

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANDRE GRANT SNIPES,)	SUPREME COURT NO. 82384
)	
Appellant,)	
)	
vs.)	APPEAL
)	
STATE OF NEVADA,)	
)	
Respondent.)	
)	DISTRICT COURT NO. C-19-344461-2
)	
)	

APPELLANT'S APPENDIX

(VOLUME 2 OF 5)

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Mesquite, Nevada 89034
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Attorneys for Appellant

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	BAD ACTS-STATE MOTION	02-19-2020	0261	0002
	CALENDAR CALL-RT	11-04-2020	0500	0003
	COMPETENCY-RT	11-07-2019	0100	0001
	COMPETENCY-RT	12-06-2019	0155	0001
	COMPETENCY-RT	12-12-2019	0159	0001
	CONTINUE TRIAL-RT	01-14-2020	0235	0001
	COUNSEL-ORDER APPOINTING APPELLATE	01-12-2021	1194	0005
	COUNSEL-RT	01-12-2021	1196	0005
	EXHIBIT LIST	11-10-2020	0930	0004
	EXHIBITS-JUROR QUESTIONS	11-10-2020	0984	0004
	EXHIBITS-PHOTOS	11-10-2020	0976	0004
	EXHIBITS-RECEIPTS	11-10-2020	0946	0004
	EXPERT LIST (STATE)	12-24-2019	0165	0001
	EXPERT LIST (STATE)-2ND	02-24-2020	0313	0002
	EXPERT LIST (STATE)-3RD	11-02-2020	0483	0002
	GRAND JURY EXHIBITS	10-31-2019	0062	0001
	GRAND JURY EXHIBITS	11-14-2019	0143	0001
	GRAND JURY EXHIBITS	01-09-2020	0204	0001
	GRAND JURY INSTRUCTIONS	10-31-2019	0058	0001
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	INDICTMENT	11-01-2019	0086	0001
	INDICTMENT (PROPOSED)	10-31-2019	0052	0001
	INDICTMENT (SUPERSEDING)	11-14-2019	0135	0001
	INDICTMENT (SUPERSEDING)	01-10-2020	0211	0001
	INDICTMENT (SUPERSEDING)-3RD AMENDED	11-09-2020	0524	0003
	INDICTMENT (SUPERSEDING)-AMENDED	01-14-2020	0226	0001
	INDICTMENT (SUPERSEDING)-RT	11-14-2019	0106	0001
	INDICTMENT (SUPERSEDING)-RT	01-09-2020	0168	0001
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	INDICTMENT-RT	11-01-2019	0095	0001
	JUDGMENT OF CONVICTION	12-30-2020	1183	0005
	JUDGMENT OF CONVICTIONN (AMENDED)	01-07-2021	1189	0005
	JURY INSTRUCTIONS	11-13-2020	1111	0005
	JURY TRIAL (DAY FOUR)-RT	11-13-2020	1155	0005
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NEGOTIATIONS-RT	10-21-2020	0427	0002
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OR RELEASE-RT	05-07-2020	0399	0002
OR RELEASE-RT	05-21-2020	0405	0002
OR RELEASE-SNIPES MOTION	04-14-2020	0377	0002
OR RELEASE-STATE OPPOSITION	04-30-2020	0384	0002
PHOTO LINE-UP (ALBREGO)	09-25-2019	0072	0001
PHOTO LINE-UP (ALBREGO)	09-30-2019	0075	0001
PHOTO LINE-UP (ALBREGO)	09-25-2019	0933	0004
PHOTO LINE-UP (ALBREGO)	09-30-2019	0943	0004
PHOTO LINE-UP (LAWS)	09-30-2019	0078	0001
PHOTO LINE-UP (LAWS)	09-30-2019	0081	0001
PHOTO LINE-UP (LAWS)	09-30-2019	0936	0004
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SENTENCING-RT	12-29-2020	1167	0005
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	INDICTMENT (SUPERSEDING)	11-14-2019	0135	0001
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	INDICTMENT (SUPERSEDING)	01-10-2020	0211	0001
	INDICTMENT (SUPERSEDING) -RT	01-10-2020	0220	0001
	INDICTMENT (SUPERSEDING) -AMENDED	01-14-2020	0226	0001
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	NEGOTIATIONS-RT	01-30-2020	0252	0002
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	JUDGMENT OF CONVICTIONN (AMENDED)	01-07-2021	1189	0005
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	COUNSEL-RT	01-12-2021	1196	0005
	NOTICE OF APPEAL	01-17-2021	1203	0005

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****January 30, 2020**

C-19-344461-2 State of Nevada
 vs
 Andre Snipes

January 30, 2020 09:00 AM Status Check: Negotiations

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Skinner, Linda

RECORDER: Calvillo, Angie

REPORTER:

PARTIES PRESENT:

Andre Grant Snipes Defendant

Ashley A. Lacher Attorney for Plaintiff

James J. Ruggeroli Attorney for Defendant

State of Nevada Plaintiff

JOURNAL ENTRIES


Mr. Bassett appeared for Deft Morgan and Mr. Ruggeroli appeared for Deft Snipes.

Upon Court's inquiry, Mr. Ruggeroli advised there is an Amended Superseding Indictment that Defendants need to be arraigned on; that an offer was extended to Deft Snipes to plead guilty to a simple Robbery and simple Burglary, the State would retain the right to argue, however, he is not accepting this. Additionally, at Defendant's request, he made a counter-offer which the State has declined. Mr. Bassett advised he has spoken with Defendant as to what negotiations he would take, presented the offer to the State, however, it has also been rejected.

DEFENDANT MORGAN ARRAIGNED AND PLED NOT GUILTY. COURT ORDERED, trial date of 3/9/20 STANDS.

DEFENDANT SNIPES ARRAIGNED AND PLED NOT GUILTY. COURT ORDERED, trial date of 3/9/20 STANDS.

CUSTODY



1 RTRAN

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4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 THE STATE OF NEVADA,
9 Plaintiff,

CASE #: C-19-344461

10 vs.

DEPT. XX

11 GREGORY DELLO MORGAN and
12 ANDRE GRANT SNIPES,
13 Defendants.

14 BEFORE THE HONORABLE ERIC JOHNSON, DISTRICT COURT JUDGE
15 THURSDAY, JANUARY 30, 2020

16 **RECORDER'S TRANSCRIPT OF HEARING:**
17 **STATUS CHECK: NEGOTIATIONS**

18 APPEARANCES:

19 For the State: ASHLEY A. LACHER
Deputy District Attorney

20 For Defendant Morgan: ALEXANDER BASSETT
21 Deputy Public Defender

22 For Defendant Snipes: JAMES J. RUGGEROLI, ESQ.
23

24
25 RECORDED BY: ANGIE CALVILLO, COURT RECORDER

1 [Las Vegas, Nevada, Thursday, January 30, 2020, at 9:14 a.m.]

2
3 THE COURT: State of Nevada versus Andre -- State of
4 Nevada versus Gregory Morgan and Andre Snipes, case number
5 C344461. Counsel, please note your appearances for the record.

6 MR. RUGGEROLI: Good morning, Your Honor. James
7 Ruggeroli, bar number 7891, appearing on behalf of Mr. Snipes who is
8 present in custody. Judge, he's to your left in the box.

9 MR. BASSETT: Alex Bassett appearing on behalf of Gregory
10 Morgan, Your Honor.

11 MS. LACHER: And Ashley Lacher for the State.

12 THE COURT: Okay. This is set for a status check:
13 negotiations. So what's our status?

14 MR. RUGGEROLI: Judge, there's also a amended
15 superseding indictment that they have not been arraigned on yet. I can
16 make a record that there was an offer extended for my client to plead
17 guilty to a simple robbery and simple burglary, first offense. The State
18 would retain the right to argue. I've explained that and met with Mr.
19 Snipes. He is not accepting that this morning. I've made a counteroffer
20 to the State on a number of occasions additionally this morning for what
21 Mr. Snipes had authorized me to do, and the State is not willing to agree
22 to that. So right now, we just need to have him arraigned and move
23 forward.

24 THE COURT: All right. Where do you stand, Mr. Bassett?

25 MR. BASSETT: And, Your Honor, I just spoken to Mr. Morgan

1 about some sort of negotiations he would be willing to take. And those
2 have changed, and I just presented the most recent offer to Ms. Lacher.
3 And she said that -- she rejected that offer. She did not want to plead
4 them out in different ways. So at this point, we are ready to be arraigned
5 and move forward as well.

6 THE COURT: All right. I didn't have arraignment --

7 MS. LACHER: My offer was contingent --

8 THE COURT: I'm sorry, Ms. Lacher.

9 MS. LACHER: Yes, my offer -- that offer that Mr. Ruggeroli
10 talked about were contingent upon both co-defendants, so that is
11 correct. I gave both counsel the amended superseding to arraign them
12 on. And I don't know if you have a copy, it was filed on Odyssey though.
13 But they have three copies each.

14 THE COURT: All right. I didn't have arraignment down so I
15 don't have a copy of the amended superseding indictment.

16 MR. RUGGEROLI: May I approach?

17 THE COURT: Go ahead, Mr. Ruggeroli. Were defendants
18 charged in all counts together?

19 MS. LACHER: No.

20 THE COURT: Okay, let's see if we can get through this.

21 Mr. Morgan.

22 DEFENDANT MORGAN: Yes, sir.

23 THE COURT: Have you received a copy of the amended
24 superseding indictment against you?

25 MR. BASSETT: He has not, Your Honor. I was just handed it

1 by Ms. Lacher when the case was called.

2 THE COURT: Okay. Let's start then with Mr. Snipes. Mr.
3 Snipes, have you received a copy of the amended superseding
4 indictment against you?

5 DEFENDANT SNIPES: Yes, I have, sir.

6 THE COURT: Have you read it?

7 DEFENDANT SNIPES: Yes, I have.

8 THE COURT: And will you waive me reading it out loud here
9 in court today?

10 DEFENDANT SNIPES: No, it's not necessary.

11 THE COURT: Thank you. Please state your true name.

12 DEFENDANT SNIPES: Andre Grant Snipes.

13 THE COURT: How old are you?

14 DEFENDANT SNIPES: Thirty-seven.

15 THE COURT: How far did you go in school?

16 DEFENDANT SNIPES: Eleventh grade.

17 THE COURT: Do you read, write and understand the English
18 language?

19 DEFENDANT SNIPES: Yes, I do.

20 THE COURT: All right, you've been provided a true copy of
21 the amended superseding indictment which charges you in Counts 3, 9,
22 13 and 16 of grand larceny, a category C felony in violation of Nevada
23 Revised Statute 205.220.1 and 205.222.2; in Counts 4 and 10 with
24 conspiracy to commit robbery, a category B felony in violation of Nevada
25 Revised Statute 200.380 and 199.480; in Counts 5 and 11 with robbery

1 with use of a deadly weapon, a category B felony in violation Nevada
2 Revised Statute 200.380 and 193.165; in Counts 6 and 8 with burglary
3 while in possession of a deadly weapon, a category B felony in violation
4 of Nevada Revised Statute 205.060; in Counts 7, 12, 14, 15, 17 with
5 burglary, a category B felony in violation of Nevada Revised Statute
6 205.060, and in Count 18 with participation in organized retail theft, a
7 category B felony in violation of Nevada Revised Statute 205.08345.

8 Do you understand the nature of the charges against
9 you as contained in the amended superseding indictment?

10 DEFENDANT SNIPES: Yes, I do.

11 THE COURT: And have you discussed these charges
12 sufficiently with your attorney for you to enter a plea here today?

13 DEFENDANT SNIPES: Yes, I have.

14 THE COURT: How then do you plead to the charges?

15 DEFENDANT SNIPES: Not guilty.

16 THE COURT: All right, not guilty. Let's see, we've already
17 got this set for trial.

18 MR. RUGGEROLI: That's correct.

19 THE COURT: We'll keep that current trial date of March 9,
20 2020.

21 MS. LACHER: Yes, please.

22 THE COURT: All right. We'll keep that.

23 Mr. Morgan.

24 DEFENDANT MORGAN: Yes, sir.

25 THE COURT: Have you received a copy of the amended

1 superseding indictment against you?

2 DEFENDANT MORGAN: Yes, sir.

3 THE COURT: Have you read it sufficiently for you to enter a
4 plea here today?

5 DEFENDANT MORGAN: Yes, sir.

6 THE COURT: Do you waive me reading it out loud here in
7 court?

8 DEFENDANT MORGAN: Yes, sir.

9 THE COURT: All right. Please state your full name.

10 DEFENDANT MORGAN: Gregory Dello Morgan, Jr.

11 THE COURT: How old are you?

12 DEFENDANT MORGAN: Thirty-six.

13 THE COURT: And how far did you go in school?

14 DEFENDANT MORGAN: Twelfth grade.

15 THE COURT: Did you graduate?

16 DEFENDANT MORGAN: No, sir.

17 THE COURT: All right. Do you read, write and understand
18 the English language?

19 DEFENDANT MORGAN: Yes, sir.

20 THE COURT: All right. You've been provided with a true
21 copy of the amended superseding indictment against you which charges
22 you in Count 1 with burglary, and Counts 2, 3, 9, 13, 16 of grand larceny,
23 and Counts 4 and 10 with conspiracy to commit robbery, and Counts 5
24 and 11 with robbery with use of a deadly weapon, and Counts 6 and 8
25 with burglary while in possession of a deadly weapon, and Counts 14

1 and 15 with burglary, and Count 18 with participation in organized retail
2 theft.

3 Do you understand the nature of the charges against
4 you in the amended superseding indictment?

5 DEFENDANT MORGAN: Yes, sir.

6 THE COURT: Have you discussed them sufficiently with your
7 attorney to enter a plea here today?

8 DEFENDANT MORGAN: Yes, sir.

9 THE COURT: How then do you plead to the charges in the
10 amended superseding indictment, guilty or not guilty?

11 DEFENDANT MORGAN: Not guilty, sir.

12 THE COURT: Not guilty, all right. We also have him set for
13 trial on March 9, 2020, so we'll keep that date.

14 Is there anything else at this point in time?

15 MS. LACHER: I don't believe so, Your Honor.

16 MR. RUGGEROLI: No, Your Honor.

17 MS. LACHER: I have transport orders for Morgan done. I
18 don't think there's anything else, we've done a file review already. And I
19 told counsel if anything comes up that they think they don't have; please
20 let me know, and I'll do another check to make sure that all of
21 discovery's been given to them. But I think as of right now, it has been.

22 THE COURT: All right. You, guys, need anything?

23 MR. RUGGEROLI: Not right now, Judge.

24 MR. BASSETT: Not at the moment.

25 THE COURT: Okay.

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MR. RUGGEROLI: Thank you.

MS. LACHER: Thank you.

THE COURT: Thank you.

[Hearing concluded at 9:21 a.m.]

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



Angie Calvillo
Court Recorder/Transcriber

Steven D. Grierson

1 **MOT**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 ASHLEY ANNE LACHER
6 Deputy District Attorney
7 Nevada Bar #014560
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

12 GREGORY DELLO MORGAN,
13 #2752270
14 ANDRE GRANT SNIPES
15 #7088448

Defendant (s).

CASE NO: C-19-344461-2

DEPT NO: XX

16 **STATE'S NOTICE OF MOTION IN LIMINE DEFENDANTS STATEMENTS**
17 **AND MOTION TO ADMIT EVIDENCE OF OTHER BAD ACTS OR IN THE**
18 **ALTERNATIVE TO PUT DEFENDANTS ON NOTICE OF THE STATE'S**
19 **INTENTION TO ADMIT PRIOR JUDGEMENT OF CONVICTION**

20 DATE OF HEARING: MARCH 3, 2020

21 TIME OF HEARING: 8:30 AM

22 HEARING REQUESTED

23 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County
24 District Attorney, through ASHLEY ANNE LACHER, Deputy District Attorney, and files
25 this Notice of Motion and Motion to Admit Evidence of Other Bad Acts/Motion in Limine.

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

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DATED this 19th day of February, 2020.

BY

STATEMENT OF CASE

On January 14, 2020, an Amended Superseding Indictment was filed charging Defendants as follows: COUNT 1: BURGLARY (Category B Felony - NRS 205.060 - NOC 50424), COUNT 2: GRAND LARCENY (Category C Felony - NRS 205.220.1, 205.222.2 - NOC 56004), COUNT 3: GRAND LARCENY (Category C Felony - NRS 205.220.1, 205.222.2 - NOC 56004), COUNT 4: CONSPIRACY TO COMMIT ROBBERY (Category B Felony - NRS 200.380, 199.480 - NOC 50147), COUNT 5: ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.380, 193.165 - NOC 50138), COUNT

1 6: BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Category B Felony
2 - NRS 205.060 - NOC 50426), COUNT 7 applies only to co-defendant Snipes, COUNT 8 :
3 BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Category B Felony -
4 NRS 205.060 - NOC 50426), COUNT 9: GRAND LARCENY (Category C Felony - NRS
5 205.220.1, 205.222.2 - NOC 56004), COUNT 10: CONSPIRACY TO COMMIT ROBBERY
6 (Category B Felony - NRS 200.380, 199.480 - NOC 50147), COUNT 11: ROBBERY WITH
7 USE OF A DEADLY WEAPON (Category B Felony - NRS 200.380, 193.165 - NOC 50138),
8 COUNT 12: applies only to co-defendant Snipes, COUNT 13: GRAND LARCENY (Category
9 C Felony - NRS 205.220.1, 205.222.2 - NOC 56004), COUNT 14: BURGLARY (Category B
10 Felony - NRS 205.060 - NOC 50424), COUNT 15: BURGLARY (Category B Felony - NRS
11 205.060 - NOC 50424), COUNT 16: GRAND LARCENY (Category C Felony - NRS
12 205.220.1, 205.222.2 - NOC 56004), COUNT 17: applies only to co-defendant Snipes, and
13 COUNT 18: PARTICIPATION IN ORGANIZED RETAIL THEFT (Category B Felony -
14 NRS 205.08345 - NOC 55986).

15 On January 30, 2020, Defendant's plead not guilty. Calendar Call is scheduled for
16 March 3, 2020. Trial is currently scheduled for March 9, 2020.

17 **STATEMENT OF FACTS**

18 From July 4, 2019, to October 6, 2019, Defendants engaged in a spree of crime stealing
19 from multiple retail organizations involving Champs, Footlockers, and Nike. The total value
20 of their thefts was over \$3,500. Defendants would enter the stores, grab basketball jerseys and
21 shoes and/or seek to return stolen goods in exchange for gift cards. Almost all events are
22 captured on video. Several events involved threats to loss prevention agents and the use of a
23 firearm.

24 **NIKE 9851 S. EASTERN – COUNTS 1 AND 2**

25 On July 4, 2019, Defendant Gregory Morgan entered the Nike store located at 9851 S.
26 Eastern Ave. Along with his co-conspirators, Defendant Morgan grabbed merchandise
27 including shoes and NBA basketball jerseys. Defendant and his co-conspirators left the store
28 without paying for the items and evaded loss prevention agents.

1 FOOTLOCKER FASHION SHOW MALL – COUNTS 3,4,5, and 6

2 On September 20, 2019, Defendant Morgan and Defendant Snipes entered the
3 Footlocker at the Fashion Show Mall. Employees of the store attempted to speak with
4 Defendants after noticing unusual behavior. Store employee Bryan Laws Jr. attempted to stop
5 the Defendants from leaving the store with unpaid for NBA Basketball Jerseys. As Bryan
6 Laws attempted to stop the Defendants, Defendant Morgan flashed what Bryan Laws Jr.
7 recognized to be a pistol and both Defendants fled with the stolen items.

8 FOOTLOCKER MEADOWS MALL – COUNT 7

9 Defendant Snipes entered the Meadows Mall Footlocker on September 20, 2019.
10 Snipes brought in stolen merchandise to “return” and received a gift card. A search of the
11 Footlocker database revealed Defendant had not purchased the items he sought to return.

12 CHAMPS – FASHION SHOW MALL – COUNTS 8, 9, 10, and 11

13 On September 24, 2019, Defendant Morgan and Defendant Snipes entered the Champs
14 at the Fashion Show Mall. Defendants grabbed approximately 14 NBA Basketball Jerseys and
15 attempted to leave the store. Manager Alden Abrego attempted to stop Defendant from leaving
16 the store with unpaid merchandise. When Alden Abrego contacted Defendants, Defendant
17 Morgan tugged at his shirt revealing the black handle of a firearm. Defendant Snipes stated
18 “you don’t want to do that” as Defendant Morgan was flashing the firearm.

19 FOOTLOCKER MEADOWS MALL – COUNT 12

20 Defendant Snipes entered the Meadows Mall Footlocker on September 24, 2019.
21 Snipes brought in stolen merchandise to “return” and received a gift card. A search of the
22 Footlocker database revealed Defendant had not purchased the items he sought to return.

23 FOOTLOCKER – 2120 FESTIVAL PLAZA - COUNTS 13-14

24 On September 24, 2019, Defendants Morgan and Snipes entered the Footlocker located
25 at Downtown Summerlin. Both Defendants took various pieces of merchandise from the store
26 without paying and fled the scene.

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1 **II. DEFENDANT MORGAN'S CONVICTION 2017 ORGANIZED RETAIL**
2 **THEFT SHOULD BE ADMITTED**

3 NRS 48.045 states,

4 Evidence of other crimes, wrongs or acts is not admissible to prove
5 the character of a person in order to show that he acted in
6 conformity therewith. It may, however, be admissible for other
7 purposes, such as proof of motive, opportunity, intent,
8 preparation, plan, knowledge, identity, or absence of mistake or
9 accident.

10 To be admissible, the District Court must find that the evidence of the other bad act is
11 admitted for a non-propensity purpose, the evidence of the bad act is proved by clear and
12 convincing evidence, and the probative value is not substantially outweighed by risk of unfair
13 prejudice. Tinch v. State, 113 Nev. 1170, 1176, 946 P.2d 1061, 1065 (1997)

14 The Nevada Supreme Court has specifically approved the procedure of holding a
15 hearing outside the presence of the jury in which the State must present its reasons why the
16 other offense is admissible under NRS 48.045(2) and apprising the trial judge of the quantum
17 and quality of its evidence proving that the defendant committed the other offense. Petrocelli
18 v. State, 101 Nev. 46, 51-52, 692 P.2d 503, 508 (1985).

19 **C-17-327775-1 – FELONY CONVICTION FOR ORGANIZED RETAIL THEFT –**
20 **GREGORY MORGAN**

21 In case 17F17746A-B aka C-17-327775-1, Defendant was charged with three counts
22 of Burglary and Grand Larceny for crimes that occurred on August 27, 2017, August 28, 2017,
23 August 30, 2017. Many of the events in C-17-327775-1 occurred at Nike located at 9851 S.
24 Eastern Avenue. See **EXHIBIT 1** - Criminal Complaint in 17F17746A-B. Defendant plead
25 guilty to Participation Organized Retail Theft in C-17-327775-1 of Nike and Home Depot on
26 November 13, 2017.

27 The exact same Nike store location of 9851 S. Eastern Avenue that was targeted in the
28 instant case was also targeted in C-17-327775-1. The State seeks to admit this prior Judgement
 of Conviction to show intent, motive, identity, plan, and knowledge in the instant case. In C-
 17-327775-1, Defendant and his co-conspirator entered Nike took clothing and shoes without

1 paying and rushed past loss prevention agents fleeing the scene. Similarly, identical conduct
2 occurred at the Nike events as well as the other retail establishments involved in the instant
3 case.

4 **RELEVANCE**

5 The prosecution has the burden to prove all elements of the charged offenses, and prior
6 bad act evidence may be probative of an essential element of the criminal offense. See Estelle
7 v. McGuire, 502 U.S. 62, 69, 112 S. Ct. 475 (1991). By pleading not guilty, a defendant puts
8 all elements of the offense at issue. Doyle v. State, 116 Nev. 148 (2000).

9 The Nevada Supreme Court held in Hubbard v. State, 422 P.3d 1260, 1262 (2018),
10 Defense need not place intent or absence of mistake at issue before the State may seek
11 admission of prior act evidence if the evidence is relevant to prove an element of the offense
12 such as intent for the specific intent crime of burglary.

13 Defendant Morgan is charged with the crimes of Burglary, Grand Larceny, and
14 Robbery with Use of a Deadly Weapon which require that the State prove specific intent and/or
15 knowledge of value. Defendant has committed theft crimes in the same Nike Store and is
16 familiar with the layout of the Nike store, items to steal, and/or the value of the items.
17 Additionally, in the instant case, employees of the store recognize Defendant Morgan from
18 the 2017 case. Moreover, Defendant recruits the assistance of a co-conspirator in both cases
19 to plan to steal and later resell and/or return the stolen goods. Therefore, Defendant's prior
20 conviction of Participation in Organized Retail Theft is relevant.

21 **CLEAR AND CONVINCING EVIDENCE**

22 Prior to the admission of evidence of other bad acts, the State must show, by plain, clear
23 and convincing evidence that Defendant committed the offenses. Tinch, 113 Nev. at 1176, 946
24 P.2d at 1064-1065; Tucker v. State, 82 Nev. 127, 131, 412 P.2d 970, 972 (1966). Under
25 Petrocelli, clear and convincing proof of collateral acts may be established by an offer of proof
26 outside the presence of the jury combined with quality of evidence presented to the jury.
27 Salgado v. State, 114 Nev. 1039, 1043, 968 P.2d 324, 327 (1998).

1 Attached is Defendant Morgan's Judgment of Conviction in case C-17-327775-1 as
2 well as the police reports from that case. See **Exhibit 1**. The State will produce additional
3 evidence regarding the facts should the Court grant a hearing.

4 **PROBATIVE VALUE**

5 All evidence against a defendant is in some respect prejudicial. State v. Eighth Jud.
6 Ct. 267 P.3d 777 (2011). The court in Tucker explained the balancing test of "probative vs.
7 prejudicial" as follows:

8 The reception of such evidence is justified by necessity and, if
9 other evidence has substantially established the element of the
10 crime involved (motive, intent, identity, absence of mistake, etc.),
11 the probative value of showing another offense is diminished, and
the trial court should rule it inadmissible even though relevant and
within an exception to the rule of exclusion.

12 Tucker, 8 Nev. 127, 130.

13 In United States v. Parker, 549 F.2d 1217 (CA9 1977) defendants were convicted of
14 armed bank robbery and one defendant was convicted of bank larceny. During the course of
15 the trial evidence was adduced that the defendant had been addicted to heroin for
16 approximately ten years and had been involved in drug counseling during most of that period.
17 The court held that the evidence of defendant's narcotics dealing was admissible to show his
18 motive to commit a robbery. Defendant argued that the prejudicial effect of the extrinsic
19 offense substantially outweighed its probative value. The court stated, cited United States v.
20 Mahler, 452 F.2d 547 (CA9 1971), in 549 F.2d at 1222:

21 . . . Evidence relevant to defendant's motive is not rendered
22 inadmissible because of its highly prejudicial nature . . . The best
23 evidence often is!

24 In United States v. Harrison, 679 F.2d 942 (D.C.C.A. 1982), defendant was convicted
25 of possession of controlled substance with intent to distribute. The prosecution presented
26 evidence that defendant had been engaged in past drug dealings over a period of time to
27 show proof of motive, intent, preparation, plan, knowledge, identity and absence of mistake.
28

1 The court held evidence of the extrinsic offenses was admissible for those purposes stated in
2 679 F.2d at 948:

3
4 . . . There is nothing "unfair" in admitting direct evidence of the
5 defendant's past acts by an eyewitness thereto that constituted
6 substantive proof of the relevant intent alleged in the indictment.
The intent with which a person commits an act on a given occasion
can many times be best proven by testimony or evidence of his
acts over a period of time prior thereto . . .

7 Defendant Morgan's prior Judgement for Conviction is relevant to show his mental
8 state at the time of the thefts as well as how he planned with a co-conspirator to organized
9 retail theft in the instant case. See argument infra on relevance.

10 III. NOTICE TO DEFENDANTS

11 The State recognizes the fine line with regards to the admissibility of this prior bad act.
12 However, in the event that this Court denies the State's instant motion, the State would ask the
13 Court to put the Defendants on notice that certain lines of questions of witnesses, certain
14 arguments during opening statements, or other factors that may come up at trial would "open
15 the door" to enable the State to present the desired evidence in this motion. This is especially
16 so, considering that the defense has now been made aware of the State's intention for which
17 that evidence would be used, and the people involved in that event have been noticed as
18 witnesses for this trial.

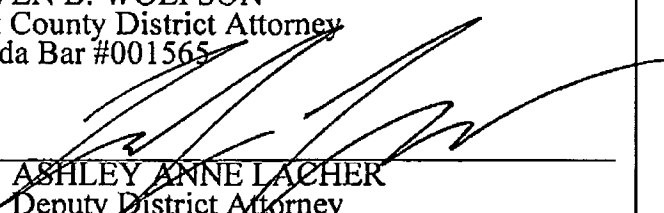
19 CONCLUSION

20 Based upon the foregoing, the State respectfully requests the Court grant this motion
21 and order any future evidentiary hearings the Court deems necessary.

22 DATED this 19th day of February, 2020.

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

25
26 BY


27 ASHLEY ANNE LACHER
Deputy District Attorney
28 Nevada Bar #014560

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CERTIFICATE OF ELECTRONIC MAIL

I hereby certify that service of Notice of Motion and Motion To Admit Evidence Of
Other Bad Acts was made this 19th day of February, 2020, by e-mail to:

ALEXANDER BASSETT, Deputy Public Defender


E-Mail: Alexander.Bassett@clarkcountynv.gov

(ATTORNEY FOR GREGORY MORGAN)

JAMES RUGGEROLI, ESQ.

E-Mail: ruggeroli@icloud.com

(ATTORNEY FOR ANDRE SNIPES)

BY: 
J. ROBERTSON
Secretary for the District Attorney's Office

19F21141A-B/AAL/jr/L-1

EXHIBIT “1”

Steven D. Grierson

JOCP

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

GREGORY DELLO MORGAN
#2752270

Defendant.

CASE NO. C-17-327775-1

DEPT. NO. XXIII

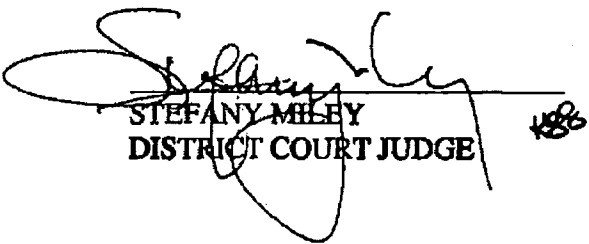
JUDGMENT OF CONVICTION
(PLEA OF GUILTY)

The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crime of PARTICIPATION IN ORGANIZED RETAIL THEFT (Category B Felony) in violation of NRS 205.08345; thereafter, on the 28th day of March, 2018, the Defendant was present in court for sentencing with counsel Caesar Almase, Esq., and good cause appearing,

THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense and, in addition to the \$25.00 Administrative Assessment Fee, \$2,808.88 Restitution to Nike, \$498.00 Restitution to Home Depot #3316, \$856.00 Restitution to Home Depot #3305,

1 to be paid Jointly and Severally and \$150.00 DNA Analysis Fee including testing to
2 determine genetic markers plus \$3.00 DNA Collection Fee, the Defendant is sentenced
3 as follows: a MAXIMUM of SIXTY (60) MONTHS with a MINIMUM parole
4 eligibility of SIXTEEN (16) MONTHS in the Nevada Department of Corrections
5 (NDC); with ONE HUNDRED AND EIGHTY (180) DAYS credit for time served.
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8 DATED this 6th day of April, 2018

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12 STEFANY MILEY
13 DISTRICT COURT JUDGE
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CLERK OF THE COURT

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

Gregory Morgan,

Defendant

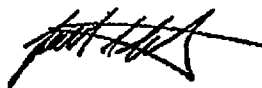
District Court Case No.: C-17-327775-1
Dept.: XXIII

Justice Court Case No.: 17F17746A

CERTIFICATE

I hereby certify the foregoing to be a full, true and correct copy of the proceedings as
the same appear in the above case.

Dated this 8th day of November, 2017



Justice of the Peace, Las Vegas Township

1
2 **JUSTICE COURT, LAS VEGAS TOWNSHIP**
3 **CLARK COUNTY, NEVADA**

4 STATE OF NEVADA,

5 Plaintiff,

6 vs.

7 Gregory Morgan

8 Defendant
9

District Court Case No..

Justice Court Case No.: 17F17746A

10 **BINDOVER and ORDER TO APPEAR**

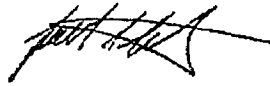
11 An Order having been made this day by me that Gregory Morgan be held to answer
12 before the Eighth Judicial District Court, upon the charge(s) of **Burglary, (1st) [50424];**
13 **Burglary, (1st) [50424]; Burglary, (1st) [50424]; Burglary, (1st) [50424]; Robbery**
14 **[50137]; Burglary, (1st) [50424]; Burglary, (1st) [50424]; Burglary, (1st) [50424];**
15 **Grand larceny, < \$3500 [56004]; Burglary, (1st) [50424]; Part organized retail theft**
16 **ring, \$3500 - \$10000 [55986]; Burglary, (1st) [50424]; Burglary, (1st) [50424]; Grand**
17 **larceny, < \$3500 [56004]; Grand larceny, < \$3500 [56004] committed in said Township**
and County, on August 27, 2017 .

18 **IT IS FURTHER ORDERED** that said defendant is commanded to appear in the
19 Eighth Judicial District Court, Regional Justice Center, Lower Level Arraignment
20 Courtroom "A", Las Vegas, Nevada on November 13, 2017 at 10:00 AM for arraignment
and further proceedings on the within charge(s).

21 **IT IS FURTHER ORDERED** that the Sheriff of the County of Clark is hereby
22 commanded to receive the above named defendant(s) into custody, and detain said
23 defendant(s) until he/she can be legally discharged, and be committed to the custody of the
24 Sheriff of said County, until bail is given in the sum of 30,000/30,000.

25 Dated this 8th day of November, 2017
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Justice of the Peace, Las Vegas Township

ORIGINAL

LAS VEGAS JUSTICE COURT
FILED IN OPEN COURT

OCT 17 2017

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

CLERK

THE STATE OF NEVADA,

Plaintiff,

-vs-

GREGORY DELLO MORGAN #2752270,
STEVEN EDWARD HALE, aka
Steven Edward Hale, Jr.,
#1975802

Defendant.

CASE NO: 17F17746A-B

DEPT NO: 2

AMENDED
CRIMINAL COMPLAINT

The Defendant above named having committed the crime of BURGLARY (Category B Felony - NRS 205.060 - NOC 50424); ROBBERY (Category B Felony - NRS 200.380 - NOC 50137); GRAND LARCENY (Category C Felony - NRS 205.220.1, 205.222.2 - NOC 56004); and PARTICIPATION IN ORGANIZED RETAIL THEFT (Category B Felony - NRS 205.08345 - NOC 55986), in the manner following, to-wit: That the said Defendant, on or between August 29, 2017 and September 30, 2017 at and within the County of Clark, State of Nevada,

COUNT 1 - BURGLARY

Defendant GREGORY DELLO MORGAN, did on or about August 27, 2017, willfully, unlawfully, and feloniously enter, with intent to commit larceny, that certain building occupied by NIKE, located at 9851 South Eastern Avenue, Las Vegas, Clark County, Nevada.

COUNT 2 - BURGLARY

Defendant GREGORY DELLO MORGAN, did on or about August 28, 2017, willfully, unlawfully, and feloniously enter, with intent to commit larceny, that certain building occupied by NIKE, located at 9851 South Eastern Avenue, Las Vegas, Clark County, Nevada.

COUNT 3 - BURGLARY

Defendant GREGORY DELLO MORGAN, did on or about August 28, 2017, willfully, unlawfully, and feloniously enter, with intent to commit larceny, that certain building occupied

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ACRM
Amended Criminal Complaint
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1 by NIKE, located at 7400 South Las Vegas Boulevard, Las Vegas, Clark County, Nevada.

2 COUNT 4 - BURGLARY

3 Defendants GREGORY MORGAN, aka, Gregory Dello Morgan and STEVEN HALE,
4 aka, Steven Edward Hale, Jr., did on or about August 29, 2017, willfully, unlawfully, and
5 feloniously enter, with intent to commit larceny, that certain building occupied by HOME
6 DEPOT, located at 5025 South Pecos Road, Las Vegas, Clark County, Nevada.

7 COUNT 5 - ROBBERY

8 Defendant GREGORY MORGAN, aka, Gregory Dello Morgan, did on or about August
9 29, 2017, willfully, unlawfully, and feloniously take personal property, to wit: power tools,
10 from the person of STEVE ASHMORE, or in his presence, by means of force or violence, or
11 fear of injury to, and without the consent and against the will of STEVE ASHMORE,
12 defendant using force or fear to obtain or retain possession of the property, to prevent or
13 overcome resistance to the taking of the property, and/or to facilitate escape.

14 COUNT 6 - BURGLARY

15 Defendant STEVEN HALE, aka, Steven Edward Hale, Jr., did on or about August 30,
16 2017, willfully, unlawfully, and feloniously enter, with intent to commit larceny, that certain
17 building occupied by HOME DEPOT, located at 7881 West Tropical Parkway, Las Vegas,
18 Clark County, Nevada.

19 COUNT 7 - GRAND LARCENY

20 Defendant STEVEN HALE, aka, Steven Edward Hale, Jr., did on or about August 30,
21 2017, then and there willfully, unlawfully, and feloniously with intent to deprive the owner
22 permanently thereof, steal, take and carry away, lead away or drive away property owned by
23 HOME DEPOT, having a value of \$650.00 or more, to wit: power tools.

24 COUNT 8 - BURGLARY

25 Defendant GREGORY MORGAN, aka, Gregory Dello Morgan, did on or about
26 September 23, 2017, willfully, unlawfully, and feloniously enter, with intent to commit
27 larceny, that certain building occupied by NIKE, located at 7400 South Las Vegas Boulevard,
28 Las Vegas, Clark County, Nevada.

1 COUNT 9 - BURGLARY

2 Defendant GREGORY MORGAN, aka, Gregory Dello Morgan, did on or about
3 September 24, 2017, willfully, unlawfully, and feloniously enter, with intent to commit
4 larceny, that certain building occupied by NIKE, located at 905 South Grand Central Parkway,
5 Las Vegas, Clark County, Nevada.

6 COUNT 10 - BURGLARY

7 Defendant GREGORY MORGAN, aka, Gregory Dello Morgan, did on or about
8 September 28, 2017, willfully, unlawfully, and feloniously enter, with intent to commit
9 larceny, that certain building occupied by NIKE, located at 7400 South Las Vegas Boulevard,
10 Las Vegas, Clark County, Nevada.

11 COUNT 11 - GRAND LARCENY

12 Defendant GREGORY MORGAN, aka, Gregory Dello Morgan, did on or about
13 September 28, 2017, then and there willfully, unlawfully, and feloniously with intent to
14 deprive the owner permanently thereof, steal, take and carry away, lead away or drive away
15 property owned by NIKE, having a value of \$650.00 or more, to wit: SHOES, the
16 Defendant(s) being criminally liable under one or more of the following principles of criminal
17 liability, to wit: (1) by directly committing this crime; and/or (2) by aiding or abetting in the
18 commission of this crime, with the intent that this crime be committed, by counseling,
19 encouraging, hiring, commanding, inducing and/or otherwise procuring the other to commit
20 the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the intent that this
21 crime be committed, Defendant and/or unknown co-conspirators aiding or abetting and/or
22 conspiring by Defendant and/or unknown co-conspirators acting in concert throughout.

23 COUNT 12 - BURGLARY

24 Defendants GREGORY MORGAN, aka, Gregory Dello Morgan and STEVEN HALE,
25 aka, Steven Edward Hale, Jr., did on or about September 29, 2017, willfully, unlawfully, and
26 feloniously enter, with intent to commit larceny, that certain building occupied by NIKE,
27 located at 905 South Grand Central Parkway, Las Vegas, Clark County, Nevada, the
28 Defendant(s) being criminally liable under one or more of the following principles of criminal

1 liability, to wit: (1) by directly committing this crime; and/or (2) by aiding or abetting in the
2 commission of this crime, with the intent that this crime be committed, by counseling,
3 encouraging, hiring, commanding, inducing and/or otherwise procuring the other to commit
4 the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the intent that this
5 crime be committed, Defendant and/or unknown co-conspirators aiding or abetting and/or
6 conspiring by Defendant and/or unknown co-conspirators acting in concert throughout.

7 COUNT 13 - PARTICIPATION IN ORGANIZED RETAIL THEFT

8 Defendant GREGORY MORGAN, aka, Gregory Dello Morgan, did on or between
9 August 27, 2017 and September 30, 2017, willfully, unlawfully, and feloniously participate in
10 organized retail theft, the aggregated value of the property in all the thefts committed in the
11 organized retail theft in this State during a period of 90 days, being at least \$3,500.00, but less
12 than \$10,000.00, by taking merchandise from multiple retailers to fill specific orders for resale.

13 COUNT 14 - BURGLARY

14 Defendants GREGORY DELLO MORGAN and STEVEN EDWARD HALE, aka,
15 Steven Edward Hale, Jr., did on or about September 30, 2017, willfully, unlawfully, and
16 feloniously enter, with intent to commit larceny, that certain building occupied by NIKE,
17 located at 9851 South Eastern Avenue, Las Vegas, Clark County, Nevada.

18 COUNT 15 - BURGLARY

19 Defendants GREGORY DELLO MORGAN and STEVEN EDWARD HALE, aka,
20 Steven Edward Hale, Jr., did on or about September 30, 2017, willfully, unlawfully, and
21 feloniously enter, with intent to commit larceny, that certain building occupied by NIKE,
22 located at 7400 South Las Vegas Boulevard, Las Vegas, Clark County, Nevada.

23 COUNT 16 - GRAND LARCENY

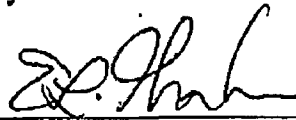
24 Defendants GREGORY DELLO MORGAN and STEVEN EDWARD HALE, aka,
25 Steven Edward Hale, Jr., did on or about September 30, 2017 then and there willfully,
26 unlawfully, and feloniously with intent to deprive the owner permanently thereof, steal, take
27 and carry away, lead away or drive away property owned by NIKE, having a value of \$650.00
28 or more, to wit: shoes and clothing, the Defendant(s) being criminally liable under one or

1 more of the following principles of criminal liability, to wit: (1) by directly committing this
2 crime; and/or (2) by aiding or abetting in the commission of this crime; with the intent that this
3 crime be committed, by counseling, encouraging, hiring, commanding, inducing and/or
4 otherwise procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to
5 commit this crime, with the intent that this crime be committed, Defendants aiding or abetting
6 and/or conspiring by Defendants acting in concert throughout.

7 COUNT 17 - GRAND LARCENY

8 Defendants GREGORY DELLO MORGAN and STEVEN EDWARD HALE, aka,
9 Steven Edward Hale, Jr., did on or about September 30, 2017, then and there willfully,
10 unlawfully, and feloniously with intent to deprive the owner permanently thereof, steal, take
11 and carry away, lead away or drive away property owned by NIKE, having a value of \$650.00
12 or more, to wit: shoes and clothing, the Defendant(s) being criminally liable under one or
13 more of the following principles of criminal liability, to wit: (1) by directly committing this
14 crime; and/or (2) by aiding or abetting in the commission of this crime, with the intent that this
15 crime be committed, by counseling, encouraging, hiring, commanding, inducing and/or
16 otherwise procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to
17 commit this crime, with the intent that this crime be committed, Defendants aiding or abetting
18 and/or conspiring by Defendants acting in concert throughout.

19 All of which is contrary to the form, force and effect of Statutes in such cases made and
20 provided and against the peace and dignity of the State of Nevada. Said Complainant makes
21 this declaration subject to the penalty of perjury.

22 
23 _____
24 10/12/17

25
26 17F17746A-B/cg/L3
27 LVMPD EV#1708311400,
1709302957; 1708311528;
28 1708311600
(TK2)

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, 2017 OCT -3 P 12:18

Plaintiff,

JUSTICE COURT
LAS VEGAS NEVADA

CASE NO: 17F17746A-B

-vs-

BY GEG
DEPUTY

DEPT NO: 2

GREGORY DELLO MORGAN #2752270,
STEVEN EDWARD HALE, aka,
Steven Edward Hale, Jr. #1975802,

CRIMINAL COMPLAINT

Defendants.

The Defendants above named having committed the crimes of BURGLARY (Category B Felony - NRS 205.060 - NOC 50424) and GRAND LARCENY (Category C Felony - NRS 205.220.1, 205.222.2 - NOC 56004), in the manner following, to-wit: That the said Defendants, on or between August 27, 2017 and September 30, 2017, at and within the County of Clark, State of Nevada,

COUNT 1 - BURGLARY

Defendant GREGORY DELLO MORGAN, did on or about August 27, 2017, willfully, unlawfully, and feloniously enter, with intent to commit larceny, that certain building occupied by NIKE, located at 9851 South Eastern Avenue, Las Vegas, Clark County, Nevada.

COUNT 2 - BURGLARY

Defendant GREGORY DELLO MORGAN, did on or about August 28, 2017, willfully, unlawfully, and feloniously enter, with intent to commit larceny, that certain building occupied by NIKE, located at 9851 South Eastern Avenue, Las Vegas, Clark County, Nevada.

COUNT 3 - BURGLARY

Defendant GREGORY DELLO MORGAN, did on or about August 28, 2017, willfully, unlawfully, and feloniously enter, with intent to commit larceny, that certain building occupied by NIKE, located at 7400 South Las Vegas Boulevard, Las Vegas, Clark County, Nevada.

COUNT 4 - BURGLARY

Defendants GREGORY DELLO MORGAN and STEVEN EDWARD HALE, aka,

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1 Steven Edward Hale, Jr., did on or about September 30, 2017, willfully, unlawfully, and
2 feloniously enter, with intent to commit larceny, that certain building occupied by NIKE,
3 located at 9851 South Eastern Avenue, Las Vegas, Clark County, Nevada.

4 COUNT 5 - BURGLARY

5 Defendants GREGORY DELLO MORGAN and STEVEN EDWARD HALE, aka,
6 Steven Edward Hale, Jr., did on or about September 30, 2017, willfully, unlawfully, and
7 feloniously enter, with intent to commit larceny, that certain building occupied by NIKE,
8 located at 7400 South Las Vegas Boulevard, Las Vegas, Clark County, Nevada.

9 COUNT 6 - GRAND LARCENY

10 Defendants GREGORY DELLO MORGAN and STEVEN EDWARD HALE, aka,
11 Steven Edward Hale, Jr., did on or about September 30, 2017 then and there willfully,
12 unlawfully, and feloniously with intent to deprive the owner permanently thereof, steal, take
13 and carry away, lead away or drive away property owned by NIKE, having a value of \$650.00
14 or more, to wit: shoes and clothing, the Defendant(s) being criminally liable under one or
15 more of the following principles of criminal liability, to wit: (1) by directly committing this
16 crime; and/or (2) by aiding or abetting in the commission of this crime, with the intent that
17 this crime be committed, by counseling, encouraging, hiring, commanding, inducing and/or
18 otherwise procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to
19 commit this crime, with the intent that this crime be committed, Defendants aiding or abetting
20 and/or conspiring by Defendants acting in concert throughout.

21 COUNT 7 - GRAND LARCENY

22 Defendants GREGORY DELLO MORGAN and STEVEN EDWARD HALE, aka,
23 Steven Edward Hale, Jr., did on or about September 30, 2017, then and there willfully,
24 unlawfully, and feloniously with intent to deprive the owner permanently thereof, steal, take
25 and carry away, lead away or drive away property owned by NIKE, having a value of \$650.00
26 or more, to wit: shoes and clothing, the Defendant(s) being criminally liable under one or
27 more of the following principles of criminal liability, to wit: (1) by directly committing this
28 crime; and/or (2) by aiding or abetting in the commission of this crime, with the intent that

1 this crime be committed, by counseling, encouraging, hiring, commanding, inducing and/or
2 otherwise procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to
3 commit this crime, with the intent that this crime be committed, Defendants aiding or abetting
4 and/or conspiring by Defendants acting in concert throughout.

5 All of which is contrary to the form, force and effect of Statutes in such cases made and
6 provided and against the peace and dignity of the State of Nevada. Said Complainant makes
7 this declaration subject to the penalty of perjury.

8
9 Paulina Schifalacqua
10 10/03/17

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26 17F17746A-B/lal
27 LVMPD EV# 1708311400;
1709302957; 1708311528;
28 1708311600
(TK2)

NEVADA PRETRIAL RISK (NPR) ASSESSMENT

Assessment Date: 10/2/2017

Assessor: T. Reddick

County: Clark

Defendant's Name: Gregory Morgan

DOB: 

AGE: 34

Case/Booking #: 17F17746A

Dept #: 2

Address: UNABLE TO VERIFY PER
CONTACT.

Contact Phone #:

of Current Charges: 4

City:

State: Zip:

Most Serious Charge: Burglary, (1st)

Initial Total Bail Set: \$30,000

SCORING ITEMS

SCORE

1. Does the Defendant Have a Pending Pretrial Case at Booking?

Yes If yes, list case # and jurisdiction: 17F17750X

2

2. Age at First Arrest (include juvenile arrests)
20 yrs and under

First Arrest Date 6/28/97

2

3. Prior Misdemeanor Convictions (past 10 years)
None

0

4. Prior Felony/Gross Misd. Convictions (past 10 years)
One or more

PC17F17746A
NPR
Nevada Risk Assessment Tool
8574555

1

5. Prior Violent Crime Convictions (past 10 years)
One

1

6. Prior FTAs (past 24 months)
Two or more FTA Warrants

2

7. Substance Abuse (past 10 years)
Other

0

8. Mitigating Verified Stability Factors (limit of -2 pts. total deduction)
If 1, 2 and 3 not applicable

0

TOTAL SCORE:

8

Risk Level: Moderate Risk, 8 Points

OVERRIDE?: ☐ Yes ☒ No

Override Reason(s):

If Other, explain:

Final Recommended Risk Level:

☐ LOW ☒ MODERATE ☐ HIGHER

Supervisor/Designee Signature _____

Date: 10/2/2017

Revised 8.2017

Felony convictions:

YEAR	STATE	CHARGE
13	WA	ASSLT
13	WA	THEFT
12	WA	THEFT
08	WA	OBST LAW ENF
04	WA	BDV
04	WA	ASSLT
04	WA	MAL MISCHF
04	WA	ASSLT
04	WA	FALSE STMT TO PUBLIC SRVNT
00	WA	ASSLT
99	WA	SCHOOL PROP AND PERSONNEL VIOL
98	WA	TVWOOC
98	WA	TVWOOC
98	WA	ATT ELUDE
00	WA	ATT ELUDE
97	WA	TVWOOC
97	WA	TVWOOC

Misdemeanor Convictions: 9

FTAS: 3

Detainers: ALSO I/C 1 TRAF BW

Pending Cases: REBOOKING 17F17750X JC3

Revised B.2017

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

DECLARATION OF ARREST

"Click here to add/edit Event# and ID# on all pages"

Event #: 170930-2957I.D. #: 2752270

"PRINT"

True Name: MORGAN, GREGORYDate of Arrest: 09/30/17Time of Arrest: 1801

OTHER CHARGES RECOMMENDED FOR CONSIDERATION:

Other Charges

THE UNDERSIGNED MAKES THE FOLLOWING DECLARATIONS SUBJECT TO THE PENALTY FOR PERJURY AND SAYS: That I am a peace officer with the Las Vegas Metropolitan Police Department, Clark County, Nevada, being so employed for a period of 11 years.

That I learned the following facts and circumstances which lead me to believe that the above named subject committed (or was committing) the offense(s) of Burglary/Grand Larceny Shoplifting <\$3500 at the location of 7400 S Las Vegas BLVD Las Vegas, NV 89123, and that the offense(s) occurred at approximately 1739 hours on the 30 day of September, 2017, in the:

☒ County of Clark☐ City of Las Vegas

DETAILS FOR PROBABLE CAUSE:

On 09/30/17 at about 1739hrs, I officer J. Burns 9805 with Officer J. Headley 14873, was dispatched to the Nike outlet store located at 7400 S Las Vegas BLVD. The call was for an in-progress larceny that was occurring with a subject that is known to the store loss prevention employees as a person that has been stealing from their store for months.

Earlier in the day I responded to event 170930-2424 which was a similar call where two males were in a Nike outlet store that is located at 9851 S Eastern. The same details were given on these males, specifically that they are habitually stealing from the Nike stores.

On both events, the males were described as black male adults, both about 5' 10" tall with a medium build. One male was wearing jeans and a red plaid shirt, the other was wearing all black with red shoes and a red hat.

On the first event I was unable to make it to the store in time to stop the males prior to them fleeing the area. Loss prevention employees at the S Eastern store were able to show me video of the suspects so that knew who I was looking for. I was also informed that it is the practice of these two males to hit this store first, then

Wherefore, Declarant prays that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charges are a felony or gross misdemeanor) or for trial (if charges are misdemeanor).

Declarant must sign all page(s)
with an original signature.

J. BURNS

Print Declarant's Name



Declarant's Signature

9805

PH

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

Event #: 170930-2957

ID#: 2752270

within a few hours they will hit the outlet store at 7400 S Las Vegas BLVD.

When I arrived at 7400 S Las Vegas BLVD dispatch was able to advise me via radio that the male wearing all black with the red hat and shoes was in the store and that the second male was in a vehicle in the parking lot waiting. Shortly after arriving I was informed by radio that the male had exited the store and was now in the vehicle and the vehicle was pulling onto Warm Springs headed west. I was able to pull behind the vehicle and initiate a vehicle stop at 7200 S Las Vegas BLVD. When the vehicle stopped, I could see that the passenger was wearing a red hat and black shirt and he then remove the hat and threw it into the back seat.

I approached the vehicle and ordered the driver out. He was wearing a red plaid shirt and jeans and identified himself as Gregory Morgan. Morgan was placed in handcuffs and then sat on a curb. I then ordered the passenger out of the vehicle and he was placed in handcuffs. He identified himself as Steven Hale. Hale was placed in the back of my patrol car, Morgan in the back of Officer Headley's.

The original caller on both calls was Frank Dara who is the regional Loss Prevention manager for Nike. Dara stated that he has been building a case against both Morgan and Hale with the assistance of Metro RAPP detective Beveridge. Det Beveridge contacted me via phone and asked what was happening and I informed him of the call. He then stated that he was going to come to the scene of the stop to interview both Morgan and Hale and that he would be there in about 25 minutes.

While looking into the car I could see a large pile of Nike boxes and clothing in the back seat of the car. Dara arrived at the scene of the stop and stated that the items that were in the back seat were the items that Hale had taken from 7400 S Las Vegas BLVD. Officer Headley then started to complete an impound form for the vehicle and while completing an inventory search that he started at the trunk, he located more Nike boxes and clothing there. The items in the trunk matched the items that were taken from the 9851 S Eastern call. Officer Headley called out crime scene specialists to document the position of the items in pictures. The items were then removed from the vehicle and returned to Dara and he was able to get us a total cost for the items that were taken.

\$735.98 worth of Nike Merchandise was taken from the 7400 S Las Vegas BLVD event, and \$709.91 was

Declarant must sign all page(s)
with an original signature:

J. BURNS

Print Declarant's Name

J. Burns

Declarant's Signature

9805

P#

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

Event #: 170930-2957

ID#: 2752270

taken from the 9851 S Eastern.

Det Beveridge stated that he had a further 7 events that have been documented in the past that he has to write up involving both Morgan and Hale stealing items from the same stores.

As a result of Morgan participating in the theft of property from two separate Nike stores, he was arrested for 2 counts of Burglary. Because the total amount of the property was over \$650 but less than \$3500 at each location, he was also charged with 2 counts of Grand Larceny Shoplifting <\$3500.

Morgan was transported to and booked at CCDC.

Declarant must sign all page(s)
with an original signature.

J. BURNS

Print Declarant's Name

J. Burns

Declarant's Signature

9805

P#

17F17746A/02

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
ARREST REPORT

☐ City ☒ County ☐ Adult ☐ Juvenile Sector/Beat 11

ID/EVENT# 2752270	ARRESTEE'S NAME (Last) (First) (Middle) Morgan Gregory Dello			S.S.# 534927166
ARRESTEE'S ADDRESS (Number, Street, City, State, Zip Code) 4555 N Las Vegas BLVD # 3008 Las Vegas, NV 89155				
CHARGES Burglary (2CTS), Grand Theft Shoplifting <\$3500 (2 CTS)				
OCCURRED 09/30/17	DATE 09/30/17	DAY OF WEEK Sat	TIME 1739	LOCATION OF ARREST (Number, Street, City, State, Zip Code) 7200 S Las Vegas BLVD Las Vegas, NV 89119
RACE B	SEX M	D.O.B. 08/15/82	HT. 5' 11"	WT. 202
		HAIR BLK	EYES BRO	PLACE OF BIRTH Seattle, WA

ARRESTING OFFICER #1: J. Burns	P#: 9805	ARRESTING OFFICER #2:	P#:
CONNECTING REPORTS (Type or Event Number) Felony Packet 170930-2957			

APPROVED BY (PRINTED NAME): _____

CIRCUMSTANCES OF ARREST:

Event # 170930-2957
(related event #170930-2424)

Event Type: Burglary

CONFIDENTIAL

Location:
Nike Outlet
7400 S Las Vegas BLVD LV, NV 89123
Nike Outlet
9851 S Eastern LV, NV 89123

Suspects:
Morgan, Gregory ID# 2752270
Hale, Steven ID#1975802

Officers Involved:
J. Burns 9805
J. Headley 14873
J. Beveridge 6707

Property recovered:
(7400 S Las Vegas BLVD)
5 pairs of Nike shoes
3 pairs of Nike Pants
1 Nike Hoodie
Total Price: \$735.98

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

ID/EVENT #: 170930-2957

(9851 S Eastern)
8 Pairs of Nike shoes
1 Nike shirt
1 Nike hoodie
Total: \$709.91

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LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

ID/EVENT #: 170930-2957

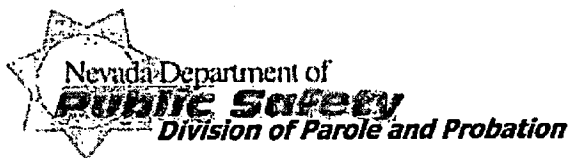
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Morgan was transported to and booked at CCDC.



PRESENTENCE INVESTIGATION REPORT

The Honorable Stefany A. Miley
Department XXIII, Clark County
Eighth Judicial District Court

Date Report Prepared: December 7, 2017

Prosecutor: Samuel R. Kern, DDA
Defense Attorney: Caesar V. Almase, Appointed

PSI: 534526

I. CASE INFORMATION

Defendant: Gregory Dello Morgan
Case: C-17-327775-1
ID: 2752270
P&P Bin: 1004520496

PCN: 25711597
Offense Date: On or between 08-27-17
and 09-30-17
Arrest Date: 09-30-17
Plea Date: 11-13-17, Guilty
Sentencing Date: 01-03-18

II. CHARGE INFORMATION

Offense: Participation in Organized Retail Theft (F)
NRS: 205.08345 Category: B
NOC: 55986
Penalty: By imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than \$10,000.

III. DEFENDANT INFORMATION

Address: None reported
City/State/Zip: Las Vegas, Nevada
NV Resident: Yes
SSN: [REDACTED]
POB: Seattle, Washington
Date of Birth: 05-11-88
Age: 34
Phone: (505) 506-28 [REDACTED] (cell)
Driver's License: [REDACTED]
State: Nevada
Status: N/A

FBI: [REDACTED]
SID: [REDACTED]
Aliases: Gregory D. Morgan; Gregory Morgan; Antonio Deshawn Antonio; Dwane E. Butler; Gregory Dello Morgan Jr.; Greg Dello Morgan; Gregory D. Morgan Jr.; Gregory Dello Moran Jr.; Greg D. Morgen; Dwane Elliott Butley; Greg Morgan; Greg Dello Morgan Jr.; Gregory Morgan Jr.
Additional SSNs: None
Additional DOBs: [REDACTED]
Additional POB: None
Alien Registration: N/A
US Citizen: Yes
Notification Required per NRS 630.307: N/A

Identifiers:

Sex: M Race: B Height: 5'11" Weight: 202

Hair: Black (SCOPE reflects Brown) Eyes: Brown

Scars: Right knee scar

Tattoos (type and location): Right arm – "Greg," "29"; Right shoulder – "Sharnei"; Left arm – "Daja"; Left shoulder – "Sharmleyn Wallace," "Caroline C. Morgan"

Social History: The following social history is as related by the defendant and is unverified unless otherwise noted:

Childhood/Family: Mr. Morgan was eight years old when he became a ward of the state as a result of his parent's being on drugs and incarcerated. The defendant and his siblings then went to reside with their paternal grandparents for the remainder of their childhood. After age eight, Mr. Morgan did not experience any abuse or neglect.

Marital Status: Married - 2008

Children: (8) Three adult females, one adult male and four males ages 17, 17, 16 and six.

Custody Status of Children: The three oldest males reside with their respective mother's in Atlanta, Washington and Louisiana and the youngest male resides with the defendant and his wife in Las Vegas.

Monthly Child Support Obligation: \$100.00 monthly; currently in arrears \$14,000.00.

Employment Status: Mr. Morgan has been employed off and on for the past two to three years. In 2015 and 2016 he worked part time through staffing agencies in warehouses. He has previous work experience at Target and the Dollar Tree.

Number of Months Employed Full Time in 12 months Prior to Commission of Instant Offense: 0

Age at first arrest: 19 or younger ☒ 20- 23 ☐ 24 or older ☐

**PRESENTENCE INVESTIGATION REPORT
GREGORY DELLO MORGAN
CC#: C-17-327775-1**

Page 3

Income: None reported

Other Sources: \$1,300.00 (Spouse's income); 194.00 (government assistance)

Assets: None reported

Debts: \$3,000.00 (credit card); \$14,000.00 (child support arrears)

Education: Mr. Morgan completed the eleventh grade and did not complete high school. No further education was reported.

Military Service: None reported

Health and Medical History: Mr. Morgan rated his health as good; however, he does have asthma. He is not currently receiving medical treatment or prescribed any medications for physical health issues.

Mental Health History: Mr. Morgan first attended mental health counseling as a child when he was residing with his grandparents. In 2015, he was diagnosed as suffering from depression after a suicide attempt that year. Mr. Morgan believes his mental health issues have caused him to be unbalanced in his life, as his mind "run a lot." He is currently receiving medical treatment and prescribed Remeron to address his mental health issues.

Gambling History: No history reported.

Substance Abuse History: Mr. Morgan first consumed alcohol and used marijuana and cocaine at age 11. He no longer uses marijuana; however, he is addicted to alcohol and cocaine. Mr. Morgan has also used PCP and ecstasy; however, he was in his teens when he last used these drugs. Mr. Morgan was under the influence of alcohol and cocaine when he committed the instant offense, and he would like to seek a drug program to address his addiction.

Gang Activity/Affiliation: None reported

IV. CRIMINAL RECORD

As of December 6, 2017, records of the Las Vegas Metropolitan Police Department, the National Crime Information Center and the Federal Bureau of Investigation reflect the following information:

CONVICTIONS- **FEL:** 2 **GM:** 15 **MISD:** 4

INCARCERATIONS- **PRISON:** 1 **JAIL:** 17

SUPERVISION HISTORY:

CURRENT- **Probation Terms:** 0 **Parole Terms:** 0

0299

PRESENTENCE INVESTIGATION REPORT
GREGORY DELLO MORGAN
CC#: C-17-327775-1

Page 4

PRIOR TERMS:

Probation- Revoked: 2

Discharged: Honorable: 0 Other: 0

Parole- Revoked: 0

Discharged: Honorable: 0 Other: 0

Adult:

Arrest Date:

Offense:

Disposition:

09-26-02
Seattle, WA
Seattle PD

1. Assault Domestic Violence (M)
2. Interfering with Reporting of Domestic Violence (GM)
3. Assault (M)

427360
10-14-02: Convicted of Count 1 - Assault Domestic Violence (M), sentenced to 365 days jail and 175 days jail suspended; Count 2 - Interfering with Reporting of Domestic Violence (M), sentenced to 365 days jail with 305 days jail suspended; Count 3 - Domestic Violence Assault (M), sentenced to 365 days jail with 175 days suspended

10-21-03
King County, WA
King County S.O.

WA: Residential Burglary (F)
WA: 07-28-06

03-0108478-2
05-28-04: Convicted of Count 1 - Malicious Mischief Domestic Violence (F), sentenced to 6 months jail and 24 months supervision; Charge 2 - Assault Domestic Violence (GM), sentenced to 2 months jail suspended with 12 months supervision, concurrent
08-21-08: Probation supervision terminated, 4 months jail

02-04-04
King County, WA
King County S.O.

- WA:
1. Residential Burglary (F)
 2. Assault Domestic Violence (GM)
 3. Making False or Misleading Statement to a Public Servant (GM)

Y40035892
03-23-04: Convicted of Count 2 - Assault Domestic Violence (GM), sentence unknown; Count 3 - Making False or Misleading Statement to a Public Servant (GM), sentenced to 365 days jail with 90 days jail suspended

PRESENTENCE INVESTIGATION REPORT
GREGORY DELLO MORGAN
CC#: C-17-327775-1

Page 5

09-19-06
King County, WA
King County S.O.

Domestic Violence Court Order
Violation (F) (9 counts)
WA: 07-28-06

4100001940

08-10-04: Convicted of Count 1 -
Domestic Violence Court Order
Violation (F), sentenced to 43 months
prison; Counts 2-9 - Violence Court
Order Violation (GM), sentenced to 9-
18 months community custody and 12
months jail suspended and 24 months
of probation, concurrent with each
other and consecutive with Count 1,
Case #03-0108478-2 and Case
#Y40035892
08-21-08: Probation supervision
terminated in counts 2-9, sentenced to
4 months jail

07-28-08
King County, WA
King County S.O.

Obstruct Law Enforcement Officer
(GM)

CR0046294

09-11-08: Convicted of Obstruct Law
Enforcement Officer (GM), sentenced
to 365 days jail suspended and fine

05-30-13
Kent, WA
Kent PD

Theft 3 (GM)

K00089563

05-31-13: Convicted of Theft (GM),
sentenced to 364 days jail and fine

06-13-13
South Correctional
Washington

Theft 3rd/Fail to Comply (GM)

CACP12027

08-06-12: Convicted of Theft-3 (GM),
sentenced to 364 days jail with 334
days suspended and fine

09-18-13
King County, WA
King County S.O.

1. Unlawful Imprisonment (F)
2. Assault (M)

13100128621

10-28-13: Convicted of Assault
Domestic Violence (GM), sentenced
to 364 days jail suspended, 18 days
jail and 12 months of unsupervised
probation

09-30-17
Las Vegas, NV
LVMPD

Burglary (1st) (F) (3 counts)

17F17750X

Consolidated with C-17-327775-1

PRESENTENCE INVESTIGATION REPORT
GREGORY DELLO MORGAN
CC#: C-17-327775-1

Page 6

09-30-17
Las Vegas, NV
LVMPD

1. Burglary (1st) (F) (2 counts)
2. Grand Larceny < \$3,500 (F)
RMD: 10-04-17
3. Burglary (1st) (F) (3 counts)
RMD: 10-18-17
4. Burglary (1st) (F) (6 counts)
5. Grand Larceny < \$3,500 (F)
(3 counts)
6. Participate in Organized Retail
Theft Ring \$3,500-\$10,000 (F)

Instant Offense,
CC#: C-17-327775-1

10-05-17
Las Vegas, NV
LVMPD

1. Burglary (1st) (F) (5 counts)
2. Robbery (F)
3. Grand Larceny < \$3,500 (F)
4. Participate in Organized Retail
Theft Ring \$3,500-\$10,000 (F)

17F18011A
Consolidated with C-17-327775-1

The defendant has also been convicted in Nevada of the following misdemeanor offense: Disorderly Conduct (2017), CTS.

Additionally, the defendant was arrested, detained or cited in Nevada and Washington between March 11, 2008 and September 13, 2014 for the following offenses for which no disposition is noted, prosecution was not pursued or charges were dismissed: Battery Domestic Violence, Fugitive Escape, Controlled Substance (2), Assault-4, Theft-3

Additionally, the defendant's criminal history consists of several instances of failure to appear, failure to comply, and/or failure to pay traffic citations.

Supplemental Information: N/A

Institutional/Supervision Adjustment: There is no information available regarding Mr. Morgan's performance while under supervision in the community or institutions for his convictions in Washington.

V. OFFENSE SYNOPSIS

Records provided by the Las Vegas Metropolitan Police Department and the Clark County District Attorney's Office reflect that the instant offense occurred substantially as follows:

Between August 29, 2017 and September 30, 2017, the defendant, Gregory Morgan and the co-defendant, Steven Hale, attended two Home Depot stores and three Nike stores a total of 11 times. The defendant and co-defendant would enter the stores, select specific merchandise and leave the stores without paying for the items. In the two Home Depot incidents, the total amount of merchandise stolen was \$1,354.00. In the nine Nike incidents, the total amount of merchandise stolen was \$3,858.78.

On September 30, 2017, officers responded to a call from the Loss Prevention employee stating that the defendant and co-defendant had just stolen items from one Nike store and were now in a different Nike location about to commit another theft. Once the defendant and co-defendant began driving away from the Nike store, officers conducted a traffic stop. The defendant and co-defendant were taken into custody at that

time. The loss prevention employee attended the scene and identified numerous Nike merchandise in the vehicle that were stolen from the two Nike locations earlier.

A detective also attended the scene and spoke with the defendant and co-defendant. Mr. Morgan admitted that he had been stealing and selling the items on the street. He would take "orders" from people and steal specific items to fill the orders. Mr. Hales admitted to the thefts that occurred that day, and indicated he committed the thefts in order to get money.

Mr. Morgan was arrested, transported to the Clark County Detention Center and booked accordingly.

Co-Defendant/Offender Information: Co-defendant Steven Edward Hale pleaded guilty to Participation in Organized Retail Theft (F) and is scheduled to appear in the Eighth Judicial District Court Department XXIII on January 3, 2018 for sentencing.

VI. DEFENDANT'S STATEMENT

☒ See Attached ☐ Defendant interviewed, no statement submitted ☐ Defendant not interviewed

VII. VICTIM INFORMATION/STATEMENT

Telephone contact was made with the Loss Prevention officer at Nike (VC2249570). According to the Loss Prevention officer, the amount of merchandise listed in the police reports is accurate. \$3,858.78 worth of merchandise was stolen from three separate Nike stores at nine separate times; however, following the arrest of the defendant and co-defendant, the Nike loss prevention officer was able to recover merchandise totaling \$1,049.90 at the scene. As such, restitution is being requested for the remainder of the merchandise that was stolen and not recovered: \$2,808.88.

Telephone contact was made with the Asset Protection Specialist for Home Depot, who provided the Division with a restitution request as followed: To Home Depot Store #3316 (VC2248829), restitution requested is \$498.00; to Home Depot Store #3305 (VC2214257), restitution requested is \$856.00.

Based on the above information, the Division recommends restitution in the amount of \$4,162.88, jointly and severally with co-defendant.

VIII. CUSTODY STATUS/CREDIT FOR TIME SERVED

Custody Status: In Custody, CCDC

CTS: 96 DAYS: 09-30-17 to 01-03-18 (CCDC)

IX. PLEA NEGOTIATIONS

The State will retain the right to argue; but no habitual. Both parties agree to include all of the victims and Defendant agrees to pay restitution to all of the victims. The State will not oppose dismissal of remaining counts.

X. RECOMMENDATIONS

Based on information obtained and provided in this report, the following recommendations are submitted.

190 Day Regimental Discipline Program: N/A Deferred Sentence Per NRS 453.3363, 458.300,
458A.200, 176A.250, 176A.280: N/A

FEEES

Administrative Assessment: \$25.00	Chemical/Drug Analysis: N/A	DNA: \$150.00
DNA Admin Assessment: \$3.00		
Domestic Violence Fee: N/A	Extradition: N/A	Psychosexual Fee: N/A

SENTENCE

Minimum Term: 16 months	Maximum Term: 72 months	Location: NDOC
Consecutive to/Concurrent With: N/A	Probation Recommended: No	Probation Term: N/A
Fine: \$5,000.00	Restitution: \$4,162.88 jointly and severally	Mandatory Probation/ Prison: N/A

☒ Pursuant to NRS 239B.030, the undersigned hereby affirms this document contains the social security number of a person as required by NRS 176.145.

☐ Pursuant to NRS 239B.030, the undersigned hereby affirms this document does not contain the social security number of any person.

Per the Nevada Revised Statutes, any changes to factual allegations in the Presentence Investigation Report may be ordered by the court within 180 days of the entry of Judgement of Conviction. The prosecuting attorney and defendant must agree to correct the contents.

The information used in the Presentence Investigation Report may be utilized reviewed by federal, state and/or local agencies for the purpose of prison classification, program eligibility and parole consideration.

In accordance with current Interstate Commission for Adult Offender Supervision rules and requirements, all felony convictions and certain [gross] misdemeanants are offense eligible for compact consideration. Due to Interstate Compact standards, this conviction may or may not be offense eligible for courtesy supervision in the defendant's state of residence. If not offense eligible, the Division may still authorize the offender to relocate to their home state and report by mail until the term of probation is complete and/or the case has been completely resolved.

PRESENTENCE INVESTIGATION REPORT
GREGORY DELLO MORGAN
CC#: C-17-327775-1

Page 9

Respectfully Submitted,

Natalie A. Wood, Chief

Report prepared by: L. Halter
DPS Parole and Probation, Specialist III
sccourtservices@dps.state.nv.us

Approved by:



Ladrea LaBranche, DPS Parole and Probation Supervisor
Southern Command, Las Vegas
sccourtservices@dps.state.nv.us

Original signature on file

0305

STANDARD PROBATION AGREEMENT AND RULES IF THE COURT CHOOSES TO GRANT PROBATION:

1. **Reporting:** You are to report in person to the Division of Parole and Probation as instructed by the Division or its agent. You are required to submit a written report each month on forms supplied by the Division. This report shall be true and correct in all respects.
2. **Residence:** You shall not change your place of residence without first obtaining permission from the Division of Parole and Probation, in each instance.
3. **Intoxicants:** You shall not consume any alcoholic beverages (whatsoever) (to excess). Upon order of the Division of Parole and Probation or its agent, you shall submit to a medically recognized test for blood/breath alcohol content. Test results of .08 blood alcohol content or higher shall be sufficient proof of excess.
4. **Controlled Substances:** You shall not use, purchase or possess any illegal drugs, or any prescription drugs, unless first prescribed by a licensed medical professional. You shall immediately notify the Division of Parole and Probation of any prescription received. You shall submit to drug testing as required by the Division or its agent.
5. **Weapons:** You shall not possess, have access to, or have under your control, any type of weapon.
6. **Search:** You shall submit your person, property, place of residence, vehicle or areas under your control to search including electronic surveillance or monitoring of your location, at any time, with or without a search warrant or warrant of arrest, for evidence of a crime or violation of probation by the Division of Parole and Probation or its agent.
7. **Associates:** You must have prior approval by the Division of Parole and Probation to associate with any person convicted of a felony, or any person on probation or parole supervision. You shall not have any contact with persons confined in a correctional institution unless specific written permission has been granted by the Division and the correctional institution.
8. **Directives and Conduct:** You shall follow the directives of the Division of Parole and Probation and your conduct shall justify the opportunity granted to you by this community supervision.
9. **Laws:** You shall comply with all municipal, county, state, and federal laws and ordinances.
10. **Out-of-State Travel:** You shall not leave the state without first obtaining written permission from the Division of Parole and Probation.
11. **Employment/Program:** You shall seek and maintain legal employment, or maintain a program approved by the Division of Parole and Probation and not change such employment or program without first obtaining permission. All terminations of employment or program shall be immediately reported to the Division.
12. **Financial Obligation:** You shall pay fees, fines, and restitution on a schedule approved by the Division of Parole and Probation. Any excess monies paid will be applied to any other outstanding fees, fines, and/or restitution, even if it is discovered after your discharge.
13. **Special Conditions: As Determined By the Court**

Brian Sandoval
Governor



James M. Wright
Director

Natalie Wood
Chief

DIVISION OF PAROLE AND PROBATION

December 11, 2017

PROBATION SUCCESS PROBABILITY (PSP) SCORE

Offender:	MORGAN, GREGORY	Offense Score Total:	24
PSI #:	534526	Social Score Total:	20
BIN #:	1004520496	Raw Score Total:	20
Case #:	C327775	Total PSP Score:	44

Prior Criminal History:

Felony Convictions:	-1 = 2 or More	Jail Sentences:	0 = 3 or more
Misdemeanor Convictions:	0 = 4 or more	Juvenile Commitments:	2 = None/or over 24
Pending, unrelated cases:	2 = None	Years free of Conv:	0 = Less than 3
Subsequent Crim Hist:	1 = Arrest/Pending	Prior Formal Suprv:	0 = More than 1
Prior Incarcerations:	1 = One	Criminal Pattern:	-2 = History of Violence

Present Offense:

Circumstances of Arrest:	2 = Non-prob.	Sophistication/Premeditation:	1 = Moderate
Type of Offense:	2 = Property	Plea Bargain Benefits:	1 = Somewhat
Psych or Medical Impact:	3 = N/A	Financial Impact:	1 = Moderate
Weapon:	3 = N/A	CoOffender:	1 = Equal Responsibility
Controlled Substances:	3 = N/A	Motive:	0 = Deliberate

Raw Score x 1.2 = Offense Score Total: 24

Social History:

Age:	2 = 25 - 39	Family Situation:	2 = Moderately Supportive
Employment/Program:	2 = Sporadic	Education:	1 = Incomplete
Financial:	2 = Could be developed	Military:	1 = Hon Discharge/No Mil Ser
Employability:	1 = Could be developed		

Pre Sentence Adjustment:

Commitment/Ties:	2 = Local/In State	Resource Availability:	2 = Available
Program Participation:	1 = Planned/Current	Substance Drug:	-2 = Serious Abuser/Addict
Honesty/Cooperation:	2 = Candid	Substance Alcohol:	0 = Excessive
Attitude/Supervision:	2 = Positive	Attitude/Offense:	2 = Contribute

Social Score Total: 20

Offense Score + Social Score = PSP TOTAL SCORE: 44

0307

DEPARTMENT OF PUBLIC SAFETY
DIVISION OF PAROLE AND PROBATION
SENTENCE RECOMMENDATION SELECTION SCALE

☒ Felony

☐ GM

Defendant's Name: Gregory Dello Morgan

CC# C-17-327775-1

CT: I	Offense: Participation in Organized Retail Theft	NRS: 205.08345	Category: B
Recommendation: 16-72 months NDOC		<input type="checkbox"/> Probation Only <input type="checkbox"/> Non-Probation	

CT:	Offense:	NRS:	Category:
Recommendation:		<input type="checkbox"/> Probation Only <input type="checkbox"/> Non-Probation	

CT:	Offense:	NRS:	Category:
Recommendation:		<input type="checkbox"/> Probation Only <input type="checkbox"/> Non-Probation	

CT:	Offense:	NRS:	Category:
Recommendation:		<input type="checkbox"/> Probation Only <input type="checkbox"/> Non-Probation	

PSP TOTAL SCORE: 44

0-54 = Denial ☒55-64 = Borderline ☐65-100 = Probation ☐

DEVIATION JUSTIFICATION: In to OR Out to Probation

☐ In / Prison☐ Out / Probation

Raw Score (Offense): 20

Diversion Recommended: 453 ☐ 458 ☐Veterans ☐Mental Health ☐Other ☐

(transfer score to corresponding risk range below)

SENTENCE STRUCTURE	CATEGORY Score	LOW RANGE 39-49 <input type="checkbox"/>	LOW - MEDIUM 28-38 <input type="checkbox"/>	MEDIUM RANGE 17-27 <input checked="" type="checkbox"/>	MEDIUM - HIGH 6-16 <input type="checkbox"/>	MAXIMUM ≤ 5 (or less) <input type="checkbox"/>
364 days Begin sentence consideration at midpoint six month sentence and adjust based on factors delineated	Gross Misdemeanor (GM)	Factors to justify greater sentence: Prior criminal history, harm to victim, issues can be addressed via probation, restitution will be ordered. Factors to justify lesser sentence and/or fine only: Minimal/no financial loss, minimal/no prior criminal history, age of offender, out of state offender, no issues to be addressed via probation, time in custody prior to sentencing, contemplated in plea negotiations				
1 - 4 years <input type="checkbox"/>	Category E	12-30 months <input type="checkbox"/>	12-32 months <input type="checkbox"/>	12-34 months <input type="checkbox"/>	12-48 months <input type="checkbox"/>	19-48 months <input type="checkbox"/>
1 - 5 years <input type="checkbox"/>	Category C	12-32 months <input type="checkbox"/>	12-34 months <input type="checkbox"/>	12-36 months <input type="checkbox"/>	18-60 months <input type="checkbox"/>	24-60 months <input type="checkbox"/>
1 - 6 years <input type="checkbox"/>	Category B	12-36 months <input type="checkbox"/>	12-36 months <input type="checkbox"/>	12-48 months <input type="checkbox"/>	24-72 months <input type="checkbox"/>	28-72 months <input type="checkbox"/>
1 - 10 years <input checked="" type="checkbox"/>	Category B	12-36 months <input type="checkbox"/>	12-48 months <input type="checkbox"/>	16-72 months <input checked="" type="checkbox"/>	36-120 months <input type="checkbox"/>	48-120 months <input type="checkbox"/>
1 - 15 years <input type="checkbox"/>	Category B Enhancement	12-48 months <input type="checkbox"/>	24-60 months <input type="checkbox"/>	36 - 96 months <input type="checkbox"/>	48-180 months <input type="checkbox"/>	60-180 months <input type="checkbox"/>
2 - 10 years <input type="checkbox"/>	Category B	24-60 months <input type="checkbox"/>	28-72 months <input type="checkbox"/>	32-84 months <input type="checkbox"/>	36-120 months <input type="checkbox"/>	48-120 months <input type="checkbox"/>
2 - 15 years <input type="checkbox"/>	Category B	24-72 months <input type="checkbox"/>	32-84 months <input type="checkbox"/>	36-120 months <input type="checkbox"/>	48-180 months <input type="checkbox"/>	66-180 months <input type="checkbox"/>
3 - 10 years <input type="checkbox"/>	Category B	36-90 months <input type="checkbox"/>	40-100 months <input type="checkbox"/>	42-110 months <input type="checkbox"/>	44-120 months <input type="checkbox"/>	48-120 months <input type="checkbox"/>
3 - 15 years <input type="checkbox"/>	Category B	36-96 months <input type="checkbox"/>	42-120 months <input type="checkbox"/>	48-120 months <input type="checkbox"/>	60-180 months <input type="checkbox"/>	72-180 months <input type="checkbox"/>
5 - 15 years <input type="checkbox"/>	Category B	60-150 months <input type="checkbox"/>	64-162 months <input type="checkbox"/>	68-174 months <input type="checkbox"/>	72-180 months <input type="checkbox"/>	72-180 months <input type="checkbox"/>
1 - 20 years <input type="checkbox"/>	Category B	12-48 months <input type="checkbox"/>	18-96 months <input type="checkbox"/>	24-120 months <input type="checkbox"/>	36-240 months <input type="checkbox"/>	72-240 months <input type="checkbox"/>
2 - 20 years <input type="checkbox"/>	Category B	24-60 months <input type="checkbox"/>	30-96 months <input type="checkbox"/>	36-120 months <input type="checkbox"/>	48-240 months <input type="checkbox"/>	84 - 240 months <input type="checkbox"/>
3 - 20 years <input type="checkbox"/>	Category B	36-72 months <input type="checkbox"/>	42-108 months <input type="checkbox"/>	54-144 months <input type="checkbox"/>	66-240 months <input type="checkbox"/>	96 -240 months <input type="checkbox"/>
5 - 20 years <input type="checkbox"/>	Category B & habitual offender	60-150 months <input type="checkbox"/>	64-162 months <input type="checkbox"/>	72-174 months <input type="checkbox"/>	84-240 months <input type="checkbox"/>	96 -240 months <input type="checkbox"/>
Life w/or without parole <input type="checkbox"/>	Category A & habitual offender	Life/possibility of parole after 20 years <input type="checkbox"/>	Life/ possibility of parole after 20 years <input type="checkbox"/>	Life w/possibility of parole <input type="checkbox"/>	Life w/ possibility of parole <input type="checkbox"/>	Life with no possibility of parole <input type="checkbox"/>

Other Areas of Concern (Check all that apply):

☐ Low Intelligence / Cognitive Difficulties☐ Physical Handicap☐ Mental Health Issues☐ Reading and Writing Limitations / Significant Learning Disabilities☐ Other: _____

IMPORTANT: The factors and areas of concern identified above should not result in a negative impact when formulating a sentencing recommendation. If any of these factors apply to an offender, a downward sentence deviation towards leniency may be appropriate.

ANY RECOMMENDATION THAT DEVIATES FROM SUGGESTED SENTENCE MUST INCLUDE JUSTIFICATION (+) OR (-)

DEVIATION JUSTIFICATION:

Leanne Halter

Digitally signed by Leanne Halter
Date: 2017.12.26 14:02:37 -0500

5068

12-06-17

Specialist:

CID #

Date

Ladrea LaBranche, Supervisor

Digitally signed by Ladrea LaBranche, Supervisor
Date: 2017.12.11 03:22:29 -0500

3134

12-11-17

Supervisor:

CID #

Date

Lock All Fields

NPP JSF003 (B) 10/17

Page ____ of ____

0309

DEFENDANT STATEMENT

C-17-32775-1

Write in your own words the circumstances of your offense, why you committed the offense, your present feelings about your situation, and why you may be suitable for probation if eligible. A copy of this statement will be sent to the judge. Write or print clearly. If using a pencil, please write as dark as possible. If you do not want to submit a written statement, still initial that you acknowledge all changes to the PSI must be made prior to sentencing.

I am writing this statement to explain in some detail the nature of my offense, reasons for committing the offense, my feeling about my situation, and why I would be suitable for probation. The offense I was charged with was "Participation in ORGANIZED Retail theft," which stemmed from me stealing from multiple retail stores. Most of the stores were clothing or shoe stores/home depot within malls where I would steal shoes, clothes, accessories and other merchandise that I could use and have using cocaine since the age 11 yrs old which was the major reason for committing my offense. I've been addicted to cocaine for many years and instead of working or borrowing from others I sold ~~items~~ items I stole to help support my addiction. In fact every time I would steal from these stores I was high on cocaine and eager to sell the items to score some more drugs. Although I am incarcerated now which I wouldn't prefer to be I am glad because this situation in many ways have helped me and could benefit even more. Not only have I been clean and had time to really reflect on my personal issues, but I can also receive further help with my addiction. This situation has not only effected me but also the ones who love and care for me so its time to make changes for the better. I know that what I did was wrong but I can honestly say that my ~~decisions~~ decisions were made while being high and not having a clear state of ~~mind~~ mind. I would like to receive further help from a drug program so I can completely shake my addiction and show that I am ready to put that problem in my past.

Signature

Mary M. Morgan Jr.

Date 11-30-17

Cont to Next page (16)

I would be suitable for probation because although I committed a crime it was not one that make me a danger to society and I am willing to receive help for my addiction that caused me to commit my offense. If given probation I will show that can not only be a better man for myself and my family but also a better man in society by becoming clean and leaving crime alone.
Thank you for your time, thank you for seeking an underlined understanding also.

Yours Truly,

Mr. Gregory Dello Morgan Jr.

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

Electronically Filed
2/19/2020 10:38 AM
Steven D. Grierson
CLERK OF THE COURT

Steven D. Grierson

State of Nevada
vs
Andre Snipes

Case No.: C-19-344461-2

Department 20

NOTICE OF HEARING

Please be advised that the State's Notice of Motion in Limine Defendants Statements and Motion to Admit Evidence of Other Bad Acts or in the Alternative to Put Defendants on Notice of the State's Intention to Admit Prior Judgment of Conviction in the above-entitled matter is set for hearing as follows:

Date: March 03, 2020
Time: 8:30 AM
Location: RJC Courtroom 12A
Regional Justice Center
200 Lewis Ave.
Las Vegas, NV 89101

NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Marie Kramer
Deputy Clerk of the Court

CERTIFICATE OF SERVICE

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Marie Kramer
Deputy Clerk of the Court

0312



1 SLOW
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 ASHLEY LACHER
6 Deputy District Attorney
7 Nevada Bar #014560
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

12 ANDRE GRANT SNIPES,
13 #7088448

14 Defendant.

CASE NO: C-19-344461-2

DEPT NO: XX

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

17 TO: ANDRE GRANT SNIPES, Defendant; and

18 TO: JAMES J. RUGGEROLI, ESQ., Counsel of Record:

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

21 *DENOTES ADDITION AND/OR CHANGES:

22 BEVERIDGE, J. - LVMPD P#6707 - With the Las Vegas Metropolitan Police
23 Department. An expert in the area of organized retail theft investigations, and will give related
24 opinions thereto.

25 LASTER, G. - LVMPD P#5658 - A Detective with the Las Vegas Metropolitan Police
26 Department.

27 //

28 //

1 SUMMERS, K. - LVMPD P#14109 - A Detective with the Las Vegas Metropolitan
2 Police Department as a Detective and Facial Recognition. An expert in the area of organized
3 retail theft investigations, and will give related opinions thereto.

4	<u>NAME</u>	<u>ADDRESS</u>
5	ALDEN, ABREGO	C/O DISTRICT ATTORNEY'S OFFICE
6	ALVAREZ, SAMANTHA	ADDRESS UNKNOWN
7	*AYLA, MICHELLE	FASHION SHOW FOOT LOCKER
8	BEVERIDGE, J.	LVMPD P#6707
9	*CABRERA, ABRAHAM	LVMPD P#15669
10	CASTILLO, ELVIN	ADDRESS UNKNOWN
11	CLARK, J.	LVMPD P#13952
12	*COURTLEY, KEATON	LVMPD P#15762
13	CUSTODIAN OF RECORDS	CCDC
14	CUSTODIAN OF RECORDS	CHAMPS SPORTS, 3200 S Las Vegas Blvd, LVN
15	CUSTODIAN OF RECORDS	FASHION SHOW MALL
16	CUSTODIAN OF RECORDS	Foot Locker, 4300 Meadows Lane Ste 115, LVN
17	CUSTODIAN OF RECORDS	LVMPD - DISPATCH/COMMUNICATIONS
18	CUSTODIAN OF RECORDS	LVMPD - RECORDS
19	CUSTODIAN OF RECORDS	NIKE
20	CUSTODIAN OF RECORDS	WHITTLESEA BLUE CAB
21	CUSTODIAN OF RECORDS	WYNN HOTEL
22	CUSTODIAN OF RECORDS	WYNN HOTEL SECURITY
23	*DAVIS, ALICIA SGT.	DIVISION OF PAROLE AND PROBATION
24	*DENSON, AARON	LVMPD P#15763
25	DOUGHERTY, EDWARD	DA INVESTIGATOR AND/OR DESIGNEE
26	FISCHER, E.	LVMPD P#16456
27	FLORES, ARMANDO	ADDRESS UNKNOWN
28	GARCIA, C.	LVMPD P#13130

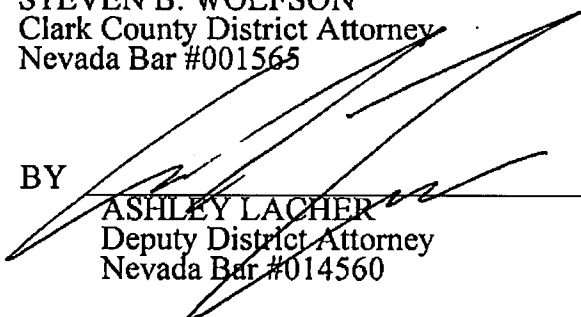
1 JACOBITZ, J. LVMPD P#9398
2 *JOHNSON, JOHN LVMPD P#8546
3 *KOFFORD, JORDAN LVMPD P#15662
4 LASTER, G. LVMPD P#5658
5 LAWS, JR., BRYAN C/O DISTRICT ATTORNEY'S OFFICE
6 LNU, RUBY FOOTLOCKER SUMMERLIN
7 *LNU, STEVE (MANAGER) FASHION SHOW FOOTLOCKER
8 MARU, YOHANNES ADDRESS UNKNOWN
9 *MIKALONIS, SHAY LVMPD P#15903
10 *MILLS, PHILIP LVMPD P#15854
11 MONTALVO, DANIELLA ADDRESS UNKNOWN
12 PANLILLO, CARMINA ADDRESS UNKNOWN
13 *PERKETT, ERIK LVMPD P#14152
14 *QUIMIRO, KYLE LVMPD P#17390
15 SUMMERS, K. LVMPD P#14109
16 *WEBB, TAYLOR LVMPD P#15851

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

20 The substance of each expert witness' testimony and copy of all reports made by or at
21 the direction of the expert witness will be provided in discovery.

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

23
24 STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565

25
26
27 BY 
ASHLEY LACHER
Deputy District Attorney
Nevada Bar #014560
28

1 **CERTIFICATE OF ELECTRONIC FILING**

2 I hereby certify that service of the above and foregoing was made this 24th day of
3 February, 2020, by Electronic Filing to:

4
5 JAMES J. RUGGEROLI, ESQ.
6 Email: ruggeroli@icloud.com

7 BY: 
8 Secretary for the District Attorney's Office
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DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

March 03, 2020

C-19-344461-2 State of Nevada
 vs
 Andre Snipes

March 03, 2020 08:30 AM All Pending Motions

HEARD BY: Johnson, Eric COURTROOM: RJC Courtroom 12A

COURT CLERK: Skinner, Linda

RECORDER: Calvillo, Angie

REPORTER:

PARTIES PRESENT:

Andre Grant Snipes

Defendant

Ashley A. Lacher

Attorney for Plaintiff

James J. Ruggeroli

Attorney for Defendant

State of Nevada

Plaintiff

JOURNAL ENTRIES

STATE'S NOTICE OF MOTION IN LIMINE DEFENDANTS STATEMENTS AND MOTION TO ADMIT EVIDENCE OF OTHER BAD ACTS OR IN THE ALTERNATIVE TO PUT DEFENDANTS ON NOTICE OF THE STATE'S INTENTION TO ADMIT PRIOR JUDGMENT OF CONVICTION...CALENDAR CALL

Mr. Bassett appeared for Deft. Morgan and Mr. Ruggeroli appeared for Deft. Snipes.

Upon Court's inquiry, Ms. Lacher advised she is ready to proceed to trial. Mr. Bassett advised he is not ready for the following reasons: 1) he needs to file a response to the State's Motion; 2) there is ongoing investigation; 3) his second chair had to withdraw and 4) the Defendants are in opposition and feel they should be severed. Objections stated by Ms. Lacher. Mr. Bassett stated Deft. Morgan has waived his speedy trial rights and has always wanted to negotiate this case. Mr. Ruggeroli advised Deft. Snipes wants to go to trial and agrees that the Defendant should be severed. Objections by Ms. Lacher as counsel should have filed a Motion before now.

Mr. Ruggeroli advised the offer was 1 count of Robbery and 1 count of Burglary, State retains the right to argue but will not seek habitual criminal treatment, contingent on co-defendant that has been rejected.

COURT ORDERED, State's Motion CONTINUED to Thursday so that Mr. Bassett and Mr. Ruggeroli can respond and also file a Motion to Sever. Court noted the response and new motion are due by the end of day tomorrow and that the State may respond orally. As to responding to the Motion, Court noted it agrees with the State's rendition of the law relating to admission of Defendants statement, however, Court will not grant that part as there are other basis for admitting the statement and directed counsel to focus on the bad act aspect. Ms. Lacher advised she is currently in trial and will have another Deputy present to argue.

Mr. Bassett again stated his concerns about trial. Court advised Jury selection would begin at

9:00 am on Monday.

Ms. Lacher advised there will be 15-20 witnesses and the trial will take 5-7 days.

A. LACHER / A. BASSETT / J. RUGGEROLI / 15-20 WITNESSES / 5-7 DAYS

CUSTODY

3/5/20 1:30 PM STATE'S NOTICE OF MOTION IN LIMINE DEFENDANTS STATEMENTS
AND MOTION TO ADMIT EVIDENCE OF OTHER BAD ACTS OR IN THE ALTERNATIVE TO
PUT DEFENDANTS ON NOTICE OF THE STATE'S INTENTION TO ADMIT PRIOR
JUDGMENT OF CONVICTION



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 GREGORY DELLO MORGAN,
12 ANDRE GRANT SNIPES,

13 Defendants,

CASE NO. C-19-344461-1
C-19-344461-2

DEPT. NO. XX

14 BEFORE THE HONORABLE ERIC JOHNSON, DISTRICT COURT JUDGE

15 TUESDAY, MARCH 3, 2020

16 **RECORDER'S TRANSCRIPT OF HEARING:**
17 **STATE'S NOTICE OF MOTION IN LIMINE**
18 **DEFENDANTS STATEMENTS AND MOTION TO ADMIT EVIDENCE**
19 **OF OTHER BAD ACTS OR IN THE ALTERNATIVE TO PUT**
20 **DEFENDANTS ON NOTICE OF THE STATE'S INTENTION TO ADMIT**
21 **PRIOR JUDGMENT OF CONVICTION; CALENDAR CALL**

22 SEE APPEARANCES ON PAGE 2:

23
24
25 RECORDED BY: ANGIE CALVILLO, COURT RECORDER

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APPEARANCES:

For the State:

LAURA GOODMAN, ESQ.
ASHLEY A. LACHER, ESQ.
Deputy District Attorneys

For Defendant Morgan:

ALEXANDER B. BASSETT, ESQ.
Deputy Public Defender

For Defendant Snipes:

JAMES J. RUGGEROLI, ESQ.
Chief Deputy Special Public Defender

1 Las Vegas, Nevada; Tuesday, March 3, 2020
2 [Hearing commenced at 9:08 a.m.]
3 THE COURT: State of Nevada vs. Gregory Morgan, Case
4 Number C344461.
5 Go ahead, counsel, make your appearances.
6 MR. BASSETT: Good morning, Your Honor, Alex Bassett for
7 Mr. Morgan.
8 MS. GOODMAN: Laura Goodman for the State.
9 THE COURT: All right. The -- you've talked with the State in
10 regard to calendar call?
11 MR. BASSETT: Yes.
12 THE COURT: And your request for a continuance?
13 MR. BASSETT: Yes.
14 THE COURT: Just so I sort of have an expectation, what's
15 the State's position, do you know?
16 MR. BASSETT: I --
17 MS. GOODMAN: I have no clue, Your Honor --
18 THE COURT: That's why I'm asking him --
19 MS. GOODMAN: I will find out.
20 THE COURT: -- since he --
21 MS. GOODMAN: Oh yeah.
22 MR. BASSETT: They indicated to me when we spoke last
23 week, Ms. Lacher said she was going to be announcing ready.
24 THE COURT: Okay. So how old -- this isn't that old of a
25 case.

1 MR. BASSETT: It's not, Your Honor. This is the second
2 calendar call. It also went to Grand Jury so I didn't actually get the case
3 until mid-December.

4 THE COURT: Okay. I'm looking at -- you've got a State's
5 notice of motion in limine to -- for other bad acts evidence. I don't have
6 a response from you.

7 Do you not oppose to State's motion?

8 MR. BASSETT: That's part of the reason for the -- for the
9 request, Your Honor, along with four other reasons.

10 MS. GOODMAN: And, Your Honor, I do have from -- Ms.
11 Lacher is going to be up here but she is going to object. And obviously
12 a opposition that hasn't --

13 THE COURT: All right.

14 MS. GOODMAN: -- been filed isn't a basis for a continuance.

15 THE COURT: All right, okay. Now I know at least what we're
16 going to be having to deal with here in a couple minutes. And so let's let
17 Ms. Lacher hear your -- your four other reasons so that she can
18 respond.

19 You can sit down, sir.

20 [Colloquy regarding another case]

21 THE COURT: Just an added question, Mr. Bassett. Do you
22 know if -- has your client waived the 60 days?

23 MR. BASSETT: Yes, Your Honor. He waived that back in
24 January.

25 THE COURT: Okay. I just --

1 [Colloquy between counsel and the Court]
2 [Proceedings trailed]
3 [Proceeding resumed at 9:14 a.m.]
4 THE COURT: State of Nevada vs. Gregory Morgan, Case
5 Number C344461.
6 Counsel, please note your appearances for the record.
7 MS. LACHER: Ashley Lacher for the State.
8 MR. BASSETT: Alex Bassett for the Defense.
9 THE COURT: Okay. This is on for calendar call and then
10 also State's notice of motion in limine, defendant's statements and
11 motion in limine to admit evidence of other bad acts, and/or in the
12 alternative, to put defendants on notice of the State's intention to admit
13 prior judgement of conviction.
14 So why don't we deal with the immediate issue of trial that's
15 scheduled for the 9th, where do we stand with calendar call?
16 State's position?
17 MS. LACHER: State's ready.
18 THE COURT: Okay.
19 MR. BASSETT: The defense is not prepared -- is asking for it
20 to be continued.
21 THE COURT: All right. You previously indicated you had four
22 reasons.
23 MR. BASSETT: Yes.
24 THE COURT: So let's hear the four reasons.
25 MR. BASSETT: Your Honor, the first -- in no particular order,

1 the first response to the motion in limine. I was going to be asking Your
2 Honor for a brief extension to allow me to file a response to that. I had a
3 case that I anticipated was going to be going to trial last week and that
4 sucked up a lot of my time. That ended up settling. I -- if I could have
5 even two days, I could get a response filed, I don't anticipate the
6 arguments in that motion are going to be particularly strong, but for the
7 record, I should file a response.

8 More pressingly, Your Honor, the other issues here. One, we
9 do have ongoing investigation in this case. We have my investigator
10 looking into possibly getting additional video footage from some of the
11 locations where the alleged events occurred. That's the first point.

12 The second point, perhaps even more crucially for my
13 preparedness for trial, my second chair attorney on this case, whom I
14 had been coordinating with on strategy and breaking down the elements
15 of the trial, informed me yesterday that they have to back out of the trial.
16 So as of today, I do not have a second chair to help me with this case. I
17 will be able to find one. Although getting them up to snuff and getting
18 the work prepared that had already been done in the next six days
19 would be -- I would worry about the effectiveness of them in preparation
20 for trial. That was genuinely unexpected and, quite frankly, a blow to my
21 morale about handling this case.

22 Thirdly, Your Honor, at this point it's become clear that -- and
23 it only has become clear in the last week or two that the two co-
24 defendants are at diametrically opposed strategies to dealing with this
25 case. If you were to allow an extension, Your Honor, I'd be filing a

1 motion to sever for a couple of reasons.

2 Mr. Morgan, from the beginning, Your Honor, has not wanted
3 to take this case to trial. He has told me that from the very first and so
4 subsequently I've engaged in extensive negotiations with the State.
5 Obviously, the State is of course not required by law to make an offer.
6 But I will point out, Your Honor, they did extend an offer originally which
7 was to plead guilty to one count of burglary, one count of robbery with a
8 right to argue and an agreement not to habitualize Mr. Morgan, that was
9 the initial offer.

10 As things go with negotiations, we went back and forth. The
11 State did not budge on that offer and as of last week, Mr. Morgan
12 agreed to the offer. However, the State made the offer contingent which
13 means, of course, that Mr. Snipes would have to agree. Mr. Snipes has
14 been consistently difficult to work with in negotiations.

15 THE COURT: Okay, let's -- let me. Was there another
16 reason? I know I've got the --

17 MS. BASSETT: That's the four, Your Honor.

18 THE COURT: -- I've got the gist of this one. That's the four?

19 MR. BASSETT: That's -- that's the four.

20 THE COURT: What's the State's position?

21 MS. LACHER: Your Honor, I believe this is the second setting
22 in the case. The first setting we had set a status check for negotiations.
23 I made sure that both Mr. Ruggeroli and Mr. Bassett had -- we had done
24 -- had done our file review at that time. Would three weeks be enough
25 time to discuss the case and their offer with their clients, yes? They did

1 not want to accept that offer at that time and it was rejected and revoked
2 was my understanding of it. But I did make sure that they had had all
3 the discovery, we had done our file review and left them ample time to
4 discuss the case with their clients and they didn't want it at that time.

5 We were ready at that first setting; I had no objection to a
6 continuance. I'm ready again, I am objecting to a continuance. He
7 didn't file a motion and now all of a sudden there's all these other things.
8 When I remember the Court asking is there any other additional
9 information that you think you need from the State or anything else you
10 want to do, they said, no. And we have the other, I think, both
11 defendants were an invoked status as well.

12 MR. BASSETT: A couple corrections there, Your Honor. The
13 offer was not revoked. Ms. Lacher confirmed --

14 THE COURT: I'm more concerned about the invoked status.
15 You had said in --

16 MR. BASSETT: Mr. Morgan waived his --

17 THE COURT: Okay.

18 MR. BASSETT: -- right to a speedy trial.

19 THE COURT: I believe you.

20 MR. BASSETT: Mr. Morgan waived his right to a speedy trial
21 on January 14th, Your Honor.

22 THE COURT: Okay.

23 MS. LACHER: The other one is invoked.

24 THE COURT: Oh, the other one's invoked? Okay.

25 MS. LACHER: Yeah. Snipes is invoked.

1 THE COURT: All right. Well let's wait until Mr. Ruggeroli gets
2 here.

3 MR. BASSETT: And also for the record, Your Honor --

4 MS. LACHER: And two, there were -- there wasn't just one
5 offer. There was a stip time offered to one felony and they -- and I
6 had -- did go back and forth in the final offer that I made clear at that last
7 time was the robbery, burglary, right to argue contingent, no habitual.

8 THE COURT: Okay.

9 MS. LACHER: They didn't want it.

10 MR. BASSETT: And that offer was not revoked and the State
11 has failed to provide any rationale behind making it contingent.

12 THE COURT: Well, hey, that's up to the State.

13 MR. BASSETT: I understand that.

14 THE COURT: So all right. Let's wait and see what Mr.
15 Ruggeroli's position's going to be because I will say that I don't
16 necessarily see a basis, --

17 MS. LACHER: And --

18 THE COURT: -- you know, Mr. Ruggeroli's client has invoked
19 to continue the trial next week on what you've represented. Mr.
20 Ruggeroli's in sort of the same stack, just for the record so that --
21 because the only thing that really caught my ear at all was you indicated
22 additional investigation.

23 What are you looking for?

24 MR. BASSETT: Your Honor, my investigator is -- basically,
25 Your Honor, their -- the video footage we have is footage from outside

1 the store fronts, not actually showing the incidents. My investigator has
2 -- is looking into seeing if there is any video footage available from inside
3 the store or from inside the parking garage where some of the incidents
4 took place. There are cameras and the State has not provided that
5 evidence, I don't believe the State has that evidence. But my
6 investigator had said that additional time would be useful to confirm or
7 deny whether or not that footage exists, which would go a long way
8 towards answering some of the questions in our defense.

9 THE COURT: Okay. When did you start looking for this?

10 MR. BASSETT: I put in the request approximately three
11 weeks ago.

12 THE COURT: Well it's a little late in the ball game. I mean
13 the case has been on par since November. All right, let's see what
14 Mr. --

15 MR. BASSETT: Well, Your Honor, I was not assigned to it
16 until December. And, again, the top priority, per Mr. Morgan, was
17 negotiating a deal 'cause he's never wanted to go to trial.

18 THE COURT: Well -- all right. Let's see what Mr. Ruggeroli's
19 position is.

20 [Proceedings trailed]

21 [Proceeding resumed at 9:43 a.m.]

22 THE COURT: Recalling State of Nevada vs. Gregory Morgan
23 and now calling State of Nevada vs. Andre Snipes, Case Number
24 C344461.

25 Counsel, please note your appearances again for the record.

1 MS. LACHER: Ashley Lacher for the State.
2 MR. RUGGEROLI: Good morning, Your Honor, James
3 Ruggeroni.
4 MR. BASSETT: Alex Bassett for Mr. Morgan.
5 MR. RUGGEROLI: Judge, I can give the Court some
6 additional information --
7 THE COURT: All right.
8 MR. RUGGEROLI: -- as to my client.
9 Judge, he is very much wanting to go to trial. We have been
10 working very diligently to meet with him, have the investigator go over,
11 provide him with the number of videos and surveillance that the State
12 has provided us with. And so if you recall last time this was continued,
13 he did not waive his speedy trial so he does want to go forward.
14 It's my understanding that Public Defender has raised issues
15 of severance which I do concur with. I think that there are some
16 difficulties. I don't know if that was raised in court.
17 THE COURT: Briefly.
18 MR. RUGGEROLI: Okay. My request is that we go forward
19 and that you consider severing as to the Public Defender's client. We're
20 ready to go.
21 THE COURT: Okay. Well, let me hear the State's position.
22 MS. LACHER: Your Honor, I think in order to sever, the
23 Defense should've filed a motion. They've had this case since -- both
24 Mr. Ruggeroni and the Public Defender's Office have had this case since
25 its inception in October 11th of 2019.

1 MR. BASSETT: False, Your Honor. We have not.

2 MS. LACHER: That's when they were appointed. Mr. Morgan
3 was appointed Mr. Bassett on October 11th, 2019 in Justice Court and
4 Mr. Snipes was appointed Mr. Ruggeroli on that same date. They didn't
5 file a motion so --

6 THE COURT: Well --

7 MS. LACHER: -- they have not set forth the basis.

8 THE COURT: -- severance can be raised at any time even
9 during the middle of trial if a basis arises for the purposes of severance.
10 So I mean I'm not opposed to them raising the severance at this point in
11 time. But I mean, it's a fairly high standard to justify severance and just
12 tell -- and inconsistent defenses does not necessarily justify a
13 severance.

14 What I'm -- and what I'm inclined to do is set this for -- we'll
15 set the -- we're going to set this for trial on Monday.

16 [Colloquy between the Court and Staff]

17 MR. BASSETT: Your Honor, Your Honor, if I may just briefly
18 be heard.

19 I -- if you are inclined to set this for trial -- allow the trial to go
20 forward next week, I would request a Tuesday start for a very simple
21 reason. I have a long standing commitment. I will be out of the
22 jurisdiction until 7:30 a.m. on Monday. I have a flight that lands at that
23 time. I should be able to get to court by 9:00 a.m. on Monday, but given
24 that narrow time frame, I would be more comfortable if we could delay
25 the start of the trial one day.

1 THE COURT: Well, I want to try to get the jury selected in the
2 trial on Monday. So I appreciate you'll arrive, but I will agree in view of
3 your situation that all we will do on Monday is jury selection. I won't
4 require you to have anything so we'll set it for 9 'o clock on Monday.
5 We'll keep us posted as to -- beauty of flying early in on the morning is
6 usually the planes take -- are there and take off on-time so you should
7 be able to get in on Monday.

8 I'm going to set the State's motion. I'm going to give you a
9 chance to file by the end of tomorrow a response to the State's motion in
10 limine. I'll let you have the same thing if you want to, Mr. Ruggeroli.
11 And then I also want you to file something in writing as to the severance
12 and we'll consider those issues on Thursday afternoon at --

13 [Colloquy between the Court and Staff]

14 THE COURT: Should be able to get started at 1:30. So we'll
15 set this for 1:30 on Thursday.

16 I will tell you in terms of responding to the motion in limine, I
17 do agree with the State's rendition of the law relating to admission of
18 defendant's statement. However, I'm not going to grant that part. I
19 consider, you know, there are other basis's for admitting a defendant's
20 statement then for the truth of the matter.

21 So I mean if you've got a non-hearsay reason or another
22 hearsay exception that is -- that applies to a defendant's statement, I'll
23 be glad to hear that at the time of trial. I'll expect the State to enter in an
24 objection. So I'm not going to enter a blanket order relating to, you
25 know, I'll recognize the State accurately stated the law relating to

1 admission of a defendant's statement by a party opponent but there are
2 other reasons -- ways to admit a statement. So I'm not going to grant a
3 blanket motion. So you don't need to respond to that part of their
4 motion. I'm more interested in the bad act aspect of the motion.

5 All right, anything else at this point in time?

6 MR. RUGGEROLI: One issue as far as housekeeping. There
7 had been an offer extended and I did want to make a record that the
8 State had offered Mr. Snipes to plead guilty to one count of robbery and
9 one count of burglary. The State would have retained the right to argue.
10 They would not have sought habitual treatment. It was a contingent
11 offer.

12 I had indicated to Mr. Snipes that I would attempt to make a
13 counter offer, which I did. He was open to a couple of grand larcenies. I
14 don't think that the State will consider that and so I just wanted to make
15 a record that the offer has been extended and rejected.

16 THE COURT: Okay.

17 MS. LACHER: Right.

18 MR. BASSETT: And again a couple of housekeeping matters
19 in my end, as well, Your Honor.

20 THE COURT: Sure.

21 MR. BASSETT: Again, just wanted to note that I am
22 concerned about my ability to be effective going forward next week for
23 the reasons stated earlier. And also just wanted to emphasize again for
24 the Court, the only reason Mr. Morgan is going to trial is because his co-
25 defendant is forcing him.

1 THE COURT: Well, that --

2 MR. BASSETT: I just want to make sure that Your Honor is
3 aware of that.

4 THE COURT: I understand what you're saying. I'm -- like I
5 said the State made -- you know, has that prerogative and there's not
6 really any way I can get involved with it --

7 MR. BASSETT: I'm just asking you to --

8 THE COURT: -- whether I agree with your perspective or not,
9 it is what it is. So no -- and I do understand the reasons that you gave
10 earlier. I do think you've had -- sounds like discovery in this matter for a
11 sufficient period of time. I do appreciate you don't have your co-counsel
12 -- has stepped out for next week. But you do have other people in the
13 office who can fill in, in the co-counsel role.

14 I appreciate the information relating to additional video and I'm
15 open if your investigator indicates or you indicate something specific as
16 to what you expect to find on that video. And the likelihood of finding
17 that video at this point in time to -- on Thursday afternoon, if you want to
18 renew your motion to continue at that point in time. And so, you know,
19 you know, Mr. Ruggeroli's client wants to go to trial.

20 I -- at the moment, you know, absent seeing what you've got
21 for severance, there's a strong preference that people indicted together
22 should go to trial together. And so I'm inclined to force this to trial next
23 week. All right.

24 MS. LACHER: All right and --

25 THE COURT: Oh.

1 MS. LACHER: -- Your Honor, just if it wasn't clear, for the
2 offer is revoked as to both defendants and we're ready and I just want to
3 be --

4 THE COURT: You won't keep it open until Thursday
5 afternoon?

6 MS. LACHER: No.

7 THE COURT: All right.

8 MS. LACHER: And so the motions will be heard on Thursday
9 afternoon and then?

10 THE COURT: Right.

11 MS. LACHER: Okay. At 1:30?

12 THE COURT: So I should see tomorrow a response -- and I
13 said it's open to you, Mr. Ruggeroli, if you want to file something.

14 MR. RUGGEROLI: It will be filed by tomorrow, Your Honor.

15 MS. LACHER: Okay.

16 THE COURT: Filed by the end of tomorrow; response to the
17 motion to admit evidence of other bad acts and severance. Something
18 in writing explaining your severance position, I'm not going to require the
19 State to respond. You can respond orally on Thursday afternoon. And I
20 will allow you to make a renewed motion for continuance on Thursday if
21 you've got something more you can give me in terms of the investigator.

22 MR. BASSETT: I'll talk to my investigator today, Your Honor.

23 THE COURT: All right.

24 MS. LACHER: And, Your Honor, I'm in trial this week in
25 Judge Ellsworth, that only has afternoons, but I'll make sure somebody

1 from our office is here for the motion part for Thursday.
2 THE COURT: Okay. All right.
3 MS. LACHER: But it won't be me, just so the Court's aware.
4 THE COURT: Oh darn, okay. All right, thank you.
5 THE CLERK: How many days? How many witnesses?
6 MS. LACHER: There's about, I believe, around 7 to 8 events
7 probably 15 to 20.
8 THE CLERK: How many days?
9 MS. LACHER: I think, we'll -- are we having half days or?
10 THE COURT: We'll go pretty much full days Monday. I'm not
11 sure about Wednesday's now because I have some -- I'm having to
12 schedule some things on Wednesdays now.
13 MS. LACHER: I think it'll probably be a week and a half.
14 THE COURT: Okay. All right, we'll anticipate a little over a
15 week. I'll try to get it to move.
16 MS. LACHER: I know you move --
17 THE COURT: All right.
18 MS. LACHER: -- move the trials, Judge so --
19 THE COURT: All right.
20 MS. LACHER: -- I think we can.
21 THE COURT: Anything further?
22 MR. RUGGEROLI: No, Judge.
23 MR. BASSETT: No.
24 THE COURT: All right, thank you, guys.
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MS. LACHER: Thank you.

[Hearing concluded at 9:53 a.m.]

* * * * *

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



Angelica Michaux
Court Recorder/Transcriber

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 05, 2020

C-19-344461-2 State of Nevada
 vs
 Andre Snipes

March 05, 2020

02:00 PM

**STATE'S NOTICE OF MOTION IN LIMINE DEFENDANTS
STATEMENTS AND MOTION TO ADMIT EVIDENCE OF
OTHER BAD ACTS OR IN THE ALTERNATIVE TO PUT
DEFENDANTS ON NOTICE OF THE STATE'S INTENTION TO
ADMIT PRIOR JUDGMENT OF CONVICTION**

HEARD BY: Johnson, Eric

COURTROOM: RJC Courtroom 12A

COURT CLERK: Skinner, Linda

RECORDER: Calvillo, Angie

REPORTER:

PARTIES PRESENT:

Andre Grant Snipes

Defendant

James J. Ruggeroli

Attorney for Defendant

Michael J. Scarborough

Attorney for Plaintiff

State of Nevada

Plaintiff

JOURNAL ENTRIES

STATE'S NOTICE OF MOTION IN LIMINE DEFENDANTS STATEMENTS AND MOTION TO ADMIT EVIDENCE OF OTHER BAD ACTS OR IN THE ALTERNATIVE TO PUT DEFENDANTS ON NOTICE OF THE STATE'S INTENTION TO ADMIT PRIOR JUDGMENT OF CONVICTION...DEFENDANT'S MOTION TO SEVER CO-DEFENDANTS

Mr. Gaston and Mr. Bassett appearing for Deft. Morgan and Mr. Ruggeroli appearing for Deft. Snipes.

Mr. Gaston advised he tried to file a Motion to Continue Trial under seal but was unable to do so. Mr. Gaston stated there are several reasons as to why they are not ready for trial: 1) Defendant is in prison and it has been very difficult to speak with him as he needs to pay for the calls himself and they can only visit with him one day a week; 2) there has been a lack of investigation in this case as they were under the impression that it would resolve; 3) he is newly on the case as of two days ago, has skimmed the discovery and needs to look at the videos and 4) they filed their Notice of Witnesses 3 days late as they just discovered this witness looking at the discovery and feels they would be ineffective. Statements by Mr. Scarborough including that they would object to a continuance. Statements by Mr. Bassett. Conference at the Bench with the Court and Defense counsel.

Arguments by Mr. Ruggeroli in keeping the trial date for Deft. Snipes as he has invoked his speedy trial rights. Court stated that most of what he heard does not rise to ineffectiveness, however, there was one issue stated that does constitute a continuance. Court noted under the statute relating to Defendant's statutory speedy trial right, the Court has the authority when Defendants are joined to continue the trial. Under the circumstances here, COURT ORDERED, trial date VACATED and RESET.

Printed Date: 3/7/2020

Page 1 of 2

Minutes Date:

March 05, 2020

Prepared by: Linda Skinner

0337

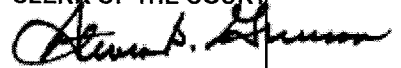
Arguments by Mr. Bassett in support of the Motion to Sever as he feels the theories of the case between the two Defendants is antagonistic. Objections by Mr. Scarborough as there are 15-20 witnesses that he does not want to have to call twice and advised the Defendants acted in concert and does not see the antagonistic defense. Following colloquy, COURT ORDERED, Motion to Sever is DENIED.

Arguments by counsel as to the State's Motion and the introduction of the 2017 conviction for Deft. Morgan. Following colloquy, COURT ORDERED, Motion DENIED WITHOUT PREJUDICE.

CUSTODY

3/31/20 8:30 AM CALENDAR CALL

4/6/20 9:00 AM JURY TRIAL



1 RTRAN

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3
4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 THE STATE OF NEVADA,
9 Plaintiff,

CASE#: C344461-1, -2
DEPT. XX

10 vs.

11 GREGORY DELLO MORGAN,
12 ANDRE GRANT SNIPES,
13 Defendants.

14 BEFORE THE HONORABLE ERIC JOHNSON, DISTRICT COURT JUDGE
15 THURSDAY, MARCH 5, 2020

16 RECORDER'S PARTIAL TRANSCRIPT OF HEARING:
17 **UNSEALED PORTION ONLY OF STATE'S NOTICE OF MOTION IN**
18 **LIMINE DEFENDANTS STATEMENTS AND MOTION TO ADMIT**
19 **EVIDENCE OF OTHER BAD ACTS OR IN THE ALTERNATIVE TO**
20 **PUT DEFENDANTS ON NOTICE OF THE STATE'S INTENTION TO**
21 **ADMIT PRIOR JUDGMENT OF CONVICTION**

22 APPEARANCES ON PAGE 2:

23
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25 RECORDED BY: ANGIE CALVILLO, COURT RECORDER

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APPEARANCES:

For the State:

JORY SCARBOROUGH, ESQ.
ASHLEY A. LACHER, ESQ.
Deputy District Attorneys

For the Defendants:
Gregory Morgan

TYLER GASTON, ESQ.
ALEXANDER BASSETT, ESQ.
Deputy Public Defenders

Andre Snipes

JAMES J. RUGGEROLI, ESQ.

1 Las Vegas, Nevada, Thursday, March 5, 2020

2
3 [Case called at 2:06 p.m.]

4 THE COURT: State of Nevada versus Gregory Morgan.
5 What's the other --

6 MR. GASTON: Andre Snipes, Your Honor.

7 THE COURT: -- And Andre Snipes, case number C344461.
8 Counsel, go ahead and make your appearances for the record.

9 MR. GASTON: Tyler Gaston and Alex Bassett from the Public
10 Defender's Office on behalf of Mr. Morgan who's present in custody.

11 MR. RUGGEROLI: Good afternoon, Your Honor, James
12 Ruggeroli on behalf of Mr. Snipes who is present in custody. He is in
13 blue.

14 MR. SCARBOROUGH: Jory Scarborough for the State, bar
15 number 14265.

16 THE COURT: Okay. This is on for a variety of different things
17 for trial. We got set for Monday. So --

18 MR. GASTON: Your Honor, the defense tried to file a -- for
19 Mr. Morgan defense tried to file a motion to continue under seal
20 yesterday. I was informed, I believe, that Your Honor reviewed the
21 motion and felt that -- we could file it in the court today, but it wasn't
22 going to be under seal if it we wanted if filed today.

23 THE COURT: I think the State's got to be able to the -- I
24 mean, I do appreciate a couple of things that you had in there.

25 MR. GASTON: Sure.

1 THE COURT: That you might want to keep close to your
2 breast.

3 MR. GASTON: Right.

4 THE COURT: But on the overall, the vast majority of the --
5 you know, ninety percent of the stuff was -- and I think the State has a
6 right to argue against that.

7 MR. GASTON: What we would have done if we had enough
8 time to get it is we would have filed a motion publically and then done an
9 affidavit with the defense sensitive stuff under seal. What I would
10 request the Court to do is just allow us to argue orally the motion to
11 reconsider if the -- on the defense. And I can make my additional
12 arguments and then forward the sensitive information regarding the
13 specifics of the -- our defense and the lack of investigation essentially
14 done fair. Maybe we could approach and do that part ex parte, but the
15 rest of the part can be public in front of Mr. Scarborough.

16 THE COURT: Okay.

17 MR. GASTON: Would that be appropriate?

18 THE COURT: Okay. We'll make it work someway.

19 MR. SCARBOROUGH: Okay.

20 THE COURT: Sounds good. All right.

21 MR. GASTON: Thank you.

22 THE COURT: All right. We'll play it by ear.

23 MR. GASTON: Okay. With respect to the other two motions
24 also not -- so it -- I'm here -- I'm second chair on the case. I'm going to
25 argue the defense motion to reconsider -- or the defense motion for the

1 Court to reconsider the matter of our continuance.

2 THE COURT: Okay.

3 MR. GASTON: And then I have to run because I'm doing a
4 *Frank's* hearing in front of Judge Miley.

5 THE COURT: You have a what?

6 MR. GASTON: Like a *Petrocelli* hearing for the sex stuff in
7 front of Judge Miley which was going on 10 minutes ago. Nadia is
8 handling that. So Mr. Bassett will be handling the motion to sever and
9 the bad acts motion to the extent that the Court denies our motion to
10 continue or still wants to hear the motions today.

11 THE COURT: Okay.

12 MR. GASTON: Just so it doesn't disrespectful if I win or lose
13 and just leave --

14 THE COURT: You know, I --

15 MR. GASTON: -- after the motion to continue.

16 THE COURT: Well, I mean, I appreciate you telling me.

17 MR. GASTON: Of like mic drop and leave.

18 THE COURT: It would have been more concerning to me if --
19 I'm not saying what I'm going to do if I deny it --

20 MR. GASTON: And then I left.

21 THE COURT: -- and you threw something on the table and
22 walked out.

23 MR. GASTON: That's more what I was afraid of, yes.

24 THE COURT: But otherwise, I would make the assumption
25 that you had a good reason.

1 MR. GASTON: Thank you. With respect to our motion, we
2 would ask the court -- obviously I wasn't here on Tuesday, so I don't
3 know exactly what record was made or not made. But if I'm restating
4 any arguments Mr. Basset's already made I would just ask you to
5 reconsider those arguments. If I'm stating additional arguments, I would
6 like you just to view it all together and reconsider of your denial of our
7 request to continue.

8 Ultimately our request for continue comes under a couple
9 categories. The first as the Court may be aware Mr. Morgan has been in
10 the prison the entire time for this case. And that's made conversations
11 with the Defendant about the case extremely difficult. Every time Mr.
12 Basset -- we can't call into the prison. If Mr. Morgan calls us, he has to
13 do it at his own expense. And so it's been extremely difficult, because
14 the only way we can communicate with Mr. Morgan is when he's brought
15 to court in this way or we have to go all the way out to the prison, which
16 takes a whole afternoon, and clear our whole schedule and talk to him
17 up there. So to make conversations quick --

18 MR. BASSETT: And we can only visit defendants at NDOC
19 one day a week.

20 MR. GASTON: So it's made it very difficult both in terms of
21 communicating about this case. If the Defendant were to testify which is
22 a decision that is of course viable in this case and possible, advising him
23 appropriately of the consequences of that decision, as well as preparing
24 him to testify to see if it would be a good idea, bad idea, and so you
25 know, he has an idea what to expect, has not been done, has not been

1 done adequately at least.

2 And furthermore, interviewing the Defendant regarding
3 possible defenses and what evidence could be out there in order for us
4 to go and obtain, has also not been done in this case. A lot of the -- and
5 as I continue to make my arguments about all the things I think should
6 have been done in order to have effective defense counsel for Monday
7 and what hasn't been done, I think a lot of it -- what has to do with
8 because defense counsel thought this case was going to negotiate.
9 Therefore a lot of it was towards the eye of negotiation and not preparing
10 for trial. And whether that was a good idea or a bad idea, it doesn't
11 change the fact and whether defense counsel was negligent or not in
12 trying to not get this stuff done, doesn't change the fact it should've been
13 done and it hasn't been done. And we would be absolutely ineffective to
14 go forward on Monday.

15 And so furthermore, I'll save for last my part about the defense
16 theory and the investigation that hasn't been done, since that's the ex
17 parte part that I want to request. But in addition to that, there's the
18 respect with the motions, the State had filed an opposition -- or State
19 filed a motion to admit bad acts. The defense had filed no opposition. It
20 sounds like the Court and the State's allowing us to file an opposition in
21 here today. But at the time of calendar call the defense had filed no
22 opposition to that motion. We had to file our opposition to that motion.

23 Additionally, we had filed no motion to sever the co-
24 defendants which is a motion that absolutely should have been filed in a
25 more timely manner. We -- Court was going to allow us to do that.

1 Additionally, we did an oral request to continue it. I think it was
2 important that we did get a written request to continue.

3 THE COURT: I'm not laughing at your argument.

4 MR. GASTON: That's --

5 THE COURT: I'm sorry.

6 MR. GASTON: If you laugh at my arguments and then reject
7 it, it's more hurtful then if you don't laugh.

8 THE COURT: It's something else. I apologize and --

9 MR. GASTON: We should have filed a written motion to
10 continue as well for Tuesday which wasn't done. So we wanted to do all
11 that done for Thursday. We did get all that done for Thursday, but we
12 did it haphazardly. We did it fast -- best as we could.

13 THE COURT: I thought it was very good.

14 MR. GASTON: Oh, thank you. But we did it as best as we
15 could while -- I also was brought on this case on Tuesday. So I had to
16 review all of the discovery in this case. I have not been able to review all
17 the discovery, watch the surveillance footage. This is a very surveillance
18 footage intensive case. I haven't been able to review that at all. I
19 haven't been able to review the bodycam footage. I've skimmed all the
20 pages of discovery the best I could while responding to the three -- while
21 writing three different motions. And that's all being done super-last
22 second.

23 Now also the motions, if the Court were to deny my request for
24 continuance the Court would adjudicate the remaining motions that we
25 filed today. Then we would have to incorporate the results of the

1 motions into our defense whichever way the Court goes and with a
2 business day and a half left to prepare for trial on Monday. And that is
3 also not a sufficient amount of time. The point of State filing timely
4 motions and us filing timely responses, other than making sure we both
5 do a good job with our motions, is that once we get the Court's ruling, we
6 get time to incorporate those results into our defense strategy.

7 Moreover, part of the argument -- I know the -- I believe the
8 State objected to our request for a continuance on Tuesday. But I think
9 also the co-Defendant has invoked his speedy trial right and wishes to
10 go. That's not a reason to deny our request for a continuance if the
11 Court feels that we need a continuance to be effective. Mr. Snipes'
12 desire to go forward and have is statutory speedy trial right is great.
13 Congrats for him and he can --

14 THE COURT: No, and I would agree with you --

15 DEFENDANT SNIPES: That affects me man.

16 THE COURT: -- and if you --

17 DEFENDANT SNIPES: That directly affects me.

18 THE COURT: -- If you convince me that for -- that you have a
19 constitutional need for a continuance, I would need to grant it regardless
20 of any --

21 MR. GASTON: Okay.

22 THE COURT: -- the application of a speedy trial. However, if
23 you don't convince me that there's a constitutional basis for the
24 continuance, then his right to a speedy trial does impact upon my
25 decision whether or not to allow the continuance. Because obviously if

1 everybody is in agreement that there's a need for a continuance, there's
2 no big deal if we kick this off for a little bit. That's a different
3 consideration on the Court's part as opposed constitution -- non-
4 constitutional request for a continuance versus a speedy --

5 MR. GASTON: Trial.

6 THE COURT: States' speedy trial --

7 MR. GASTON: And a large basis --

8 THE COURT: -- assertion.

9 MR. GASTON: -- as to why. I'm sorry, I didn't mean to
10 interrupt you.

11 THE COURT: No, that's all right.

12 MR. GASTON: A large basis of the reason I feel like it's a
13 constitutional issue as well is because of how ineffective we'll be which
14 I'll lay out further with respect to the investigation that should have been
15 done to explore various defenses that has not been done.

16 Additionally, the defense filed a notice of witness which I
17 believe is three days late. And I know the State can try to alleviate that
18 issue by simply not objecting to our late notice of witness, but the fact is
19 that also indicates what little time the defense has spent investigating
20 this case, investigating the case, noticing a witness, interviewing that
21 witness to make sure that witness has exculpatory things to say,
22 incorporating that into our defense, and that --

23 THE COURT: Well just because you put them on your list
24 doesn't mean you have to call him.

25 MR. GASTON: No, but if I put them on my list and they don't

1 say helpful things and I don't call him, it could tip the State off that that
2 person might have something to say that would rebut my theory. So I
3 don't make it a habit to notice witness as defense if I thought they could
4 say things that are contradictory to my defense. Now we ultimately did
5 have a brief phone call with the -- the witness that we set that we noticed
6 and to that extent it seems that she'll be helpful and notice her. But
7 even our notice is three days late. And while -- just because they waive
8 -- just because they waive an objection to that doesn't change the fact
9 that that's a sign of all the things we still need to do.

10 I'll make additional arguments in a second about the rest of
11 the investigation that should have been done. But just to loop back to
12 the point about the second chair just getting on speed, it wasn't the --
13 Mr. Bassett's fault. He had another person who was on the case.
14 Turned out that once the schedule was more available that person had
15 to back out and then I ended up being brought on the case on Tuesday
16 when Mr. Bassett realized that the Court had denied the request for
17 continuance.

18 It is true that Mr. Bassett has been on this case the whole
19 time. But just because the first chair has been on the case the whole
20 time doesn't obviate the need for the second chair to also be brought up
21 to speed. We do -- there is no Public Defender trial that you will see that
22 we do it in teams of one. Everyone is teams of two. And that's because
23 our office in complying with Rule ADKT411, we feel that the way that we
24 need to be effective as attorney, as defense attorneys is to do teams of
25 two. That means both parties, both attorneys have fully read through the

1 discovery, prepared for the defense and are ready to participate in the
2 trial --

3 DEFENDANT SNIPES: Exactly.

4 MR. GASTON: -- not just one.

5 And so I don't have any other arguments to raise other than
6 the specific stuff with respect to the investigation that hasn't been done.
7 So other than the additional stuff that I want to raise in the second, I'll
8 submit.

9 THE COURT: All right. State's response.

10 MR. SCARBOROUGH: I mean, so I jumped on the case
11 Tuesday as well. So Ms. Lacher is in trial and I reviewed the motions. I
12 reviewed the motions to admit prior bad acts, the motions to sever co-
13 Defendants. I mean, I'm prepared to argue all those and I'm getting up
14 to speed on the case.

15 I think what I've been informed of by Ms. Lacher, and correct
16 me if I'm wrong, but procedurally there was an offer open on this case,
17 and speaking to what Mr. Gaston was talking about going to the prison,
18 having effective conversations with the Defendant, I believe the offer
19 was -- I think in the range of a burglary and a robbery, right to argue, if
20 I'm wrong. And that offer was kept open for a period of around three
21 weeks and the negotiation discussions were at length. So in terms of
22 them not having effective conversations, not to be rude or make
23 disparaging comments, but that's, you know, their use of time when they
24 go out to the prison. The offer was kept open and then after rejecting
25 the offer Ms. Lacher revoked it and now the State is ready to go.

1 So in terms of their investigation, I believe -- again I've been
2 informed of this that they've had the case since Justice Court, the PDs
3 have, and this case has been open for quite a while. This is the second
4 setting if I'm not incorrect. It has been continued once already over the
5 objection of the State I believe. Again and I'm -- this is what I've been
6 informed so we would object to any continuance.

7 And in terms of pinning the State into whether or not we want
8 to sever the case in order to give someone a constitutional continuance,
9 I mean, there's obviously positions that the State would hold in that
10 regard as well. If they continue the case or if you deny their motion to
11 continue --

12 THE COURT: I will -- I'll listen to Mr. Ruggeroli of course. But
13 I do think I have the authority if I feel that there is a need to continue the
14 case as to one Defendant, to continue the case as to both Defendants.

15 MR. SCARBOROUGH: Okay.

16 THE COURT: Even past -- even in view of the assertion of
17 the 60-day.

18 MR. SCARBOROUGH: Okay. I did want to hit on that.

19 THE COURT: Don't worry, Mr. Ruggeroli, I'm going to give
20 you your chance to argue that. But I'm just saying that I do think that I
21 have that option.

22 MR. SCARBOROUGH: Okay. Thank you for clarifying and I
23 did want to hit on that and just to reiterate I believe Ms. Lacher's done
24 file reviews. There has been no additional request for evidence. In
25 terms of a late notice of witnesses, I mean, again these are

1 conversations that could have been had and should have been had
2 when they were visiting the Defendant up at NDOC while the offer was
3 open for three weeks. I think that's not the State's fault and I don't think
4 that the State should be held responsible and all the witnesses that
5 we've lined up should be delayed again. I mean, the State's ready to go,
6 so we're just objecting to that request to continue and we'd like to
7 proceed on Monday.

8 THE COURT: All right.

9 MR. BASSETT: Your Honor, if I may just provide one point of
10 clarification. The offer was indeed a burglary and a robbery right to
11 argue no habitual. Mr. Morgan wanted to take that --

12 THE COURT: You --

13 MR. BASSETT: -- I --

14 THE COURT: You made that clear on the --

15 MR. BASSETT: I understand, Your Honor, I'm just clarifying
16 because with the State --

17 THE COURT: - whatever, Tuesday or --

18 MR. BASSETT: -- Tuesday.

19 THE COURT: Yeah.

20 MR. BASSETT: And I realize he just jumped on the case so
21 he's not familiar with the procedural history. It was contingent on the co-
22 Defendant.

23 MR. SCARBOROUGH: That's correct, yes.

24 MR. BASSETT: I spoke with Ms. Lacher last Monday in
25 anticipation of the -- about the negotiation. I asked here, I said, hey, I

1 intend to talk to Mr. Morgan end of this week. If I can convince him to
2 take that deal, would you be willing to reconsider the contingent? She
3 said yes, talk to me after you speak with Mr. Morgan. I emailed her and
4 attempted to contact her on Friday to have that negotiation. She sent
5 me a three sentence email denying -- not allowing the --

6 THE COURT: Rejecting --

7 MR. BASSETT: Rejecting my attempts to continue the
8 conversation about getting rid of the contingent requirement. So until
9 Friday of last week, I was under the impression that this would be able to
10 be negotiated.

11 MR. GASTON: And again, my investigation addition with
12 responding to the State's point of with respect to things should have
13 been done and we should have been more -- it doesn't really matter.
14 The fact is it hasn't been done and absolutely has to have been done for
15 us to be effective.

16 THE COURT: Well, you're --

17 MR. GASTON: And a continuance would solve --

18 THE COURT: -- here's the thing, you haven't articulated
19 anything that hasn't been done that is absolutely necessary for you to be
20 effective.

21 MR. GASTON: But I will --

22 THE COURT: You've said, you know, we'd like to do this or
23 we'd like to do that. But that doesn't rise to ineffectiveness absent more
24 specificity. You want to talk to me --

25 MR. GASTON: Yes.

1 THE COURT: -- at sidebar?

2 MR. GASTON: Yes.

3 THE COURT: All right. State, all right if I hear whatever
4 defense issue --

5 MR. SCARBOROUGH: I'll submit to your discretion on that.

6 THE COURT: I mean, let's -- let me hear what it is. We'll go
7 from there.

8 MR. RUGGEROLI: Judge, do you want me to accompany?

9 THE COURT: You can if you -- well that's up to them. If you
10 don't want him, I mean, --

11 MR. SCARBOROUGH: In terms of the motion to sever, I feel
12 like they go hand in hand.

13 MR. GASTON: For what it's worth, it doesn't matter for this
14 purpose because Mr. Ruggeroli and I -- before we filed the motion to
15 sever, Mr. Ruggeroli and I spoke about our respective defenses to
16 determine whether they would be antagonistic or not with respect to
17 filing a motion.

18 THE COURT: Okay. All right, I'll have everybody. C'mon up.
19 [Bench conference 2:06 - 2:38 p.m., outside the presence of the State --
20 sealed and not transcribed]

21 [Hearing resumed inside the presence of the State at 2:38 p.m.]

22 THE COURT: Let me hear your argument, Mr. Ruggeroli, as if
23 I was to grant a continuance, why I wouldn't -- would not have
24 necessarily authority to allow it to also include your client in that.

25 MR. RUGGEROLI: Thank you, Your Honor. And just for Mr.

1 Snipe's edification the colloquy we just had off the record or behind
2 scenes, these were conversations that the State should not be privy to
3 and that was the reason for it. But it's something that I could share with
4 my client later if necessary. But it's not something I'm hiding in any way
5 from him.

6 Specifically as to the motion to continue, I point out a couple of
7 things. The period of delay leading up to next week's trial date is
8 actually longer than it appears, because the State went back to the
9 Grand Jury. I think this is the second setting, but there were some other
10 delays. So I think that we're actually beyond 60 days from what would
11 have been the initial appearance at an original arraignment. And so
12 there has been an invocation of his right to a speedy trial, a continuance,
13 and now we're looking at the possibility of a second.

14 I think that I don't want to get too far ahead of this, because I
15 know you're dealing with the motion to continue, but there are elements
16 of the motion to sever that are important. I'm not going to go too much
17 into it. But I would say that if you look at the competing interest, you've
18 got Mr. Snipes, which I would argue has the highest valued interest at
19 stake regarding what you're going to decide today. Because he
20 asserting his speedy trial right statutorily, but also potentially
21 constitutionally. I know we're not really close to that yet. But that is out
22 there. And so he has a right to a speedy trial. He's invoked it. That's
23 what he wants to do.

24 It was unfortunate last time because I -- we didn't have to deal
25 with these arguments last time; it was mainly scheduling. But his

1 interest is one of the top interests. Mr. Morgan has what his attorneys
2 have argued is a very, very important and potentially constitutional
3 interest. Then when you get over to the State, I would argue to Your
4 Honor that their interest in proceeding and having to have both in one
5 rather than a severed trial, where Mr. Snipes proceeds first and Mr.
6 Morgan can take care of whatever business his defense thinks is
7 necessary. The State's interests are the least, because all they really
8 have is judicial economy. And it's of course more of a burden to have to
9 go through it twice if necessary. But keep in mind, number one, they've
10 made an offer that Mr. Morgan would like to accept. So if Mr. Snipes is
11 convicted, if the State doesn't want a second trial, they can just offer that
12 to Mr. Morgan again and problem solved.

13 When you look at these competing interests the State's at the
14 bottom end. And I don't think they've presented a reason that competes
15 with Mr. Snipes' request for a speedy trial right. I'm not here to argue on
16 behalf of Mr. Morgan, but I say he comes in second and the State is
17 following behind in a distant third.

18 THE COURT: Okay. Thank you. You're at a disadvantage, I
19 know, since you weren't back there. I'm going to be -- most of what I
20 heard didn't rise to a level of ineffectiveness. There are two things.
21 There is one where it sounds like you might be able to put together a
22 credible defense that's not necessarily completely speculative.

23 MR. GASTON: That's resounding praise, Your Honor. Thank
24 you.

25 THE COURT: So in view of the fact that it's my understanding

1 the State plans to seek large habitual?

2 MR. SCARBOROUGH: If that was Ashley's representations
3 then yes, Ms. Lacher.

4 MR. BASSETT: She did file a motion to that effect on
5 Tuesday, March 3rd.

6 THE COURT: Okay. I mean, so we are playing high stakes
7 with -- are both of them habitual eligible?

8 MR. GASTON: I don't think --

9 MR. BASSETT: Just Mr. Morgan.

10 THE COURT: Just Mr. Morgan?

11 MR. SCARBOROUGH: Yeah, only one.

12 MR. BASSETT: And, Your Honor, if you would be inclined to
13 hear arguments on the motion to sever before you were to --

14 THE COURT: Oh, I --

15 MR. BASSETT: -- rule on the motion to continue?

16 THE COURT: Oh, I will. I will. I'll let Mr. Gaston go. He's
17 probably in contempt now so we may not see him before Monday either.

18 MR. GASTON: Does it sound like the Court's granting our
19 motion to continue and then deciding whether -- the severance issue?

20 THE COURT: Oh, well --

21 MR. GASTON: Because if you don't -- obviously if you sever,
22 then Mr. Snipes can just go forward.

23 THE COURT: That would probably be what would happen,
24 yeah.

25 MR. GASTON: Okay. But Mr. Morgan's case is getting

1 continued?

2 THE COURT: I haven't made a final decision on that. But I
3 am going to --

4 MR. BASSETT: And I can speak -- I can speak to the motion
5 to sever.

6 THE COURT: I'm sure Mr. Bassett can handle things for you.

7 MR. SCARBOROUGH: He's just anxious. He wants to
8 know.

9 MR. GASTON: If the Court has any questions or concerns
10 further about why it should continue the case --

11 THE COURT: Your just down the hall, right?

12 MR. GASTON: I'm just down the hall and I would love the
13 opportunity to respond to any of the Court's concerns before the Court
14 denies our request for a continuance.

15 THE COURT: I think you said everything you could say back
16 there.

17 MR. GASTON: I always can say more. I just don't want the
18 Court to have questions --

19 MR. BASSETT: And, Your Honor, I can attest to that.

20 MR. GASTON: -- and deny the motion to continue and then I
21 didn't get a chance to respond.

22 THE COURT: Don't worry, if I've got a question and Mr.
23 Bassett looks blank, I'll -- we'll go down --

24 MR. GASTON: Okay. I will be in 12C.

25 THE COURT: -- grab you.

1 MR. GASTON: Thank you.

2 THE COURT: Okay.

3 MR. RUGGEROLI: Judge, if I may, a couple of other issues
4 just to make you aware of regarding a continuance and whether if you
5 don't sever for Mr. Snipes. I have a couple of cases that have been
6 continued and the Court would need to be aware of. In April I have a
7 shaken baby that's over three years old. It's not a death case but the
8 child, if he dies, I've been alerted by the State that they will be seeking
9 capital punishment. And so that's a very important case and we've
10 continued it a number of times. It's a co-defendant case. That's April
11 20th. June 1st, I have inherited a case which has already been continued
12 over a year that's a first-degree kidnapping, multi-count sex assault that
13 was given a special date. And I reference that date before Your Honor
14 with one of the other trials that I have in here that's set for June 1st.

15 So I do have some cases that are pretty much locked in. I
16 know that everybody has that. But in looking at trying to preserve Mr.
17 Snipes' speedy, I know that we are going to face some difficulties
18 potentially if you were to continue him. And I did want to make the Court
19 aware of that as well.

20 THE COURT: Okay. Let's talk severance real quick or as
21 long as we need to.

22 MR. BASSETT: Your Honor, I can assure I will be less
23 loquacious than Mr. Gaston. Your Honor, I -- the motion that I wrote and
24 submitted to you, I know you read it. I just want to highlight the main
25 arguments here. There are three major reasons why I believe

1 severance is in order here.

2 THE COURT: Well let me cut to one of the -- do you plan to
3 introduce the -- where we have a *Bruton* issue?

4 MR. SCARBOROUGH: No, not at all. That was going to be
5 my main point. I mean, --

6 THE COURT: Okay. I'll ask --

7 MR. SCARBOROUGH: -- largely surveillance based, so --

8 THE COURT: We don't need to deal with that one.

9 MR. BASSETT: Well, Your Honor, I would just also point out
10 that in addition to just the interview with the police officer, there were text
11 messages exchanged between Mr. Morgan and police officers the night
12 they were arrested that did make reference to Mr. Snipes. And Mr.
13 Snipes was found in the vehicle that arrived at the police officers. So the
14 *Bruton* motion would also extend to -- the *Bruton* applies to any out of
15 court statement.

16 MR. SCARBOROUGH: Agreed.

17 MR. BASSETT: And so that would apply to not only the brief
18 interview that Mr. Snipes did with the police officers --

19 THE COURT: Well, I mean, --

20 MR. BASSETT: -- It would also apply --

21 THE COURT: -- do you plan to introduce the text messages?

22 MR. SCARBOROUGH: No.

23 THE COURT: Okay.

24 MR. SCARBOROUGH: It's inadmissible hearsay anyway I
25 believe so.

1 MR. BASSETT: Well we would argue it's inadmissible
2 hearsay, but when I -- in my ex parte -- in my out of court discussions
3 with Ms. Lacher she indicated she had planned to introduce them. So
4 I'm just going based on those.

5 THE COURT: Okay.

6 MR. SCARBOROUGH: Okay.

7 MR. BASSETT: Obviously the State's strategy can change.
8 And one quick note on *Bruton* before I move on, the only thing I would
9 note is that just because the State does not intend to seek -- intend to
10 introduce the out of court statement does not mean that they are
11 precluded from doing so. They are allowed to change their mind --

12 THE COURT: Well they do, but you know, --

13 MR. BASSETT: -- barring an order from the Court.

14 MR. SCARBOROUGH: It would be redacted as such.

15 THE COURT: -- severance is available to you at -- severance
16 can be moved at any time.

17 MR. BASSETT: I understand and we're just trying to --

18 THE COURT: -- that you feel that there's a --

19 MR. BASSETT: -- anticipate the issue.

20 THE COURT: -- any so a trial can be severed in the middle of
21 the trial. And I've seen trials get severed in the middle of the trial.

22 MR. BASSETT: Of course.

23 THE COURT: And it's not the prettiest thing in the world to
24 have happen, but --

25 MR. BASSETT: Of course, Your Honor. And yes, and again

1 the *Bruton* motion would be rendered moot if the State did not introduce
2 that evidence. So let me move on to what I think is the strongest
3 argument for severance here, which is the fact that --

4 THE COURT: Actually I thought the *Bruton* was probably the
5 strongest argument. But we'll -- I'll be -

6 MR. BASSETT: Well, I --

7 THE COURT: -- I'm anxious to hear this one.

8 MR. BASSETT: The -- if the State does not introduce it, it
9 would render it moot which is the only reason I don't think -- because
10 that's the only reason I don't think that's the strongest one.

11 THE COURT: Okay.

12 MR. BASSETT: The mutually antagonistic defenses, that is I
13 think necessitates a defense here. *United States v. Throckmorton*
14 establishes a standard by which a motion -- a defendants/co-defendants
15 can be severed due to antagonistic defenses. And it says that the core
16 of the defendant's defense must be so irreconcilable with the core of the
17 co-defendant's defense that the acceptance of the co-defendant's theory
18 of the jury precludes acquittal of the defendant.

19 And, Your Honor, as we spoke to you -- as we, Mr. Ruggeroli
20 and I explained our theories of defense to you when we were speaking
21 ex parte, I think it is pretty much a guarantee that were Mr. Morgan's
22 theory of defense to be accepted by the jury that would necessarily
23 preclude Mr. Snipe's theory of defense from being accepted. Given
24 what we plan to argue, what our plan of defense is, that would directly
25 implicate Mr. Snipes and therefore directly undermine his theory of

1 defense. The jury would be receiving two directly contradictory theories
2 of defense. It would be incompatible for them to accept both as true,
3 because they are arguing objectively different things.

4 And *Chartier v. State*, which is the main controlling case on
5 this, states that conflicting irreconcilable differences when it raises a
6 danger to the jury will unjustifiably infer that conflict alone demonstrates
7 both are guilty. Our client's plan, the co-Defendant's plan to put forth
8 different theories of defense which would imply to the jury that at least
9 one of those co-defendants is lying and raise the *Chartier* issue of these
10 two wildly different theories of defense, meaning that one is lying, they
11 can't determine which, both must be lying and would necessarily raise
12 that issue.

13 And again, -- and again the third argument as noted here was
14 the trial readiness. Severing was the issue --

15 THE COURT: You don't need to go there.

16 MR. BASSETT: No, we discussed that at length, Your Honor.
17 But just that the -- but severing Mr. Morgan from this case would cure all
18 of these issues. Mr. Snipes would be able to proceed on Monday,
19 preserving his speedy trial right. Our -- Mr. Morgan's defense counsel
20 would have more adequate time to prepare as necessary or reopen
21 negotiations with the State, which again is what Mr. Morgan has wanted
22 to do from the day he was assigned to the Public Defender's Office. It
23 would also eliminate any issue of *Bruton*. And most crucially and most
24 egregiously I think it would eliminate the possibility and indeed likelihood
25 of two mutually antagonistic defenses being presented, which under a

1 slew of Supreme Court decisions is unconstitutional. I think that were
2 this trial to proceed with the theories of defense of these two co-
3 defendants as joined currently, it would create an appealable decision
4 immediately for both Mr. Snipes and Mr. Morgan.

5 THE COURT: All right.

6 MR. BASSETT: And I'll submit to that.

7 THE COURT: You want to add anything, Mr. Ruggeroli?

8 MR. RUGGEROLI: I just join in the idea of severance --

9 THE COURT: Okay.

10 MR. RUGGEROLI: -- whether or not you give a continuance, -

11 -

12 THE COURT: Okay.

13 MR. RUGGEROLI: -- based on those representations.

14 THE COURT: All right. I know again you're at a disadvantage
15 here.

16 MR. SCARBOROUGH: Yeah, and I would agree it's pretty
17 tough to argue against what defenses would be antagonist when, I
18 mean, I don't know what they're going to be.

19 THE COURT: Yeah.

20 MR. SCARBOROUGH: And that's -- I understand that's a part
21 of the game. But I'll just start with I think Mr. Ruggeroli kind of swept
22 over the policy and the judicial economy aspect of severing any trial.
23 We're looking at a seven event burglary and robbery series that we
24 would have to put on twice with about 20 witnesses each if these are
25 severed. Joint trials are heavily favored, especially when the defendants

1 are acting in concert.

2 And at this point, Your Honor, I get -- I'm speculating now as
3 to what any mutual antagonistic defenses would be. We have a litany of
4 burglary and grand larceny charges. One would have to say that one -- I
5 intended to enter, he forced me to enter. There's like no duress defense
6 alleged here. Again, I'm speculating with robbery charges they're acting
7 in concert the entire time, one saying that maybe one didn't know about
8 the gun or the deadly weapon being used in the robbery charge.

9 I just -- I don't know how to defend against antagonistic
10 defenses when I haven't been made aware of any. But given the
11 charges, I'm not really seeing what they're trying to say is so
12 contradictory to each other. Burglary is an intent crime, the gist is the
13 intent upon entry. We're looking at grand larceny charges where they're
14 on video acting in concert, stealing a bunch of merchandise from the
15 stores, walking in together, setting up the scheme together, operating in
16 concert and then grabbing the clothes and then leaving.

17 The robbery charges, both of them walking in, doing the same
18 common scheme or plan, running away. One of them brandishing the
19 weapon and then after brandishing the weapon, then both of them getting
20 into the same vehicle and leaving, into the same taxicab. I just -- I fail to
21 realize their cognizable --

22 THE COURT: Well I'm going to tell you stop, because I'm not
23 going to grant it so.

24 MR. SCARBOROUGH: Okay.

25 THE COURT: All right.

1 MR. BASSETT: Your Honor, just one final point for the
2 record.

3 THE COURT: At this point in time -- all right, go ahead and
4 then I'll make --

5 MR. BASSETT: One final point for the record. I understand
6 judicial economy is important, but that is not paramount to a fair trial.
7 And if the defendants, co-defendants had to proceed on -- on this trial
8 together, that would violate their right to a fair trial. And that should
9 overrule the judicial economy aspect here.

10 THE COURT: Okay. And I'm not disagreeing with you on that
11 point. I mean, judicial -- the State is correct in that there is a general
12 presumption that defendants that are indicted together should be tried
13 together. And I think that judicial economy is a major factor and
14 consideration. And generally courts have found that any confusion the
15 jury may have can be dealt with limiting instructions. You are right about
16 antagonistic defenses. But at this point Mr. Ruggeroli is still keeping his
17 fairly close to his chest, which he has a right to do. But it's -- I'm not
18 convinced yet that the ultimately defenses here are going to be
19 antagonistic.

20 And based on how you indicated you planned to prove your
21 defense, my initial reaction is that Mr. Ruggeroli will have due process in
22 terms of dealing with that adequate due process in terms of being able
23 to deal with that. So again, I'm denying this, but as I have emphasized
24 over and over, severance can be raised at any time even in the middle
25 of closing arguments. So once we get to this trial and there is a

1 presentation that convinces me differently, I'll be glad to hear the
2 arguments relating to severance once again. But at this point in time,
3 based on what I understand about Mr. Ruggeroli's defense and based
4 on how you intend to prove your defense, I don't see this as volative of
5 due process.

6 Turning to the issue of continuance, I'm loath to grant the
7 continuance and I will state that for the most part the indication that you
8 want to do additional investigation without giving me any real specifics
9 other than a fishing expedition, generally I don't feel indicates an
10 ineffectiveness on your part. You did raise one defense that I thought
11 was --

12 MR. BASSETT: Meritorious.

13 THE COURT: -- specific. I'm not sure if -- well the jury will
14 ultimately determine if it's meritorious. But one defense that was specific
15 that you are probably pressed in terms of time to defend, to put together.
16 And looking at the fact that this does potentially carry a life tail with the
17 large habitual if convicted, I am leaning toward giving you the additional
18 time to take a look at that.

19 MR. BASSETT: A short setting is all we're asking, Your
20 Honor.

21 THE COURT: And so --

22 MR. BASSETT: As short is 2-4 weeks.

23 THE COURT: I mean, weighing that, weighing the potential
24 impact of this case on the defendant's life and that I do think you have --
25 and I do -- and I will note for the record, people do tend to shut down

1 preparation when there are serious negotiations.

2 MR. BASSETT: I can attest to that fact, Your Honor.

3 THE COURT: And I've heard even from the State's side --

4 MR. SCARBOROUGH: That's fair.

5 THE COURT: -- a few --

6 MR. SCARBOROUGH: No, that's fair.

7 THE COURT: -- a few times that defendant indicated they
8 were going to --

9 MR. SCARBOROUGH: He told me to call off my witnesses --

10 THE COURT: Yeah.

11 MR. SCARBOROUGH: I think that's fair. I understand.

12 THE COURT: And things have happened. So I do take that
13 into consideration with the fact that you do have what I think is a credible
14 position in that regard. So I am inclined to grant the continuance. I'm
15 not inclined to grant severance.

16 While we're here let's talk about that State's motion to admit
17 evidence of other bad acts. Moving to introduce convictions, and I'm not
18 sure that I see the convictions being relevant of anything other than for
19 potentially credibility if when somebody testifies. But, I mean, I can see
20 maybe the underlying actions that occurred during the course of the
21 prior, of the activity that resulted in the prior convictions being potentially
22 relevant to some issues.

23 For instance, I don't know what's going to be the defense at
24 trial. But, I mean, if someone was to take the position -- and who was
25 the one who was convicted in 2017?

1 MR. BASSETT: That was Mr. --

2 THE COURT: You don't need to raise your hand.

3 MR. BASSETT: Mr. Morgan.

4 THE COURT: -- Mr. Morgan. You know, you have the one
5 where they went back to the same --

6 MR. SCARBOROUGH: Establishment.

7 THE COURT: -- establishment and everybody remembered
8 him from the prior, you know, if he's contesting identity, then probably
9 that prior bad act is relevant for purposes of credibility as to the
10 witnesses identification of him. Now if it's not contesting identity, then I
11 don't think that going into that prior bad act becomes -- I think it
12 becomes unduly prejudicial or substantially out weighs the probative
13 value. So I guess that's -- I --

14 MR. SCARBOROUGH: I get your drift. I understand. I'll
15 submit.

16 THE COURT: I --

17 MR. BASSETT: And, Your Honor, basically our issue was the
18 fact that that State was moving to admit this before they had to do so in
19 order to rebut one of our defenses -- as which was the theme we kept
20 hitting back and forth in response.

21 THE COURT: Well I'd like to have -- because, I mean, if they
22 know pretty well what one of your defenses is going to -- this is one of
23 the problems by everybody not telling what they're defense is going to
24 be. If they know what -- pretty good idea what one of the defenses is
25 we've got to deal with the issue of *Petrocelli* hearing.

1 MR. BASSETT: Of course, but Your Honor, --

2 THE COURT: And so, you know, I mean, I really hate to be,
3 you know, you all the sudden get up in your opening and you say he was
4 never there. These people are making wrong false identifications of him.
5 And, you know, then I've got to be scheduling a 7:30 *Petrocelli* hearing
6 to bring in the 2017 people to say yep that's him and I remember him
7 because of -- well, you know, I had to deal with him all this time back in
8 2017.

9 And there is some potential that some of this other stuff, you
10 know, that he did back in 2017 could be, depending on what your
11 defense is.

12 MR. BASSETT: I --

13 THE COURT: Based on what I have generally understand
14 now, I will say I don't see the 2017 acts -- again I'm obviously, you know,
15 if he testifies --

16 MR. SCARBOROUGH: Right.

17 THE COURT: -- 2017 conviction, that's a different issue.

18 MR. SCARBOROUGH: Perfect.

19 THE COURT: But I don't see the conviction being admissible
20 as to these issues. You know, it's got to be the act --

21 MR. SCARBOROUGH: Okay.

22 THE COURT: -- that, you know, somebody comes in and
23 testifies, yeah, he was stealing stuff.

24 MR. SCARBOROUGH: Right.

25 THE COURT: And he was working with another person or

1 you know, --

2 MR. SCARBOROUGH: I would agree.

3 THE COURT: -- something like that. I think that's what we're
4 -- you're going to need to do if you make it relevant. But at this point in
5 time, based on what I know, I don't feel that my general sense is
6 whatever relevance these have would be substantially outweighed by
7 the probative value. So I'm not inclined to go that way with the 2017 --

8 MR. BASSETT: And Your Honor, --

9 THE COURT: -- at this point in time.

10 MR. BASSETT: -- that was the thrust of our response was
11 that at this point it's inappropriate to introduce the conviction. Were Mr.
12 Morgan to testify, at that point it could be raised again and we could
13 address it at that point. But again that's the summation of our argument.

14 THE COURT: I do want arguments.

15 MR. SCARBOROUGH: If he does raise those defenses as
16 you are alluding to I --

17 MR. BASSETT: Of course, if we raise them, --

18 THE COURT: You know, --

19 MR. BASSETT: -- they have the right use it to rebut.

20 THE COURT: And I'll just say, I don't think you're going to get
21 there. But the last thing that Mr. Gaston raised --

22 MR. BASSETT: Yes, yes, yes, yes, yes, yes.

23 THE COURT: -- I do think would potentially implicate the
24 2017 in the acts underlying the 2017 in what occurred here in 2019.

25 MR. BASSETT: Correct.

1 THE COURT: That's just letting you know that ahead of time.
2 And if you are going to go down the last thing that Mr. -- let me put on
3 the record I'm not granting a continuance on that.

4 MR. BASSETT: I understand.

5 THE COURT: You're certainly free in the time that's allowed
6 to look at that.

7 MR. BASSETT: Of course.

8 THE COURT: And if you decide to go down that way, I think
9 we do need to have some notice on your part --

10 MR. BASSETT: We -- I --

11 THE COURT: -- ahead of time, because I think they are going
12 to be able make a pretty good argument for a -- for -- and again I don't --
13 again, I'd rather not be doing a *Petrocelli* hearing --

14 MR. BASSETT: The morning of trial, I understand.

15 THE COURT: -- at 7:30 on the morning of trial.

16 MR. BASSETT: And, Your Honor, I think that's a reasonable
17 request. If we ultimately do decide to plan on having Mr. Morgan testify
18 with the continuance, we could give notice to the State to have a
19 *Petrocelli* hearing on the issue relating to his testimony. Again the thrust
20 of our response here was that at this time --

21 THE COURT: Okay.

22 MR. BASSETT: -- it's in appropriate to introduce.

23 THE COURT: Based on what I understand now, I will grant --
24 or deny the motion without prejudice.

25 MR. SCARBOROUGH: Okay.

1 THE CLERK: The State's motion?

2 THE COURT: Yeah. All right.

3 MR. SCARBOROUGH: Thank you. So reset a date.

4 THE COURT: So what is your schedule? And I will make
5 findings on the records that I think under the statute relating to the
6 defendant's statutory speedy trial right, I do have the authority in view of
7 the case where the Defendants are joined to continue the trial. I think
8 that under the circumstances here with the ongoing negotiations, that --
9 the negotiations breaking down and the existence of a potentially
10 credible defense that it is in the interest of justice that both defendants
11 be continued.

12 So what's your schedule Mr. Ruggeroli, because I would set
13 this on a short stack about 30 days?

14 MR. RUGGEROLI: So I have a murder trial that looks like it's
15 going to continue on the 24th of this month. And then the next significant
16 case is April 20th. If we could do it 30 days puts us the first week of
17 April.

18 THE CLERK: How about April 6th?

19 MR. BASSETT: I have a trial scheduled to start on April 4th,
20 but I'm not -- it's too early to tell at this point whether that one is going to
21 be going forward.

22 THE CLERK: It's going on a Saturday?

23 MR. BASSETT: I'm sorry, April 6th is the Monday. It is April
24 6th. I apologize. I knew it was an even number. It's April 6th, Your
25 Honor. It's a -- it's the first setting, so it's possible it can be continued

1 although the client has --

2 THE COURT: This is an older case so.

3 MR. BASSETT: It's true.

4 THE COURT: This one I think take priority.

5 THE CLERK: Mr. Gaston has one on the 6th too.

6 THE COURT: Well you can get your old trial counsel back.

7 MR. BASSETT: It's possible, Your Honor. Would it be
8 possible to do one week later?

9 THE COURT: Well, I --

10 MR. RUGGEROLI: Judge, because of the length of this one,
11 I'm already running into problems with preparing for that other trial.
12 That's why I -- it is different in the --

13 THE COURT: All right. I'll give you the -- we'll set it as April
14 6th criminal calendar.

15 THE CLERK: Yes.

16 THE COURT: All right. I'll set it on April 6th.

17 MR. BASSETT: For calendar call or trial?

18 THE COURT: Trial.

19 THE CLERK: Trial. Your calendar call is March 31st at 8:30.

20 MR. BASSETT: Thank you Judge.

21 THE COURT: Good job, Mr. Gaston.

22 MR. GASTON: Thank you. For what it's worth, I have in
23 custody invoked trial on that date so.

24 THE CLERK: Yeah.

25 MR. GASTON: So obviously, I --

1 THE COURT: Mr. Bassett is lead counsel. He's -- I explained
2 that. You have two -- I don't know how many. You have a bunch of
3 people over there and his prior lead counsel who was supposedly totally
4 prepared may be able to come back on.

5 MR. GASTON: Oh, I already got fired off the case?

6 THE COURT: No, I didn't fire you.

7 MR. SCARBOROUGH: Nope, done. Thank you, Judge.

8 MS. LACHER: Thank you.

9 MR. SCARBOROUGH: Thank you, guys. Hey, thank you.
10 Very nice of you, thank you.

11 [Hearing concluded at 3:06 p.m.]

12 * * * * *

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

22

23

24

25



Jessica Kirkpatrick
Court Recorder/Transcriber

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

March 17, 2020

C-19-344461-2 State of Nevada
 vs
 Andre Snipes

March 17, 2020 03:00 AM Minute Order Re: Calendar Call / Trial Date

HEARD BY: Johnson, Eric COURTROOM: RJC Courtroom 12A

COURT CLERK: Skinner, Linda

RECORDER:

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

Calendar call in this matter scheduled for March 31, 2020, at 8:30 a.m. in Dept. 20 and trial scheduled to start on April 6, 2020, at 9:00 a.m. are vacated. However, if a plea agreement has been reached, counsel should immediately communicate by email or telephone with JEA Muranaka and the matter will be put on calendar for entry of plea. A status check to set a new trial date is scheduled for April 7, 2020, at 8:30 a.m.

By 3:00 p.m. on Friday, April 3, 2020, counsel for both parties are to confer by telephone in an effort to agree on one or more periods of time for a new trial and an estimate of how many days the trial will likely last. After conferring, counsel for both parties shall communicate through email with Judicial Executive Assistant Kelly Muranaka (muranakak@clarkcountycourts.us) to set a new trial date and calendar call. Once the parties have scheduled a new trial date with JEA Muranaka, the status check set for April 7, 2020, will be vacated and taken off calendar and the parties will not be required to appear.

4/7/20 8:30 AM STATUS CHECK: TRIAL SETTING



JAMES J. RUGGEROLI
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ruggeroi@icloud.com
Attorney for Defendant

**DISTRICT COURT
CLARK COUNTY, NEVADA**

STATE OF NEVADA

Plaintiff,

Case No. C-19-344461-2

vs.

Dept No. XX

ANDRE SNIPES,
#7088448,

Defendant.

MOTION FOR OWN RECOGNIZANCE RELEASE

COMES NOW Defendant, ANDRE SNIPES, through JAMES J. RUGGEROLI, ESQ., submits the following Motion. The Motion is based on the following Points and Authorities, the pleadings and papers on file herein, the exhibits and affidavits and any oral argument by counsel permitted at the hearing on this matter.

DATED this 14th day of April, 2020.

JAMES J. RUGGEROLI

By: /s/ James J. Ruggeroli
James J. Ruggeroli, Esq.
Nevada Bar No. 7891
400 South 4th Street, Suite 280
Las Vegas, Nevada 89101
Attorney for Defendant

NOTICE OF MOTION

PLEASE TAKE NOTICE that the Motion will be heard in Department III before the District Court Judge of the above entitled court on the _____ day of _____, 2020 at the hour of _____ a.m. or as soon thereafter as counsel can be heard.

DATED this 14th day of April, 2020.

JAMES J. RUGGEROLI

By: */s/ James J. Ruggeroli*
James J. Ruggeroli, Esq.
Nevada Bar No. 7891
400 South 4th Street, Suite 280
Las Vegas, Nevada 89101
Attorney for Defendant

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

ANDRE SNIPES invoked his right to a speedy trial and invoked the sixty (60) day rule on December 12, 2019. He has not waived those rights, yet his trial has been continued and vacated, and there is no trial date for him at this time. Due to the exceptional circumstances from the recent outbreak of the Coronavirus Disease (COVID-19), Mr. Snipes respectfully requests that this Honorable Court release him on his own recognizance and impose any applicable conditions this Court deems appropriate upon his release.

II. ARGUMENT

A. LAW

In Valdez-Jimenez v. Eighth Judicial Dist. Court, Docket No. 76417, 136 Nev., Advance Opinion 20 (2020), the Court noted that the Petitioners had been arrested and charged with felony offenses. The State took its cases to the grand jury and obtained indictments, and the district court subsequently set bail in an amount requested by the State. Petitioners were not present at the indictment return and were later arraigned in district court. Petitioners subsequently filed a motion to vacate or reduce the bail amount, contending that the amounts

1 were excessive and that the bail process violated their right to due process and equal protection.

2 The district court held hearings on the motions but denied them. After review, the Nevada
3 Supreme Court concluded:

4 When bail is set at an amount greater than necessary to serve the purposes of bail,
5 it effectively denies the defendant his or her rights under the Nevada Constitution
6 to be "bailable by sufficient sureties" and for bail not to be excessive. Thus, bail
7 may be imposed only where it is necessary to reasonably ensure the defendant's
8 appearance at court proceedings or to protect the community, including the victim
9 and the victim's family. Because of the important liberty interest at stake when
10 bail has the effect of detaining an individual pending trial, we hold that a
11 defendant who remains in custody after arrest is entitled to an individualized
12 hearing at which the State must prove by clear and convincing evidence that bail,
13 rather than less restrictive conditions, is necessary to ensure the defendant's
14 appearance at future court proceedings or to protect the safety of the community,
15 and the district court must state its findings and reasons for the bail decision on
16 the record.

17 Id.

18 Moreover, the Clark County Detention Center ("CCDC") cannot implement the
19 necessary procedures (including social distancing) to prevent the spread of the disease within
20 that facility. In fact, the detention center essentially amounts to a perfect breeding ground for the
21 disease because of its communal and shared confined spaces and surfaces.

22 Analogous to the arguments presented to the Nevada Supreme Court through *amicus*
23 *curiae* briefs in Kerkorian v. The Governor of Nevada, Nevada Supreme Court Case No. 80917,
24 continued incarceration may violate Mr. Snipes' rights. "Deliberate indifference" to a substantial
25 risk of serious harm to an inmate violates the Eighth Amendment." Farmer v. Brennan, 511 U.S.
26 825, 828 (1994). Authorities may not "ignore a condition of confinement that is sure or very
27 likely to cause serious illness and needless suffering the next week or month or year." Helling v.
28 McKinney, 509 U.S. 25, 33 (1993). Failing to implement the appropriate preventative measures
amounts to deliberate indifference and violates the Eighth amendment's prohibition against
"cruel and unusual punishment."

1 The Nevada Constitution and the federal Constitution also both protect against the
2 deprivation of life, liberty, or property without due process of law. See Nev. Const. art. 1, § 8;
3 U.S. Const. am XIV.28 “Just as the deliberate indifference of prison officials to the medical
4 needs of prisoners may support Eighth Amendment liability, such indifference may also ‘rise to
5 the conscience-shocking level’ required for a substantive due process violation.” Lemire v.
6 California Dep’t. of Corr. & Rehab., 726 F.3d 1062, 1075 (9th Cir. 2013) (quoting County of
7 Sacramento v. Lewis, 523 U.S. 833, 849–50 (1998)). Governor Sisolak declared a state of
8 emergency over a month ago, so there has clearly been time to deliberate on the conditions at
9 CCDC and on the issue of custody.

11 Finally, the Nevada Constitution protects “inalienable rights among which are those of
12 enjoying and defending life and liberty . . . and pursuing and obtaining safety and happiness.”
13 Art. 1, § 1. This right, the first substantive section of the Nevada Constitution, protects the lives
14 of Nevada’s incarcerated and secures their safety.

16 The Nevada Supreme Court has now clarified a change in the procedure addressing bail
17 in Nevada which directly applies to Mr. Snipes’ Motion for Own Recognizance. See Valdez-
18 Jimenez v. Eighth Judicial Dist. Court, Docket No. 76417, 136 Nev., Advance Opinion 20
19 (2020). Nevada federal public defenders, Clark County public defenders and special public
20 defenders, Washoe County public defenders and alternate public defender, the American Civil
21 Liberties Union of Nevada, and Nevada Attorneys for Criminal Justice are also seeking to have
22 the Court release Nevada inmates due to the COVID-19 outbreak and have submitted briefs
23 outlining the pertinent law authorizing the Court to do so.

25 In the case at hand, Mr. Snipes’ bail is excessive. He is indigent and has no ability to earn
26 or to borrow the amount set. As such, the amount is “greater than necessary to serve the purpose
27 of bail,” since the State has not proven by clear and convincing evidence that bail, rather than

less restrictive conditions, is necessary to ensure the defendant's appearance at future court proceedings or to protect the safety of the community. Due to the exceptional circumstances from the recent outbreak of the Coronavirus Disease (COVID-19), Mr. Snipes respectfully requests that this Honorable Court release him on his own recognizance and impose any applicable conditions upon his release this Court deems necessary to protect the health, safety and welfare of the community and to ensure that he will appear at all times and places ordered by the Court. See NRS 178.484.

DATED this 14th day of April, 2020.

JAMES J. RUGGEROLI

By: /s/ James J. Ruggeroli
James J. Ruggeroli, Esq.
Nevada Bar No. 7891
400 South 4th Street, Suite 280
Las Vegas, Nevada 89101
Attorney for Defendant

DECLARATION OF JAMES J. RUGGEROLI, ESQ.

JAMES J. RUGGEROLI, ESQ., being first duly sworn under oath, deposes and states:

1. I am counsel of record for the Defendant and am an attorney at law duly licensed to practice before this Court and make this Declaration of facts from personal knowledge which is known to me, except for those matters stated upon information and belief, and as to those matters, I believe same to be true.

2. Pursuant to NRS § 53.045, I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

DATED this 6th day of April, 2020.

JAMES J. RUGGEROLI

By: /s/ James J. Ruggeroli
James J. Ruggeroli, Esq.
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400 South 4th Street, Suite 280
Las Vegas, Nevada 89101
Attorney for Defendant

JAMES J. RUGGEROLI, ESQ.

400 South 4th Street, Suite 280
Las Vegas, Nevada 89101

TEL: (702) 258-2022 | FAX: (702) 258-2021

CERTIFICATE OF SERVICE

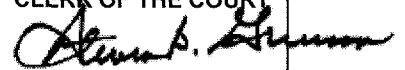
I certify that on the 14th day of April, 2020 I emailed a copy of this motion to:

motions@clarkcountyda.com;

By: /s/ James J. Ruggeroli
James J. Ruggeroli, Esq.

DISTRICT COURT
CLARK COUNTY, NEVADA

Electronically Filed
4/15/2020 12:57 PM
Steven D. Grierson
CLERK OF THE COURT



State of Nevada
vs
Andre Snipes

Case No.: C-19-344461-2

Department 20

NOTICE OF HEARING

Please be advised that the Motion for Own Recognizance Release or to Reduce Bail in the above-entitled matter is set for hearing as follows:

Date: May 05, 2020

Time: 8:30 AM

Location: RJC Courtroom 12A
Regional Justice Center
200 Lewis Ave.
Las Vegas, NV 89101

NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.

STEVEN D. GRIERSON, CEO/Clerk of the Court

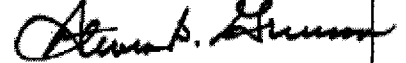
By: /s/ Ondina Amos
Deputy Clerk of the Court

CERTIFICATE OF SERVICE

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Ondina Amos
Deputy Clerk of the Court

0383



1 **OPPS**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 ASHLEY A. LACHER
6 Deputy District Attorney
7 Nevada Bar #014560
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10
11 Plaintiff,

11 -vs-

12 ANDRE GRANT SNIPES,
13 #7088448

14 Defendant.

CASE NO: C-19-344461-2

DEPT NO: XX

15 **STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR OWN**
16 **RECOGNIZANCE RELEASE**

17 DATE OF HEARING: MAY 5, 2020
18 TIME OF HEARING: 1:45 PM

19 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County
20 District Attorney, through ASHLEY A. LACHER, Deputy District Attorney, and hereby
21 submits the attached Points and Authorities in Opposition to Defendant's Motion for Own
22 Recognizance Release.

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

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1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF CASE**

3 On November 1, 2019, an Indictment was filed charging Gregory Morgan and Andre
4 Snipes (hereinafter "Defendant(s)"), as follows: GRAND LARCENY (Category C Felony -
5 NRS 205.220.1, 205.222.2 - NOC 56004); CONSPIRACY TO COMMIT ROBBERY
6 (Category B Felony - NRS 200.380, 199.480 - NOC 50147); ROBBERY WITH USE OF A
7 DEADLY WEAPON (Category B Felony - NRS 200.380, 193.165 - NOC 50138);
8 BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Category B Felony -
9 NRS 205.060 - NOC 50426) and BURGLARY (Category B Felony - NRS 205.060 - NOC
10 50424).

11 On January 14, 2020, an Amended Superseding Indictment was filed charging
12 Defendants as follows: COUNT 1: BURGLARY (Category B Felony - NRS 205.060 - NOC
13 50424), COUNT 2: GRAND LARCENY (Category C Felony - NRS 205.220.1, 205.222.2 -
14 NOC 56004), COUNT 3: GRAND LARCENY (Category C Felony - NRS 205.220.1,
15 205.222.2 - NOC 56004), COUNT 4: CONSPIRACY TO COMMIT ROBBERY (Category
16 B Felony - NRS 200.380, 199.480 - NOC 50147), COUNT 5: ROBBERY WITH USE OF A
17 DEADLY WEAPON (Category B Felony - NRS 200.380, 193.165 - NOC 50138), COUNT
18 6: BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Category B Felony
19 - NRS 205.060 - NOC 50426), COUNT 7 applies only to co-defendant Snipes, COUNT 8 :
20 BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Category B Felony -
21 NRS 205.060 - NOC 50426), COUNT 9: GRAND LARCENY (Category C Felony - NRS
22 205.220.1, 205.222.2 - NOC 56004), COUNT 10: CONSPIRACY TO COMMIT ROBBERY
23 (Category B Felony - NRS 200.380, 199.480 - NOC 50147), COUNT 11: ROBBERY WITH
24 USE OF A DEADLY WEAPON (Category B Felony - NRS 200.380, 193.165 - NOC 50138),
25 COUNT 12: applies only to co-defendant Snipes, COUNT 13: GRAND LARCENY (Category
26 C Felony - NRS 205.220.1, 205.222.2 - NOC 56004), COUNT 14: BURGLARY (Category B
27 Felony - NRS 205.060 - NOC 50424), COUNT 15: BURGLARY (Category B Felony - NRS
28 205.060 - NOC 50424), COUNT 16: GRAND LARCENY (Category C Felony - NRS

1 205.220.1, 205.222.2 - NOC 56004), COUNT 17: applies only to co-defendant Snipes, and
2 COUNT 18: PARTICIPATION IN ORGANIZED RETAIL THEFT (Category B Felony -
3 NRS 205.08345 - NOC 55986).

4 The State has been ready to go forward at each of the trial settings January 21, 2020,
5 and March 9, 2020, and conducted its file review with Defense counsel in advance of the trial
6 dates. This case has been continued only due to Defense counsel's delay.

7 Defendant filed the instant Motion for Own Recognizance Release on April 14, 2020.
8 The State Opposes as follows.

9 Status check on trial setting is set for June 23, 2020.

10 STATEMENT OF FACTS

11 From July 4, 2019, to October 6, 2019, Defendants engaged in a spree of crime stealing
12 from multiple retail organizations involving Champs, Footlockers, and Nike. The total value
13 of their thefts was over \$3,500. Defendants would enter the stores, grab basketball jerseys and
14 shoes and/or seek to return stolen goods in exchange for gift cards. Almost all events are
15 captured on video. Several events involved threats to loss prevention agents and the use of a
16 firearm.

17 NIKE 9851 S. EASTERN – COUNTS 1 AND 2

18 On July 4, 2019, Defendant Gregory Morgan entered the Nike store located at 9851 S.
19 Eastern Ave. Along with his co-conspirators, Defendant Morgan grabbed merchandise
20 including shoes and NBA basketball jerseys. Defendant and his co-conspirators left the store
21 without paying for the items and evaded loss prevention agents.

22 FOOTLOCKER FASHION SHOW MALL – COUNTS 3,4,5, and 6

23 On September 20, 2019, Defendant Morgan and Defendant Snipes entered the
24 Footlocker at the Fashion Show Mall. Employees of the store attempted to speak with
25 Defendants after noticing unusual behavior. Store employee Bryan Laws Jr. attempted to stop
26 the Defendants from leaving the store with unpaid for NBA Basketball Jerseys. As Bryan
27 Laws attempted to stop the Defendants, Defendant Morgan flashed what Bryan Laws Jr.
28 recognized to be a pistol and both Defendants fled with the stolen items.

1 FOOTLOCKER MEADOWS MALL – COUNT 7

2 Defendant Snipes entered the Meadows Mall Footlocker on September 20, 2019.
3 Snipes brought in stolen merchandise to “return” and received a gift card. A search of the
4 Footlocker database revealed Defendant had not purchased the items he sought to return.

5 CHAMPS – FASHION SHOW MALL – COUNTS 8, 9, 10, and 11

6 On September 24, 2019, Defendant Morgan and Defendant Snipes entered the Champs
7 at the Fashion Show Mall. Defendants grabbed approximately 14 NBA Basketball Jerseys and
8 attempted to leave the store. Manager Alden Abrego attempted to stop Defendant from leaving
9 the store with unpaid merchandise. When Alden Abrego contacted Defendants, Defendant
10 Morgan tugged at his shirt revealing the black handle of a firearm. Defendant Snipes stated
11 “you don’t want to do that” as Defendant Morgan was flashing the firearm.

12 FOOTLOCKER MEADOWS MALL – COUNT 12

13 Defendant Snipes entered the Meadows Mall Footlocker on September 24, 2019.
14 Snipes brought in stolen merchandise to “return” and received a gift card. A search of the
15 Footlocker database revealed Defendant had not purchased the items he sought to return.

16 FOOTLOCKER – 2120 FESTIVAL PLAZA - COUNTS 13-14

17 On September 24, 2019, Defendants Morgan and Snipes entered the Footlocker located
18 at Downtown Summerlin. Both Defendants took various pieces of merchandise from the store
19 without paying and fled the scene.

20 NIKE – 9851 S. EASTERN AVE – COUNTS 15-16

21 On October 2, 2019, Defendant took shoes and other merchandise from the Nike store.
22 Defendant’s left the store without paying for the merchandise after being asked to stop by
23 employees at the store.

24 FOOTLOCKER MEADOWS MALL – COUNT 17

25 Defendant Snipes entered the Meadows Mall Footlocker on October 6, 2019. Snipes
26 brought in stolen merchandise to “return” and received a gift card. A search of the database
27 revealed Defendant had not purchased the items he sought to return.

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If the defendant is admitted to bail, the bail must be set at an amount which in the judgment of the magistrate will reasonably ensure the appearance of the defendant and the safety of other persons and of the community, having regard to:

- NRS 178.4853 lists the factors to be considered as follows:**

- As demonstrated by the language of the statutes, and the criteria set forth therein, the Court's purpose in determining bail is twofold: 1) ensuring future court appearances; and 2) ensuring the safety of the victim, witnesses, and the public. *See* NRS 178.498; NRS 178.4835.

1 In this case, neither purpose is served by reducing Defendant's bail or releasing her or
2 modifying bail.

3 CASE BY CASE ANALYSIS

4 Defendant files a stock motion without providing this court with any assurances for
5 why he should be released given Defendant's criminal history. Although Defendant relies
6 upon Valdez-Jimenez v. Eighth Judicial Dist. Court, Docket No. 76417, 136 Nev. Adv. 20
7 (2020), Defendant fails to mention that the Nevada Supreme Court specifically denied the
8 premise that the bail amount must be set in an amount that the defendant can afford.

9 CRIMINAL HISTORY AND COMMUNITY SAFETY

10 Defendant is a flight risk in that he successfully escaped each time law enforcement tried
11 to apprehend him during the thefts. Additionally, Defendant has a criminal history from
12 another jurisdiction, Washington, making him a heightened flight risk. In 1997, Defendant
13 was convicted of Felony Theft, in 1999 Defendant obtained another felony conviction for theft,
14 in 1999 Defendant engaged in a residential burglary, and in 2001, Defendant was convicted of
15 Possession of Controlled Substance.

16 Defendant also presents a danger to the community in that he has not presented any
17 employment, residence, or means other than theft to support himself. Defendant has made it
18 clear that he makes his living by criminal activity whether it be from stores or from residential
19 burglaries based upon his history. Therefore, Defendant does pose a threat to the community
20 to continue this behavior.

21 PRIOR O.R. ARGUMENTS

22 Defendant has had the opportunity to address custody status on two (2) prior occasions.
23 On October 11, 2019, before Justice of the Peace Bonaventure, bail was set at \$25,000. Mr.
24 Ruggeroli requested an own recognizance release which was denied. Again, on October 28,
25 2019, Mr. Ruggeroli requested an own recognizance release which was denied. Both of these
26 OR requests were made when Defendant only faced seven (7) felony counts. Additional police
27 investigation revealed that Defendant's criminal scheme was far more involved than originally
28 thought. After the Superseding Indictment Defendants faced a total of eighteen (18) felony

1 counts, some of which are non-probationable. Yet still at Grand Jury returns, the State did not
2 ask to increase bail, yet thought it fair to maintain bail at \$25,000.

3 The State's case before the Court is strong, Defendant is captured on video with his co-
4 defendant entering several of the stores at issue. Multiple store managers from different stores
5 identified Defendant Snipes as well as his co-defendant in photo lineups. Additionally,
6 Defendant Snipes name is listed on the receipts he used to fraudulently obtain gift cards after
7 the violent robberies with his co-defendant. Therefore, the presumption of guilt in this case is
8 great.

9 COVID-19

10 COVID-19 is everywhere. The virus is a danger inside as well as outside the jail. The
11 State does not understand seeking OR releases on this basis when the virus is everywhere and
12 when Defendant does not present any high health risk factors. The United States Constitution,
13 the structure of the Nevada Constitution gives rise to the separation of powers doctrine through
14 its "discrete treatment of the three branches of government." Comm'n on Ethics v. Hardy, 125
15 Nev. 285, 292, 212 P.3d 1098, 1103 (2009). However, "[N]evada's Constitution goes one step
16 further; it contains an express provision prohibiting any one branch of government from
17 impinging on the functions of another." Id. at 292, 212 P.3d at 1103-04; *see* Nev. Const. art.
18 3, § 1(1).

19 Inmate population management is a statutorily created function of the executive branch.
20 Haney v. State, 124 Nev. 408, 185 P.3d 350 (2008). In Haney, the Nevada Supreme Court
21 invalidated the ability of courts to issue "flat time" sentences because such sentences violated
22 the Legislature's intent to allow the jail to award good time credits. Id.

23 When it comes to the health and well-being of inmates, the Legislature has granted such
24 responsibilities to the executive branch. The Legislature has enacted NRS 209.101 which calls
25 for the creation of the Board of State Prison Commissioners that is responsible for overseeing
26 the operations of the Nevada Department of Corrections. The Governor is the President of the
27 Board. As the President, the Governor appoints the Director of the Department who is
28 responsible for the supervision, custody, treatment, care and security of all offenders. NRS

1 209.121, NRS 209.131(4). The Director is also tasked with taking measures to protect the
2 health and safety of offenders. NRS 209.131(7).

3 Similarly, when it comes to the Clark County Detention Center, the Legislature has
4 given these powers to the county of commissioners. NRS 211.020. According to NRS
5 211.020(3), the board of county commissioners "[S]hall take all necessary precautions against
6 escape, sickness, infection, suicide, and death." The sheriff of the county is the custodian of
7 the jail. NRS 211.030.

8 The Legislature has clearly indicated the parties responsible for managing the safety
9 and well-being of inmates. This includes the decisions on how best to balance public safety
10 as well as the inmate population during the Covid-19 pandemic. Such responsibilities lie with
11 the respective executive agencies, and not with the courts.

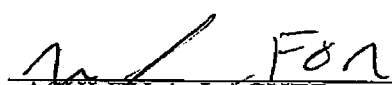
12 **CONCLUSION**

13 Based upon the foregoing, the State respectfully requests the Court DENY Defendant's
14 Motion for Own Recognizance Release.

15 DATED this 30th day of April, 2020

16 Respectfully submitted,

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

19 BY 
20 ASHLEY A. LACHER
21 Deputy District Attorney
22 Nevada Bar #014560

23 **CERTIFICATE OF SERVICE**

24 I certify that on the 30th day of April, 2020, I e-mailed a copy of the foregoing State's
25 Opposition to Defendant's Motion for Own Recognizance Release, to:

26 James Ruggeroli, Esq.
27 Email: ruggeroli@icloud.com

28 BY: 
Secretary for the District Attorney's Office

19F21141B/AL/eg/L4

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

May 05, 2020

C-19-344461-2 State of Nevada
 vs
 Andre Snipes

May 05, 2020 01:45 PM Motion for Own Recognizance Release or to Reduce Bail

HEARD BY: Johnson, Eric

COURTROOM: RJC Courtroom 12A

COURT CLERK: Skinner, Linda

RECORDER: Calvillo, Angie

REPORTER:

PARTIES PRESENT:

Andre Grant Snipes

Defendant

James J. Ruggeroli

Attorney for Defendant

Megan Thomson

Attorney for Plaintiff

State of Nevada

Plaintiff

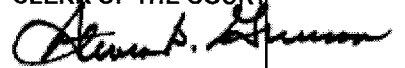
JOURNAL ENTRIES

Defendant appeared by video and Mr. Ruggeroli appeared by telephone via Blue Jeans.

Upon Court's inquiry, Mr. Ruggeroli argued that Defendant has family to live with and would request he be released as he has invoked the sixty day rule, however, due to COVID-19, the trial had to be vacated and there is no new date at this time. Defendant stated he has several family members that he can live with. Following colloquy, COURT ORDERED, matter CONTINUED to Thursday for Mr. Ruggeroli to find out who Defendant can live with that will allow electronic monitoring.

CUSTODY

... CONTINUED 5/7/20 1:45 PM



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

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8 THE STATE OF NEVADA,
9 Plaintiff,

CASE #: C-19-344461-2

10 vs.

DEPT. XX

11 ANDRE GRANT SNIPES,
12 Defendant.

13
14 BEFORE THE HONORABLE ERIC JOHNSON, DISTRICT COURT JUDGE
15 TUESDAY, MAY 05, 2020

16 **RECORDER'S TRANSCRIPT OF HEARING:**
17 **MOTION FOR OWN RECOGNIZANCE RELEASE OR**
TO REDUCE BAIL

18 APPEARANCES:

19 For the State:

MEGAN S. THOMSON
Chief Deputy District Attorney

21 For the Defendant:

JAMES J. RUGGEROLI, ESQ.

22
23
24
25 RECORDED BY: ANGIE CALVILLO, COURT RECORDER

1 [Las Vegas, Nevada, Tuesday, May 05, 2020, at 2:52 p.m.]

2

3 THE COURT: State of Nevada versus Andre Snipes, case
4 number C344461. Counsel, please note your appearances for the
5 record.

6 MS. THOMSON: Megan Thomson for the State.

7 MR. RUGGEROLI: James Ruggeroli, bar number 7891, on
8 behalf of Mr. Snipes.

9 THE COURT: All right. I'm showing this on for defendant's
10 motion for own recognizance release or to reduce bail. I received the
11 motion. I received the State's opposition.

12 Mr. Ruggeroli, do you want to respond in any way to the
13 State?

14 MR. RUGGEROLI: Yes, Judge. Is he able to view this and
15 hear this? Is he present?

16 THE COURT: Yeah, he is.

17 MR. RUGGEROLI: Okay. Thank you, Judge. I had not been
18 able to reach him, so I don't think that he was aware that it was on
19 calendar. But I did file this motion as soon as I could, it is based on the
20 similar arguments that you've been hearing in the cases. I had an
21 opportunity to address his custody but in the Justice Court. I don't
22 believe I've done that in District Court.

23 The unique part of this for Mr. Snipes, Your Honor, is
24 that he has invoked his right to a speedy trial; he has invoked his right to
25 a 60-day trial and has never waived those rights because of the virus.

1 It's been pushed out, and we don't have a trial date at this time. He is in
2 a minority group that, as Your Honor has heard in the other cases, has a
3 higher percentage of contracting the virus and that may put him at a
4 higher risk as well if he does get the Covid-19.

5 The State has pointed out a couple of things. But I think
6 that really when you look at this case, the most important issue is that he
7 is sitting attempting to go to trial on a speedy trial right and it's not going
8 to happen; not happen any time soon. So, Judge, he's been out of
9 trouble. They've got some priors on here, but those things go back
10 many, many years.

11 I would respectfully ask you because I do believe that
12 he is going to show up. He's not a flight risk. The State points out, well,
13 he ran from security. Those are allegations at this point. The real issue
14 based on the new case law with the *Valdez-Jimenez* case is that if there
15 are any other less restrictive conditions that can ensure that he will show
16 up. And, Judge, I think you can do that through electronic monitoring.

17 THE COURT: Well, I guess -- let me just, sort of, cut to some
18 things with the chase hearing. What are his connections to the
19 community that's going to allow him to be able to live in the community
20 and support himself or be supportive by someone so he doesn't have to
21 go out and engage in theft?

22 THE DEFENDANT: Right.

23 MR. RUGGEROLI: Judge, he's been in -- I apologize.

24 THE DEFENDANT: I'm sorry. I was trying to say --

25 THE COURT: Hold on a second. I'm not trying to cut you off,

1 Mr. Snipes, but Mr. Ruggeroli might prefer you not to say anything. So, I
2 mean -- I'm just --

3 THE DEFENDANT: I'm sorry, sir. I apologize.

4 THE COURT: No, it's all right. I'm not trying to tell you, you
5 can't talk. I'm just -- Mr. Ruggeroli isn't in a position to tell you -- to stop
6 you. I mean --

7 THE DEFENDANT: Okay.

8 THE COURT: Mr. Ruggeroli, I mean, do you want him to say
9 anything?

10 MR. RUGGEROLI: Well he has specifics regarding what
11 you've just questioned. And so if he is just aware not to discuss any of
12 the facts of the case and that might be difficult, but he'll have his time to
13 do that at trial. If he could limit any statements he makes right now
14 simply to his ties to the community and the ability to have somebody
15 help with finances and things, I'm okay if he limits his statements to that.

16 THE DEFENDANT: Yes, definitely.

17 THE COURT: All right.

18 THE DEFENDANT: I was just going to -- I was just going to
19 mention that I have a sister; I have two adult nieces; I have a nephew; all
20 have jobs; all have their own residence; I have all their phone numbers; I
21 stay in contact with all of them, I can put myself in a stable situation.
22 But -- yeah, I can stick to that.

23 THE COURT: Okay.

24 THE DEFENDANT: I'm sorry, sir.

25 THE COURT: No, that's all right.

1 Mr. Ruggeroli, can you confirm with him some place
2 where he can live if I was to let him out?

3 MR. RUGGEROLI: Like get an address --

4 THE COURT: Yeah.

5 MR. RUGGEROLI: -- and contact?

6 THE COURT: Tell me that you talked to his sister or whoever
7 he's got here in town and somebody is telling you, yes, he can live with
8 them.

9 MR. RUGGEROLI: Yeah, I can definitely look into that, Your
10 Honor.

11 THE COURT: All right. Go ahead and set this on Thursday.

12 THE CLERK: May 7th at 1:45.

13 THE COURT: All right.

14 MR. RUGGEROLI: Thank you, Your Honor.

15 THE COURT: Mr. Snipes, I want you to work with Mr.
16 Ruggeroli and whatever family -- I need to know that you got a stable
17 residence that you can go to and live at, and I can set you up there with
18 electronic monitoring, okay?

19 THE DEFENDANT: Okay, that's fine. And I'm open to
20 anything, Cashman --

21 THE COURT: All right. I'm already building up a pretty big
22 calendar on Thursday. So the long and short of it is have a plan with Mr.
23 Ruggeroli to go -- as soon as I call your case because we're not going to
24 be debating this, that or the other thing or this possibility or that
25 possibility on Thursday. Do you understand what I'm saying?

1 THE DEFENDANT: Yes, I do, sir.
2 THE COURT: Okay.
3 MR. RUGGEROLI: Thank you, Judge.
4 THE COURT: Mr. Ruggeroli, is there anything else you want
5 to tell me right now?
6 MR. RUGGEROLI: No, Judge.
7 THE COURT: Okay. All right.
8 THE CLERK: May 7th at 1:45.
9 MR. RUGGEROLI: Thank you
10 [Hearing concluded at 2:58 p.m.]
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16 ATTEST: I do hereby certify that I have truly and correctly transcribed the
17 audio/video proceedings in the above-entitled case to the best of my ability.

18 
19 _____
20 Angie Calvillo
21 Court Recorder/Transcriber
22
23
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25

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

May 07, 2020

C-19-344461-2 State of Nevada
 vs
 Andre Snipes

May 07, 2020 01:45 PM Defendant's Motion for Own Recognizance Release or to Reduce Bail

HEARD BY: Johnson, Eric

COURTROOM: RJC Courtroom 12A

COURT CLERK: Skinner, Linda

RECORDER: Calvillo, Angie

REPORTER:

PARTIES PRESENT:

Andre Grant Snipes

Defendant

James J. Ruggeroli

Attorney for Defendant

Laura Goodman

Attorney for Plaintiff

State of Nevada

Plaintiff

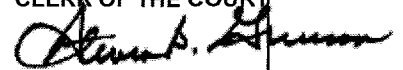
JOURNAL ENTRIES

Defendant and Mr. Ruggeroli appeared by video via Blue Jeans.

Upon Court's inquiry, Mr. Ruggeroli advised that he tried to follow up with the limited information he had, that Defendant's contacts are in his phone, in his property and he can't access it until he is released. Mr. Ruggeroli requested Defendant be released with intensive supervision, mid level electronic monitoring or with a minimal bail. Court noted that Defendant needs a stable living arrangement to be released. Mr. Ruggeroli advised it is hard for indigent clients to obtain housing, especially now with the virus, but that he can reside at Cashman Center. Statements by Ms. Goodman including the Defense has requested a continuance of the trial. Mr. Ruggeroli stated the co-defendant requested a continuance, that they have been ready each time. Following colloquy, COURT ORDERED, matter CONTINUED TWO (2) WEEKS for Mr. Ruggeroli to look for a residence for Defendant.

CUSTODY

... CONTINUED 5/21/20 1:45 PM



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

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8 THE STATE OF NEVADA,
9 Plaintiff,

CASE #: C-19-344461-2

10 vs.

DEPT. XX

11 ANDRE GRANT SNIPES,
12 Defendant.

13
14 BEFORE THE HONORABLE ERIC JOHNSON, DISTRICT COURT JUDGE
15 THURSDAY, MAY 07, 2020

16 **RECORDER'S TRANSCRIPT OF HEARING:**
17 **DEFENDANT'S MOTION FOR OWN RECOGNIZANCE RELEASE OR**
18 **TO REDUCE BAIL**

19 APPEARANCES:

20 For the State:

LAURA ROSE-GOODMAN
Deputy District Attorney

21 For the Defendant:

JAMES J. RUGGEROLI, ESQ.

22
23
24
25 RECORDED BY: ANGIE CALVILLO, COURT RECORDER

1 [Las Vegas, Nevada, Thursday, May 07, 2020, at 1:48 p.m.]

2
3 THE COURT: State of Nevada versus Andre Snipes, case
4 number C344461. Counsel, please note your appearances for the
5 record.

6 MS. ROSE-GOODMAN: Laura Goodman for the State.

7 MR. RUGGEROLI: Good afternoon, Your Honor. James
8 Ruggeroli appearing for Mr. Snipes who's present on video.

9 THE COURT: Okay. So what can you tell us, Mr. Ruggeroli?

10 MR. RUGGEROLI: Judge, we did follow up with the
11 information that Mr. Snipes was able to provide us with. He is limited,
12 unfortunately, with his contact information because many of his specifics
13 regarding he go with -- phone numbers and things like that are in his cell
14 phone which is on his property.

15 I can tell you the one we've contacted is not going to be
16 a possibility. I do have some other options. And, Judge, you probably
17 remember this, but I do want to remind the Court that Mr. Snipes is
18 sitting on an invoked speedy trial and an invoked statutory right, 60-day
19 rule; that's been pending for many months now and he has no trial.

20 So apart from that, Your Honor had asked for some
21 follow up on assurances of where he would be living. I can tell you that
22 he has familiarity with the Cashman area. And if released, that is one of
23 the options. The other options are tied up in his cell phone, which he
24 can get access to after the fact.

25 So the things that I would like to present to Your Honor

1 his substitutes are: number one, intensive supervision where he can
2 come down and report rather than actually having to have a location.
3 The other option would be mid-level electronic monitoring which would
4 be in place until we would get something set up through house arrest
5 and verified and only then he would be released. I would send my
6 investigator to try and get access to his cell phone, but you know the
7 problems that we're having with that so that may be some difficulty. The
8 third option, Judge, was some type of minimal bail. I don't know if he
9 would be able to come up with anything. So I believe that our
10 preference would just be a release, but I have followed up and this is
11 where we're at from the information that I obtained from Tuesday.

12 THE COURT: Do you -- I really need to have some sort of
13 stable living arrangement with the circumstances that I've got here, Mr.
14 Ruggeroni. I mean, if I gave you another week, do you think you would
15 be able to get me anything?

16 MR. RUGGEROLI: Here's what I can tell you in looking
17 through other clients that I have. People that are indigent, from my
18 experience looking at this specifically because of clients in other
19 departments, they are in an extreme disadvantage; not just financially
20 but because of the difficulty getting any placement because of the virus.

21 And so I spent quite a good deal of time, you know, it
22 was over a couple weeks on another case trying to get a sober living or
23 something. In terms of having a specific person, I'd be happy to try and
24 get the investigator to get his cell phone; that would probably take at
25 least a couple of weeks.

1 Again, though, Judge, I just -- we're limited. And he is,
2 unfortunately, not in a position where he's able to, you know, have any
3 clear date on a trial. If you would consider intensive supervision -- you
4 know, the moment if he were to go astray, and we don't believe that he
5 would, but there would be supervision through that without having a
6 house, and then we can come back once he gets that established.

7 It's just that, he's in a tough spot because he's limited
8 and I just know -- and I'm telling you this from experience, it is difficult to
9 find placement because of the lockdowns that are going on at the
10 various facilities and without them having the money, especially coming
11 out of custody without being interviewed and things like that, it is quite
12 difficult.

13 THE COURT: All right. Does the State have anything it wants
14 to add?

15 MS. ROSE-GOODMAN: The only thing that the State would
16 add, Your Honor, I mean, we've had this -- I know that Your Honor has
17 addressed this with Ms. Lacher. On several occasions, there was
18 argument twice prior to this OR motion as well as on 5/5. The trial date,
19 the State was ready to proceed back in March. However, it was a
20 defense continuance. The defense requested a continued trial. So I
21 don't think that's something that -- I understand the defendant wants to
22 go to trial but that's not something to take into consideration at this point
23 for the OR motion. But the State filed a written opposition, and I will
24 submit it on previous arguments as well as the written opposition.

25 MR. RUGGEROLI: Judge, if I may. I know that counsel was

1 not personally familiar with the case. Those were not Mr. Snipes's
2 request for a continuance, they were the co-defendant. Mr. Snipes has
3 been ready each time. And we have raised the issue a number of times;
4 this is the first time obviously because of the delay from the virus.

5 THE COURT: All right.

6 Mr. Ruggeroli, I'll give you a continuance if you want to
7 look for some sort of stable living arrangement, or I'll deny the motion
8 and create a record. What do you want to do?

9 MR. RUGGEROLI: Judge, I know I'd like the opportunity if I
10 can have two weeks. That's longer than I would like, but I'm concerned
11 that I won't be able to do everything that needs to in just one week.

12 THE DEFENDANT: Can I --

13 THE COURT: All right. I'll give you the two weeks. If you find
14 something that you think will work, contact my office and we'll put it on
15 the calendar quicker, okay?

16 MR. RUGGEROLI: Thank you, Judge.

17 THE COURT: All right.

18 THE CLERK: May 21st at 1:45.

19 MR. RUGGEROLI: Have a nice afternoon.

20 [Hearing concluded at 1:55 p.m.]

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

23
24 

25 Angie Calvillo
Court Recorder/Transcriber

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

May 21, 2020

C-19-344461-2 State of Nevada
vs
Andre Snipes

May 21, 2020

01:45 PM

Defendant's Motion for Own Recognizance Release or to Reduce
Bail

HEARD BY: Johnson, Eric

COURTROOM: RJC Courtroom 12A

COURT CLERK: Skinner, Linda

RECORDER: Calvillo, Angie

REPORTER:

PARTIES PRESENT:

Andre Grant Snipes

Defendant

Ashley A. Lacher

Attorney for Plaintiff

James J. Ruggeroli

Attorney for Defendant

State of Nevada

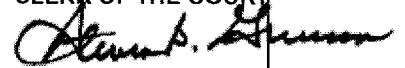
Plaintiff

JOURNAL ENTRIES

Defendant and Mr. Ruggeroli appeared by video via Blue Jeans.

Upon Court's inquiry, Mr. Ruggeroli advised he unfortunately was not able to provide the information the Court had requested. Arguments by Mr. Ruggeroli and Ms. Lacher in support of their respective positions as to the Motion. Following, COURT ORDERED, Motion DENIED as it FINDS by clear and convincing evidence that Defendant is a risk of non-appearance, is a flight risk and a danger to the community.

CUSTODY



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

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8 THE STATE OF NEVADA,
9 Plaintiff,

CASE #: C-19-344461-2

10 vs.

DEPT. XX

11 ANDRE GRANT SNIPES,
12 Defendant.

13
14 BEFORE THE HONORABLE ERIC JOHNSON, DISTRICT COURT JUDGE
15 THURSDAY, MAY 21, 2020

16 **RECORDER'S TRANSCRIPT OF HEARING:**
17 **DEFENDANT'S MOTION FOR OWN RECOGNIZANCE RELEASE OR**
18 **TO REDUCE BAIL**

19 APPEARANCES:

20 For the State: ASHLEY LACHER
Deputy District Attorney

21 For the Defendant: JAMES J. RUGGEROLI, ESQ.

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25 RECORDED BY: ANGIE CALVILLO, COURT RECORDER

1 [Las Vegas, Nevada, Thursday, May 21, 2020, at 1:46 p.m.]

2

3 THE COURT: State of Nevada versus Andre Snipes, case
4 number C344461. Counsel, please note your appearances for the
5 record.

6 MS. LACHER: Ashley Lacher for the State.

7 MR. RUGGEROLI: Good afternoon, Your Honor. James
8 Ruggeroli on behalf of Mr. Snipes. I believe he's present on video in
9 custody.

10 THE COURT: Yes, he is. All right. Well we gave you a
11 couple more weeks. Do you have anything further to report, Mr.
12 Ruggeroli?

13 MR. RUGGEROLI: Based on the information that I received
14 from the State in an e-mail, I sent my investigator over yesterday to
15 retrieve the CD that was mentioned. He couldn't pick it up because we
16 weren't aware that the office closes at four. So I would accept the
17 representations, however I personally have not heard them. I can't
18 provide any context. I assume that the State is going to say he shouldn't
19 be released, and on top of everything else, he made these statements;
20 that they're attributing to Mr. Snipes about, you know, trying to get
21 somebody that doesn't live here as a source for a contact that we could
22 get him released to. I can't -- I can't, you know, agree to that because I
23 haven't heard it.

24 Having said that, my point -- really, remains the same.
25 Mr. Snipes invoked his right to a speedy trial. He has a date that's going

1 to go beyond -- really, I don't even know if we'll be able to go forward. I
2 can't provide you with what Your Honor asked for. And so we did
3 diligently try. Mr. Snipes indicates that he would, at a minimum, try and
4 get housing at Cashman Field. I really do think that the point of it is, is
5 they're a less restrictive means than the amount of bail that would
6 ensure that he's going to show up, and I think he will show up. He wants
7 his day in court. He wants to go to trial.

8 THE COURT: All right. Thank you. Ms. Lacher.

9 THE DEFENDANT: Can I --

10 MS. LACHER: Well the defendant wanted to say something.

11 THE COURT: I mean, Mr. Snipes, I generally discourage
12 defendants from saying anything, and I'm guessing Mr. Ruggeroli
13 probably doesn't want you to say anything either.

14 But, Mr. Ruggeroli --

15 THE DEFENDANT: I just wanted to -- I just wanted to kind of
16 profile myself. I don't plan on speaking at all about the case. I just
17 wanted to speak in regards to -- like, I don't have an address. But at
18 several points in time, I do know how to work. I have almost 21
19 experience -- years of experience in working. I file my taxes every year
20 since 2001. I always held down a job. I'm not a bad person. All I'm
21 asking the Court to do is to give me the opportunity to get a job and get
22 back out on the streets. I've never been in this kind of trouble ever in my
23 entire life. All I'm asking for is one chance, that's all I'm asking for is just
24 one chance to get out there and get a job and -- you know, just -- you
25 know, my record speaks for itself. I haven't been in trouble in nearly two

1 decades.

2 THE COURT: All right.

3 THE DEFENDANT: So that's all I'm asking just one
4 chance, that's it.

5 THE COURT: Anything further from you, Mr. Ruggeroli.

6 MR. RUGGEROLI: No, Your Honor. Thank you.

7 THE COURT: All right. Ms. Lacher.

8 MS. LACHER: Yes, Your Honor. Despite the fact that we've
9 addressed custody status on this case on three different separate
10 occasions all when defense counsel has been present and had the
11 opportunity to present to the Court, bail -- even in front of Judge
12 Bonaventure, was set at 25,000 when this case originally started
13 addressing seven counts. Then additional information justified adding
14 additional charges well in excess over 10 additional counts. And that I,
15 in the indictment returns, did not ask to increase that, even though I had
16 every basis to do so with non-probationable violent firearm related
17 offenses.

18 And then we have here, the defendant in this case
19 who -- his whole criminal history is theft and drugs. I mean -- and four
20 prior felonies out of the state of Washington showing another flight risk
21 and -- I mean, even a residential burglary. And then, you know, it's
22 incredibly easy in this situation, especially I think for the Court to say, oh,
23 we'll just have this address and the phone number verified. But he's
24 deliberately telling somebody on a recorded phone call to lie to whoever
25 is going to verify this; specifically saying don't tell them you live in

1 Seattle, tell them you live in Washington.

2 I don't know what more -- how disrespectful to the
3 Court -- I mean, I'm kind of just out of loss for words because the not so
4 easy call that's made to the victims in these kind of cases is saying, you
5 know, despite the pleadings in this case; despite the fact we've
6 addressed it three times; despite his criminal history; despite the fact
7 that it's on video and multiple victims from different events identified this
8 defendant, you know, he's out. Like, that's not a call that the State likes
9 to make. And then two, what's the consequence for him for even trying
10 this to try to lie to the Court? I've played more than fair in this case
11 every time, even though additional charges and this kind of conduct
12 when you're lying to the court justify an increase.

13 And, Judge, I made the CDs available for pick up to Mr.
14 Ruggieri on the 9th floor window that's always open, not the 3rd floor. I
15 indicated that in a text message. I just want to know what the
16 consequence is for even trying to deliberately lie to the Court on a
17 recorded phone call on a violent case. I'm not asking for this on PSVs,
18 I'm asking on a non-probationable robbery with use; 18 counts and I
19 didn't even ask for an increase.

20 THE COURT: All right. Thank you very much.

21 Mr. Ruggieri, anything you want to reply to?

22 MR. RUGGEROLI: Judge, I'll just submit it.

23 THE COURT: All right. As I indicated before, a major issue
24 that the court had with any lowering of the bail in this amount, which is
25 not particular a significant amount, when you consider the context of the

1 case in the underlying offenses was the defendant's living situation,
2 which appears unstable, and there's insufficient information about his
3 proposed living situation.

4 As a consequence, looking at -- you know, based on the
5 allegations set forth in the Information or -- I mean, the Indictment in this
6 case; the information provided by the State and the information provided
7 by defendant and his counsel, the Court has considered the statutory
8 factors relevant to the determination of the need or amount of bail to
9 ensure the presence of the defendant at trial and minimize the risk of
10 danger to the community; having considered the factors set forth in
11 Nevada Revised Statute 178.4853 as well as the defendant's financial
12 resources and the other reasons set forth on the record, the Court finds,
13 as to the defendant, that bail is appropriate.

14 The Court finds by the following factors: the State of
15 Nevada has met its burden by clear and convincing evidence the
16 defendant does pose a risk of nonappearance and this includes the
17 defendant's length of residence in the community; his lack of family;
18 residential community and employment ties here at Southern Nevada;
19 defendant's lack of property and financial ties to Southern Nevada;
20 defendant's lack of verifiable legitimate employment; his failure to
21 comply with correction officers while detained at the Clark County
22 Detention Center; the nature of the offense which is charged in this
23 case. And based upon the representations made by the State as to the
24 evidence, the Court finds that there does seem to be a significant
25 potential for conviction in this case. And in view of the underlying

1 charges involving robbery with use of a deadly weapon, defendant is
2 facing a significant jail sentence. And then, as I noted previously, the
3 defendant's living situation is unstable and insufficient information exists
4 about the proposed living situation to rely on an OR release.

5 The Court also finds by the following factors: the State
6 of Nevada has met its burden by clear and convincing evidence; the
7 defendant poses a risk of danger to the community; that includes: the
8 nature of the instant offense in which the defendant -- offenses in which
9 the defendant is accused of multiple store robberies with use of a
10 firearm; the use -- the fact of the charges in here do involve violence; the
11 possession of a weapon during the course of the charges; the
12 defendant's prior criminal record and concerns for the community in view
13 of the defendant's pattern involved in engaging in this conduct, so for
14 those reasons, I do find the State has met by clear and convincing that
15 the defendant poses a risk of flight.

16 Based upon these above findings, the Court
17 concludes that no combination of monetary conditions would be -- of
18 non-monetary conditions would be sufficient to reasonably ensure the
19 defendant's appearance or safety to the community. In determining an
20 appropriate bail, the Court has considered the defendant's
21 representations concerning his financial resources, including any
22 representations as to available assets and liabilities and income and any
23 representations of the State as to the defendant's financial resources.
24 The Court has also considered the defendant's representations that he
25 cannot afford any bail in this matter.

1 Considering the defendant's financial resources and the
2 factors listed above demonstrating the defendant's risk of flight and risk
3 of danger to the community, Court feels that the current amount of
4 \$25,000.00 is an appropriate amount to meet those factors. The Court
5 finds by clear and convincing evidence that this amount is necessary to
6 ensure the defendant's appearance at future court proceedings and to
7 protect the safety of the community. If the defendant cannot make the
8 bail amount and remains in custody pending trial, the Court further finds
9 the State has met its burden by clear and convincing evidence that no
10 less restrictive conditions are available to assure the defendant's future
11 appearances and to protect the community.

12 So with that, I'll deny the motion for own recognizance
13 release or to reduce bail. And I'll also note for the record; I don't think I
14 did mention, I did review the recordings in this case and it has
15 concerned the court in terms of defendant's risk of flight and danger to
16 the community that it did appear that defendant tried to get people to
17 falsely represent -- to make false representations as to any
18 communications as to his ability to stay with those individuals.

19 So with that, is there anything further, Mr. Ruggeroli?

20 MR. RUGGEROLI: Judge, as I mentioned; I just want to note
21 for the Court, I did have an opportunity to review the disks, however I
22 hear what Your Honor is saying. Mr. Snipes have never relayed those
23 individuals' names that I believed were mentioned to me or my
24 investigator, and so there was no actual attempt. Mr. Snipes knew we
25 were going to follow up on everything. And so I just want the Court to

1 know that this was not something that was actively being participated in,
2 and certainly we would've done our due diligence. I appreciate Your
3 Honor giving me the opportunity to make the record.

4 THE COURT: And, Mr. Ruggeroli, you know, if you get a hold
5 of those recordings and you feel they represent something different than
6 what Ms. Lacher has represented and what the Court generally feels
7 was the nature of those conversations, there's certainly no issue with the
8 Court for renewing the motion.

9 MR. RUGGEROLI: Thank you, Judge.

10 THE COURT: All right. Thank you.

11 MS. LACHER: Thanks.

12 [Hearing concluded at 2:01 p.m.]
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18 ATTEST: I do hereby certify that I have truly and correctly transcribed the
19 audio/video proceedings in the above-entitled case to the best of my ability.

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21 _____

22 Angie Calvillo
23 Court Recorder/Transcriber
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**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****June 23, 2020**

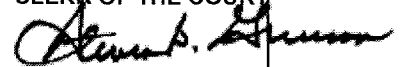
C-19-344461-2 State of Nevada
 vs
 Andre Snipes

June 23, 2020**01:45 PM****Status Check: Trial Setting****HEARD BY:** Johnson, Eric**COURTROOM:** RJC Courtroom 12A**COURT CLERK:** Skinner, Linda**RECORDER:** Calvillo, Angie**REPORTER:****PARTIES PRESENT:****Andre Grant Snipes****Defendant****Daniel Hill****Attorney for Defendant****Megan Thomson****Attorney for Plaintiff****State of Nevada****Plaintiff****JOURNAL ENTRIES**

Defendant appeared by video via Blue Jeans.

Upon Court's inquiry, Mr. Hill advised Defendant has invoked his speedy trial rights. Court noted that for now, Judge Bell is going to handle the setting of invoked trials, so this matter will be heard by her. Following colloquy, COURT ORDERED, matter CONTINUED to the end of July.

CUSTODY**... CONTINUED 7/30/20 1:45 PM**



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

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8 THE STATE OF NEVADA,
9 Plaintiff,

CASE #: C-19-344461-2

10 vs.

DEPT. XX

11 ANDRE GRANT SNIPES,
12 Defendant.

13
14 BEFORE THE HONORABLE ERIC JOHNSON, DISTRICT COURT JUDGE
15 TUESDAY, JUNE 23, 2020

16 **RECORDER'S TRANSCRIPT OF HEARING:**
17 **STATUS CHECK: TRIAL SETTING**

18 APPEARANCES:

19 For the State: MEGAN THOMSON
Chief Deputy District Attorney

20 For the Defendant: DANIEL J. HILL, ESQ.
21

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25 RECORDED BY: ANGIE CALVILLO, COURT RECORDER

1 [Las Vegas, Nevada, Tuesday, June 23, 2020, at 2:18 p.m.]

2

3 THE COURT: State of Nevada versus Andre Snipes, case
4 number C344461. Counsel, please note your appearances.

5 MS. THOMSON: Megan Thomson for the State.

6 MR. HILL: And Dan Hill on behalf of Mr. Snipes who's present
7 in custody. My understanding is that this is an invoked case that just
8 needs to be set.

9 THE COURT: Is this an invoked case?

10 MS. THOMSON: So he invoked in December of 2019. We
11 superseded. He had a calendar call January 14th. He refused to waive,
12 but the Court found good cause for the continuance. We then
13 superseded, and I don't have notes. I would assume, at that point, he
14 invoked given that it was 14 days later. I don't show that he's ever
15 waived.

16 THE COURT: All right. Well for the invoked cases, the courts
17 are putting together a calendar for trials for the invoked cases, which we
18 should be having hearings in front of -- Judge Bell is going to essentially
19 putting together a master calendar of the invoked cases, and you should
20 be getting some contact in terms of hearing in that regard in the next two
21 to three, four weeks. So let's set this for another status check at the end
22 of July.

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THE CLERK: Okay. How about July 30th at 1:45?

[Hearing concluded at 2:20 p.m.]

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



Angie Calvillo
Court Recorder/Transcriber

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

July 30, 2020

C-19-344461-2 State of Nevada
 vs
 Andre Snipes

July 30, 2020

01:45 PM

Status Check: Trial Setting

HEARD BY: Johnson, Eric

COURTROOM: RJC Courtroom 12A

COURT CLERK: Albrecht, Samantha

RECORDER: Calvillo, Angie

REPORTER:

PARTIES PRESENT:

Andre Grant Snipes

Defendant

Daniel Hill

Attorney for Defendant

KENNETH PORTZ

Attorney for Plaintiff

State of Nevada

Plaintiff

JOURNAL ENTRIES

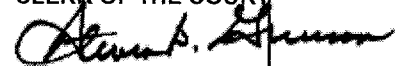
Mr. Hill, Mr. Portz, and Defendant appeared by video via Blue Jeans. Ms. Smith-Peterson appeared by video via Blue Jeans on behalf of Defendant Morgan for Mr. Bassett.

Ms. Smith-Peterson requested this case be set for trial and also a settlement conference. Upon Court's inquiry, Mr. Hill concurred. Ms. Smith-Peterson requested a trial date of September or October 2020. Mr. Portz advised this case would take 2 weeks to try. COURT ORDERED, matter SET for trial. Court directed Mr. Bassett to contact Chief Judge Bell for the scheduling of a Settlement Conference for both Defendants.

CUSTODY

11/3/20 8:30 AM CALENDAR CALL

11/9/20 9:00 AM JURY TRIAL



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

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8 THE STATE OF NEVADA,
9 Plaintiff,

CASE #: C-19-344461

10 vs.

DEPT. XX

11 GREGORY DELLO MORGAN and
12 ANDRE GRANT SNIPES,
13 Defendants.

14 BEFORE THE HONORABLE ERIC JOHNSON, DISTRICT COURT JUDGE
15 THURSDAY, JULY 30, 2020

16 **RECORDER'S TRANSCRIPT OF HEARING:**
17 **STATUS CHECK: TRIAL SETTING**

18 APPEARANCES:

19 For the State: KENNETH N. PORTZ
Chief Deputy District Attorney

20 For Defendant Morgan: JESSICA SMITH-PETERSON
21 Deputy Public Defender

22 For Defendant Snipes: DANIEL J. HILL, ESQ.
23

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25 RECORDED BY: ANGIE CALVILLO, COURT RECORDER

1 [Las Vegas, Nevada, Thursday, July 30, 2020, at 1:57 p.m.]

2

3 THE COURT: State of Nevada versus Andre Snipes, case
4 number C344461. Counsel, please make your appearances for the
5 record.

6 MS. GOODMAN: Laura Goodman for the State.

7 MR. PORTZ: Nick Portz for the State, Your Honor, and this is
8 a co-defendant case.

9 THE COURT: Co-defendant is on page 3, that's State of
10 Nevada versus Gregory Morgan, same case number C344461.
11 Counsel, why don't you go ahead and make your appearance.

12 MR. HILL: Dan Hill for Mr. Snipes.

13 THE COURT: All right. This is on for a trial setting --

14 MR. HILL: Does the co-defendant have an attorney here,
15 Judge?

16 THE COURT: Sorry, what?

17 MR. HILL: Does the co-defendant have an attorney here?

18 THE COURT: I thought we had -- that's page 2. Did we have
19 somebody check in for page 2?

20 MR. PORTZ: It's the public defender who represents the co-
21 defendant.

22 THE COURT: All right. Page 3, Mr. Morgan. Is somebody
23 online for Mr. Morgan.

24 MR. HILL: I think Alex -- Alex, are you on page 3?

25 MS. SMITH-PETERSON: No, I will be standing in for Mr.

1 Bassett.

2 THE COURT: All right. So is there somebody for page 3?

3 MS. SMITH-PETERSON: Your Honor, can you hear me?

4 THE COURT: I can hear you.

5 MS. SMITH-PETERSON: I said I'm standing in for Mr.

6 Bassett on page 3.

7 THE COURT: Okay, so Ms. Smith-Peterson. All right, very
8 good. We're sort of there. All right, this is on for a trial setting. Where
9 do we stand with setting a trial, Mr. Hill?

10 MS. SMITH-PETERSON: So I did speak --

11 THE COURT: Oh, go ahead, Ms. Smith-Peterson.

12 MS. SMITH-PETERSON: Okay. I did speak with Mr. Bassett.
13 He would like to set a trial, but he would also like to set a settlement
14 conference, if possible, prior to the trial for Mr. Morgan and his Co-
15 defendant Mr. Snipes. However, if we are setting a trial within the 2020
16 year, he would ask for some time in the last weeks of September or
17 October.

18 THE COURT: Okay.

19 MS. SMITH-PETERSON: Preferably, October.

20 THE COURT: What's your thoughts, Mr. Hill?

21 MR. HILL: I'll second Ms. Smith-Peterson.

22 THE COURT: Do you want me to order a settlement
23 conference?

24 MR. PORTZ: If Mr. Hill's client is willing and wants to go to a
25 settlement conference, I think he's kind of the hold up on a global

1 negotiation, so the State will do that if everyone is interested and going
2 forward. But I think that's kind of up to the defendant if he doesn't want
3 to deal, then there's no point doing a settlement conference when we
4 can get the calendar call and trial date.

5 THE COURT: No, I agree with you, Mr. Portz. That's why I
6 was asking Mr. Hill if he was -- if he wanted to do the settlement
7 conference, so --

8 MR. HILL: I mean, I'm always open to it, Judge, but my
9 intelligence from Mr. Ruggeroli is that perhaps Mr. Snipes wouldn't be
10 open to that discussion.

11 THE COURT: I mean I'm not going to order it.

12 Mr. Portz, is there any interest in having a settlement
13 discussion as to Mr. Morgan? Hold on.

14 DEFENDANT SNIPES: Hello.

15 THE COURT: Who's raising the --

16 DEFENDANT SNIPES: As long as -- this is Andre Snipes. As
17 long as it doesn't slow down my trial or push it back any further, I'm okay
18 with it. But if it's going to -- if it's going to block my trial or slow it down
19 or push it back in any kind of way, then no.

20 THE COURT: Okay. Well the situation with the pandemic is
21 what's controlling in terms of doing jury trials, not the settlement
22 conference. We can have a settlement conference up to -- you know, at
23 any time and it doesn't impact upon the trial date.

24 DEFENDANT SNIPES: I'm willing to listen --

25 THE COURT: So are you interested in discussing a

1 settlement with the State?

2 DEFENDANT SNIPES: I'm willing to listen, yes.

3 THE COURT: Okay. All right.

4 Mr. Portz, are you still interested in that?

5 MR. PORTZ: Your Honor, that's fine. We'll be happy to talk.

6 THE COURT: I'll go ahead and order the settlement
7 conference. I'll ask Mr. Bassett to reach out on behalf of both
8 defendants to Judge Bell's office to schedule the settlement conference.

9 Now in terms of a trial date, I mean, that's a different
10 issue. Let me ask, Mr. Hill, have you been contacted in regard to the
11 trial readiness conferences that are being run by Judge Bell and the
12 senior judges for those cases which have invoked?

13 MR. HILL: Not on this case, Your Honor.

14 THE COURT: Okay. All right. How long do we think this
15 case will take? Two weeks?

16 MR. PORTZ: I would say that that's a fair estimate, Your
17 Honor.

18 [The Court and Clerk confer]

19 THE COURT: What about the first week of November?

20 MR. PORTZ: That's fine with the State, Judge.

21 THE COURT: Mr. Hill.

22 MS. SMITH-PETERSON: That works as well for Bassett.

23 MR. HILL: That's okay.

24 THE COURT: Okay. All right. Let's try -- we'll see -- we'll
25 keep our fingers crossed that we can go then.

1 DEFENDANT MORGAN: Your Honor, can I speak please.

2 THE COURT: Well it's probably best for you to speak through
3 your attorney. I mean, what generally are you wanting to say?

4 DEFENDANT MORGAN: I was under the impression I spoke
5 with Alex Bassett, about two weeks ago, that he filed a motion for a bail
6 hearing that was going to be heard today.

7 THE COURT: I don't have that on my calendar today. I don't
8 know if Mr. Bassett -- I don't show it at the moment.

9 DEFENDANT MORGAN: He said he filed my motion.

10 THE COURT: Do you know anything, Ms. Smith-Peterson,
11 about a bail motion?

12 MS. SMITH-PETERSON: Not on the calendar, Your Honor.

13 THE COURT: Okay. All right.

14 MR. HILL: I don't see anything as well, Your Honor.

15 THE COURT: You haven't received anything, Mr. Portz?

16 MR. PORTZ: No.

17 DEFENDANT MORGAN: He told me he filed a motion about
18 two and a half weeks ago, sir, and I was just waiting on a court date; it
19 might be heard today. He told me that out of his mouth personally.

20 THE COURT: All right. Ms. Smith-Peterson, will you pass
21 that on to Mr. Bassett?

22 MS. SMITH-PETERSON: Yes, Your Honor.

23 THE COURT: All right. So we got -- like I said, I'll order Mr.
24 Bassett on behalf of both defendants to reach out to Judge Bell's office
25 in regard to scheduling a settlement conference, and then we'll set this

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for the trial date.

THE CLERK: So I have calendar call will be November 3rd at 8:30; jury trial November 9th at nine a.m.

MR. HILL: Thank you, Your Honor.

THE COURT: All right. Thank you.

[Hearing concluded at 2:06 p.m.]

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



Angie Calvillo
Court Recorder/Transcriber

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

October 21, 2020

C-19-344461-2 State of Nevada
 vs
 Andre Snipes

October 21, 2020 11:30 AM Central Trial Readiness Conference

HEARD BY: Bell, Linda Marie COURTROOM: RJC Lower Level Arraignment

COURT CLERK: Estala, Kimberly

RECORDER: Vincent, Renee

REPORTER:

PARTIES PRESENT:

Andre Grant Snipes

Defendant

Daniel Hill

Attorney for Defendant

KENNETH PORTZ

Attorney for Plaintiff

State of Nevada

Plaintiff

JOURNAL ENTRIES

Also present: Co-Defendant Gregory Morgan with counsel Alex Bassett, Esq. Mr. Bassett and Mr. Portz appearing via Bluejeans.

Mr. Bassett advised a settlement conference was requested and the date given was December 8th however it was not accepted as parties were waiting on a response from Mr. Hill if Co-Defendant Snipes was willing to participate. Mr. Hill advised he has not spoken to Defendant Snipes regarding negotiating. Defendant Snipes stated he does not wish to participate in a settlement conference. Upon Court's inquiry, Mr. Bassett and Mr. Hill both confirmed they would have Co-Counsel for trial. Court noted the compactly in the Covid-19 courtroom is limited. State would object to bifurcating the cases and the negotiations have always been contingent. State anticipates being ready. Mr. Bassett advised if the trial were bifurcated Defendant Morgan's case will negotiate. Colloquy regarding settlement conference. Mr. Hill noted he believes to have grounds to sever this case aside from the courtroom issue and can have the motion filed by tomorrow. COURT ORDERED, matter SET for central calendar call; department calendar call VACATED and SET for status check on pending motion by Mr. Hill to sever cases.

CUSTODY

10/29/20 1:45 PM STATUS CHECK: POSSIBLE MOTION TO SEVER (DEPT 20)

11/04/20 2:00 PM CENTRAL CALENDAR CALL (LLA)



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 THE STATE OF NEVADA,
9 Plaintiff,

CASE#: C-19-344461-1
C-19-344461-2

10 vs.

DEPT. XX

11 GREGORY DELLO MORGAN,
12 ANDRE GRANT SNIPES,
13 Defendants.

14 BEFORE THE HONORABLE LINDA MARIE BELL, DISTRICT COURT JUDGE
Appeared Via Video Conference

15 WEDNESDAY, OCTOBER 21, 2020

16 **RECORDER'S TRANSCRIPT OF PROCEEDINGS:**
17 **CENTRAL TRIAL READINESS CONFERENCE**

18 APPEARANCES:

19 For the State:

KENNETH N. PORTZ, ESQ.
Chief Deputy District Attorney
Appeared Via Video Conference

21 For the Defendant Morgan:

ALEXANDER B. BASSETT, ESQ.
Deputy Public Defender
Appeared Via Video Conference

24 For the Defendant Snipes:

DANIEL J. HILL, ESQ.

25 RECORDED BY: RENEE VINCENT, COURT RECORDER

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WEDNESDAY, OCTOBER 21, 2020 AT 11:59 A.M.

THE COURT: All right. State of Nevada versus Gregory Morgan, case number C344461. He's present in custody.

MR. BASSETT: Hello, Your Honor, Alex Bassett on behalf of Mr. Morgan.

MR. PORTZ: Nick Portz for the State, Your Honor. There's also a co-defendant, Mr. Snipes.

THE COURT: Oh, yep, and Andre Snipes. Do we have Mr. Hill?

MR. HILL: Hi, Judge. I'm down in the courtroom.

THE COURT: Okay. And Mr. Snipes is present also in custody?

MR. HILL: Yes, Judge.

DEFENDANT SNIPES: Yeah.

THE COURT: Okay. So, how are things going? You -- I had a note --

MR. BASSETT: We're --

THE COURT: -- that in July you were going to reach out to set a settlement conference, but I don't see that that happened.

MR. BASSETT: Your Honor, it did happen two weeks ago.

THE COURT: Okay.

MR. BASSETT: I --

THE COURT: Oh, okay.

MR. BASSETT: And we were offered a date of December 8th

1 for that settlement conference.

2 THE COURT: All right.

3 MR. BASSETT: My client wanted to accept that. My client
4 has wanted to negotiate this case since before preliminary hearing. He
5 does not want to go to trial. We could be prepared to go to trial. The
6 reason we did not confirm the settlement conference date was because
7 we were waiting to hear back from Mr. Hill on whether Mr. Snipes would
8 be willing to be involved in that as well.

9 MR. HILL: And, Your Honor, in all candor, my wallet was
10 stolen and I don't have credentials to get into the jail, which has caused
11 a whole logistical problem the last --

12 THE COURT: Okay.

13 MR. HILL: -- week. So, Mr. Snipes is set for trial November
14 the 9th. I have another case on today, Mr. Christopher Butt, also set for
15 trial on November the 9th. I have not had an opportunity to discuss with
16 Mr. Snipes if he is amenable to talking about negotiation with the State,
17 so -- he's shaking his head no. So, I got two trials set for the 9th, Judge.

18 DEFENDANT SNIPES: I'm shaking my head because I'm
19 like, I don't want to negotiate anymore. The only thing I'm interested in
20 is my trial, so I can care less about --

21 THE COURT: Okay.

22 DEFENDANT SNIPES: -- negotiating. All I -- the only thing --

23 MR. BASSETT: And [indiscernible] --

24 DEFENDANT SNIPES: -- I want is my --

25 THE COURT: All right. So --

1 DEFENDANT SNIPES: -- speedy trial. That's all I'm asking
2 for.

3 THE COURT: Okay. Mr. Bassett, Mr. Hill, if you were to go to
4 trial in this case would you have co-counsel?

5 MR. BASSETT: Yes, I would, Your Honor.

6 THE COURT: Okay.

7 MR. HILL: At -- I'm not sure right now. It's possible, Judge.

8 THE COURT: Okay. It just -- it creates a bit of a space issue
9 because we can really only accommodate four.

10 So, Mr. Portz, is any -- so, just the logistical issue with co-
11 defendants right now is that we can seat four people on each side, so if
12 there's two defendants and three lawyers or four lawyers, that's not
13 going to work, so we may end up having to set the trial separately
14 anyway.

15 MR. PORTZ: You mean bifurcate the Defendants, Your
16 Honor?

17 THE COURT: Right.

18 MR. HILL: And --

19 MR. PORTZ: Well, I --

20 MR. HILL: And on that note, Judge --

21 MR. PORTZ: The State's not -- I mean, the State would
22 object to that. I think we'd have to litigate that or figure that out, but I --
23 our point is we're ready to --

24 THE COURT: Well, I mean, we just can't logistically -- we
25 don't have the ability logistically to do that; we just don't.

1 MR. HILL: And, Judge, just to jump in here, one of the --

2 MR. PORTZ: Well, if we're going to have to call witnesses
3 twice in a row I don't -- I guess that's going to throw a wrench in our
4 ability to announce ready because I don't know what dates we're going
5 to be given for two separate defendants. But the bottom line is that
6 these negotiations have always been contingent. One Defendant has
7 wanted the deal, the other hasn't. And we anticipate being ready for the
8 November setting. So, I mean, that's the only thing I can report, Your
9 Honor.

10 MR. BASSETT: And, Your Honor, that is --

11 THE COURT: Okay.

12 MR. BASSETT: -- accurate. Were the case to be bifurcated, I
13 do not anticipate our trial would actually go to trial. Mr. Morgan has
14 wanted to take a deal since February of this year.

15 MR. PORTZ: Your Honor, this case has been pending for a
16 long time and I just -- I'm going to reiterate that we're ready to go
17 November 9th, but our strong preference in -- is that they go together.
18 This is a large series. It would be a monumental waste of judicial
19 resources, of juror resources during a time when trials are hard to come
20 by --

21 THE COURT: Wait, I -- Mr. --

22 MR. PORTZ: -- as it is, so I --

23 THE COURT: I understand that. Mr. Portz, I'm telling you we
24 have space for four people on each side. They -- I -- there is not the
25 possibility. And he's absolutely entitled to have two attorneys for the

1 trial. If he has two attorneys for the trial, then they're not going to fit.
2 They -- I can't manage the Coronavirus precautions and try two
3 defendants that have more than two lawyers. It's just not --

4 MR. PORTZ: I understand that, Your Honor.

5 THE COURT: It's not possible. So, I am -- I'm -- it seems like
6 it would be easier for the State to resolve at least part of this than to do
7 co-defendant cases right now anyway. I --

8 MR. PORTZ: I -- with all due respect, Your Honor, I mean,
9 we're not going to change our negotiating position, and I think that if they
10 can't have it done together, that might be grounds to remain invoked and
11 move the trial date if there are other trials that can go that week, but, I
12 mean, we are ready and we anticipate going forward on both of them. I
13 understand the Court, what the Court's explaining to the State, but at the
14 same time, I don't know what grounds there is to just force a bifurcation.
15 I guess I'm unfamiliar with that. So, I -- I'm just making our record --

16 THE COURT: Well --

17 MR. PORTZ: -- and our position very clear that --

18 THE COURT: Okay.

19 MR. PORTZ: -- this would --

20 THE COURT: I mean, I understand, Mr. Portz, but we're also
21 not normally in the middle of a pandemic, right? So, we have very strict
22 protocols to be able to do jury trials at all, and that's just what we have.
23 And so, you know, we have invoked people that need to go to trial, so
24 we can pick one and set it for next week. If Mr. Morgan wants to do a
25 settlement conference I'd be inclined to have the Snipes one set for the

1 9th.

2 I'm not sure, Mr. Hill, what your other case is for the 9th. Is
3 that the --

4 MR. HILL: Butt.

5 THE COURT: Butt, okay, which is -- this is the older of the
6 cases.

7 MR. BASSETT: And also, to clarify, Your Honor, Mr. Morgan
8 is not invoked. He waived his right to that back --

9 THE COURT: Okay.

10 MR. BASSETT: -- in February.

11 MR. HILL: Oh.

12 THE COURT: All right. But Mr. Snipes is?

13 MR. BASSETT: Correct.

14 DEFENDANT SNIPES: I just want to --

15 THE COURT: Okay.

16 DEFENDANT SNIPES: -- add, man, like, I have been waiting
17 for a trial for an entire year. I have been invoked since December of
18 2019. I mean, I've been sitting in custody for a very, very long time --

19 THE COURT: Yeah.

20 DEFENDANT SNIPES: -- waiting for a trial. So, I just wanted
21 to put that out there. I've been in custody for an entire year waiting for a
22 trial. I want a trial.

23 MR. BASSETT: And Mr. Morgan does not.

24 THE COURT: Got it.

25 All right. So -- well, then let's go ahead and -- we'll reset the

1 calendar call for Mr. Snipes to November 4th at 2 p.m., and we'll vacate
2 the November 3rd calendar call date in front of Judge Johnson. And
3 then I'm going to put Mr. Morgan on the same date as well, but we'll also
4 set the settlement conference and then we'll just see what we can sort
5 out between now and then.

6 MR. PORTZ: Well, okay. And for the State, Your Honor --

7 THE COURT: I'll just -- I'll set that --

8 MR. PORTZ: -- I'm covering for --

9 THE COURT: I'm sorry. Mr. Portz, hang on a second.

10 So, I'll set the settlement conference date so you have that
11 date preserved because they do fill up pretty quickly, and then -- but
12 we'll still set them both for a calendar call for the 4th, and then we'll see
13 where things are.

14 I'm sorry, Mr. Portz. Go ahead.

15 MR. PORTZ: Okay. Just so I have the dates clear, so both
16 Defendants are set for calendar call November 4th at 2 p.m.?

17 THE COURT: Right.

18 MR. PORTZ: And is that -- that's before Your Honor, the
19 central trial readiness, or is that before --

20 THE COURT: Yes. No, we'll vacate the one in front of Judge
21 Johnson so you don't have to appear two places.

22 MR. PORTZ: Okay. Thank you.

23 MR. BASSETT: And, Your Honor, just to clarify, you're going
24 to give us -- you're going to give Mr. Morgan a settlement conference
25 date right now; is that the idea?

1 THE COURT: Yes, so that it's preserved.

2 MR. BASSETT: Okay.

3 MR. PORTZ: And I'm standing in for another DA, so if Mr.
4 Bassett could clarify. It's my understanding the State has not agreed to
5 enter into a settlement conference because our negotiations haven't
6 changed, so there wouldn't be a good faith basis for us to go into that.
7 Unless him and Ms. Lacher have come to some sort of different
8 agreement, it would still be -- and he can illuminate us as to that point --
9 it would still be the State's position that we're not entering into a
10 settlement conference with either Defendant.

11 MR. BASSETT: And, Your Honor, Ms. Lacher did make clear
12 that she would be open to a settlement conference if both Defendants
13 were willing to participate. What I'd ask you to consider doing is go
14 ahead and give Mr. Morgan a settlement conference date, then if the
15 cases are bifurcated because we can't proceed with that many attorneys
16 and defendants, at that point we would have no objection to Mr. Snipes
17 going first because he has invoked. So, I'd ask for the settlement
18 conference date. If we end up -- if Ms. Lacher -- if the cases are not
19 bifurcated, it will be vacated, if they are bifurcated and Ms. Lacher still
20 isn't willing to do a settlement conference, we can still vacate it, but I
21 would like to lock in that date just in case.

22 THE COURT: All right, Mr. Portz, so let's just do that. We'll
23 just set the date understanding that if the State decides that they don't
24 want to participate, obviously it won't go forward.

25 MR. HILL: And, Judge --

1 MR. PORTZ: Okay, Judge.
2 MR. HILL: Judge, can I --
3 THE COURT: Great.
4 MR. HILL: -- step in here on one logistical issue? So --
5 THE COURT: Yep.
6 MR. HILL: -- what I'm unclear on is, so I have pretty
7 compelling grounds to sever separate and apart from the courtroom, the
8 room in the courtroom. I learned this yesterday --
9 THE COURT: Yeah.
10 MR. HILL: -- or the day before in a conversation with Mr.
11 Bassett. So, what have -- are we for sure -- do I need to not file that
12 now?
13 THE COURT: So, no, you need to file the motion. If there is
14 legal grounds, obviously that changes the posture of things as well, so, I
15 mean, that needs to happen immediately. Let's -- how soon are you
16 planning to file that?
17 MR. HILL: Well, I could get it in today or tomorrow. It won't
18 be my best work, but it will be enough to get a discussion --
19 MR. BASSETT: And --
20 MR. HILL: -- going.
21 MR. BASSETT: -- Dan, if --
22 THE COURT: Okay.
23 MR. HILL: I'll --
24 MR. BASSETT: Dan, if you give me a call after we get out of
25 court here, I can talk to you about that too.

1 MR. HILL: Okay. Great.

2 DEFENDANT MORGAN: And what motion are we filing --

3 THE COURT: And I --

4 DEFENDANT MORGAN: -- Your Honor? It's Mr. --

5 THE COURT: I'm sorry?

6 DEFENDANT MORGAN: -- Morgan speaking. What motion

7 is he filing?

8 MR. BASSETT: It's a motion to --

9 THE COURT: To sever your cases.

10 Is Judge Johnson Tuesday, Thursday?

11 MR. BASSETT: Yes, Your Honor.

12 THE COURT: So, could I set that motion on his calendar on

13 the 29th so that there's a chance that it would get heard before the

14 calendar call?

15 MR. HILL: Yes, Judge.

16 THE COURT: Does that work for -- Mr. Portz, does that work

17 for the State?

18 MR. PORTZ: I guess, Judge. I mean, I think we're entitled to

19 time to respond. So, if Mr. Hill gets it in today, then we'll have some

20 time to respond before that hearing.

21 THE COURT: I mean, I can put it on the 3rd as well. It just

22 doesn't give you a lot of time to, you know, know what's -- the deal is

23 before the calendar call.

24 MR. PORTZ: The State will submit, Judge.

25 THE COURT: No, Mr. Portz, it's your -- I mean, I -- it's not -- I

1 don't -- it doesn't matter at all to me. I'm just trying to -- what's going to
2 be better for you.

3 MR. HILL: If it helps --

4 MR. PORTZ: Let's do the 28th, Your Honor.

5 MR. HILL: Oh, all right.

6 THE COURT: The 29th or say the 29th?

7 MR. PORTZ: That's fine with the State.

8 THE COURT: Okay. Great. Thank you.

9 THE COURT CLERK: And that would be 1:45 p.m. in
10 Department XX. And, Your Honor, did you want to set the settlement
11 conference now or --

12 THE COURT: Yes.

13 THE COURT CLERK: I didn't do that. So, the first available
14 date that I have is actually the 3rd. I'm sorry, let me pull the calendar
15 back up. It's the -- November 3rd at 8 a.m. Does that work?

16 MR. BASSETT: Your Honor, I --

17 THE COURT: Not if they're --

18 MR. BASSETT: Just because we --

19 THE COURT: Not if --

20 MR. BASSETT: I'd -- sorry.

21 THE COURT: Is -- not if they're -- because the State isn't
22 agreeing right now and the co-defendant isn't agreeing right now, so it's
23 probably best to set it a little bit after and see kind of how everything
24 sorts out, if it's still necessary.

25 Do you agree, Mr. Bassett?

1 DEFENDANT MORGAN: Well --

2 MR. BASSETT: I agree, Your Honor. I was just going to say
3 let's set it for after the trial date because the only reason -- the only way
4 that settlement conference would go forward is if the case is bifurcated,
5 so --

6 THE COURT: Okay.

7 THE COURT CLERK: So then the next available I have is
8 November 30th or I can go into December.

9 MR. BASSETT: November 30th would be fine.

10 THE COURT CLERK: And that will be at 11:30 a.m.

11 THE COURT: All right. Thank you.

12

13 [Proceedings concluded at 12:13 p.m.]

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

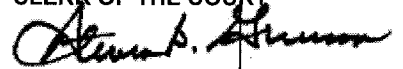
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Trisha Garcia
Court Transcriber



1 **MOT**
2 DANIEL HILL
3 HILL FIRM PLLC
4 Nevada State Bar No. 12773
5 228 S. 4th Street, 3rd Floor
6 Las Vegas, NV 89101
7 P: (702) 848-5000
8 F: (702) 442-8338
9 *Attorney for Defendant*

10 **EIGHTH JUDICIAL DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

12 STATE OF NEVADA,) C-19-344461-2
13 Plaintiff,) Dept. 20
14 vs.) **MOTION TO SEVER**
15 ANDRE SNIPES,)
16 Defendant.)

17 This is Andre Snipes' motion to sever his trial from his co-defendant. This Motion
18 is made and based upon all the papers and pleadings on file herein, the Points and
19 Authorities filed herewith, the exhibits attached hereto, and the oral argument of counsel
20 at the time set for hearing of this matter, if desired by the Court.

21 DATED this 22nd day of October 2020.

22 
23 DANIEL HILL
24 *Attorney for Defendant*

1
2
3 **NOTICE OF MOTION**


4 TO: THE STATE OF NEVADA, Plaintiff, and

5 TO: THE OFFICE OF THE DISTRICT ATTORNEY:

6 YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that the undersigned
7 will bring the above and foregoing Motion on for hearing on the 29th day of
8 October 2020, at 1:45 a.m. p.m. before the above-captioned
9 court, or as soon thereafter as counsel can be heard.

10 DATED this 22nd day of October 2020.

11 HILL FIRM

12 
13 _____
14 DANIEL HILL, ESQ.
15 Counsel for Defendant
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MEMORANDUM

To be entitled to severance on the basis of mutually antagonistic defenses, a defendant must show “that the core of the codefendant’s defense is so irreconcilable with the core of his own defense that the acceptance of the codefendant’s theory by the jury precludes acquittal of the defendant.” United States v. Throckmorton, 87 F.3d 1069, 1072 (9th Cir. 1996). In short, “defenses must be antagonistic to the point that they are ‘mutually exclusive’ before they are to be considered prejudicial,” requiring severance. Rowalnd, v. State, 118 Nev. 31, 45 (2002).

Antagonistic defenses require severance where the moving defendant shows that the codefendants have “conflicting and irreconcilable defenses and there is danger that the jury will unjustifiably infer that this conflict alone demonstrates that both are guilty.” Chartier v. State, 191 P.3d 1182, 1185 -1186 (internal citations omitted). The Court in Escalante listed the lack of opportunity to present an individual defense by reason of a joint trial as one of the possible violations of a defendant’s substantive rights. U.S. v. Escalante, 637 F.2d 1197, 1201 (9th Cir. 1980).

Such is the case here. Counsel for both defendants have discussed their respective trial strategies. The defenses are going to be wholly antagonistic and inconsistent with one another. The parties can and will be happy to provide an in-depth explanation as to the antagonistic defenses ex-parte at the bench during the hearing. Mr. Morgan intends to present testimony and evidence—as well as factual and legal concessions—that will run directly contrary to Mr. Snipes’ intended theory of defense.

If a single jury were to hear both of these defenses, it would be impossible for them to find credibility in each. If the jury were to believe Mr. Morgan’s theory of the case, then

1 the situation would be one where "the acceptance of the defendant's theory [Morgan] by
2 the jury precludes acquittal of the co-defendant [Snipes]." Rowland, 118 Nev. at 45. The
3 same would be true in the reverse. Since the acceptance of one party's defense precludes
4 the acquittal of the other, severance is required.

5 Beyond the basic antagonistic nature of these defense, prejudice is further
6 increased stemming from the "danger that the jury will unjustifiably infer that this conflict
7 alone demonstrates that both are guilty." Jones v. State, 111 Nev. 848, 854 (1995).
8 Forcing a single jury to hear both defenses will create the possibility that the jury will
9 discount both defenses as improbable. The assertion of each defense makes the other
10 seem less likely. Their defenses are "so contradictory as to raise an appreciable danger
11 that the jury would convict because of the inconsistency." United States v. Wright, 783
12 F.2d 1091, 1095 (D.C. Cir. 1986). Thus, under these circumstances there is a substantial
13 probability that the jury will unjustifiably infer that this conflict alone demonstrates that
14 both Mr. Morgan and Mr. Snipes are guilty.
15
16

17 DATED this 22nd day of October 2020.
18
19

20 Respectfully submitted,
21

22 
23

24 DANIEL HILL
25 Nevada State Bar No. 12773
26 228 S. 4th Street, 3rd Floor
27 Las Vegas, NV 89101
28

CERTIFICATE OF SERVICE

I hereby certify that I am a person competent to serve papers, that I am not a party to the above-entitled action, and that on the 22nd day of October 2020, I served the forgoing document on:

Clark County District Attorney's Office
Via E-Mail: motions@clarkcountyda.com

By /s/ Daisy Mendoza

An Employee of
HILL FIRM PLLC

DISTRICT COURT
CLARK COUNTY, NEVADA

Electronically Filed
10/22/2020 2:31 PM
Steven D. Grierson
CLERK OF THE COURT



State of Nevada
vs
Andre Snipes

Case No.: C-19-344461-2

Department 20

NOTICE OF HEARING

Please be advised that the Defendant's Motion to Sever in the above-entitled matter is set for hearing as follows:

Date: November 03, 2020
Time: 1:45 PM
Location: RJC Courtroom 12A
Regional Justice Center
200 Lewis Ave.
Las Vegas, NV 89101

NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Imelda Murrieta
Deputy Clerk of the Court

CERTIFICATE OF SERVICE

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Imelda Murrieta
Deputy Clerk of the Court

0446

Steven D. Grierson

1 **OPPS**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 ASHLEY A. LACHER
6 Deputy District Attorney
7 Nevada Bar #14560
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10
11 Plaintiff,

11 -vs-

12 ANDRE GRANT SNIPES,
13 #7088448

14 Defendant.

CASE NO: C-19-344461-2

DEPT NO: XX

15 **STATE'S OPPOSITION TO DEFENDANT'S MOTION TO SEVER**

16 DATE OF HEARING: 10/29/20
17 TIME OF HEARING: PM

18 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County
19 District Attorney, through ASHLEY A. LACHER, Deputy District Attorney, and hereby
20 submits the attached Points and Authorities in Opposition to Defendant's Motion To Sever.

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

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1 POINTS AND AUTHORITIES

2 STATEMENT OF CASE

3 On November 1, 2019, an Indictment was filed charging Gregory Morgan and Andre
4 Snipes (hereinafter "Defendant(s)"), as follows: GRAND LARCENY (Category C Felony -
5 NRS 205.220.1, 205.222.2 - NOC 56004); CONSPIRACY TO COMMIT ROBBERY
6 (Category B Felony - NRS 200.380, 199.480 - NOC 50147); ROBBERY WITH USE OF A
7 DEADLY WEAPON (Category B Felony - NRS 200.380, 193.165 - NOC 50138);
8 BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Category B Felony -
9 NRS 205.060 - NOC 50426) and BURGLARY (Category B Felony - NRS 205.060 - NOC
10 50424).

11 On January 14, 2020, an Amended Superseding Indictment was filed charging
12 Defendants as follows: COUNT 1: BURGLARY (Category B Felony - NRS 205.060 - NOC
13 50424), COUNT 2: GRAND LARCENY (Category C Felony - NRS 205.220.1, 205.222.2 -
14 NOC 56004), COUNT 3: GRAND LARCENY (Category C Felony - NRS 205.220.1,
15 205.222.2 - NOC 56004), COUNT 4: CONSPIRACY TO COMMIT ROBBERY (Category
16 B Felony - NRS 200.380, 199.480 - NOC 50147), COUNT 5: ROBBERY WITH USE OF A
17 DEADLY WEAPON (Category B Felony - NRS 200.380, 193.165 - NOC 50138), COUNT
18 6: BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Category B Felony
19 - NRS 205.060 - NOC 50426), COUNT 7 applies only to co-defendant Snipes, COUNT 8 :
20 BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Category B Felony -
21 NRS 205.060 - NOC 50426), COUNT 9: GRAND LARCENY (Category C Felony - NRS
22 205.220.1, 205.222.2 - NOC 56004), COUNT 10: CONSPIRACY TO COMMIT ROBBERY
23 (Category B Felony - NRS 200.380, 199.480 - NOC 50147), COUNT 11: ROBBERY WITH
24 USE OF A DEADLY WEAPON (Category B Felony - NRS 200.380, 193.165 - NOC 50138),
25 COUNT 12: applies only to co-defendant Snipes, COUNT 13: GRAND LARCENY (Category
26 C Felony - NRS 205.220.1, 205.222.2 - NOC 56004), COUNT 14: BURGLARY (Category B
27 Felony - NRS 205.060 - NOC 50424), COUNT 15: BURGLARY (Category B Felony - NRS
28 205.060 - NOC 50424), COUNT 16: GRAND LARCENY (Category C Felony - NRS

1 205.220.1, 205.222.2 - NOC 56004), COUNT 17: applies only to co-defendant Snipes, and
2 COUNT 18: PARTICIPATION IN ORGANIZED RETAIL THEFT (Category B Felony -
3 NRS 205.08345 - NOC 55986).

4 On January 30, 2020, Defendant's plead not guilty. Calendar Call was scheduled for
5 March 3, 2020 with a March 9, 2020, trial date. After the State announced ready yet again,
6 Defendant Morgan filed a Motion to Sever Co-Defendants on March 4, 2020, in which Co-
7 Defendant Snipes joined on the basis that the case between the two Defendant's was
8 antagonistic. See Minutes 3/5/20. The State orally opposed severance based upon permission
9 of the Court as the hearing on the Motion to Sever was held on March 5, 2020. After a hearing
10 was held with both Defendants, and outside the presence of the State regarding defenses this
11 Court denied Defendant's Motion to Sever and found good cause to continue both Defendants
12 trials. The State also made it clear that any negotiations would be contingent on both
13 Defendants accepting the offer. Trial was reset for April 6, 2020, but was continued due to
14 CO-VID-19 and the Court's Administrative Order.

15 This Court filed an Order Denying Defendant's Motion to Sever Co-Defendants and
16 State's Motion to Introduce Evidence of Other Bad Acts on April 8, 2020.

17 On October 21, 2020, both Defendant's appeared before the Central Trial Readiness
18 Calendar. Defendant Snipes is in custody and in invoked status. Defendant Morgan is in
19 custody and waived status. Defendants did not apprise the Central Trial Readiness Court
20 (CTR) that the Motion to Sever had been previously heard and denied.¹ DPD Bassett advised
21 the Court that he wished to have co-counsel.² The CTR Court advised that the COVID
22 Courtrooms do not accommodate for co-counsel and that severance may be forced for that
23 reason and sent the matter back to Department 20. Trial is currently scheduled for November
24 9, 2020.

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26
27 ¹ Another DDA not familiar with this Court's procedural history in denying the case was unable to apprise the Central
Trial Readiness Court of the prior denial of the Motion to Sever. DDA Lacher was handling a separate calendar at the
time of Central Trial Readiness.

28 ² No legal authority was presented to assert that Defendant Morgan was entitled to have two attorneys present at the
table during trial other than personal preference. The State submits that this tactic to force severance is without any legal
authority and exploits judicial resources.

1 Defendant filed the instant Motion to Sever on October 22, 2020. The State responds
2 as follows.

3 **STATEMENT OF FACTS**

4 From July 4, 2019, to October 6, 2019, Defendants engaged in a spree of crime stealing
5 from multiple retail organizations involving Champs, Footlockers, and Nike. The total value
6 of their thefts was over \$3,500. Defendants would enter the stores, grab basketball jerseys and
7 shoes and/or seek to return stolen goods in exchange for gift cards. Almost all events are
8 captured on video. Several events involved threats to loss prevention agents and the use of a
9 firearm.

10 **NIKE 9851 S. EASTERN – COUNTS 1 AND 2**

11 On July 4, 2019, Defendant Gregory Morgan entered the Nike store located at 9851 S.
12 Eastern Ave. Along with his co-conspirators, Defendant Morgan grabbed merchandise
13 including shoes and NBA basketball jerseys. Defendant and his co-conspirators left the store
14 without paying for the items and evaded loss prevention agents.

15 **FOOTLOCKER FASHION SHOW MALL – COUNTS 3,4,5, and 6**

16 On September 20, 2019, Defendant Morgan and Defendant Snipes entered the
17 Footlocker at the Fashion Show Mall. Employees of the store attempted to speak with
18 Defendants after noticing unusual behavior. Store employee Bryan Laws Jr. attempted to stop
19 the Defendants from leaving the store with unpaid for NBA Basketball Jerseys. As Bryan
20 Laws attempted to stop the Defendants, Defendant Morgan flashed what Bryan Laws Jr.
21 recognized to be a pistol and both Defendants fled with the stolen items.

22 **FOOTLOCKER MEADOWS MALL – COUNT 7**

23 Defendant Snipes entered the Meadows Mall Footlocker on September 20, 2019.
24 Snipes brought in stolen merchandise to “return” and received a gift card. A search of the
25 Footlocker database revealed Defendant had not purchased the items he sought to return.

26 **CHAMPS – FASHION SHOW MALL – COUNTS 8, 9, 10, and 11**

27 On September 24, 2019, Defendant Morgan and Defendant Snipes entered the Champs
28 at the Fashion Show Mall. Defendants grabbed approximately 14 NBA Basketball Jerseys and

1 attempted to leave the store. Manager Alden Abrego attempted to stop Defendant from leaving
2 the store with unpaid merchandise. When Alden Abrego contacted Defendants, Defendant
3 Morgan tugged at his shirt revealing the black handle of a firearm. Defendant Snipes stated
4 “you don’t want to do that” as Defendant Morgan was flashing the firearm.

5 FOOTLOCKER MEADOWS MALL – COUNT 12

6 Defendant Snipes entered the Meadows Mall Footlocker on September 24, 2019.
7 Snipes brought in stolen merchandise to “return” and received a gift card. A search of the
8 Footlocker database revealed Defendant had not purchased the items he sought to return.

9 FOOTLOCKER – 2120 FESTIVAL PLAZA - COUNTS 13-14

10 On September 24, 2019, Defendants Morgan and Snipes entered the Footlocker located
11 at Downtown Summerlin. Both Defendants took various pieces of merchandise from the store
12 without paying and fled the scene.

13 NIKE – 9851 S. EASTERN AVE – COUNTS 15-16

14 On October 2, 2019, Defendant took shoes and other merchandise from the Nike store.
15 Defendant’s left the store without paying for the merchandise after being asked to stop by
16 employees at the store.

17 FOOTLOCKER MEADOWS MALL – COUNT 17

18 Defendant Snipes entered the Meadows Mall Footlocker on October 6, 2019. Snipes
19 brought in stolen merchandise to “return” and received a gift card. A search of the database
20 revealed Defendant had not purchased the items he sought to return.

21 Defendants are ultimately apprehended together after officers set up a fake buy for
22 shoes that Morgan offered for sale.

23 ARGUMENT

24 Defendant argues that he is entitled to severance based upon “mutually antagonistic
25 defenses,” a claim that this Court has previously denied in March 2020.

26 I. OVERVIEW OF LAW REGARDING JOINDER – PUBLIC POLICY
27 STRONGLY FAVORS JOINT TRIALS
28

1 The Defendants are properly joined in the instant case. NRS 173.115 provides for the
2 joinder of defendants by stating:

3 Two or more defendants may be charged in the same indictment or
4 information if they are alleged to have participated in the same act or
5 transaction or in the same series of acts or transactions constituting an
6 offense or offenses. Such defendants may be charged in one or more counts
together or separately and all of the defendants need not be charged in each
count.

7 Where a defendant or the State is prejudiced by joinder, the Court may grant "whatever relief
8 justice requires" up to and including severance. NRS 174.165.

9 While severance is permissible under some circumstances, persons who have been
10 jointly indicted should be tried jointly, absent compelling reasons to the contrary. See e.g.,
11 Jones v. State, 111 Nev. 848, 853, 899 P.2d 544 (1995). The general rule favoring joinder
12 evolved due to the substantial public interest in judicial economy. Jones, 111 Nev. at 854, 899
13 P.2d at 547; Rodriguez v. State, 117 Nev. 800, 32 P.3d 773 (2001). Joint trials of persons
14 charged with committing the same offense expedites the administration of justice, relieves trial
15 docket congestion, conserves judicial time, lessens the burden on citizens called to sacrifice
16 time and money while serving as jurors, and avoids the necessity of calling witnesses more
17 than one time. Jones at 853-54, 899 P.2d at 547, see also United States v. Brady, 579 F.2d
18 1121 (9th Cir. 1978), cert. denied, 439 U.S. 1074, 99 S. Ct. 849 (1979). The legal presumption
19 is therefore in favor of a joint trial among co-defendants. On appeal, it is an appellant's "heavy
20 burden" to show that the district court abused its discretion in failing to sever the trial.
21 Rodriguez, 117 Nev. 800. To establish that joinder was prejudicial requires more than simply
22 showing that severance made acquittal more likely; misjoinder requires reversal only if it has
23 a substantial and injurious effect on the verdict. Marshall v. State, 118 Nev. 642, 56 P.3d 376
24 (2002).

25 To resolve a motion to sever, the district court consider two issues:

26 1) Is joinder manifestly prejudicial considering the unique facts of the case? "To require
27 severance, the defendant must demonstrate that a joint trial would be manifestly prejudicial.
28

1 The simultaneous trial of the offenses must render the trial fundamentally unfair, and hence,
2 result in a violation of due process." Rodriguez, 117 Nev. 800 (internal citations omitted).

3 2) Does the prejudice outweigh the dominant concern of judicial economy? Rimer v.
4 State, 131 Nev. Adv. Op. 36, 351 P.3d 697 (2015); Tabish v. State, 119 Nev. 293, 72 P.3d 584
5 (2003). Prejudice does not outweigh the concern for judicial economy if a limiting instruction
6 will assist a jury in compartmentalizing the evidence. Lisle v. State, 113 Nev. 679; Tabish,
7 119 Nev. 293. The jury is expected to follow the limiting instructions. Id.

8 II. THE DEFENSES ARE NOT MUTUALLY EXCLUSIVE TO REQUIRE 9 SEVERANCE

10 Trials involving co-defendants with antagonistic defenses will, at times, meet both
11 criteria to require severance. However, such situations are "very limited". Marshall v. State,
12 118 Nev. 642, 56 P.3d 376 (2002). Defendant's case is not one of the few requiring severance
13 due to antagonistic defenses.

14 As to the prejudice analysis, defenses must be antagonistic to the point that they are
15 "mutually exclusive" before they are considered prejudicial. Rowland v. State, 118 Nev. 31,
16 39 P.3d 114 (2002). Defenses become "mutually exclusive" when "the core of the
17 codefendant's defense is so irreconcilable with the core of [the defendant's] own defense that
18 the acceptance of the codefendant's theory by the jury precludes acquittal of the defendant."
19 Id. However, in Marshall v. State, 118 Nev. 642, 56 P.3d 376 (2002), the Court further
20 narrowed when antagonistic defenses require severance. To mandate severance, a defendant
21 must show the irreconcilable defenses will compromise a specific trial right or prevent the jury
22 from making a reliable judgment about guilt or innocence. Id. at 647.

23 A. Antagonistic Defenses

24 The Nevada Supreme Court discussed when defenses are "antagonistic" in Rowland
25 and Rimer. In Rowland, the Court found the co-defendants did not have mutually exclusive
26 defenses where one (1) presented an alibi defense and the other defendant offered no
27 affirmative defense and alleged the State failed to prove its case beyond a reasonable doubt.
28 Id. Even where co-defendants' defenses directly implicate one another, such does not always

1 require severance. In Rimer v. State, 131 Nev. Adv. Op. 36, 351 P.3d 697 (2015), a husband
2 and wife were charged in connection with their son's death after he was left inside a hot
3 vehicle. The husband's defense was he was sick and relinquished parenting responsibilities to
4 the wife. Id. The wife's defense was she was disabled and relied on others in the household
5 (the other children) to care for the victim. Id. The Supreme Court found said defenses were
6 not so inconsistent to require severance.

7 Here, Defendant Snipes fails to demonstrate antagonistic defenses warrant severance.
8 His claims are bare and naked without any factual analysis.

9 **Compromising a Trial Right**

10 Even where co-defendants have antagonistic defenses, severance is not always
11 required. In Marshall v. State, 118 Nev. 642, 56 P.3d 376 (2002), the Court found defenses
12 were antagonistic, but a joint trial was still proper. In Marshall, the co-defendants were both
13 charged in connection with a robbery and murder of a bartender. Id. The State presented
14 evidence that: the co-defendants were the last patrons in the bar before the bartender was found
15 dead; police found blood in defendant Currington's truck and property stolen from the bar in
16 the co-defendants' hotel room; both co-defendants confessed to other inmates in jail. Id.
17 Marshall's defense was that co-defendant Currington committed the murder while Marshall
18 was passed out in his vehicle. Id. Conversely, Currington testified that Marshall intended to
19 rob the bartender and Currington left before the robbery occurred, only to return to find
20 Marshall bloody, carrying a bag. Id. The Supreme Court acknowledged the defenses were
21 antagonistic, but noted: Currington's sole evidence was his self-serving testimony; the State
22 did not rely on either defendants' evidence to convict the other; and the evidence presented by
23 the State against both defendants was persuasive. Id. The Court therefore found the
24 antagonistic defenses did not warrant severance because Marshall could not show a specific
25 trial right was compromised or that the antagonistic defenses prevented the jurors from making
26 a reliable judgment. Id.

27 By contrast, in Chartier v. State, 124 Nev. 760, 191 P.3d 1182 (2008), the Court found
28 antagonistic defenses sufficiently prejudiced co-defendant Chartier to warrant severance.

1 Chartier and co-defendant Wilcox were convicted of murdering Chartier's ex wife and her
2 father. Id. The State's evidence was largely circumstantial. Id. One (1) child eye witness told
3 police Chartier was the attacker, but later recanted. Id. A second eye witness testified the
4 attacker definitively was not Chartier. Id. Chartier presented an alibi defense and, in response
5 to the State's conspiracy theory against him, claimed he had no motive to kill the victims. Id.
6 Chartier claimed Wilcox committed the murders based on a misguided attempt to help
7 Chartier. Id. Wilcox argued Chartier was the mastermind of the murders and present at the
8 scene. Id. The Court found the defenses created prejudice not present in Marshall because
9 Chartier was limited in his ability to present a defense. Id. Specifically, Chartier was precluded
10 from introducing "critical" wiretapped conversations with Wilcox wherein Wilcox made
11 incriminating statements. Id. The Court found the cumulative effect of the antagonistic
12 defenses and Chartier's inability to present a full defense rendered the joinder unduly
13 prejudicial and warranted severance. Id.

14 Even if the Court finds the defenses antagonistic, Defendant fails to show a specific
15 trial right is compromised by a joint trial. As discussed above, in Marshall the Supreme Court
16 found severance was not appropriate even where murder co-defendants were blaming one
17 another for the crime. Defendant's case is unlike Chartier where the State was already relying
18 on circumstantial evidence and defendant Chartier could have admitted critical evidence for
19 his defense in a separate trial. Here, the State has an eyewitness' as well as video showing both
20 Defendants committing the crimes. Defendant's request to sever based on antagonistic
21 defenses must be denied.

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1 CONCLUSION

2 Based upon the foregoing, the State respectfully requests the Court deny Defendant's
3 Motion again.

4 DATED this 26th day of October, 2020.

5 Respectfully submitted,

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

9 BY /s/ASHLEY A. LACHER
10 ASHLEY A. LACHER
11 Deputy District Attorney
12 Nevada Bar #14560
13
14

15 CERTIFICATE OF ELECTRONIC FILING

16 I hereby certify that service of State's Opposition to Defendant's Motion to Sever, was
17 made this 26th day of October, 2020, by Electronic Filing to:

18 DANIEL HILL, ESQ.
19 dan@hillfirmlawyers.com

20
21 
22 C Jimenez
23 Secretary for the District Attorney's Office
24
25
26
27

28 AL/cmj/L1

EXHIBIT "1"

C-19-344461-1

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 21, 2020

C-19-344461-1 State of Nevada
vs
Gregory Morgan

October 21, 2020 11:30 AM Central Trial Readiness Conference

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Lower Level Arraignment

COURT CLERK: Estala, Kimberly

RECORDER: Vincent, Renee

REPORTER:

PARTIES PRESENT:

Alexander B. Bassett	Attorney for Defendant
Gregory Dello Morgan	Defendant
KENNETH PORTZ	Attorney for Plaintiff
State of Nevada	Plaintiff

JOURNAL ENTRIES

Also present: Co-Defendant Andre Snipes with counsel Daniel Hill, Esq. Mr. Bassett and Mr. Portz appearing via Bluejeans.

Mr. Bassett advised a settlement conference was requested and the date given was December 8th however it was not accepted as parties were waiting on a response from Mr. Hill if Co-Defendant Snipes was willing to participate. Mr. Hill advised he has not spoken to Defendant Snipes regarding negotiating. Defendant Snipes stated he does not wish to participate in a settlement conference. Upon Court's inquiry, Mr. Bassett and Mr. Hill both confirmed they would have Co-Counsel for trial. Court noted the compactly in the Covid-19 courtroom is limited. State would object to bifurcating the cases and the negotiations have always been contingent. State anticipates being ready. Mr. Bassett advised if the trial were bifurcated Defendant Morgan's case will negotiate. Colloquy regarding settlement conference. Mr. Hill noted he believes to have grounds to sever this case aside from the courtroom issue and can have the motion filed by tomorrow. COURT ORDERED, matter SET for central calendar call; department calendar call VACATED; SET for status check on pending motion by Mr. Hill to sever cases; and SET for settlement conference.

CUSTODY

10/29/20 1:45 PM STATUS CHECK: POSSIBLE MOTION TO SEVER (DEPT 20)
11/04/20 2:00 PM CENTRAL CALENDAR CALL (LLA)
11/30/20 11:30 AM SETTLEMENT CONFERENCE (LLA)

Printed Date: 10/23/2020

Page 1 of 1

Minutes Date:

October 21, 2020

Prepared by: Kimberly Estala

0458

EXHIBIT “2”

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

March 05, 2020

C-19-344461-1 State of Nevada
vs
Gregory Morgan

March 05, 2020 08:30 AM All Pending Motions

HEARD BY: Johnson, Eric COURTROOM: RJC Courtroom 12A

COURT CLERK: Skinner, Linda

RECORDER: Calvillo, Angie

REPORTER:

PARTIES PRESENT:

Alexander B. Bassett	Attorney for Defendant
Gregory Dello Morgan	Defendant
Michael J. Scarborough	Attorney for Plaintiff
Public Defender	Attorney for Defendant
State of Nevada	Plaintiff
Tyler Gaston	Attorney for Defendant

JOURNAL ENTRIES

STATE'S NOTICE OF MOTION IN LIMINE DEFENDANTS STATEMENTS AND MOTION TO ADMIT EVIDENCE OF OTHER BAD ACTS OR IN THE ALTERNATIVE TO PUT DEFENDANTS ON NOTICE OF THE STATE'S INTENTION TO ADMIT PRIOR JUDGMENT OF CONVICTION...DEFENDANT'S MOTION TO SEVER CO-DEFENDANTS

Mr. Gaston and Mr. Bassett appearing for Deft. Morgan and Mr. Ruggeroli appearing for Deft. Snipes.

Mr. Gaston advised he tried to file a Motion to Continue Trial under seal but was unable to do so. Mr. Gaston stated there are several reasons as to why they are not ready for trial: 1) Defendant is in prison and it has been very difficult to speak with him as he needs to pay for the calls himself and they can only visit with him one day a week; 2) there has been a lack of investigation in this case as they were under the impression that it would resolve; 3) he is newly on the case as of two days ago, has skimmed the discovery and needs to look at the videos and 4) they filed their Notice of Witnesses 3 days late as they just discovered this witness looking at the discovery and feels they would be ineffective. Statements by Mr. Scarborough including that they would object to a continuance. Statements by Mr. Bassett. Conference at the Bench with the Court and Defense counsel.

Arguments by Mr. Ruggeroli in keeping the trial date for Deft. Snipes as he has invoked his speedy trial rights. Court stated that most of what he heard does not rise to ineffectiveness, however, there was one issue stated that does constitute a continuance. Court noted under the statute relating to Defendant's statutory speedy trial right, the Court has the authority when Defendants are joined to continue the trial. Under the circumstances here, COURT ORDERED, trial date VACATED and RESET.

Arguments by Mr. Bassett in support of the Motion to Sever as he feels the theories of the

Printed Date: 3/7/2020

Page 1 of 2

Minutes Date:

March 05, 2020

Prepared by: Linda Skinner

case between the two Defendants is antagonistic. Objections by Mr. Scarborough as there are 15-20 witnesses that he does not want to have to call twice and advised the Defendants acted in concert and does not see the antagonistic defense. Following colloquy, COURT ORDERED, Motion to Sever is DENIED.

Arguments by counsel as to the State's Motion and the introduction of the 2017 conviction for Deft. Morgan. Following colloquy, COURT ORDERED, Motion DENIED WITHOUT PREJUDICE.

CUSTODY (COC-NDC)

3/31/20 8:30 AM CALENDAR CALL

4/6/20 9:00 AM JURY TRIAL



1 **SLOW**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 ASHLEY LACHER
6 Deputy District Attorney
7 Nevada Bar #014560
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

12 ANDRE GRANT SNIPES,
13 #7088448

14 Defendant.

CASE NO: C-19-344461-2

DEPT NO: XX

15 **STATE'S SECOND SUPPLEMENTAL NOTICE OF WITNESSES**
16 **AND/OR EXPERT WITNESSES**
17 **[NRS 174.234]**

18 TO: ANDRE GRANT SNIPES, Defendant; and

19 TO: JAMES J. RUGGEROLI, ESQ., Counsel of Record:

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

22 *DENOTES ADDITION AND/OR CHANGES:

23 BEVERIDGE, J. - LVMPD P#6707 - With the Las Vegas Metropolitan Police
24 Department. An expert in the area of organized retail theft investigations, and will give related
25 opinions thereto.

26 LASTER, G. - LVMPD P#5658 - A Detective with the Las Vegas Metropolitan Police
27 Department.

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SUMMERS, K. - LVMPD P#14109 - A Detective with the Las Vegas Metropolitan Police Department as a Detective and Facial Recognition. An expert in the area of organized retail theft investigations, and will give related opinions thereto.

<u>NAME</u>	<u>ADDRESS</u>
ALDEN, ABREGO	C/O DISTRICT ATTORNEY'S OFFICE
ALVAREZ, SAMANTHA	ADDRESS UNKNOWN
AYLA, MICHELLE	FASHION SHOW FOOT LOCKER
BEVERIDGE, J.	LVMPD P#6707
CABRERA, ABRAHAM	LVMPD P#15669
*CASTANEDA, RUBY	Downton Summerlin Footlocker
CASTILLO, ELVIN	ADDRESS UNKNOWN
CLARK, J.	LVMPD P#13952
COURTLEY, KEATON	LVMPD P#15762
CUSTODIAN OF RECORDS	CCDC
CUSTODIAN OF RECORDS	CHAMPS SPORTS, 3200 S Las Vegas Blvd, LVN
*CUSTODIAN OF RECORDS	Downtown Summerlin Footlocker, 2120 Festival Plaza, Las Vegas, NV
*CUSTODIAN OF RECORDS	Foot Locker, 3200 Las Vegas Blvd., LVNV
CUSTODIAN OF RECORDS	FASHION SHOW MALL
*CUSTODIAN OF RECORDS	FACEBOOK
CUSTODIAN OF RECORDS	Foot Locker, 4300 Meadows Lane Ste 115, LVN
CUSTODIAN OF RECORDS	LVMPD - DISPATCH/COMMUNICATIONS
CUSTODIAN OF RECORDS	LVMPD - RECORDS
*CUSTODIAN OF RECORDS	NIKE, 9851 S. Eastern Ave., Las Vegas, NV
CUSTODIAN OF RECORDS	NIKE
CUSTODIAN OF RECORDS	WHITTLESEA BLUE CAB
CUSTODIAN OF RECORDS	WYNN HOTEL
CUSTODIAN OF RECORDS	WYNN HOTEL SECURITY

1	DAVIS, ALICIA SGT.	DIVISION OF PAROLE AND PROBATION
2	DENSON, AARON	LVMPD P#15763
3	DOUGHERTY, EDWARD	DA INVESTIGATOR AND/OR DESIGNEE
4	FISCHER, E.	LVMPD P#16456
5	FLORES, ARMANDO	ADDRESS UNKNOWN
6	GARCIA, C.	LVMPD P#13130
7	JACOBITZ, J.	LVMPD P#9398
8	JOHNSON, JOHN	LVMPD P#8546
9	KOFFORD, JORDAN	LVMPD P#15662
10	*KOOP, D.	LVMPD #4882
11	LASTER, G.	LVMPD P#5658
12	LAWS, JR., BRYAN	C/O DISTRICT ATTORNEY'S OFFICE
13	LNU, RUBY	FOOTLOCKER SUMMERLIN
14	LNU, STEVE (MANAGER)	FASHION SHOW FOOTLOCKER
15	MARU, YOHANNES	ADDRESS UNKNOWN
16	MIKALONIS, SHAY	LVMPD P#15903
17	MILLS, PHILIP	LVMPD P#15854
18	MONTALVO, DANIELLA	ADDRESS UNKNOWN
19	PANLILLO, CARMINA	ADDRESS UNKNOWN
20	PERKETT, ERIK	LVMPD P#14152
21	QUIMIRO, KYLE	LVMPD P#17390
22	SUMMERS, K.	LVMPD P#14109
23	WEBB, TAYLOR	LVMPD P#15851

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

27 ///

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1 The substance of each expert witness' testimony and copy of all reports made by or at
2 the direction of the expert witness will be provided in discovery.

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

4
5 STEVEN B. WOLFSON
6 Clark County District Attorney
7 Nevada Bar #001565

8 BY /s/ASHLEY LACHER
9 ASHLEY LACHER
10 Deputy District Attorney
11 Nevada Bar #014560
12
13
14

15 **CERTIFICATE OF ELECTRONIC FILING**

16 I hereby certify that service of the above and foregoing was made this 26th day of
17 October, 2020, by Electronic Filing to:

18 JAMES J. RUGGEROLI, ESQ.
19 Email: ruggeroli@icloud.com

20 BY: 
21 Secretary for the District Attorney's Office
22
23
24
25
26
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**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****October 29, 2020**

C-19-344461-2 State of Nevada
 vs
 Andre Snipes

October 29, 2020 1:45 PM Status Check

HEARD BY: Johnson, Eric**COURTROOM:** RJC Courtroom 12A**COURT CLERK:** Kathryn Hansen-McDowell**RECORDER:** Angie Calvillo**REPORTER:****PARTIES**

PRESENT:	Hill, Daniel	Attorney
	PORTZ, KENNETH	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Deft. not present due to time constraints with CCDC BlueJeans Video Conferencing. Mr. Bassett also present representing Co-Deft.

Mr. Portz stated during the Central Trial Readiness Conference, defense counsel advised the Court each counselor intended to have co-counsel; however, Judge Bell advised counsel that the Covid-19 courtrooms had limited space and cannot accommodate that many people; if the case was to move forward to trial the Deft.'s cases would have to be severed. Mr. Portz further stated a Motion to Sever the cases was previously denied. Colloquy regarding how many people were expected to be present for the trial. Colloquy regarding a Deft.'s right to have co-counsel for a trial. Colloquy regarding the Motion to Sever filed by Mr. Hill scheduled to be heard on 11/3/20 based on inconsistent defense strategies. Mr. Bassett and Mr. Hill did not wish to elaborate on what the differences in strategy was in open court, colloquy. COURT STATED it would not grant the Motion based in the promise of inconsistent defense, DIRECTED Mr. Bassett file a supplement to the Motion further explaining the defense differences. Mr. Bassett advised the Motion was filed by Mr. Hill; however, requested the supplement be filed under seal. COURT GRANTED the request to file the supplement under seal. COURT ADVISED, parties could move for a severance at any time during a trial, it did not have to be

PRINT DATE: 11/03/2020

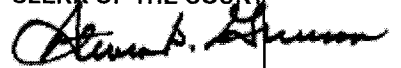
Page 1 of 2

Minutes Date: October 29, 2020

at the beginning. COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 11/3/20 1:45 PM



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

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8 THE STATE OF NEVADA,
9 Plaintiff,

CASE NO. C-19-344461-1
C-19-344461-2

10 vs.

DEPT. NO. XX

11 GREGORY DELLO MORGAN,
12 ANDRE GRANT SNIPES,
13 Defendants.

14 BEFORE THE HONORABLE ERIC JOHNSON, DISTRICT COURT JUDGE

15 THURSDAY, OCTOBER 29, 2020

16 **RECORDER'S TRANSCRIPT OF HEARING:**
17 **STATUS CHECK: POSSIBLE MOTION TO SEVER**

18 SEE APPEARANCES ON PAGE 2:
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25 RECORDED BY: ANGIE CALVILLO, COURT RECORDER

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APPEARANCES:

For the State:

KENNETH N. PORTZ, ESQ.
Chief Deputy District Attorney

For Defendant Morgan:

ALEXANDER B. BASSETT, ESQ.
Deputy Public Defender

For Defendant Snipes:

DANIEL HILL, ESQ.
[via video conference]

1 Las Vegas, Nevada; Thursday, October 29, 2020

2 [Hearing commenced at 3:17 p.m.]

3 THE COURT: But we'll need to continue the -- there's one
4 severance motion. That we'll need to continue 'til --

5 THE CLERK: It looks like --

6 THE COURT: -- Tuesday.

7 THE CLERK: -- I do have one of those matters actually set on
8 November 3rd already, so I can set them both there.

9 THE COURT: Okay. Because that's -- are you wanting --
10 where's Mr. Hill?

11 MR. PORTZ: He's on the phone, Your Honor.

12 THE CLERK: He's online on BlueJeans now, Your Honor.

13 THE COURT: Oh okay. All right, I know we don't have the
14 defendant here, but let me just ask. Are you both committed to going to
15 trial on the week of the 9th?

16 MR. PORTZ: I think there's a couple issues there, Your
17 Honor.

18 I mean, first, obviously this is Mr. Hill's motion to sever. All the
19 parties announced ready in the Central Trial Readiness Calendar,
20 however, counsel who represents the -- Mr. Morgan, I believe, stated
21 that he was going to have a second defense attorney do the case with
22 him. Judge Bell said, based on the COVID courtroom requirements,
23 that's going to force a severance; essentially, make Your Honor, hear
24 this case two times because they can't accommodate an additional
25 attorney if there's two defendants at counsel's table. So that's -- that's

1 one issue, the other is Mr. Hill's motion to sever, which is severance
2 based on legal grounds that the State's position is Your Honor already
3 denied some months ago on this case.

4 THE COURT: Did I?

5 MR. PORTZ: You did.

6 MR. BASSETT: Without prejudice.

7 THE COURT: Okay, without prejudice.

8 MR. BASSETT: And I --

9 MR. PORTZ: Nothing has been brought up, Judge.

10 MR. BASSETT: -- and we filed it, not Mr. Hill.

11 MR. PORTZ: But he joined. His client joined.

12 THE COURT: Okay, well I read the motion. I mean, being
13 promised that these are incompatible defenses is -- I've seen very few
14 successful incompatible defenses severances out there so.

15 MR. BASSETT: And I'd be happy to if you wanted -- I was -- if
16 -- is Mr. Hill online or?

17 MR. HILL: I'm here and I'd be happy to spill the beans but it's
18 Mr. Bassett's defense.

19 MR. BASSETT: And, Your Honor, I'd be happy to approach
20 and explain what our defense strategy is going to be. I would prefer not
21 to put that on the record.

22 MR. PORTZ: And I think it's problematic. One, the clients
23 aren't here; two, the --

24 THE COURT: Yeah.

25 MR. PORTZ: -- the State can't hear what it is to argue the

1 merits of severance. And three, they literally did this in January or
2 March and Your Honor heard outside the presence of the State their
3 quote, unquote incompatible defenses and you denied the motion--

4 THE COURT: Has that changed?

5 MR. BASSETT: Yes.

6 MR. HILL: Well -- and, Judge, if I may, this is Dan Hill.
7 What's changed is I -- my client stands to be significantly more
8 prejudiced by the situation than Mr. Morgan and the last time was Mr.
9 Morgan's motion. I don't think Mr. Morgan stands to be prejudiced by
10 my defense hardly at all.

11 MR. PORTZ: Mr. Snipes joined in the motion that Your Honor
12 denied back in March, so.

13 THE COURT: Yeah, well, all right.

14 MR. PORTZ: But the -- I guess the pressure or the pressing
15 issue is that the 9th is the trial date. And so it's -- if we have this
16 wrapped up, if Your Honor decides that a severance is not warranted on
17 Tuesday, we'll need to address the trial status of everything.

18 THE COURT: All right and both defendants have invoked?

19 MR. BASSETT: No.

20 MR. PORTZ: No.

21 MR. BASSETT: Mr. Morgan is not invoked.

22 THE COURT: Oh, okay.

23 MR. BASSETT: Mr. Snipes is. And we have a central --

24 THE COURT: Are you wanting to go to the trial on the 9th?

25 MR. BASSETT: If we need to be, yes.

1 THE COURT: Okay.

2 MR. BASSETT: Yeah, we announced that at the Trial
3 Readiness Conference last week. Calendar call was actually moved out
4 of this courtroom to the Central Calendar Call on November 4th.

5 THE COURT: Right.

6 MR. PORTZ: But Judge, you need to be aware that the
7 central trial, Judge Bell who's overseeing that, despite already your
8 denial of a motion to sever, was going to just *sua sponte* grant a
9 severance because defense -- solely because the Public Defender's
10 Office announced they're going to have two defense attorneys. And
11 they can't accommodate one extra attorney at the COVID -- in the
12 COVID courtroom according to Judge Bell.

13 So based on that, this is a nine event series, dozens of
14 witnesses and it's going to go twice simply based on that issue. If you're
15 not going to grant the severance for legal grounds then I believe you
16 have cause to say that the invoked defendant, we're going to continue to
17 the trial over his objection to give them a new invoke date.

18 THE COURT: Okay.

19 MR. BASSETT: And Your Honor, that is partially accurate.
20 Both me and Mr. Hill indicated that we intend to have co-counsel as is
21 our right at trial. And we both indicated that to the Judge before she told
22 us that would result in a severance because it'd be too many people
23 sitting at the defense table. I was not aware that was the policy and I did
24 not request a severance based on COVID restrictions and neither did
25 Mr. Hill.

1 MR. PORTZ: And I'm unaware of a right to two attorneys for
2 any defendant, but that being said --

3 THE COURT: Well, I mean, that that --

4 MR. PORTZ: -- it's still is --

5 THE COURT: -- I mean, generally one has the right to be
6 represented by whoever he wants to be represented -- whether, you
7 know, obviously that's not generally a problem.

8 MR. PORTZ: Right.

9 THE COURT: You know, we have generally plenty of room if
10 we can stay within -- get within six feet of each other.

11 MR. PORTZ: And I understand that and the State will be
12 ready to go. But I'm just saying that we're going to have to do this twice
13 if -- if they sever it on that issue. And I think that's a massive waste of
14 judicial resources, Your Honor's time, your staff's time, jury's --

15 THE COURT: Well I agree with you on that. I mean, there's
16 times you have to sever it but other times --

17 MR. PORTZ: Right.

18 THE COURT: -- you don't. I also have another case that's --
19 has a firm trial date set for that date so -- the 9th -- so I'd have to look
20 and see if somebody was available to take this on an overflow.

21 MR. BASSETT: Has the second courtroom opened up for
22 trials yet?

23 THE COURT: It's supposed to next week but that hasn't yet
24 so don't hold your breath. But it is supposed to open up next week. All
25 right, let's put this on the calendar on Tuesday for -- and we'll get to

1 the -- we'll deal with the severance motions and issues then. If you can
2 find anything on whether or not you're entitled to two attorneys at a trial,
3 I'd be interested to see that. I'll ask my brain trust here to see if they -- if
4 there's anything else.

5 MR. PORTZ: Mr. Bassett said there was a right to it, but I
6 didn't -- I've never --

7 THE COURT: Well, I mean and I appreciate Mr. --

8 MR. PORTZ: And that's fine, I'll see if there's anything about
9 it.

10 THE COURT: There is, you know, generally it doesn't make
11 any difference. I don't --

12 MR. PORTZ: Right.

13 THE COURT: -- know if you have a absolute right when it's
14 going to cause an extreme hardship because of facilities usage -- right
15 to more than one attorney but I mean, you know, I -- looked --

16 MR. BASSETT: I doubt that's been litigated.

17 THE COURT: The -- it's -- you know. You'd have to have a
18 really small courtroom and --

19 MR. PORTZ: If it's like a capital case, I believe.

20 THE COURT: -- in non-COVID times, you'd have to have a
21 really small courtroom for two attorneys on the defense side to cause a
22 facility issue. So I doubt that it's ever been seriously litigated but --

23 MR. PORTZ: Right.

24 THE COURT: We'll ponder that between now and Tuesday, I
25 guess.

1 MR. PORTZ: And that's -- that is just a side issue, Your
2 Honor. I think the matter before you is Mr. Hill's motion to sever for legal
3 grounds, not because of COVID.

4 THE COURT: Mm-hm.

5 MR. PORTZ: So I just want you to be aware that if you
6 choose not to sever, you may have to address the trial status because if
7 it goes to the Central Trial Readiness calendar, Judge Bell's indicated
8 she will just sever it if they want an extra attorney.

9 MR. BASSETT: Which we do, which my client is entitled to.

10 MR. PORTZ: Right.

11 MR. BASSETT: And Mr. Hill has indicated --

12 MR. PORTZ: Which I think would be good.

13 MR. BASSETT: -- that he's going to have a co-defendant -- a
14 co-counsel, as well.

15 THE COURT: And Mr. Hill's going to have co-counsels?

16 MR. PORTZ: And I think that would be grounds to --

17 THE COURT: Well --

18 MR. PORTZ: -- to continue so they can be heard at the same
19 time.

20 THE CLERK: Mr. Hill is still on the line, Your Honor.

21 THE COURT: I know. Mr. Hill's there.

22 THE CLERK: Oh okay. I'm sorry.

23 THE COURT: Silently, stealthily in the background but he's
24 still there.

25 MR. HILL: I'm pondering.

1 THE COURT: You're pondering? Very good.

2 All right, I will tell you, I mean, I tend to think that the State has
3 a right to hear what the inconsistent defenses are because I think the
4 State has a right to -- to rebut that these are inconsistent to the point that
5 they have to require a severance. But I have not researched that
6 recently, but I will tell you that's my general reaction is that you've got to
7 -- there has to be a record of what is out there that's so inconsistent that
8 -- but at a minimum, I would ask you, Mr. Bassett, to put together a
9 supplement to your motion.

10 MR. BASSETT: It's not my motion, Your Honor.

11 THE COURT: It's not your motion now?

12 MR. BASSETT: Mr. Hill's motion.

13 THE COURT: Oh.

14 MR. HILL: Now -- and that's what's kooky about it, Judge, is
15 it's -- it's like kind of -- its somewhat -- it's privileged -- it's not. It's tough
16 'cause it's not my information to share. But nevertheless, I know it and it
17 would be rather problematic.

18 THE COURT: Well --

19 MR. BASSETT: And my problem is basically, Your Honor,
20 we'd have to completely reveal our trial strategy before trial began.

21 THE COURT: Well, you know, my gut is if you aren't
22 prepared to do that now, there is no factual basis on the record for a
23 severance and you can move for severance at any time. I mean, if at
24 trial, the defense has clearly become inconsistent, you can move it, you
25 know. The severance can be moved at any time and so it may be that if,

1 you know, for strategic reasons, you'll have to wait til we get to trial and
2 into trial --

3 MR. HILL: Well --

4 THE COURT: -- to move for severance.

5 MR. BASSETT: I understand, Your Honor, but this --

6 MR. HILL: What I think would -- I think that would happen in
7 opening statement, Judge. And then -- and then now the strategies, I
8 mean, I'll leave it to Mr. Bassett. But, I mean, if it happens in opening
9 then I guess my guy -- I'd make the motion and then maybe he can just
10 go forward right there and then with his strategy, which might not be the
11 most efficient. But that'd be the only way to keep Mr. Morgan's defense
12 close to the vest.

13 THE COURT: Well -- I -- I'll -- Mr. Hill, I mean I'm going to tell
14 you, to talk to Mr. Bassett, prepare -- I'm not going to -- guess what, I'm
15 not going to grant a severance on the promise that this is really
16 inconsistent. That is not --

17 MR. HILL: No.

18 THE COURT: -- going to happen. So at minimum, you're
19 going to have to provide me something in-camera so go ahead and
20 prepare that.

21 MR. BASSETT: Could it be filed under seal, Your Honor?

22 THE COURT: Huh?

23 MR. BASSETT: Could it be filed under seal?

24 THE COURT: Well, I mean, yeah. I mean, yes you can file it
25 under seal but I'm going to do some research and I'm then going to ask

1 you guys. You're asking for it to be under seal. You're asking for me to
2 do a severance when the -- and not allow the State to be able to defend
3 the severance. I don't think you -- that that's appropriate, but if you can
4 find case law out there that says that in these circumstances you can
5 keep the State and I have to do a decision as far as severance through
6 something in-camera, then fine, I'll be glad to consider it.

7 But as I said, as I sort of sit here now, my gut is that it's going
8 to have to wait until trial to -- 'cause I think the State does have a right to
9 -- State has a general right to try the case as it feels that it should be
10 tried. If it feels it's a multi-defendant case and they should be joined, it
11 has a right to have them joined unless there is a basis to break them up.
12 And the State has a right to -- to defend that basis so.

13 But I'm just telling you, at a very minimum, regardless of what
14 you find, whether or not you find that it can be filed under seal and I
15 make an in-camera decision or you find that -- or we don't find it, you
16 know, I'm going to have to know what the basis is. So you might as well
17 prep at least a memo that you're going to want to file in-camera and we'll
18 consider all this on Tuesday, so.

19 MR. BASSETT: I'll get that written over the weekend.

20 THE COURT: All right.

21 MR. BASSETT: Although to be fair, that's just a supplement
22 to Mr. Hill's argument. I'm not officially --

23 MR. HILL: Yeah, that's what's --

24 MR. BASSETT: -- joining in the motion.

25 MR. HILL: -- I feel bad having Mr. -- not that I'm volunteering

1 mind you.

2 THE COURT: Oh, I wouldn't want you to do that, Mr. Hill so.

3 MR. HILL: It's Nevada Day weekend, come on.

4 THE COURT: I understand, I didn't -- anyway. I'm just telling
5 you, I'm going to have to know whether or not --

6 MR. HILL: Of course.

7 THE COURT: -- you keep it -- keep it in your pocket from the
8 State. I'm not sure I'm -- I agree with that, but I haven't ever researched
9 that issue. So take a look at that and then we'll look at it on -- on
10 Tuesday and then we'll decide that severance issue and then, you know,
11 we'll see where we're at.

12 I mean, did Judge Bell indicate you would be near top of the
13 priority list if -- if you went on the 9th?

14 MR. PORTZ: It wasn't discussed to my recollection. All I do
15 recall is that Judge Bell indicated, based on that COVID issue, she
16 would sever the case, which we didn't think was appropriate given she's
17 not hearing it, this Court is, and there's no grounds for it.

18 THE COURT: Mm-hmm. Well --

19 MR. HILL: Yeah, I didn't -- I didn't know there was still like a
20 stack, Judge. It just sounded to me like it was gonna go.

21 THE COURT: No, there's a -- I'm sure there's a stack. I
22 mean, we have like a hundred some invoked cases that we're trying to
23 work through.

24 MR. BASSETT: Do you happen to know, Your Honor, if the
25 case that's already set for the 9th, when that's from? 'Cause I believe

1 this case is from December of last year, I think.

2 THE COURT: Well this case is getting a firm trial setting
3 because the defendant speaks a language that we have to have an
4 extended period of time to get a translator.

5 MR. BASSETT: Got it.

6 THE COURT: And so -- so we're just --

7 MR. BASSETT: So it sounds like this all might be a moot
8 issue for the 9th anyway.

9 THE COURT: Well, we may be opening up the second
10 courtroom next week.

11 MR. PORTZ: I think they're also planning on stacking cases
12 at this point.

13 THE COURT: Yeah, they're going to stack cases so I mean
14 you can be --

15 MR. PORTZ: And 'cause cases are sometimes dealing.

16 THE COURT: You can be case number three in the --

17 MR. PORTZ: Yeah.

18 THE COURT: -- courtroom one and/or case number two in
19 courtroom two so, I mean, we're moving to a stack system so that we
20 hopefully are using that courtroom every week.

21 MR. PORTZ: Right.

22 THE COURT: Because the problem we're having now is
23 everybody decides to plead out the day of trial and we've got nobody
24 using the courtroom so. All right, we'll deal with it on Tuesday with the
25 defendant present and that'll give him -- and we'll deal --

1 MR. HILL: Very well, Judge.
2 THE COURT: -- with the substantive issues at this time.
3 I'm sorry what, Mr. Hill?
4 MR. HILL: I said very well, Judge.
5 THE COURT: Okay.
6 MR. HILL: But the good news on this one is it's for sure not
7 going to plead out on the day of trial so don't worry about that.
8 THE COURT: All right. That was -- going to toss and turn on
9 that all night tonight.
10 THE CLERK: So the continuance will be to November 3rd at
11 1:45.
12 MR. PORTZ: Thank you.
13 THE COURT: All right. Thank you, guys.
14 MR. HILL: Thank you, Your Honor.

15 [Hearing concluded at 3:32 p.m.]

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

24 

25 _____
Angelica Michaux
Court Recorder/Transcriber



1 **SLOW**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 ASHLEY LACHER
6 Deputy District Attorney
7 Nevada Bar #014560
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10
11 Plaintiff,

11 -vs-

12 ANDRE GRANT SNIPES,
13 #7088448

14 Defendant.

CASE NO: C-19-344461-2

DEPT NO: XX

15 **STATE'S THIRD SUPPLEMENTAL NOTICE OF WITNESSES**
16 **AND/OR EXPERT WITNESSES**
17 **[NRS 174.234]**

17 TO: ANDRE GRANT SNIPES, Defendant; and

18 TO: JAMES J. RUGGEROLI, ESQ., Counsel of Record:

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

21 BEVERIDGE, J. - LVMPD P#6707 - With the Las Vegas Metropolitan Police
22 Department. An expert in the area of organized retail theft investigations, and will give related
23 opinions thereto.

24 LASTER, G. - LVMPD P#5658 - A Detective with the Las Vegas Metropolitan Police
25 Department.

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27 //

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\\CLARKCOUNTYDA.NET\CRM\CASE2\2019\516\16\201951616C-SLOW-(ANDRE SNIPES)-001.DOCX

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SUMMERS, K. - LVMPD P#14109 - A Detective with the Las Vegas Metropolitan Police Department as a Detective and Facial Recognition. An expert in the area of organized retail theft investigations, and will give related opinions thereto.

<u>NAME</u>	<u>ADDRESS</u>
ALDEN, ABREGO	C/O DISTRICT ATTORNEY'S OFFICE
ALVAREZ, SAMANTHA	ADDRESS UNKNOWN
AYLA, MICHELLE	FASHION SHOW FOOT LOCKER
BEVERIDGE, J.	LVMPD P#6707
CABRERA, ABRAHAM	LVMPD P#15669
CASTANEDA, RUBY	Downton Summerlin Footlocker
CASTILLO, ELVIN	ADDRESS UNKNOWN
CLARK, J.	LVMPD P#13952
COURTLEY, KEATON	LVMPD P#15762
CUSTODIAN OF RECORDS	CCDC
CUSTODIAN OF RECORDS	CHAMPS SPORTS, 3200 S Las Vegas Blvd, LVN
CUSTODIAN OF RECORDS	Downtown Summerlin Footlocker, 2120 Festival Plaza, Las Vegas, NV
CUSTODIAN OF RECORDS	Foot Locker, 3200 Las Vegas Blvd., LVNV
CUSTODIAN OF RECORDS	FASHION SHOW MALL
CUSTODIAN OF RECORDS	FACEBOOK
CUSTODIAN OF RECORDS	Foot Locker, 4300 Meadows Lane Ste 115, LVN
CUSTODIAN OF RECORDS	LVMPD - DISPATCH/COMMUNICATIONS
CUSTODIAN OF RECORDS	LVMPD - RECORDS
CUSTODIAN OF RECORDS	NIKE, 9851 S. Eastern Ave., Las Vegas, NV
CUSTODIAN OF RECORDS	NIKE
CUSTODIAN OF RECORDS	WHITTLESEA BLUE CAB
CUSTODIAN OF RECORDS	WYNN HOTEL
CUSTODIAN OF RECORDS	WYNN HOTEL SECURITY

1	DAVIS, ALICIA SGT.	DIVISION OF PAROLE AND PROBATION
2	DENSON, AARON	LVMPD P#15763
3	DOUGHERTY, EDWARD	DA INVESTIGATOR AND/OR DESIGNEE
4	FISCHER, E.	LVMPD P#16456
5	FLORES, ARMANDO	ADDRESS UNKNOWN
6	GARCIA, C.	LVMPD P#13130
7	JACOBITZ, J.	LVMPD P#9398
8	JOHNSON, JOHN	LVMPD P#8546
9	KOFFORD, JORDAN	LVMPD P#15662
10	KOOP, D.	LVMPD #4882
11	LASTER, G.	LVMPD P#5658
12	LAWS, JR., BRYAN	C/O DISTRICT ATTORNEY'S OFFICE
13	LNU, RUBY	FOOTLOCKER SUMMERLIN
14	LNU, STEVE (MANAGER)	FASHION SHOW FOOTLOCKER
15	MARU, YOHANNES	ADDRESS UNKNOWN
16	MIKALONIS, SHAY	LVMPD P#15903
17	MILLS, PHILIP	LVMPD P#15854
18	MONTALVO, DANIELLA	ADDRESS UNKNOWN
19	PANLILLO, CARMINA	ADDRESS UNKNOWN
20	PERKETT, ERIK	LVMPD P#14152
21	QUIMIRO, KYLE	LVMPD P#17390
22	SUMMERS, K.	LVMPD P#14109
23	VARGAS, ELIZABETH	LVMPD P#8595
24	WEBB, TAYLOR	LVMPD P#15851

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


28 ///

1 The substance of each expert witness' testimony and copy of all reports made by or at
2 the direction of the expert witness will be provided in discovery.

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

4
5 STEVEN B. WOLFSON
6 Clark County District Attorney
7 Nevada Bar #001565

8 BY


9 ASHLEY LACHER
10 Deputy District Attorney
11 Nevada Bar #014560

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13
14
15 **CERTIFICATE OF ELECTRONIC FILING**

16 I hereby certify that service of the above and foregoing was made this 2nd day of
17 November, 2020, by Electronic Filing to:

18
19 JAMES J. RUGGEROLI, ESQ.
20 Email: ruggeroli@icloud.com

21 BY:


22 Secretary for the District Attorney's Office
23
24
25
26
27

28 19F21141B/ckb/L4

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 03, 2020

C-19-344461-2 State of Nevada
vs
Andre Snipes

November 03, 2020 1:45 PM All Pending Motions

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Carina Bracamontez-Munguia/cb

RECORDER: Angie Calvillo

PARTIES

PRESENT:	Hill, Daniel	Attorney for Defendant
	PORTZ, KENNETH	Attorney for Plaintiff
	Snipes, Andre Grant	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- DEFENDANT'S MOTION TO SEVER...STATUS CHECK: POSSIBLE MOTION TO SEVER

Also present Alexander Bassett, Esq. for Co-Defendant.

Court noted this matter was previously before the court and FINDS if Deft's counsel does not want to divulge the inconsistent defenses mentioned in the Motion to Sever they have the right to do so, but the Court will not grant the motion at this time, COURT ORDERED, Motion to Sever DENIED WITHOUT PREJUDICE.

Mr. Bassett argued there is no relevant case law indicating their requirement to divulge their theory of defense in order for Court to rule or grant the Motion. Further, he indicated they would be happy to provide an explanation of the antagonistic defenses ex-parte but are not prepared to put them on the record. Court noted the State has the right to respond to the inconsistent defenses and Advised that counsel can move for severance up until the time the case go to the jury.

PRINT DATE: 11/04/2020

Page 1 of 2

Minutes Date: November 03, 2020

Mr. Portz argued the case will go before Judge Bell tomorrow for Central Calendar Call, and Mr. Bassett had previously indicated to Judge Bell that he is going to have co- counsel. Further, Judge Bell stated if there is one additional person at defense table it would not be COVID compliant. Mr. Portz requested the case be continued on an invoked status due to good cause being found and it being reasonable due to the limited resources caused by the pandemic.

Mr. Bassett objected stating severing the cases due to COVID restrictions is an entirely separate issue and if the State wants to request a continuance, he requests they do so in writing so they can respond adequately. Colloquy regarding a Deft's right to have co-counsel for trial.

Upon further arguments by counsel, COURT FINDS this is an issue that needs to be brought before the Jury Trial Committee. COURT FURTHER ORDERED, matter SET for Status Check.

CUSTODY

11/05/2020 01:45 PM STATUS CHECK: POSSIBLE MOTION TO SEVER



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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
7

8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 GREGORY DELLO MORGAN,
12 ANDRE GRANT SNIPES,

13 Defendants.

CASE NO. C-19-344461-1
C-19-344461-2

DEPT. NO. XX

14 BEFORE THE HONORABLE ERIC JOHNSON, DISTRICT COURT JUDGE

15 TUESDAY, NOVEMBER 3, 2020

16 **RECORDER'S TRANSCRIPT OF HEARING:**
17 **POSSIBLE MOTION TO SEVER**

18 SEE APPEARANCES ON PAGE 2:
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25 RECORDED BY: ANGIE CALVILLO, COURT RECORDER

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APPEARANCES:

For the State: KENNETH N. PORTZ, ESQ.
Chief Deputy District Attorney

For Defendant Snipes: DANIEL HILL, ESQ.
[via video conference]

For Defendant Morgan: ALEXANDER BASSETT, ESQ.
RAFAEL NONES, ESQ.
Deputy Public Defenders

1 Las Vegas, Nevada; Tuesday, November 3, 2020

2 [Hearing commenced at 2:40 p.m.]

3 THE COURT: Page 9, State of Nevada vs. Andre Snipes,
4 Case Number C344461.

5 Counsel, please note your appearances for the record.

6 MR. PORTZ: Nick Portz for the State, Your Honor, good
7 afternoon.

8 MR. HILL: Dan Hill for Mr. Snipes and I think -- it's a co-
9 defendant case, Mr. Bassett is there as an involved --

10 MR. BASSETT: That's correct, Your Honor.

11 MR. HILL: -- party in this.

12 MR. BASSETT: This is Mr. Hill's motion but I am here
13 because it's a co-defendant case.

14 THE COURT: Okay. This is on for defendant's motion to
15 sever. We talked about it the other day. You know, my -- my general
16 review is I -- if you're going to make a motion to sever for inconsistent
17 defenses, you got to tell me what the defenses are, otherwise, you're
18 waiting 'til -- you can obviously move at trial when you've divulged what
19 the defenses are and move to sever at that point in time. But -- you
20 telling me and me taking in-camera, I don't see as -- I don't think it's
21 appropriate or what's provided -- or what is permissible by the law.

22 So if you don't want to tell me what your -- tell the State and
23 me what your inconsistent defenses are -- you certainly have a right not
24 to do that. But I'm not going to be granting your motion to sever at this
25 point in time. I would be denying it without prejudice.

1 MR. HILL: Well, very well, Your Honor. It's not my defense to
2 divulge so we'll just -- I'll make it during opening.

3 MR. BASSETT: And, Your Honor, I did consult with my co-
4 counsel in this case, Tyler Gaston and -- but we both agree -- did
5 research, we could not find any relevant case law that indicated that we
6 would be required to divulge our theory of defense in order for you to
7 rule on and/or grant a motion of severance. We would be happy to
8 provide an explanation of the antagonistic defenses to you ex parte but
9 we are not prepared to put on the record --

10 THE COURT: No and I --

11 MR. BASSETT: -- what are defenses are.

12 THE COURT: -- appreciate that. I appreciate that but I don't
13 think, you know, the State generally has a right to try the case as the
14 State wants to try the case and I don't think -- I think that if you're going
15 to move for inconsistent defenses, the State has a right to respond to
16 that. So that's -- that's anyway my position at this point in time.

17 MR. BASSETT: It's fine, Your Honor. We can renew it after
18 opening statements.

19 THE COURT: You can -- you can move for severance up until
20 the time the case goes to the jury.

21 MR. PORTZ: This -- and accepting Your Honor's ruling, this
22 brings up an issue that I mentioned last week. This case will now go
23 before Judge Bell tomorrow in the Central Trial Readiness Call and as
24 Mr. -- as Defense Counsel, I'm so sorry.

25 MR. BASSETT: Alex Bassett.

1 MR. PORTZ: Mr. Bassett, I apologize.

2 MR. BASSETT: That's okay.

3 MR. PORTZ: Mr. Bassett indicated he's going to be having
4 co-counsel on this case. He made that representation at the last status
5 check at the -- Central Trial Readiness and Judge Bell indicated that if
6 there was one additional attorney at Defense table, it would not be
7 COVID compliant. And because they can't find a workaround for that,
8 they can't find another table or add an additional person, she's going to
9 *sua sponte* over your now having twice denied their motions to sever --
10 force a severance.

11 The State's position is, Your Honor, it's the law of the case
12 that this shouldn't be severed. You've already ruled it shouldn't be
13 severed way back in March of this year. You've ruled it again today and
14 now that rule -- ruling will be effect -- effectively voided tomorrow by
15 Judge Bell, who will say, I'm severing it despite Judge -- Judge
16 Johnson's ruling.

17 Now, you've mentioned numerous times that -- and continued
18 cases and found good cause to continue an invoked case because of
19 the limited resources we have due to the pandemic. And therefore,
20 rendering it a reasonable excuse to find an extension rather than hear
21 this case twice. So you should just be aware that we will try this case
22 twice, if we have to. It's an eight event robbery series that covers the
23 span of four months and involves a significant number of surveillance
24 video and documentary evidence. And I just worry about the incredible
25 waste of judicial resources that will result after you've already denied

1 their motion to sever.

2 I mean, there's good reason that it's written in the statute, the
3 joinder is the preferred method, particularly when we're talking about an
4 eight event series that these two commit together and are arrested
5 together at the same time. To use that one defendant,
6 Mr. Hill's client is invoked, and that Mr. -- and Mr. Morgan's attorneys
7 want to have two people sitting at the table and that's the sole
8 justification for bifurcating this trial and forcing it to go twice would be a
9 waste of resources in the State's mind.

10 I would ask that Your Honor find good cause at this point to
11 continue the trial date; keep it an invoked date and hopefully they'll find
12 a way to allow one more attorney to sit in court for the trial setting.

13 MR. BASSETT: Your Honor, I'm gonna strenuously object to
14 that. I realize that -- I'm not -- this is an entirely separate issue from the
15 motion, Mr. Mill -- Mr. Hill filed. But the State is misrepresenting the
16 facts of the situation here. You denied the motion based on
17 *Throckmorton* grounds which was the main argument that Mr. Hill made
18 in his motion.

19 Severing a case, due to COVID restrictions, is an entirely
20 separate issue. And for the State -- if the State wants to request a
21 continuance and I would request that they do so in writing so we have
22 the opportunity to respond and do the relevant legal research. They
23 seem to be continuously -- they've -- this is the second time now that the
24 State has seemingly implied that Defense Counsel is not entitled to
25 multiple attorneys or that that does not -- or that that -- the State's

1 judicial economy precludes that being the major that -- excuse me. That
2 judicial economy overrules the defendant being able to have adequate
3 representation.

4 THE COURT: Oh, I don't know. And I'll be -- I'll be honest, I
5 don't know if defendant really is entitled to more than one attorney.

6 MR. PORTZ: He's not, Your Honor.

7 THE COURT: It's never -- it's never really come up because
8 we've always had plenty of space and, you know, and it's never been a
9 problem. But I don't think technically, under the Constitution of the laws,
10 he's entitled to more than one attorney representing him.

11 MR. BASSETT: Your Honor, we haven't done -- we have not
12 done any research on that and I would request if that is the State's
13 argument that they do so, they make that motion in writing so we have
14 the proper channel to respond. Rather than me just trying to off-the-cuff
15 argue against the State's perspective issue.

16 And again, this is all perspective because the calendar call is
17 tomorrow. The cases are still together. We are prepared to go forward
18 at trial on Monday, if we need to. So this is -- this is all premature and
19 also inappropriate because the State is making a motion on legal
20 grounds. They say there's no sources; they're not citing any of these
21 things. We need to be able to see the State's argument so we can
22 respond adequately.

23 THE COURT: Well I'm not -- I'm not disagreeing with you,
24 necessarily, but I'm just saying I'm not sure that there is a constitutional
25 right to more than one attorney. Normally it's not a big deal but I mean

1 we're in a COVID situation where it could impact upon judicial economy.
2 I agree with the State that it makes more sense for this to be tried
3 together than separate. And so we end up utilizing the limited resources
4 we have in a wasteful manner if we have to try the case twice.

5 MR. BASSETT: I would also point out, Your Honor, that --

6 THE COURT: So I mean I'm concerned about that but I'm not
7 -- this is one of those things we're going to need to -- I'm going to need
8 to --

9 MR. PORTZ: Your Honor, this isn't --

10 THE COURT: -- bring up with the jury selection committee. I
11 -- hopefully we can do that maybe before tomorrow.

12 MR. PORTZ: And this isn't a State's motion to continue. I'm
13 just -- I'm just --

14 THE COURT: I don't consider it the State's --

15 MR. PORTZ: -- I'm just --

16 THE COURT: -- motion to continue. You want to --

17 MR. PORTZ: -- putting out the reality.

18 THE COURT: -- keep them together.

19 MR. PORTZ: Yeah.

20 THE COURT: Yeah.

21 MR. PORTZ: And then the reality is that Judge Bell, who
22 really doesn't have jurisdiction in this case, other than due to the
23 pandemic, she is overseeing the Central Trial Readiness Calendar who
24 will not be hearing this case, is not the Judge overseeing this case is
25 going to --

1 MR. BASSETT: Your Honor, this is all argument and if the
2 appropriate channel --

3 THE COURT: Well --

4 MR. BASSETT: -- would be for them to file a motion if they --

5 THE COURT: -- you know --

6 MR. BASSETT: -- receive an adverse ruling.

7 THE COURT: -- you know, it is all -- how many times have I
8 dealt with arguments that you guys have all brought up, both sides in the
9 middle of hearings and trial and stuff? Stuff happens. This is an issue,
10 we got to sort of work through for tomorrow. I know -- I'm not appalled
11 that the State's raising it.

12 I tend to agree with you that to some degree it's premature,
13 but I'm not exactly sure what to do because this isn't -- we're working
14 through these trial calendars and this is an issue which hasn't been
15 really considered by the -- by the Court or the jury trial committee or the
16 Court so I'm not sure how -- what to do. I plan to raise the issue when I
17 get off the bench. But whether I'll have an answer by tomorrow or where
18 we'll be at the end of tomorrow, you know --

19 MR. BASSETT: And, Your Honor, my argument is just then
20 let's wait until then so we can be better prepared for those arguments.

21 THE COURT: All right, well what we're going to do --

22 MR. BASSETT: I was not prepared on this motion to argue
23 this today.

24 THE COURT: -- we'll do is -- we'll set this on for a status
25 check on Thursday. See where we are at the end of tomorrow.

1 THE CLERK: November 5th at 1:45.

2 MR. PORTZ: And so, Your Honor, what's the plan for that
3 date? I mean, if Judge Bell has ordered that she's going to sever the
4 cases because they're insisting they get a second attorney, which
5 they're not legally required --

6 THE COURT: Well, I mean --

7 MR. PORTZ: -- a constitutional right to.

8 THE COURT: -- I'm not sure what -- what we'll do on
9 Thursday. You could move to reconsolidate the cases and maybe I
10 could go ahead and do that. Who knows? Let me see where we are on
11 -- when we get to Thursday. As I said, I plan to raise this as an issue
12 with the jury trial committee once I get off the bench. And maybe we
13 can make some -- some -- get some sense of where we are and what
14 we all think is the best way to handle it before tomorrow.

15 MR. PORTZ: Well if we can find one --

16 DEFENDANT SNIPES: Dan --


17 MR. PORTZ: -- a way to add one additional seat for Defense
18 Counsel then we'll go forward with everything.

19 THE COURT: You're probably not going to find -- unless
20 there's very little compromise I found when it comes to dealing with the
21 COVID-19. So I'm guessing that's probably not going to work, but we'll
22 see where we are on Thursday. I'll set this for status conference on
23 Thursday.

24 What were you about to say, Mr. Hill?

25 DEFENDANT SNIPES: Dan Hill, are we still going to trial?

1 So are we going to trial, yes or no?
2 MR. HILL: Yes.
3 DEFENDANT SNIPES: Okay, thank you.
4 THE COURT: All right. We'll see where we are on Thursday.
5 And I'll raise the issue with the Court when we get off the bench.
6 All right, thank you.
7 [Hearing concluded at 2:51 p.m.]
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21 ATTEST: I do hereby certify that I have truly and correctly transcribed
22 the audio/video proceedings in the above-entitled case to the best of my
23 ability.
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Angelica Michaux
Court Recorder/Transcriber