protect his rights
12 to due process of law and a fair trial.
13

14 Dated: August 12, 2019

15 SUBMITTED BY

16 /s/ MONICA R. TRUJILLO

17 _____
18 MONICA R. TRUJILLO

19 Attorney for Brown
20
21
22
23
24
25
26
27
28

///

///

///

///

///

///

///

///

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
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: 8/12/2019

/s/ ELIZABETH (LISA) ARAIZA

An employee of the Special Public Defender

EXHIBIT A

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
DECLARATION OF WARRANT/SUMMONS
(N.R.S. 171.106)
(N.R.S. 53 amended 7/13/1993)

Event Number: 170221-4563

STATE OF NEVADA) Larry Decorleon Brown

) ss: ID#: 8376788

COUNTY OF CLARK) DOB: [REDACTED] SS#: [REDACTED]

Darin Cook P# 5730, being first duly sworn, deposes and says:

That he is a Detective with the Las Vegas Metropolitan Police Department, being so employed for a period of 19 years, assigned to investigate the crime(s) of Murder E/DW NRS 200.010, Robbery E/DW NRS 200.380 committed on or about 02/21/17, which investigation has developed Larry Decorleon Brown as the perpetrator thereof.

THAT DECLARANT DEVELOPED THE FOLLOWING FACTS IN THE COURSE OF THE INVESTIGATION OF SAID CRIME, TO WIT:

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 the Sky Pointe Landing Apartment Homes 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 ID # [REDACTED] 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 personnel responded to the crime scene and assume investigatory responsibility. Detective Cook and Detective Dosch examined the crime scene for evidence and noted the body was located in a parking space under a carport in front of building 21. 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. Banks' pants pockets were pulled out, which suggested the decedent was also the victim of a robbery.

Banks' body was lying almost face-down on the ground. There was an apparent shoe impression in the victim's blood. The shoe impressions continued south from the body and appeared to end at carport spot 301. This suggested the suspect stepped in the victim's blood

CONTINUATION

Event #: 170221-4563

and ran due to the stride distance between shoe impressions. This suggested the suspect ran to a vehicle that may have been parked in the now-vacant carport spot.

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 Banks' body. A black Samsung cell phone in a black case was found approximately 10 to 15 feet away from the Banks' body in a landscaped area, which 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 Banks' 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 latex glove with apparent blood and a \$10.00 bill.

Detective D. Cook took possession of the cell phones and turned them over to the custody of the LVMPD Computer Forensics Lab (CFL). Detective M. Dosch obtained a search warrant for the cell phones, which was signed by District Court Judge Douglas Smith. The search warrant authorized a forensic examination of the cell phones for digital evidence and to determine ownership.

During the investigation homicide detectives contacted and interviewed several witnesses. On February 22, 2017, at approximately 0150 hours, Detective Dosch conducted an audio-recorded interview with Dereka Nelson, who stated round 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 suspect. Nelson 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

CONTINUATION

Event #: 170221-4563

vehicles parked to the south of her car and to the north of the victim's body belonged to other tenants in the complex.

On February 22nd, 2017 at approximately 0214 hours, Detective Merrick obtained a recorded statement from Jakhai Smith at [REDACTED] 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 were 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 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]

On February 22, 2017, at approximately 0141 hours, Detective Merrick obtained a recorded statement from Branden Kohler who stated he was inside his apartment which is located near the tennis courts. Kohler's wife, Kelly Kohler, yelled at him to come 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.

On February 22nd, 2017, at approximately 0157 hours, Detective Merrick obtained a recorded statement from Kelly Kohler who 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

CONTINUATION

Event #: 170221-4563

apartment. Kohler called 911 and while she was talking to the operator she heard a second gunshot.

On February 22nd Detective Cook and Detective Dosch attended Banks' autopsy at the Clark County Coroner's Office. A search of the clothes worn by Banks at the time of his death revealed \$1,880 dollars in his jacket pocket. Dr. Olson determined Banks' cause of death as a gunshot wound to the chest and Banks' death was ruled a homicide.

On February 23rd Detective Cook and Detective Dosch located Banks' Nissan Altima 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 Dosch contacted businesses across the street, which had video surveillance of the adjacent business complex where Banks' vehicle had been dumped. The video surveillance showed Banks' vehicle pulling into the business complex on February 21st, 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.

Detective Dosch received information from LVMPD that the officer who arrived in the business complex just as the white SUV was leaving was Officer English. Officer English ran Banks' California license plate at approximately 0003 hours. The existence of Banks' stolen vehicle was not known to detectives at that time and was not put 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. 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.

CONTINUATION

Event #: 170221-4563

The video surveillance also showed Banks' Nissan Altima still parked in the parking lot on the early morning hours of February 23rd, at approximately 0243 hours, the vehicle appeared to be set on fire. A vehicle could not be seen entering the business complex before the fire. However, a white SUV, similar to the one depicted on video surveillance on February 21st, was observed driving in both directions on Azure Drive. The vehicle appeared to be set on fire three separate times. Each time the vehicle was set on fire the white SUV was seen driving by.

On February 24th the forensic examination of the cell phones were completed for two of the three cell phones. The third cell phone, which was found in the scuffed 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 records 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 # [REDACTED]. 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 of [REDACTED] and [REDACTED]. From the contact list of cell phone [REDACTED] Detectives located a name "Poe ATL". The corresponding cell phone number was [REDACTED]. Detective Cook obtained the phone records from T-Mobile, which identified the subscriber of [REDACTED] as Anthony Carter with an address of [REDACTED] in Las Vegas. A SCOPE records check on Carter revealed he was a black male born in Atlanta, Georgia and his listed moniker was "Poke."

The decedent Kwame Banks' cell phone showed a lot of activity between his phone number [REDACTED] and Anthony Carter's phone number [REDACTED]. Detective Cook obtained a pen register for [REDACTED] and a court order for [REDACTED]. Both legal

CONTINUATION

Event #: 170221-4563

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.

Detective Cook and Detective Dosch reviewed Carter's cell phone records and at the time of the murder his calls hit off a cell tower located less than 1/2 a 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 hit off a cell phone tower located less than 1/4 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 February 25th Detective Dosch conducted an on-line records 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 the video surveillance recovered from across the street of the business complex where Banks' vehicle was dumped and burned.

On March 18th Detective Dosch drafted a search warrant for the residences connected to Anthony Carter and Larry Brown. The search warrant was signed by the honorable Judge Jerry Wiese. On March 20th the LVMPD SWAT unit conducted service of the search warrant. Anthony Carter and Tiffany Carter were taken into custody at [REDACTED] after leaving the residence at [REDACTED]. Anthony and Tiffany Carter were transported to LVMPD Headquarters for interview.

At approximately 1030 hours Detective Cook and Detective Dosch conducted an interview in the family interview room with Tiffany Carter. The door was unlocked and Tiffany

CONTINUATION

Event #: 170221-4563

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. 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 [REDACTED]

On the morning of February 22nd 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.

She recall 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.

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

CONTINUATION

Event #: 170221-4563

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 [REDACTED] 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 21st, he was at his friend's apartment who he named as Carnell Cave, who lives at [REDACTED]. He received a ride to the apartment from a friend he referred to as Dakota. Anthony stayed at Cave's apartment waiting for a male known to him as "B" (Kwame Banks) who was going to deliver (3) three quarter pounds 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 Cave's apartment building. Banks' then brought (3) three 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 and said Banks' did not actually come inside Cave's apartment, he met him at the basketball court. Banks' had backed 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 quarter pounds of marijuana from Banks. Anthony watched as Banks drove out of the complex. Anthony said he returned to Caves' apartment where he and Cave was playing 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

CONTINUATION

Event #: 170221-4563

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 murder 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.

On March 20th, 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.

On February 22nd, at approximately 0500 hours, Ryder was working at the hospital and 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

CONTINUATION

Event #: 170221-4563

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.

Due to the above facts and circumstances Larry Brown did willfully and unlawfully use force and violence against the person of Kwame Banks by using a .40 Caliber semi-auto handgun to shoot Banks in the chest causing his death, constituting Murder with the Use of a Deadly Weapon NRS 200.010

Larry Brown did willfully and unlawfully take personal property from the person of Kwame Banks by going through Banks pockets, while Banks was shot and lying face down on the pavement. Brown then took Banks' Nissan Altima and fled the crime scene which constitutes the crime of Robbery with Use of a Deadly Weapon in violation of NRS 200.380

Wherefore, Declarant prays that a Warrant of Arrest be issued for suspect Larry Decorleon Brown on the charge(s) of Murder E/DW, Robbery E/DW.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed on this 2nd day of May, 2017.

DECLARANT

Dan Cook PN 5730

WITNESS:

R. Juega #5582

DATE:

5/2/17



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 15, 2019

***RECORDER'S TRANSCRIPT OF HEARING RE:
DEFENDANT LARRY BROWN'S MOTION FOR DISCLOSURE OF
FAVORABLE EVIDENCE***

APPEARANCES:

For the State: MICHAEL DICKERSON, ESQ.
Deputy District Attorney

For the Defendant: MONICA R. TRUJILLO, ESQ.
W. JEREMY STORMS, ESQ.
Chief Deputy Special Public Defenders

RECORDED BY: ROBIN PAGE, COURT RECORDER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Las Vegas, Nevada; Thursday, August 15, 2019

* * * * *

[Proceeding commenced at 10:06 a.m.]

THE COURT: State versus Larry Brown. Mr. Brown is present in custody.

This is on for Mr. Brown's discovery motion that was opposed by the State. It's obviously granted as to *Brady, Giglio* and statutory.

And then are there particular areas we need to discuss, specifically?

MS. TRUJILLO: Judge, we're just still waiting on a couple of cell phone records that -- I've already been in touch with the State and they indicate they're going to get them over to me. It's just that the fact that they're not in a readable format. And then I received some additional mapping information. I think that was the only things that were outstanding, the cell phone records.

THE COURT: Okay. Yeah, on the other -- Facebook and everything, unless they have it, you have to get that from them.

MS. TRUJILLO: Right.

THE COURT: Mr. Dickerson, what do you know about these phone records?

MR. DICKERSON: As far the format, I think that maybe that might be something that needs to be worked out on the IT end for defense counsel because -- we'll see what we can do --

THE COURT: Okay.

1 MR. DICKERSON: -- to make it easier for them.

2 THE COURT: Okay.

3 MR. DICKERSON: But that's the format that we have.

4 THE COURT: Okay. So any other issues with respect to
5 discovery?

6 MS. TRUJILLO: No, the cell phone thing was the biggest
7 thing. However, I did receive a readable format of my client's
8 phone, so I know that they are able to do that. The problem is it --
9 they switched the format when Metro looks at it. I want it in the
10 original form that they received --

11 THE COURT: Okay.

12 MS. TRUJILLO: -- from the cell phone company --

13 THE COURT: Okay.

14 MS. TRUJILLO: -- as to all cell phones.

15 THE COURT: So, Mr. Dickerson, can you inquire of Metro?
16 I would assume they would still have the original format that they
17 received. If they can send those records to you or to you in the
18 original format, so that you can then send those on to Ms. Trujillo.

19 MR. DICKERSON: Absolutely, Your Honor.

20 THE COURT: All right. And it seems to me that shouldn't
21 take too long. Do we have an upcoming status check?

22 MR. DICKERSON: I think we have a hearing date on the
23 20th if I'm not mistaken. Several motions were filed by defense
24 counsel in the last couple days, the State's looking at those.

25 THE COURT: Okay.

1 MR. DICKERSON: We'll be filing responses. We do
2 anticipate being ready for trial, we have our witnesses subpoenaed,
3 we have everybody ready to go with pre-trial as well.

4 THE COURT: Okay. So when we're here on the motions,
5 we can status check the phone records. Does that --

6 MS. TRUJILLO: Sure. But can we approach on another
7 matter?

8 THE COURT: Sure.

9 [Bench conference - not recorded]

10 THE COURT: All right. So there's -- we discussed at the
11 bench an outstanding issue relating to another defendant's jail
12 calls. I'm going to move -- that was submitted as an *ex parte*
13 motion. The Court's going to calendar that if there's no objection
14 from defense and notify the other co-defendant's counsel to be here
15 in case they want to weigh in. If they don't have any issue with
16 that, then obviously there's nothing for them to say, but just to at
17 least give them that opportunity.

18 MS. TRUJILLO: Okay. And as to the other motions,
19 Judge.

20 THE COURT: And then also on the status check with the
21 phone calls, that'll be on Tuesday.

22 And with respect to the motions, Ms. Trujillo, you were
23 willing to move those out.

24 But, Mr. Dickerson, it sounded to me at the bench like you
25 want to get those oppositions in and litigate the motions on

1 Tuesday. Is that the State's position?

2 MR. DICKERSON: That'll be our position, Your Honor.

3 THE COURT: Even if Ms. Trujillo wants to move the trial
4 date out. I mean, if you want to be ready on Tuesday, we can still
5 hear the motions.

6 MS. TRUJILLO: I'm ready.

7 THE COURT: I don't know if it will have any impact on
8 anything going forward, but --

9 MR. DICKERSON: Is it possible to move those --

10 THE COURT: -- they'll have to be heard at some point, so.

11 MR. DICKERSON: Is it possible to move those motions to
12 Thursday, that way then it can give us a little bit more time on it in
13 case -- we'll know two days ahead of time whether it's going to be
14 continued depending on how you rule on those jail calls?

15 THE COURT: Any objection to moving the motions to
16 Thursday?

17 MS. TRUJILLO: No objection.

18 THE COURT: All right. Those will be moved to Thursday.

19 MR. DICKERSON: Thank you, Your Honor.

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: Everything else will be on Tuesday.

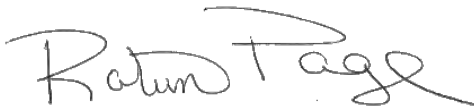
[Colloquy between the Court and Clerk]

THE CLERK: Oh, August 20th. I'm sorry.

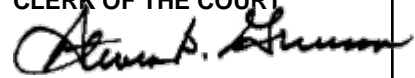
[Proceeding concluded at 10:18 a.m.]

* * * * *

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
JONELL THOMAS
SPECIAL PUBLIC DEFENDER
NSB No. 4771
MONICA R. TRUJILLO
CHIEF DEPUTY SPECIAL PUBLIC DEFENDER
NSB No. 11301
330 South Third Street, 8th Floor
Las Vegas, NV 89155
(702) 455-6265
Fax No. 702-455-6273
Monica.trujillo@clarkcountynv.gov
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.)	
)	

NOTICE OF DEFENDANT'S WITNESSES

TO: THE STATE OF NEVADA, Plaintiff, and

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

YOU, AND EACH OF YOU, WILL 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 witness(es):

NAME

ADDRESS

ROSE BROWN

1920 Glendale Drive
Decatur, GA 30032

000746

NAME

ADDRESS

LOSHALONDA FORD

4642 Cedar Ridge Trail
Sone Mountain, GA 30083

DATED this 16th day of August, 2019.

RESPECTFULLY SUBMITTED:

/s/ MONICA R. TRUJILLO

MONICA R. TRUJILLO
Attorney for Brown

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of the above Notice of Defendant's Witnesses, was made on
August 16, 2019, by Electronic Filing to:

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

/s/ Elizabeth (Lisa) Araiza

Legal Secretary
Special Public Defender



1 RTRAN

2
3
4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 THE STATE OF NEVADA,
9 Plaintiff,

10 vs.

11 LARRY DECORLEON BROWN,
12 Defendant.

CASE NO: C-17-326247-1

DEPT. XXI

13
14 BEFORE THE HONORABLE VALERIE ADAIR, DISTRICT COURT JUDGE
15 TUESDAY, AUGUST 20, 2019

16 **RECORDER'S TRANSCRIPT OF HEARING RE:**
17 **STATUS CHECK: PHONE RECORDS**

18 APPEARANCES:

19 For the State:

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

21 For the Defendant:

22 MONICA R. TRUJILLO, ESQ.
W. JEREMY STORMS, ESQ.
Chief Deputy Special Public Defenders

23
24
25 RECORDED BY: ROBIN PAGE, COURT RECORDER

1 Las Vegas, Nevada; Tuesday, August 20, 2019

2 * * * * *

3 [Proceeding commenced at 11:03 a.m.]

4 THE COURT: Recalling Larry Brown.

5 MS. TRUJILLO: Can we approach, Judge?

6 THE COURT: Sure.

7 [Bench conference - not recorded]

8 THE COURT: All right. We're passing -- I think everyone's in
9 agreement to pass the issue of the telephone calls and kites to
10 Thursday, is that right?

11 MS. TRUJILLO: That's correct.

12 MR. GIORDANI: Yes, Your Honor.

13 THE COURT: All right. So we'll move that. Let's just do
14 status check -- we'll call it status check regarding *ex parte* application.

15 MS. TRUJILLO: Does the Court want to do it at the end of
16 calendar since we want to clear the courtroom?

17 THE COURT: Right. Why don't we just set that then for
18 10:30.

19 MS. TRUJILLO: Okay.

20 THE CLERK: August 22nd at 10:30.

21 THE COURT: Well, I'm going to set it for 9:30 because
22 otherwise they may not bring the inmate.

23 MS. TRUJILLO: Oh, okay.

24 THE COURT: So we'll set it for 9:30, so they bring the inmate.
25 But, lawyers, know to come late. So it'll be set officially for 9:30 because

1 like I said, otherwise, they won't bring him and then we'll be waiting for
2 40 minutes. All right.

3 So the other issues regarding the trial date and the pending
4 motions, does the State want to be heard on that?

5 MR. GIORDANI: We have had discussions both at the bench,
6 and Mr. Trujillo and I personally, that we think that no matter what, there
7 are enough issues that it's going to result in a continuance, so we're in
8 agreement to vacate this trial date and reset it in the December 2nd week
9 that we previously discussed.

10 THE COURT: All right.

11 MS. TRUJILLO: And take the motions off the calendar as well
12 and I'll refile them at the appropriate time.

13 THE COURT: All right. Is that what you want to do?

14 [Colloquy between counsel]

15 THE COURT: Or do you want to just pass him over and give
16 Mr. Giordani like another 30 days to file an opposition.

17 MR. GIORDANI: That would be great.

18 MR. STORMS: Yeah, 30 days, okay.

19 MR. GIORDANI: That'd be great, 30.

20 THE COURT: All right. So we'll go ahead and vacate the trial
21 date. We'll give you the December trial date. And counsel understands
22 you may be trailing another older matter, although, this matter is in
23 custodies and the other matter isn't, so.

24 MR. GIORDANI: Right.

25 THE COURT: I'm not sure how that would stack up. In any

1 event, we'll go ahead and give Mr. Giordani 30 days to respond to these
2 pending motions.

3 And then, Ms. Trujillo, are you fine setting them out for a
4 hearing two weeks after that? So 30 days for the oppositions and the --

5 MS. TRUJILLO: I just want to make sure we're not going to
6 be in the capital case.

7 What does that fall under, Judge?

8 MR. GIORDANI: Oh.

9 MS. TRUJILLO: It's the -- what's the two weeks fall under?

10 THE CLERK: 30 days from today is September 17th and then
11 another two weeks is October 1st.

12 MS. TRUJILLO: Oh, no, that's fine. Thank you.

13 THE COURT: All right. So hearing on the motions is that --
14 what day of the week is October 1st.

15 THE CLERK: A Tuesday.

16 THE COURT: All right. Will be October 1st. And then we'll set
17 this down for Thursday for the status check on the *ex parte* application.
18 And then we'll give you a new trial date.

19 THE LAW CLERK: Trial date is now December 2nd at 9:00
20 a.m., calendar call is November 21st at 9:30.

21 ///

22 ///

23 ///

24 ///

25 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

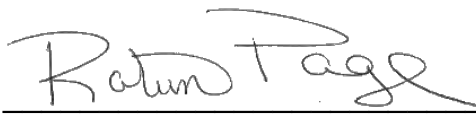
MS. TRUJILLO: Thank you.

MR. GIORDANI: Thank you.

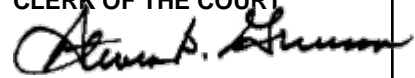
[Proceeding concluded at 11:08 a.m.]

* * * * *

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



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
PRECLUDE THE STATE FROM USING THE TERM "GUILTY PHASE"**

DATE OF HEARING: 10/1/2019
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 Preclude the State From Using the Term "Guilty Phase".

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.

//

//

//

//

1 **POINTS AND AUTHORITIES**

2 The term “guilt phase” is a part of our legal vocabulary.

3 However, respondent will attempt not to use the phrase “guilt phase” when addressing
4 the jury or when making any types of comments in the presence of the jury during the guilt
5 phase of these proceedings. Presumably, if a penalty hearing is necessary in this case the
6 defense will not object to “guilt phase” references during that stage of these proceedings.

7 DATED this 22nd day of August, 2019.

8 Respectfully submitted,

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

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

14
15 **CERTIFICATE OF ELECTRONIC TRANSMISSION**

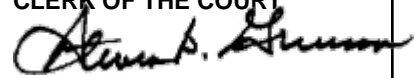
16 I hereby certify that service of the above and foregoing was made this 22nd day of
17 August, 2019, by electronic transmission to:

18 WILLIAM STORMS
19 stormswj@clarkcountynv.gov

20 MONICA TRUJILLO
21 trujilmr@clarkcountynv.gov

22 BY /s// E. DEL PADRE
23 Secretary for the District Attorney’s Office

24
25
26
27
28 JG/ed/GCU



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
PRECLUDE THE STATE FROM PRESENTING UNDULY PREJUDICIAL
AND/OR CUMULATIVE PHOTOGRAPHS TO THE JURY**

DATE OF HEARING: 10/1/2019
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 Preclude the State from Presenting Unduly Prejudicial and/or Cumulative Photographs to the Jury.

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.

//

//

//

POINTS AND AUTHORITIES

The Defendant argues that the State should be precluded from admitting photographs that are gruesome or overly prejudicial. The Nevada Supreme Court in *Browne v. State*, 113 Nev. 305, 314, 933 P.2d 187 (1997), explained that “gruesome” photographs are admissible. The Court said:

We have repeatedly held that “[d]espite gruesomeness, photographic evidence has been held admissible when ... utilized to show the cause of death and when it reflects the severity of wounds and the manner of their infliction.” *Theriault v. State*, 92 Nev. 185, 193, 547 P.2d 668, 674 (1976) (citations omitted). Thus, gruesome photos will be admitted if they aid in ascertaining the truth. *Id.*, at 314.

In a more recent case, *West v. State*, 75 P.3d 808 (Nev. 2003), the Supreme Court quoted the above cited language in ruling that the District Court had properly admitted two photographs of the murder victim’s head which was wrapped in a plastic bag. Consequently, gruesome photos are readily admissible when they are utilized to show the cause of death, the severity of the wounds, and the manner of their infliction. The State needs photographs of the victim’s wounds which are illustrated in the autopsy photos to show the cause of death, the severity of the wounds, and the manner of their infliction.

“The admissibility of gruesome photographs showing wounds on the victim's body ‘lies within the sound discretion of the district court and, absent an abuse of that discretion, the decision will not be overturned.’” This court has repeatedly upheld the admission of autopsy photographs, even grisly ones, when they are used to demonstrate the cause of death and reflect the severity of wounds and the manner in which they were inflicted. *Archanian v. State*, 122 Nev. 1019, 1031, 145 P.3d 1008, 1017 (2006).

//

//

//

//

//

//

1 Obviously this Court will review the proposed photos from the State prior to their
2 admission. We will provide the Court with the photos that we intent to use and will argue,
3 pursuant to the above cited case law, that the photos are admissible.

4 DATED this 22nd day of August, 2019.

5 Respectfully submitted,

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

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

13 CERTIFICATE OF ELECTRONIC TRANSMISSION

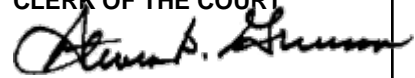
14 I hereby certify that service of the above and foregoing was made this 22nd day of
15 August, 2019, by electronic transmission to:

16 WILLIAM STORMS
17 stormswj@clarkcountynv.gov

18 MONICA TRUJILLO
19 trujilmr@clarkcountynv.gov

20 BY /s// E. DEL PADRE
21 Secretary for the District Attorney's Office
22
23
24
25
26
27

28 JG/ed/GCU



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
PRECLUDE THE STATE AND WITNESSES FROM REFERRING
TO KWAME BANKS AS "THE VICTIM"**

DATE OF HEARING: 10/1/2019
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 Preclude the State and Witnesses from Referring to Kwame Banks as the "The Vicitm".

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.

//

//

//

POINTS AND AUTHORITIES

Statute and case law demonstrate that it is appropriate for the State to use the term “victim” during trial.

Nevada Revised Statute 217.070, however, defines “victim” as follows:
“Victim” means”

1. A person who is physically injured or killed as the direct result of a criminal act;
2. A minor who was involved in the production of pornography in violation of NRS 200.710, 200.725, or 200.730;
3. A minor who was sexually abused, as “sexual abuse” is defined in NRS 432B.100;
4. A person who is physically injured or killed as the direct result of a violation of NRS 484.379 or any act or neglect of duty punishable pursuant to NRS 484.3795;
5. A pedestrian who is physically injured or killed as the direct result of a driver of a motor vehicle who failed to stop at the scene of an accident involving the driver and the pedestrian in violation of NRS 484.219; or
6. A resident who is physically injured or killed as the direct result of international terrorism as defined in 18 U.S.C. Section 2331(1).

Clearly, Kwame Banks was the victim of a murder and can be referred as such under this statute. The Nevada Supreme Court has commented on this issue in Reeter v. State, Order of Affirmance, No. 36143, November 9, 2001. (Unpublished). In that case, the appellant challenged a district court’s denial of a motion in limine requesting the court to exclude any references to the complaining witness as a “victim.” The appellant argued that these references decreased the State’s burden of proof because they implied that the victim was, in fact, a victim. The Nevada Supreme Court concluded that the appellant’s argument lacked merit. Specifically referring to the case cited by appellant Reeter, State v. Nomura, 903 P.2d 718 (Haw. App. 1995), the Nevada Supreme Court noted the distinction between using the word “victim” during testimony or argument versus using the word in jury instructions. The court also noted that Reeter “cites no Nevada authority that a witness’s use of these terms deprives the jury of its fact-finding role or otherwise diminished the State’s burden of proof. Nor has appellant demonstrated that the prosecutor’s use of the terms in closing arguments constitutes anything other than the permissible act of arguing inferences from the evidence in the record. In addition, other case law suggests that the State can appropriately refer to Janna Taylor as

1 the “victim.” In a later unpublished opinion, the Court specifically rejected Nomura citing to
2 Gaxiola v. State, 121 Nev. 633, 647-49, 119 P.3d 1225, 1231-33(2005) (The use of “victim”
3 in a jury instruction is appropriate). In Jackson v. State, 600 A.2d 21 (1991), the Supreme
4 Court of Delaware addressed the specific issue of whether a prosecutor’s use of the word
5 “victim” during the direct examination of various witnesses was error. In Jackson, the
6 defendant was convicted of unlawful sexual intercourse, possession of a deadly weapon during
7 the commission of a felony, unlawful imprisonment, and assault. On appeal, the defendant
8 claimed that the trial court erred in allowing the prosecutor to refer to the complaining witness
9 as “the victim” because that reference “compromised the fact-finding role of the jury.” Id. at
10 24. The defense at trial was that the victim had consented to the sexual encounter. The
11 Delaware Supreme Court reasoned that the term “victim” is appropriately used when there is
12 no doubt that a crime was committed and the identity of the perpetrator is at issue. Id. The
13 court concluded, however, that in situations where the defense is consent, the term “victim”
14 should be avoided in the questioning of witnesses. Its use, however, would not be plain error.
15 Id. at 25.¹

16 In State v. McDougall, 2000 WL 225923 (Wash. App. Div. 1), an unpublished opinion
17 from the Court of Appeals in Washington, a defendant attacked his conviction for felony
18 harassment on grounds that the trial court should have prohibited the prosecutor from referring
19 to the complaining witness as the “victim.” In his appeal, the defendant cited Jackson v. State,
20 600 A.2d 21 (Del. Supr. 1991). The Washington appellate court recognized the narrow
21 application of the Jackson decision by stating that it did not apply to the case. Clarifying the
22 proper application of Jackson, the Washington court explained that “the Jackson court
23 observed that its opinion was not to be read to imply that the use of the term ‘victim,’ as a term
24 of art or in common parlance, is objectionable. Rather, its criticism was directed to the
25 repeated use of the term by a prosecutor where consent is the sole defense.” Id. at 4. Finally,
26 the Ninth Circuit has held that where there is evidence that the parties suffered a loss, it was
27
28

¹ The Court referenced Jackson in James v. State, 2012 Nev.Unpub. LEXIS 1473 (2012) and adopted its rationale.

1 fair comment by the prosecution to use the word “victim.” See United States v. Gibson, 690
2 F.2d 697, 703 (1982).

3 Applying the aforementioned case law to the instant case, it is abundantly clear that the
4 State can properly refer to Kwame Banks as the “victim” in the instant case. At this stage, it
5 does not appear that the defense will be claiming that Banks was not murdered; therefore, there
6 is no question that he is a victim. Moreover, the defense has not offered this Court any case
7 law which supports the proposition that it is improper for the State to refer to the deceased as
8 a “victim.” Use of the term by the State is completely proper.

9 **CONCLUSION**

10 Therefore, the State respectfully asks this Court to deny defendant’s motion in limine
11 to preclude the State from referring to the victim as a “victim.”

12 DATED this 22nd day of August, 2019.

13 Respectfully submitted,

14 STEVEN B. WOLFSON
15 Clark County District Attorney
Nevada Bar #001565

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

19
20 **CERTIFICATE OF ELECTRONIC TRANSMISSION**

21 I hereby certify that service of the above and foregoing was made this 22nd day of
22 August, 2019, by electronic transmission to:

23 WILLIAM STORMS
24 stormswj@clarkcountynv.gov

25 MONICA TRUJILLO
26 trujilmr@clarkcountynv.gov

27 BY /s// E. DEL PADRE
Secretary for the District Attorney’s Office

28 JG/ed/GCU



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 22, 2019

***RECORDER'S TRANSCRIPT OF HEARING RE:
STATUS CHECK: EX-PARTE APPLICATION***

APPEARANCES:

For the State: JOHN L. GIORDANI, III, ESQ.
Chief Deputy District Attorney

For Defendant Brown: W. JEREMY STORMS, ESQ.
Chief Deputy Special Public Defender

Also Appearing: JEFFREY T. RUE, ESQ.
Deputy Public Defender

RECORDED BY: ROBIN PAGE, COURT RECORDER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Las Vegas, Nevada; Thursday, August 22, 2019

* * * * *

[Proceeding commenced at 10:11 a.m.]

THE COURT: State versus Larry Brown. Mr. Brown is present in custody with Mr. Storms.

MR. STORMS: Storms is right, plural.

THE COURT: Okay. This is on for status check on the *ex parte* application. And Mr. Rue is here representing the Public Defender's Office on behalf of the co-defendant.

MR. RUE: Correct.

THE COURT: And my understanding is that Mr. Slife was not available today and Mr. Slife is actually trial counsel for the co-defendant.

MR. RUE: That is correct, Your Honor. Mr. Slife wanted -- I believe Your Honor wanted his position on this --

THE COURT: Right.

MR. RUE: -- this application. Mr. Slife's position is he really doesn't have a basis to object.

THE COURT: Okay.

MR. RUE: Although, unless there is -- they come across attorney client discussions --

THE COURT: Right.

MR. RUE: -- or discussions with our investigator or our social worker, we would object to those, but other than that, we would submit it.

1 THE COURT: Okay. My understanding is the jail's -- there
2 are certain numbers -- this was from a hearing on another unrelated
3 matter. My understanding is that the way it works is the attorney
4 numbers and any numbers that involve privileged communications
5 are logged in or held by the jail, so that when those numbers call in,
6 then that -- those calls aren't monitored. So as long as there's not a
7 problem with, like, your investigator's number.

8 MR. RUE: Sure.

9 THE COURT: I don't know if the social worker -- if she's
10 calling from your office, it should be covered.

11 MR. RUE: Should be fine.

12 MR. GIORDANI: Yes.

13 THE COURT: So we'll go ahead then and grant your
14 motion. And, obviously, counsel will be aware if there's something
15 that looks like it's coming from the Public Defender's Office or
16 something else that involves a privileged communication, you
17 won't listen to it. But as I said there are, based on what I had
18 learned at this other hearing, there are safeguards in place at the
19 jail to make sure that those calls aren't recorded.

20 MR. STORMS: And I can speak from experience, Judge,
21 my phone number was not on that list for a period of time and so if
22 they did get recorded and get to the State, so if we come across
23 that, because it's possible they aren't on the list, we'll --

24 THE COURT: Right.

25 MR. STORMS: -- alert the State.

1 THE COURT: That's why we had the hearing on the other
2 unrelated matter.

3 MR. STORMS: Yeah.

4 THE COURT: Because some of those calls were captured.
5 So all right then, I've got the order. If there's no objection, the
6 Court will sign the order and we'll just notify you to pick it up.

7 MR. STORMS: Thank you.

8 MR. GIORDANI: Thank you.

9 THE COURT: All right.

10 And then do we need to do anything else?

11 MR. GIORDANI: We have a future date already. I can't
12 recall what it is. I think it's in October.

13 THE COURT: Yeah.

14 MR. STORMS: We did. We did get a date last time for the
15 -- I'm sorry, December 2nd.

16 THE COURT: It's the December, right? Okay. Should we
17 come back for a status check then?

18 MR. GIORDANI: No, I thought the -- I'm sorry to interrupt,
19 there was supposed to be an October date.

20 MR. STORMS: Yes, we do actually have an October 1st
21 date for motions it looks like, too.

22 MR. GIORDANI: Yeah.

23 THE COURT: All right. Let's just keep that date.

24 MR. GIORDANI: Okay.

25 THE COURT: And it'll be hearing on the motions as well

1 as status check, trial preparation, and trial readiness.

2 MR. STORMS: Thank you.

3 THE COURT: All right.

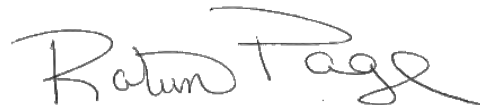
4 MR. GIORDANI: Thank you.

5 THE COURT: Thank you.

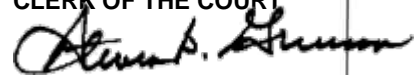
6 [Proceeding concluded at 10:14 a.m.]

7 * * * * *

8
9
10
11
12
13
14
15
16
17
18
19
20
21 ATTEST: I do hereby certify that I have truly and correctly
22 transcribed the audio/video proceedings in the above-entitled case
23 to the best of my ability.

24 

25 Robin Page
Court Recorder/Transcriber



1 EXPR
2 JONELL THOMAS
3 SPECIAL PUBLIC DEFENDER
4 Nevada Bar #4771
5 MONICA R. TRUJILLO
6 Chief Deputy Special Public Defender
7 Nevada Bar #11301
8 330 S. Third Street, Suite #800
9 Las Vegas, Nevada 89155
10 (702) 455-6265
11 FAX: (702) 455-6273
12 EMAIL: trujilmr@clarkcountynv.gov
13 Attorney for Larry Decorleon Brown

8 DISTRICT COURT

9 CLARK COUNTY, NEVADA

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

17 **EX-PARTE ORDER FOR CLARK COUNTY DETENTION CENTER TO PRODUCE**
18 **RECORDS RELATED TO DEFENDANT ANTHONY CARTER**

19 IT IS HERBY ORDERED, that any and all files in the custody of the Clark County
20 Detention Center related to co-defendant Anthony Carter, #1976097, any and all recorded calls,
21 including, but not limited to, any and all audio-recordings, made and received from June 30 2017
22 to present, all CCDC records, including but not limited to disciplinary reports/write-ups and
23 dispositions, inmate kites, inmate requests, visiting records from June 30, 2017 to present, and
24 copies of all inmate correspondence outgoing and incoming be produced.
25

26
27
28
000767

1 IT IS FURTHER ORDERED, that these records be provided to counsel for Defendant
2 Larry Brown on a weekly basis starting on the present date, so long as trial for this case proceeds.

3 DATED this 22 day of August, 2019.

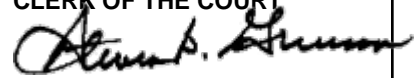
4
5 

6 DISTRICT COURT JUDGE



7 Respectfully Submitted by:

8
9 
10 _____
11 MONICA R. TRUJILLO
12 Chief Deputy Special Public Defender
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



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
PRECLUDE THE STATE FROM PRESENTING EVIDENCE OF ARSON**

DATE OF HEARING: 10/1/2019
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 Preclude the State From Presenting Evidence of Arson.

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.

//

//

//

//

POINTS AND AUTHORITIES

Defendant seeks to prevent the State from presenting relevant and admissible evidence by making an argument that should be made to the jury, rather than the Court. Specifically, Defendant seeks to preclude the State from presenting evidence surrounding the burning of the victim's vehicle after he was robbed and murdered¹. Defendant claims that the evidence is "evidence of other crimes or acts" and therefore requires a Petrocelli Hearing. This is simply incorrect, as the defense seems to ignore the fact that the evidence is clearly *Res Gestae*, and the State would have to prove that Defendant participated in the burning in the first place.

Relevant evidence is generally admissible, so long as its probative value is not substantially outweighed by the risk of unfair prejudice. NRS 48.015, 025, 035. The State is entitled by law to present to the jury all the relevant facts of this case in order to explain all of the surrounding circumstances to the jury. NRS 48.035(3) states:

Evidence of another act or crime which is so closely related to an act in controversy or a crime charged that an ordinary witness cannot describe the act or controversy or the crime charged without referring to the other act or crime shall not be excluded, but at the request of an interested party, a cautionary instruction shall be given explaining the reason for its admission.

The general rule of law pertaining to the "complete story" or *res gestae* was set forth by the Nevada Supreme Court in Dutton v. State, 94 Nev. 461, 581 P.2d 856 (1978). As the Court stated:

Courts have long adhered to the rule that all the facts necessary to prove the crime charged in the indictment, when linked to the chain of events which support that crime, are admissible. **The state is entitled to present a full and accurate account of the circumstances of the commission of the crime, and if such an account also implicates the defendant or defendants in the commission of other crimes for which they have not been charged, the evidence is nevertheless admissible.**

¹ Defendant filed two separate Motions related to the arson of the victim's vehicle. Specifically, Defendant filed a Motion to Preclude the State from presenting video evidence related to the arson, and a separate Motion to Preclude the State from presenting Evidence of the condition in which the vehicle was found. Both Motions are opposed herein.

1 Id. at 94 Nev. at 464, 581 P.2d at 858 (internal citations omitted) (overruled on other grounds
2 by Gray v. State, 100 Nev. 556, 558, 688 P.2d 313, 314 (1984)).

3 In Dutton, Dutton and a co-offender entered a police sponsored store that was fronting
4 as a “fencing” operation. Dutton entered negotiations regarding several items of property,
5 including some bronzeware and a camera. As a result of that conduct, he was indicted for
6 possession of the stolen camera. Evidence at trial was admitted regarding Dutton’s possession
7 of the bronzeware that was stolen from the same victim at the same time as the camera. The
8 Court found no error.

9 The Nevada Supreme Court reaffirmed the doctrine in State v. Shade, 111 Nev. 887,
10 900 P.2d 327 (1995). Shade was charged with possession of controlled substances, to wit
11 Methamphetamine and Cocaine. The drugs were found by officers pursuant to a vehicle stop,
12 following an investigation involving the purchase/sale of heroin by Shade and his son-in-law.
13 The trial court prohibited the prosecution from revealing to the trial jury evidence pertaining
14 to the uncharged heroin transaction. Overruling the trial court, the Nevada Supreme Court
15 held:

16 If the agents are not allowed to testify regarding their surveillance, the State
17 cannot inform the jury how Shade obtained the drugs or that officers suspected
18 Shade was participating as a lookout during the purchase of the drugs that were
19 ultimately found in the car he was driving. Without such testimony, the State
cannot effectively prosecute the transportation of illegal narcotics charges
pending against Shade.

20 . . . The charges at issue were contemporaneous to the heroin purchase, arose out
21 of the same transaction, and involved the same participants. ***The excluded
22 evidence was inextricably intertwined with the charged crimes and completed
23 a story leading up to Shade’s ultimate arrest.*** We conclude that the State’s
24 witnesses could not adequately testify about the methamphetamine and cocaine
25 charges without some reference to the heroin sale and the accompanying
surveillance activity. The district court thus abused its discretion by granting
the motion in limine. The district court should have admitted the evidence and
issued a cautionary instruction to the jury.

26 Shade, 111 Nev. at 894-95, 900 P.2d at 331 (emphasis added).

27 The foregoing evidence is clearly admissible under the doctrine of Res Gestae, and
28 therefore does not require a Petrocelli Hearing. Both the evidence of the condition of the

1 vehicle, as well as the surveillance video depicting a vehicle associated with Defendant near
2 the arson scene, tend to show that Defendant set fire to the victim's vehicle in order to destroy
3 any evidence linking him to the robbery and murder. The evidence clearly indicates
4 consciousness of guilt and supports the State's theory that the victim's vehicle was stolen and
5 burned by whomever robbed and murdered him. While the State will of course have to prove
6 Defendant is the person who murdered the victim in the first place, the State will also have to
7 prove that he in fact stole the victim's property to prove the robbery charge. Testimony relating
8 to the condition of the vehicle, as well as the video evidence linking a vehicle associated with
9 the Defendant to the arson scene is therefore relevant and admissible. Said evidence is
10 inextricably intertwined with the robbery and murder charges, and is necessary in order to
11 paint a complete picture of Defendant's actions up until his arrest.

12 In addition, considering the fact that Defendant's DNA was found on a torn latex glove
13 underneath the victim's body, the State believes that Defendant will present a self-defense
14 claim. In the event Defendant claims self-defense, evidence of arson to the victim's vehicle is
15 both highly probative and relevant to rebut that claim.

16 Defendant clearly knew he had just murdered the victim during the course of a robbery,
17 and knew that he needed to destroy any evidence that could link him to the crime. Evidence
18 of the burning of the victim's vehicle, assuming the State can prove it was Defendant who did
19 so, is therefore both relevant and admissible. Defendant will be free to cross-examine the
20 witnesses on this evidence, and to argue that he was not involved in the arson, and the jury
21 will make the determination after hearing the evidence at trial.

22 DATED this 3rd day of September, 2019.

23 Respectfully submitted,

24 STEVEN B. WOLFSON
25 Clark County District Attorney
26 Nevada Bar #001565

27 BY /s// JOHN GIORDANI
28 JOHN GIORDANI
Chief Deputy District Attorney
Nevada Bar #012381

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF ELECTRONIC TRANSMISSION

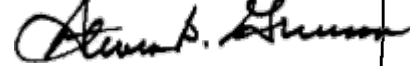
I hereby certify that service of the above and foregoing was made this 3rd day of September, 2019, by electronic transmission to:

WILLIAM STORMS
stormswj@clarkcountynv.gov

MONICA TRUJILLO
trujilmr@clarkcountynv.gov

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

JG/ed/GCU



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
PRECLUDE THE STATE FROM PRESENTING EVIDENCE OF FLIGHT**

DATE OF HEARING: 10/1/2019
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 Preclude the State From Presenting Evidence of Flight.

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.

//

//

//

//

POINTS AND AUTHORITIES

Relevant evidence is generally admissible, so long as its probative value is not substantially outweighed by the risk of unfair prejudice. NRS 48.015, 025, 035. Defendant seeks to prevent the State from presenting relevant and admissible evidence of flight by making an argument that should be made to the jury, rather than the Court. Specifically, Defendant paints the evidence of flight as “mere leaving” rather than “flight for the purpose of avoiding arrest, demonstrating consciousness of guilt.” See Miles v. State, 97 Nev. 85, 624 P.2d 494 (1981). While Defendant will be free to make those arguments to the jury, it would be inappropriate to preclude such evidence from being admitted at trial.

By Defendant’s own admission, he was aware that Detectives were investigating him for the murder he committed in Las Vegas on February 21, 2017. Armed with that knowledge (which he gained through his prior counsel), Defendant fled to Georgia. Detectives received information the Defendant had fled to Georgia, and enlisted the assistance of the Federal Bureau of Investigation (“FBI”) to apprehend him. FBI Special Agent Chad Fitzgerald was conducting surveillance when he observed Defendant exit a residence and enter a gray Hyundai. SA Fitzgerald began to follow Defendant, who quickly began to make “multiple U-turns and proceeded to flee at high rates of speed while making illegal turns and running red lights.” See Exhibit 1 attached hereto. SA Fitzgerald then contacted the local PD for assistance. The local PD canvassed the area and was contacted by two residents – Jamilah Miggins and Gregory Surret. Miggins and Surret advised local PD that Defendant had just exited their residence and was walking westbound.

Defendant was apprehended nearby, on foot, without incident. Miggins and Surret were interviewed, and both described Defendant entered their home and borrowed their phone. They described Defendant as “very nervous and was pacing as the police helicopter could be heard overhead.” *Id.* When Miggins saw the police in her backyard, she told Defendant to leave through the front door. Defendant did so, and Miggins and Surret went outside and told the local PD.

1 The foregoing evidence clearly indicates "flight for the purpose of avoiding arrest and
2 demonstrating consciousness of guilt." Defendant clearly knew he was being followed in his
3 vehicle, as demonstrated by his driving conduct. Further, Defendant eventually ditched his
4 vehicle and attempted to flee on foot in order to evade authorities. He then entered a civilian
5 residence, made a phone call, and appeared nervous while police helicopters flew overhead.
6 Clearly, Defendant knew he was being followed, and his actions constitute flight to avoid
7 arrest. The foregoing evidence is therefore both relevant and admissible. Defendant will be
8 free to cross-examine the witnesses on this evidence, and to argue that he was unaware he was
9 being followed, and the jury will make the determination after hearing the evidence at trial.

10 DATED this 3rd day of September, 2019.

11 Respectfully submitted,

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 3rd day of
21 September, 2019, by electronic transmission to:

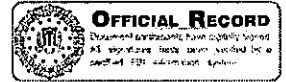
22 WILLIAM STORMS
23 stormswj@clarkcountynv.gov

24 MONICA TRUJILLO
25 trujilmr@clarkcountynv.gov

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

28 JG/ed/GCU

EXHIBIT " 1 "



FEDERAL BUREAU OF INVESTIGATION

Date of entry 06/27/2019

Pursuant to a murder and robbery arrest warrant issued in the State of Nevada, reference number 17F07976X, Special Agents Chad Fitzgerald and Matt Winn of the Federal Bureau of Investigation along with officers from the Dekalb County Police Department located and arrested LARRY BROWN near 5106 Villas Terrace, Stone Mountain, GA.

While conducting a surveillance at 4642 Cedar Ridge Trail, Stone Mountain, GA, SA Fitzgerald and SA Winn observed LARRY BROWN exit the residence and enter a gray Hyundai Sonata. As he left the neighborhood, SA Fitzgerald started to follow at a considerable distance. Shortly into the surveillance, BROWN made multiple U-turns and proceeded to flee at high rates of speed while making illegal turns and running red lights. SA Fitzgerald contacted the Dekalb County Police department for assistance in locating and arresting BROWN.

Shortly after joining the search in the Hidden Hills neighborhood, the Dekalb Police advised they located BROWN's vehicle near 5000 Highland Hills Parkway, Stone Mountain, GA. A K-9 officer was requested and attempted to locate BROWN but was unsuccessful.

A canvass of neighbors and the wooded area continued until two residents, later identified as Jamilah Miggins and Gregory Surrett, opened their backdoor at 5106 Villas Terrace, Stone Mountain, GA advising the individual we were looking for just exited their front door. SA Fitzgerald and SA Winn ran to the front of the residence and witnessed BROWN walking down the street in a westerly direction when SA Fitzgerald provided verbal commands for BROWN to get on the ground. BROWN complied with the commands and was placed into custody.

Surrett advised BROWN was standing in his driveway when he arrived home from work with the Dekalb Sanitation Department. BROWN was looking for

Investigation on 06/29/2017 at Stone Mountain, Georgia, United States (In Person)File # 88A-LV-2182610Date drafted 06/24/2019by Chad Fitzgerald

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

000778

88A-LV-2182610

Continuation of FD-302 of (U) Arrest of Larry Brown, On 06/29/2017, Page 2 of 2

"Gigi" and walked into the house when Miggins opened the door. Miggins stated BROWN used her phone to contact the mother of his child but got very nervous and was pacing as the police helicopter could be heard overhead. When Miggins saw the police in the backyard, she told BROWN to leave through the front door. As he left, Miggins opened the back door and alerted the police.

BROWN was transported to the Dekalb County Jail and released to the custody of the Dekalb County Sheriff's Office to await extradition to Nevada.

BROWN is described as follows:

Name/Biographical Information

Full Name: LARRY DECORLEON BROWN
Date of Birth: 01/10/1978

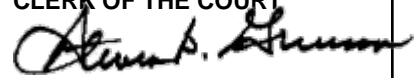
Identification Numbers

Social Security: 253-31-0078
FBI ID: 369499CB7

Physical Description

Gender: MALE
Race: BLACK
Height: 6'02"
Weight: 220 lbs.
Hair Color: BLACK
Eye Color: BROWN
Scars, Marks & Tattoos: L ARM, R ARM

000779



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
PRECLUDE THE STATE FROM PRESENTING EVIDENCE
OF SHOES AND BRASS KNUCKLES**

DATE OF HEARING: 10/1/2019
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 Preclude the State From Presenting Evidence of Shoes and Brass Knuckles.

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.

//

//

//

1 **POINTS AND AUTHORITIES**

2 Defendant seeks to prevent the State from presenting evidence of brass knuckles and
3 Ralph Lauren Polo Shoes seized from Defendant's wife's home. The State does not intend to
4 seek to admit photos or testimony related to the brass knuckles, as they appear to be irrelevant
5 to the charged crimes. However, the State will seek to admit evidence of the Ralph Lauren
6 Polo Shoes.

7 Relevant evidence is generally admissible, so long as its probative value is not
8 substantially outweighed by the risk of unfair prejudice. NRS 48.015, 025, 035. In the instant
9 case, the person who robbed and murdered the victim walked through the victim's blood at
10 the crime scene. The State will seek to admit the photographs of the shoes seized at
11 Defendant's wife's residence in order to visually compare them to the bloody impressions at
12 the scene. While the State will not be admitting expert testimony related to footwear
13 impressions, the jury must be permitted to visually inspect the photographs of the shoes in
14 order to compare them to the footwear impressions at the scene. Said evidence is therefore
15 relevant and admissible.

16 DATED this 3rd day of September, 2019.

17 Respectfully submitted,

18 STEVEN B. WOLFSON
19 Clark County District Attorney
Nevada Bar #001565

20
21 BY /s// JOHN GIORDANI
22 JOHN GIORDANI
23 Chief Deputy District Attorney
24 Nevada Bar #012381
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF ELECTRONIC TRANSMISSION

I hereby certify that service of the above and foregoing was made this 3rd day of
September, 2019, by electronic transmission to:

WILLIAM STORMS
stormswj@clarkcountynv.gov

MONICA TRUJILLO
trujilmr@clarkcountynv.gov

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

JG/ed/GCU



1 RTRAN

2
3
4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 THE STATE OF NEVADA,
9 Plaintiff,

10 vs.

11 LARRY DECORLEON BROWN,
12 Defendant.

CASE NO: C-17-326247-1

DEPT. XXI

13
14 BEFORE THE HONORABLE VALERIE ADAIR, DISTRICT COURT JUDGE
15 TUESDAY, OCTOBER 29, 2019

16 **RECORDER'S TRANSCRIPT OF HEARING RE:**
17 **ALL PENDING MOTIONS**

18 APPEARANCES:

19 For the State:

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

21 For the Defendant:

22 MONICA R. TRUJILLO, ESQ.
W. JEREMY STORMS, ESQ.
Chief Deputy Special Public Defenders

23
24
25 RECORDED BY: ROBIN PAGE, COURT RECORDER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Las Vegas, Nevada; Tuesday, October 29, 2019

* * * * *

[Proceeding commenced at 10:21 a.m.]

THE COURT: All right. Mr. Brown is in custody, with Ms. Trujillo and Mr. Storms.

All right. This is the time set for numerous motions, can I just go down the list, and if anyone feels like they need add something, you can just pipe up.

How's that?

MR. GIORDANI: Sure.

MS. TRUJILLO: Will do.

THE COURT: All right. I put them in my own order, which I hope is not too confusing for the clerk.

THE CLERK: No, I have the same order.

THE COURT: Oh, good, okay.

All right. So it may be a little different then -- actually I took one out of order -- well, they're probably not in order. All right. So I apologize.

I'm going to start with the easy ones then, the motion in limine to preclude the State from presenting unduly prejudicial and/or cumulative photos. I normally rule on this at the time of trial when the State brings their photos in and so you can object or look through them, see what they want to -- so basically this one is continued to time of trial.

MS. TRUJILLO: Okay. Thank you.

MR. GIORDANI: All right.

1 THE COURT: All right. The *motion in limine* to preclude the
2 State from presenting to the jury any evidence that suggests flight. I've
3 reviewed everything.

4 Anything to add?

5 MR. GIORDANI: No, Your Honor.

6 MS. TRUJILLO: No, Judge. I just want to point out that it
7 doesn't appear that the report -- I think one of my arguments was that
8 the FBI agents were plain clothes. So the report doesn't seem to
9 indicate one way or another, so that's the only thing that I would point
10 out.

11 THE COURT: They're usually in plain clothes, I mean,
12 that's --

13 MS. TRUJILLO: So that, in my opinion, weighs against --
14 you're fleeing if you don't know who you're fleeing --

15 THE COURT: Well, he did go to Chicago -- I'm sorry, it was
16 Georgia.

17 MS. TRUJILLO: Months after the incident. It was February
18 that the incident occurred, the arrest warrant wasn't issued until May, he
19 was continuing to live his life, had no association with anything, and was
20 traveling regularly to Georgia to see his family.

21 MR. GIORDANI: Can I pipe up?

22 THE COURT: I think that goes to the weight. I mean, the
23 motion's denied. They can present the evidence if -- at the time, you
24 know, after they've presented or they failed to get the FBI agents in
25 here, whatever, then you can argue against a flight instruction. But I

1 think you're allowed to present the evidence and then if there's not
2 enough, argue against the flight instructions. So it's denied in terms of
3 the presentation of the evidence.

4 The next one is the motion to preclude the State from
5 presenting as evidence the unclear video surveillance of the white SUV.

6 Anything else on that?

7 MS. TRUJILLO: Judge, since I feel like you're moving
8 towards it goes to weight, not admissibility, I will just say that in my
9 opinion there still has to be some threshold. This video is grainy, it's
10 unclear, it shows no additional characteristics, other than it's a white
11 vehicle with some black on it. I had a quick -- I asked my investigator to
12 just do a quick search, there's about 14 other models and types of SUVs
13 that can be similar to this. So I think that it's extremely prejudicial,
14 suggestive, and speculative to allow this to go -- to be introduced into
15 trial against my client.

16 MR. GIORDANI: I think those are great arguments to make to
17 the jury once they've seen the video but.

18 THE COURT: I'm inclined to say it goes to the weight, but if
19 someone wants to submit the video to me, I'll look at it. And if I think,
20 wow, I can't see a thing on this, this is crazy. You know, it would just
21 have to be a witness speculating about what's on the video, then I would
22 grant the motion. But otherwise if you can see it but you can't, you
23 know, see enough distinguishing features, then I would say, no, it goes
24 to the weight and you can argue, you know.

25 MR. GIORDANI: Well, if I could, I think we would all agree it

1 shows a white SUV; okay.

2 MS. TRUJILLO: Right.

3 THE COURT: Right.

4 MR. GIORDANI: That's an agreement.

5 THE COURT: It's just --

6 MR. GIORDANI: We will be arguing --

7 THE COURT: -- doesn't show much else.

8 MR. GIORDANI: Right. There's other things that link the
9 defendant to this crime, as I've indicated, the DNA on the latex glove
10 underneath the victim's body, the defendant's cell phone nearby the
11 body.

12 THE COURT: Hopefully, since he's been sitting in jail for quite
13 a while. I'm saying, hopefully there's other things linking him.

14 MR. GIORDANI: Of course.

15 THE COURT: And he hasn't just been sitting in jail based on
16 a white SUV and some grainy surveillance video.

17 MR. GIORDANI: Right.

18 THE COURT: That was --

19 MR. GIORDANI: So of course we'll have to prove up it's the
20 defendant himself who committed the murder and it's obvious from the
21 facts that'll come out of the crime scene that whoever committed the
22 murder, along with the co-conspirator, likely took the vehicle, burned it,
23 after dumping it, and then is picked up or followed by a second vehicle,
24 the white vehicle.

25 We have on foot, in person, surveillance of the defendant in

1 and out of a white vehicle, who we will -- which we will argue, matches
2 the vehicle in the video. The defense will of course say, well, you can't
3 see any distinguishing characteristics on the video. But, again, that
4 goes to weight, not admissibility.

5 I don't think there's any case law or statute or anything that
6 would preclude the admission of this relevant video.

7 THE COURT: Anything else?

8 MS. TRUJILLO: Judge, I have so much more to say, but the
9 thing I do want to point out is that the detectives in this case indicated
10 that witnesses saw a black female driving this vehicle. If they're also
11 arguing that this is now Mr. Brown's girlfriend, they also provided me in
12 discovery information that showed that she was at her job at the time of
13 this based on timecards. So that also goes against it.

14 It's so speculative, it's tenuous, and it's very prejudicial. And I
15 feel like that's just another issue we're going to have to be fighting when
16 there's no other --

17 THE COURT: Right.

18 MS. TRUJILLO: -- indication that it's the car.

19 THE COURT: But they're allowed to put together little pieces.

20 MS. TRUJILLO: Absolutely.

21 THE COURT: Which in -- you know, I think can be more
22 compelling then, you know, ID testimony that we know is often, you
23 know, mistaken.

24 On the issue of the girlfriend being at work, is that your theory
25 that she left work or it's the girlfriend or you don't know who it is or?

1 MR. GIORDANI: I never said it was the girlfriend. And I'm
2 aware that she was at work.

3 THE COURT: Okay. So you -- the theory then is it's -- it's not
4 the girlfriend, it's somebody else?

5 MR. GIORDANI: Well, I don't want to give up my whole case
6 here, but I can tell ya he's --

7 MS. TRUJILLO: Keep asking, Judge.

8 MR. GIORDANI: -- seen --

9 MS. TRUJILLO: Keep asking.

10 MR. GIORDANI: -- he's seen in and out of a white vehicle --

11 THE COURT: All right.

12 MR. GIORDANI: -- by surveillance officers.

13 THE COURT: Again, I think that does go to the weight of the
14 evidence. I mean, you're obviously free to argue you can't tell anything,
15 there's a million white SUVs on the road.

16 All right. Moving on to the next one, the *motion in limine* to
17 preclude the State from presenting the details of the condition of the
18 Nissan Altima and motion to strike the experts. And this is basically on
19 the arson issue.

20 MS. TRUJILLO: Correct.

21 Just a few things, Judge, first I disagree that it's *res gestae*. I
22 don't think that the murder is so closely related to the issue of burning of
23 vehicle, that you can't tell the story without it, and that's the -- that's the
24 very definition of *res gestae*.

25 Secondly, I think the forensics, because they exclude

1 Mr. Brown, that they weigh against placing him in the car or associated
2 with the car, there was at least two reports saying that the pedals were
3 swabbed and they excluded Mr. Brown.

4 Also -- Court's indulgence.

5 I think I already addressed the video. Yeah, I already
6 addressed the video.

7 That's it, Judge.

8 MR. GIORDANI: And, again, Your Honor, I believe I
9 combined my opposition on this one as to the video and the evidence of
10 the arson.

11 Again, the victim's vehicle was stolen after he's shot in the
12 chest during the course of this robbery. The vehicle is then found shortly
13 thereafter completely burned in the passenger compartment. It's set on
14 fire, which also is indicated in that video.

15 Here, again, we'll have to prove that Mr. Brown did this to
16 begin with or is the person who committed the crime and then obviously
17 took the vehicle. But there's nothing that should preclude the State from
18 presenting this evidence. They will have these arguments to make at
19 trial.

20 The fact that he's not on the steering -- I'm sorry, on the pedal,
21 says nothing. He's obviously wearing shoes. In fact, he walked through
22 the blood of the victim at some point during the robbery.

23 So, again, we'll have to prove he committed the murder in
24 order for this to become relevant. But then, of course, will be during the
25 course of the trial.

1 THE COURT: All right. The motion --

2 MS. TRUJILLO: And, Judge --

3 THE COURT: I'm sorry.

4 MS. TRUJILLO: -- there are 17 pieces of evidence that were
5 collected. It's not my fault they weren't processed. I mean, at some
6 point I understand that you're saying it goes weight, but at some point all
7 these things build up and establish just great prejudice against my client.
8 Now, I'm fighting every little thing because the State and Metro failed to
9 do more analysis on DNA. It's not my fault they only tested two things
10 out of a list of 17.

11 THE COURT: But doesn't that, I'm sorry, doesn't that go to
12 the weight of the evidence and doesn't it go to your argument about
13 reasonable doubt and doesn't that go to your argument about the State
14 failing, and, you know, the police failing to do their job and conduct a
15 thorough investigation.

16 That's -- I mean, to me that doesn't mean the evidence is so
17 prejudicial it can't be admitted, to me that's just argument that they
18 should have done more, they dropped the ball, you know, --

19 MS. TRUJILLO: It --

20 THE COURT: -- that that it wasn't a thorough investigation,
21 that it's not your job to do it, and that it's reasonable doubt because
22 there's all these holes in the State's case.

23 MS. TRUJILLO: And absolutely it can be all of those things.
24 The problem is with people, generally, once we hear things and once
25 things are suggested to us, it's hard to think quite frankly that any other

1 arguments make sense. And there should be some threshold. It
2 shouldn't just be, okay, well, potentially this could be related because X,
3 Y, and Z. I think there should be more of a burden on the State and
4 that's why I think it goes to admissibility and not weight.

5 THE COURT: All right. Well, I think there's enough of a link
6 here, I think it goes to *res gestae*. So the motion is denied. I think the
7 rest of it is argument and it goes to the weight of the evidence. And, like
8 I said, I mean, there's three or four good arguments that you've made,
9 but that doesn't mean it's not admissible. So that is denied.

10 The next one actually, this one I think is a little more
11 dangerous to just let in, and this is the defendant's motion to preclude
12 the State from presenting as evidence specific items recovered from the
13 search. And this relates to the shoes and the reddish-brown material
14 that looks like blood and isn't, I guess, blood. But the shoe pattern and
15 asking the jurors to compare the pattern without an expert, I don't know.
16 That's a little -- I want -- I do want to see the pictures on this one.

17 MS. TRUJILLO: I have them, Judge.

18 THE COURT: Because I think that's a little more dangerous
19 to do, so.

20 MS. TRUJILLO: May I approach?

21 THE COURT: You know, a burnt car is a burnt car, that's
22 within the ambit of ordinary understanding and I don't see a lot of danger
23 there. But, kind of, somehow asking the jurors to be sort of experts on
24 this --

25 MS. TRUJILLO: And so, Judge, just for the record I handed

1 you three photos, one was a fire employee, I'm not sure if he was fire
2 and rescue or just a firefighter, but they took those pictures to exclude
3 him from those photos.

4 And those two other photos of the print were the best ones
5 that the State provided us in discovery or a close up.

6 THE COURT: Mr. Giordani -- do we have the shoe, a photo of
7 the shoe?

8 MR. GIORDANI: I don't have any of that stuff with me.

9 THE COURT: Okay.

10 MR. GIORDANI: I'll have to go back --

11 THE COURT: Well, I'm going to take that one under
12 advisement and submit what you would be showing the jury in terms of
13 the shoe with the reddish stuff that's not blood. Because wasn't the idea
14 he stepped in the blood and he left his shoeprint and that the
15 reddish-brown was blood but the presumptive test -- am I right on this --

16 MS. TRUJILLO: That's correct.

17 THE COURT: -- showed that it wasn't blood.

18 MR. GIORDANI: Yes. Now, there's a couple layers to that.

19 THE COURT: Okay.

20 MR. GIORDANI: Number one, I've had in multiple cases,
21 including one that's going to trial this week, where they do a presumptive
22 test, it pops negative.

23 THE COURT: And then it actually is blood.

24 MR. GIORDANI: It is blood; right. It depends on the reagent
25 they use to moisten to sample.

1 In any event --

2 THE COURT: But --

3 MR. GIORDANI: -- I'm not --

4 THE COURT: Oh, I'm sorry.

5 Is there going to be additional testing of the shoes to
6 determine whether or not it is blood?

7 MR. GIORDANI: Not at this point, no.

8 THE COURT: Okay. So you're stuck with the presumptive
9 test in this case?

10 MR. GIORDANI: Right.

11 THE COURT: Okay.

12 MR. GIORDANI: And this was an opposition I did to
13 essentially, and I mean, I think, legally we wouldn't be precluded from
14 doing what I've said, and that's showing the jury and letting them come
15 to the determination whether they're the same shoes or not. I mean,
16 that's just relevant evidence. It's not asking for the jurors to become
17 experts. It's asking for them to render their lay opinion, which jurors do
18 in --

19 THE COURT: Yeah, but I, you know, it's quasi expert and
20 I'm -- it's concerning to me to ask them to make a comparison that
21 maybe they can't make. Maybe they can make it, if it's something
22 obvious then they can make it but.

23 MR. GIORDANI: Well, I --

24 THE COURT: This one's a little more concerning to the Court
25 for the reason I've just stated, that it -- I'm concerned about kind of

1 putting them in a quasi-expert role to make a boot or a shoe comparison
2 that's normally something that's done by experts.

3 You know, it would be almost like, hey, look at this fingerprint,
4 you guys see this ridge, you know, that's what's concerning to me. So
5 I'm going to look at it. I'm taking that one under advisement.

6 MR. GIORDANI: Fair enough.

7 THE COURT: But, again, you're stuck with the presumptive
8 test if you're not having the material --

9 MR. GIORDANI: Right.

10 THE COURT: -- further tested that it's not blood, you know.

11 MR. GIORDANI: Got it

12 THE COURT: All right. Next one is the motion in limine to
13 address the Cellebrite testimony pertaining to the proprietary software.

14 MR. GIORDANI: And I'll be brief, Your Honor, I filed this --

15 THE COURT: I actually -- I'm sorry -- I had a question.

16 MR. GIORDANI: Oh.

17 THE COURT: Can't they lay their foundation without, I mean,
18 isn't it the science and the programming that's really what the proprietary
19 issue is?

20 MR. GIORDANI: Yes.

21 THE COURT: So, I guess, the question is more appropriately
22 to the defense, can't you cross-examine them without getting into the
23 programming and the, I guess, computer science of it all?

24 MS. TRUJILLO: I still think they're -- well, I think, I laid out
25 everything there, but then we would have the chain of custody issue.

1 Because the point of chain of custody is to determine, hey, this is the
2 same object, it's -- this is how it was when I received it and this is how it
3 was when it left me.

4 And in their own affidavit they say they didn't look at it. So
5 how do they know what it looked like, how do they know what happened
6 after they ran their software, how do they know if anything changed
7 when they provided the software and the reports to then Metro who then
8 provided it to the DA who now we have it in a UFD reader. Which, by
9 the way, the IMEI number that they claim to identify it by, is not listed in
10 that reader. So I'm not really sure how they even associate the phone
11 with the report.

12 THE COURT: Because you have two issues here, you have
13 the chain of custody issue --

14 MS. TRUJILLO: Correct.

15 THE COURT: -- and then you have the proprietary nature of
16 what their program actually is to, you know, read this stuff, so there's two
17 issues here. I think you can accomplish your goal possibly without, like,
18 you can't without getting into their trade secrets and their -- and all of
19 that so.

20 Anything else from the State?

21 MR. GIORDANI: No. That's -- that's -- all I care about is that
22 they don't have to divulge trade secrets on a record in a court
23 proceeding that could be, you know --

24 THE COURT: Right.

25 MR. GIORDANI: -- disseminated to --

1 THE COURT: Because if they were talking about their
2 programming, the jury is not going to understand it anyway, and then
3 what we would be doing is sort of putting, again, expert -- you know, how
4 are they going to evaluate, oh, yeah, this programming is, I don't know.

5 Yes, Mr. Storms.

6 MR. STORMS: I mean, ultimately, Judge this is -- I mean, this
7 is a classic -- this is a *Crawford* type issue. This is testimonial hearsay.
8 It's a document produced --

9 THE COURT: Right.

10 MR. STORMS: -- for the purposes of prosecution.

11 THE COURT: There's two issues, the chain of custody and
12 confronting them on that without getting into, well, how did you actually
13 do this, what is your program, what is your, you know, and that's what
14 I'm calling the scientific aspect of it, which is totally irrelevant unless you
15 had some kind of expert to look at this.

16 So just putting that in front of the jury to me would just be
17 unduly confusing and would serve no purpose --

18 MR. STORMS: But we --

19 THE COURT: -- in terms of the science of it, the computer --

20 MR. STORMS: -- but we do --

21 THE COURT: -- science of it.

22 MR. STORMS: -- I mean, we would just assert that
23 confrontation right to be able to get into those things. I mean, they --
24 they've got some sort of back door into iPhones somehow that according
25 to the State's pleading they examined the phone without accessing it. I

1 mean, we want to be able to get into that. I mean, that's like hocus
2 pocus is what we're dealing with right now with what's being described.
3 And our confrontation clause right to that, I mean, there's -- there's --

4 THE COURT: Right. Well, what -- I guess, maybe --

5 MR. STORMS: -- that case of *City of Reno versus Howard*,
6 which was that that --

7 THE COURT: Can I interrupt you?

8 What I'm saying is there may be some middle ground in here
9 that will satisfy your concerns without violating their, you know, secrets.

10 MR. STORMS: But, I mean, ultimately the motion they filed
11 they -- there's no points and authorities, they're not really asserting how
12 this comes into evidence.

13 THE COURT: Right.

14 MR. STORMS: And, I mean, there's an en banc case about a
15 statute that said that unless there was some sort of substantial bona fide
16 dispute about what the phlebotomist did we weren't allowed to
17 cross-examine people and the Court said that's unconstitutional, you
18 can't limit confrontation like that.

19 THE COURT: Right.

20 MR. STORMS: So -- so I'm not sure how this -- how this plays
21 into --

22 THE COURT: Okay.

23 MR. STORMS: -- the criminal rights --

24 THE COURT: Here's --

25 MR. STORMS: -- the rights of someone accused of a crime.

1 THE COURT: -- well, what I'm saying is I think there's a
2 middle ground between completely saying, oh, no, you have to accept
3 the affidavit on face value and disclosing proprietary secrets, which are
4 of a scientific nature and nobody's going to understand frankly unless
5 you had an expert and then there's a different issue in terms of
6 disclosing to your expert. But, you know, ordinary people are not going
7 to understand anyway and I would find that unduly confusing.

8 So I'm taking this under advisement. But I think, like you said,
9 I think on this one there's probably some middle ground that we can
10 reach that will satisfy your concerns and satisfy Cellebrite's concerns.

11 MS. TRUJILLO: And, Judge, I understand --

12 THE COURT: Because obviously that's where the State's
13 getting this --

14 MS. TRUJILLO: Right.

15 THE COURT: -- is, you know, they don't care, it's Cellebrite is
16 saying, oh, no, we don't want to disclose this in a public forum because
17 we're afraid somebody's going to basically steal our trade secret.

18 MS. TRUJILLO: And I would just ask, I understand you're
19 taking it under advisement, but I would just ask for a hearing prior to trial
20 or the opportunity to voir dire the witness outside of the presence of the
21 jury just to make sure that it meets that threshold and then --

22 THE COURT: And I think that's probably appropriate.

23 And where is the witness, where are these people?

24 MR. GIORDANI: I want to say it's New York. We ---

25 MS. TRUJILLO: I think it's Virginia.

1 MR. GIORDANI: Maybe Virginia.

2 MS. TRUJILLO: Somewhere over there, the east coast.

3 THE COURT: Okay. So back east somewhere?

4 MS. TRUJILLO: U'm-h'm.

5 MR. GIORDANI: That might solve the problem. I don't know
6 if the Court would be able to seal that. If we did it outside the
7 presence --

8 THE COURT: Right, we can have a sealed hearing out of the
9 presence of the jury. And basically the JAVS recording it's just like if we
10 have a private -- the Court has a private conversation with defense
11 counsel and the defendant, that record is sealed, the JAVS is sealed,
12 unless it's ordered opened by me, the district court, or by, obviously,
13 appellate court. So we could do that kind of a thing.

14 Does the defense feel like that would satisfy your concerns, at
15 least preliminary?

16 MS. TRUJILLO: Preliminarily.

17 THE COURT: Then if there's some issue, then we would
18 have to litigate that.

19 MS. TRUJILLO: Argue it, correct

20 THE COURT: Including possibly some kind of suppression
21 motion depending on what they say --

22 MS. TRUJILLO: Right.

23 THE COURT: -- I don't know. That's up to you.

24 Do you want to set that now or do you want to come back for a
25 status check on these? Counsel's preference.

1 MR. GIORDANI: I thought we do that just during trial.

2 THE COURT: Okay.

3 MR. GIORDANI: Since we're going to have to fly the witness
4 out.

5 THE COURT: Right, since that's coming up really soon, you
6 now remind me.

7 MS. TRUJILLO: And we're fine with that as long as we have,
8 you know, maybe a morning set aside to do --

9 THE COURT: Right.

10 MS. TRUJILLO: -- it outside of the presence.

11 THE COURT: That's what we would do.

12 MR. GIORDANI: Okay.

13 THE COURT: Okay. Fair enough.

14 All right. Next up is the *motion in limine* requesting the Court
15 preclude the State and its witnesses from referring to the decedent as a
16 victim.

17 MS. TRUJILLO: Submit it, Judge.

18 THE COURT: All right. That's denied.

19 And the *motion in limine* precluding the State from referring to
20 the trial phase as the guilt phase. The State says they're going to try not
21 to do it, there's no legal requirement there, so if they inadvertently say
22 guilt phase, or even if I may inadvertently say it, you know, I try not to,
23 but sometimes that might slip out or it might slip out on -- on their part
24 but they say they're going to try not to do it so.

25 MS. TRUJILLO: Understood.

1 THE COURT: Technically, I would call that denied.

2 MS. TRUJILLO: Judge, may I approach with -- I have two

3 reports that I was going to submit related to one of the motions.

4 THE COURT: All right.

5 MS. TRUJILLO: That I didn't want to include on Odyssey.

6 [Bench conference -- not transcribed]

7 THE COURT: Approach -- everybody -- now everybody has

8 to.

9 [Bench conference -- not transcribed]

10 THE COURT: All right. I took a couple of things under

11 advisement.

12 Mr. Giordani, you'll get those other pictures relating to the

13 bloody or not bloody shoe; is that true, to me?

14 MR. GIORDANI: Yes, Your Honor.

15 THE COURT: All right. And then we'll come back next week

16 for a continued status check on whether or not the trial's going forward.

17 And then how long do you anticipate for the trial phase?

18 MS. TRUJILLO: Probably five days, yeah?

19 MR. GIORDANI: Yeah.

20 THE COURT: How many?

21 MS. TRUJILLO: Five to six.

22 MR. GIORDANI: I'd say five to six.

23 MS. TRUJILLO: Yeah.

24 THE COURT: And then if there's going to be a penalty phase,

25 what do we think?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. GIORDANI: One to two at the most.

THE COURT: All right.

MS. TRUJILLO: I think that's accurate.

THE COURT: All right. We'll see you next week.

Why don't we do Tuesday.

THE CLERK: November 5th at 9:30.

MS. TRUJILLO: Thank you.

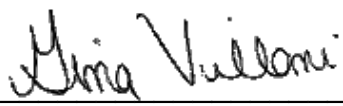
THE COURT: All right.

MR. GIORDANI: Thank you.

[Proceeding concluded at 10:48 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.



Gina Villani
Court Recorder/Transcriber
District Court Dept. IX



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
TUESDAY, NOVEMBER 5, 2019

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

APPEARANCES:

For the State:

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

For the Defendant:

MONICA R. TRUJILLO, ESQ.
W. JEREMY STORMS, ESQ.
Chief Deputy Special Public Defenders

RECORDED BY: ROBIN PAGE, COURT RECORDER

1 **Las Vegas, Nevada; Tuesday, November 5, 2019**

2 * * * * *

3 [Proceeding commenced at 9:47 a.m.]

4 THE COURT: State versus Larry Brown. And he's present in
5 custody with Ms. Trujillo and Mr. Storms.

6 I just got the photo, I guess, late yesterday of the Defendant's
7 shoe. We had the photo, so I didn't have -- I'm just -- I didn't have a
8 chance to look at it because we had just the firefighter's shoe photo, so
9 that was the issue the Court was left with.

10 And then on other issues for the status check, where are we?

11 MS. TRUJILLO: We were going to -- I think the Court was
12 going to inquire about the case we were supposed to trail and then we
13 consulted with the attorneys in our office about the Smith case.

14 THE COURT: Okay.

15 MS. TRUJILLO: And my understanding is they're having
16 issues with bringing the coroner in from I believe Oklahoma --

17 THE COURT: Okay.

18 MS. TRUJILLO: -- that originally did their autopsy.

19 THE COURT: Okay.

20 MS. TRUJILLO: But I'm not sure what happened with --

21 THE COURT: Yeah, I think we did that last time, but I'm pretty
22 confident. So last time we were here on a status check on the Smith
23 case, the State wasn't going to pay to bring the coroner in, but the
24 defense was. So is it your understanding now that there's problems
25 getting the coroner to travel during that time period, or?

1 MS. TRUJILLO: The travel's not the issue. My understanding
2 is he wants expert fees.

3 THE COURT: Oh, that's right.

4 MS. TRUJILLO: So that's a problem, so I'm not sure what
5 they're going to do about that.

6 THE COURT: Right. There was some talk last time about
7 possibly having him appear electronically or -- in any event, anything still
8 outstanding from the defense's perspective on investigation, discovery,
9 anything?

10 MS. TRUJILLO: Not at this time that we know about, but if
11 there's any issue, we'll put it back on calendar immediately.

12 THE COURT: Okay. So defense anticipates being --
13 announcing ready.

14 MS. TRUJILLO: Correct.

15 THE COURT: And refresh my memory, five to six day for trial
16 and if it goes to penalty, one to two days is that right?

17 MS. TRUJILLO: Correct.

18 MR. GIORDANI: Yes.

19 THE COURT: And then, Mr. Giordani?

20 MR. GIORDANI: Same. We're ready to go. We do have a
21 couple of witnesses that are out of state so --

22 THE COURT: Okay.

23 MR. GIORDANI: -- if the Court discovers that we're going to
24 be trailing a case, it would be helpful that we knew that in advance.

25 THE COURT: Okay.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Counsel, approach.

[Bench conference - not recorded]

THE COURT: All right. So do we need to come back for another status check or should we just have the calendar call date stand? And if there's anything, it can be placed on calendar.

[Colloquy between counsel]

THE COURT: I mean we can come back a week before the calendar call.

MS. TRUJILLO: I would like that.

THE COURT: All right.

[Colloquy between counsel]

THE CLERK: November 14th at 9:30.

MS. TRUJILLO: All right. Thank you.

MR. GIORDANI: Thank you.

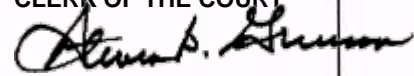
[Proceeding concluded at 9:52 a.m.]

* * * * *

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



MDIS
JONELL THOMAS
SPECIAL PUBLIC DEFENDER
Nevada Bar #4771
MONICA R. TRUJILLO
Chief Deputy Special Public Defender
Nevada Bar #11301
W. JEREMY STORMS
Chief Deputy Special Public Defender
Nevada Bar #10772
330 So. Third Street, Suite #800
Las Vegas, Nevada 89155
(702) 455-6265
FAX: (702) 455-6273
EMAIL: monica.trujillo@clarkcountynv.gov
EMAIL: Jeremy.storms@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 FOR
DISCLOSURE OF CORRECTIVE ACTION REPORTS**

DATE: November 14, 2019
TIME: 9:30 a.m.

DEPARTMENT XXI
NOTICE OF HEARING
DATE 11/14/19 TIME 9:30 AM
APPROVED BY SS JEA

COMES NOW, Defendant Larry Brown, by and through his attorneys, JoNell Thomas, Special Public Defender, Monica R. Trujillo, Chief Deputy Special Public Defender, and W. Jeremy Storms, Chief Deputy Special Public Defender and hereby requests pursuant to Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194 (1963), the Due Process Clause to the Fourteenth Amendment to the United States Constitution, the Confrontation Clause and the Nevada

1 Constitution Article 1 § 8, that this Court order the Las Vegas Metropolitan Police Department
2 (hereinafter "LVMPD") Crime lab to produce Corrective Action Reports for the technicians
3 working at the lab during the time period testing was performed in this case.

4 This Motion is made and based upon all the papers and pleadings on file herein, the
5 attached Declaration of Counsel and Exhibit A, and oral argument at the time set for hearing this
6 Motion.
7

8 **NOTICE OF MOTION**

9 TO: STATE OF NEVADA, Plaintiff; and

10 TO: District Attorney, Attorney for Plaintiff

11 YOU WILL PLEASE TAKE NOTICE that the undersigned will bring on the above and
12 foregoing MOTION on November 14, 2019 at the hour of 9:30 a.m., or as soon thereafter as
13 counsel may be heard.
14

15 **PROCEDURAL HISTORY**

16 On September 14, 2017, Mr. Brown was arraigned on an Indictment in District Court,
17 Department 3. Mr. Brown entered a plea of Not Guilty and waived his state right to a speedy
18 trial. Thereafter, the State filed a Second Superseding Indictment, adding one count as to Mr.
19 Brown. On October 19, 2017, Mr. Brown again entered a plea of Not Guilty and waived his
20 state right to a speedy trial. On December 19, 2017, this Honorable Court received a Third
21 Superseding Indictment. At that hearing, this Court noted that it did not need to arraign Mr.
22 Brown because there were no charges added, only additional evidence and testimony regarding
23 the charges. At a status check on October 31, 2017, this Court scheduled trial for June 18, 2018.
24 On April 11, 2018, Nicholas Wooldridge filed a Motion to Withdraw as Attorney of Record.
25 This Court granted Mr. Wooldridge's motion on April 24, 2018 and appointed the Special Public
26
27
28

1 Defender's Office. Thereafter on April 26, 2018, the Special Public Defender's Office
2 confirmed as counsel.

3 Mr. Brown is charged by way of Third Superseding Indictment with one count of
4 Conspiracy to Commit Robbery, one count of Robbery with Use of a Deadly Weapon, one count
5 of Murder with Use of a Deadly Weapon and one count of Ownership or Possession of Firearm
6 by Prohibited Person.
7

8 **PERTINENT FACTS**

9 The State alleges that on February 21, 2017, Mr. Brown and Mr. Carter killed Kwame
10 Banks in the parking lot of the Sky Pointe Landing Apartments located at 5850 Sky Pointe Drive.
11 Defense counsel has reviewed the Las Vegas Metropolitan Police Department detective files on
12 this case. Counsel has also been in communication with Chief Deputy District Attorney John
13 Giordani who has facilitated obtaining readable and accessible formats of cell phone records and
14 DNA records. Our respective experts have also communicated regarding discovery in the instant
15 case. A request for the corrective action reports associated with the case, for the analyst, as well
16 as corrective action reports regarding contamination of other items with the CSA's DNA was
17 previously made to the District Attorney. Although the State did provided the Corrective Action
18 Report for the CSA's DNA found on the accelerator of the 2015 Nissan who was in no way
19 involved in the evidence collection in this case, the request was otherwise denied. Based upon
20 counsel's experience, as well as e-mail correspondence provided the defense, LVMPD will not
21 disclose corrective action reports without a court order. See Exhibit A.
22
23
24

25 **ARGUMENT**

26 **PRECLUDING A DEFENDANT FROM OBTAINING EVIDENCE OF THE OVERALL 27 RELIABILITY OF THE LVMPD CRIME LAB IS IMPROPER.**

28 In a recent opinion by the Nevada Supreme Court, the court made it clear that it is error
for a defendant to be precluded from questioning a DNA analyst about mistakes made in other

1 LVMPD lab cases unrelated to the one at trial. Hover v. State, No. 63888, 2016 WL 699871;
2 2016 Nev. Unpub. LEXIS 468 (Nev. Feb. 19, 2016). In Hover, the defendant argued that the
3 district court abused its discretion in preventing him from cross-examining the DNA analyst
4 about errors made during the forensic analysis process in other cases. Id. The record indicates
5 that the analyst questioned by the defendant had worked at the lab at the time when significant
6 errors were revealed. Id. Hover claimed that the district court abused its discretion in concluding
7 that the events of which Hover complained were irrelevant without conducting an evidentiary
8 hearing. Id.; see also Patterson v. State, 129 Nev., Adv. Op. 17, 298 P.3d 433,439 (2013) (“[A]n
9 abuse of discretion occurs whenever a court fails to give due consideration to the issues at
10 hand.”).

11 The Nevada Supreme Court agreed that the district court should have allowed the
12 consideration of this matter in Hover’s case, but ultimately concluded in that instance the error
13 was harmless. See Valdez v. State, 124 Nev. 1172, 1189, 196 P.3d 465. 476 (2008) (“If the error
14 is of constitutional dimension, then ... [this court] will reverse unless the State demonstrates,
15 beyond a reasonable doubt, that the error did not contribute to the verdict.”).

16 Here, the Defendant is asking for the right to examine the exact type of information
17 sought by the defendant in Hover. The Corrective Action Reports for any analyst who took part
18 in reviewing the forensic evidence in his case, including the reviewers, and for any analyst
19 employed by the LVMPD crime lab during the period that testing was performed in this case is
20 necessary to allow the defense to determine the level of reliability of the forensic evidence
21 provided by the State in this case. It is also necessary to have this information for the defendant
22 to make a thorough inquiry on cross-examination of the analysts who will be questioned in this
23 case.

24 Larry is burdened with not only challenging the specific DNA evidence presented by the
25 state, but of educating the jury on the reality that DNA evidence is not perfect or immune from
26 fallibility. Based on the holding and reasoning in Hover, Larry asks this Court to grant his
27 motion.
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

Dated: November 8, 2019

/s/ W. JEREMY STORMS

CERTIFICATE OF ELECTRONIC FILING

PARTY
STATE OF NEVADA

Dated: 11/8/2019

An employee of the Special Public Defender

EXHIBIT A

Stephana Larkin

From: Stephana Larkin
Sent: Thursday, October 4, 2018 12:33 PM
To: 'john.giordani@clarkcountyda.com'
Cc: Cassandra Robertson; Kellie Gauthier; Margaret Metten
Subject: RE: Brown, Larry
Attachments: 1702214563 Chain of Custody and Note History Report.pdf

Hello John,

Per policy, we do not complete Corrective Action Reports for attributable contamination by Crime Scene Analysts. We also do not release any CARs that are not related to the case. They received everything that would be considered a part of the case record. They didn't ask for them, but I can supply the raw electronic data, however they must have the software to be able to open the files. The electronic Chain of Custody and note history report is attached. We also don't typically include this as part of the case record unless specifically asked, that's why it wasn't included the first time. Let me know if they the expert wants the raw data files.

Thank you!

Stephana

Stephana Larkin
Forensic Scientist II/Quality Assistant TDY
LVMPD Forensic Laboratory
702.828.0181
S13315L@LVMPD.COM

Note: Correspondence referencing cases may be retained as part of the Forensic Laboratory's case record and are subject to Information Disclosure Requests.

From: Kellie Gauthier
Sent: Thursday, October 4, 2018 11:09 AM
To: Stephana Larkin <S13315L@LVMPD.COM>
Cc: Cassandra Robertson <C14653R@LVMPD.COM>; 'john.giordani@clarkcountyda.com' <john.giordani@clarkcountyda.com>
Subject: FW: Brown, Larry

Stephana – see email from John below about discovery.

Kellie M. Gauthier
LVMPD Forensic Laboratory – DNA Manager
Phone: 702-828-5665
Email: K8691G@lvmpd.com

Note: Correspondence referencing cases may be retained as part of the Forensic Laboratory's case record and are subject to Information Disclosure Requests.

LVMPD Security Notice

This email is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent

From: John Giordani [<mailto:John.Giordani@clarkcountyda.com>]
Sent: Thursday, October 4, 2018 10:22 AM
To: Kellie Gauthier <K8691G@LVMPD.COM>
Subject: FW: Brown, Larry

Good morning Kellie,

The below email is from the PD reference event 170221-4563. The defense expert has obtained the underlying case file, but is claiming that it is incomplete. He/she is asking for the following items. Do you know if these items are available, and if so, do I need to re-subpoena the entire casefile?

Thank you,

John Giordani
Chief Deputy District Attorney
Gun Crimes Unit
Clark County District Attorney's Office
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
Tel: (702) 671-2775
Fax: (702) 477-2936



From: Monica R. Trujillo [<mailto:trujilmr@ClarkCountyNV.gov>]
Sent: Thursday, October 04, 2018 8:12 AM
To: John Giordani <John.Giordani@clarkcountyda.com>
Subject: Brown, Larry

Morning,

My DNA expert requests the following:

- 1) Any of the following items not already disclosed in the DNA lab file including, but not limited to: All worksheets; handwritten notes; digital images (2nd generation with meta data); bench notes; serology notes/worksheets; extraction worksheets; quantification worksheets and data; amp set up sheets; genetic analyzer load sheets; evidence and reference electropherograms; extraction or reagent blank, amplification negative control, and amplification positive control electropherograms; STR tables; statistic worksheets or datasheets; technical review forms; administrative review forms; communications; and chain of custody documents.

****He indicated that the file we currently have does contain some chain of custody info, but he wanted to make sure we have everything.**

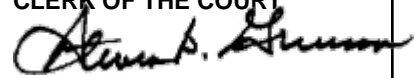
- 2) Any corrective actions associated with this case

- 3) The root cause analysis of how the CSA's DNA contaminated the car pedal
- 4) Any other corrective actions regarding contamination of other items with the CSA's DNA
- 5) Any corrective actions or discrepant results associated with the analysts in this case

****we do have some email communications, but again he wanted to be sure all communications and phone calls (that were documented via notes) were included.**

Thanks for your help! Let me know if I need to do anything else.

Monica



NWEW
JONELL THOMAS
SPECIAL PUBLIC DEFENDER
NSB No. 4771
MONICA R. TRUJILLO
CHIEF DEPUTY SPECIAL PUBLIC DEFENDER
NSB No. 11301
330 South Third Street, 8th Floor
Las Vegas, NV 89155
(702) 455-6265
Fax No. 702-455-6273
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.

000817

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 8th day of November, 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 November 8, 2019, by Electronic Filing to:

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

/s/ Elizabeth (Lisa) Araiza

Legal Secretary
Special Public Defender

GEORGE SCHIRO, MS, F-ABC
LAB DIRECTOR
SCALES BIOLOGICAL LABORATORY, INC.
220 WOODGATE DR. S.
BRANDON, MS 39042 USA
OFFICE PHONE: 601-825-3211
CELL PHONE: 337-322-2724
E-MAIL: Gjschiro@cs.com
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



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, NOVEMBER 14, 2019

**RECORDER'S TRANSCRIPT OF HEARING RE:
DEFENDANT LARRY BROWN'S MOTION FOR DISCLOSURE OF
CORRECTIVE ACTION REPORTS; STATUS CHECK: TRIAL
READINESS**

APPEARANCES:

For the State:

MICHAEL DICKERSON, ESQ.
Deputy District Attorney

For the Defendant:

MONICA R. TRUJILLO, ESQ.
W. JEREMY STORMS, ESQ.
Chief Deputy Special Public Defenders

Also Appearing:

MATTHEW CHRISTIAN, ESQ.
LVMPD Assistant General Counsel

RECORDED BY: ROBIN PAGE, COURT RECORDER

1 **Las Vegas, Nevada; Thursday, November 14, 2019**

2 * * * * *

3 [Proceeding commenced at 9:47 a.m.]

4 THE COURT: State versus Larry Brown. Mr. Brown is
5 present in custody with Ms. Trujillo and Mr. Storms and we have
6 somebody here from Metro, Metro's attorney.

7 And if you would state your name and appearance for the
8 record.

9 MR. CHRISTIAN: Good morning, Your Honor, Matthew
10 Christian for Las Vegas Metro.

11 THE COURT: All right. This is on for Mr. Brown's motion for
12 the disclosure of corrective action reports. My understanding, which
13 could be wrong, is that Metro's provided this in other cases that's been
14 ordered by other judges, but that could be incorrect.

15 MR. CHRISTIAN: A limited number, yes.

16 THE COURT: Okay.

17 MR. CHRISTIAN: A limited number, you know, we start with
18 the concept that if they're related to this matter, then of course we turn
19 them over to the prosecution. We have turned over a few extra.

20 THE COURT: Okay.

21 MR. CHRISTIAN: For instance like in this case, which I'm not
22 at all familiar with, I just learned about this yesterday afternoon.

23 THE COURT: Right. And just for the record, we didn't receive
24 a written opposition.

25 MR. CHRISTIAN: Yeah. Yeah.

1 MR. DICKERSON: Right. And that's in large part due to the
2 fact that this was filed on Friday and set for hearing today, Your Honor.

3 MR. CHRISTIAN: But what I can say, Your Honor, is that
4 what we would normally do is we would agree to produce CARs that
5 have -- that pertain to the analyst that worked on this case --

6 THE COURT: Right.

7 MR. CHRISTIAN: -- for a relative period around the time that
8 they worked on this case. But it -- to ask for every CAR, pertaining to
9 every employee for years and years on end, from every division of a lab
10 or CSA has been called --

11 THE COURT: Yeah, but typically the CSAs, I think that's
12 unduly broad. I mean, if there were things that took place in the lab, I'm
13 kind of thinking out loud here, that you know, mandated some overall
14 corrective action or something like or affected -- could have affected
15 their accreditation, then I think that's, you know, something that -- that's
16 open. But if it's just up at --

17 MR. CHRISTIAN: That would be documented in other --

18 THE COURT: Right. Right.

19 MR. CHRISTIAN: -- other areas.

20 THE COURT: Do you see what I'm saying?

21 MR. CHRISTIAN: Yeah.

22 THE COURT: I mean something, you know, that rose to that
23 level.

24 MR. CHRISTIAN: Yeah.

25 THE COURT: I don't care when it was, you've got to turn -- I

1 mean, if it's a decade ago and now there's a new --

2 MR. CHRISTIAN: Right.

3 THE COURT: -- that -- then, no. But if it's something, you
4 know, within a reasonable period, then I would say, yes, regardless of
5 what lab technician or scientist did it. I think the request as to the CSAs
6 just globally is pretty broad.

7 MR. CHRISTIAN: That's what other judges --

8 THE COURT: Certainly, the CSAs that were involved in this
9 case --

10 MR. DICKERSON: Can I speak on that?

11 THE COURT: Sure.

12 MR. DICKERSON: So State's position is that the request in
13 whole is totally irrelevant. So the issue that we have here is that there's
14 been an LVMPD corrective action report that's issued out of the crime
15 scene analyst lab, not out of the forensic lab. The issue that took place
16 took place when they were -- the CSAs were processing the vehicle and
17 the corrective action report indicates that the ultimate conclusion was
18 that a CSA, who was not working on this particular case, had somehow
19 contaminated one of the water bottles that was used to wet the swab to
20 process the vehicle. So that was at the CSA lab.

21 Nothing is alleged to have happened at all that required a
22 corrective action at the forensic lab in that controlled environment.
23 Based upon that, the request for corrective actions related to the lab is
24 totally irrelevant here.

25 THE COURT: Well, I don't know. Maybe I should let the

1 defense talk.

2 MR. STORMS: And, Judge, I mean with --

3 THE COURT: But it occurs to me how would they know.

4 They don't know what they don't know.

5 MR. STORMS: That's right.

6 THE COURT: So you would be asking them to -- you're
7 putting the onus on them to say, oh, there was a corrective action report.
8 Well, since they don't issue the report or run the lab, they might not
9 know about something. So to me it doesn't seem right that you would
10 say, well, they have to say that there's a belief that there's a corrective
11 action report.

12 MR. DICKERSON: If there was a corrective action report
13 issued on this case, they would have it.

14 THE COURT: No, no.

15 MR. DICKERSON: And so that's --

16 MR. STORMS: Which we -- which we do have.

17 THE COURT: Well, that's one thing they're asking for, so
18 that's granted. And if it hasn't been provided, it has to be provided, so
19 we're doing --

20 MR. CHRISTIAN: It definitely --

21 THE COURT: -- this now formally that it's granted.

22 MR. CHRISTIAN: And just to be clear, Your Honor, my
23 understanding is that it absolutely definitely would be provided always --

24 THE COURT: Okay, well --

25 MR. CHRISTIAN: -- to the prosecution if it occurred during the

1 analysis that took place for this case, it would 100% be produced.

2 THE COURT: Okay. So who's arguing this?

3 Mr. Storms.

4 MR. STORMS: I am, Judge. You know, we -- we're asking
5 for the corrective action reports for all of the CSAs working with the
6 DNA. I mean, here we have a situation where there was DNA
7 contamination of this crime -- of this evidence from this crime scene.
8 And so we're asking, I mean, they're saying that this doesn't -- that
9 doesn't -- it doesn't a DNA problem, but I mean it is.

10 THE COURT: Right.

11 MR. STORMS: Right. I mean, because that's what we worry
12 about is that you have this sort of touch DNA contact that puts some --
13 puts someone on some evidence in a place that makes it look like they
14 were there, but they weren't. And we've got this classic example of it.

15 We've got a CSA who's doing other sort of crime scene work
16 that's -- that was not on the scene at all where they were doing this
17 processing of this car, yet her DNA ends up on the gas pedal of the
18 vehicle. And so that -- I don't think it's unreasonable at all to ask for
19 these corrective action reports for people working at the lab at this point
20 in time because we don't know what is there.

21 We do know in the past there's been reports in the paper
22 about their being mix-ups with DNA and so on. I mean there's not --
23 there's not like there is some precedent for it, but we don't know what's
24 not being produced or what's has happened ultimately because this is
25 not something, we -- it just is floated --

1 THE COURT: Okay.

2 MR. STORMS: -- in the public, right, so?

3 THE COURT: Let me ask this, on behalf of Metro, other than
4 what's already been provided, let's start with the easy stuff.

5 What is Metro willing to provide?

6 MR. CHRISTIAN: Metro is willing to provide any corrective
7 action reports that pertain to the analyst that worked on this matter for a
8 period of time bracketing the time that they worked on this matter. So
9 whether that's the year surrounding this matter -- because we feel that
10 that's already overly reasonable because no other corrective action
11 report, other than the ones that were generated, if any were generated,
12 with regard to this case would be relevant.

13 I mean as other judges have called it, it's a fishing expedition.
14 What they're trying to do is paint the lab with a very broad brush that a
15 mistake happened in some other case by some other analyst at some
16 other time, and some other -- using some other method --

17 THE COURT: Right. I mean --

18 MR. CHRISTIAN: -- that that somehow means that the lab
19 makes lots of mistakes.

20 THE COURT: Let me ask you this. Would there be a problem
21 with providing corrective action reports at least to the Court for in-
22 camera review for the analyst that actually worked on this case for the
23 duration of the time they were employed by Metro? Because what if
24 somebody, you know, bollocks things up and it was a year and ten days
25 ago. And, you know, does it seem fair to create sort of artificial time

1 period if it's the analyst that actually did the work.

2 MR. CHRISTIAN: Well, we have done similar things in the --

3 THE COURT: Right.

4 MR. CHRISTIAN: -- in the other couple of cases that -- where
5 this has come up where we provided a narrowed down version of what
6 was requested to the judge in chambers.

7 THE COURT: Right.

8 MR. CHRISTIAN: And the reason that's really important to us,
9 Your Honor, is because there's privileges that attach to this. Beyond
10 whether or not they are ever going to be relevant, you know, I --

11 THE COURT: Right.

12 MR. CHRISTIAN: -- you know, I would leave that to the
13 State.

14 THE COURT: Well, right, I mean, it's just like anything that's
15 in a police officer's file.

16 MR. CHRISTIAN: Yes.

17 THE COURT: There could be things in there that don't relate
18 to truthfulness and other things --

19 MR. CHRISTIAN: Right.

20 THE COURT: -- which is why we look at them.

21 MR. CHRISTIAN: Right.

22 THE COURT: You know, maybe like the, you know, I don't
23 know, you know, what all could be in there, but there could be things.
24 But I don't know --

25 MR. CHRISTIAN: So yeah, so --

1 THE COURT: -- doesn't it seem sort of fair that, you know, if
2 someone is analyzing the stuff, and throughout their career they've had
3 various issues, that that all be provided as long as they actually worked
4 on this and not say, well, they've been working for ten years and, you
5 know, they had issues and, you know, --

6 MR. CHRISTIAN: I would --

7 THE COURT: -- years five and six, but not years eight and
8 nine. I don't know, to me, it doesn't seem quite fair that they shouldn't
9 get all of that information. And then it's still subject to relevancy rulings
10 by the Court and disclosure by the Court. But to just artificially say, oh, it
11 should only be when they're working on this if they'd problems in the
12 past.

13 Number one, my assumption, which may be wrong, is that
14 they aren't a lot of corrective action reports issued. But by your
15 argument, you seem to be suggesting that there's tons of these things.

16 MR. CHRISTIAN: Well --

17 THE COURT: -- and people are just getting all these
18 corrective action reports. Because my assumption would be that there
19 aren't a lot of them.

20 MR. CHRISTIAN: Well, there aren't a lot, but it depends on
21 how you spin it, you know, anyone --

22 THE COURT: Well, that's not your job to worry about.

23 MR. CHRISTIAN: -- can spin it however they want.

24 THE COURT: Your job isn't to worry about what -- how the
25 lawyers spin it, that's the DA's job.

1 MR. DICKERSON: Right.

2 MR. CHRISTIAN: Well, right.

3 THE COURT: Your job is just to worry about whether it's
4 unduly burdensome for Metro, whether it's providing privileged
5 information. That's your job. How they spin it and whether it's admitted
6 in court, that's not up to you.

7 MR. CHRISTIAN: No, I understand, Your Honor.

8 THE COURT: Like I said, you're here representing Metro, not
9 prosecuting these people.

10 MR. CHRISTIAN: Right. I came --

11 THE COURT: That's Mr. Dickerson's job to worry about --

12 MR. CHRISTIAN: Yeah, I agree.

13 THE COURT: -- you know --

14 MR. CHRISTIAN: But -- well, I can provide a little bit of the
15 context with these CARs because these are generated by the lab as part
16 of their accreditation process.

17 THE COURT: Right.

18 MR. CHRISTIAN: Any little thing that ever goes halfway
19 wrong at the lab might be documented in one of these CARs. So a lot of
20 them are really very mundane. The purpose of them is to make sure
21 that, you know, that they're constantly improving, that they're constantly
22 monitoring what's happening.

23 THE COURT: Okay.

24 MR. CHRISTIAN: They're circulated among the lab so that
25 everybody knows what happened and what corrective action was taken.

1 So a lot of them really are very mundane so the concern -- and I, again, I
2 would agree that this might be better for the State to argue, but they're
3 not --

4 THE COURT: Well, I mean, you're just here to say whether or
5 not it's unduly burdensome for Metro to provide this stuff. And also,
6 again, whether or not it's privileged employee information --

7 MR. CHRISTIAN: Right.

8 THE COURT: -- and that kind of thing --

9 MR. CHRISTIAN: It is.

10 THE COURT: -- that you want to protect. You know, I don't
11 know what's all in these things and how many. Like I said, my
12 assumption apparently is erroneous that there weren't a lot of these.

13 MR. CHRISTIAN: Well, I don't mean to say that there are a
14 lot, I'm just saying that, you know, if you were asking for 15 years' worth,
15 then it would seem like a lot, depending on who's -- who's looking at it --

16 THE COURT: Right.

17 MR. CHRISTIAN: -- and what their perspective is.

18 THE COURT: Well, I would be looking at it. Look, I don't
19 want to look at, you know, a stack, you know, up to the ceiling of stuff
20 that, you know, somebody's perfume bothered another employee and
21 somebody started crying because they were having, you know, medical
22 issues or -- I don't want to look at that. So, I mean, is it that kind of
23 stuff?

24 MR. CHRISTIAN: No.

25 THE COURT: Or is it somebody was eating a Tootsie Roll

1 and getting, you know, I guess you wouldn't get crumbs with a Tootsie
2 Roll, I'm going to say Snickers bar and, you know, getting crumbs on
3 their desk where they're doing analysis's. That's the kind of stuff I want
4 to look at not, you know --

5 MR. CHRISTIAN: Right. Well, there's a variety of --

6 THE COURT: -- you know, Susie disrespected Barbara --

7 MR. CHRISTIAN: No, it's not that.

8 THE COURT: -- and, you know, that kind of thing.

9 MR. CHRISTIAN: It's not that.

10 THE COURT: Like I said, I want to look at stuff that goes
11 directly to are samples getting contaminated, are they following scientific
12 protocols, you know, are they leaving samples on their desk and, you
13 know, in violation of policy. That's the kind of stuff I --

14 MR. CHRISTIAN: Right.

15 THE COURT: -- want to look at as well as what they would
16 want to look at.

17 MR STORMS: We have a --

18 THE COURT: Not just sort of general gripes and --

19 MR. CHRISTIAN: Right.

20 THE COURT: -- you know, things that are, you know, more
21 minor.

22 MR. STORMS: I mean, you know, it's our position, Judge,
23 you know, in the *Hover* case, you know, stands for that proposition that
24 we have a right to challenge and have information to potentially
25 challenge the labs processes, the labs, you know, accuracy, and so on

1 and so forth. So, you know, not just this particular CSA, but other CSAs
2 we'd be requesting. Obviously, you're looking at that differently, but --

3 THE COURT: Right.

4 MR. STORMS: -- that's our position.

5 THE COURT: I mean, I just don't know if they have one
6 CSA --

7 MR. DICKERSON: We also disagree with that interpretation
8 of the *Hover* case.

9 THE COURT: -- you know, that's, you know, getting in trouble
10 and getting reprimanded. I don't know how that would bear on the CSAs
11 that actually worked in this case. And so I don't know what the
12 relevance --

13 MR. STORMS: We're just talking about corrective --

14 THE COURT: -- see it's just like if you have one police officer
15 that's a liar and a, you know, a bad apple. It doesn't mean that the other
16 police officer in your case is a liar and a bad apple, so why would you
17 get that other file. That -- I mean, to me, it's more similar to that,
18 especially, when you're talking about the CSAs.

19 MS. TRUJILLO: Judge, I just want to clarify one point since
20 you said that. The reason -- and I'm just -- maybe I need clarification
21 from Metro -- when they do the technical reviews and the sign offs, are
22 we getting those as well?

23 THE COURT: Metro.

24 MR. CHRISTIAN: That's -- from my understanding, that's not
25 the same thing as a CAR.

1 MS. TRUJILLO: But if the person has received a corrective
2 action report and they're signing off on something, I think we need to
3 know if they also have had issues in the past. I mean, there is a
4 reviewer process for a reason, and it is a part of the accreditation
5 process.

6 THE COURT: All right.

7 Do you, as you stand here today, counsel, have -- I'm
8 assuming you don't --

9 MR. CHRISTIAN: No.

10 THE COURT: -- have independent knowledge of how long
11 these people have worked for Metro.

12 MR. CHRISTIAN: No. I haven't even read the motion.

13 THE COURT: Because if people have been 25 year
14 employees or 20 year employees, I don't think we need to look back to
15 what they did in year two or year three. I, you know, agree that, you
16 know, if they'd been two year employees, you're going -- I'm going to
17 look at the two years. So I think we need to fashion some reasonable
18 timeframe. I don't know that just the time that they worked on this case
19 is reasonable. I think you have to go beyond that. But, again, if it's a 20
20 year employee, we're not going back 20 years when they just started,
21 and they were training and stuff.

22 So, Counsel for the defense, Mr. Storms, what's your position
23 on that? Because I'll tell you right now, we're not going to go back, you
24 know, when they first were brand new.

25 MR. STORMS: Judge, we suggest five years.

1 THE COURT: Metro, you're suggesting what?

2 MR. CHRISTIAN: Well, if we're not going to do one year, I
3 can tell you, Judge, that in Bayzle Morgan, which is the last time I was to
4 Court on this issue, I believe it was five years.

5 THE COURT: All right. And that was in front of --

6 MR. CHRISTIAN: It started with Judge Eric Johnson and it
7 moved over to Judge Leavitt.

8 THE COURT: Okay. All right. Here's --

9 MR. CHRISTIAN: I believe that was -- I believe it was five
10 years up to the date of the lab work because after the lab work was even
11 less relevant. I believe that's what it was.

12 THE COURT: I don't know that I agree with that. To me if
13 somebody makes a mistake a day after they're done with this --

14 MR. CHRISTIAN: I think it was the year, the years.

15 THE COURT: Right.

16 MR. CHRISTIAN: So we would -- it wouldn't have captured
17 immediately after. I think that's what it was, but I mean I --

18 THE COURT: Right. I mean, I think, you know maybe --

19 MR. CHRISTIAN: -- I -- it probably doesn't matter.

20 THE COURT: -- six months after the testing --

21 MR. CHRISTIAN: Okay.

22 THE COURT: -- and, you know, before to capture a five year
23 window of the people who actually worked on this and the -- whoever
24 signed off on it. And that can go to the Court for in-camera review.

25 MR. CHRISTIAN: Yes.

1 MR. DICKERSON: So --

2 MR. CHRISTIAN: That's what we did in the other case, Your
3 Honor.

4 THE COURT: Okay. And I think that's a reasonable --

5 MR. DICKERSON: So we're looking at two different areas
6 here, Your Honor.

7 THE COURT: What's that?

8 MR. DICKERSON: So like I mentioned, originally, we're
9 looking at two different areas. So the issue that we were talking about
10 originally was the crime scene analyst issue.

11 THE COURT: Right.

12 MR. DICKERSON: And the forensic lab is totally separate
13 from that.

14 THE COURT: Right.

15 MR. DICKERSON: So it's -- what's the Judge's ruling going to
16 be?

17 THE COURT: I'm ordering the scientist who tested it and
18 worked on it, whoever signed off on it. My understanding is the CSAs
19 don't have anybody signing off, true?

20 MR. DICKERSON: They do have a supervisor --

21 THE COURT: Oh, they do.

22 MR. DICKERSON: -- that signs off on the reports.

23 THE COURT: I don't know that the supervisor would really be
24 relevant. To me it's more whoever collected the information, so just the
25 CSAs actually involved in the case. I think that's reasonable. And just

1 other CNAs [sic] and other people who've worked for the lab, I don't
2 think that's germane.

3 MR. CHRISTIAN: So is it the CSAs or is it the lab or is it
4 both?

5 THE COURT: Well, my understanding is you're requesting
6 both, correct?

7 MR. STORMS: Yes.

8 THE COURT: But just for the ones that have actually worked
9 on this case -- actually were involved in the case.

10 MR. CHRISTIAN: And then the five years surrounding, but
11 more four years before and maybe six --

12 THE COURT: Right.

13 MR. CHRISTIAN -- months after.

14 THE COURT: Right.

15 MR. CHRISTIAN: Okay. I don't know when the work was
16 done, so.

17 THE COURT: Yeah, I don't have it -- right -- the dates in front
18 of me, so.

19 MR. CHRISTIAN: Okay.

20 THE COURT: Again, we didn't have an opposition, so I didn't
21 know what the position of the State and Metro was going to be.

22 MR. DICKERSON: If you'd like, the State can file an
23 opposition, we can do that.

24 THE COURT: At this point, I mean, it's already been ruled on.
25 So, again, you know, I think the records and providing them is Metro's

1 issue. The State's issue is what can they do with them. And this Court
2 has not made a ruling on relevance or admissibility or anything like that
3 yet.

4 So, Mr. Dickerson, if I decide, you know, look there may not
5 be anything, there may two pages that they get and I'll say, okay, look at
6 this, but I don't think it's going to be admissible or whatever. And so
7 you're still free to, you know, object the admissibility of anything. That
8 hasn't -- that has not been determined. This, again, is discovery.

9 MR. CHRISTIAN: And, Your Honor, what we did, too, was
10 when they were submitted in camera, the Court made a decision, which
11 either further narrowed which ones the judge thought --

12 THE COURT: That's not your -- you don't have a dog in that
13 fight.

14 MR. CHRISTIAN: Right. But what we did though is at that
15 point -- well, we did, because there was a lot of confidential information
16 arguably in these CARs, so what the judge had done was ruled --

17 THE COURT: Redactions.

18 MR. CHRISTIAN: -- which ones -- yeah, there were
19 redactions. And then the judge ruled which ones were going to need to
20 be turned over. And then we came back to court to argue whether or not
21 it was a relevancy issue or a privilege issue.

22 THE COURT: Okay. Well, you -- in my opinion, you can
23 argue privilege. I think relevancy is up to the DAs office.

24 MR. CHRISTIAN: Well, and that's what --

25 MR. DICKERSON: Right. And we've stated our opposition on

1 that.

2 MR. CHRISTIAN: -- that's what we did.

3 THE COURT: Right. I mean, and what I'm saying is, you can
4 argue privilege.

5 MR. CHRISTIAN: Right.

6 THE COURT: That's, you know, your dog in this fight. And,
7 you know, like I said, the issue of how it comes into play, that's up to the
8 DA's office and that's their job to argue that.

9 Now in terms of providing, you know, some redactions may be
10 made by the Court, assuming anything's turned over. In terms of things,
11 you know, personal identifiers, like social security numbers and
12 birthdates and anything like that, you guys can go ahead and turn over
13 those redactions in the information you give to me for in-camera review.
14 I'm fine with that. I don't know that any of that information would be at all
15 relevant, so actually I would encourage you to do those. I know
16 sometimes you send over both sets, go ahead and just send over the
17 preliminary redactions --

18 MR. CHRISTIAN: Okay.

19 THE COURT: -- with their socials and that sort of thing.

20 MR. CHRISTIAN: Okay.

21 THE COURT: Date of birth.

22 MR. STORMS: Can I --

23 THE COURT: Because I don't think there's going to be a
24 doubt as to who the person it.

25 Yes.

1 MR. STORMS: Can I move at this time for what you do
2 receive from Metro become a Court's exhibit?

3 THE COURT: It always does. Basically, the way it works is I'll
4 put it back on calendar, unless you get everything. And then I make a
5 record of what you get and what you don't get and why you get it. And
6 then there's two Court's exhibits made. There is a Court exhibit made of
7 what you actually get and there's a Court exhibit made and sealed of
8 what you don't get.

9 MR. STORMS: Great.

10 THE COURT: And those, just to give maybe Metro some
11 comfort, those are sealed, and they can only be opened by the Court or
12 if they're requested by the appellate court. Then obviously, the clerk's
13 office provides that to the appellate court.

14 MR. CHRISTIAN: Right. And in the other cases, even the
15 ones that were turned over to the defense were also kept confidential.
16 Everybody agreed --

17 THE COURT: Of course.

18 MR. CHRISTIAN: Okay. Okay.

19 THE COURT: I mean, it would just be, I'm assuming, for
20 purposes of cross examination, you know, if those particular witnesses
21 testify. All right. I think that's it.

22 So, defense, I want you to prepare the order and then run it by
23 Metro and the DA's office and then submit to me. In the meantime, you
24 can start compiling that information for in-camera review.

25 MR. DICKERSON: And I imagine that we'll have another

1 hearing on this before those documents are released, correct, Your
2 Honor?

3 THE COURT: Right. I mean you have a trial coming up very
4 soon. December 2nd. So I think -- well, there really is no time for you to
5 come back. I guess calendar call.

6 MS. TRUJILLO: Calendar call is the 21st.

7 MR. DICKERSON: Okay.

8 THE COURT: Yeah, I mean, that's the calendar call.

9 MR. STORMS: And so, Judge, just to be clear, you said -- are
10 we talking about five years beforehand? Because I know Metro's
11 counsel suggested four years and six months, but --

12 THE COURT: No, no, we're talking about six months, a total
13 aggregate period of five years.

14 MS. TRUJILLO: Including the six months after --

15 MR. STORMS: Okay.

16 THE COURT: Now, if you'd rather have the time leading up to
17 it, you can do that. To me, it makes more sense to get a little bit after.

18 MR. STORMS: Okay.

19 THE COURT: Because it's more recent to whatever bad
20 conduct may have occurred.

21 MR. STORMS: Sounds good.

22 THE COURT: So that, to me, makes more sense. So you
23 prepare the orders, run it by them and submit to me. And like you said,
24 in the meantime Metro can start compiling those records.

25 MR. CHRISTIAN: And I'm understanding now that the trial

1 date is coming up very quickly, so --

2 THE COURT: Very quickly.

3 MR. CHRISTIAN: -- we'll try to do it as fast as we can.

4 THE COURT: Well, there is you know --

5 MR. CHRISTIAN: It's taken a little while in the past.

6 THE COURT: -- you know, they're just asking for it now.

7 MR. CHRISTIAN: Yeah.

8 THE COURT: So do your best. That's all I'm saying.

9 MR. CHRISTIAN: We'll do our best, okay.

10 THE COURT: Because --

11 MR. CHRISTIAN: If there's going to be a problem, I'll --

12 THE COURT: -- it's not Metro's fault and it's not the State's
13 fault that the defense is just now requesting this.

14 MR. CHRISTIAN: If there's a problem with the timing, I'll get
15 with Mr. Dickerson.

16 THE COURT: Right. Like I said, it's not Metro's fault and it's
17 not the State's fault that this is a last minute request, so do your best.

18 MR. CHRISTIAN: Okay.

19 THE COURT: All right. Thank you.

20 MR. CHRISTIAN: Thank you, Judge.

21 MR. DICKERSON: Thank you, Your Honor.

22 ///

23 ///

24 ///

25 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. STORMS: Thanks.

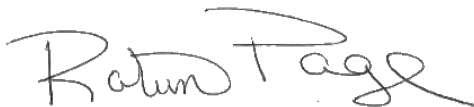
THE COURT: All right.

We'll see everybody back at calendar call.

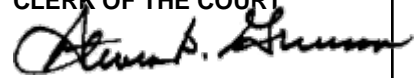
[Proceeding concluded at 10:09 a.m.]

* * * * *

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



SLOW
JONELL THOMAS
SPECIAL PUBLIC DEFENDER
NSB No. 4771
MONICA R. TRUJILLO
CHIEF DEPUTY SPECIAL PUBLIC DEFENDER
NSB No. 11301
W. JEREMY STORMS
CHIEF DEPUTY SPECIAL PUBLIC DEFENDER
NSB No. 10772
330 South Third Street, 8th Floor
Las Vegas, NV 89155
(702) 455-6265
Fax No. 702-455-6273
Monica.trujillo@clarkcountynv.gov
Jeremy.storms@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.)	
_____)	

SUPPLEMENTAL 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 footwear impression analysis.

000859

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

2 DATED this 15th day of November, 2019.

3 RESPECTFULLY SUBMITTED:

4 /s/ W. JEREMY STORMS

5 _____
6 W. JEREMY STORMS
7 MONICA R. TRUJILLO
8 Attorneys for Brown

9 **CERTIFICATE OF ELECTRONIC FILING**

10 I hereby certify that service of the above Supplemental Notice of Defendant's Expert
11 Witnesses, was made on November 15, 2019, by Electronic Filing to:

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

14 /s/ Elizabeth (Lisa) Araiza

15 _____
16 Legal Secretary
17 Special Public Defender
18
19
20
21
22
23
24
25
26
27
28

GEORGE SCHIRO, MS, F-ABC
LAB DIRECTOR
SCALES BIOLOGICAL LABORATORY, INC.
220 WOODGATE DR. S.
BRANDON, MS 39042 USA
OFFICE PHONE: 601-825-3211
CELL PHONE: 337-322-2724
E-MAIL: Gjschiro@cs.com
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.

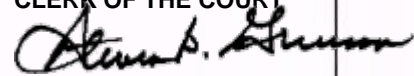
Featured in the books *The Bone Lady: Life as a Forensic Anthropologist* by Mary Manhein, *Rope Burns* by Robert Scott, *Smilin Acres: The Angry Victim* by Chester Pritchett, *An Invisible Man* by Stephanie A. Stanley, *Soft Targets*, *A Woman’s Guide to Survival* by Detective Michael L. Varnado, *Kirstin 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, Dahlonaga, GA.



MDIS
JONELL THOMAS
SPECIAL PUBLIC DEFENDER
Nevada Bar #4771
MONICA R. TRUJILLO
Chief Deputy Special Public Defender
Nevada Bar #11301
W. JEREMY STORMS
Chief Deputy Special Public Defender
Nevada Bar #10772
330 So. Third Street, Suite #800
Las Vegas, Nevada 89155
(702) 455-6265
FAX: (702) 455-6273
EMAIL: monica.trujillo@clarkcountynv.gov
EMAIL: jeremy.storms@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'S MOTION TO DECLARE THE COURT'S ORDER
FINDING THAT THE STATE MAY PRESENT FOOTWEAR IMPRESSION
EVIDENCE TO THE JURY THROUGH LAY WITNESSES VOID AS IT VIOLATES
MR. BROWN'S DUE PROCESS AND FAIR TRIAL RIGHTS**

DATE: November 21, 2019
TIME: 9:30 a.m.

DEPARTMENT XXI
NOTICE OF HEARING
DATE 11/21/19 TIME 9:30 AM
APPROVED BY SS JEA

COMES NOW, Defendant Larry Brown, by and through his attorneys, JoNell Thomas, Special Public Defender, Monica R. Trujillo, Chief Deputy Special Public Defender, and W. Jeremy Storms, Chief Deputy Special Public Defender and hereby requests this court rescind its order finding that the "Court took the issue of whether the photos of the Ralph Lauren Polo shirt

1 (sic) should be admitted. Court FINDS the evidence to be more probative than (sic) prejudicial
2 and that the photos of the bloody footprint can be understood and interpreted by lay jurors” as
3 footwear impression evidence is a specialized field of forensic science that, if it has any
4 evidentiary value, is based upon methodologies beyond the realm of the everyday experience of
5 a lay juror, such evidence requires the context of the special skill and knowledge of an expert for
6 the evidence to have any probative value to the jury’s fact-finding. Allowing the State to present
7 such evidence outside of the context of expert testimony will deprive Mr. Brown his substantive
8 fair trial and due process rights. In the alternative, the defense request the court allow Mr. Brown
9 to late-notice and reserve the right to call an expert on footwear impression analysis.
10

11 This Motion is made and based upon all the papers and pleadings on file herein and oral
12 argument at the time set for hearing this Motion.
13

14 **NOTICE OF MOTION**

15 TO: STATE OF NEVADA, Plaintiff; and

16 TO: District Attorney, Attorney for Plaintiff
17

18 YOU WILL PLEASE TAKE NOTICE that the undersigned will bring on the above and
19 foregoing MOTION on November 21, 2019 at the hour of 9:30 a.m., or as soon thereafter as
20 counsel may be heard.

21 **PROCEDURAL HISTORY**

22 On September 14, 2017, Mr. Brown was arraigned on an Indictment in District Court,
23 Department 3. Mr. Brown entered a plea of Not Guilty and waived his state right to a speedy
24 trial. Thereafter, the State filed a Second Superseding Indictment, adding one count as to Mr.
25 Brown. On October 19, 2017, Mr. Brown again entered a plea of Not Guilty and waived his
26 state right to a speedy trial. On December 19, 2017, this Honorable Court received a Third
27 Superseding Indictment. At that hearing, this Court noted that it did not need to arraign Mr.
28

1 Brown because there were no charges added, only additional evidence and testimony regarding
2 the charges. At a status check on October 31, 2017, this Court scheduled trial for June 18, 2018.
3 On April 11, 2018, Nicholas Wooldridge filed a Motion to Withdraw as Attorney of Record.
4 This Court granted Mr. Wooldridge's motion on April 24, 2018 and appointed the Special Public
5 Defender's Office. Thereafter on April 26, 2018, the Special Public Defender's Office
6 confirmed as counsel.
7

8 Mr. Brown is charged by way of Third Superseding Indictment with one count of
9 Conspiracy to Commit Robbery, one count of Robbery with Use of a Deadly Weapon, one count
10 of Murder with Use of a Deadly Weapon and one count of Ownership or Possession of Firearm
11 by Prohibited Person.
12

13 **PERTINENT FACTS**

14 On February 22, 2017, Crime Scene Analyst, K. Thomas, took photographs of partial
15 footwear impressions in apparent blood located on the pavement at the south end of the covered
16 parking space where the decedent was found as well as partial footwear impressions leading
17 away from the decedent. On March 20, 2017, employees of the Las Vegas Metropolitan Police
18 Department executed a search warrant at the residence of Mr. Brown's girlfriend, Angelisa
19 Ryder. Crime Scene Analyst M. McIntyre impounded a pair of red and black "Ralph Lauren
20 Polo Sport" shoes, size 13 D, with reddish brown stains on the bottom of the right shoe. The
21 presumptive blood test with Phenolphthalein yielded negative results. Counsel is unaware if the
22 State requested forensic comparison between the partial footwear impressions from the crime
23 scene and the shoes impounded at Mr. Brown's girlfriend's residence. The State did not endorse
24 any experts on footwear impression for the trial.
25
26

27 The defense filed a motion to exclude evidence of the shoes obtained at Mr. Brown's
28 girlfriend's house on the basis that said evidence was not probative and that, given that there was

1 no blood found on the shoe, any probative value the evidence might have was outweighed by
2 the prejudice this evidence might inject in to the trial. The court issued the following order after
3 expert notices were due:

4 COURT ORDERED, Motion DENIED in its entirety. Court took the issue of
5 whether the photos of the Ralph Lauren Polo shirt should be admitted. Court
6 FINDS the evidence to be more probative then prejudicial and that the photos of
the bloody footprint can be understood and interpreted by lay jurors.

7 Minute Order, November 4th, 2019. (Errors in original).

8 ARGUMENT

9 **FOOTWEAR IMPRESSION COMPARISION IS A FIELD OF FORENSIC SCIENCE** 10 **BEYOND THE GRASP OF A LAY PERSON'S COMMON EXPERIENCE, REQUIRING** 11 **EXPERT TESTIMONY.**

12 Precedent in Nevada strongly supports the notion that the footwear impression evidence
13 the State intends to present should be introduced through an expert witness.¹ In Burnside v.
14 State, 352 P.3d 627 (2015), the State used a Sprint/Nextel record custodian to explain how cell
15 phone signals are transmitted from cell sites, including circumstances when the cell site nearest
16 the cell phone is not used. The records custodian was not noticed as an expert. As the custodian's
17 testimony concerned "matters beyond the common knowledge of the average layperson" his
18 testimony was found by the Nevada Supreme Court to constitute expert testimony. In Burnside,
19 the court found that since Burnside did not explain what he would do differently if proper notice
20 had been given and did not request a continuance pursuant to the guidelines of NRS 174.295(2),
21 the Supreme Court did not ascertain that there was prejudice. Burnside, at 637.
22
23
24

25 ¹ Five Nevada cases reference footwear impression evidence. Out of those five, three specifically mention expert
26 testimony on the subject. The other two cases do not mention such testimony and the issue wasn't in controversy.
27 Richardson v. State, No. 56450, 2011 Nev. Unpub. LEXIS 182, at *2-3 (Mar. 18, 2011)(please note this case is not
28 citable as legal precedent); Doyle v. State, 116 Nev. 148, 158, 995 P.2d 465, 471 (2000)(no mention of expert
testimony); Walker v. State, 113 Nev. 853, 861, 944 P.2d 762, 767 (1997); Williams v. State, 113 Nev. 1008, 1016,
945 P.2d 438, 443 (1997); Atkins v. State, 112 Nev. 1122, 1125, 923 P.2d 1119, 1121 (1996)(no mention of expert
testimony).

1 Here, the State intends to present the jury photographs of partial footwear impressions in
2 blood and either photographs or the impounded shoes that tested negative for blood. These items
3 will be presented without any expert testimony. As the matching of a particular tread wear
4 pattern in a footwear impression to a shoe is a process of “feature-comparison,” such a process
5 involves the same sort of analytic comparison utilized in latent fingerprint analysis, hair analysis,
6 firearm analysis and DNA analysis.
7

8 In 2016, the President’s Counsel of Advisors on Science and Technology issued a report
9 titled “Forensic Science in Criminal Courts: Ensuring Scientific Validity of Feature-Comparison
10 Methods” that examined the scientific support for various feature-comparison methods presented
11 in criminal trials. The report did not examine “whether examiners can reliably determine class
12 characteristics—for example, whether a particular shoeprint was made by a size 12 shoe of a
13 particular make” noting that studies still needed to be undertaken to estimate the reliability of
14 footwear analysis aimed at class characteristics. Instead the report focused on reliability
15 conclusions for analysis that purport to be able to match a footwear impression to a specific piece
16 of footwear. See Presidential Counsel of Advisors on Science and Technology “Forensic
17 Science in Criminal Courts: Ensuring Scientific Validity of Feature-Comparison Methods”,
18 pages 114-5 (2016). The report noted that there are no empirical studies that measure the
19 examiners accuracy as to the soundness of their forensic methodology to “identify” a particular
20 piece of footwear as the source of an impression, noting that the claims made lack any scientific
21 foundation. Id. at 115. The report noted that the process of identifying an impression as coming
22 from a particular shoe relies “entirely on an examiner’s subjective judgment.” Id. at 116. As
23 this is the state of affairs in this area of forensics, the report urges that it is, “essential that the
24 scientific validity of the method and estimates of its reliability be established by multiple,
25 appropriate black-box studies.” Id.
26
27
28

1 It is fair to say we do not let juries decide whether a latent print match the defendants, or
2 that jurors, unaided, get to evaluate if the hammer-strike pattern on a spent shell case matches
3 the hammer on a suspect murder weapon. We may all wear shoes and thus be more familiar
4 with their features than the ridges of fingerprints but asking a jury to decide whether a partial
5 print matches either a broad-category of characteristics similar to the shoe impounded in this
6 case or a specific shoe is beyond the capacity of jurors. Given that what if any value footwear
7 impression evidence has to a fact-finder would be based upon the subjective experience and
8 expertise of a trained professional, jurors cannot be asked to make such a comparison on their
9 own.
10

11 **CONCLUSION**
12

13 Based on the foregoing, Mr. Brown requests that the Court either grant the instant motion
14 and exclude the evidence of partial shoeprints and the shoes seized from Mr. Brown's girlfriend's
15 house, or, in the alternative, allow the defense to late-notice and potentially call expert on this
16 area of forensic science.

17 Dated: November 15, 2019
18

19 SUBMITTED BY

20 /s/ W. JEREMY STORMS

21 _____
22 W. JEREMY STORMS
23 MONICA R. TRUJILLO
24 Attorneys 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: 11/15/2019

/s/ ELIZABETH (LISA) ARAIZA

An employee of the Special Public Defender

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

NOV 21 2019

BY, A. Trujillo
ATHENA TRUJILLO, DEPUTY

ORD
JONELL THOMAS
SPECIAL PUBLIC DEFENDER
NV Bar No. 4771
W. JEREMY STORMS
CHIEF DEPUTY SPECIAL PUBLIC DEFENDER
NV Bar No. 10772
MONICA R. TRUJILLO
CHIEF DEPUTY SPECIAL PUBLIC DEFENDER
NV Bar No. 11301
330 S. Third Street, 8th Floor
Las Vegas, NV 89155
Phone: (702) 455-6265
Fax: (702) 455-6273
Jeremy.storms@clarkcountynv.gov
Monica.trujillo@clarkcountynv.gov
Attorneys for Defendant Larry Brown

C-17-326247-1
OGM
Order Granting Motion
4878137



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.)	

**ORDER GRANTING DEFENDANT LARRY BROWN'S MOTION FOR
DISCLOSURE OF CORRECTIVE ACTION REPORTS**

DATE OF HEARING: 11/14/2019
TIME OF HEARING: 9:00 A.M.

THIS MATTER having come before the Court for a hearing before the above entitled Court on the 14th day of November, 2019, the Defendant being present, represented by MONICA R. TRUJILLO and W. JEREMY STORMS of the Special Public Defender's Office, the Plaintiff being represented by STEVEN B. WOLFSON, District Attorney, through

1 MICHAEL DICKERSON, and, the Las Vegas Metropolitan Police Department being
2 represented by MATTHEW CHRISTIAN, and the Court having heard the arguments of
3 counsel and good cause appearing therefor,

4 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the DEFENDANT
5 LARRY BROWN'S MOTION FOR DISCLOSURE OF CORRECTIVE ACTION
6 REPORTS, shall be, and is GRANTED, IN PART, to wit:

8 Pursuant to this ORDER, the Las Vegas Metropolitan Police Department is directed to
9 produce an aggregate five (5) years of Corrective Action Reports, beginning four years (4),
10 six (6) months prior to the testing in this case and ending six (6) months after said testing in
11 this matter.
12

13 IT IS FURTHER ORDERED THAT, the Las Vegas Metropolitan Police Department
14 is directed to produce corrective action reports falling in the aforementioned five (5) year
15 timeframe for both the forensic scientists who conducted the primary analyses as well as the
16 forensic scientists who conducted the technical analyses performed on evidence in this case.
17

18 IT IS FURTHER ORDERED THAT, the Las Vegas Metropolitan Police Department
19 is directed to produce corrective action reports falling in the aforementioned five (5) year
20 timeframe for the Crime Scene Analysts who worked on the documentation and collection of
21 evidence in this case.
22

23 ///

24 ///

25 ///

26 ///

27 ///

28

1 IT IS ALSO FURTHER ORDERED THAT, the aforementioned corrective action
2 reports be provided to the Court's chambers for in camera review to determine what if any of
3 the material the Las Vegas Metropolitan Police Department is directed to produce to the
4 defense. Any corrective action reports directed to be produced to the defense shall remain
5 strictly confidential and not be provided to any person other than counsel unless and until the
6 Court orders otherwise and only after the Las Vegas Metropolitan Police Department has had
7 an opportunity to be heard.
8

9 IT IS FURTHER ORDERED THAT, the Las Vegas Metropolitan Police Department
10 may make customary redactions and need not provide an unredacted version to chambers.
11

12 DATED this 21 day of November, 2019.

13
14 Valerie Adams
15 DISTRICT COURT JUDGE

16 SUBMITTED BY:

17 W. JEREMY STORMS
18 MONICA R. TRUJILLO
19 Attorneys for Defendant Brown

20 APPROVED AS TO FORM AND CONTENT:

21 MICHAEL DICKERSON
22 Chief Deputy District Attorney

23 MATTHEW CHRISTIAN
24 Assistant General Counsel
25 LVMPD
26
27
28