

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 15 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

DEC 2 11 2019

BY, 
SHANNON REID, DEPUTY

1 INST

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4 THE STATE OF NEVADA,
5
6 Plaintiff,

7 -vs-

8 LARRY DECORLEON BROWN,
#8376788

CASE NO: C-17-326247-1

DEPT NO: XXI

9 Defendant.

10 INSTRUCTIONS TO THE JURY

11 (INSTRUCTION NO. 1)

12 MEMBERS OF THE JURY:

13 It is now my duty as judge to instruct you in the law that applies to this case. It is
14 your duty as jurors to follow these instructions and to apply the rules of law to the facts as
15 you find them from the evidence.

16 You must not be concerned with the wisdom of any rule of law stated in these
17 instructions. Regardless of any opinion you may have as to what the law ought to be, it
18 would be a violation of your oath to base a verdict upon any other view of the law than that
19 given in the instructions of the Court.
20
21
22
23
24
25
26
27
28



If, in these instructions, any rule, direction or idea is repeated or stated in different ways, no emphasis thereon is intended by me and none may be inferred by you. For that reason, you are not to single out any certain sentence or any individual point or instruction and ignore the others, but you are to consider all the instructions as a whole and regard each in the light of all the others.

The order in which the instructions are given has no significance as to their relative importance.

An Indictment is but a formal method of accusing a person of a crime and is not of itself any evidence of his guilt.

In this case, it is charged in an Amended Third Superseding Indictment that on or about the 21st day of February 2017, as follows:

COUNT 1 - CONSPIRACY TO COMMIT ROBBERY

Defendant did on or about February 21, 2017 willfully, unlawfully, and feloniously conspire with ANTHONY CARTER to commit a robbery, by the defendants committing the acts as set forth in Counts 2 and 3, said acts being incorporated by this reference as though fully set forth herein.

COUNT 2 - ROBBERY WITH USE OF A DEADLY WEAPON

Defendant did on or about February 21, 2017 willfully, unlawfully, and feloniously take personal property, to wit: U.S. Currency and/or vehicle keys and/or vehicle, from the person of KWAME BANKS, or in his presence, by means of force or violence, or fear of injury to, and without the consent and against the will of KWAME BANKS, with use of a deadly weapon, to wit: a firearm, defendant using force or fear to obtain or retain possession of the property, to prevent or overcome resistance to the taking of the property, and/or to facilitate escape, the Defendants being criminally liable under one or more of the following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with the intent that this crime be committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise procuring the other to commit the crime, whereby Defendant ANTHONY CARTER lured and/or set up a meeting with KWAME BANKS under the ruse of a drug deal, thereafter, Defendants LARRY DECORLEON BROWN and/or ANTHONY CARTER robbed and/or attempted to rob the said KWAME BANKS; and/or (3) pursuant to a conspiracy to commit this crime, with the intent that this crime be committed.

COUNT 3 - MURDER WITH USE OF A DEADLY WEAPON

Defendant did on or about February 21, 2017 willfully, unlawfully, feloniously and

1 with malice aforethought, kill KWAME BANKS, a human being, with use of a deadly
2 weapon, to wit: firearm, by shooting at or into the body of the said KWAME BANKS, the
3 said killing having been (1) willful, deliberate and premeditated, and/or (2) committed
4 during the perpetration or attempted perpetration of a robbery and/or attempt robbery, the
5 Defendants being criminally liable under one or more of the following principles of criminal
6 liability, to-wit: (1) by directly committing this crime; and/or (2) by aiding or abetting in the
7 commission of this crime, with the intent that this crime be committed, by counseling,
8 encouraging, hiring, commanding, inducing and/or otherwise procuring the other to commit
9 the crime, whereby Defendant ANTHONY CARTER lured and/or set up a meeting with
10 KWAME BANKS under the ruse of a drug deal, thereafter, Defendants LARRY
11 DECORLEON BROWN and/or ANTHONY CARTER robbed and/or attempted to rob the
12 said KWAME BANKS, thereafter the said KWAME BANKS was shot in the chest and
13 killed during the course of the robbery and/or attempted robbery by Defendants LARRY
14 DECORLEON BROWN and/or ANTHONY CARTER; and/or (3) pursuant to a conspiracy
15 to commit this crime, with the intent that this crime be committed.

16 It is the duty of the jury to apply the rules of law contained in these instructions to the
17 facts of the case and determine whether or not the defendant is guilty of the offense charged.

18 Each charge and the evidence pertaining to it should be considered separately. The
19 fact that you may find the defendant guilty or not guilty as to one of the offenses charged
20 should not control your verdict as to any other offense charged.
21
22
23
24
25
26
27
28

A conspiracy is an agreement between two or more persons for an unlawful purpose. To be guilty of conspiracy, a defendant must intend to commit, or to aid in the commission of, the specific crime agreed to. The crime is the agreement to do something unlawful; it does not matter whether it was successful or not.

A person who knowingly does any act to further the object of a conspiracy, or otherwise participates therein, is criminally liable as a conspirator. However, mere knowledge or approval of, or acquiescence in, the object and purpose of a conspiracy without an agreement to cooperate in achieving such object or purpose does not make one a party to conspiracy. Conspiracy is seldom susceptible of direct proof and is usually established by inference from the conduct of the parties. In particular, a conspiracy may be supported by a coordinated series of acts, in furtherance of the underlying offense, sufficient to infer the existence of an agreement.

A conspiracy to commit a crime does not end upon the completion of the crime. The conspiracy continues until the co-conspirators have successfully gotten away and concealed the crime.

INSTRUCTION NO. 5

It is not necessary in proving a conspiracy to show a meeting of the alleged conspirators or the making of an express or formal agreement. The formation and existence of a conspiracy may be inferred from all circumstances tending to show the common intent and may be proved in the same way as any other fact may be proved, either by direct testimony of the fact or by circumstantial evidence, or by both direct and circumstantial evidence.

Each member of a criminal conspiracy is liable for each act and bound by each declaration of every other member of the conspiracy if the act or the declaration is in furtherance of the object of the conspiracy.

The act of one conspirator pursuant to or in furtherance of the common design of the conspiracy is the act of all conspirators. Every conspirator is legally responsible for a specific intent crime of a co-conspirator so long as the specific intent crime was intended by the Defendant. A conspirator is also legally responsible for a general intent crime that follows as one of the reasonably foreseeable consequences of the object of the conspiracy even if it was not intended as part of the original plan and even if he was not present at the time of the commission of such act.

INSTRUCTION NO. 7

Evidence that a person was in the company or associated with one or more other persons alleged or proven to have been members of a conspiracy is not, in itself, sufficient to prove that such person was a member of the alleged conspiracy. However, you are instructed that presence, companionship, and conduct before, during and after the offense are circumstances from which one's participation in the criminal intent may be inferred.

INSTRUCTION NO. 8

Agreement among two or more persons is an essential element of the crime of conspiracy, and mere association is insufficient to support a charge of conspiracy.

Where two or more persons are accused of committing a crime together, their guilt may be established without proof that each personally did every act constituting the offense charged.

All persons concerned in the commission of a crime who either directly and actively commit the act constituting the offense or who knowingly and with criminal intent aid and abet in its commission or, whether present or not, who advise and encourage its commission, with the intent that the crime be committed, are regarded by the law as principals in the crime thus committed and are equally guilty thereof.

A person aids and abets the commission of a crime if he knowingly and with criminal intent aids, promotes, encourages or instigates by act or advice, or by act and advice, the commission of such crime with the intention that the crime be committed.

The State is not required to prove precisely which defendant actually committed the crime and which defendant aided and abetted.

Whenever there is slight evidence that a conspiracy existed, and that the defendant was one of the members of the conspiracy, then the statements and the acts by any person likewise a member may be considered by the jury as evidence in the case as to the defendant found to have been a member, even though the statements and acts may have occurred in the absence and without the knowledge of the defendant, provided such statements and acts were knowingly made and done during the continuance of such conspiracy, and in furtherance of some object or purpose of the conspiracy.

A defendant cannot be criminally responsible under an aiding or abetting theory of murder of the first degree for acts committed by an accomplice unless that defendant also had (1) the willful, deliberate and premeditated intention to kill and/or (2) the specific intent to commit robbery and the killing was a reasonably foreseeable consequence of the crime.

While a guilty verdict must be unanimous, you need not be unanimous on the means or the theory of liability in arriving at your verdict. In other words, you do not need to be unanimous in deciding whether the defendant is responsible by directly committing an offense or by being an aider or abettor.

INSTRUCTION NO. 13

Robbery is the unlawful taking of personal property from the person of another, or in his presence, against his will, by means of force or violence or fear of injury, immediate or future, to his person or property, or of anyone in his company at the time of the Robbery.

Such force or fear must be used to obtain or retain possession of the property, to prevent or overcome resistance to the taking, or to facilitate escape, in either of which cases the degree of force is immaterial if used to compel acquiescence to the taking of or escaping with the property.

You are instructed that if you find the Defendant guilty of Robbery, you must also determine whether or not a Deadly Weapon was used in the commission of this crime.

If you find beyond a reasonable doubt that the defendant committed Robbery With the Use of a Deadly Weapon, then you are instructed that the verdict of Robbery With the Use of a Deadly Weapon is the appropriate verdict.

If however, you find that a Deadly Weapon was not used in the commission of the Robbery, but you do find that a Robbery was committed, then you are instructed that the verdict of Robbery is the appropriate verdict.

"Deadly weapon" means any instrument which, if used in the ordinary manner contemplated by its design and construction, will or is likely to cause substantial bodily harm or death, or, any weapon, device, instrument, material or substance which, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing substantial bodily harm or death.

A firearm is a deadly weapon.

INSTRUCTION NO. 16

The State is not required to have recovered the deadly weapon used in an alleged crime, or to produce the deadly weapon in court at trial, to establish that a deadly weapon was used in the commission of the crime.

In this case the defendant is accused in an Amended Third Superseding Indictment alleging an open charge of Murder. This charge may include murder of the first degree or murder of the second degree.

The jury must decide if the defendant is guilty of any offense and, if so, of which offense.

Murder is the unlawful killing of a human being with malice aforethought, either express or implied. The unlawful killing may be effected by any of the various means by which death may be occasioned.

Malice aforethought means the intentional doing of a wrongful act without legal cause or excuse or what the law considers adequate provocation. The condition of mind described as malice aforethought may arise, from anger, hatred, revenge, or from particular ill will, spite or grudge toward the person killed. It may also arise from any unjustifiable or unlawful motive or purpose to injure another, proceeding from a heart fatally bent on mischief or with reckless disregard of consequences and social duty. Malice aforethought does not imply deliberation or the lapse of any considerable time between the malicious intention to injure another and the actual execution of the intent but denotes an unlawful purpose and design as opposed to accident and mischance.

Express malice is that deliberate intention unlawfully to take away the life of a human being, which is manifested by external circumstances capable of proof.

Malice may be implied when no considerable provocation appears, or when all the circumstances of the killing show an abandoned and malignant heart.

Murder of the first degree is murder which is perpetrated by means of any kind of willful, deliberate, and premeditated killing. All three elements -- willfulness, deliberation, and premeditation -- must be proven beyond a reasonable doubt before an accused can be convicted of first-degree murder.

Willfulness is the intent to kill. There need be no appreciable space of time between formation of the intent to kill and the act of killing.

Deliberation is the process of determining upon a course of action to kill as a result of thought, including weighing the reasons for and against the action and considering the consequences of the actions.

A deliberate determination may be arrived at in a short period of time. But in all cases the determination must not be formed in passion, or if formed in passion, it must be carried out after there has been time for the passion to subside and deliberation to occur. A mere unconsidered and rash impulse is not deliberate, even though it includes the intent to kill.

Premeditation is a design, a determination to kill, distinctly formed in the mind by the time of the killing.

Premeditation need not be for a day, an hour, or even a minute. It may be as instantaneous as successive thoughts of the mind. For if the jury believes from the evidence that the act constituting the killing has been preceded by and has been the result of premeditation, no matter how rapidly the act follows the premeditation, it is premeditated.

1
2 The law does not undertake to measure in units of time the length of the period during
3 which the thought must be pondered before it can ripen into an intent to kill which is truly
4 deliberate and premeditated. The time will vary with different individuals and under varying
5 circumstances.

6 The true test is not the duration of time, but rather the extent of the reflection. A cold,
7 calculated judgment and decision may be arrived at in a short period of time, but a mere
8 unconsidered and rash impulse, even though it includes an intent to kill, is not deliberation
9 and premeditation as will fix an unlawful killing as murder of the first degree.

Felony murder is a different theory of First Degree Murder.

There are certain kinds of Murder in the First Degree which carry with them conclusive evidence of malice aforethought. One of these classes of First Degree Murder is a killing committed in the perpetration or attempted perpetration of certain felony crimes, including Robbery. Therefore, a killing which is committed in the perpetration of, or attempted perpetration of, a Robbery is deemed to be Murder in the First Degree, whether the killing was intentional, unintentional, or accidental.

This is called the Felony-Murder Rule.

The intent to perpetrate or attempt to perpetrate a Robbery must be proven beyond a reasonable doubt.

A defendant cannot be liable for Felony-Murder under a conspiracy and/or an aiding and abetting theory of liability for acts committed by a co-conspirator unless the Defendant also had the specific intent to commit the Robbery.

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

All murder which is not Murder of the First Degree is Murder of the Second Degree.
Murder of the Second Degree is Murder with malice aforethought, but without the admixture
of premeditation and deliberation.

You are instructed that if you find that the State has established that the defendant has committed First Degree Murder you shall select First Degree Murder as your verdict. The crime of First Degree Murder includes the crime of Second Degree Murder. You may find the defendant guilty of Second Degree Murder if:

1. You have not found, beyond a reasonable doubt, that the defendant is guilty of murder of the first degree, and

2. All twelve of you are convinced beyond a reasonable doubt the defendant is guilty of the crime of second degree murder.

If you are convinced beyond a reasonable doubt that the crime of murder has been committed by the defendant, but you have a reasonable doubt whether such murder was of the first or of the second degree, you must give the defendant the benefit of that doubt and return a verdict of murder of the second degree.

INSTRUCTION NO. 26

Although your verdict must be unanimous as to the charge, you do not have to agree on the theory of guilt or liability. Therefore, even if you cannot agree on whether the facts establish the defendant is guilty of Premeditated and Deliberate Murder or Felony Murder, or is liable as a principle, aider and abettor, or co-conspirator, so long as all of you agree that the evidence establishes the defendant's guilt of murder in the first degree, your verdict shall be Murder of the First Degree.

You are instructed that if you find a defendant guilty of First or Second Degree Murder you must also determine whether or not a deadly weapon was used in the commission of this crime.

If you find beyond a reasonable doubt that a deadly weapon was used in the commission of such an offense, then you shall return the appropriate guilty verdict reflecting "With Use of a Deadly Weapon".

If, however, you find that a deadly weapon was not used in the commission of such an offense, but you find that it was committed, then you shall return the appropriate guilty verdict reflecting that a deadly weapon was not used.

To constitute the crime charged, there must exist a union or joint operation of an act forbidden by law and an intent to do the act.

The intent with which an act is done is shown by the facts and circumstances surrounding the case.

Do not confuse intent with motive. Motive is what prompts a person to act. Intent refers only to the state of mind with which the act is done.

Motive is not an element of the crime charged and the State is not required to prove a motive on the part of the Defendant in order to convict. However, you may consider evidence of motive or lack of motive as a circumstance in the case.

The Defendant is presumed innocent until the contrary is proved. This presumption places upon the State the burden of proving beyond a reasonable doubt every element of the crime charged and that the Defendant is the person who committed the offense.

A reasonable doubt is one based on reason. It is not mere possible doubt but is such a doubt as would govern or control a person in the more weighty affairs of life. If the minds of the jurors, after the entire comparison and consideration of all the evidence, are in such a condition that they can say they feel an abiding conviction of the truth of the charge, there is not a reasonable doubt. Doubt to be reasonable must be actual, not mere possibility or speculation.

If you have a reasonable doubt as to the guilt of the Defendant, he is entitled to a verdict of not guilty.

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

INSTRUCTION NO. 30

You are here to determine whether the Defendant is guilty or not guilty from the evidence in the case. You are not called upon to return a verdict as to whether any other person is guilty or not guilty. So, if the evidence in the case convinces you beyond a reasonable doubt of the guilt of the Defendant, you should so find, even though you may believe one or more other persons are also guilty.

The evidence which you are to consider in this case consists of the testimony of the witnesses, the exhibits, and any facts admitted or agreed to by counsel.

There are two types of evidence; direct and circumstantial. Direct evidence is the testimony of a person who claims to have personal knowledge of the commission of the crime which has been charged, such as an eyewitness. Circumstantial evidence is the proof of a chain of facts and circumstances which tend to show whether the Defendant is guilty or not guilty. The law makes no distinction between the weight to be given either direct or circumstantial evidence. Therefore, all of the evidence in the case, including the circumstantial evidence, should be considered by you in arriving at your verdict.

Statements, arguments and opinions of counsel are not evidence in the case. However, if the attorneys stipulate to the existence of a fact, you must accept the stipulation as evidence and regard that fact as proved.

You must not speculate to be true any insinuations suggested by a question asked a witness. A question is not evidence and may be considered only as it supplies meaning to the answer.

You must disregard any evidence to which an objection was sustained by the court and any evidence ordered stricken by the court.

Anything you may have seen or heard outside the courtroom is not evidence and must also be disregarded.

There are two kinds of evidence: direct and circumstantial. Direct evidence is testimony about what the witness personally saw or heard or did. Circumstantial evidence is indirect evidence, which proves one or more facts, the proof of which allows one to find another fact.

For example, if you wake up in the morning and see that the ground, the sidewalks and streets are all wet and water is running down the gutters, you may find from those facts that it rained during the night. From the proof of one or more facts you are able to find another. If you had been awake during the night and saw the rainfall, that would be direct evidence, something you personally saw.

You may consider both direct and circumstantial evidence in deciding this case. The law permits you to give equal weight or value to both, but it is for you to decide how much consideration to give to any evidence.

The flight of a person after the commission of a crime is not sufficient in itself to establish premeditation or guilt. If flight is proved, it is circumstantial evidence in determining whether the defendant is guilty or not guilty.

The essence of flight embodies the idea of deliberately going away with consciousness of guilt and for the purpose of avoiding apprehension or prosecution. The weight to which such circumstance is entitled is a matter for the jury to determine.

The credibility or believability of a witness should be determined by his manner upon the stand, his relationship to the parties, his fears, motives, interests or feelings, his opportunity to have observed the matter to which he testified, the reasonableness of his statements and the strength or weakness of his recollections.

If you believe that a witness has lied about any material fact in the case, you may disregard the entire testimony of that witness or any portion of his testimony which is not proved by other evidence.

1 A witness who has special knowledge, skill, experience, training or education in a
2 particular science, profession or occupation is an expert witness. An expert witness may
3 give his opinion as to any matter in which he is skilled.
4

5 You should consider such expert opinion and weigh the reasons, if any, given for it.
6 You are not bound, however, by such an opinion. Give it the weight to which you deem it
7 entitled, whether that be great or slight, and you may reject it, if, in your judgment, the
8 reasons given for it are unsound.
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Although you are to consider only the evidence in the case in reaching a verdict, you must bring to the consideration of the evidence your everyday common sense and judgment as reasonable men and women. Thus, you are not limited solely to what you see and hear as the witnesses testify. You may draw reasonable inferences from the evidence which you feel are justified in the light of common experience, keeping in mind that such inferences should not be based on speculation or guess.

A verdict may never be influenced by sympathy, prejudice or public opinion. Your decision should be the product of sincere judgment and sound discretion in accordance with these rules of law.

INSTRUCTION NO. 31

In your deliberation you may not discuss or consider the subject of punishment. Your duty is confined to the determination of whether the Defendant is guilty or not guilty.

During the course of this trial, and your deliberations, you are not to:

- (1) communicate with anyone in any way regarding this case or its merits-either by phone, text, Internet, or other means;
- (2) read, watch, or listen to any news or media accounts or commentary about the case;
- (3) do any research, such as consulting dictionaries, using the Internet, or using reference materials; and
- (4) make any investigation, test a theory of the case, re-create any aspect of the case, or in any other way investigate or learn about the case on your own.

INSTRUCTION NO. 39

When you retire to consider your verdict, you must select one of your number to act as foreperson who will preside over your deliberation and will be your spokesperson here in court.

During your deliberation, you will have all the exhibits which were admitted into evidence, these written instructions and forms of verdict which have been prepared for your convenience.

Your verdict must be unanimous. As soon as you have agreed upon a verdict, have it signed and dated by your foreperson and then return with it to this room.

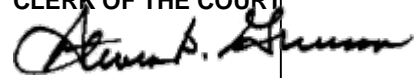
If, during your deliberation, you should desire to be further informed on any point of law or hear again portions of the testimony, you must reduce your request to writing signed by the foreperson. The officer will then return you to court where the information sought will be given you in the presence of, and after notice to, the district attorney and the Defendant and his/her counsel.

Playbacks of testimony are time-consuming and are not encouraged unless you deem it a necessity. Should you require a playback, you must carefully describe the testimony to be played back so that the court recorder can arrange his/her notes. Remember, the court is not at liberty to supplement the evidence.

Now you will listen to the arguments of counsel who will endeavor to aid you to reach a proper verdict by refreshing in your minds the evidence and by showing the application thereof to the law; but, whatever counsel may say, you will bear in mind that it is your duty to be governed in your deliberation by the evidence as you understand it and remember it to be and by the law as given to you in these instructions, with the sole, fixed and steadfast purpose of doing equal and exact justice between the Defendant and the State of Nevada.

GIVEN BY:


VALERIE ADAIR
DISTRICT COURT JUDGE



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff(s),

vs.

LARRY DECORLEON BROWN,

Defendant(s).

Case No. C-17-326247-1

Department XXI

BEFORE THE HONORABLE VALERIE ADAIR,
SENIOR DISTRICT COURT JUDGE

FRIDAY, DECEMBER 20, 2019

TRANSCRIPT OF PROCEEDINGS RE:
JURY TRIAL – DAY 9 of 9

APPEARANCES:

For the Plaintiff(s):

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

For the Defendant(s):

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

I N D E X

Page #

Verdict Read	5
Alford Plea Canvass	9

1 **LAS VEGAS, NEVADA; FRIDAY, DECEMBER 20, 2019.**

2 [Proceeding commenced at 11:37 p.m.]

3
4 [Outside the presence of the jury.]

5 THE COURT: Before we bring the jury in, I don't know
6 what the verdict is, but the State has submitted their proposed
7 instructions for the ex-felon portion of the case.

8 MR. GIORDANI: And, Your Honor, obviously if he's
9 acquitted on the first three charges, we won't be proceeding on
10 this.

11 THE COURT: Obviously.

12 MR. GIORDANI: Right.

13 THE COURT: I sort of assumed you weren't going to be
14 proceeding if it was a first-degree with.

15 MS. TRUJILLO: As did I.

16 THE COURT: In any event, I just got the packet.

17 MS. TRUJILLO: Same, Judge.

18 THE COURT: And the verdict form. In the second -- wait,
19 in the second amended superseding indictment, the ex-felon count
20 is Count 6. Okay.

21 MR. GIORDANI: Yeah, there --

22 THE COURT: And so you have made that Count 4 in your
23 verdict form, even though it really isn't Count 4 anywhere. It would
24 be Count 4 in this case.

25 MR. GIORDANI: No. If we were operating off the third

1 amended superseding, which took out two counts that were just to
2 Carter. So it is Count 4.

3 THE COURT: Okay. So it is Count 4 then.

4 MR. GIORDANI: Yes.

5 THE COURT: Okay. So --

6 MR. GIORDANI: I mean, we've got to preserve it. So.
7 Maybe we can just take the verdicts and then have a discussion
8 about maybe an alternate resolution. I've done it in other cases --

9 THE COURT: Okay. So you're asking me to bring the jury
10 in and once they read the verdict, poll them on that, and then just
11 say, ladies and gentlemen, there may be an additional proceeding,
12 and follow the bailiff through the rear of the courtroom. And while
13 you're in the jury room, don't discuss the case any further or
14 something.

15 Are you fine with that, Defense?

16 MS. TRUJILLO: Yes, Judge.

17 THE COURT: All right. Tell Kenny to bring them in, then.

18 [Jury reconvened at 11:41 a.m.]

19 THE COURT: All right. Court is now back in session. The
20 record should reflect the presence of the State through the deputy
21 district attorneys, the presence of the defendant and his counsel,
22 the officers of the court, and the ladies and gentlemen of the jury.

23 And who is the jury foreperson? All right.

24 Juror Number 8, Ms. Pucci-Johnson, has the jury in this
25 matter reached a verdict?

1 JUROR NO. 8: Yes, we have, Your Honor.

2 THE COURT: Would you please hand the forms of verdict
3 to the bailiff.

4 The clerk will now read the verdict out loud and inquire if
5 this is the verdict of the jury.

6 THE COURT CLERK: District Court, Clark County, Nevada,
7 the State of Nevada versus Larry Decorleon Brown, Case
8 C-17-326247-1, Department 21, verdict:

9 We, the jury, in the above-entitled case, find the
10 defendant, Larry Decorleon Brown, as follows:

11 Count 1, Conspiracy to Commit Robbery, guilty.

12 Count 2, Robbery With Use of a Deadly Weapon, guilty of
13 robbery with use of a deadly weapon.

14 Count 3, Murder with Use of a Deadly Weapon, guilty of
15 first-degree murder with use of a deadly weapon.

16 Dated this 20th day of December, 2019.

17 Nicole Pucci-Johnson, Foreperson.

18 Ladies and gentlemen of the jury are these your verdict as
19 read, so say you one, so say you all?

20 THE JURY: Yes.

21 THE COURT: All right. Before the verdict is recorded in to
22 the minutes of the court, does either side desire to have the jury
23 polled?

24 MS. TRUJILLO: Defense would.

25 THE COURT: All right. The court clerk will now poll the

1 ladies and gentlemen of the jury.

2 THE COURT CLERK: Juror Number 1, is this your verdict
3 as read?

4 JUROR NO. 1: Yes.

5 THE COURT CLERK: Juror Number 2, is this your verdict
6 as read?

7 JUROR NO. 2: Yes.

8 THE COURT CLERK: Juror Number 3, is this your verdict
9 as read?

10 JUROR NO. 3: Yes.

11 THE COURT CLERK: Juror Number 4, is this your verdict
12 as read?

13 JUROR NO. 5: I'm 5.

14 THE COURT CLERK: Excuse me, Juror Number 5, is this
15 your verdict as read?

16 JUROR NO. 5: Yes.

17 THE COURT CLERK: Juror Number 6, is this your verdict
18 as read?

19 JUROR NO. 6: Yes.

20 THE COURT CLERK: Juror Number 7, is this your verdict
21 as read?

22 JUROR NO. 7: Yes.

23 THE COURT CLERK: Juror Number 7, is this your verdict
24 as read -- 8?

25 THE COURT: 8.

1 JUROR NO. 8: Yes.

2 THE COURT CLERK: Juror Number 9, is this your verdict

3 as read?

4 JUROR NO. 9: Yes.

5 THE COURT CLERK: Juror Number 10, is this your verdict

6 as read?

7 JUROR NO. 10: Yes.

8 THE COURT CLERK: Juror Number 11, is this your verdict

9 as read?

10 JUROR NO. 11: Yes.

11 THE COURT CLERK: Juror Number 12, is this your verdict

12 as read?

13 JUROR NO. 12: Yes.

14 THE COURT CLERK: Juror Number 13, is this your verdict

15 as read?

16 JUROR NO. 13: Yes.

17 THE COURT: All right. The verdict will now be recorded

18 into the minutes of the court.

19 Ladies and gentlemen, I'm going to ask you to collect your

20 things, as well as your notepads, and follow the bailiff in just a

21 moment.

22 I'll see the bailiff at the bench.

23 [Pause in proceedings.]

24 THE COURT: In a moment and follow our bailiff through

25 the rear door, pending further proceedings. You are instructed that

1 when you're back in the jury room, to not discuss the case or
2 anything relating to the case. So if you would all please collect
3 your things and follow Officer Hawks through the rear door.

4 [Jury recessed at 11:45 a.m.]

5 THE COURT: All right. You indicated you might be able
6 to resolve the ex-felon portion, so I'm going to give you, what, 5, 10
7 minutes to do that?

8 MR. GIORDANI: Yeah. Just for the record, the State
9 would be making an offer. If the defendant would like to plead
10 *Alford* to the charge, the State would stipulate to concurrent time
11 and he would not be waiving his appellate rights on Count 4.

12 THE COURT: All right. And then if he's acquitted of the
13 other charge -- I'm sorry, I misspoke.

14 If the conviction of any of the other -- of the other charges
15 is reversed on appeal --

16 MR. GIORDANI: Right.

17 THE COURT: -- he could then proceed on the ex-felon
18 charge and his plea by way of *Alford* would be withdrawn.

19 MR. GIORDANI: Correct.

20 THE COURT: Is that your --

21 MR. GIORDANI: Yes.

22 THE COURT: -- offer?

23 MR. GIORDANI: Yes.

24 MS. TRUJILLO: Okay. Judge --

25 THE COURT: Do you need a moment?

1 MS. TRUJILLO: Yes.

2 THE COURT: All right.

3 MS. TRUJILLO: Thank you.

4 [Court recessed at 11:46 a.m., until 12:09 p.m.]

5 [Outside the presence of the jury.]

6 THE COURT: I'm assuming, Defense, you need a moment

7 to confer with your client?

8 MS. TRUJILLO: Just to go over and sign yes.

9 THE COURT: Okay. The jury's still in the back.

10 All right. We're giving you guys the Guilty Plea

11 Agreement now, so you can go confer with him.

12 MR. GIORDANI: Look at that closely, Monica, because I

13 haven't had a chance to review that.

14 THE COURT: Please proofread it.

15 [Court recessed at 12:10 p.m., until 12:19 p.m.]

16 [Outside the presence of the jury.]

17 THE COURT: All right. Mr. Brown, the Court is in

18 possession of a written plea of guilty, which was signed by you. Is

19 this your signature here on --

20 And the superseding indictment needs to be affixed as an

21 exhibit to this. So we'll have the court clerk, if there's no objection,

22 affix that as an exhibit.

23 MS. TRUJILLO: No objection. We have it separately and I

24 went over it with him.

25 THE COURT: All right. And you went over it -- you saw

1 that, Mr. Brown; is that right? That charge?

2 THE DEFENDANT: Yeah.

3 MR. GIORDANI: It's the amended --

4 THE COURT: All right.

5 MR. GIORDANI: Amended fourth superseding.

6 THE COURT: All right. And Mr. Brown, is this your
7 signature here on page 5 of the Guilty Plea Agreement?

8 THE DEFENDANT: Yes.

9 THE COURT: All right. And in this, you agree to plead
10 guilty to Count 4, ownership or possession of firearm by a
11 prohibited person by way of the *Alford* decision; is that your desire
12 and intent today?

13 THE DEFENDANT: Yes.

14 THE COURT: Before I may accept your plea of guilty, I
15 must be satisfied that your plea is freely and voluntarily given. Are
16 you making this plea freely and voluntarily?

17 THE DEFENDANT: Yes.

18 THE COURT: All right. And other than what's contained
19 in the written plea of guilty, have any promises -- and what has
20 been stated in open court -- have any promises or threats been
21 made to induce you or to get you to plead guilty in this case?

22 THE DEFENDANT: No.

23 THE COURT: All right.

24 MS. TRUJILLO: Judge, can we read the part that we agree
25 upon on *Alford*?

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: Sure.

MS. TRUJILLO: The State stipulates to confer in time to Counts 1, 2, and 3, the defendant is not waiving any appellate rights as to Count 4. In the vent of a reversal of Counts 1, 2, and 3, the State agrees that the incident plea can be withdrawn.

MR. GIORDANI: Correct.

THE COURT: All right. And Mr. Brown, before you sign the written plea of guilty, did you read it?

THE DEFENDANT: Yes.

THE COURT: Did you understanding everything contained in the written plea of guilty?

THE DEFENDANT: Yes.

THE COURT: Did you also read Count 4, ownership or possession of firearm by a prohibited person?

THE DEFENDANT: Yes.

THE COURT: And do you understand the charge which you'll be entering your plea of guilty here today?

THE DEFENDANT: Yes.

THE COURT: All right. Did you have full and ample opportunity to discuss your plea of guilty as well as the charge to which you're pleading guilty with your lawyer --

MR. STORMS: And, Your Honor, it's pursuant to the *Alford* decision.

THE COURT: Oh, right. But did he discuss it? That --
The charge which you're pleading guilty pursuant to the

1 *Alford* decision with your lawyers?

2 THE DEFENDANT: Yes.

3 THE COURT: And did they answer all your questions to
4 your satisfaction?

5 THE DEFENDANT: Yes.

6 THE COURT: And before you proceed with your plea by
7 way of the *Alford* decision, do you have any questions you would
8 like to ask me, the Court?

9 THE DEFENDANT: No.

10 THE COURT: All right. And since you are pleading guilty
11 by way of the *Alford* decision, you are denying the facts
12 constituting the offense; is that right.

13 THE DEFENDANT: Yes.

14 THE COURT: All right. Therefore, the Court must make a
15 determination that there is a factual basis for your plea. Ordinarily,
16 the deputy district attorney would state for the record what facts the
17 State would prove if -- I'm sorry.

18 If this matter were to proceed to trial, in this case, does
19 either side have an objection to the Court relying upon the evidence
20 that was presented in the trial of this matter to determine whether
21 or not there was a factual basis for the plea?

22 MS. TRUJILLO: Defense does not.

23 MR. GIORDANI: In addition to the facts presented to the
24 jury and having been convicted of Counts 1 through 3 and marked
25 as a State's exhibit -- Court's exhibit, certified judgment of

1 conviction for Mr. Brown's 2000 conviction for bank robbery, the
2 case number there is in front of Your Honor, and that was a federal
3 conviction.

4 THE COURT: And the case number, I'm looking it over
5 right now, it looks like 99-CR-C19, and the Court has reviewed that
6 exhibit. All right.

7 Mr. Brown, do you understand the Court is going to rely
8 upon the evidence just presented here during this trial, as well as
9 what has been stated by the deputy district attorney in determine
10 whether or not there is a factual basis for your plea. Do you
11 understand that?

12 THE DEFENDANT: Yes.

13 THE COURT: All right. And have you made a
14 determination that it's in your best interest to accept the plea
15 negotiation offered by the State and enter your plea of guilty here
16 today; is that right.

17 THE DEFENDANT: Yes.

18 MS. TRUJILLO: Pursuant to *Alford*.

19 THE COURT: I'm sorry.

20 THE DEFENDANT: Pursuant the *Alford* North Carolina.

21 THE COURT: And as one of the reasons you've decided to
22 do this to avoid the possible harsher penalty if you were convicted
23 of the charges against you without a negotiation?

24 THE DEFENDANT: Yes.

25 THE COURT: All right. The Court finds that Mr. Brown is

1 doing this freely and voluntarily. The Court further finds that there
2 is a sufficient factual basis for the plea. And I believe -- is there
3 anything else on that issue?

4 MR. GIORDANI: No.

5 THE COURT: All right. At this point, then, I would bring
6 the jury in, thank them for their service.

7 MR. GIORDANI: Could we just have the sentencing date
8 real quick?

9 THE COURT: Oh, sure.

10 MR. GIORDANI: So I can --

11 THE COURT CLERK: It'll be February 18th, 9:30 a.m.

12 THE COURT: And that's an in-custody sentencing date
13 and that's on everything, obviously.

14 It'll be referred to the Department of Parole and Probation
15 for the PSI. And it's an in-custody sentencing date.

16 And just so we know for scheduling purposes, does the
17 State anticipate any speakers?

18 MR. GIORDANI: Yes, we do have several, Your Honor.
19 We'll provide notice to the defense once I have the list of the
20 names.

21 THE COURT: All right. If there's nothing else, then, I'll
22 just bring the jury in and formally excuse them on the record.

23 MR. GIORDANI: Yes, and we did intend to talk to them, if
24 they're willing to.

25 THE COURT: All right.

1 [Jury reconvened at 12:27 p.m.]

2 THE COURT: All right. Court is now back in session. The
3 record should reflect the presence of the State, the presence of the
4 defendant along with his counsel, the officers of the court, and the
5 ladies and gentlemen of the jury.

6 Ladies and gentlemen, I want to thank you for your
7 patience. There is not going to be a need for any further
8 proceedings, as that issue was resolved. So this concludes your
9 service as jurors in this matter.

10 I want to thank you very much for your service as jurors,
11 your willingness to serve, your patience as we're coming up upon
12 the holidays, and your attentiveness during these proceedings,
13 which was evidenced by all of the questions we got, and we had
14 some terrific questions from the ladies and gentlemen of the jury.

15 The prohibition about speaking about this case is now
16 lifted. You are free to speak with each other or anyone else you
17 choose, including the lawyers. Very often, the lawyers like to speak
18 with the ladies and gentlemen of the jury to get, you know,
19 feedback or whatnot. If you're willing to speak with these
20 individuals, that's perfectly acceptable. Conversely, if you'd rather
21 not speak with them, obviously, they will respect your wishes in
22 that regard.

23 So once again, thank you very much. I'm going to have
24 you get your things again and follow the bailiff through the rear
25 door, and we will be distributing your checks to you in the back. So

1 thank you very much, ladies and gentlemen, for your service as
2 jurors. Please follow Officer Hawks through the rear of the
3 courtroom.

4 [Jury dismissed at 12:29 p.m.]

5 THE COURT: All right. I go back to talk to them and then
6 we give them their checks, and then they normally come out on this
7 floor. So if you folks want to talk to them, it'll be kind of out there.

8 MR. GIORDANI: Thank you.

9 [Court adjourned at 12:29 p.m.]

10 ///

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

22 
23 Shawna Ortega, CET*562
24
25

EXHIBIT(S) LIST

Case No.: C326247

Hearing / Trial Date: 12/9/2019

Dept. No.: 21

Judge: Valerie Adair

Court Clerk: Athena Trujillo

Plaintiff: State of Nevada

Recorder / Reporter: Robin Page

Counsel for Plaintiff: Michael Dickerson
John Giordani

vs.

Defendant: Larry Brown

Counsel for Defendant: Jeremy Storms
Monica Trujillo

HEARING / TRIAL BEFORE THE COURT

COURT'S EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted	
1	Declaration of Arrest	12/11/19	N/A	12/11/19	WA
2	Jury selection forms	12/11/19	N/A	12/11/19	WA
3	Question - Asked	12/11/19	N/A	12/11/19	WA
4	Question - Asked	12/11/19	N/A	12/11/19	WA
5	Question - Asked	12/11/19	N/A	12/11/19	WA
6	Question - Asked	12/11/19	N/A	12/11/19	WA
7	Question - NOT Asked	12/12/19	N/A	12/12/19	WA
8	Question - NOT Asked				WA
9	Question - Asked				WA
10					WA
11					WA
12					WA
13					WA
14					WA
15					WA
16					WA
17	General sales inquiry	12/13/19	N/A	12/13/19	WA

EXHIBIT(S) LIST

Case No: C326247

State of Nevada

VS.

Larry Brown

COURT'S EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted	
18	Cellebrite printout	12/13/19	N/A	12/13/19	WA
19	II Statement				WA
20	II premium				WA
21	II printout				WA
22	State's opening pwr. point	12/13/19	N/A	12/13/19	WA
23	Question - Asked	12/13/19	N/A	12/13/19	WA
24					WA
25					WA
26					WA
27	Question - Asked	12/13/19	N/A	12/13/19	WA
28					WA
29					WA
30	Question - Asked	12/13/19	N/A	12/13/19	WA
31					WA
32					WA
33					WA
34					WA
35	Question - NOT asked	12/17/19	N/A	12/17/19	WA
36	Question - Asked				WA
37					WA
38					WA
39					WA
40					WA
41					WA
42	Question - Asked	12/18/19	N/A	12/18/19	WA

EXHIBIT(S) LIST

Case No: C326247

State of NV vs. Larry Brown

Court's EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted	
43	Question - Asked	12/18/19	N/A	12/18/19	WA
44	⊥	⊥	⊥	⊥	WA
45	⊥	⊥	⊥	⊥	WA
46	Question - Asked	12/18/19	N/A	12/18/19	WA
47	⊥	⊥	⊥	⊥	WA
48	Question - NOT ASKED	12/18/19	N/A	12/18/19	WA
49	Question - Asked	⊥	⊥	⊥	WA
50	Question - NOT ASKED	12/18/19	N/A	12/18/19	WA
51	Question - Asked	⊥	⊥	⊥	WA
52	⊥	⊥	⊥	⊥	WA
53	Defendant's proposed Instructions	12/19/19	N/A	12/19/19	WA
54	" objections to State's...	⊥	⊥	⊥	WA
55	Question - not ASKED	12/19/19	N/A	12/19/19	WA
56	Question - Asked	⊥	⊥	⊥	WA
57	⊥	⊥	⊥	⊥	WA
58	⊥	⊥	⊥	⊥	WA
59	State's closing power point	12/19/19	N/A	12/19/19	WA
60	FEDERAL CRIMINAL INDICEMENT	12/20/19	N/A	12/20/19	WA

• truck stolen
 • victim's car
 • solicited funds
 • misquoting as North

www.burton.com

12



002802
 H: Hispanic
 B: N
 BUNNING

JURY LIST

CASE NO. C326247-1
DEPT. NO. 21

TRIAL DATE: 12/9/2019
JUDGE: Valerie Adair
CLERK: Athena Trujillo
RECORDER: Robin Page

The State of Nevada

PLAINTIFF,

Michael Dickerson / John Giordani

vs.

COUNSEL FOR PLAINTIFF

Larry Brown

Jeremy Storms / Monica Trujillo

DEFENDANT,

COUNSEL FOR DEFENDANT

Badge No.	Name of Jurors	EXCUSED		
		Plaintiff	Defendant	Court
338	1. Devine	1		
362	2. Scott Williams		1	
183	3. Simon	2		
522	4. Thurgood		2	
465	5. Peries	3		
509	6. Gebretensie		3	
367	7. Flangas	4		
515	8. mazzarella		4	
521	9. Blankenship	5		
189 413	10. Gunnell		5	
454	11. Allen	6		
408	12. Bayne		6	
	13. Waive (state)	7		
361	14. Cruz		7	
354	15. Vargas	8		
413	16. Cardieu		8	
	17. Waive (state)	9		
443	18. Reese - Prato		9	
	19.			
	20.			
	21.			
	22.			
	23.			
	24.			
	25.			

	26.			
	27.			
	28.			
	29.			
	30.			
	31.			
	32.			

**WAIVED
PEREMPTORY
CHALLENGES**

Pltf.	Deft.
1.	
2.	
3.	
4.	
5.	
6.	
7. W	
8.	
9. W	
10.	

CASE NO. C326247

DATE

12/9/2019

DEPT. NO. 21

JUDGE:

Valerie Adair

State of Nevada

CLERK:

Athena Trujillo

VS.

RECORDER: Robin Page

Larry BrownMichael Dickerson / John GiordaniCOUNSEL FOR THE STATEJeremy Storms / Monica TrujilloCOUNSEL FOR THE DEFENDANT

PLTF		DEFT	
1.	338	1.	302
2.	183	2.	522
3.	405	3.	509
4.	307	4.	515
5.	521	5.	189
6.	454	6.	408
7.	W	7.	361
8.	354	8.	413

ALTERNATE

1.	W	1.	443
2.		2.	

32. Guiterrez, Alexis #512 Fuentes, Juan	31. #446 Eugene, Deborah	30. #444 Campbell, Kenneth 14(Alt)	29. #443 Reese, Debra	28. #426 Yangee, Mark #500 Davis, Phillip 13(Alt)	27. #421 Hackett, Jennifer 12	26. #420 Herrera, Edwin 11	25. #419 Rodriguez Sosa, Manuela #493 O'Neill, Brooke 10
24. #418 Selby, Nancy 9	23. #413 Cadieux, Joshua	22. #412 Pucci-Johnson, Nicole 8	21. #408 Bayne, Tyler	20. #404 Brand, Tamesha #480 Williams, Gavin 7	19. #403 Stapell, America #473 Davies, Sara #189 Gunnel, David	18. #396 Becker, Ellen 6	17. #394 Marshall, David 5
16. #381 Cohue, Francisee #515 Mazzarella, Lorie	15. #393 Wallace, Dawn 4	14. #386 Briski, Chia #521 Blankenship, Stephanie	13. #368 Pursell, Chris 3	12. #367 Flangas, William	11. #364 Vallejo - Rodriguez, Diana 2	10. #362 Williams, Scott 1	9. #361 Cruz, Nikolas
8. #354 Vargas, Susan	7. #348 Young, Joann #471 Rodriguez Valle, Olga #509 Gebretensie, Feven	6. #339 Dixon, Andrew #469 Natanel, Alon #522 Thurgood, Adam	5. #338 Devine, Christina	4. #333 James, Virginia #465 Perles, Dikshan	3. #318 Calderon - Arkenburg, Joanne 1	2. #317 Gershef, Matthew #454 Allen, Marquita	1. #309 Lykins, Christian #452 Armstrong, Roben #183 Simon, Maria

002805

Random List

Judge: VALERIE ADAIR
 ation: Dept 21
 Case ID: C326247-1
 Description: LARRY DECORLEON BROWN

Case Start Date : 12/09/19
 Print Date: 12/09/19
 Time: 9:25 am

Badge No.	Panel #	Juror ID	Race	Last Name	First Name	
06-0309	1	1 EX	102340058	LYKINS	CHRISTIAN	• surgery 12/13
06-0317	2	2 EX	102058441	GERSHOF	MATTHEW	• mother disabled • poker dealer - swing - Aria
06-0318	3	3	103634876	CALDERON-ARKENBURG	JOANNE	• Sister murdered 1998
06-0333	4	4 EX	105439755	JAMES	VIRGINIA	• Cabo San Lucas 12/16
06-0338	5	5	101180845	DEVINE	CHRISTINA	• Always late • son has performance 12/10
06-0339	6	6 EX	100913891	DIXON	ANDREW	• knows witness - friend • Attorney
06-0348	7	7 EX	104478948	YOUNG	JOANN	• daughter - surgery • plane ticket to CA
06-0354	8	8	103569512	VARGAS	SUSAN	• went to lunch early • orthodontic Asst • starting new job tomorrow • Arrested for theft
06-0361	9	9	105169437	CRUZ	NIKOLAS	• cleaner
06-0362	10	10	105124182	WILLIAMS	SCOTT	• Gulf Stream Aerospace • wife - Kentucky
06-0364	11	11	105619302	VALLEJO RODRIGUEZ	DIANA	• HR/Admin • Colombia
06-0367	12	12	101837117	FLANGAS	WILLIAM	• 2007 DUI - Sparks, NV • Flight to Chicago 12/20-12/23 • convention center
06-0368	13	13	103698762	PURSELL	CHRIS	• kids - can't take to school • badge says #3146
06-0381	14	14 EX	102032126	COHUO	FRANCISCO	• service host - pacemaker • disabled - spinal stenosis
06-0386	15	15 EX	101088371	BRISKI	CHIN	• husband has stress test in CA w/ cardiologist 12/17/19 • ESL - Taiwan
06-0393	16	16 EX	104803239	WALLACE	DAWN	• preschool teacher
06-0394	17	17	102957379	MARSHALL	DAVID	• 3rd party Inspector • sister - Drug charges
06-0396	18	18	105012319	BECKER	ELLEN	• construction management
06-0403	19	19	105420771	STANCIL	AMERICA	• started new job last week at a church
06-0404	20	20 EX	105346762	BRAND	TAMESHA	• 12/18 New Job starts • CNA (12/18-12/20) • Missouri DUI's (Felony) • civil rights restored
06-0408	21	21	100201161	BAYNE	TYLER	• soccer club • sisters - drugs • manager - construction • wedding facility
06-0412	22	22	104004209	PUCCI-JOHNSON	NICOLE	• 12/20 - 1/3 travel plans - Driving (Utah/Hawaii)

Confidential Information

Page 1 of 3

Race: (C) = caucasian (#) hispanic
 (AA) = African American (A) Asian

002806

Random List

Judge: VALERIE ADAIR
 ation: Dept 21
 Case ID: C326247-1
 Description: LARRY DECORLEON BROWN

Case Start Date : 12/09/19
 Print Date: 12/09/19
 Time: 9:25 am

Badge No.	Panel #	Juror ID	Last Name	First Name
06-0413	23	103363904	CADIEUX	JOSHUA
			Home Invasion 2019	Airline captain- Alaska Air
06-0418	24	105256910	SELBY	NANCY
				Accountant husband Arrested 90's
06-0419	25	104292316	RODRIGUEZ-SOSA	MANUELA
				works at rest. - co-owner
06-0420	26	102071938	HERRERA	EDWIN
				Type I Diabetic graphic Artist
06-0421	27	105025563	HACKETT	JENNIFER
			Boyfriend- EX Police Chief	Elementary school princ. Legacy charter
06-0426	28	101821960	YANGCO	MARK
				child care - shares car/wife cook on strip 5pm-1am
06-0443	29	104442361	REESE	DEBRA
				Dealer- Aria DUI 2009
06-0444	30	101946036	CAMPBELL	KENNETH
			From Scotland	retired computer security
06-0446	31	104082815	EUGENE	DEBORAH
				works for BLM non-profit DUI
06-0447	32	105372301	GUTIERREZ	ALEXIS
			Arrested Aug. 2019 released	witness in case in DC21 11/19 court date (C344158)
06-0452	33	104974972	ARMSTRONG	ROBEN
			lymphedema	house robbed
06-0454	34	103420148	ALLEN	MARQUITA
				daughters went to prison - robbery/kidnapping
06-0456	35	104271875	PACULAN	DIVINA
				NO CAR 7 grandkids
06-0457	36	102485223	KRUEGER	JENNIFER
				ENT Appl. 12/17
06-0458	37	103240901	MURRAY	PATRICK
				college student - finals - night
06-0465	38	102640575	PERIES	DILKSHAN
			has to Uber wife doesn't drive	2012 DUI
06-0469	39	104430422	NATANEL	ALON
			unpaid tickets reckless driving	knows co-A Carter - former tenant/lease 2200 S. Ft. Apache
06-0471	40	102337217	RODRIGUEZ-VALLE	OLGA
			House Broken Into	Dentist - married to surgeon child care issues
06-0473	41	104857546	DAVIES	SARA
				NO kids DUI - Whittier, CA
06-0480	42	103725483	WILLIAMS	GAVIN
			Native American Shoshone	Barback: T-mobile/Aviator Stadium
06-0485	43	105119941	BAGBY	KRYSTLE
				Vacation - CA (Thurs./Fri.)
06-0486	44	105336372	ICHIHARA III	JOSE
				College student - finals

Random List

Judge: VALERIE ADAIR
 ation: Dept 21
 Case ID: C326247-1
 Description: LARRY DECORLEON BROWN

Case Start Date : 12/09/19
 Print Date: 12/09/19
 Time: 9:25 am

Badge No.	Panel #	Juror ID	Last Name	First Name
06-0493	25 45	103605204	(C) O'NEILL	BROOKE
			• Cousin - DUI	• 2008 DUI 2nd - Detroit
06-0494	46 EX	100562471	TARRATS	CARMEN
			• Father in room 706 @ Centennial	• Works at LVMPD → retired records emp. - CJIS
06-0500	28 47	101186109	(AA) DAVIS	PHILLIP
			• Sister Arrested	• med sales rep • 2 kids
06-0502	48 EX	101727272	CHAU	LISA
				• PT/pain pills
06-0504	49 EX	104033984	SANDOVAL	RAYMOND
				• Felon - Assault - AZ
06-0508	50 EX	100841417	LITTLE	CHRISTINE
				• Daughter OD'd 5/15/1 • House closing 12/20
06-0509	7 51	101498841	GEBRETENSIE	FEVEN
				• Works at Sunrise Hosp.
06-0511	52 EX	103227057	JIMENEZ	MELISSA
				• CCSD teacher
06-0512	32 53	101011873	FUENTES	JUAN
			• ESL - Mexico	• Baker at Billy's
06-0513	54 EX	102008658	AVILA	JAVIER
			• wife had cancer	• commission only - Gaudin • Insulin dependant Ford
06-0515	16 55	100469979	MAZZARELLA	LORIE
				• Father in jail
06-0518	56 EX	100447436	COUMOU	FRANK
				• Former DA
06-0521	14 57	103574428	BLANKENSHIP	STEPHANIE
				• State of NV emp. • special ed kids
06-0522	16 58	100154586	THURGOOD	ADAM
				• Almost kidnapped @ 8/19 yo. • Friends w/ attys / w/ villain!
06-0526	59 (S)	101819131	CARMONA	JORGE
			• going to Mexico 12/19	• Born Mexico • ESL
06-0527	60 EX	102641637	PATON	ERIC
			• does p/v + delivery • own business	• laid off 90 days ago • Job interview tomorrow 10am

Random List

21

Judge: VALERIE ADAIR
Location: Dept 21
Case ID: C326247-1
Description: LARRY DECORLEON BROWN

Case Start Date : 12/09/19
Print Date: 12/10/19
Time: 12:42 pm

Badge No.	Panel #	Juror ID	Race	Last Name	First Name
07-0183	1	61	105358854	H SIMON	MARIA : misdemeanors as youth : soliciting charge
07-0189	19	62	100150049	C GUNNELL	DAVID : verizon engineer : truck stolen
07-0195	63	103671261	C	KHEEL	ALLISON
07-0218	64	100906864	C	TRUESDELL	RICHARD
07-0222	65	103083632	H	BERNAL	MARIANA
07-0224	66	100803002	H	RODRIGUEZ-MENDOZA	JORGE
07-0227	67	105187715	H	SIVON	JEANETTE
07-0230	68	104050359	C	MCHUGH	HARVEY
07-0238	69	100751738	C	FORGEY	NORA
07-0240	70	104007971	C	HOLUB	ARTHUR
07-0243	71	100299147	Ph.	DACO	RAMON
07-0244	72	105045531	C	FREEMAN	TIMOTHY
07-0246	73	105052569	C	O'DONNELL	BRENNEN
07-0257	74	102050472	C	FEUERSTEIN	RICHARD
07-0258	75	103283651	C	OMAN	JASON

H = Hispanic PI =
C = caucasian Phillapino

#12

#1

Did you see the shoes
of the man^e dressed
in black?

#2

Did you see him
wearing anything
on his head?

COURT'S EXHIBIT

3

C326247002810

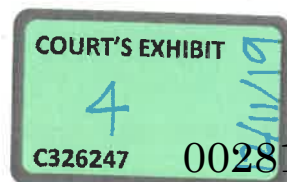
6/11/19

13

WHAT WAS THE
ATTIRE OF THE
ADDRESSOR?

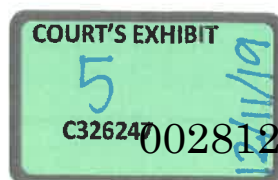
EX. HOOD
HAT

HOW MANY
SHOTS DID
YOU HEAR?



#4

What was the toxicology
results.
drugs?



13

COULD YOU

DETERMINE

IF THE SHOOTER
WAS RIGHT

HANDS / or
LEFT,

COURT'S EXHIBIT

6
002813

C326247

12/1/19

13

COULD YOU
DETERMINE THE
SIZE OF THE SHOE
PRINT COVERED IN
BLOOD?

13

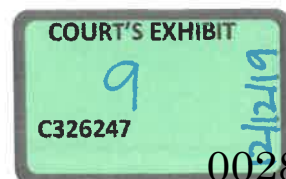
WHEN DID
THE DEFENDANT
FLY TO ATLANTA?

FLIGHT
RECORDS



Why No blood
Analysis of
the blood on the
Car pedal?

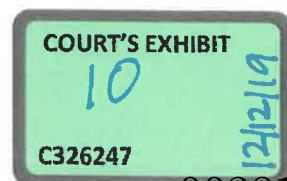
#12



002816

#9

Did pieces of latex glove match



002817

#4

Was blood found on
the larger portion
of the latex
glove?

COURT'S EXHIBIT

11

002818

2/12/19

Juror 3

Could you elaborate
which phone was found
at which location?



Juror #6

Why did the detectives subpoena
Carnell Cave's phone records?



#8

Who were the occupants of apartments 1005 & 1008?

What compelled Officer English to do an offline search on the Nissan and not the Jeep?

Do measurements exist of the bloody footprints at the scene?

COURT'S EXHIBIT

14

C32624 002821

12/21/19

~~#~~ ne

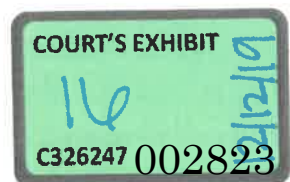
What was approx
distance between
footprints (Blood)



11
~~(3426)~~

Was the 40 caliber
Firearm recovered?

If so where?



1
WERE ^{THOSE} ~~THEIR~~ CLOTHES
DOCUMENTED AT THE
RESIDENCE?

(13)



002824

WHAT WAS

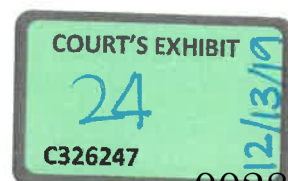
THE WEIGHT/HEIGHT

OF ANONYMOUS CALLER?

SHOW AGAIN

DRIVER
LICENSE
IMAGE?

(13)



002825

#5

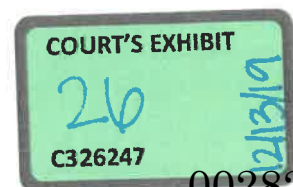
Why didn't you pick up
shoes for testing?



002826

5/5

5/02 Prints ?



002827

AF Juror 3

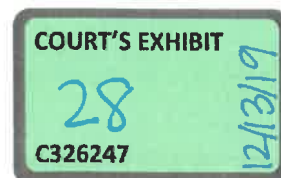
Does a negative test
on the stain mean that
it is definitely not
blood or that it had
deteriorated to the point
where it couldn't be
determined?



002828

#8

Did the footwear
undergo any other
testing for chemicals or
other materials on the
tread?



002829

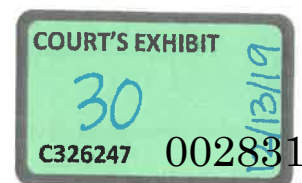
HOW LONG WOULD
HOMO GLOBIN BE
DETECTABLE ON
A SHOE ?

13



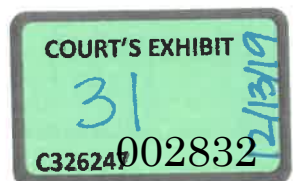
(13)

WHEN HE
DROVE THROUGH
RED LIGHTS WERE
YOUR SIGNS ENGAGED
AT THAT TIME?



Juror 3.

Mr. Brown was described
as a fugitive. When was
a warrant first issued
for his arrest?



#1

On The Chase

were their lights

("Sirien"? ~~when~~)



002833

Did you create a timeline
to determine when Mr.
Brown arrived in Georgia?

#12



002834

#5

Whos Finger print where Found?



(13)

DID YOU EVER

~~FEEL~~

FEEL IN DANGER

IN THE PRESENCE

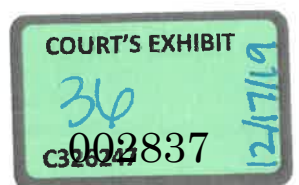
OF MR. BROWN?

Did Mr. Brown frequently
call his son or his mother?

~~He was~~ ~~was~~ ~~was~~

#12

Spec Feb - June



DID QUINTON
EVER SHOW
UP ?

(13)



#14

① UNDER WHAT CIRCUMSTANCES
ARE PHONES NOT MAPPED
VIA A CELL TOWER

CALL DURATION
② Why No ~~times~~ SHOW FOR
SOME CALLS (8080/8081 LINES)

COURT'S EXHIBIT

38

C326247 002839

II 5

IF CARNELL CAVE WAS A SUSPECT
WHY DIDN'T YOU GET CELL TOWER RECORDS
FOR HIS PHONE?

COURT'S EXHIBIT

39

C326247002840

#6

Does having a phone connected to wifi
change or limit how a location/cell tower
is determined?



#8

On the call log on Mr.
Brown's phone, what are
the last texts or calls
logged on 2/21 or 2/22?



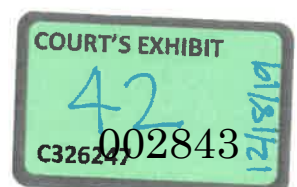
13

COULD YOU GIVE
CONTEXT ON THE
IMPACT OF ENVIRONMENTAL
EFFECTS ON DNA
SAMPLES?

EX. PASSAGE OF TIME
(RECENTCY)

EX. DETECTABILITY OF
DNA

EX. DEGRADATION



(13)
CAN DNA SIMPLY
DISAPPEAR IF
ENOUGH TIME
HAS GONE BY?



How often is the equipment/
instrumentation in your lab
calibrated ?

Is this done by an outside
company / agency ?

12



002845

H8

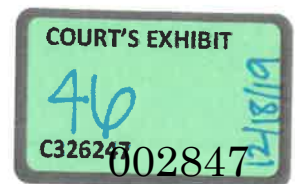
Did you test only the Samsung phone or did you also swab the case?

Does the inside of the palm shed differently than the outside of the hand?



#4

Was Browns DNA
found inside or
outside of torn
glove?



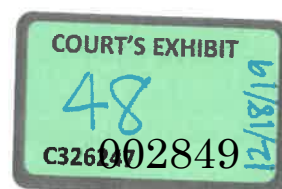
#8

Why did your son move
to Las Vegas?



COULD YOU
SPEAK TO
THE CHARACTER
OF YOUR (13)
FATHER?

EX.



#6

Whose car was driven
from Vegas to Georgia?

(rental vs. Mr. Brown's vehicle)



6

Do you have photos or texts
(any evidence) ~~about~~ of the beating/
robbery? Did you alert any
family?

If yes, would he mind sharing the
texts or photos?

(Sorry, not sure if I can ask for new evidence)



002851

#8

In your texts, who
are you talking about
~~who~~ when you refer
to "he" when talking
about the man with the knife
in his pants?



002852

(13)

YOU SAID

YOU'VE ALWAYS

HAD THE SAME

PHONE NUMBER.

WHY DID YOU

CHANGE IT?

1 INST

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4 THE STATE OF NEVADA,

5 Plaintiff,

6 -vs-

7 LARRY DECORLEON BROWN,
8 #8376788

9 Defendant.
10

CASE NO: C-17-326247-1

DEPT NO: XXI

11 DEFENDANT'S PROPOSED JURY INSTRUCTIONS

12 COMES NOW, Defendant Larry Decorleon Brown, by and through his attorneys
13 Monica Trujillo, Chief Deputy Special Public Defender, and Jeremy Storms, Chief Deputy
14 Special Public Defender and submits the attached proposed jury instructions.

15 DATED this 18th day of December, 2019.

16
17 SUBMITTED BY:

18 /s/ W. JEREMY STORMS

19
20 MONICA TRUJILLO
21 W. JEREMY STORMS
22 Attorney for Brown
23
24
25
26
27
28



002854

INSTRUCTION NO. _____

Agreement among two or more persons is an essential element of the crime of conspiracy, and mere association is insufficient to support a charge of conspiracy.

INSTRUCTION NO. A

Agreement among two or more persons is an essential element of the crime of conspiracy, and mere association is insufficient to support a charge of conspiracy.

Sanders v. State, 110 Nev. 434 (1994).

INSTRUCTION NO. _____

A conviction shall not be had on the statements of an accomplice unless corroborated by other evidence which in itself, and without the aid of the statements of the accomplice, tends to connect the defendant with the commission of the offense; and the corroboration shall not be sufficient if it merely shows the commission of the offense or the circumstances thereof.

An accomplice is hereby defined as one who is liable to prosecution, for the identical offense charged against the defendant on trial in the cause in which the statement of the accomplice is admitted.

INSTRUCTION NO. B

A conviction shall not be had on the statements of an accomplice unless corroborated by other evidence which in itself, and without the aid of the statements of the accomplice, tends to connect the defendant with the commission of the offense; and the corroboration shall not be sufficient if it merely shows the commission of the offense or the circumstances thereof.

An accomplice is hereby defined as one who is liable to prosecution, for the identical offense charged against the defendant on trial in the cause in which the statement of the accomplice is admitted.

INSTRUCTION NO. _____

One who has participated criminally in a given criminal venture shall be deemed to have such character, and such motives, that his testimony alone shall not rise to the dignity of proof beyond a reasonable doubt. In order for a defendant to be convicted on the testimony of an accomplice, the state must present other, independent evidence that tends to connect the defendant with the crime. The uncorroborated testimony of an accomplice has doubtful worth and his incrimination of another is not corroborated simply because he accurately describes the crime or the circumstances thereof.

INSTRUCTION NO. C

One who has participated criminally in a given criminal venture shall be deemed to have such character, and such motives, that his testimony alone shall not rise to the dignity of proof beyond a reasonable doubt.¹ In order for a defendant to be convicted on the testimony of an accomplice, the state must present other, independent evidence that tends to connect the defendant with the crime.² The uncorroborated testimony of an accomplice has doubtful worth and his incrimination of another is not corroborated simply because he accurately describes the crime or the circumstances thereof.³

¹ Austin v. State, 87 Nev. 578, 588, 491 P.2d 724, 731 (1971)

² Heglemeier v. State, 111 Nev. 1244, 1250, 903 P.2d 799, 803 (1995)

³ Austin v. State, 87 Nev. 578, 584, 491 P.2d 724, 728 (1971)

Before you may rely on circumstantial evidence to conclude that a fact necessary to find the defendant guilty has been proved, you must be convinced that the State has proved each fact essential to that conclusion beyond a reasonable doubt.

Also, before you may rely on circumstantial evidence to find the defendant guilty, you must be convinced that the only reasonable conclusion supported by the circumstantial evidence is that the defendant is guilty. If you can draw two or more reasonable conclusions from the circumstantial evidence, and one of those reasonable conclusions points to innocence and another to guilt, you must accept the one that points to innocence. However, when considering circumstantial evidence, you must accept only reasonable conclusions and reject any that are unreasonable.

INSTRUCTION NO. D

Before you may rely on circumstantial evidence to conclude that a fact necessary to find the defendant guilty has been proved, you must be convinced that the State has proved each fact essential to that conclusion beyond a reasonable doubt.

Also, before you may rely on circumstantial evidence to find the defendant guilty, you must be convinced that the only reasonable conclusion supported by the circumstantial evidence is that the defendant is guilty. If you can draw two or more reasonable conclusions from the circumstantial evidence, and one of those reasonable conclusions points to innocence and another to guilt, you must accept the one that points to innocence. However, when considering circumstantial evidence, you must accept only reasonable conclusions and reject any that are unreasonable.

A finding of guilt as to any crime may not be based on circumstantial evidence unless the proved circumstances are not only (1) consistent with the theory that the defendant is guilty of the crime, but (2) cannot be reconciled with any other rational conclusion.

Further, each fact which is essential to complete a set of circumstances necessary to establish the defendant's guilt must be proved beyond a reasonable doubt. In other words, before an inference essential to establish guilt may be found to have been proved beyond a reasonable doubt, each fact or circumstance on which the inference necessarily rests must be proved beyond a reasonable doubt.

Also, if the circumstantial evidence as to any particular count permits two reasonable interpretations, one of which points to the defendant's guilt and the other to his innocence, you must adopt that interpretation that points to the defendant's innocence, and reject that interpretation that points to his guilt.

If, on the other hand, one interpretation of this evidence appears to you to be reasonable and the other interpretation to be unreasonable, you must accept the reasonable interpretation and reject the unreasonable.

INSTRUCTION NO. E

A finding of guilt as to any crime may not be based on circumstantial evidence unless the proved circumstances are not only (1) consistent with the theory that the defendant is guilty of the crime, but (2) cannot be reconciled with any other rational conclusion.

Further, each fact which is essential to complete a set of circumstances necessary to establish the defendant's guilt must be proved beyond a reasonable doubt. In other words, before an inference essential to establish guilt may be found to have been proved beyond a reasonable doubt, each fact or circumstance on which the inference necessarily rests must be proved beyond a reasonable doubt.

Also, if the circumstantial evidence as to any particular count permits two reasonable interpretations, one of which points to the defendant's guilt and the other to his innocence, you must adopt that interpretation that points to the defendant's innocence, and reject that interpretation that points to his guilt.

If, on the other hand, one interpretation of this evidence appears to you to be reasonable and the other interpretation to be unreasonable, you must accept the reasonable interpretation and reject the unreasonable.

CALJIC 2.01 Sufficiency of Circumstantial Evidence; Honeycutt v. State, 118 Nev. 660 (2002); Carter v. State, 121 Nev. 759 (2005)

There are two kinds of evidence: direct and circumstantial. Direct evidence is testimony about what the witness personally saw or heard or did. Circumstantial evidence is indirect evidence, which proves one or more facts, the proof of which allows one to find another fact.

For example, if you wake up in the morning and see that the ground, the sidewalks and streets are all wet and water is running down the gutters, you may find from those facts that it rained during the night. From the proof of one or more fact you are able to find another. If you had been awake during the night and saw the rainfall, that would be direct evidence, something you personally witnessed.

You may consider both direct and circumstantial evidence in deciding this case. The law permits you to give equal weight or value to both, but it is for you to decide how much consideration to give to any evidence.

INSTRUCTION NO. F

There are two kinds of evidence: direct and circumstantial. Direct evidence is testimony about what the witness personally saw or heard or did. Circumstantial evidence is indirect evidence, which proves one or more facts, the proof of which allows one to find another fact.

For example, if you wake up in the morning and see that the ground, the sidewalks and streets are all wet and water is running down the gutters, you may find from those facts that it rained during the night. From the proof of one or more fact you are able to find another. If you had been awake during the night and saw the rainfall, that would be direct evidence, something you personally witnessed.

You may consider both direct and circumstantial evidence in deciding this case. The law permits you to give equal weight or value to both, but it is for you to decide how much consideration to give to any evidence.⁴

⁴ People v. Anderson, 61 Cal. Rptr. 3d 903, 908 (2007).

1
2 If the evidence relating to any or all the circumstances in this case, is susceptible of two
3 reasonable interpretations, one of which would point to LARRY BROWN'S guilt and the
4 other would suggest his innocence, then it is your duty in considering such evidence to adopt
5 that interpretation which will suggest LARRY BROWN'S innocence and reject that which
6 would point to his guilt.
7

8 You will notice the rule applies only when both of the two possible opposing
9 conclusions appear to you to be reasonable. If, on the other hand, one of the possible
10 conclusions should appear to you to be reasonable and the other to be unreasonable, it would
11 be your duty to adhere to the reasonable deduction and to reject the unreasonable, bearing in
12 mind, however, even if the reasonable deduction points to defendant's guilt, the entire proof
13 must be beyond a reasonable doubt to support a verdict of guilty.
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

INSTRUCTION NO. G

If the evidence relating to any or all the circumstances in this case, is susceptible of two reasonable interpretations, one of which would point to LARRY BROWN'S guilt and the other would suggest his innocence, then it is your duty in considering such evidence to adopt that interpretation which will suggest LARRY BROWN'S innocence and reject that which would point to his guilt.

You will notice the rule applies only when both of the two possible opposing conclusions appear to you to be reasonable. If, on the other hand, one of the possible conclusions should appear to you to be reasonable and the other to be unreasonable, it would be your duty to adhere to the reasonable deduction and to reject the unreasonable, bearing in mind, however, even if the reasonable deduction points to defendant's guilt, the entire proof must be beyond a reasonable doubt to support a verdict of guilty.⁵

⁵ In Crane v. State, 88 Nev. 684, 687; 504 P.2d 12 (1972), the court said it was permissible to give this instruction when the evidence is circumstantial, but other Nevada cases have held it is not error to refuse the instruction if the jury is properly instructed regarding reasonable doubt. Bails v. State, 92 Nev. 95, 97, 545 P.2d 1155 (1976) and cases cited therein.

BENEFIT OF DOUBT (Second Degree Murder)

If you are satisfied that the State has established beyond a reasonable doubt that the killing was unlawful, but you have a reasonable doubt whether the crime is Murder of the First Degree or Murder of the Second Degree, you must give the defendant the benefit of such doubt and find it to be Second Degree Murder rather than First Degree Murder.

BENEFIT OF DOUBT (Second Degree Murder)

If you are satisfied that the State has established beyond a reasonable doubt that the killing was unlawful, but you have a reasonable doubt whether the crime is Murder of the First Degree or Murder of the Second Degree, you must give the defendant the benefit of such doubt and find it to be Second Degree Murder rather than First Degree Murder.⁶

⁶ NRS 175.501.

You are instructed that attempts to cover up a crime, such attempts to conceal or dispose of evidence does not show premeditation: It is irrelevant to ascertaining a person's state of mind immediately prior to, or during the death.

Evasive conduct shows fear -- it cannot support the double inference that someone planned to hide his crime at the time it was committed.

INSTRUCTION NO. I

You are instructed that attempts to cover up a crime, such attempts to conceal or dispose of evidence does not show premeditation: It is irrelevant to ascertaining a person's state of mind immediately prior to, or during the death.

Evasive conduct shows fear -- it cannot support the double inference that someone planned to hide his crime at the time it was committed.⁷

⁷ People v. Anderson, 447 P.2d 942, 953 (Cal. 1968)

INSTRUCTION NO. _____

If you find that the State has not proven beyond a reasonable doubt that the defendant had the specific intent to perpetrate or attempt to perpetrate a Robbery, then the defendant cannot be liable for Robbery under a conspiracy and/or an aiding and abetting theory of liability for acts committed by a co-conspirator.

INSTRUCTION NO. J

If you find that the State has not proven beyond a reasonable doubt that the defendant had the specific intent to perpetrate or attempt to perpetrate a Robbery, then the defendant cannot be liable for Robbery under a conspiracy and/or an aiding and abetting theory of liability for acts committed by a co-conspirator.

Crawford v. State, 121 Nev. 746, 753, 121 P.3d 582, 588 (2005); Bolden v. State, 124 P.3d 191 (2005) (overruled on other grounds); see Sharma v. State, 118 Nev. 648 (2002)

If you find that the State has not proven beyond a reasonable doubt that the defendant had the specific intent to perpetrate or attempt to perpetrate a Robbery, then the defendant cannot be liable for Felony-Murder under a conspiracy and/or an aiding and abetting theory of liability for acts committed by a co-conspirator.

INSTRUCTION NO. K

If you find that the State has not proven beyond a reasonable doubt that the defendant had the specific intent to perpetrate or attempt to perpetrate a Robbery, then the defendant cannot be liable for Felony-Murder under a conspiracy and/or an aiding and abetting theory of liability for acts committed by a co-conspirator.

Crawford v. State, 121 Nev. 746, 753, 121 P.3d 582, 588 (2005); Bolden v. State, 124 P.3d 191 (2005)(overruled on other grounds); see Sharma v. State, 118 Nev. 648 (2002). Cases defining robbery as a general intent offense should be overruled or should be limited so as to not apply to felony murder charges as application of a general intent offense unconstitutionally alters the mens rea element of the murder charge.

To establish chain of custody and competent identification of evidence Nevada law requires (1) reasonable showing that substitution, alteration or tampering of the evidence did not occur; and, (2) the offered evidence is the same, or reasonably similar to the substance seized. It is not necessary to negate all possibilities of substitution or tampering with an exhibit, nor to trace its custody by placing each custodian upon the stand; it is sufficient to establish only that it is reasonably certain that no tampering or substitution took place, and the doubt, if any, goes to the weight of the evidence.

INSTRUCTION NO. L

To establish chain of custody and competent identification of evidence Nevada law requires (1) reasonable showing that substitution, alteration or tampering of the evidence did not occur; and, (2) the offered evidence is the same, or reasonably similar to the substance seized.⁸ It is not necessary to negate all possibilities of substitution or tampering with an exhibit, nor to trace its custody by placing each custodian upon the stand; it is sufficient to establish only that it is reasonably certain that no tampering or substitution took place, and the doubt, if any, goes to the weight of the evidence.⁹

⁸ Carter v. State, 84 Nev. 592, 446 P.2d 165 (1968)

⁹ Oliver v. State, 85 Nev. 10, 449 P.2d 252 (1969); Eisentrager v. State, 79 Nev. 38, 378 P.2d 526 (1963)

INSTRUCTION NO. _____

A defendant in a criminal action is presumed to be innocent until the contrary is proved; and in case of a reasonable doubt whether the defendant's guilt is satisfactorily shown, the defendant is entitled to be acquitted.

INSTRUCTION NO. M

A defendant in a criminal action is presumed to be innocent until the contrary is proved; and in case of a reasonable doubt whether the defendant's guilt is satisfactorily shown, the defendant is entitled to be acquitted.

INSTRUCTION NO. _____

Every person charged with the commission of a crime shall be presumed innocent until the contrary is proved by competent evidence beyond a reasonable doubt; and when an offense has been proved against the person, and there exists a reasonable doubt as to which of two or more degrees the person is guilty, the person shall be convicted only of the lowest.

INSTRUCTION NO. N

Every person charged with the commission of a crime shall be presumed innocent until the contrary is proved by competent evidence beyond a reasonable doubt; and when an offense has been proved against the person, and there exists a reasonable doubt as to which of two or more degrees the person is guilty, the person shall be convicted only of the lowest.

OBJ

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
Attorneys for Larry Decorleon Brown

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

DEC 19 2019

BY, A. Trujillo
ATHENA TRUJILLO, DEPUTY

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 OBJECTIONS TO
STATE'S PROPOSED JURY INSTRUCTIONS

Comes now the Defendant, Larry Decorleon Brown, by and through his counsel and objects on the following grounds to the State's proposed jury instructions. Each of the objections made herein is based upon the Nevada Constitutional and the United States Constitutional guarantees of due process and a fair trial under the Fifth and Fourteenth Amendments; the right to accurate and complete instructions on the law under the Fifth, Eighth and Fourteenth



1 Amendments; the right of equal protections of the laws under the Fifth and Fourteenth
2 Amendments.

3 **Malice**
4

5 The State proposes that the jury be instructed as follows:

6 Malice aforethought means the intentional doing of a wrongful act without legal
7 cause or excuse or what the law considers adequate provocation. The condition of
8 mind described as malice aforethought may arise, not alone from anger, hatred,
9 revenge or from particular ill will, spite or grudge toward the person killed, but may
10 result from any unjustifiable or unlawful motive or purpose to injure another, which
11 proceeds from a heart fatally bent on mischief or with reckless disregard of
consequences and social duty. Malice aforethought does not imply deliberation or
the lapse of any considerable time between the malicious intention to injure another
and the actual execution of the intent but denotes rather an unlawful purpose and
design in contradistinction to accident and mischance.

12 Mr. Brown objects to this instruction as it is confusing, misleading and archaic. This instruction
13 will not assist the jury in its determination as to whether the State has established the element of
14 malice. Mr. Brown recognizes that the Nevada Supreme Court has found that a defendant is not
15 deprived of a fair trial if this instruction is given. See Leonard v. State, 114 Nev. 1196, 1208, 969
16 P.2d 288, 296 (1988). He raises this issue so as to preserve this issue for reconsideration by the
17 Nevada Supreme Court and to preserve it for review by the federal courts. He also notes that the
18 Nevada Supreme Court has not mandated this instruction, so this Honorable Court remains free to
19 refuse this instruction as a matter of discretion.
20

21 **Implied Malice**
22

23 The State proposes that the jury be instructed as follows:

24 Express malice is that deliberate intention unlawfully to take away the life of a human
25 being, which is manifested by external circumstances capable of proof.

26 Malice may be implied when no considerable provocation appears, or when all the
27 circumstances of the killing show an abandoned and malignant heart.
28

1 Mr. Brown objects to this instruction on the grounds that it relieves the State of its burden of
2 proving beyond a reasonable doubt the element of malice and uses terms that are archaic, without
3 rational content and of no real assistance to the jury in determining whether the State has met its
4 burden of proving that Mr. Brown acted with malice. He recognizes that the Nevada Supreme
5 Court has found that a defendant is not deprived of a fair trial if this instruction is given. See
6 Leonard v. State, 117 Nev. 53, 78-79, 17 P.3d 397, 413 (2001). He raises this issue so as to
7 preserve this issue for reconsideration by the Nevada Supreme Court and to preserve it for review
8 by the federal courts. He also notes that the Nevada Supreme Court has not mandated this
9 instruction, so this Court remains free to refuse this instruction as a matter of discretion.

11 **Alternative Theories of First Degree Murder**

12 The State proposes that the jury be instructed as follows:

13 Although your verdict must be unanimous as to the charge, you do not have to
14 agree on the theory of guilt or liability. Therefore, even if you cannot agree on whether the
15 facts establish the defendant is guilty of Premeditated and Deliberate Murder or Felony
16 Murder, or is liable as a principle, aider and abettor, or co-conspirator, so long as all of you
agree that the evidence establishes the defendant's guilt of murder in the first degree, your
verdict shall be Murder of the First Degree.

17 Mr. Brown objects to this instruction on the following grounds:

18 (1) The instruction misstates the burden of prove by speaking in the passive voice
19 rather than active voice. The instruction must be changed to reflect that it is the State of Nevada
20 which bears the burden of proving each of the alternative theories.

21 (2) Mr. Brown recognizes that the Nevada Supreme Court has held that the jury need
22 not be unanimous on the alternative theories of liability. He raises this issue so as to preserve this
23 issue for reconsideration by the Nevada Supreme Court and to preserve it for review by the federal
24 courts.
25

26 **Deadly Weapon Enhancements for Robbery**

27 The State proposes that the jury be instructed as follows:
28

1 You are instructed that if you find a defendant guilty of Robbery, you must
2 also determine whether or not a deadly weapon was used in the commission of this
3 crimes.

4 If you find beyond a reasonable doubt that the defendant committed Robbery With
5 the Use of a Deadly Weapon, then you are instructed that the verdict of Robbery With the
6 Use of a Deadly Weapon is the appropriate verdict.

7 If however, you find that a Deadly Weapon was not used in the commission of the
8 Robbery, but you do find that a Robbery was committed, then you are instructed that the
9 verdict of Robbery is the appropriate verdict.

10 Mr. Brown objects to this instruction on the following grounds:

11 (1) The deadly weapon enhancement is unconstitutional under the Second, Fifth, Ninth
12 and Fourteenth Amendments to the federal constitution and Article I, Section 11 of the Nevada
13 Constitution. Mr. Brown has a fundamental constitutional right to possess arms and that right may
14 not be infringed in the manner provided for by Nevada's deadly weapon enhancement.

15 (2) This instruction erroneously suggests that Mr. Brown may receive the weapons
16 enhancement for the use of weapons, even if Mr. Brown did not know of their weapons and did not
17 exercise dominion and control over those weapons. See Anderson v. State, 95 Nev. 625, 629, 600
18 P.2d 241, 243 (1979); Walters v. State, 108 Nev. 186, 189, 825 P.2d 1237, 1239-40 (1992).

19 (3) The State should not be allowed to seek enhancement of multiple offenses for use
20 of a single weapon. It should be limited to a single enhancement based upon the single incident.

21 (4) As a matter of public policy and statutory construction, the State should not be
22 permitted to seek weapons enhancements for acts committed by co-defendants as doing so
23 encourages each participant to an offense to bring a weapon as there is no discouragement for
24 bringing fewer weapons. There is no indication that the Legislature intended this absurd result and
25 no language in the aiding and abetting or conspiracy statute which suggests that enhancements, as
26 opposed to primary offenses, may be imputed to a co-defendant.

27 **Deadly Weapon Enhancements for Murder**

28 The State proposes that the jury be instructed as follows:

You are instructed that if you find a defendant guilty of First or Second Degree
Murder you must also determine whether or not a deadly weapon was used in the
commission of this crime.

If you find beyond a reasonable doubt that a deadly weapon was used in the
commission of such an offense, then you shall return the appropriate guilty verdict
reflecting "With Use of a Deadly Weapon."

1 If, however, you find that a deadly weapon was not used in the commission of such
2 an offense, but you find that it was committed, then you shall return the appropriate guilty
3 verdict reflecting that a deadly weapon was not used.

4 Mr. Brown incorporates by reference the objection listed above for the robbery deadly weapon
5 enhancement here.

6 **Definition of Deadly Weapon**

7 The State proposes that the jury be instructed as follows:

8 "Deadly weapon" means any instrument which, if used in the ordinary
9 manner contemplated by its design and construction, will or is likely to cause
10 substantial bodily harm or death, or, any weapon, device, instrument, material or
11 substance which, under the circumstances in which it is used, attempted to be used
12 or threatened to be used, is readily capable of causing substantial bodily harm or
13 death.

14 The State is not required to have recovered the deadly weapon used in an alleged
15 crime, or to produce the deadly weapon in court at trial, to establish that a deadly weapon
16 was used in the commission of the crime.

17 Mr. Brown objects to these instructions on the following grounds:

18 (1) The deadly weapon enhancement is unconstitutional under the Second, Fifth, Ninth
19 and Fourteenth Amendments to the federal constitution and Article I, Section 11 of the Nevada
20 Constitution. Mr. Brown has a fundamental constitutional right to possess arms and that right may
21 not be infringed in the manner provided for by Nevada's deadly weapon enhancement.

22 (2) The second paragraph erroneously suggests that the identity of the defendant who
23 owned and used the weapon is immaterial and that the weapons enhancement should be applied to
24 all participants in the offense, without regard to whether they each had knowledge, dominion and
25 control over the weapon.

26 **Conspiracy**

27 The State proposes that the jury be instructed as follows:

28 A conspiracy is an agreement between two or more persons for an unlawful
purpose. To be guilty of conspiracy, a defendant must intend to commit, or to aid in
the commission of, the specific crime agreed to. The crime is the agreement to do
something unlawful; it does not matter whether it was successful or not.

...
A conspiracy to commit a crime does not end upon the completion of the
crime. The conspiracy continues until the co-conspirators have successfully gotten
away and concealed the crime.

Mr. Brown objects to the third paragraph of this instruction as there are other means of terminating
a conspiracy, such as withdrawal or arrest, as a conspiracy does not live on indefinitely in cases
where the co-conspirators are unsuccessful in escaping or concealing the offense.

1 **Conspiracy: Agreement**

2 The State proposes that the jury be instructed as follows:

3 A conspiracy is an agreement between two or more persons for an unlawful purpose. To be
4 guilty of conspiracy, a defendant must intend to commit, or to aid in the commission of, the
specific crime agreed to. The crime is the agreement to do something unlawful; it does not matter
whether it was successful or not.

5 The last sentence of this instruction is misleading and erroneous. To be guilty of the crime of
6 conspiracy to commit murder, the State must prove that the defendant agreed to commit murder,
7 not to do something unlawful. Bolden v. State, 121 Nev. 909, 921, 124 P.3d 191, 200 (2005). The
8 instruction should state "the crime is the agreement to commit the offense of murder; it does not
9 matter whether it was successful or not."
10

11 **Evidence of Conspiracy**

12 The State proposes that the jury be instructed as follows:

13 It is not necessary in proving a conspiracy to show a meeting of the alleged conspirators or
14 the making of an express or formal agreement. The formation and existence of a conspiracy may
15 be inferred from all circumstances tending to show the common intent and may be proved in the
same way as any other fact may be proved, either by direct testimony of the fact or by
circumstantial evidence, or by both direct and circumstantial evidence.

16 Mr. Brown objects to this instruction on the ground that it improperly minimizes the State's burden
17 of proving the specific intent element of conspiracy and erroneously suggests that a conspiracy
18 may be found based upon the mere showing of a common objective, even in the absence of an
19 agreement.

20 **Conspiracy: Members**

21 The State proposes that the jury be instructed as follows:

22 Each member of a criminal conspiracy is liable for each act and bound by each declaration
23 of every other member of the conspiracy if the act or the declaration is in furtherance of the
24 object of the conspiracy.

25 The act of one conspirator pursuant to or in furtherance of the common design of the
26 conspiracy is the act of all conspirators. Every conspirator is legally responsible for a
27 specific intent crime of a co-conspirator so long as the specific intent crime was intended
28 by the Defendant. A conspirator is also legally responsible for a general intent crime that
follows as one of the reasonably foreseeable consequences of the object of the conspiracy
even if it was not intended as part of the original plan and even if he was not present at the
time of the commission of such act.

1 Mr. Brown objects to paragraph two of this instruction. This portion will not assist the jury in
2 determining whether a criminal conspiracy existed. Rather, the discussion of specific and general
3 intent crimes will confuse the jury.

4
5 **Co-conspirator Statements**

6 The State proposes that the jury be instructed as follows:

7 Whenever there is slight evidence that a conspiracy existed, and that the defendant was one
8 of the members of the conspiracy, then the statements and the acts by any person likewise a
9 member may be considered by the jury as evidence in the case as to the defendant found to
10 have been a member, even though the statements and acts may have occurred in the
11 absence and without the knowledge of the defendant, provided such statements and acts
12 were knowingly made and done during the continuance of such conspiracy, and in
13 furtherance of some object or purpose of the conspiracy.

14 Mr. Brown objects to this entire instruction as confusing to the jury.

15
16 **Reasonable Doubt**

17 Mr. Brown objects to the State's proposed instruction on the presumption of innocence. The State
18 proposes to instruct the jury as follows:

19 The Defendant is presumed innocent until the contrary is proved. This
20 presumption places upon the State the burden of proving beyond a reasonable doubt
21 every element of the crime charged and that the Defendant is the person who
22 committed the offense.

23 The Defendant is presumed innocent until the contrary is proved. This
24 presumption places upon the State the burden of proving beyond a reasonable doubt every
25 element of the crime charged and that the Defendant is the person who committed the
26 offense.

27 A reasonable doubt is one based on reason. It is not mere possible doubt but is
28 such a doubt as would govern or control a person in the more weighty affairs of life. If the
minds of the jurors, after the entire comparison and consideration of all the evidence, are in
such a condition that they can say they feel an abiding conviction of the truth of the charge,
there is not a reasonable doubt. Doubt to be reasonable must be actual, not mere possibility
or speculation.

If you have a reasonable doubt as to the guilt of the Defendant, he is entitled to a
verdict of not guilty.

1 Mr. Brown objects to this instruction because the first paragraph is not supported by Nevada
2 statutory authority and Nevada statutes provide a better definition of this concept. Mr. Brown
3 urges this Court to instruct the jury in accordance with the applicable statutes.

4 The portion of the instruction at issue here is the first paragraph and not the second
5 paragraph. Mr. Brown recognizes that NRS 175.211 mandates the second paragraph of the
6 instruction and recognizes that the Nevada Supreme Court has repeatedly affirmed the
7 constitutionality of the second paragraph of this instruction. See e.g. Buchanan v. State, 119 Nev.
8 201, 221, 69 P.3d 694, 708 (2003); Lord v. State, 107 Nev. 28, 38, 806 P.2d 548, 554 (1991).

9 It does not appear that the Nevada Supreme Court has directly addressed the first paragraph
10 of the instruction in light of the statutory definitions of the presumption of innocence, which are
11 different than the instruction given here.

12 The first paragraph of this instruction is not mandated by statute. Either of Nevada's two
13 instructions on the presumption of innocence are more appropriate instructions. NRS 175.191
14 provides the following:

15 A defendant in a criminal action is presumed to be innocent until the
16 contrary is proved; and in case of a reasonable doubt whether the defendant's guilt
is satisfactorily shown, the defendant is entitled to be acquitted.

17 NRS 175.201 provides the following:

18 Every person charged with the commission of a crime shall be presumed
19 innocent until the contrary is proved by competent evidence beyond a reasonable
20 doubt; and when an offense has been proved against the person, and there exists a
reasonable doubt as to which of two or more degrees the person is guilty, the person
shall be convicted only of the lowest.

21 In light of the clear statute on point, it is appropriate to instruct the jury in the statutory terms
22 rather than the State's proposed instruction. Mr. Brown's state and federal constitutional rights to
23 due process of law require that the jury be instructed in accord with Nevada's statutory authority.

24 Mr. Brown submits that the jury must be instructed in accord with statutory authority and
25 that the first paragraph of the State's proposed instruction be replaced with the statutory language.
26
27
28

1 **Guilt or Innocence**

2 The State proposes that the jury be instructed as follows:

3 You are here to determine whether the Defendant is guilty or not guilty from the evidence
4 in the case. You are not called upon to return a verdict as to whether any other person is guilty or
5 not guilty. So, if the evidence in the case convinces you beyond a reasonable doubt of the guilt of
6 the Defendant, you should so find, even though you may believe one or more other persons are
7 also guilty.

8 Mr. Brown objects to this instruction on the ground that it misstates the jury's role. The jury's sole
9 function in this phase of the trial is to determine whether the State has met its burden of proving
10 beyond a reasonable doubt that Mr. Brown is guilty of each of the offenses charged in the
11 Indictment. He also objects to this instruction on the ground that it informs the jurors that they are
12 to return a guilty verdict if they find Mr. Brown is guilty and also believe that other persons are
13 guilty, but it fails to give the jury any guidance as to what to do if they find Mr. Brown not guilty,
14 even though others are guilty.

15 **Equal and Exact Justice**

16 The State proposes that the jury be instructed as follows:

17 Now you will listen to the arguments of counsel who will endeavor to aid
18 you to reach a proper verdict by refreshing in your minds the evidence and by
19 showing the application thereof to the law; but, whatever counsel may say, you will
20 bear in mind that it is your duty to be governed in your deliberation by the evidence
21 as you understand it and remember it to be and by the law as given to you in these
22 instructions, with the sole, fixed and steadfast purpose of doing equal and exact
23 justice between the Defendant and the State of Nevada.

24 Mr. Brown objects to the last line of this instruction, which requires the jury to do "equal and exact
25 justice" because this instruction is confusing, it shifts the burden of proof, it relieves the State of its
26 burden of proof, and it is misleading. He recognizes that the Nevada Supreme Court has rejected
27 arguments concerning this instruction, see Thomas v. State, 120 Nev. 37, 46, 83 P.3d 818, 824
28 (2006), but he nevertheless raises this issue so as to provide the Nevada Supreme Court with the

1 opportunity to overrule its prior decision and to preserve this issue for federal court review. In
2 addition, Mr. Brown notes that the Nevada Supreme Court has not required that the district courts
3
4
5 give this instruction and this Court therefore retains the discretion to reject the objectionable
6 language.
7

8 **Premeditation:**

9 The State proposes to instruct the jury as follows:

10 "Premeditation need not be for a day, an hour, or even a minute. It may be
11 as instantaneous as successive thoughts of the mind. For if the jury believes from
12 the evidence that the act constituting the killing has been preceded by and has been
13 the result of premeditation, no matter how rapidly the act follows the premeditation,
14 it is premeditated."

15 The State does not cite to any legal authority in their proposed instruction but the relevant
16 Nevada case they most likely rely on is Byford v. State 994 P.2d 700, 714 (Nev. 2000). Mr.
17 Brown objects to this instruction because it removes the burden on the State to prove
18 premeditation and blurs the distinction between Murder in the 1st and 2nd degrees. Although
19 Byford is still valid law in Nevada, other jurisdictions have addressed this issue in a different light.
20 In State v. Thompson, the Arizona Supreme Court noted:

21 We conclude, as did the court of appeals, that if the only difference between first
22 and second degree murder is the mere passage of time, and that length of time can
23 be "as instantaneous as successive thoughts of the mind," then there is no
24 meaningful distinction between first and second degree murder. Such an
25 interpretation would relieve the state of its burden to prove actual reflection and
26 would render the first degree murder statute impermissibly vague and therefore
27 unconstitutional under the United States and Arizona Constitutions.

28 State v. Thompson, 204 Ariz. 471, 478, 65 P.3d 420, 427 (2003).

Although the Second Degree Murder instruction notes that Murder in the Second Degree
does not require premeditation and deliberation, Mr. Brown finds that the language of
"instantaneous" and "successive" is misleading, violates his rights under the U.S. Constitution, and

1 requests that this language be removed from the instruction or that the instructions include more
2 concrete language that adequately explains the State's burden to prove 1st and 2nd degree murder.

3 **Premeditation Continued**

4 The State proposes to instruct the jury as follows:

5 The law does not undertake to measure in units of time the length of the period during
6 which the thought must be pondered before it can ripen into an intent to kill which is truly
7 deliberate and premeditated. The time will vary with different individuals and under
8 varying circumstances.

9 The true test is not the duration of time, but rather the extent of the reflection. A cold,
10 calculated judgment and decision may be arrived at in a short period of time, but a mere
11 unconsidered and rash impulse, even though it includes an intent to kill, is not deliberation
12 and premeditation as will fix an unlawful killing as murder of the first degree.

13 Mr. Brown objects to this entire instruction as cumulative and repetitive to the previous
14 instruction.
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2 DATED this __ day of December, 2019.
3

4 RESPECTFULLY SUBMITTED:
5

6 /s/ MONICA TRUJILLO
7

8 MONICA R. TRUJILLO
9 W. JEREMY STORMS
10 Attorneys for BROWN

11 CERTIFICATE OF ELECTRONIC FILING

12 I hereby certify that service of the above and foregoing, was made on the __ day of
13 December, 2019, by Electronic Filing to:
14

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

17 /s/ Elizabeth (Lisa Araiza
18

19 Legal Secretary
20 Special Public Defender
21
22
23
24
25
26
27
28

THE NEW PHONE
NUMBER THAT
LARRY MAD WAS
SPRINT THE
CARRIER?

(13)



ON 3/9 I SAW

A SEARCH FOR

LARRY BROWN.

CAN YOU SHOW

AGAIN?

(13)

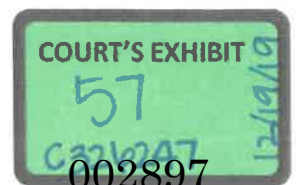


002896

11

There was a search after
(3/5) March 5 for
"Larry Brown - Atlanta"

Can we review the info?



#4 | Does the current news on
Ktnv website automatically
pop-up on cell phone?





State of Nevada vs. Larry Brown

TWO QUESTIONS:

- Were crimes committed?
- If so, who committed them?

THE CRIMES:

- Count 1 – Conspiracy to Commit Robbery
- Count 2 – Robbery with Use of a Deadly Weapon
- Count 3 – Murder with Use of a Deadly Weapon

COUNT 1

COUNT 1 - CONSPIRACY TO COMMIT ROBBERY

Defendant on or about February 21, 2017 willfully, unlawfully, and feloniously conspire with ANTHONY CARTER to commit a robbery, by the defendants committing the acts as set forth in Counts 2 and 3, said acts being incorporated by this reference as though fully set forth herein.

COUNT 2

COUNT 2 - ROBBERY WITH USE OF A DEADLY WEAPON

Defendant did on or about February 21, 2017 willfully, unlawfully, and feloniously take personal property, to-wit: U.S. Currency and/or vehicle keys and/or vehicle, from the person of KWAME BANKS, or in his presence, by means of force or violence, or fear of injury to, and without the consent and against the will of KWAME BANKS, with use of a deadly weapon, to-wit: a firearm, defendant using force or fear to obtain or retain possession of the property, to prevent or overcome resistance to the taking of the property, and/or to facilitate escape, the Defendants being criminally liable under one or more of the following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with the intent that this crime be committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise procuring the other to commit the crime, whereby Defendant ANTHONY CARTER, hereinafter and/or set up a meeting with KWAME BANKS under the ruse of a drug deal, thereafter, Defendants LARRY DECORLEON BROWN and/or ANTHONY CARTER robbed and/or attempted to rob the said KWAME BANKS; and/or (3) pursuant to a conspiracy to commit this crime, with the intent that this crime be committed.

COUNT 3

COUNT 3 - MURDER WITH USE OF A DEADLY WEAPON

Defendant did on or about February 21, 2017 willfully, unlawfully, feloniously and with malice aforethought, kill KWAME BANKS, a human being, with use of a deadly weapon, to-wit: a firearm, by shooting at or into the body of the said KWAME BANKS, the said killing having been (1) willful, deliberate and premeditated, and/or (2) committed during the perpetration or attempted perpetration of a robbery and/or attempt robbery, the Defendants being criminally liable under one or more of the following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with the intent that this crime be committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise procuring the other to commit the crime, whereby Defendant ANTHONY CARTER here and/or set up a meeting with KWAME BANKS under the ruse of a drug deal, thereafter, Defendants LARRY DECORLEON BROWN and/or ANTHONY CARTER robbed and/or attempted to rob the said KWAME BANKS, thereafter the said KWAME BANKS was shot in the chest and killed during the course of the robbery and/or attempted robbery by Defendants LARRY DECORLEON BROWN and/or ANTHONY CARTER; and/or (3) pursuant to a conspiracy to commit this crime, with the intent that this crime be committed.

COURT'S EXHIBIT

59

C326247

002899

THEORIES OF LIABILITY

Where two or more persons are accused of committing a crime together, their guilt may be established without proof that each personally did every act constituting the offense charged.

All persons concerned in the commission of a crime who either directly and actively commit the act constituting the offense or who knowingly and with criminal intent aid and abet in its commission or, whether present or not, who advise and encourage its commission, with the intent that the crime be committed, are regarded by the law as principals in the crime thus committed and are equally guilty thereof.

A person aids and abets the commission of a crime if he knowingly and with criminal intent aids, promotes, encourages or instigates by act or advice, or by act and advice, the commission of such crime with the intention that the crime be committed.

The State is not required to prove precisely which defendant actually committed the crime and which defendant aided and abetted.

THEORIES OF LIABILITY

The act of one conspirator pursuant to or in furtherance of the common design of the conspiracy is the act of all conspirators. Every conspirator is legally responsible for a specific intent crime of a co-conspirator so long as the specific intent crime was intended by the Defendant. A conspirator is also legally responsible for a general intent crime that follows as one of the reasonably foreseeable consequences of the object of the conspiracy even if it was not intended as part of the original plan and even if he was not present at the time of the commission of such act.

THEORIES OF LIABILITY

While a guilty verdict must be unanimous, you need not be unanimous on the means or the theory of liability in arriving at your verdict. In other words, you do not need to be unanimous in deciding whether the defendant is responsible by directly committing an offense or by being an aider or abettor.

CONSPIRACY TO COMMIT ROBBERY

A conspiracy is an agreement between two or more persons for an unlawful purpose. To be guilty of conspiracy, a defendant must intend to commit, or to aid in the commission of, the specific crime agreed to. The crime is the agreement to do something unlawful; it does not matter whether it was successful or not.

It is not necessary in proving a conspiracy to show a meeting of the alleged conspirators or the making of an express or formal agreement. The formation and existence of a conspiracy may be inferred from all circumstances tending to show the common intent and may be proved in the same way as any other fact may be proved, either by direct testimony of the fact or by circumstantial evidence, or by both direct and circumstantial evidence.

ROBBERY

Robbery is the unlawful taking of personal property from the person of another, or in his presence, against his will, by means of force or violence or fear of injury, immediate or future, to his person or property, or of anyone in his company at the time of the Robbery.

Such force or fear must be used to obtain or retain possession of the property, to prevent or overcome resistance to the taking, or to facilitate escape, in either of which cases the degree of force is immaterial if used to compel acquiescence to the taking of or escaping with the property.

DEADLY WEAPON

"Deadly weapon" means any instrument which, if used in the ordinary manner contemplated by its design and construction, will or is likely to cause substantial bodily harm or death, or, any weapon, device, instrument, material or substance which, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing substantial bodily harm or death.

A firearm is a deadly weapon

The State is not required to have recovered the deadly weapon used in an alleged crime, or to produce the deadly weapon in court at trial, to establish that a deadly weapon was used in the commission of the crime.

MURDER

Murder is the unlawful killing of a human being with malice aforethought, either express or implied. The unlawful killing may be effected by any of the various means by which death may be occasioned.

MURDER

Express malice is that deliberate intention unlawfully to take away the life of a human being, which is manifested by external circumstances capable of proof.

Malice may be implied when no considerable provocation appears, or when all the circumstances of the killing show an abandoned and malignant heart.

FIRST DEGREE MURDER

Murder of the first degree is murder which is (1) perpetrated by any kind of willful, deliberate, and premeditated killing; or (2) committed in the perpetration or attempted perpetration of a robbery or attempted robbery.

FIRST DEGREE MURDER PREMEDITATED & DELIBERATE MURDER

Willfulness is the intent to kill. There need be no appreciable space of time between formation of the intent to kill and the act of killing.

Deliberation is the process of determining upon a course of action to kill as a result of thought, including weighing the reasons for and against the action and considering the consequences of the action.

A deliberate determination may be arrived at in a short period of time. But in all cases the determination must not be formed in passion, or if formed in passion, it must be carried out after there has been time for the passion to subside and deliberation to occur. A mere unconsidered and rash impulse is not deliberate, even though it includes the intent to kill.

Premeditation is a design, a determination to kill, distinctly formed in the mind by the time of the killing.

PREMEDITATION

Premeditation need not be for a day, an hour, or even a minute. It may be as instantaneous as successive thoughts of the mind. For if the jury believes from the evidence that the act constituting the killing has been preceded by and has been the result of premeditation, no matter how rapidly the act follows the premeditation, it is premeditated.

FIRST DEGREE MURDER

Felony murder is a different theory of First Degree Murder.

There are certain kinds of Murder in the First Degree which carry with them conclusive evidence of malice aforethought. One of these classes of First Degree Murder is a killing committed in the perpetration or attempted perpetration of certain felony crimes, including Robbery. Therefore, a killing which is committed in the perpetration of, or attempted perpetration of, a Robbery is deemed to be Murder in the First Degree, whether the killing was intentional, unintentional, or accidental.

This is called the Felony-Murder Rule.

The intent to perpetrate or attempt to perpetrate a Robbery must be proven beyond a reasonable doubt.

A defendant cannot be liable for Felony-Murder under a conspiracy and/or an aiding and abetting theory of liability for acts committed by a co-conspirator unless the Defendant also had the specific intent to commit the Robbery.

FIRST DEGREE MURDER

FIRST DEGREE MURDER

whether the killing was intentional, unintentional, or accidental.

Although your verdict must be unanimous as to the charge, you do not have to agree on the theory of guilt or liability. Therefore, even if you cannot agree on whether the facts establish the defendant is guilty of Premeditated and Deliberate Murder or Felony Murder, or is liable as a principle, aider and abettor, or co-conspirator, so long as all of you agree that the evidence establishes the defendant's guilt of murder in the first degree, your verdict shall be Murder of the First Degree.

TWO QUESTIONS:

- Were crimes committed?

Whenever there is slight evidence that a conspiracy existed, and that the defendant was one of the members of the conspiracy, then the statements and the acts by any person likewise a member may be considered by the jury as evidence in the case as to the defendants found to have been a member, even though the statements and acts may have occurred in the absence and without the knowledge of the defendant, provided such statements and acts were knowingly made and done during the continuance of such conspiracy, and in furtherance of some object or purpose of the conspiracy.

Conspiracy began prior to 2/21/17

Text/Calls from Defendant's Phone

Call log	incoming	2/14/2017 7:53:42 AM (UTC-8)	From: 762/610/1702 Paka	09:30:14
SMS Messages	incoming	2/14/2017 7:55:57 PM (UTC-8)	From: 762/610/1702 Paka	AM
SMS Messages	incoming	2/14/2017 8:47:19 PM (UTC-8)	From: 762/610/1702 Paka	AM
SMS Messages	incoming	2/14/2017 9:14:34 PM (UTC-8)	18: 762/610/1702 Paka	18: 18:30:00 to 18:45:00
SMS Messages	incoming	2/15/2017 6:54:31 AM (UTC-8)	From: 762/610/1702 Paka	AM
SMS Messages	incoming	2/15/2017 7:51:02 AM (UTC-8)	From: 762/610/1702 Paka	AM
SMS Messages	incoming	2/15/2017 7:57:32 AM (UTC-8)	762/610/1702 Paka	AM

EMAIL Messages	Outgoing	2/15/2017 12:11:28 PM (UTC-8)	To: 7025612072 Pake	Everything will good tom
Call Log	Incoming	2/15/2017 12:16:17 PM (UTC-8)	From: 7025612072 Pake	6/20/145
SMS Messages	Incoming	2/15/2017 12:16:52 PM (UTC-8)	From: 7025612072 Pake	See on the way to the in airport
SMS Messages	Incoming	2/15/2017 12:27:52 PM (UTC-8)	From: 7025612072 Pake	See on the way to the in airport
SMS	Incoming	2/15/2017	From: 7025612072 Pake	Al bujiz
SMS Messages	Incoming	2/15/2017 12:38:05 PM (UTC-8)	To: 7025612072 Pake	Remay
EMAIL Messages	Incoming	2/15/2017 12:38:31 PM (UTC-8)	From: 7025612072 Pake	He coming from Airport
EMAIL Messages	Incoming	2/15/2017 12:38:36 PM (UTC-8)	From: 7025612072 Pake	He coming from Airport
SMS Messages	Outgoing	2/15/2017 12:59:07 PM (UTC-8)	To: 7025612072 Pake	OK
Call Log	Incoming	2/15/2017 1:00:26 PM (UTC-8)	From: 7025612072 Pake	06/15
SMS Messages	Incoming	2/15/2017 1:10:47 PM (UTC-8)	From: 7025612072 Pake	See 10 min away from the world in about 30 min to handle it

SMS Messages	incoming		2/15/2017 4:11:22 PM (UTC-8)	From: 7025812072 Pake	He behind is Sam go to. Come with me to there
SMS Messages	incoming		2/15/2017 4:11:24 PM (UTC-8)	From: 7025812072 Pake	Good to see it
SMS Messages	incoming		2/15/2017 4:11:25 PM (UTC-8)	From: 7025812072 Pake	Good to see it
SMS Messages	incoming		2/15/2017 4:11:26 PM (UTC-8)	From: 7025812072 Pake	Plenty of
SMS Messages	incoming		2/15/2017 4:11:27 PM (UTC-8)	From: 7025812072 Pake	Oh he is
SMS Messages	incoming		2/15/2017 4:11:28 PM (UTC-8)	From: 7025812072 Pake	Oh he is
Call Log	Outgoing		2/15/2017 4:11:29 PM (UTC-8)	To: 7025812072 Pake	00:00:51
Call Log	Outgoing		2/15/2017 4:11:30 PM (UTC-8)	From: 7025812072 Pake	00:01:43

SMS Messages	incoming		2/15/2017 4:11:31 PM (UTC-8)	From: 7025812072 Pake	Oh he will be here and you'll be here with me
Call Log	Outgoing		2/15/2017 4:11:32 PM (UTC-8)	To: 7025812072 Pake	00:01:46
SMS Messages	incoming		2/15/2017 4:11:33 PM (UTC-8)	From: 7025812072 Pake	Oh he is
SMS Messages	incoming		2/15/2017 4:11:34 PM (UTC-8)	From: 7025812072 Pake	Oh he is
Call Log	Outgoing		2/15/2017 4:11:35 PM (UTC-8)	To: 7025812072 Pake	00:01:50

SMS Messages	incoming		2/15/2017 4:11:36 PM (UTC-8)	From: 7025812072 Pake	From he going to meet me at 4:11 between 3:30 and 10
SMS Messages	incoming		2/15/2017 4:11:37 PM (UTC-8)	From: 7025812072 Pake	He is not going to meet me
Call Log	Outgoing		2/15/2017 4:11:38 PM (UTC-8)	To: 7025812072 Pake	00:01:51
SMS Messages	incoming		2/15/2017 4:11:39 PM (UTC-8)	From: 7025812072 Pake	He is not going to meet me
SMS Messages	incoming		2/15/2017 4:11:40 PM (UTC-8)	From: 7025812072 Pake	He is not going to meet me
SMS Messages	incoming		2/15/2017 4:11:41 PM (UTC-8)	From: 7025812072 Pake	He is not going to meet me
SMS Messages	incoming		2/15/2017 4:11:42 PM (UTC-8)	From: 7025812072 Pake	He is not going to meet me
Call Log	Outgoing		2/15/2017 4:11:43 PM (UTC-8)	To: 7025812072 Pake	00:01:52
Call Log	Outgoing		2/15/2017 4:11:44 PM (UTC-8)	To: 7025812072 Pake	00:01:53

incoming			2/15/2017 4:11:45 PM (UTC-8)	From: 7025812072 Pake	Apartment 101
incoming			2/15/2017 4:11:46 PM (UTC-8)	From: 7025812072 Pake	Apartment 101
incoming			2/15/2017 4:11:47 PM (UTC-8)	From: 7025812072 Pake	Apartment 101
incoming			2/15/2017 4:11:48 PM (UTC-8)	From: 7025812072 Pake	Apartment 101
incoming			2/15/2017 4:11:49 PM (UTC-8)	From: 7025812072 Pake	Apartment 101
Outgoing			2/15/2017 4:11:50 PM (UTC-8)	To: 7025812072 Pake	Apartment 101
incoming			2/15/2017 4:11:51 PM (UTC-8)	From: 7025812072 Pake	Apartment 101
Outgoing			2/15/2017 4:11:52 PM (UTC-8)	To: 7025812072 Pake	Apartment 101
incoming			2/15/2017 4:11:53 PM (UTC-8)	From: 7025812072 Pake	Apartment 101

SMS Messages	incoming		2/15/2017 4:11:54 PM (UTC-8)	From: 7025812072 Pake	He is not going to meet me
SMS Messages	incoming		2/15/2017 4:11:55 PM (UTC-8)	From: 7025812072 Pake	He is not going to meet me

Where was Larry Brown?



DMG M. Gargano	Outgoing	2/15/2017 10:48:22 PM (UTC-8)	From: 7025643072 Peko	Trans: 7025643072 Peko	Trans: 7025643072 Peko
DMG M. Gargano	Outgoing	2/15/2017 10:49:40 PM (UTC-8)	To: 7025643072 Peko		Trans: 7025643072 Peko
DMG M. Gargano	Outgoing	2/15/2017 10:50:09 PM (UTC-8)	To: 7025643072 Peko		Trans: 7025643072 Peko

[illegible][illegible]

February 21, 2017 – 9:00 AM to 11:40 AM

Carter to Kwame Banks:

92/21/2017 17:16:25 60 mOriginating Outgoing 17025812072 17027552805
MSIN-MSC

- Carter (9:26 AM [UTC -5]): Fam bros called me for bags still should I tell him today or tomorrow my dawg

02/21/2017 17:34:21	60	m\$Originsing5 MSinMSC	Outgoing	17025612072	17027652809
---------------------	----	---------------------------	----------	-------------	-------------

- Carter (9:34 AM (UTC -8)): Brodie he just text me he get off at 7.30 then he ready

Message	Incoming	2/2/2017 9:01 AM UTC	From: 7025812072 Pake : Tonight the night my brother ...
---------	----------	-------------------------	--

Brown to Carter

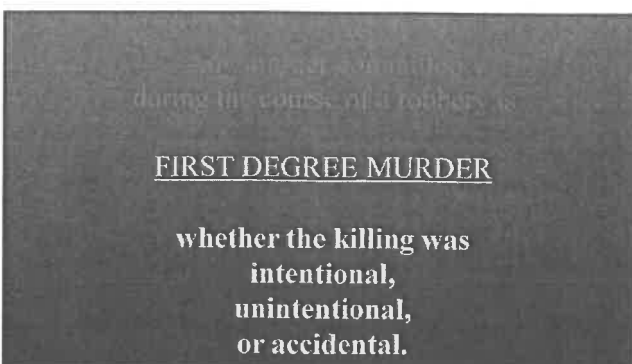
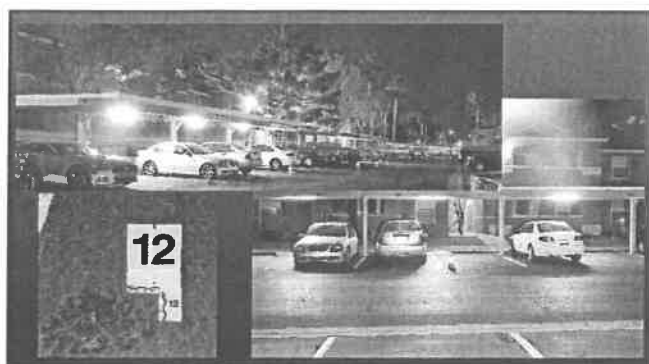
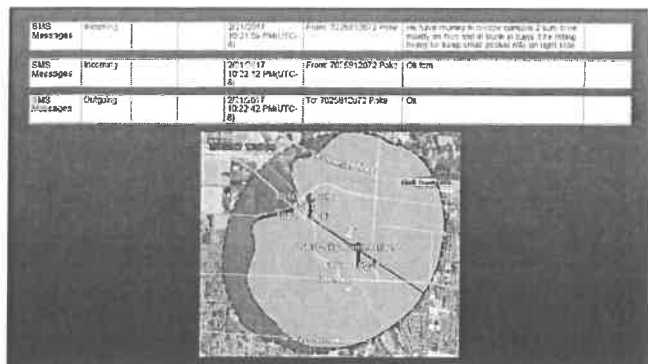
Gas Log	Outgoing	1/29/2017 11:38% AM UTC	16. KUSHIC227 Pkts	00:00:17
Still Messages	Outgoing	1/29/2017 11:40:43 AM UTC	16. KUSHIC227 Pkts	00:00:00 ya best drink COOL!!

- Call – Cave to Carter – 10:55:50 AM – 45 seconds
- Call – Cave to Carter – 11:53:42 AM – 17 seconds
- Call – Carter to Cave – 1:59:44 PM – 13 seconds
- Call – Carter to Cave – 2:36:06 PM – 288 seconds
- Call – Carter to Cave – 3:06:24 PM – 37 seconds
- Call – Cave to Carter – 3:56:31 PM – 73 seconds
- Call – Carter to Cave – 4:38:25 PM – 66 seconds

Cap. Exp.	Outgoing	3/27/2017 4,02.57 PM UTC-8	for 7025812072 Pole	60.00.17
-----------	----------	-------------------------------	---------------------	----------

[illegible]

Cal Log	Intercom	2/21/2017 10:06:53 PM(UTC-8)	From: 7025612372 Pake	00:00:25
Cal Log		2/21/2017 10:07:20 PM(UTC-8)	From: 7025612372 Pake	00:00:10
Text Messages	Intercom	2/21/2017 10:10:51 PM(UTC-8)	From: 7025612372 Pake	Hasn't been in living room since was all the medical
Text Messages	Outgoing	2/21/2017 10:14:04 PM(UTC-8)	From: 7025612372 Pake	Yes
Text Messages	Intercom	2/21/2017 10:15:15 PM(UTC-8)	From: 7025612372 Pake	Not
Text Messages	Outgoing	2/21/2017 10:17:17 PM(UTC-8)	From: 7025612372 Pake	Outgoing on the way right
Text Messages	Intercom	2/21/2017 10:17:25 PM(UTC-8)	From: 7025612372 Pake	Yes Yes
Text Messages	Intercom	2/21/2017 10:17:44 PM(UTC-8)	From: 7025612372 Pake	Yes here
Text Messages	Outgoing	2/21/2017 10:20:35 PM(UTC-8)	From: 7025612372 Pake	There's been no calls yet
Text Messages	Outgoing	2/21/2017 10:21:07 PM(UTC-8)	From: 7025612372 Pake	1411 said go to school
Text Messages	Intercom	2/21/2017 10:18:52 PM(UTC-8)	From: 7025612372 Pake	If I need him to be stand by
Text Messages	Intercom	2/21/2017 10:18:08 PM(UTC-8)	From: 7025612372 Pake	At the time
Text Messages	Outgoing	2/21/2017 10:21:32 PM(UTC-8)	From: 7025612372 Pake	Time on a



TWO QUESTIONS:

•Were crimes committed?

YES:

- First Degree Murder with Use of a Deadly Weapon
- Robbery with Use of a Deadly Weapon
- Conspiracy to Commit Robbery

TWO QUESTIONS:

•Were crimes committed?

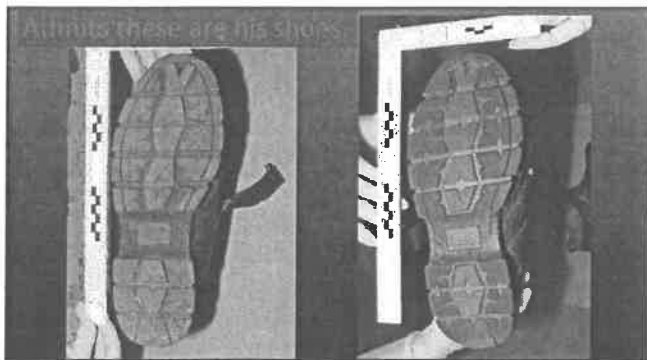
•If so, who committed them?

You are here to determine whether the Defendant is guilty or not guilty from the evidence in the case. You are not called upon to return a verdict as to whether any other person is guilty or not guilty. So, if the evidence in the case convinces you beyond a reasonable doubt of the guilt of the Defendant, you should so find, even though you may believe one or more other persons are also guilty.

Admits this is his phone.



Admits these are his shoes.





But otherwise tells a wild story.....

The credibility or believability of a witness should be determined by his manner upon the stand, his relationship to the parties, his fears, motives, interests or feelings, his opportunity to have observed the matter to which he testified, the reasonableness of his statements and the strength or weakness of his recollections.

If you believe that a witness has lied about any material fact in the case, you may disregard the entire testimony of that witness or any portion of his testimony which is not proved by other evidence.

Although you are to consider only the evidence in the case in reaching a verdict, you must bring to the consideration of the evidence your everyday common sense and judgment as reasonable men and women. Thus, you are not limited solely to what you see and hear as the witnesses testify. You may draw reasonable inferences from the evidence which you feel are justified in the light of common experience, keeping in mind that such inferences should not be based on speculation or guess.

A verdict may never be influenced by sympathy, prejudice or public opinion. Your decision should be the product of sincere judgment and sound discretion in accordance with these rules of law.

The Defendant told us:

- He has never been to 5850 Sky Pointe.
- Claimed he called Carter after 10:22 PM text providing intel about Banks.
- He didn't learn about the murder of Kwame Banks' murder until after 3/20/17.
 - Defendant's phone shows he called/came in 911 on 3/20/17.
- He never got a new phone number after the murder.
 - Defendant's phone shows he was "Suspect Larry" transferred on 2/25/2017.
 - His wife, Ms. Ford, testified he got a new phone.
- He went straight to Summerlin Hospital after allegedly being robbed.
 - Defendant's phone shows the texted him at 5:11 PM on 2/22/17.

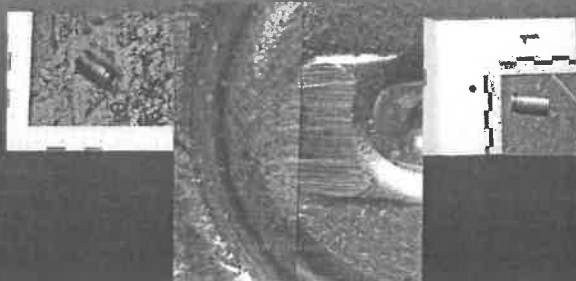
The Defendant told us:

- While he got to the gas station early, he was there about 30 minutes.
- 2/21/2017 at 10:40 PM, he had his phone and had not been robbed.

7:58 PM to 10:40 PM



A single .40 caliber firearm

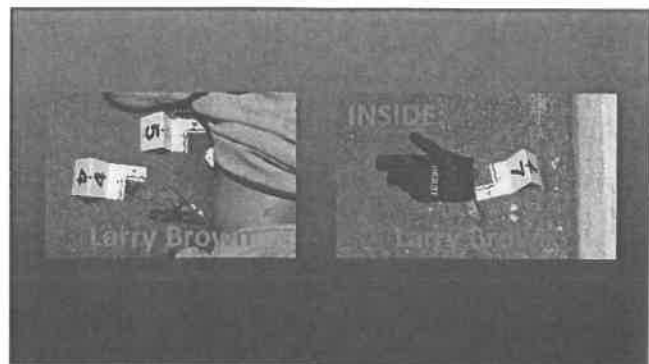
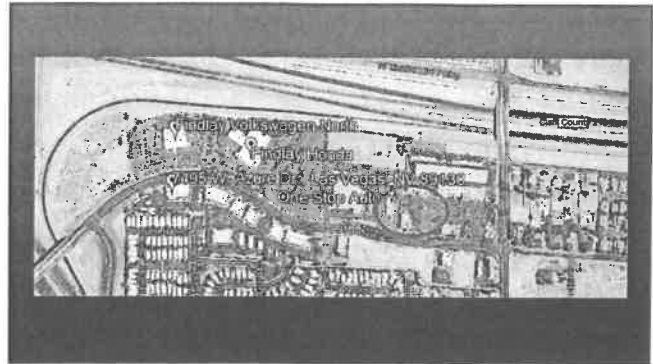


A single firearm



Vehicle fire 2/23/17, approx. 2:43 AM

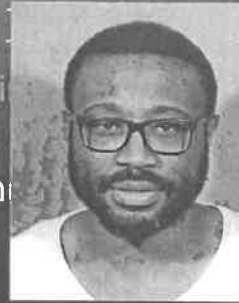




The flight of a person after the commission of a crime is not sufficient in itself to establish premeditation or guilt. If flight is proved, it is circumstantial evidence in determining whether the defendant is guilty or not guilty.

The essence of flight embodies the idea of deliberately going away with consciousness of guilt and for the purpose of avoiding apprehension or prosecution. The weight to which such circumstance is entitled is a matter for the jury to determine.

•Were criminally responsible?
•If so, who was responsible for the crime?



VERDICT

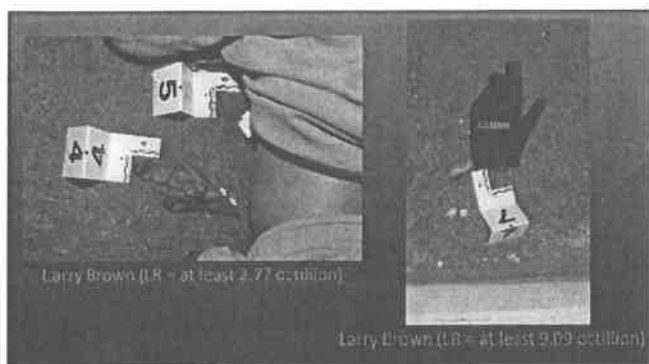
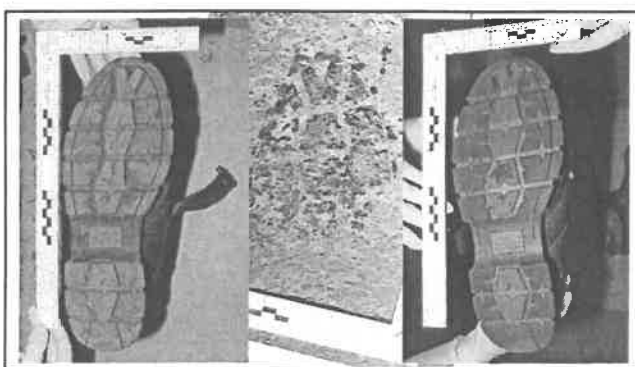
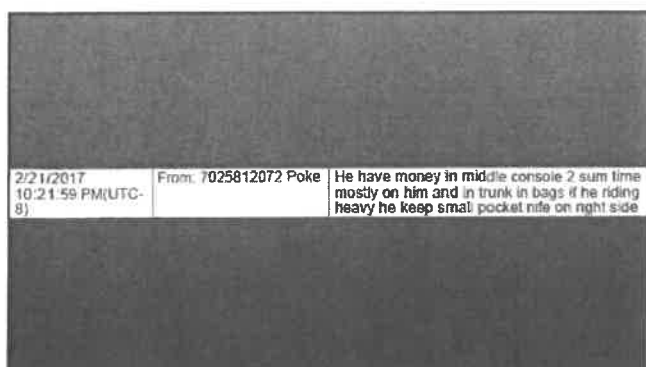
We, the jury in the above entitled case, find the defendant LARRY DEYOUNG BROWN, as follows:

CHARGE 1 CONSPIRACY TO COMMIT ROBBERY
Please check the appropriate box, select only one
☒ Guilty
☐ Not Guilty

CHARGE 2 ROBBERY WITH USE OF A DEADLY WEAPON
Please check the appropriate box, select only one
☒ Guilty of Robbery with Use of a Deadly Weapon
☐ Guilty of Robbery
☐ Not Guilty

CHARGE 3 MURDER WITH USE OF A DEADLY WEAPON
Please check the appropriate box, select only one
☒ Guilty of First Degree Murder with Use of a Deadly Weapon
☐ Guilty of First Degree Murder
☐ Guilty of Second Degree Murder with Use of a Deadly Weapon
☐ Guilty of Second Degree Murder
☐ Not Guilty





EXHIBIT(S) LIST

Case No.: C326247

Hearing / Trial Date: 12/9/2019

Dept. No.: 21

Judge: Valerie Adair

Court Clerk: Athena Trujillo

Plaintiff: State of Nevada

Recorder / Reporter: Robin Page

Counsel for Plaintiff: Michael Dickerson
John Giordani

vs.

Defendant: Larry Brown

Counsel for Defendant: Jeremy Storms
Monica Trujillo

HEARING / TRIAL BEFORE THE COURT

DEFENDANT'S EXHIBITS

[illegible]

Reader File View Tools Report Help

Welcome Extraction Summary (1)

Extraction Summary (1)

All Content Physical

Extraction Su... + Add extraction Project settings Generate report

Extractions: 1

Physical [Android ADB]

Extraction start date/time
Extraction end date/time
PA02 Murder\MURDER CASES\BROWN, L...

Case Information

Examiner name	M. Mangione P#13727	Case number	170221-4563
Evidence number	1702214563PK11T1	Department	Digital Investigations
Organization	Las Vegas Metropolitan Police Depart	Crime type	Murder

Advertising Id	fee98e5e-0cb5-431c-90c4...
Android fingerprint	samsung/zeroflitespr/zero...
Bluetooth MAC Address	3C:8B:FD:30:3A:CF
Android ID	fb7a985e13be1e3b
Bluetooth device address	3C:8B:FD:30:3A:CF
Bluetooth device name	Galaxy S6
Current SIM Country ISO	us
Current SIM Operator	310120
Current SIM Operator Name	Sprint
Current SIM Phone Number	4048082233
Detected Phone Model	SM-G920P
Detected Phone Vendor	samsung
Factory number	0000000000
Location Services Enabled	True
Mock locations allowed	False
OS Version	6.0.1
SIM Change Operation	3
Time Zone	(UTC-08:00) Los Angeles...
ICCID	89011201002099250007
Mac Address	00:AE:FA:7C:82:65
MSISDN	14048082233
Phone Activation Time	7/18/2016 9:26:24 PM(UT...
Recovery Event	2016-09-21T08:17:14.000...
Recovery Event	2016-07-23T01:04:48.000...
Recovery Event	2015-01-22T12:28:06.000...
Recovery Event	2017-02-10T20:06:22.000...
Recovery Event	2016-06-13T12:19:02.000...
Recovery Event	2016-12-03T17:14:16.000...
Recovery Event	2017-01-11T11:07:47.000...
Recovery Event	2016-11-02T07:12:13.000...
Recovery Event	2016-08-07T07:17:52.000...
Recovery Event	2016-10-08T06:19:23.000...
Recovery Event	2016-07-18T21:17:42.000...
SIM Change Time	7/19/2016 2:50:51 AM(UT...

Tethering

Hotspot AP Name	SM-G920P265
-----------------	-------------

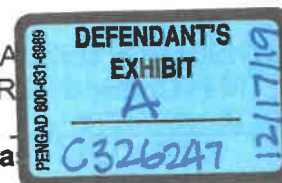
Device Content

Phone Data

- Autofill
- Calendar
- Call Log
- Cell Towers
- Chats
- Contacts
- Cookies
- Device Locations
- Device Notifications
- Device Users
- Emails

MA
PR

Ca



ICATION

002914

Reader 7.12.0.128

File View Tools Report Help

Welcome Extraction Summary (1)

SM-G920P

Extraction Summary (1)

Physical

Extraction

Physical [Android ADB]

Extraction software version 6.3.5.27
Extraction type Physical [Android ADB]
Time zone settings (ID) America/Los_Angeles

Device Info

Find:

General

- OS Version 6.0.1
- Detected Phone SM-G920P
- Detected Phone samsung
- Android fingerprint samsung/zeroflte...
- Android ID fb7a965e13be1e...
- Bluetooth device Galaxy S6
- Bluetooth device 3C88:FD30:3A:CF
- Mac Address 00:AE:FA:7C:82:65
- ICCID 89011201002099...
- Phone Activation 7/18/2016 9:26:2...
- Bluetooth MAC 3C88:FD30:3A:CF
- Factory number 0000000000
- Time Zone (UTC-08:00) Los...
- Mock locations False
- Location Service True
- Advertising ID fee98e5e-0cb5-4...
- SIM Change Op 3
- Current SIM Op Sprint
- Current SIM Ph 4048082233
- SIM Change Tir 7/19/2016 2:50:5...
- Current SIM Co us
- Current SIM Op 310120

Recovery Event

- 1 2016-09-21T08:1...
- 2 2016-07-23T01:0...
- 3 2015-01-22T12:2...
- 4 2017-02-10T20:0...
- 5 2016-06-13T12:1...
- 6 2016-12-03T17:1...
- 7 2017-01-11T11:0...
- 8 2016-11-02T07:1...
- 9 2016-08-07T07:1...
- 10 2016-10-08T06:1...
- 11 2016-07-18T21:1...

MSISDN 14048082233

Tethering

- Hotspot password 4048082233
- Last Activation 2/21/2017 11:16...
- Hotspot AP Name SM-G920P265



002915